



FRIENDS OF THE EARTH INTERNATIONAL
Briefing of document of position, 2008
COMMUNITY RIGHTS

Community rights are the rights of local communities and Indigenous Peoples. These are ancestral and collective rights that can contribute to secure their traditional way of life, and are based on their collective management of Nature (keeping balanced relations in the ecosystems through the sustainable use and conservation of its elements, and improving and discovering the uses of biodiversity); based also in the diversity within the different countries (diversity of organizational forms, diversity of cultures, legal systems, cosmologies) and established as an act of justice and fairness in compensation for the oppression they have been subjected to. Community rights are Third Generation human rights or Solidarity rights because they are collective, universal, indivisible, interdependent and sovereign rights. They counter the monopolistic intellectual property rights promoted and developed by the WTO TRIPS agreement, as a form of resistance emanating from community and solidarity, in opposition to the greed that is embodied in the TRIPS agreement.

Considered as a defense mechanism, community rights can be defined as the legal framework on which to ground the protection of cultural diversity in interaction with biological diversity, through the knowledge of biodiversity cultivated by the local communities and Indigenous Peoples. Community rights are collective rights by their own nature, based on culture, tradition and the practices of Indigenous Peoples and the local communities. They are therefore customary rights which represent third generation human rights – they are not property rights and do not guarantee exclusive rights.

The construction of community rights related to biodiversity is a process by and from the communities themselves, and it should necessarily reflect what they want to protect. On the other hand, owing to what has been verified by several authors and advocacy organizations in terms of the leading role of women in the conservation, improvement and knowledge of biological diversity, these rights need to be defined from a gender perspective to acknowledge and protect the contribution of women and to build more just and equal societies. The former is also a logical consequence of the spirit in which these rights should be conceived.

We also believe that even though in this discussion there is strong legal component, this is not about creating new laws that regulate collective rights. Proposing laws or rules would entail the risk of codifying and rendering the cultural practices of the local communities and the Indigenous Peoples static. Moreover, codification represents a hegemonic legal order that is different from customary law. These collective rights are an advocacy instrument, they are human rights that should simply be respected.