

# NATURAL JUSTICE

2011-2012 ANNUAL REPORT





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# DIRECTOR'S REPORT

I'm sometimes asked how Natural Justice is doing. While 2011 represents another year of increasingly relevant work across three continents and a range of stronger partnerships, it is always a bittersweet response for which to be asked. Natural Justice's increased workload is also a barometer reading of the extent of the challenges faced by Indigenous peoples and local communities, and the fact that like many others, these challenges are worsening.

Indeed, the Global Biodiversity Outlook 3 (2010) acknowledges that the target agreed by the world's governments in 2002 – "to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on Earth" – has not been met. The Outlook underscores the fact that the continued loss of biodiversity is being driven by five principal pressures (habitat loss, overexploitation, pollution, invasive alien species, and climate change) that either remained constant or are increasing in intensity. This loss of biological diversity continues to fuel the loss of cultural diversity, and with it the resilience and ability of Indigenous peoples and local communities to conserve biological diversity in situ and according to customary or local values.

## VISION

*The conservation and sustainable use of biodiversity through the self-determination of Indigenous peoples and local communities.*

## MISSION

*To facilitate the full and effective participation of Indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage.*

To address these issues, Natural Justice has deepened its work with existing partners and begun new work across three continents (namely, the Americas, Africa and Asia), developed accessible resources for use at the local level, continued to provide technical advice to a range of actors, and actively engaged in international negotiations.

Our work to improve the ability of communities to use laws to support their self-determination (writ large) has been driven through the launching of two regional initiatives on biocultural community protocols in Africa (including Ghana, South Africa, Namibia, Kenya, and Ethiopia) and in Asia (including India, Sri Lanka, Pakistan, and Malaysia). We've also assisted Miskito communities in Honduras to develop a community protocol and begun to explore the use of community protocols in the context of BioTrade. Together with the Union for Ethical Biotrade, Natural Justice is assessing the potential role of community protocols as a tool to facilitate and strengthen community engagement in practices of sourcing natural resources ethically; this work is being undertaken in Madre de Dios (Peru), Belem (Brazil), and Vohimana (Madagascar) and will be followed up by a meeting in March 2012 to discuss the findings.

To support our local work, Natural Justice continues to actively reflect on the issues and aims to develop materials that are accessible and useful to our partners. Towards this end, we are looking forward to the imminent publication of *Biocultural Community Protocols: A Toolkit for Community Facilitators*, which has been over 2 years in the making in collaboration with a number of partners. The Toolkit is intended for use alongside the dedicated website ([www.community-protocols.org](http://www.community-protocols.org)), which contains a raft of supporting materials, including desktop legal reviews and e-learning modules on select international legal frameworks, introductory slideshows and photo stories, and networking opportunities. We have also written a number of workshop reports, articles, and legal submissions.

Natural Justice is increasingly being asked to provide technical advice on various issues. In 2011, we continued to advise the Sabah Biodiversity Centre (Malaysia), including by developing a draft toolkit on access and benefit sharing (ABS), and provided technical input to the Bhutanese and Namibian ABS frameworks. We also provided expertise to a meeting of Lusophone countries on ABS and to the forthcoming IUCN Best Practice Guidelines on Protected Area Governance. Natural Justice partnered with the Berne Declaration to raise awareness with regard to five patent applications by multinational food giant Nestlé, which subsequently led to the making of a short film aimed at increasing the accessibility of the issues.

At the international level, we engaged at the Working Group on Article 8(j) and Related Provisions and the Intergovernmental Committee on the Nagoya Protocol (both under the auspices of the Convention on Biological Diversity), attended the UNFCCC COP 17 hosted in Durban, the Commission on Genetic Resources for Food and Agriculture, and the 4th session of the Expert Mechanism on the Rights of Indigenous Peoples. We also made a joint submission to the first session of the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises.

Looking ahead, over the following year (2012-2013) we expect to broaden our focus to include work on infrastructure projects and international financial institutions, develop a presence in New York, and bring on board at least four new lawyers (two each in Africa and Asia). We also plan a retreat immediately after the conference of the Parties to the Convention on Biological Diversity (October 2012) to assess our first 5 years and to develop forward-looking strategies for the 2013-2014 biennium.

In the spirit of the opening paragraph, we remain committed to working with Indigenous peoples and local communities in their ongoing struggles to both challenge discriminatory laws and policies, and to make laws more respectful and supportive of their ways of life. In this light, we are extremely grateful to our funders, and this year, particularly to the Shuttleworth Foundation for its generous support to Kabir Bavikatte. I also personally thank Ashoka for offering me a Fellowship in recognition of the work that I've undertaken in partnership with Kabir and my other esteemed colleagues. Speaking on behalf of the team, we continue to be incredibly inspired by the people with whom we work and as an organization aspire to redouble our efforts at every level.

Harry Jonas

Director



# 1. ORGANIZATION OF THE REPORT

This report provides an overview of all aspects of the organization's operations over the March 2011 to February 2012 financial year. It consists of three parts:

1. Activities;
2. Finance; and
3. Governance.

Part I presents our work within a programmatic framework, namely: community projects in Africa, Latin America and Asia; national and regional technical advice; international advocacy; and multimedia, publications and communications. Each sub-section provides an overview of the overall programme, including an analysis and future prospects. Part II provides an overview of updates in the organisation, including the Board of Trustees, staff, the International Board, associates, interns, offices and awards. Part III provides a financial summary.

## PART I: ACTIVITIES

# 2. LOCAL COMMUNITY WORK

## 2.1. AFRICA

### 2.1.1. AFRICAN BCP INITIATIVE

With support from the Access and Benefit Sharing Capacity Development Initiative (ABS Initiative), the Open Society Initiative for Southern Africa (OSISA), the Shuttleworth Foundation, the Heinrich Böll Foundation, and the Christensen Fund, ETC-COMPAS, the Centre for Indigenous Knowledge and Organisational Development (CIKOD) and Natural Justice spearheaded the African Biocultural Community Protocol (BCP) Initiative. The Initiative, which was launched in April 2011, supported communities in Ghana, South Africa, Namibia, Kenya, and Ethiopia in the process of developing BCPs. Natural Justice coordinated regional workshops, supported the training of BCP facilitators, and provided technical support in the process of BCP facilitation and drafting. Support was also provided to communities seeking rights-based dialogues with external actors.



## 2.1.2. AFRICAN BCP INITIATIVE INCEPTION MEETING



From 11-13 April, 2011, Natural Justice, in partnership with the ABS Initiative, CIKOD, and ETC-COMPAS hosted and facilitated the inception meeting of the African BCP Initiative and a meeting on biocultural rights in Cape Town, South Africa. The Inception meeting brought together delegates representing Indigenous communities, community-based organisations (CBOs), non-governmental organisations (NGOs), and foundations from ten African countries to develop roadmaps for BCPs. Following the African BCP Initiative inception meeting, representatives from universities in Africa joined lawyers and community representatives to discuss the use and further enhancement of biocultural rights in Africa. Training programmes through online forums and universities were suggested as mechanisms to assist lawyers, civil society and community representatives further understand and utilise biocultural rights.

## 2.1.3. REGIONAL BCP INITIATIVE MEETINGS

Following the Inception meeting, Natural Justice facilitated two regional meetings for African BCP Initiative partners in November 2011 and March 2012 in Nairobi, Kenya. The first meeting included presentations on progress achieved and fine-tuning of work-plans based on lessons learned through early activities. The second meeting also included a review of activities, discussions on finalising BCP processes, a discussion of Natural Justice's BCP Toolkit, and a preliminary review of lessons learned from the BCP process.

In November 2011, Natural Justice also attended and helped facilitate a one-day meeting in Nairobi, Kenya, on biocultural community protocols and livestock keepers hosted by the League for Pastoralist Peoples and the LIFE Network. The meeting was attended by representatives from pastoralist communities in Uganda, Kenya, Tanzania, and India, as well as supporting civil society organisations, the International Livestock Research Institute, and the Kenyan Ministry of Livestock Development. Natural Justice presented on biocultural community protocols and drafted the meeting report.

## 2.1.4. LAMU, KENYA

Natural Justice has been working with Save Lamu, a community-based organisation formed as part of the BCP process in Lamu, Kenya, regarding the development of the multi-billion dollar port that is part of the Lamu Port-South Sudan-Ethiopia Transport Corridor (LAPSSET) in Lamu District.

In the past year, Save Lamu has coordinated the development of the BCP. Natural Justice has provided support in developing Save Lamu's internal capacity, supporting facilitators in collating relevant information from over 45 communities in Lamu East and Lamu West, supporting the drafting of sections of the BCP, helping to coordinate large-scale community meetings, and providing legal capacity training.

The Lamu community has also been involved in a pilot project involving Multi-Stakeholder Processes (MSP), funded by ETC-Compas, which assists in dialogues within the community and with external actors. Natural Justice supported the first meeting held in February 2012, and will be providing support throughout the process. The MSP is designed to enhance discussions amongst the communities and between Indigenous groups to build a sense of solidarity within



the community towards empowered interactions with external actors facilitated through the process.

### **2.1.5. ILKUSEMETI, KENYA**

The Maasai community of Ilkusumeti, Kenya, faces increased pressures upon the lands where they have grazed their cattle for centuries due to non-pastoralists and government elites purchasing large sections of land. Natural Justice is working with the Mainyoto Pastoralist Integrated Development Organisation to develop a BCP to support and guide community land ownership, with two meetings with over one hundred community elders held thus far to define the parameters of the protocol's development.

### **2.1.6. TANCHARA AND DAFIAMA, GHANA**

African BCP Initiative co-coordinator CIKOD is supporting a community in Tanchara, Ghana, to develop a BCP with respect to protection of their sacred groves, currently under threat from the prospect of gold mining by an Australian mining company. They are also working with a community in Dafiama, Ghana, to develop a BCP around Shea conservation and production. Natural Justice plans to assist in legal capacity training of both communities and provide support for the drafting of the relevant legal sections of the BCP.

### **2.1.7. BUSHBUCKRIDGE, SOUTH AFRICA**



Natural Justice continued to partner with the Kukula Traditional Health Practitioners of Bushbuckridge, South Africa, who developed a BCP in 2009 to protect their traditional knowledge and conserve their region's immense biodiversity. In the past year, the community was supported by Natural Justice in negotiating a non-disclosure agreement with a cosmetics company to research the commercial development of cosmetic products using the Healers' knowledge and access to plants. The research is ongoing and Natural Justice will support the Healers in developing an Access and Benefit Sharing relationship with the company if the results are positive. Natural Justice supported the Healers to develop a Code of Ethics, which was adopted by the Healers this year, to affirm and standardise practices and support their efforts to gain government recognition. The

Healers also proactively used their protocol to gain recognition from South African conservation agencies and are now partnering with government to tackle illegal overharvesting of plants.

### **2.1.8. SHEKA FOREST, ETHIOPIA**

Sheka Forest, southwest Ethiopia's last remaining forest, has long been conserved by communities. With increased pressures upon the forest's resources, government has assumed responsibility for conservation, undermining traditional structures and practices of stewardship. Natural Justice is supporting MELCA-Ethiopia, an Ethiopian NGO, to support the local communities in drafting a BCP to assert community rights to conserve and sustainably use the forest. MELCA-Ethiopia has facilitated community meetings to outline the protocol, and has supported the community to identify and map sacred sites with GPS. When the protocol is finalised (planned for the coming year), it will be used to engage with government agencies to gain recognition for communities.



### **2.1.9. DEMOCRATIC REPUBLIC OF CONGO**

Natural Justice built and maintained close links with Environment, Natural Resources and Development (ERND), a DRC NGO. A representative of ERND attended the inception meeting of the African BCP Initiative and the African Biocultural Rights meeting. ERND has now conducted training on BCPs and biocultural rights with Indigenous community representatives and lawyers in DRC. Natural Justice will continue to build its links with ERND and other organisations in DRC.

### **2.1.10. NAMIBIA**

In Namibia, a collaborative workshop was organised in August 2011 by Natural Justice, the Legal Assistance Center of Namibia, and the Open Society Initiative of Southern Africa in Windhoek, Namibia. Over 30 community representatives attended, primarily from the San Support Organization. Presentations were given on biocultural rights and BCPs, two Namibian case studies where San communities reside in national parks, and the developing national ABS framework. In the coming year, Natural Justice will continue to support capacity development on biocultural rights in Namibia.

## **2.2. LATIN AMERICA**

### **2.2.1. MOSQUITIA, HONDURAS**



In February 2012, Natural Justice started providing technical support for the development of a BCP in Honduras by participating in an introduction workshop on BCPs in Puerto Lempiras, capital of the Mosquitia region in Honduras. The workshop was facilitated by the Central American regional office of the International Union for Conservation of Nature (IUCN), Mopawi, a Miskito NGO, and Moskitia Asia Takanka (MASTA), the main representative body of the Miskito people.

The Miskito are an Indigenous community with approximately 50,000 members occupying pristine wilderness in southern Honduras. The community faces challenges regarding land title, control over forest

and marine resources, as well as procedural issues such as their right to free, prior and informed consent (FPIC). The BCP aims to outline the community's overall FPIC process and is currently being developed by MASTA and Mopawi with input from IUCN's regional office and Natural Justice.

### **2.2.2. BCP DIALOGUE - PERU**

From 8-9 August 2011, an informal dialogue was held in Lima, Peru, bringing together a number of Latin American and other organisations to share their respective experiences or thoughts on working with BCPs. The meeting was hosted by the Sociedad Peruana de Derecho Ambiental (SPDA), ETC Compas, GIZ, and Natural Justice. Participants discussed the importance of biocultural heritage and the legal framework in which BCPs are embedded, and shared

their respective experiences on the use of protocols in different parts of Latin America and beyond. It was concluded that while BCPs are a very useful tool to secure Indigenous peoples' and local communities' rights under, among others, the Nagoya Protocol, more examples are needed in order to draw more precise conclusions about the nature of BCPs.

### 2.2.3. PARTNERSHIP WITH UEBT

In 2011, Natural Justice and the Union for Ethical Biotrade (UEBT) entered a joint project to assess the potential role of biocultural community protocols as a tool to facilitate and strengthen community engagement in practices of sourcing natural resources ethically. Its aim was to better understand how biocultural community protocols could facilitate dialogue between Indigenous peoples and local communities and businesses engaged in Ethical Biotrade activities. In addition, the hope was that Ethical BioTrade would constitute a useful context in which to evaluate and further elaborate on the applicability of community protocols, particularly where communities are engaged in specific commercial relationships with outside parties such as from Reducing Emissions from Deforestation and Forest Degradation (REDD), Payment for Ecosystem Services schemes, or bioprospecting.

The project entailed five steps. First, a small preparatory meeting was organised, involving a small group of experts in biotrade and community engagements, which served as a platform for the launch of the project. Based on the feedback and suggestions received by the participants of the meeting, the project then initiated three case studies in Madre de Dios (Peru), Belem (Brazil), and Vohimana (Madagascar), assessing the practical role of biocultural community protocols in the context of the sourcing activities of UEBT members can play. The fifth step will be a review meeting in March 2012 to assess these experiences.



## 2.3. ASIA



Since establishing an office in Sabah, Malaysia, in 2010, Natural Justice's work in Asia has expanded and deepened with partners across the region. Natural Justice is also planning to establish an Indian office in 2012.

### 2.3.1. ASIA REGIONAL INITIATIVE ON BCPs

Since 2010, Natural Justice has been working with COMPAS, League for Pastoral Peoples / LIFE Network, and UNU-IAS to develop a multi-year Asia Regional Initiative on Biocultural Community Protocols. The Christensen Fund agreed to support the first year of work. The Initiative began in earnest with an inception meeting in Digana, Sri Lanka, in April 2011, with



support from ETC-Compas. The local partners commenced activities under their first-year workplans in September 2011.



In addition to the project coordinators, local partner organisations include:

- Lokhit Pashu-Palak Sansthan (LPPS), working with Raika pastoralists and the Jaisalmer Camel Breeders Association in Rajasthan, India;
- Centre for Indian Knowledge Systems (CIKS), working with small-scale farmers in Tamil Nadu, India;
- Society of Animal, Veterinary and Environmental Scientists, working with pastoralists in Balochistan and Cholistan, Pakistan; and
- Future in Our Hands, working with small-scale and organic farmers in Sri Lanka.

Representatives of the Human Environment Development Organization and the Centre for Eco-cultural Studies (both working on agriculture and natural resource management with rural communities in Sri Lanka) also attended the inception meeting in April and provided inputs on the potential role of BCPs in local advocacy work in their country. Sahjeevan

(working with pastoralists in Gujarat, India, including the Maldhari Banni Breeders Association) subsequently became the fifth local partner organisation in the Regional Initiative. Local partners in Sabah, Malaysia, were initially planned to be part of Initiative and TCF grant, but for reasons beyond our control (see below), this was not possible.

The main activities of the first year of the Regional Initiative include engaging in local processes to develop and use biocultural community protocols, coordinating and developing relevant legal expertise, holding a regional experience-sharing and peer learning meeting, developing good practice, and disseminating multimedia guidance, case studies and resources.

Natural Justice's role has been to develop and co-coordinate the Initiative, to provide legal assistance and support the capacity building of in-country lawyers, to develop the dedicated website, toolkit, and supplementary resource materials on BCPs, and to seek additional programmatic funds. As of March 2012, the following key activities were undertaken by Natural Justice with support from TCF as well as the Shuttleworth Foundation and CD Trust (South Africa):

- Support visit to LPPS in (Sadri) Rajasthan in June 2011. The Raika are facing further exclusion from their customary grazing areas through the proposal to re-gazette the Kumbalgarh Sanctuary as a National Park. LPPS is supporting the Raika and other communities in the area to file claims under the Forest Rights Act 2006. Natural Justice participated in local consultations in collaboration with Kalpavriksh and the Foundation for Ecological Security and produced a chronology of events relating to the Raika's legal claims based on documentation in the LPPS office.
- Planning meeting with CIKS in Chennai (Tamil Nadu) in June 2011 to discuss proposed activities under the Initiative, with particular focus on legal empowerment.
- Scoping meetings with other Indian organisations, including Asthra (Rajasthan), A-TREE, and I-AIM (formerly FRLHT), in June 2011. The meetings explored how these organisations may be able to support the local partners



under the TCF grant and how they may play a role in the broader 3-year strategy for the Initiative.

- Development and launching of dedicated website [www.community-protocols.org](http://www.community-protocols.org) in October 2012.
- Systematisation of local experiences and lessons learned (including through the African Regional Initiative and other communities' work around the world).
- Publication and dissemination of the BCP Toolkit for Community Facilitators in February/March 2012, both online and in hard copy with accompanying CDs ([www.community-protocols.org/toolkit](http://www.community-protocols.org/toolkit)).
- Publication and dissemination of a number of supplementary resource materials in February/March 2012, including desktop legal reviews, e-learning modules on key international frameworks, slideshows and photo stories, and networking opportunities.



In terms of next steps, the second half of the TCF grant will be undertaken from March-August 2012. The second regional meeting is tentatively planned for September or October 2012, during which time partners will share experiences and lessons learned from the first year of activities and plan for the next 1-2 years. In addition to supporting the local partners included in the TCF grant, Natural Justice plans to broaden and deepen the Asia Regional Initiative to include more partners and a more concerted approach to developing networks of in-country lawyers.

Additional funds from the Shuttleworth Foundation will support the production of more resource materials such as e-learning modules and photo stories until late 2012. The BCP Toolkit and website will be further disseminated at a number of international and regional meetings in 2012 for testing and peer review. We plan to produce a second version of the Toolkit with translations into French, Spanish, and Hindi (and perhaps other national languages) in early 2013.

### 2.3.2. SABAH, MALAYSIA

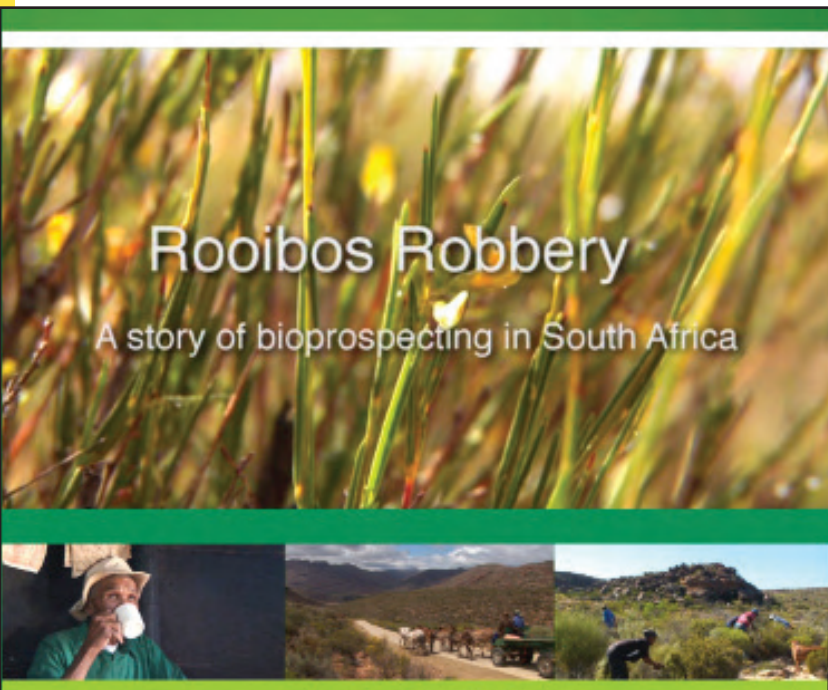
Natural Justice continued to support the community researchers and Global Diversity Foundation with the development of the Ulu Papar biocultural community protocol through several informal discussions and peer learning meetings through 2011 and early 2012. The protocol was finalised in early 2012 (2 years after the process began) and the community researchers engaged in a series of dialogues with local government agencies and meetings with NGOs and public associations.

Throughout 2011 and early 2012, Natural Justice held several meetings about community protocols and relevant legal frameworks such as Access and Benefit Sharing with Indigenous organisation PACOS Trust, culminating in an NGO meeting on protocols in March 2012. PACOS subsequently invited Natural Justice to assist with an SGP-funded project with four communities in Sabah that is likely to involve developing and using community protocols to secure various rights and priorities.

Natural Justice also continued to work with the Sabah Biodiversity Centre to develop the Kinabalu Biocultural Law Project, including writing a feasibility study and preparing a range of materials for use in the project, expected to commence in the second half of 2012. As part of this, Natural Justice has entered into a Memorandum of Understanding with Borneo Conservancy Initiative; they have worked together on a number of planning meetings with communities, including Melangkap, Kiau, and Bundu Tuhan.

# 3. NATIONAL AND REGIONAL TECHNICAL ADVICE

## 3.1. NESTLÉ CASE



In 2010, Natural Justice partnered with the Berne Declaration to raise awareness regarding five patent applications by multinational food giant Nestlé. The patent applications, related to the use of South African Rooibos and Honeybush to treat skin and hair ailments, were in contradiction to both the South African Biodiversity Act and the United Nations Convention on Biological Diversity (CBD).

Rooibos and Honeybush are endemic to South Africa's Western and Eastern Cape Provinces and have long been used for medicinal purposes. Any company intending to conduct research on commercial applications of genetic resources are obliged by South African and international law to enter into a benefit-sharing agreement and obtain a subsequent permit from the relevant government agency. The South African Department of Environment confirmed that it has not granted any such permits to Nestlé.

After substantial media campaigns, Nestlé entered into negotiations with South Africa's Department for Environmental Affairs, the agency mandated to issue bioprospecting permits. However, after a pre-examination report by the World Intellectual Property Organization concluded that the patents failed the patentability criteria of novelty and inventiveness, Nestlé decided to let the applications expire and negotiations subsequently ended.

This case highlighted the importance of the recently adopted Nagoya Protocol on Access and Benefit Sharing. Once the Protocol is implemented on a national level, companies that use Indigenous biological resources for bioprospecting, even if they access the resources outside of the country of origin, can be challenged through the courts of the country where the companies are located. In the meantime, more awareness-raising regarding appropriate conduct for bio-prospecting will be necessary.

The case was also subject for of a recent released documentary entitled "Rooibos Robbery: A Story of Bioprospecting in South Africa" that Natural Justice co-produced.

## 3.2. SA INTELLECTUAL PROPERTY LAW AMENDMENT BILL

From 2010-2011, the South African Portfolio Committee for Trade and Industry reviewed a Bill that amends a range of existing intellectual property rights mechanisms in South Africa, including the South African Copyright Act (1978), Performers Protection Act (1967), and Trade Mark Act (1993) and Design Act (1993), in order include certain forms of traditional knowledge protection under the premises of the respective Acts. After Natural Justice supported a workshop for the South African Parliamentary Portfolio Committee for Trade and Industry on the proposed

Intellectual Property Law Amendment Bill, Johanna von Braun worked as an expert advisor to the Committee on the amendment of the Bill.

### 3.3. SABAH ABS TOOLKIT

With support from the ASEAN Centre for Biodiversity and in collaboration with the Sabah Biodiversity Centre, Natural Justice produced a draft toolkit and guide to Sabah's draft ABS Regulations. Funds are also reserved to host consultations with local NGOs, CBOs, and Indigenous peoples on ABS in general and to seek feedback on and inputs to the toolkit and guide. These consultations will be held and the toolkit and guide will be finalised after the Regulations are gazetted (likely in 2012 or early 2013).

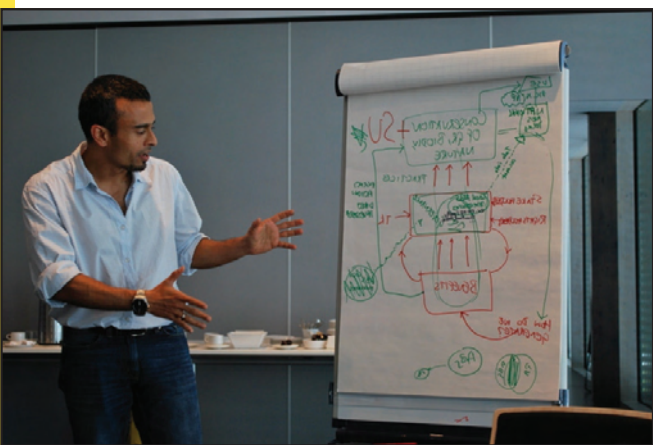
### 3.4. PROTECTED AREA GOVERNANCE

In late 2009, the volunteer-driven Strategic Direction on Governance, Communities, Equity and Livelihood Rights in Relation to Protected Areas (TILCEPA), under the auspices of the International Union for Conservation of Nature (IUCN) Commission on Environmental, Economic and Social Policy (CEESP), decided to act on various calls for resources to assist in national implementation of the Programme of Work on Protected Areas (PoWPA). With the support of GIZ, they began to develop a training-of-trainers toolkit on governance of protected areas with a focus on Element 2 (governance, equity, participation, and benefit-sharing)

Following circulation of a draft version of the toolkit at COP10 in 2010, to which Natural Justice had contributed participatory workshop activities, we participated in a peer review and planning workshop from 4-5 July 2011 at the IUCN Headquarters in Switzerland.

The toolkit now consists of two volumes, namely, on background and theory and guidelines and materials for trainers and facilitators on understanding, assessing, and evaluating governance of protected areas and protected area systems. It has also evolved into draft IUCN Best Practice Guidelines on PA Governance and will be published as such in late 2012 or early 2013. A dedicated GIZ consultant was hired to develop the curricula and training materials. The CBD Secretariat has requested the same team to develop a companion e-learning module for the online PoWPA training programme whenever the toolkit is completed. Looking ahead, Natural Justice may be involved in piloting the Guidelines at the national or sub-regional level in collaboration with ICCA consortium partners and the CBD Secretariat.

### 3.5. EXPERT MEETING ON PROTECTED AREAS AND ABS



Following the adoption of the Nagoya Protocol in late 2010, Natural Justice, UNEP and IUCN co-hosted an expert meeting from 6-8 July 2011 to explore synergies between access and benefit sharing and the governance and management of protected areas. Emphasis was placed on how the implementation of the Nagoya Protocol within domestic frameworks could be harmonised with existing frameworks on protected areas, particularly given the Programme of Work on Protected Areas is widely regarded as the most successful Programme under the auspices of the CBD. The meeting concluded with a number of recommendations, including, among others: determining the rights of Indigenous peoples and local communities; identifying types and modalities of prior informed consent, mutually agreed



terms, and benefit-sharing; learning from and accommodating the complexities of different management categories and governance types of protected areas when drafting ABS laws and policies; exploring how customary laws and community protocols can be respected and upheld; and establishing an inter-Commission task force to develop guidelines on ABS for protected area managers. A proposal for follow-up activities in West Africa was submitted to UNEP-LifeWeb shortly after the expert meeting, but this was since held up by the departure of Natural Justice's main contact at UNEP.

### **3.6. BHUTAN**

Kabir Bavikatte visited Bhutan in early 2012 as a special advisor to the Ministry of Environment of the Royal Government of Bhutan to assist them in finalising their policy on Access and Benefit Sharing. In early 2011, along with Morten Tvedt from the Fridtjof Nansen Institute, Kabir had co-facilitated a multi-stakeholder dialogue organised by the Ministry of Environment. The outcomes of this dialogue, along with Bhutan's Gross National Happiness indicators, contributed to the first draft of Bhutan's ABS policy. Kabir and Morten returned to Bhutan in 2012 to participate in public consultations on the draft ABS policy organised by Bhutan's Ministry of Environment. Extensive consultations were held with different stakeholders across Bhutan and the ABS policy was redrafted based on the inputs received. Bhutan's Gross National Happiness Commission is currently reviewing the policy after which it is expected to be discussed and adopted by Bhutan's parliament.

### **3.7. NAMIBIA**

The Namibian Access to Genetic Resources and Associated Traditional Knowledge Bill (ABS Bill) has been under development since 1998. A community/stakeholder consultation and participation process commenced in August 2011. Traditional and local communities from different regions were given an opportunity to comment on the draft ABS Bill. Kabir Bavikatte was tasked by the Ministry of Environment and Tourism of Namibia to compile their national ABS law based on the inputs received from public consultations held across the country on ABS since the adoption of the Nagoya Protocol on ABS in October 2010. This process was assisted by other partners, including Namibian lawyers and ABS experts. The Namibian draft ABS law was presented to Namibian parliamentarians in January 2012, who are currently reviewing it and incorporating administrative elements for the purposes of implementation.

### **3.8. GIZ ABS CAPACITY DEVELOPMENT INITIATIVE**



Over the year, Natural Justice continued providing consultation services for the ABS Initiative as it expanded its mandate to include the Caribbean and the Pacific regions in addition to Africa. The services included the following:

#### **3.8.1. NEGOTIATION SUPPORT**

Kabir Bavikatte, who has been involved with the activities of the Initiative since its inception in 2005, is currently on the Steering Committee of the ABS Initiative representing the interests of civil society organisations. Kabir has supported the Initiative this year by continuing his role as the legal advisor to the African Group of countries in their international negotiations under the framework of the CBD, with a specific emphasis

on Article 8(j) and on the Nagoya Protocol on ABS. Kabir has also been actively involved in the re-drafting of the African Model Law on ABS on behalf of the African Union with the aim of ensuring that it evolves into a Model Law in harmony with the Nagoya Protocol and hence can be implemented by African countries.

### 3.8.2. TRAINING FOR LUSOPHONE COUNTRIES IN AFRICA

From 3-6 May, 2011, Johanna von Braun co-facilitated the first ABS Initiative Workshop for Lusophone African countries in Maputo, Mozambique. The workshop was hosted by the Ministério para a Coordenação da Acção Ambiental (Mozambique's Ministry for the Coordination of Environmental Action) as well as the ABS Initiative. Approximately 35 participants from Angola, Cape Verde, Guinea Bissau, and Mozambique attended, including representatives of the ABS focal points of each country and other government officials and representatives from the scientific community, civil society organisations, traditional healers, NGOs, and the private sector. During the course of the workshop, participants went through a range of presentations and group discussions on the CBD, the recently adopted Nagoya Protocol, and the challenges of implementing the Protocol effectively. Presentations were given by international experts from the Brazilian government (Juliana Santilli and Krishna Barros Bonavides), from the Fridtjof Nansen Institute in Norway (Morten Tvedt), and from Natural Justice (Johanna von Braun). Overall, the workshop provided space to exchange a wealth of experiences and knowledge between participants from across Lusophone Africa.

## 4. INTERNATIONAL ADVOCACY

### 4.1. BIODIVERSITY

#### 4.1.1. WORKING GROUP ON ARTICLE 8(j) AND RELATED PROVISIONS

From 31 October to 4 November, 2011, in Montreal, Natural Justice attended the 7th Meeting of the Ad-Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions (WG8(j)-7) under the auspices of the CBD. This was the third consecutive WG8(j) meeting that Natural Justice has attended. We engaged actively in the negotiations in collaboration with other civil society groups, the International Indigenous Forum on Biodiversity, and select government delegates; key agenda items included progress on the Programme of Work on Article 8(j) and related provisions, mechanisms to promote the effective participation of Indigenous peoples and local communities in the work of the CBD, and the new major component on Article 10 with a focus on Article 10(c) in the Programme of Work. We also co-organised and presented at several side events on topics such as Indigenous peoples' and local communities' conserved territories and areas, biocultural community protocols, and access and benefit sharing. The internal report provides more information and insights about the process and outcomes of the meeting, as well as an annex with an updated internal strategy on Article 8(j) and Related Provisions.



This is arguably the most important area of the CBD for Natural Justice and has the greatest potential for gains at the nexus of traditional knowledge, customary sustainable use, land and resource rights, and community protocols. Looking ahead, we aim to particularly focus on the new major component on Article 10 and 10(c), which will be further considered by the 11th Conference of the Parties to the CBD in October 2012 and hopefully adopted as a Plan of Action for phased implementation by the 12th Conference of the Parties in 2014.

#### 4.1.2. ACCESS AND BENEFIT SHARING

Since the adoption of the Nagoya Protocol on ABS in October 2010 by the 10th Conference of Parties to the CBD, there has been a significant change in the ABS landscape. The international negotiations around ABS shifted from the Working Group on ABS to the Intergovernmental Committee on the Nagoya Protocol, tasked with implementing the Nagoya Protocol. There is now a lot of focus on implementation of the Nagoya Protocol nationally. For Natural Justice, this has meant focusing our energies on ensuring that the gains regarding community rights that we made internationally are translated into national law and policy (see section on National and Regional Technical Advice above).

### 4.2. CLIMATE CHANGE

On 1 December, 2011, Natural Justice co-hosted a panel entitled “Biocultural Protocols: Lessons for REDD+ Safeguards from the CBD Experiences” at the 17th Conference of the Parties (COP17) to the UN Framework Convention on Climate Change (UNFCCC) in Durban, South Africa. The event was hosted in collaboration with the Indigenous Peoples of Africa Coordinating Committee (IPACC), the Indigenous Peoples Biocultural Climate Change Assessment, and the Global Forest Coalition.

The purpose of the panel was to raise awareness of a number of decisions, tools and guidelines that have been developed in the past 20 years of the CBD to highlight their usefulness and the potential for cross-leveraging rights to mitigate risks associated with REDD+.



Natural Justice increased its involvement with REDD and the UN Framework Convention on Climate Change from 2011-2012. Members attended COP17 in Durban (December 2011). Members also attended meetings hosted by the CBD in 2011 in Singapore and South Africa, as part of a process to: (a) develop relevant safeguards for biodiversity, so that REDD+ actions are consistent with the objectives of the CBD; b) identify possible indicators to assess the contribution of REDD+ to achieving the objectives of the CBD; and c) contribute to capacity-building on REDD+ in the Asia-Pacific region. Natural Justice also attended the “African Regional Consultation between Indigenous Peoples, Forest-Dependent Communities, and UN-REDD: Free, Prior and Informed Consent (FPIC) Processes and Recourse Mechanisms,” which took place in Arusha, Tanzania. The meeting was the third consultation of the UN-REDD Programme that was organised with community representatives; the previous meetings taking place in Hanoi, Vietnam, and Panama City, Panama.



## 4.3. AGRICULTURE

Natural Justice attended the 13th Session of the Commission on Genetic Resources for Food and Agriculture (CGRFA) in Rome from 18-22 July, 2011. We attended a side event on biocultural community protocols, traditional livestock keepers, and animal genetic resources hosted by the LIFE Network and the League for Pastoralist Peoples, and one on agrobiodiversity, climate change, and food security. We also took the opportunity to have meetings with our LIFE Network partners, with staff of the NGOs Practical Action and the International Land Coalition, and with a potential Natural Justice Associate who has experience in land rights, food security, and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests. We will continue to follow up with these leads and to support the work of the LIFE Network and LPP in promoting Livestock Keepers' Rights in the FAO processes and with FAO staff in the Animal Genetic Resources Branch.



## 4.4. HUMAN RIGHTS

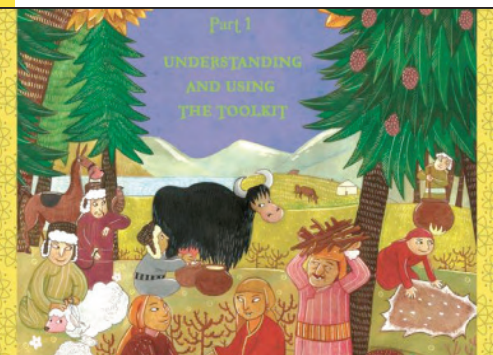
### 4.4.1. EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

Natural Justice attended the 4th Session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in Geneva from 11-15 July, 2011. This session of EMRIP focused on a study on the right to education and the advance version of the study on Indigenous peoples and the right to participate in decision-making. Natural Justice organised a lunch event with the ICCA Consortium on ICCAs and Indigenous peoples' rights, and attended other events on treaties and agreements between Indigenous peoples and states and on FPIC and transnational corporations, among others. The meeting was useful for several reasons, including: increasing our understanding of the relationships between and roles of the key fora and mechanisms on Indigenous peoples' rights; exploring linkages with national and regional Indigenous peoples' networks; and connecting further with two of the Experts, Mr. Vital Bambanze (IPACC) and Ms. Jannie Lasimbang (Sabah Commissioner for the Malaysian Human Rights Commission), and with the Special Rapporteur on the Rights of Indigenous Peoples. Natural Justice plans to engage more actively and strategically in human rights fora alongside continued engagements in international environmental fora in order to cross-leverage the gains made in each.

### 4.4.2. BUSINESS AND HUMAN RIGHTS

As Natural Justice continues to expand its work throughout Africa, Asia and Latin America, it has become increasingly obvious that multi-national corporations and investments relating to large-scale and industrial forms of extraction, production, and construction (for example, mining, agriculture, and infrastructure projects) have a significant impact on the wellbeing of Indigenous peoples and local communities. We have just begun to engage in this area by making a written submission to the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises in late 2011. Natural Justice plans to expand its knowledge-base and practical work and advocacy given the growing recognition of its impacts on Indigenous peoples and local communities.

# 5. MULTIMEDIA, PUBLICATIONS & COMMUNICATIONS



Natural Justice continues to critically reflect on and disseminate our and our partners' work to audiences ranging from policy-makers and small businesses to civil society networks and the general public. Our flagship publication to date (released in March 2012) is *Biocultural Community Protocols: A Toolkit for Community Facilitators*, which was over 2 years in the making in collaboration with a number of partners. The Toolkit is intended for use alongside the dedicated website [www.community-protocols.org](http://www.community-protocols.org). We developed a raft of supporting materials for this site, including desktop legal reviews and e-learning modules on select international legal frameworks, introductory slideshows and photo stories, and networking opportunities (a community protocols Facebook page and a closed Facebook group for partners in the regional BCP initiatives).

More generally, we have greatly increased our online presence through maintaining the existing blog, Facebook, and Flickr pages, and ensuring that they function as an inter-linked social media platform. The middle of 2011 also saw the launch of a revamped version of [www.naturaljustice.org](http://www.naturaljustice.org). In addition, Natural Justice worked with Steps Southern Africa and the Berne Declaration to produce a film on the efforts to halt Nestle's attempt to patent uses of rooibos and honeybush. We are also in the process of finalising a short film on BCPs in collaboration with Moving Images.

In addition to the Toolkit and multimedia online presence, our written publications over the past year have included workshop reports, articles, booklets, and legal submissions, all of which are available at: <http://naturaljustice.org/library/our-publications>.

Natural Justice produced reports of the inception meetings of the Asia and Africa Regional BCP Initiatives in Sri Lanka and Cape Town, respectively, which both took place in April 2011, as well as of a regional dialogue on BCPs held in Lima, Peru, in August 2011. Reports of three other workshops that we co-hosted were produced as well, namely, on protected areas and access and benefit sharing (Gland, July 2011) and on the green economy and green governance (Cape Town, August 2011).

Natural Justice contributed an article on BCPs to the 14th issue of the *Effectus* Newsletter and one on biocultural rights to the 7th issue of *Common Voices*, the latter of which drew from Kabir Bavikatte's PhD thesis. We produced a booklet on BCPs in the context of REDD in collaboration with *Asociacion ANDES*, the Indigenous Peoples Biocultural Climate Change Assessment, and the Global Forest Coalition for distribution at the the UNFCCC COP17 in Durban, South Africa. We also continued to serve on the editorial board of the joint civil society-CBD Secretariat newsletter [square brackets].

Currently underway and due for publication in 2012 or early 2013 are a special issue of *IIED's Participatory Learning and Action Journal* dedicated to community protocols, a *CBD Technical Series* volume on legal and non-legal recognition of ICCAs, a global legal review on ICCAs and biocultural rights, a book on biocultural rights in Asia, and



As part of our work in international fora, Natural Justice made written submissions to the Secretariat of the CBD on the Programme of Work on Article 8(j) and Related Provisions as well as on relevant safeguards for REDD+ in collaboration with a number of other NGOs. A written submission was also made with our local partner CIKOD to the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises on the impact of large-scale, industrial methods of extraction, production and development on the rights of Indigenous peoples and local communities.

## PART II: FINANCES

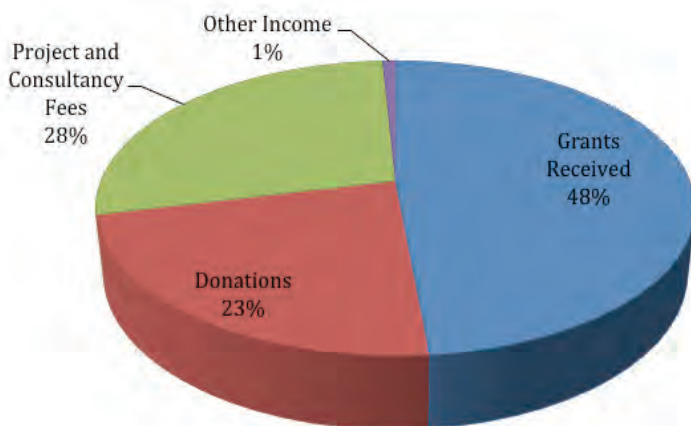
### 6. FINANCIAL SUMMARY

As in prior years, the work of Natural Justice was mainly supported by grants, donations and consultancy contracts during this reporting period. The greater part of our funding came from grant agreements that provided the financial backing needed to respond to significant opportunities that arose from our global BCP Initiative work with communities in Africa, Asia and the Americas. The funding from these agreements also supported the improvement and expansion of our communications and online platforms, as well as the development of electronic and hard copy training materials used to support communities and/or community representatives.

Project and consultancy funding included funding for projects carried out in collaboration with partners and/or funding for consultancy and technical services provided to partners or governments. Similarly, donation funding includes once-off or ad-hoc funding of travel expenses to attend conferences or meetings, or general funding for operational expenses. As illustrated in the diagram below, 48% of our funding came from grants, 23% came from donations, and 28% was derived from project and consultancy work.

We would like to express our deepest gratitude for the continued support of all our funders, donors and partners, without whom we could not have achieved what we have.

#### Income Summary 2011 - 2012



#### Financial Report for the year ending February 2012 (In South African Rands)

<b>Income</b>	<b>1 885 083</b>
<b>Grants Received:</b>	<b>3 277 664</b>
CDT Foundation	341 800
GIZ	496 505
GTZ	226 086
Heinrich Böll Foundation	302 000
OSISA	559 273
Shuttleworth Foundation	1 352 000
<b>Donations:</b>	<b>721 876</b>
IIED	16 876
Kabir Bavikatte	705 000
<b>Project &amp; Consultancy Fees</b>	<b>1 607 003</b>
Berne Declaration	30 104
ETC-COMPAS	92 223
IUCN-Environmental Law Centre	35 112
Proyectos	92 634
Shuttleworth Foundation	295 191
Swedbio	656 640
UNEP	182 846
UNDP	49 405
UCT-DEA	78 423
UNU (IAS)	47,824
Other	46,601
<b>Expenditure</b>	<b>3 993 379</b>
Personnel Costs	2 343 675
Administration Costs	432 313
Bank Charges	29 516
Depreciation	12 429
Project Travel	1 153 198
Training Materials and Publications	22 248



## 7. ORGANISATION

### 7.1. BOARD OF TRUSTEES

Adele Wildschut, Hennie van Vuuren and Saliem Fakir continued to provide valuable guidance and oversight throughout the year. Given that the organization is now expanding internationally, consideration is being given as to whether a board member from outside Africa should also join the board.

### 7.2. STAFF



Over the past year, Natural Justice moved to establish new and more effective structures for management and decision-making in an effort to be true to our vision and mission. This saw the development of a collective, comprised of the 6 staff members. The collective makes decisions on strategy and project involvement. A Coordinating Committee of three, which will have rotating membership from Asia, Africa and the Americas, was established with Harry Jonas, Kabir Bavikatte, and Johanna von Braun, respectively, as the first members. Kabir will step aside from March 2012 given he will be operating out of India and Gino Cocchiario will take over his role for the Africa office. Day-to-day decisions and oversight relating to finances and programmatic work will be made by the Coordinating Committee, while more significant decisions will continue to be made by the Collective. A new Constitution and policies were developed and will be finalised in the coming year.

Sabine Zajderman also consulted with the organization, providing invaluable assistance on the African Biocultural Community Protocol Initiative.

### 7.3. INTERNATIONAL BOARD

Tomme Young and Brendan Tobin remain on our international advisory board.

### 7.4. ASSOCIATES

Dr Marcelin Tonye Mahop joined our growing list of associates. Marcelin is a Research Fellow at the Law and Governance Group of Wageningen University, in the Netherlands, and a consultant on intellectual property and development issues. He also provides support to the Africa Group through the ABS Capacity Development Initiative.

### 7.5. INTERNS & VOLUNTEERS

Natural Justice continued to be supported generously by interns and volunteers, with three based in the Cape Town office during this period. Steph Booker, an Australian lawyer, volunteered from August 2011 and became a paid consultant in February 2012. J. Eli Makagon, an American lawyer, supported programme work and research from January 2012. Esther Ngom, a lawyer from Cameroon, also volunteered by carrying out research on the implications

of intellectual property law for communities in Ghana, Burkina Faso and Benin. Johan Lorenzen, a University of Cape Town law student, supported communications efforts from October 2011.

## **7.6. OFFICES**

Natural Justice prepared to open two new offices in this period. Kabir Bavikatte relocated to India to deepen Natural Justice's relationship with the Indian National Biodiversity Authority and expand Natural Justice's work in South Asia. We aim to hire more staff in the coming year to support that effort. Johanna von Braun is planning to move to New York City in 2012 to expand Natural Justice's work in Latin America and to engage in international advocacy.

## **7.7. AWARDS**

Harry Jonas has been elected to become an Ashoka Fellow. Ashoka (Innovators for the Public) gives fellowships to 'social entrepreneurs' to support them and their ideas to flourish.

