

Appendix 44 -

Qeshm Bio- Cultural Protocol 2015

OUR RIGHTS UNDER NATIONAL LAWS:

Even though there are no specific law and regulations in Iran's national legal framework concerning the Local Communities; but government has series of obligations towards us that have been recognized in some national laws. For example on the basis of Article 3(2) of Conservation and Exploitation of Natural Resources in Iran (By law, 2007) Iran Fisheries Organization (IFO) is obliged to consult with fishermen or their representatives and relevant Fishing Cooperatives' Unions and other stakeholders in preparation of management draft of fish stocks.

Moreover, in article 10 of the law of Conservation and Exploitation of the Fish of the Islamic Republic of Iran (1995), in order to protect coastal fisherman, activities of industrial fishing fleets in the coastal waters of Islamic Republic of Iran are prohibited.

And, finally to conserve fish stocks and fishing, Agricultural Products Insurance Fund, is obliged to catch insure fisheries, and other insurance companies are obliged to insure fishing equipment, according to the article 11(b) of the law of Conservation and Exploitation of the Fish.

OUR RIGHTS UNDER INTERNATIONAL LAW

We the indigenous people and local communities of Qeshm Island, in this bicultural community protocol identify the following principles and rights based on international law, (that further elaborated in appendix II, namely):

A. Principles

1. We are developers of breeds and custodians of our genetic resources (animals¹ and plants) for food and agriculture; and
2. Qeshm and the sustainable use of traditional breeds are highly dependent on the conservation of our ecosystem; and
3. Our traditional breeds represent collective property, products of traditional knowledge and our cultural expression.

B. Rights

We have the right to:

- I: Make breeding decisions and breed the breeds they maintain.

¹ Domestic livestock and fish stock.

II: Participate in policy making and implementation processes on genetic resources (animal and plant) for food and agriculture.

III: Receive appropriate training and capacity building and equal access to relevant services enabling and supporting us to raise livestock and plants to improve process and marketing of our products.

IV: Participate in the identification of research needs and research design with respect to our genetic resources, as is mandated by the principle of Free Prior Informed Consent (FPIC).

V: Effectively access information on issues related to our local breeds, livestock and plants diversity, effectively access to genetic resources and also appropriate access to benefit sharing.

We call on the Secretariat of the UN Convention on Biological Diversity, specifically under Article 8(j) of the Convention, to recognize our contribution to the conservation and sustainable use of biological diversity in the mangrove ecosystem of Hara Biosphere Reserve, the largest mangrove forest in the Persian Gulf and Oman Sea.

APPENDIX: OUR PRINCIPLES UNDER INTERNATIONAL LAW

We the indigenous people and local community of Qeshm, in this bicultural community protocol identify the following principles based on international law:

Principle 1:

We the indigenous people and local community of Qeshm are developers of breeds and custodians of our animal and plant genetic resources for food and agriculture.

Over the course of history, we, the local community of the Qeshm, have managed and bred livestock, plants and Hara forest, selected and used them, thus shaping them so they are well-adapted to our environment and its extremes.

Preservation of it is a vital part of our culture and livelihoods. Yet our livelihoods are under the risk of loss of access to our traditional lands. This has endangered our food security and our way of life.

Principle 1 is supported by:

- Point 9 of the Interlaken Declaration on Animal Genetic Resources recognizes “that the genetic resources of animal species most critical to food security, sustainable livelihoods and human well-being are the result of both natural selection, and directed selection by smallholders, farmers, pastoralists and breeders, throughout the world, over generations”.
- Point 12 of the Interlaken Declaration on Animal Genetic Resources recognizes “the enormous contribution that the local and indigenous communities and farmers, pastoralists and animal breeders of all regions of the world have made, and will continue to make for the sustainable use, development and conservation of animal genetic resources for food and agriculture”.
- Part I Point 10 of the Global Plan of Action for Animal Genetic Resources: “all animal genetic resources for food and agriculture are the result of human intervention: they have been consciously selected and improved by pastoralists and farmers since the origins of agriculture, and have co-evolved with economies, cultures, knowledge systems and societies. Unlike most wild biodiversity, domestic animal resources require continuous active human management, sensitive to their unique nature”. Biological Convention on Diversity 1992.

Principle 2:

Qeshm and the sustainable use of traditional breeds are highly dependent on the conservation of our ecosystem.

Our traditional species (animal and plants) are developed through the interaction between our livestock, pastoralists and natural environment. This natural environment is conserved, inter alia, through traditional practices of the Local Community of the Qeshm. The Qeshm local community therefore have a right to access our natural environment, so as to ensure the sustainable use and conservation of our species and the environment.

Principle 2 is supported by:

- Article 8 of the Convention on Biological Diversity: “genetic resources should be conserved in the surroundings in which they have developed their distinct properties”.
- Article 10 (d) of the Convention on Biological Diversity demands that “local populations are supported to develop and implement remedial action in degraded areas where biological diversity has been reduce”.
- Article 9.1 of the Treaty on Plant Genetic Resources for Food and Agriculture provides that: The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centers of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.

Principle3:

Our traditional breeds represent collective property, products of indigenous knowledge and our cultural expression.

While the local community of Qeshm have collective custodianship rights over our Genetic resources and the traditional knowledge related to these species, it is crucial that these rights are supported and promoted by the government.

Our government should therefore respect, preserve and maintain the knowledge, innovations and practices of the local community of Qeshm embodying lifestyles relevant to sustainable use and conservation of biological diversity.

Principle 3 is supported by:

- Article 24 (2) of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular: (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States;
- Article 8 (j) of the Convention on Biological Diversity: “Contracting Party shall...Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.
- Article 10 (c) of the Convention on Biological Diversity: obliges Parties to “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation and sustainable use requirements”.
- Article 17 (1) (c) of the United Nations Convention on Combat Desertification (UNCCD): protect, integrate, enhance and validate traditional and local knowledge, know-how and

practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge;

- Article 18 (1) (b) of the UNCCD: facilitate access, in particular by affected developing country Parties, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, to technologies most suitable to practical application for specific needs of local populations, paying special attention to the social, cultural, economic and environmental impact of such technology;
- Article 18 (2): The Parties shall, according to their respective capabilities, and subject to their respective national legislation and/or policies, protect, promote and use in particular relevant traditional and local technology, knowledge, know-how and practices.
- Article 19 (1) (d) of the UNCCD: The Parties recognize the significance of capacity building - that is to say, institution building, training and development of relevant local and national capacities -- in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building: by fostering the use and dissemination of the knowledge, know-how and practices of local people in technical cooperation programs, wherever possible;
- The preamble of the Convention for the Safeguarding of the Intangible Cultural Heritage states that: Recognizing that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and re-creation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity; and Considering the invaluable role of the intangible cultural heritage as a factor in bringing human beings closer together and ensuring exchange and understanding among them.
- Article 1(b) Convention for the Safeguarding of the Intangible Cultural Heritage: to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned;
- Article 15 Convention for the Safeguarding of the Intangible Cultural Heritage : Participation of communities, groups and individuals Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavor to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management;
- Article 17 (1) (C) of the UNCCD: protect, integrate, enhance and validate traditional and local knowledge, know-how and practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge;
- Article 5 (5) of Nagoya Protocol on Access and Benefit-sharing: Each Party shall take legislative, administrative or policy measures, as appropriate, in order that the benefits arising from the utilization of traditional knowledge associated with genetic resources are shared in a fair and equitable way with indigenous and local communities holding such knowledge. Such sharing shall be upon mutually agreed terms;
- Article 7 of Nagoya Protocol on Access and Benefit-sharing: In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local

communities is accessed with the prior and informed consent or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established;

- Article 12 (1) of Nagoya Protocol on Access and Benefit-sharing: In implementing their obligations under this Protocol, Parties shall in accordance with domestic law take into consideration indigenous and local communities' customary laws, community protocols and procedures, as applicable, with respect to traditional knowledge associated with genetic resources.

Based on the above mentioned principles articulated and implicit in existing legal instruments and international agreements, indigenous people and local community of Qeshm, who belong to traditional livestock and fish stock keeping community and adhere to ecological principles of animal production affirm the following rights:

I: Indigenous people and local community of Qeshm have the right to make breeding decisions and breed the breeds they maintain.

This right is supported by:

- Article 26 (1) of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity 2000: The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities;
- Article 9(1) (4) Aquaculture Development of Code of Conduct for Responsible Fisheries: States should ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments;
- Article 10 (c) of the Convention on Biological Diversity: obliges parties to “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation and sustainable use requirements”;
- Article 11(1) of Nagoya Protocol on Access and Benefit-sharing: In instances where the same genetic resources are found *in situ* within the territory of more than one Party, those Parties shall endeavour to cooperate, as appropriate, with the involvement of indigenous and local communities concerned, where applicable, with a view to implementing this Protocol.

II: The indigenous people and local community of Qeshm have the right to participate in policy making and implementation processes of genetic resources (animal and plant) for food and agriculture.

This right is supported by:

- Article 8 (j) of the Convention on Biological Diversity: obliges parties to "... promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

- Article 2 (f) of the Code of Conduct for Responsible Fisheries: The objectives of the Code are to: promote the contribution of fisheries to food security and food quality, giving priority to the nutritional needs of local communities;
- Article 3 of the UNCCD: the Parties shall be guided, inter alia, by the following: the Parties should ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities and that an enabling environment is created at higher levels to facilitate action at national and local levels;
- Article 10 (2) of the UNCCD: National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia; Article 10 (2)(b): allow for modifications to be made in response to changing circumstances and be sufficiently flexible at the local level to cope with different socio-economic, biological and geo-physical conditions; Article 10 (2)(f): provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision-making, and implementation and review of national action programmes.
- Article 16 of the UNCCD: The Parties agree, to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, inter alia, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate: (b) ensure that the collection, analysis and exchange of information address the needs of local communities and those of decision makers, with a view to resolving specific problems, and that local communities are involved in these activities;
- Article 11(1) of Nagoya Protocol on Access and Benefit-sharing: In instances where the same genetic resources are found *in situ* within the territory of more than one Party, those Parties shall endeavour to cooperate, as appropriate, with the involvement of indigenous and local communities concerned, where applicable, with a view to implementing this Protocol.
- Article 12 (2) of Nagoya Protocol on Access and Benefit-sharing: Parties, with the effective participation of the indigenous and local communities concerned, shall establish mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations, including measures as made available through the Access and Benefit-sharing Clearing-House for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge.
- Article 22 (1) of Nagoya Protocol on Access and Benefit-sharing: The Parties shall cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement this Protocol... In this context, Parties should facilitate the involvement of indigenous and local communities and relevant stakeholders, including non-governmental organizations and the private sector.

III- The indigenous people and local community of Qeshm shall have the right to appropriate training and capacity building and equal access to relevant services enabling and supporting us to raise livestock and plants to better process and market our products.

This right is supported by:

- Article 5 of the UNCCD: affected country Parties undertake to:

- (d) Promote awareness and facilitate the participation of local populations, particularly women and youth, with the support of non- governmental organizations, in efforts to combat desertification and mitigate the effects of drought;
- Article 10 (2) (e) of the UNCCD: promote policies and strengthen institutional frameworks which develop cooperation and coordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;
- Article 13(1) (c) of the UNCCD: increased flexibility in project design, funding and implementation in keeping with the experimental, iterative approach indicated for participatory action at the local community level.
- Article 19(1) of the UNCCD: The Parties recognize the significance of capacity building -- that is to say, institution building, training and development of relevant local and national capacities -- in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building:
 - (a) Through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the cooperation of non-governmental and local organizations;
- Article 9(2) of International Treaty on Plant Genetic Resources for Food and Agriculture: In accordance with farmers' needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:
 - (a) Protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
 - (b) The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture.
- Article 3(d) of the UNCCD: "develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country Parties in carrying out relevant education and awareness programmes, and fully utilize relevant educational material available in competent international bodies;
- Article 5 (2) of Nagoya Protocol on Access and Benefit-sharing: Each Party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilization of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on mutually agreed terms.
- Article 12 (2) of Nagoya Protocol on Access and Benefit-sharing: Parties, with the effective participation of the indigenous and local communities concerned, shall establish mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations, including measures as made available through the Access and Benefit-sharing Clearing-House for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge.

IV- The indigenous people and local community of Qeshm have the right to Participate in the identification of research needs and research design with respect to our genetic resources, as is mandated by the principle of Free Prior Informed Consent (FPIC).

This right is supported by:

- Article 9(2) (c) International Treaty on Plant Genetic Resources for Food and Agriculture: The right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.
- Article 17 (1) of the UNCCD: The Parties undertake, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national, sub-regional, regional and international institutions. To this end, they shall support research activities that: (b) Respond to well defined objectives, address the specific needs of local populations and lead to the identification and implementation of solutions that improve the living standards of people in affected areas; (c) protect, integrate, enhance and validate traditional and local knowledge, know-how and practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge; (d) develop and strengthen national, sub-regional and regional research capabilities in affected developing country Parties, particularly in Africa, including the development of local skills and the strengthening of appropriate capacities, especially in countries with a weak research base, giving particular attention to multidisciplinary and participative socio-economic research.
- Article 18 (1)(b) of the UNCCD: “ensure that such technology, knowledge, know-how and practices are adequately protected and that local populations benefit directly, on an equitable basis and as mutually agreed, from any commercial utilization of them or from any technological development.”
- Article 7 of Nagoya Protocol on Access and Benefit-sharing: In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities is accessed with the prior and informed consent or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established.
- Article 6 (2) of Nagoya Protocol on Access and Benefit-sharing: In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that the prior informed consent or approval and involvement of indigenous and local communities is obtained for access to genetic resources where they have the established right to grant access to such resources.

IV: The indigenous people and local community of Qeshm have the right to effectively access information on issues related to our local breeds, livestock and Plants diversity, effectively access to genetic resources and also appropriate access to benefit sharing.

This right is supported by:

- Article 17 (1)(f) of the UNCCD: promote the conduct of joint research programmes between national, sub regional, regional and international research organizations, in both the public and private sectors, for the development of improved, affordable and accessible technologies for sustainable development through effective participation of local populations and communities.
- Article 16 of the UNCCD: The Parties agree, to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, inter alia, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate: (g) subject to their respective national legislation and/or policies, exchange information on local and traditional knowledge, ensuring adequate protection for it and providing appropriate return from the benefits derived from it, on an equitable basis and on mutually agreed terms, to the local populations concerned.
- Article 18 (1)(a) of the UNCCD: make inventories of such technology, knowledge, know-how and practices and their potential uses with the participation of local populations, and disseminate such information, where appropriate, in cooperation with relevant intergovernmental and non-governmental organizations;
- Article 3(d) of the UNCCD: “develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country Parties in carrying out relevant education and awareness programmes, and fully utilize relevant educational material available in competent international bodies.
- Article 6(19) of Code of Conduct for Responsible Fisheries: States should consider aquaculture, including culture-based fisheries, as a means to promote diversification of income and diet. In so doing, States should ensure that resources are used responsibly and adverse impacts on the environment and on local communities are minimized.
- Article 6 (3) (f) of Nagoya Protocol on Access and Benefit-sharing: each Party requiring prior informed consent shall take the necessary legislative, administrative or policy measures, as appropriate, to: Where applicable, and subject to domestic legislation, set out criteria and/or processes for obtaining prior informed consent or approval and involvement of indigenous and local communities for access to genetic resources.
- Article 12 (3) of Nagoya Protocol on Access and Benefit-sharing: Parties shall endeavour to support, as appropriate, the development by indigenous and local communities, including women within these communities, of: (a) Community protocols in relation to access to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising out of the utilization of such knowledge; (b) Minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits arising from the utilization of traditional knowledge associated with genetic resources; and (c) Model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources.

- Article 12 (4) of Nagoya Protocol on Access and Benefit-sharing: Parties, in their implementation of this Protocol, shall, as far as possible, not restrict the customary use and exchange of genetic resources and associated traditional knowledge within and amongst indigenous and local communities in accordance with the objectives of the Convention.
- Article 13 (1) of Nagoya Protocol on Access and Benefit-sharing. Each Party shall designate a national focal point on access and benefit-sharing. The national focal point shall make information available as follows: (a) For applicants seeking access to genetic resources, information on procedures for obtaining prior informed consent and establishing mutually agreed terms, including benefit-sharing; (b) For applicants seeking access to traditional knowledge associated with genetic resources, where possible, information on procedures for obtaining prior informed consent or approval and involvement, as appropriate, of indigenous and local communities and establishing mutually agreed terms including benefit-sharing; (c) Information on competent national authorities, relevant indigenous and local communities and relevant stakeholders.
- Article 16 (1) of Nagoya Protocol on Access and Benefit-sharing: Each Party shall take appropriate, effective and proportionate legislative, administrative or policy measures, as appropriate, to provide that traditional knowledge associated with genetic resources utilized within their jurisdiction has been accessed in accordance with prior informed consent or approval and involvement of indigenous and local communities and that mutually agreed terms have been established, as required by domestic access and benefit-sharing legislation or regulatory requirements of the other Party where such indigenous and local communities are located.
- Article 21 of Nagoya Protocol on Access and Benefit-sharing: Each Party shall take measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues. Such measures may include, inter alia: (b) Organization of meetings of indigenous and local communities and relevant stakeholders; (c) Establishment and maintenance of a help desk for indigenous and local communities and relevant stakeholders; (e) Promotion of voluntary codes of conduct, guidelines and best practices and/or standards in consultation with indigenous and local communities and relevant stakeholders; (h) Involvement of indigenous and local communities and relevant stakeholders in the implementation of this Protocol; and Awareness-raising of community protocols and procedures of indigenous and local communities.

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