



**A COMPARATIVE OVERVIEW OF THE
NATURE & FORMS OF TRADITIONAL
KNOWLEDGE IN KENYA**

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PRESENTATION – Kenya

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Where to find Kenya

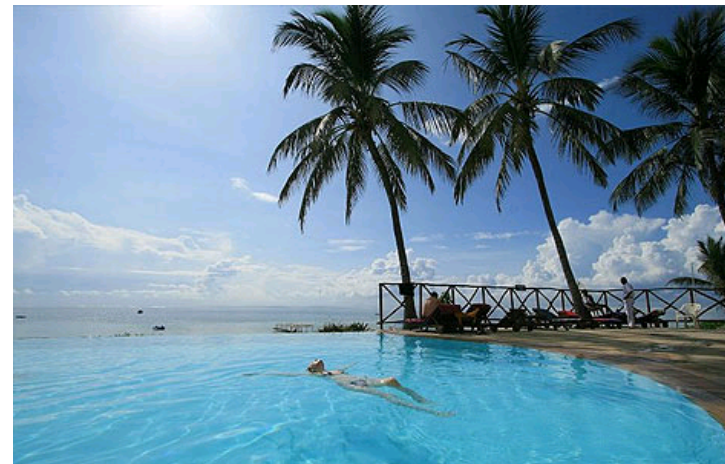
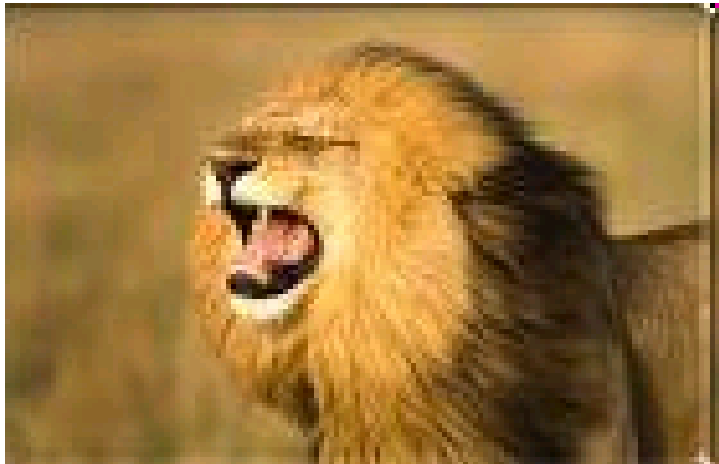


- Located in East Africa
- Kenya has a total area of 582,650 square kilometers (224,962 square miles).
- Kenya borders the Indian Ocean to the east, Somalia to the northeast, Ethiopia to the north, Sudan to the northwest, Uganda to the west, and Tanzania to the south.
- Nairobi, the capital of Kenya, is situated slightly south of the center point of the country.
- Population size as at 2010 census report- 38.6m
- 42 ethnic Tribes and more than 62 languages

Recognized for excellent performance in various sports e.g. Athletics, Rugby...



Diverse Natural Resources



Aspire Kenya, Kenyan Nobel Laureates...



Kenya's Conceptual Views On Tk And Expressions Of Folklore (TCE's)

- Kenya has a rich biodiversity which is a major source of the livelihood of its people
- The resources are complementary, holistic, intergenerational and oral in nature
- Traditional knowledge and its associated genetic resources contributes significantly to ecological management, sustainable agriculture, health and food security
- TK has scientific validation and legitimacy and forms the basis of biomedical research and pharmacology.
- The resources are under threat due to ongoing misappropriation, commercialization and extinction
- Holders of the knowledge are dis-inherited and marginalised

Characteristics and forms of TK and TCEs In Kenya

- They are created for economic, spiritual, ritual, narrative, decorative or recreational purpose e.g. Circumcision songs of the Bukusu community
- They are directly linked to the genetic resources of the people i.e *Mondia whytei* (known locally as *mukombera*) a vine, the roots of which have for centuries been extracted from Kakamega forest for sale and consumption as a flavouring agent and as medicine.
- They have been developed over long periods of time, remains in the informal sector and transmitted orally through generations e.g. narratives of different communities such as the myth about the origin of the Agikuyu community.
- Aspects of the knowledge and associated genetic resources are multicultural and transnational in nature i.e. Kiondo and Kikoi

Forms of TK and TCE's in Kenya

Agriculture based

- Soil Preservation-Rotational Farming promoted high yields due to increased soil fertility- Kikuyu/Kamba
- Honey harvesting- Smoking bees out of hive

Food Production & Preservation Methods

- Mursik or Ghee – Kalenjin community/Akamba/Luo
- Smoked beef/fish sun drying/salt- nomadic /Luo/coastal
- Sun drying green leaves i.e Leaves cow peas(Kunde) & use of tenderizer from dried banana leave ashes.

Forms of TK and TCE's in Kenya contd..

Health & Medicine

- **Mondia whytei** (known locally as *mukombera*) a vine, the roots of which have for centuries been extracted from Kakamega forest for sale and consumption as a flavouring agent, appetizer and as medicine. (Abaluyia)
- **Muarubaini/ Neem** tree originally cure for 40 diseases now cosmetic – Coastal/ Giriama
- **Kiluma(Aloevera)** – medicinal values. (Akamba)

Forms of TK & TCE's in Kenya contd...

Art & Craft

- Kikoi – Coastal area/ Transnational- Tanzania, Kenya
- Kiondo – Akamba & Kikuyu
- Nyatiti – Luo community

Folk songs/ Tales/ Dances

- E.g Bukusu Circumcision songs & Dances, Agikuyu tales of their origin e.t.c

Preservation of Genetic Resources – Sacred forest

Kayambombo of the Miji-kenda; Limited access to tribal elders and the rest of the community is not allowed to enter the forest which is designated as a holy shrine.

Pictorials of forms of TK in Kenya Kiondo & Kikoi



Bukusu circumcision ceremony



khuchukila



from the river



facing east
during the cut



Real warrior!!

What are the objectives of protecting TK ?

- Compensation
- Control
- Exclusion of third party access and use (unless authorized)
- Recognition of “collective” rights over TK
- Prevent misuse or illegal use
- Maintaining and preservation of TK

Challenges posed by lack of database in TK & TCE's in Kenya

- Inadequate legal framework for protection of TK which would set out structures to ensure that preservation of TK is done. i.e Who is the custodian/depository system?
- Inadequate funding for R&D not seen as economically viable- Database would give basis & help to justify need for funding. Now other priority areas i.e. food, security, infrastructure e.t.c.
- Unauthorized use of TK i.e (kiondo) owing to lack of records hence loss of revenue.

Other challenges....

- Who is the TK holder/owner? Indigenous people?
- What would be the period of protection?
- Lack of TK data base.
- Territorial claim over ownership. i.e. Kikoi

N/B: TK is found among the 42 ethnic communities and is not limited to indigenous communities such as the Ogiek.

Efforts for Protection

- **The Kenyan Constitution** requires the State to respect the environment by protecting and enhancing IP in, and indigenous knowledge of, biodiversity and genetic resources of the communities of Kenya. It also provides for recognition of other Intellectual Property Rights including TK.
- Kenya has signed and domesticated several international conventions relating to TK e.g. SWAKOPMUND Protocol, 2010
- The Kenyan government has developed a National Policy on protection of TK, GR and Folklore which proposes that any person interested in gaining access to a community's biological resources or knowledge for scientific, commercial or industrial purposes would need to obtain the prior informed consent (PIC) of the indigenous peoples who possess the knowledge in question.
- Currently the Kenya Copyright Board in collaboration with other stakeholders has been charged with the mandate of forming a TK task force to oversee the enactment of a national TK legislation.
- A Traditional Knowledge unit has been formed in KIPi which was mandated to establish a **database on TK** vide Article 27(3)(b) of TRIPS. The Unit currently consists of 3 officers who are natural scientists. However this is more in relation to GR which could in the end relate to TK,

Efforts for Protection contd...

- **Community Based Organizations**

In Kenya, most communities have not formed and registered community-based organizations (CBOs). Those that have formed CBOs such as OSIENALA, do not have sustainable management structures that can support effective protection of IP in TK and associated genetic resources. Most of them do not have formal organizational structures that could be approached by researchers, bioprospectors or any other visitor to the territory for prior informed consent (PIC) and benefit sharing negotiations. Most communities lack registered Community-Based Organizations (CBOs) with members, officials and patrons governed by well constituted rules and regulations. As such, it is easy for visitors to enter and access genetic resources and associated traditional knowledge without proper access permit or PIC.

Way Forward

- **Ensure adequate representation** at National, Regional & International meetings and seminars on areas of TK as Kenya supports the African efforts and position with regard to establishment of an international Sui Generis binding instrument for the protection of Traditional Knowledge, Expressions of Folklore.
- **Advice the government** on the need of supporting the TK regime which can contribute to its economic growth and thus achieve its strategies . i,e Vision 2030
- **Establishment of TK and TCE's database** (useful in prior art search, providing information on existing knowledge) etc

Way Forward contd....

- Enactment of relevant National Legislations
- Allocation of more funds towards Research & Development in the area of TK.
- More efforts towards raising TK awareness through campaigns, integration of TK in the IP curriculums.
- Government should encourage labeling of export commodities to minimize bio-piracy and unauthorized commercial exploitation of TK which includes TCE's.



THANK YOU
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