SHORT SUMMARIES OF THE PRESENTATIONS
(in Alphabetical order)

*** Caecilia ALEXANDRE**, Faculté de droit, Université Laval, Université de Montréal, *The Limits to the Implementation of the Cultural Rights of Indigenous Peoples Under the Scope of UNESCO Cultural Conventions.*

While at the time of its elaboration, the Constitution establishing UNESCO in 1945 was intended to be closer to the peoples by expressly addressing them and not only to governments, it took many years for peoples to be concretely targeted by the protection and safeguarding measures concerning their heritage and cultural expressions. Our presentation will focus in particular on indigenous peoples and specifically on the implementation of their cultural rights within the main UNESCO Conventions on the protection of cultural diversity such as the 1972 World Heritage Convention, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and the 2005 Convention concerning the Protection and Promotion of the Diversity of Cultural Expressions. In other words, we will see whether States implementing these Conventions are deploying concrete measures to effectively take into account the cultural rights of indigenous peoples.

*** Virginie BARRAL**, Département de droit, Goldsmiths, University of London, *Climate and Cultural Change: What Role for Human Rights?*

This contribution examines the place of the right to culture, and more generically the right of culture, in the context of the fight against climate change. First, it explores the role of the right to culture in the development of climate justice, and in particular the role that international human rights bodies can play in this regard. The contribution also assesses more generally, secondly, the role that the right to/of culture can play in the context of climate change mitigation or adaptation and the risks that climate change poses to the survival of certain cultures (e.g. populations of small island states). The question then arises as to the implications arising from climate change, particularly from the point of view of the right to self-determination of these populations.

*** Edgar BLANCHET** (en remplacement de **David Bernard**), Institut Kiuna (Québec), agent de recherche au Bureau du Ndakina du Grand Conseil de la Nation Waban-Aki, *Emerald ash borer and the practice of basketry by the Wabanaki (Wabanaki) people in Quebec.*

Basketry has been practiced by the Wabanaki from time immemorial. Around 1880, the making of abaznodal or black ash baskets became an active industry for the Wabanaki Nation: it engaged the work of both men and women in the communities and constituted the main means of subsistence for many families. The central role played by basketry within the Wabanaki Nation led us to explore it in relation to the various cultural, natural and economic contexts of relations between humans and the environment that underlie this practice. Access to black ash and sweetgrass is crucial to perpetuating the practice. In recent years, climate change and the appearance of an invasive species, the emerald ash borer, have had a major impact on the viability of basketry among the Wabanaki. In this paper, we will begin by introducing the Wabanaki

Nation and the Ndakinna Office, then present the challenges of climate change for the Nation, with a particular focus on basketry; we will conclude by describing the initiatives taken by the Nation to address these issues.

*** Janet BLAKE,** Shahid Beheshti University, Evin, Téhéran (Iran), *Préserver la diversité biologique et Culturelle en droit international: Mettre en relation le patrimoine culturel, les droits humains et le droit de l'environnement.*

Most of today's physical environment has been moulded by human activities and many cultural practices have developed in response to it. Culture and nature, therefore, should not be viewed as two separate phenomena requiring their own legal regimes for protection but are so deeply interrelated that preserving cultural diversity is also a specialised area of environmental protection. There is an important human rights dimension to this question and this paper seeks to identify the interconnections and interdependencies between the international regimes governing cultural heritage/diversity, human rights and biological diversity and, in particular, the legal principles and approaches applicable to each. The case of pastoralists in Iran will be presented to illustrate these points and reference will be made to some relevant international cases. Finding a more integrated legal approach which can address simultaneously protection of cultural and biological diversity is the ultimate goal.

* **Ben BOER,** Research Institute of Environmental Law, Wuhan University (Chine), and Sydney Law School, University of Sydney (Australie), *Interfaces juridiques entre le patrimoine culturel et naturel en Asie Pacifique.*

The paper will focus on the legal links between the conservation of cultural and natural heritage at international and regional, level. It recognises that the protection of cultural heritage and natural heritage are inherent parts of the broad area of environmental law. It looks at the attempts to include the issue of cultural heritage in the 2015 Sustainable Development Goals. Within international law, a number of multilateral environmental agreements illustrate the inherent links between cultural and natural heritage. These include the 1972 World Heritage Convention; 1973 Convention on International Trade in Endangered Species; 1979 Convention on Migratory Species; 1992 Convention on Biological Diversity, 1992 Framework Convention on climate change, 1994 Convention to Combat Desertification and the 2003 Convention on Safeguarding the Intangible Cultural Heritage. The paper also canvasses various regional instruments and charters in the Asia Pacific, that demonstrate the relationship between the cultural and the natural heritage, especially in the ASEAN region. It argues that, in recognition of the relationship between culture and nature a more unified approach is required to the implementation of the various instruments. Examples are drawn from recent cases that explore the recognition of legal personality of elements of the natural environment. The point is made that this trend in jurisprudence is a further indication that, from both a legal and policy perspective, cultural and natural heritage concepts must be understood in an integrated fashion.

* **Thomas BURELLI**, Faculté de droit, Université d'Ottawa, *Undervalued Researcher–Indigenous Community Mechanisms for Control Over Bioprospecting. An Undervalued and Little-known Regulatory Instrument.*

In a context where States are often considered the most appropriate authorities for acting in this field, the role of users and providers of traditional resources and knowledge is often undervalued. As we shall see, expectations of what States can do are often overly optimistic. In a number of States, like Canada, the indigenous and research communities have attempted to help transform their relations. They have indeed developed a broad diversity of instruments, such as codes of ethics or contracts, in an attempt to establish more respectful and equitable relations between them. These contributions are extremely valuable and could be applied in other contexts, for example French overseas departments.

*** Christina CAMERON**, Titulaire de la Chaire de recherche du Canada en patrimoine bâti, Université de Montréal, *Integrated approaches to the protection of cultural and natural resources : the case of the UNESCO World Heritage Convention.*

Christina Cameron, a recognized expert in the creation and implementation of the UNESCO World Heritage Convention (1972), will first examine the legal framework of the 1972 Convention with regard to the relationship between culture and nature, the integration of conservation approaches and the participation of indigenous peoples. After explaining the constraints of this international treaty, she will explain how UNESCO and the States Parties to the Convention have attempted to address these limitations in the identification and conservation of the outstanding universal value of World Heritage sites. She will assess the success of these measures and suggest possible improvements.

*** Jennifer CARTER,** Département d'histoire de l'art, Université du Québec à Montréal, *Agents for action, agents of change: Museums and the climate crisis in the third millennium.*

Museums have a well-established reputation as sites of research and informal education. Historically, the knowledge generated through the production, viewing and analysis of their collections and exhibitions has contributed to a greater understanding of the natural and cultural heritage of the world in which we live. But does this knowledge lead to changed behaviour and the action required to address the complex and urgent state of our contemporary world?
A paradigmatic shift has occurred within the museum field in the wake of larger, global transformations that have shaped contemporary geopolitics and history over the last 50 years. Calls for decolonization, as well as historical and social justice in different political contexts around the globe, and the commensurate rise of a rights regime, have challenged the world's « moral imagination » (Moyn 2014) and to this, museums – as society's memory keepers – have not been immune.Through their association with a growing global rights movement, many museums around the world have transcended a traditional didactic logic and identified new fundamental objectives and aims. With specific reference to how the museum sector is engaging with climate change and environmental protection through a justice framework, this presentation asks how museums, as cultural and social institutions committed to preserving human creation and the biodiversity of our natural world, are addressing one of – if not, the most – urgent issue of our time. Through what discursive lens do they represent the subject of climate change, with

which actions, and to what ends? How is the rapport between the natural and cultural orders articulated in museums, and how might this provide a productive mode of reconciliation? This presentation will consider a global range of museological initiatives and to what extent they can be considered new modes of political action in the public sphere.

* **Dieufort DESLORGES**, Département d'ethnologie et de patrimoine, Université Laval, *Bioculture as a Paradigm for the Integrated Protection of Both Natural and Cultural Heritage.*

The 1972 Convention concerning the Protection of the World Cultural and Natural Heritage recognizes the way in which people interact with nature, and the fundamental need to preserve the balance between the two sides. This latter need is the *raison d'être* of biosphere reserves insofar as biodiversity has played a fundamental role in the history and socioeconomic development of human communities. Biodiversity therefore represents a very important dimension of human culture and heritage. Even modest biosphere reserves have been the cradle of human history, customs, practices, rites, myths and so on. However, international legal instruments approach the natural and cultural spheres separately, thereby creating resistance to the integrated governance of resources. Yet, an integrated approach to conserving heritage can be pursued by strengthening the "bioculture" paradigm in international legal mechanisms. We will envisage this possibility from the standpoint of four legal instruments: the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971); UNESCO's Man and the Biosphere Programme (1971); the Convention concerning the Protection of the World Cultural and Natural Heritage (or the World Heritage Convention, 1972); and the Convention on Biological Diversity (CBD, 1992).

* **Lynda HUBERT TA**, Faculté de droit, Université Laval, *Taking the Sociocultural Dimension into Account in the Participatory Approach to Natural Resources Governance in Madagascar.*

The participatory approach in the management of biodiversity resources in Madagascar was introduced by Law 96-025 on the local management of renewable natural resources or GELOSE Law (Secure Local Management). This approach makes it possible to involve local grassroots communities (COBAs), as a socio-cultural group, in biodiversity protection efforts at their scale. The GELOSE Act made it possible to formally recognize and institutionalize certain specificities of these communities, in particular the importance of their socio-economic and cultural uses and their traditional organizational and legal systems, in order to integrate them into the national legal regime for the protection of biodiversity. Our presentation proposes to examine the challenges of the initiative posed by the GELOSE Act for COBAs, from the point of view of the integration of cultural aspects.

*** François HULEUX**, Faculté de droit, Université Laval, Université Paris-Saclay, *The Contribution of the Convention for the Safeguarding of Intangible Cultural Heritage to the Conservation of Biodiversity.*

Cultural diversity and biodiversity are interdependent. On the one hand, cultural diversity can be a tool for the conservation and sustainable use of biodiversity. On the other hand, the preservation of biodiversity is sometimes a *sine qua non* for the preservation of cultural diversity. Thus, the safeguarding of one cannot go without the conservation of the other and vice versa. The Convention for the Safeguarding of the Intangible Cultural Heritage (hereinafter referred to as the "2003 Convention") is the first multilateral treaty whose aim is to safeguard "practices, representations, expressions, knowledge and know-how, as well as instruments, objects, artifacts and cultural spaces". The objective of this presentation is to shed light on the relationship between the 2003 Convention and the conservation and sustainable use of biodiversity and to highlight their limitations at the expense of safeguarding the ICH.

*** Catherine IORNS**, Faculty of Law, Victoria University of Wellington (Nouvelle-Zélande), *Using Personality for Nature to Protect Culture and Nature in National Law.*

In Aotearoa New Zealand nature has been given legal personality in two situations designed to protect both indigenous Maori culture and environmental areas in question. This instrument has captured the public's imagination the world over and has been seen as an example of a "Rights of Nature" approach. But instead it is actually an indigenous rights approach whereby nature has been given the status that reflects Maori cosmology and culture, in order to uphold indigenous cultural rights. This contribution will assess the relationship between nature and culture used in this legal instrument, and compare it with other approaches to uphold "Rights of Nature" and indigenous rights – referred to as bio-cultural rights in some parts of the world. It will comment on which features are unique to Aotearoa New Zealand and which are more translatable to other countries and legal systems, including specific comment on its relevance to countries with indigenous peoples. The contribution will also comment on possible relevance of legal personality for nature as a mechanism in international Law.

*** Fatoumata KABA**, Faculté de droit, Université Laval, *Cultural aspects of indigenous peoples' right to development in regional African law.*

Culture is one of the fundamental elements at the heart of the identity of indigenous peoples, which distinguishes them from other societies. However, some African States, in the name of development, support projects for mining or forestry without taking into account the concerns of indigenous peoples for their living environments. In addition, when they are simply not relocated or expropriated from their lands, their traditional subsistence economies are destroyed. These findings have led the African Commission to develop a new approach to the cultural rights of indigenous peoples by linking between access to traditional territories, access to natural resources, the exercise of cultural rights, including religious rights and the right to development. According to the commission, the protection of cultural rights allows indigenous peoples to develop according to their own way of life. Our presentation will address the cultural aspects of the right to development of indigenous peoples in African regional law.

*** Géraud DE LASSUS SAINT-GENIÈS**, Faculté de droit, Université Laval, Université de Sherbrooke, *Including Cultural Issues in the Multilateral System on Climate Change: an Overview.*

The multilateral climate change system does not aim to protect and promote culture. However, there are many references to cultural concerns scattered throughout both conventional law and secondary legislation. Until now, this consideration of cultural issues has received little attention in legal doctrine. This presentation aims to provide an initial overview of this phenomenon and to explore the links between cultural issues and action against climate change.

*** Lily MARTINET**, Institut Max Planck Luxembourg pour le droit procédural, *Hunting: case study of international law mechanisms to ensure the convergence of cultural and biological diversity.*

For some communities, hunting is not only a means of subsistence, but also a fundamental component of their way of life and cultural heritage. Hunting practices are at the origin of many traditional knowledge and traditional cultural expressions. At first glance, hunting can be seen as a barrier to the preservation of biological diversity. However, a careful review of international standards rebuts this presumption. Several wildlife conservation instruments have made exceptions for hunting by indigenous or local communities. Natural heritage protection systems have also been redesigned to integrate the traditional use of natural resources for hunting. This presentation aims to highlight, through the example of hunting, the legal mechanisms for reconciling the protection of natural resources with the safeguarding of cultural practices.

*** Vincent NÉGRI**, Institut des Sciences sociales du Politique (UMR 7220 / CNRS - ENS Paris Saclay - Université Paris Nanterre), *Between Nature and Culture: Diversity as a Place for Internormativity.*

Diversity has gradually become a matrix concept of international law; a process of which cultural and biological diversity are symptoms, but which also invests, on the basis of this dual cultural and biological figure, in human rights, with regard to the recognition of specific rights of social groups or communities - in particular indigenous peoples - or cultural minorities. Where cultural diversity reflects a multiplicity of cultural values and human and social realities, biological diversity reveals the complexity and variability of life and ecosystems; but both figures of diversity, as well as the contagion towards human rights, assume differentiated and adapted rights and new ownership. Diversity is thus the place where internormativity is played out, understood as the coexistence of differentiated, parallel, complementary or antagonistic orders or normative systems; opening onto a complex universe. If diversity is the seat and source of the complexity of environments, it generates normative pluralism and a overflow of the State as the exclusive subject of international law. The contribution will explore and analyse the forms of this normative pluralism and the modalities of this shift in the centre of gravity of international law, in a world where a right to difference and a claim to contextualization of the law are jointly asserted; both are expressed in the form of the dual cultural and natural epithet of diversity.

*** Dimitri PAG YENDU,** Faculté de droit, Université Laval, *Patents as a tool for the protection of traditional knowledge associated with genetic resources: evidence, theoretical foundations, practical paths.*

Most of the authors who address the question of the legal protection of traditional knowledge on the virtues of plants or animals useful for the manufacture of new products (food, cosmetics or pharmaceuticals) propose two solutions. On the one hand, they support the idea of a fair and equitable sharing of the benefits resulting from the exploitation of such traditional knowledge, a means of doing justice to the rights of the holders of such knowledge. On the other hand, they conclude that patent law is inadequate to protect this knowledge, because not only would it not meet the conditions (of novelty, inventiveness and industrial application) required by national laws; but also because it would be constructed in an epistemology different from the knowledge eligible for patent protection. Thus, the option of developing sui generis laws to protect genetic resources, traditional knowledge and traditional cultural expressions in the context of WIPO is legitimate. However, however interesting these two solutions may be, they seem to be very difficult to achieve full recognition of the rights of indigenous peoples or local communities (PACL). This communication proposes, on the basis of two cases of illegitimate appropriation of traditional knowledge relating to two medicinal plants (the Quassia amara case and the Guiera senegalensis case), and an analysis of American and European case law, to show that, contrary to the majority view that asserts it, traditional knowledge of the PACL could be patented, if the PACL so wished. It also proposes to open a debate on the theoretical foundations that could justify patent protection of PACL traditional knowledge, and concludes with some recommendations to show how such a choice to be made in reality.

*** Clémence VARIN,** Faculté de droit, Université Laval, Université de Rennes 1, *The Protection and Promotion of the Diversity of Cultural Expressions in the Digital Age: What Impacts for the Preservation of the Environment?*

The rapid development of digital technologies has given unprecedent access to a diversity of cultural expressions, as well as new opportunities to create, produce and distribute/disseminate cultural contents. However, the environmental footprint of the digital platforms used, and their related technologies, is often overlooked. This presentation will focus on why Parties to the *2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions* should take this aspect into consideration when implementing this international legal instrument, and particularly its Article 13 on the integration of culture in sustainable development. More specifically, this contribution intends to bring some answers to one of the questions raised in the research focus 2: *How can culture be promoted and disseminated in the digital age without increasing greenhouse gas emissions associated with the use of new technologies?*

* **Liette VASSEUR**, Department of Biological Sciences, Environmental Sustainability Research Centre, titulaire de la Chaire UNESCO en viabilité des communautés : du local au global, Brock University (Ontario), *Ecosystemic governance: integrating conservation with sustainable development.*

Ecosystem governance encourages the devolution of decisions to local communities and aims to include all stakeholders to ensure that everyone has a voice at the table. This approach is essential to have strategies that can be maintained in the long term, especially in the context of biodiversity conservation, sustainable development and adaptation to climate change. While this approach seems attractive, there is a need to discuss the strategies used and lessons learned before establishing more general principles. Governance and rights are complex and can be influenced by the culture and capacity of communities to address issues. Defining the most appropriate and socially acceptable path requires considering the needs of all in order to have fair, inclusive and transparent decisions.

*** Alexandra XANTHAKI**, Law School, Brunel University London, *Fragmentation - a continuing obstacle to indigenous cultural rights.*

My paper will focus on indigenous cultural rights and their current protection in international human rights law. Currently there is fragmentation both across the various systems protecting indigenous cultural rights in international law and within human rights systems of protection of cultural rights. The different lawyers of protection envisaged by UNESCO, the human rights system, and the IP system are not always compatible and lead to the undermining of the standards set in the UNDRIP. Furthermore, cultural rights are not contextualized in a coherent way in international human rights law. This fragmentation has detrimental effects on the realisation of indigenous cultural rights. As for example, the Laponia project, the debate around Saami sacred sites and access to culture, and the current debate of who has the right to traditional Saami activities in Finland highlight wider continuing obstacles for the implementation of the UNDRIP standards.