



INDIGENOUS PEOPLES AND THEIR RIGHTS TO LAND LAND POLICY AND USE, CONSERVATION, EXTRACTIVE INDUSTRIES

Second international workshop organized by SOGIP

*Scales of Governance – the UN, States and Indigenous Peoples;
Self-determination in the Age of Globalization*

PARIS: 18-19-20-21 June 2013

Workshop venues:

■ ■ ■ 18 June: École des Hautes Études en Sciences Sociales
105 Boulevard Raspail, 75006 Paris, Amphithéâtre François Furet

■ ■ ■ 19 June: École des Hautes Études en Sciences Sociales
96, Boulevard Raspail, 75006 Paris, salle Maurice et Denis Lombard

■ ■ ■ 20, 21 June: REID Hall
4, rue de Chevreuse, 75006 Paris, salle de conférence,
troisième jardin, rez-de-chaussée (third garden, ground floor)

Simultaneous interpretation in English, French and Spanish

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CONTENTS

ABOUT

Presentation of the SOGIP research project in English	P. 3
Presentation of the SOGIP research project in French	P. 4
Presentation of the SOGIP research project in Spanish	P. 5

WORKSHOP PROGRAM

Program at a glance	P. 6
Full program with abstracts	P. 8

INFORMATION ON PARTICIPANTS

List of participants and email contacts	P. 27
Participants' biographies	P. 28
Selected bibliographic references	P. 36
Practical information and maps	P. 41

III ■ THE SOGIP RESEARCH PROJECT



Photo: I. Bellier

SOGIP (Scales of Governance – the UN, States and Indigenous Peoples; Self-Determination in the Age of Globalization) is a global, multi-scale, comparative research project investigating the social, cultural and political issues relating to governance and the rights of Indigenous Peoples. The adoption by the General Assembly in September 2007 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) opens a new horizon for reflection on the possible modalities of the right of all peoples to self-determination. The project is founded on an original research framework designed to capture the complex relationships between the global and the local in an analysis of the discourses, politics and practices of actors of unequal power.

While the mechanisms for constitutional, legal and political recognition remain largely defined by nation states, the appeal of Indigenous Peoples to the international community in the second half of the 20th century and the current transcontinental mobilizations of Indigenous Peoples have led to increasing global awareness and recognition. The adoption of UNDRIP represents the culmination of this global movement, and gives rise to challenging research opportunities. With its high moral and symbolic value, UNDRIP generates expectations for political changes within states to address the marginality of indigenous populations and promote self-determination. Exactly how this will happen, however, is not sufficiently understood. SOGIP has initiated ground-breaking comparative research on UNDRIP's impacts, with the aim of producing significant results by the end of the Second International Decade of the World's Indigenous People in 2015.

The research of the SOGIP team simultaneously addresses the changes that international norms produce via the development of international programs and the responses of States and Indigenous Peoples at the local level. Our research focuses on certain arenas in which indigenous perspectives and public policies come into confrontation: education, land management, political representation, legal systems and the expression of culture. We are undertaking studies in Southern Africa, South America, Asia and Oceania. Our work also aims to create a dialogue between the different debates being articulated in the Anglophone, Francophone and Hispanophone worlds on post-colonial situations and indigenous rights in the era of globalization.

SOGIP's comparative approach, along with our collaborations with indigenous partners and certain international organizations, is designed to take us beyond the simple dichotomies that limit how indigenous issues are conceived and addressed.

LE PROJET SOGIP

Le projet SOGIP (acronyme anglais pour « Echelles de gouvernance, les Nations Unies, les Etats et les peuples Autochtones ; l'autodétermination à l'époque de la globalisation ») est un projet de recherche comparatif, global et multiscalaire sur les dimensions sociales, culturelles et politiques de la gouvernance et des droits des peuples autochtones. Il met en place un *dispositif* de recherche original pour appréhender les relations complexes entre le global et le local, afin d'analyser les discours, les politiques, les pratiques et les représentations d'acteurs de puissance inégale. L'adoption de la Déclaration des Droits des Peuples Autochtones par l'Assemblée générale des Nations Unies, en septembre 2007 (et avec le soutien de l'UE), ouvre en effet un nouvel horizon de réflexion sur les différentes modalités possibles d'exercice du droit des peuples à disposer d'eux-mêmes.

Alors que les mécanismes de la reconnaissance (constitutionnelle, juridique et politique) des peuples autochtones sont marqués par le cadre national des Etats qui les englobent, leur appel à la communauté internationale, dans la seconde moitié du 20^{ème} siècle, et les formes actuelles de leur mobilisation transnationale, ont conduit à une phase de prise de conscience globale. Un changement de paradigme est ainsi observé avec l'adoption de cette Déclaration qui possède une haute valeur morale et symbolique, génère une série d'expectatives, et est susceptible d'induire nombre de changements qu'il convient d'étudier sérieusement. Aucune recherche comparative n'existe à ce jour sur les conditions de possibilité de la mise en œuvre de la Déclaration des droits des peuples autochtones, très peu de littérature a été produite sur ses possibles impacts. L'objectif de SOGIP est de produire des résultats en ce sens avant la fin de la deuxième décennie des populations autochtones (2005-2015).

L'équipe SOGIP étudie en simultané les changements que les normes internationales induisent via le développement de leurs programmes d'action et les réponses des Etats et des peuples autochtones (organisations, communautés locales) que ces projets suscitent. La recherche porte sur quelques domaines de confrontation entre perspectives autochtones et politiques publiques tels que l'éducation, la gestion des territoires et de leurs ressources, la représentation politique, les systèmes légaux et les expressions culturelles. Les études sont réalisées dans le Sud de l'Afrique, en Amérique du Sud, en Asie, et en Océanie.

L'approche comparative ainsi que la volonté d'associer à la recherche des partenaires autochtones et certains secteurs des organisations internationales visent à se dégager des dichotomies simplistes qui pèsent sur la manière de penser les questions autochtones, à mettre en relation les différentes scènes de débat de ces problématiques dans les mondes anglophones, hispanophones et francophones, pour revisiter les théories post-coloniales et penser la modernisation du discours occidental.

EL PROYECTO SOGIP

SOGIP (acrónimo en inglés para *Escalas de gobernanza: las Naciones Unidas, los Estados y los pueblos indígenas. La libre determinación en los tiempos de la globalización*) es un proyecto de investigación que, basado en un enfoque de tipo comparativo y multi-escalas, pretende analizar los aspectos sociales, culturales y políticas de la gobernanza y los derechos de los pueblos indígenas. Bajo la dirección de Irène Bellier, Directora de investigación del CNRS (Centro Nacional francés para la Investigación Científica), se pone en marcha un dispositivo de investigación cuyo objetivo es comprender las complejas relaciones que unen las escalas global y local en torno a las cuestiones indígenas.

SOGIP busca analizar los discursos, las políticas, las prácticas y las representaciones de los actores que participan en el ámbito de las cuestiones indígenas, un espacio caracterizado por la repartición desigual del poder. La adopción de la *Declaración de los derechos de los Pueblos Indígenas* (DDPI) por la Asamblea general de las Naciones Unidas, en septiembre de 2007 abre un horizonte de reflexión sobre las modalidades que podrían permitir el ejercicio del derecho de los pueblos a disponer de ellos mismos. Si bien los varios mecanismos que han sido utilizados para reconocer a los pueblos indígenas –la Constitución, la legislación y la política- están influenciados por los contextos nacionales de los Estados en los que estos pueblos habitan, el llamado emitido por la comunidad internacional en la segunda mitad del siglo XX y las formas de movilización transnacional alrededor de las cuestiones indígenas, han conducido a una fase de concientización de orden global. La aprobación de esta declaración, poseedora de un alto valor moral y simbólico, atestigua un cambio de paradigma, que ha generado nuevas expectativas y que puede inducir una serie de cambios. Hasta ahora, no ha sido realizada ninguna investigación comparativa sobre las condiciones que podrían hacer posible la implementación de la DDPI y muy poca literatura ha sido producida sobre sus posibles impactos. El objetivo del SOGIP es el de contribuir a la producción de tales recursos antes de que concluya el *Segundo Decenio internacional de los pueblos indígenas del mundo* (2005-2015).

El equipo SOGIP estudiará de manera simultánea los cambios que las normas internacionales inducen mediante el desarrollo de sus programas de acción y las respuestas de los Estados y pueblos indígenas (organizaciones, comunidades locales) que estos proyectos suscitan. La investigación se focalizará sobre algunos ámbitos de confrontación como la educación, la gestión de territorios y de sus recursos, la representación política, los sistemas legales y las expresiones culturales. Los estudios de caso se reparten en países de habla inglesa, española y francesa en 4 continentes; África (Botsuana y Namibia), América (Bolivia, Chile, Argentina, México y Guyana francesa), Asia (India) y Oceanía (Nueva Caledonia y Australia). Asimismo, nuestro campo de estudio abarca las organizaciones internacionales: las Naciones Unidas y sus agencias especializadas, así como las organizaciones no gubernamentales.

Con la voluntad de asociar a nuestra investigación contrapartes indígenas y ciertos sectores de las organizaciones internacionales, buscamos rebasar las dicotomías simplistas que pesan sobre la manera de pensar las cuestiones indígenas a nivel nacional. Asimismo, buscaremos encontrar las relaciones que unen entre los diferentes foros de debate y acontecimientos pertinentes a estas problemáticas en países de habla inglesa, española y francesa, de manera que ello nos permita reconsiderar las teorías post-coloniales y reflexionar sobre la modernización del discurso occidental.





PROGRAM AT A GLANCE



DAY 1 – 18 June 2013 – Opening lecture

- 15:00-17:00** **Arturo Escobar** – University of North Carolina, Chapel Hill
Territories of Difference: The Political Ontology of 'Rights to Land'

Cocktail at EHESS



DAY 2 – 19 June 2013 – Session 1

Land policy, collective rights and territorial recognition

- 8:30-9:00 Welcome of participants
- 9:00-9:15** **General introduction**
Irène Bellier – CNRS, SOGIP Principal Investigator
- 9:15-9:30** **Introduction to session 1**
Stéphanie Guyon – Université de Picardie, and **Benoît Trepied** – CNRS
- 9:30-11:00** **Conflicts over indigenous lands: local examples (French Guyana, Quebec)**
Brigitte Wyngaarde – President of ‘Villages de Guyane’
Caroline Desbiens – Université Laval, and **Irène Hirt** – Université de Genève
- 11:00 Coffee break
- 11:30-13:00** **Cartography and land rights (Canada, Australia)**
Brian Thom – University of Victoria (British Columbia, Canada)
Jon Altman – Australian National University
- 13:00-14:30 Lunch
- 14:30-16:00** **Indigenous territorial recognition in Latin America: impacts and limits (Peru, Argentina)**
Richard Chase Smith – Instituto del Bien Común, Peru
Morita Carrasco – University of Buenos Aires
- 16:00 Coffee break
- 16:30-18:00** **Indigenous territorial recognition in Latin America: impacts and limits (Bolivia, Mexico)**
Leonardo Tamburini – Center of Legal Studies and Social Research (CEJIS), Santa Cruz de la Sierra
Francisco Lopez Barcenas – Center of Studies for Rural Sustainable Development and Food Sovereignty, Chamber of Deputies, National Congress of the Union of Mexico



DAY 3 – 20 June 2013 – Session 2

Land use, management policy and the conservation of biodiversity and culture

- 8:30-9:00 Welcome of participants
- 9:00-9:30** **Introduction to session 2**
Veronica Gonzalez – Sorbonne nouvelle, and **Leslie Cloud** – Sorbonne nouvelle
- 9:30-11:00** **Indigenous rights to land and natural resources confronted with global economic and environmental policies (Kenya, Brazil)**
Justin Kenrick – Forest Peoples Programme
Oiara Bonilla – Federal University of Rio de Janeiro, and **Artionka Capiberibe** – Federal University of São Paulo

11:00	Coffee break
11:30-13:00	<i>Interactions between indigenous peoples and environmental projects (Congo Basin)</i> Francesca Thornberry – Rainforest Foundation UK Vital Bambanze – UNIPROBA; IPACC; Senate of Burundi
13:00-14:30	Lunch
14:30-16:00	<i>Protected forested areas and indigenous land rights (Botswana, India)</i> Robert Hitchcock – University of New Mexico, USA Sarah Benabou – EHESS
16:00	Coffee break
16:30-18:30	<i>Cultural and natural heritage and indigenous land rights (Australia, Rapa Nui/Chile, Aotearoa/New Zealand)</i> Mark Harris – La Trobe University/ University of London Tuhiira Tucki Huke – Clan Tupahotu Riki Riki, Rapa Nui Claire Charters – Auckland University Law School, and Andrew Erueti – Amnesty international
19:00	Cocktail at Irène Bellier's home

DAY 4 – 21 June 2013 – Session 3

Extractive industries: from conflict to partnership?

8:30-9:00	Welcome of participants
9:00-9:15	<i>Introduction to session 3</i> Jennifer Hays – EHESS, and Rowena Dickins Morrison – EHESS
9:15-9:30	<i>Les sociétés transnationales minières face au droit des peuples autochtones</i> Claire Levacher – EHESS
9:30-11:00	<i>Interrogating indigenous (dis)empowerment (Global, Kanaky/New Caledonia)</i> James Suzman – Consulting group Anthropos, Cambridge, UK Samuel Gorohouna – Université de la Nouvelle-Calédonie
11:00	Coffee break
11:30-13:00	<i>Diversity in indigenous engagements with mining in Kanaky/New Caledonia</i> Christine Demmer – CNRS Claire Levacher – EHESS
13:00-14:30	Lunch
14:30-16:00	<i>Unequal negotiations, unequal outcomes (Australia, India)</i> Bryan Wyatt – National Native Title Council, Australia Samarendra Das – Centre for World Environmental History, Sussex University
16:00	Coffee break
16:30-18:00	<i>Mitigation strategies – a way forward? (Mexico, Russia)</i> Juan Luis Sariego – National School of Anthropology and History (Chihuahua Unity) Natalya Ivanovna Novikova – Institute of Ethnology and Anthropology, Russian Academy of Sciences, Moscow
18:00	<i>Conclusion</i> Irène Bellier – CNRS, SOGIP Principal Investigator

 DAY 1 – 18 JUNE 2013

 OPENING LECTURE – Arturo Escobar – University of North Carolina, Chapel Hill*Territories of Difference: The Political Ontology of ‘Rights to Land’*

This presentation argues that the rights of indigenous people and afrodescendant and peasant communities to their territories can be seen in terms of two intertwined processes: the *problematisatoin of ‘national’ identities*, with the concomitant emergence of indigenous, afrodescendant, and peasant identities; and the *problematisatoin of life*, with reference to the crisis of biodiversity, climate change, and the intensification of environmental destruction by extractive industries. Both processes converge in the territorial conceptualizations and practices maintained by communities and their ethno-territorial organizations in many parts of the world. The paper develops a framework for the *political ontology of territories*. By interrupting the globalizing project of constructing One-world (capitalist, liberal, secular), many indigenous, afro-descendant, and peasant communities may be seen as engaged in *ontological struggles*, that is, as involving *other life models*. These struggles can be interpreted as important contributions to ecological and cultural transitions towards a world many world fit (the pluriverse). The argument is illustrated with the case of afrodescendant struggles in the Colombian Pacific region, particularly their reframing and radicalization of territorial struggles against the armed, developmentalist, and extractivist onslaught of the past ten years.

GENERAL INTRODUCTION – Irène Bellier – CNRS, SOGIP Principal Investigator

III SESSION 1.
LAND POLICY, COLLECTIVE RIGHTS AND TERRITORIAL RECOGNITION



Photo: M. Préaud

Land claims have played a key role in the construction of the global indigenous movement, at the local level as well as in the international arena. Historically, indigenous peoples have been confronted with ‘land-grabs’ (for non-native settlement or resource extraction in colonial and other contexts) that have been legally framed and implemented by states in various ways. Indigenous peoples have responded to these processes by claiming a special ‘connection to the land’. According to this perspective, land has worth beyond the market or economic value emphasized by states and multinational companies, and carries a range of interconnecting identity markers, including those related to family, culture, worldview and the sacred (recall, for instance, the discourse on ‘Mother Earth’ or the ‘Pachamama’ in Latin American worldviews).

This session focuses on the modalities and limits of the recognition of indigenous relationships to land and indigenous land rights. In order to understand the contemporary mechanisms at play, we will review the forms of land-grabbing which have been experienced by indigenous peoples historically, and consider their legal justifications, including state theories and constructions of ‘aboriginal/native title’ (such as the terra nullius doctrine, the formation of ‘reservations’, etc.), and the legal status of the stolen land itself (individual private property or public domain/Crown land, for example). We will also discuss the different strategies that indigenous peoples use to achieve land reforms (land occupation, recourse to the courts, physical violence, publicization of symbolic events, agrarian struggles, and so on).

The primary focus of the discussion in this session will be on the social, economic, political and legal conditions for the official recognition of indigenous peoples’

ties to their land, and on the associated questions, problems and challenges. What are the legal tools, administrative procedures and constitutional and legal mechanisms mobilized within this framework? What efforts have been made to describe (orally, in writing or cartographically), qualify and formalize the various forms of indigenous ownership and land tenure? What can be said, for example, on the elaboration of 'native cadastres' and the legal codification of native title, through and/or beyond the (admittedly polysemic) concept of 'property'? What about rights to access land, usufructuary rights, rights to exploit and/or protect resources and the right to consultation and consent on land issues? What is the political, social, economic and legal scope of current land reform processes? What are the implications regarding the indigenous socio-political entities that are recognized through land claim processes as having a legitimate claim (or not) to enjoy and exercise rights over the land (as 'individuals', 'traditional owners of the land', 'chiefs', 'families', 'clans', 'tribes', 'villages', etc.)? How can we think about indigenous land issues in urban contexts, or in relation to the requirement often imposed by states on indigenous people of 'cultural continuity' from pre-colonial times to the present day?

Land issues do not only involve confrontations between indigenous and exogenous actors (such as states, corporations, settlers, and so on); these questions also reveal tensions and ambiguities within indigenous groups, evidenced by 'internal' conflicts relating to land ownership and rights.

In this session, we will discuss the complexities of these indigenous land rights issues.

Discussants

Stéphanie Guyon – Université de Picardie
Benoît Trépied – CNRS

Introduction to Session 1 – Stéphanie Guyon and Benoît Trépied

CONFLICTS OVER INDIGENOUS LANDS: LOCAL EXAMPLES (FRENCH GUYANA, QUEBEC)

Brigitte Wyngaarde – President of 'Villages de Guyane'

Les communautés autochtones de Guyane française sont organisées de manière traditionnelle sur la base du village et de la terre collective. Sur un territoire où plus de 90 % du territoire de la Guyane appartient à l'Etat, les communautés, dans l'ensemble, ne sont pas propriétaires du foncier où elles sont établies. Les récents décrets fonciers, peu appliqués, n'ont guère eu d'effet sur cette situation. La terre de Guyane, source de dissensions, représente un fort enjeu politique. La propriété de l'Etat est contestée, et souvent interprétée comme une survivance coloniale par la classe politique locale. Les maires n'acceptent pas la propriété collective et sa signification politique, et les municipalités sont largement hostiles aux décrets fonciers. Au sein des communautés l'unité se lézarde sous les effets conjugués de l'individualisme, de la convoitise foncière et du clientélisme. Le récent Parc national de Guyane, entité hautement politique, cristallise aujourd'hui les incertitudes et les tensions foncières. Il s'agit en effet d'un 'projet de

territoire' qui se substitue au 'pays indien', avec une réglementation exogène. De leur côté les élus y voient la volonté de l'Etat de confisquer un territoire et ses ressources.

Caroline Desbiens – Université Laval – Comité patrimoine ilnu

Irène Hirt – Université de Genève

Tshishipiminu : occupation ilnu de la rivière Pérignonka et dynamiques du développement hydroélectrique québécois

La Pelipaukau shipi (rivière Pérignonka) – qui signifie en langue ilnu « l'eau de la rivière est brouillée » – est parmi les rivières patrimoniales les plus importantes au Québec : son bassin hydrographique structure l'utilisation des ressources, la culture du canot, la langue et l'économie des Pekuakamiulnuatsh (Montagnais du Lac-Saint-Jean).

Malgré cette occupation millénaire du territoire, la rivière est devenue, au cours du 20^e siècle, le cœur d'un vaste réseau de production d'énergie sur lequel repose, notamment, l'industrie de l'aluminium, et donc une grande partie du développement économique de la région du Saguenay-Lac-Saint-Jean. S'appuyant d'hier à aujourd'hui sur la doctrine de la *terra nullius*, le développement hydroélectrique modifie la géographie physique de la Pelipaukau et introduit une approche mécaniste de la rivière. Ces transformations coïncident avec l'affirmation nationalitaire des Québécois francophones tant par l'entreprise privée que par le pouvoir étatique. À travers la lentille du développement hydroélectrique, la rivière Pérignonka constitue un site privilégié pour comprendre les dynamiques spatiales de réduction (autochtone) et d'expansion (allochtone) qui se renouvellent au Québec depuis l'époque coloniale jusqu'à aujourd'hui.

Notre présentation abordera trois éléments clés des dynamiques de reconnaissance territoriale liées au paysage industriel québécois – celui de la production énergétique dans ce cas-ci : 1) nous décrirons comment la déstructuration de l'occupation ilnu de la rivière s'inscrit dans un horizon temporel qui rejoint plusieurs générations ; 2) nous identifierons les défis particuliers liés à ce contexte pour les Pekuakamiulnuatsh dans la démonstration de la « continuité culturelle » de leur occupation de la rivière ; 3) nous analyserons les stratégies politiques et culturelles mises en l'avant dans les négociations territoriales (« Approche commune » et « Entente de principe général ») pour faire face à ces enjeux.

CARTOGRAPHY AND LAND RIGHTS (CANADA, AUSTRALIA)

Brian Thom – University of Victoria (British Columbia, Canada)

Confounding Indigenous Territories in Canada

This paper considers the implications of the powerful ‘overlapping territories’ map produced by the government of Canada in their attempt to refute Hul’qumi’num Treaty Group’s human rights violations charges at the Inter-American Commission on Human Rights. The map, which is at the core of Canada’s defense, suggests that overlapping indigenous territories negate claims of exclusivity over the land and therefore any kind of obligations the state may have in respect of human or other indigenous rights in those lands. This charting out of overlapping boundaries by the state fundamentally misconstrues indigenous territoriality and tenure, abstracting indigenous senses of place and relational ontologies within a place-ordered world into a legal and cartographic ‘space’ of denial. The implication of such conceptualization of indigenous territories complicates the

potential future of on-going indigenous relationships to lands, whether public or private, indigenous or state-held, within Canadian boundaries. These issues have broad significance, as they reflect the limits of cartographic abstractions of indigenous spatialities and reveal the perilous stakes indigenous peoples have in engaging conventional discourses of territoriality. These issues challenge us to theorize and articulate ‘territory’ in ways that do justice to indigenous conceptions of and relationships to place.

||| ***Jon Altman – Australian National University***

Political ecology and political economy of indigenous land and property rights in Australia

In the past 40 years there has been a land rights revolution in Australia. After two centuries of strident colonial state assertion that indigenous peoples did not own the continent in any proprietorial sense, the Mabo High Court judgment revolutionised Australia's land tenure. A combination of native title and earlier statutory land rights regimes have seen a rapidly growing proportion of the continent re-vested with indigenous land owners. Most of this estate is in remote and very remote Australia and it has two critical features, high conservation value because of remoteness; and high mineral prospectivity. In this paper, the extent of indigenous land holdings and their natural and mineral values are documented using GIS information and maps (in close collaboration with colleague Francis Markham), something that is rarely done in Australia for many complex reasons. I then deploy the theoretical frames of political ecology and political economy as two competing perspectives, the former favouring conservation, the latter mineral exploitation, on how the land might be most effectively used for indigenous benefit. The articulation between the two frames can be encapsulated by the workings of power and the role that property rights play in exercising this power. Property rights in turn are being constantly reshaped by recourse to domestic legal challenges and to international indigenous rights instruments. I look to capture both the extraordinary progress made in the last 40 years as well as the severe limitations of what has been achieved. I end by emphasising that June 2013 is just one moment in a rapidly evolving property rights landscape and with some exploration of possibilities.

**INDIGENOUS TERRITORIAL RECOGNITION IN LATIN AMERICA: IMPACTS AND LIMITS
(PERU, ARGENTINA)**

||| ***Richard Chase Smith – Instituto del Bien Común, Peru***

A mantle of invisibility on indigenous and original peoples and land rights in Peru

My deep concern, reflected in this presentation, is the continuing invisibility of indigenous and original peoples in Peru. They are recognized within the legal framework as either native or peasant communities both by the Constitution (since 1920) and by separate laws. For the past 30 years, this invisibility has been growing along with a growing pressure, emanating from the state, to abandon the communal property regime and parcel out their lands.

After demonstrating some of the symptoms of this invisibility, like the lack of official data regarding the number of recognized and titled communities, their location and the area of land titled to or claimed by each, this presentation asks why this condition continues to exist after so many years of political work towards the opposite end result, and explores

some possible explanations. It then examines the deterioration, over the past 30 years, of the legal framework for community property and the state institutions responsible for indigenous and original peoples. And finally it describes the efforts and results of an ongoing national campaign called ‘Secure Territories for the Communities of Peru’, which has brought together 20+ institutions and organizations concerned by the land/resource grabbing process underway and the official attempts to maintain a mantle of invisibility with regard to the more than 10,000 rural, indigenous communities, 4000 of which still have no secure land rights.

||| **Morita Carrasco – University of Buenos Aires**

Sentido de la lucha por la propiedad del territorio indígena. Argentina: región del Chaco semiárido

En esta presentación abordaré la inscripción de una demanda indígena de titulación de las “tierras que tradicionalmente ocupa” una comunidad de aldeas multiétnicas en la región del Chaco semiárido como una interfase entre los campos jurídico y antropológico. Me centraré, para ello, en el derecho a la identidad y el reconocimiento constitucional en Argentina de la preexistencia étnica y cultural de los pueblos indígenas. El eje del argumento que desarrollaré es que territorio y organización comunitaria constituyen una unidad indisoluble de la identidad histórica de estos pueblos que apelan al derecho de propiedad, consagrado en el Estado moderno, como instrumento de defensa de su proyecto de vida.

Desarrollaré ciertos enfoques y perspectivas acerca de la cuestión de la identidad y el reconocimiento del otro cultural que resultan pertinentes para circunscribir el caso de estudio desde el momento en que se origina la demanda en Argentina (1984) hasta su culminación en el Sistema Interamericano de Derechos Humanos (2013).

**INDIGENOUS TERRITORIAL RECOGNITION IN LATIN AMERICA: IMPACTS AND LIMITS
(BOLIVIA, MEXICO)**

||| **Leonardo Tamburini – Center of Legal Studies and Social Research (CEJIS), Santa Cruz de la Sierra**

Peuples autochtones en Bolivie : de la consolidation territoriale aux autonomies

Le processus administratif de titularisation des terres autochtones en Bolivie s'est transformé en un scénario de lutte sociale et politique dans lequel les organisations autochtones ont participé à des alliances sociales exigeant l'approbation d'une nouvelle Constitution qui établit la transformation de l'Etat. Entre autres droits, la nouvelle charte reconnaît la démocratie communautaire, la juridiction autochtone (*indigène originaire*), l'usage et l'exploitation exclusive des ressources naturelles dans les territoires autochtones et l'accès à l'autonomie autochtone. Toutefois, le dispositif législatif pour mettre en pratique cette Constitution opère d'incessantes limitations et les décisions politiques de l'actuel gouvernement national constituent aujourd'hui une menace constante pour la concrétisation des droits autochtones consacrés : des lois limitent grandement la représentation parlementaire des peuples autochtones ; des obstacles bureaucratiques freinent l'accès à l'autonomie des projets de lois qui prétendent “réviser” les droits territoriaux via des critères productivistes, des méga projets approuvés sans consultation [préalable, libre et informée] à l'origine de conflits politiques entre le gouvernement et les

organisations autochtones ont sérieusement affecté leur alliance politique et les droits conquis.



Francisco Lopez Barcenas – Center of Studies for Rural Sustainable Development and Food Sovereignty, Chamber of Deputies, National Congress of the Union of Mexico

Le quatrième cycle de la colonisation des peuples autochtones: le pillage des territoires et des ressources naturelles

Dans la conjoncture actuelle, les peuples autochtones font face au quatrième cycle de conquête, dont la caractéristique principale est le pillage des territoires autochtones par le capital transnational. Pour ce faire, on s'appuie sur des traités régionaux ou internationaux, où la vie des nations et des peuples est définie. Avec ces mesures, les Etats nationaux ont perdu progressivement le contrôle sur leurs territoires, qui sont passés dans les mains des entreprises transnationales. Ces dernières ont entrepris une croisade sans précédent pour le contrôle des espaces économiques, politiques, sociaux et culturels. Comme conséquence logique, on observe une flexibilisation des lois qui règlent l'industrie minière, l'eau, les ressources génétiques et les connaissances autochtones qui leur sont liées, ainsi que les services environnementaux. Ces réglementations préparent le terrain pour le pillage des territoires autochtones et leurs ressources naturelles.

■ ■ ■ SESSION 2. LAND USE, MANAGEMENT POLICY AND THE CONSERVATION OF BIODIVERSITY AND CULTURE



Photo: H. Moreno

The current international law on indigenous peoples, particularly including the International Labour Organization Convention N° 169 (1989) and the United Nations Declaration on the Rights of Indigenous Peoples (2007), provides several examples of how the balance between conservation (of biodiversity and cultural heritage) and indigenous rights can be struck. However, the implementation of indigenous rights has highlighted the tensions between, on the one hand, state land use policies and, on the other, indigenous uses of their lands and of the associated natural and cultural resources. These tensions raise several issues that we will explore in this session.

What degree of autonomy do indigenous peoples have in relation to the management of their lands? In order to delimit authorized activities in different areas, such as fishing, hunting and religious ceremonies, certain state policies of environmental management take the form of specific rules concerning forests, watercourses, fauna, and so on. These authorized activities do not necessarily take into account the interests of the indigenous populations inscribed in these places.

Various state and supranational environmental protection mechanisms establish protected areas (including national parks, biosphere reserves, maritime reserves and nature sanctuaries) within spaces occupied by indigenous peoples or claimed by them as ancestral territories. Certain places constitute sacred sites, regardless of whether this has material manifestations in the land. Given this reality, the natural heritage of a place is inseparable from the cultural heritage of its indigenous peoples. However, the state, or even the global (UNESCO), character of heritage policies and processes erases the existence of a specifically indigenous heritage in many cases. The creation of protected areas (natural and/or cultural heritage sites) has long signified for many affected populations the loss of ancestral lands and the upheaval of their associated way of life and social economies. In the most extreme cases, this has resulted in the forced displacement of indigenous people outside the boundaries of these reserve sites (as occurred with the creation of the Central Kalahari Game Reserve in Botswana and the Rapa Nui National Park in Chile). At the other end of the spectrum, this process has allowed for the

definition and implementation of access to certain natural resources (including, for instance, hunting, gathering or fishing rights) and sacred sites, or even allowed for indigenous participation in the management of protected areas.

The state's focus on management, codification and conservation often obscures other issues and objectives, such as the exploitation of both natural resources and local indigenous cultural resources for economic, scientific and tourism purposes. Nevertheless, it is important to ask whether the state's conservation and heritage programs are simply imposed from above or whether they can be associated with strategies favorable to the interests of indigenous groups. Certain organizations do maintain that these programs can constitute both a short- and a more long-term solution to the problems associated with the economic pressures on land, natural resources, and indigenous cultural practices. They can allow indigenous people to participate in the conservation of material and immaterial heritage, as well as assisting in the maintenance of indigenous ecological and economic knowledge and providing a means of controlling the circulation of tourists and the cultural content conveyed to them.

In this session we will analyze the experiences of public land management and conservation policies and their results from the perspective of the indigenous peoples concerned. What impact does the international indigenous rights framework have on protected areas and cultural heritage sites (whether recognized officially or not)? What are the contemporary issues relating to land and heritage use, management and conservation from the perspective of states, indigenous peoples and the specialist international organizations working in this area (UNESCO, UNIC, WWF)?

Discussants

Leslie Cloud – PhD Candidate IHEAL, U. Sorbonne nouvelle
Veronica Gonzalez – PhD Candidate, IHEAL, U. Sorbonne nouvelle

Introduction to session 2 – Veronica Gonzalez and Leslie Cloud

INDIGENOUS RIGHTS TO LAND AND NATURAL RESOURCES CONFRONTED WITH GLOBAL ECONOMIC AND ENVIRONMENTAL POLICIES (KENYA, BRAZIL)

Justin Kenrick – Forest Peoples Programme

Contradiction or Convergence: Conservation and Communities in Kenya

REDD is an international mechanism that tends to draw our attention away from dealing with the cause of carbon emissions (emissions in the 'Global North') to protecting one of the major 'carbon sinks' (forests in the 'Global South'). On the ground it can play out in terms of conservation institutions ejecting or restricting forest communities in order to secure substantial funding flowing from the 'Global North'. However the explicit justification for the REDD process, and the safeguard that are supposed to accompany it, mean that there is strong leverage here for communities to regain their rights to their land, if they know those rights and if they link with national and international processes.

This paper outlines some of the situations in which communities in Kenya and Cameroon are impacted by REDD, and contrasts these with the situation of communities in Liberia where the international intervention is framed as economic development, rather than conservation. In particular, it focuses on FPP's work with the Sengwer and the Ogiek in Kenya, where communities have used the IUCN's 'Whakatane Mechanism' to argue that they are the ones best placed to protect the ecological integrity and diversity of their ancestral lands, while simultaneously pursuing sustainable livelihoods. However, as we have found elsewhere, institutional responses can undermine the process by insisting: that nature and culture are different spheres, that modernity's power relations are the only option, and/or that communities must accept the deal on the table – or get nothing. This paper seeks to highlight the complex contradictions and convergence strategies adopted by communities and their supporters, and to highlight the divisions and alliances that play out on the ground. It asks what academics and others in the 'Global North' can do to help reshape the assumptions and power relations that contour the territory in which such struggles are playing out: a territory that ultimately is not separate, but intimately linked to the interests of those in the 'Global North'.

 *Oiara Bonilla – Federal University of Rio de Janeiro*

 *Artionka Capiberibe – Federal University of Sao Paulo*

Face à l'assaut du développement : reculs légaux et violations des droits des peuples indigènes et traditionnels au Brésil

En 1988, avec l'élaboration de la nouvelle Constitution, le Brésil a connu d'importantes avancées sur le plan des droits indigènes. Un chapitre, intitulé "Des Indiens", garantit désormais aux peuples autochtones le droit originaire à la terre et à l'autodétermination. Actuellement, on assiste à un véritable assaut contre cet état de droit, lancé par des secteurs économiques dont la représentation au Congrès est surdimensionnée. Il s'agit de représentants de l'agro-business, d'entreprises minières, de la construction civile et des secteurs conservateurs de la société qui conçoivent le développement comme un processus d'appropriation des ressources naturelles et une dynamique de neutralisation de toute diversité culturelle. Cette communication propose tout d'abord d'analyser ces reculs en se fondant sur l'observation de situations où populations indigènes, politiques publiques et intérêts économiques se font face, pour ensuite réfléchir à certaines solutions originales présentées par les mouvements représentatifs des peuples autochtones et des populations traditionnelles.

INTERACTIONS BETWEEN INDIGENOUS PEOPLES AND ENVIRONMENTAL PROJECTS (CONGO BASIN)

 *Francesca Thornberry – Rainforest Foundation UK*

Addressing indigenous peoples' exclusion in the context of land management and conservation policies and programmes in the Congo Basin

This presentation examines the interrelationship between land use management, planning and conservation policies and their implementation in the Congo Basin, and the realities of indigenous peoples' cultures, ways of life, and patterns of land and resource use. Existing policies are often in direct conflict with indigenous peoples' rights; however, these policies

are increasingly being challenged by civil society organisations and indigenous peoples, following a significant increase in awareness of indigenous peoples' rights in this region over the last few years. In addition, the adoption by States of national or international instruments aimed directly at protecting indigenous peoples' rights, coupled with various land reform processes that are on-going, in conjunction with participatory mapping, present a unique opportunity to address these conflicts in national legislation. Through the presentation of specific examples from the Congo Basin, the presentation will examine a number of interlinked issues, how they have been dealt with in specific instances, and the possibilities for addressing these issues in the longer term and in broader legal and policy terms.

Indigenous peoples from the Congo Basin remain largely absent or significantly under-represented in international policy debates, sometimes leading to an absence of their specific concerns in measures aimed at developing indigenous peoples' rights; this paper also addresses this imbalance.

Vital Bambanze – UNIPROBA; IPACC; Senate of the Republic of Burundi

La tenure foncière, l'exploitation minière et leur impact sur les droits des peuples autochtones de la région des grands lacs

La situation d'insécurité foncière est criante en Afrique centrale, surtout dans la région des grands lacs. La question foncière constitue une préoccupation majeure et les nombreux conflits en rapport avec l'usage des terres menacent la consolidation de la paix. Ils constituent la majeure partie des affaires portées devant les tribunaux. Le problème de la terre, base de la survie d'une très grande majorité des populations d'Afrique Centrale, découle de l'insécurité sur les droits fonciers, elle-même liée à l'incapacité des systèmes actuels de gestion à apporter une réponse satisfaisante en matière de sécurisation foncière. En effet, les espaces forestiers où vivent les peuples autochtones dans le Bassin du Congo n'ont pas de statut juridique, ce qui les expose à l'expropriation et à la spoliation.

La plupart des lois foncières des pays de la sous-région ne tiennent pas compte de la réalité particulière des peuples autochtones, en demandant notamment d'attester d'un droit de propriété foncière par un certificat individuel, alors que pour les autochtones la tenure forestière est collective car la terre est pour la communauté, selon les activités exercées par ces derniers, à savoir la chasse, la cueillette, la pêche, etc. Certaines organisations dont UNIPROBA au Burundi appuyé par IWGIA, PIDP appuyé par le Conseil Norvégien pour les Réfugiés (CNR), ont documenté de nombreux situations, et développent des actions de médiation sur les cas de spoliations des terres autochtones. Les activités pour accompagner ces actions en défense sont en cours mais se heurtent au manque de moyens réguliers et à la résistance de quelques grands propriétaires fonciers, appuyés dans certains cas par des autorités administratives, qui ne veulent pas voir les autochtones posséder des terres afin de les garder comme esclaves.

PROTECTED FORESTED AREAS AND INDIGENOUS LAND RIGHTS (BOTSWANA, INDIA)

Robert Hitchcock – University of New Mexico, USA

Conservation, Culture and Land Use Conflicts in the Central Kalahari, Botswana

The Central Kalahari Game Reserve in Botswana has seen conflicts between local people (San and Bakgalagadi) and the state over land and resource rights. Botswana government

policy has emphasized biodiversity conservation, high-end tourism and mining, whereas the indigenous peoples of the reserve favor a multiple use strategy involving foraging and agropastoralism. Conflicts over land use, hunting, gathering, water and entrance rights to the reserve have occurred since the conclusion of a High Court legal case in December 2006. Some of the people who were resettled out of the reserve in 1997 and 2002 have returned to the reserve and are residing currently in five communities. These communities are seeking rights to manage the resources in their areas, but thus far the government has not given permission for them to do so in spite of Botswana's national policies on community-based natural resource management (CBNRM). This paper assesses the continuing conflicts and disputes over social, economic and cultural rights in Botswana and the Central Kalahari and makes some suggestions on ways that some of these issues might be resolved to the benefit of all parties and the environments of the region.

||| **Sarah Benabou – EHESS**

Parcs et populations locales en Inde : les dessous d'une coexistence explosive

En décembre 2004, l'Inde découvre avec stupeur que la réserve de tigres de Sariska, au Rajasthan, ne compte plus un seul de ces grands mammifères. Cet incident, largement imputé à la population de bergers Gujjar qui réside à l'intérieur de la réserve, a ouvert la voie à une multitude d'études faisant état de la « crise » que traverserait le système de conservation du pays, et en particulier de la « guerre » qui opposerait les populations locales à l'administration des parcs.

La communication se propose d'aller au-delà de cette représentation simpliste pour tenter de restituer la complexité du scénario national indien en matière de conservation, notamment quant à la place qu'y occupent les « tribus répertoriées ». La focalisation sur un discours « parcs vs populations », si elle a le mérite de poser immédiatement les questions brûlantes des droits forestiers et du « déplacement » (i.e. l'exclusion) des populations, apporte en effet avec elle ses propres points aveugles, notamment sur les dimensions juridiques du problème et surtout sur les nouveaux enjeux socio-économiques que génèrent les espaces protégés.

**CULTURAL AND NATURAL HERITAGE AND INDIGENOUS LAND RIGHTS
(AUSTRALIA, RAPA NUI/CHILE, AOTEAROA/NEW ZEALAND)**

||| **Mark Harris – La Trobe University/ University of London**

'If Stonehenge were in the Pilbara...': conflict between resource extraction and Indigenous cultural heritage values in the Murujuga (Burrup Peninsula) region of Western Australia

The area of the Pilbara known traditionally as Murujuga (but now called the Burrup Peninsula) is home to the largest collection of petroglyphs in the world. Since the first resource exploration commenced in the area in the 1970s, the petroglyphs have suffered extensive damage either through being relocated or destroyed to provide access to the abundant reserves of natural gas located in the area for the North West Natural Gas project. Despite the negotiation of a management plan with the native title claimants in the area in 2005 and a National Heritage Listing for the area in 2007, the Western Australian government has continued to authorise the removal and destruction of the petroglyphs in the area. This paper reflects on the failings of the existing cultural heritage regimes, both

international and domestic, to afford protection to the rock art of the area and considers what possible avenues exist for the protection of the immensely rich cultural heritage materials located at Murujuga.

Tuhüra Tucki Huke – Clan Tupahotu Riki Riki, Rapa Nui

Rapa Nui, la terre aliénée

Les statues et les monuments historiques de Rapa Nui témoignent d'une société extraordinaire et avancée. Beaucoup de ces vestiges sont le résultat des sciences ancestrales telles que la navigation, l'astronomie, et la sculpture. Par ses monuments et tout précisément par ses *moai* « Aringa Ora o te Tupuna », Rapa Nui a été connue de nombreux scientifiques et voyageurs. Elle le devint aussi pour les collectionneurs et les passionnés de l'archéologie.

C'est ainsi qu'en 1935, pour protéger l'île des nombreux pillages, le gouvernement du Chili inscrivit la totalité de l'île comme Parc National, au Ministère des Terres et de la Colonisation. Avec le temps, la patrimonialisation devint une forme d'aliénation des terres ancestrales des clans Rapa Nui ; et ce au profit du gouvernement. Aujourd'hui, la CONAF (Corporación Nacional de Areas Forestales / Corporation nationale des zones boisées), institution de l'Etat sous le ministère de l'Agriculture, régit 43,5% du Parc qui est sous sa tutelle. Les règlements qui sont mis en place permettent de protéger et de maintenir le patrimoine archéologique et naturel de l'île, au bénéfice des générations présentes et celui du tourisme.

Cependant le peuple autochtone se voit posé des limites pour utiliser librement les ressources naturelles et patrimoniales du territoire. La rupture entre le peuple et son patrimoine naturel et historique entraîne de ce fait de profonds changements dans la société Rapa Nui.

L'objectif de cette présentation est de démontrer qu'afin de perpétuer les traditions et coutumes du peuple Rapa Nui, il est nécessaire de considérer et de faire participer le peuple Rapa Nui dans l'élaboration et la mise en place des politiques d'aménagement du territoire.

Claire Charters – Auckland University Law School

Andrew Erueti – Amnesty International

A Purposive Interpretation of the Land Rights Provisions in the Declaration on the Rights of Indigenous Peoples: Implications for Maori Land Rights in Aotearoa/New Zealand

This paper provides an interpretation of indigenous peoples' rights to land in the Declaration on the Rights of Indigenous Peoples based on the negotiations that led to the development and then adoption of the Declaration. Secondly, it highlights issues that arise as a result of the existence of numerous international, regional and domestic bodies that apply the Declaration. Third, the implications of a purposive interpretation of the Declaration's land rights provisions are examined in the context of Maori land rights in Aotearoa/New Zealand, including in the settlement of Maori historical grievances related to land.

■ ■ ■ SESSION 3. EXTRACTIVE INDUSTRIES: FROM CONFLICT TO PARTNERSHIP?



Photo: SOGIP

The issue of extractive industries (mining in particular) on indigenous land will be central to the work of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, leading up to the end of his term in 2015. This focus clearly highlights the cross-cutting nature of the extractive industries issue vis-à-vis the rights of indigenous peoples. Historically, the emergence of indigenous movements at the national level has often been in response to mining disputes, insofar as they highlight inequalities and discrimination suffered by indigenous peoples, particularly in regard to the recognition of their rights over land and natural resources. The political mobilization of indigenous peoples and the expansion of extractive activities form a kind of system, which we intend to describe in this session.

Due to significant legal, procedural and institutional changes at the national and international levels, we cannot think about the relationship between extractive industries and indigenous peoples' rights as a simple antithesis. The proliferation of tripartite agreements between indigenous bodies, states and multinational companies over the past decade indicates that significant changes have taken place with regard to three core issues. The first relates to the ownership of mineral resources and the methods of managing extractive concessions; the second concerns the participation of indigenous peoples in the development of extractive industries; and the third deals with the reconfiguration of economic and legal frameworks in the context of globalization. In some cases, such as in New Caledonia, certain indigenous groups consider mining developments as a potential vehicle for self-determination. However, multinational companies remain notoriously 'outside of the law', and conflict and charges of human rights violations persist.

The purpose of this session is to describe evolutions in the extractive industries field, involving indigenous peoples, states and multinational companies in

circumscribed economic, political and legal systems, and to evaluate these evolutions in light of international indigenous rights standards. How effective are tripartite agreements regarding the social and environmental impacts of extractive industries on indigenous land? How do states and companies manage the requirement for free, prior and informed consent? What are the consequences of indigenous peoples' participation in extractive industries? The fundamental issue raised by these questions concerns the possibility for indigenous peoples to achieve self-determined development in a context of accelerating global competition for access to raw materials.

Discussants

Rowena Dickins Morrison – Postdoctoral Fellow EHESS (SOGIP project)
Jennifer Hays – Postdoctoral Fellow EHESS (SOGIP project)

Introduction to session 3 – Jennifer Hays and Rowena Dickins Morrison

 **Claire Levacher – PhD Candidate, EHESS**

Les sociétés transnationales minières face au droit des peuples autochtones

Présentation de l'étude réalisée pour le Groupe international de travail pour les Peuples Autochtones (GITPA), « [Les sociétés transnationales minières face au droit des peuples autochtones. Quels acteurs, pour quels enjeux ?](#) », septembre 2012.

INTERROGATING INDIGENOUS (DIS)EMPOWERMENT (GLOBAL, KANAKY/NEW CALEDONIA)

 **James Suzman – Consulting group Anthropos, Cambridge, UK**

Unnatural selection: corporations, communities and natural resources

Natural resources, mined, biological and otherwise, often provide the context for interactions between indigenous communities and corporate interests. Inevitably they also expose some of the many complications and limitations that emerge out of efforts to shape these interactions by reference to protocols defined in company policy, local statute, international law, or aspirational best practice. These limitations are brought into starker light by the fact that the predominantly commercial motivation behind encounters between indigenous people and corporate entities often magnify developmental and cultural transitional challenges within indigenous communities themselves. This talk will engage with some of these problems, examining the issues from a dual perspective: that of a major mining company and that of a community advocate. Examples will be drawn from specific cases in Canada and southern Africa. The presentation will highlight the fact that engagements between indigenous people and corporate interests will almost invariably be problematic, and that the management of these engagements needs to be focused more on local perspectives rather than policy or statute.

L'implication des Kanak dans l'économie de marché autour de l'usine du Nord : une « voie océanienne » ?

L'usine du Nord a été obtenue par le peuple Kanak et les indépendantistes après un combat face à la multinationale Eramet-SLN (soutenue par les loyalistes). Via la SMSP, les indépendantistes contrôlent la majorité du capital de la Joint-venture créée pour l'occasion (KNS) avec la multinationale Xstrata. Cette usine est sur le point d'entrer en production. Les Kanak ont souhaité cette usine afin de réaliser le « rééquilibrage » économique entre le Sud de la Grande-Terre (riche, très européenne et loyaliste) et le Nord (moins riche, très Kanak et indépendantiste). Afin de maximiser les retombées économiques pour les populations locales et notamment pour les Kanak des tribus, l'industrie a soutenu la création de nombreuses sociétés impliquant les clans, les tribus et les nombreux petits porteurs de la zone d'implantation de l'usine. Aujourd'hui, des millions de Francs CFP (centaines de milliers d'euros) sont redistribués dans les tribus chaque année. On décrit dans cette intervention comment les clans et les tribus kanak participent à l'économie de marché et inventent de façon pragmatique « une voie océanienne » souhaitée par les élus politiques kanak.

DIVERSITY IN INDIGENOUS ENGAGEMENTS WITH MINING IN KANAKY/NEW CALEDONIA

Un conflit minier entre indépendantistes kanak : Quand les communes revendiquent leurs droits plus que les chefferies

En 1990, la Société de Financement et d'investissement de la Province Nord (SOFINOR) acquiert la Société Minière du Pacifique sud (SMSP). Par ce biais, les indépendantistes kanak au pouvoir dans cette Province de Nouvelle-Calédonie se lancent dans l'industrie minière. En 1992, ils rachètent notamment la mine de Boakaine sur la commune de Canala avec l'aide de partenaires asiatiques. En 2002, un conflit d'apparence syndical (portant sur les conditions de travail) met un terme à cet épisode d'exploitation. Aujourd'hui, se discutent les conditions de réouverture du site de Boakaine, entre la SMSP, la commune de Canala et la grande chefferie locale.

Ma communication analyse le conflit et les débats concernant cette mine sur la décennie écoulée afin de mesurer la diversité des positions kanak face au développement de l'industrie extractive sur le Territoire. Je montrerai d'abord que la revendication locale de cogestion du site au nom de l'autochtone est ici instrumentalisée dans une opposition partisane : elle recouvre essentiellement une ancienne querelle de partis (et des personnalités) politiques en compétition pour le contrôle de la commune voire de la Province. Je montrerai ensuite que, l'enjeu, à l'avenir, consiste surtout à obtenir des industriels la garantie d'une forme de participation des *collectivités locales* proches des mines à l'exploitation des sites miniers ainsi que de s'assurer, à ce niveau, d'une répartition équitable des retombées du nickel. Les demandes de compensations ou d'indemnisations au nom du lien à la terre ou encore la défense d'une économie alternative qui animèrent l'association Rhebuu Nuu dans le sud sont inexistantes au nord. Face aux multinationales, le positionnement en tant qu'autochtone n'est donc qu'un recours parmi d'autres en Nouvelle-Calédonie. Il ne doit en aucun cas occulter d'autres approches -

développementalistes - bien plus prégnantes qui renvoient à des formes d'appartenances au Territoire fortement enracinées dans le monde kanak après 160 ans de colonisation.

Claire Levacher – EHESS

Dimensions et enjeux de la signature du Pacte pour un développement durable du Grand Sud ou de la fonction de l'environnement dans la définition d'un conflit autochtone, en Nouvelle-Calédonie

Notre intervention vise à interroger les dimensions du Pacte pour un développement durable du Grand Sud, signé entre les chefs coutumiers du Grand Sud de la Nouvelle-Calédonie et la multinationale minière Vale, en 2008, à la lumière des conflits et négociations qui l'ont précédé. En revenant sur les origines du conflit qui a opposé les populations locales Kanak de la commune de Yaté dans le Sud de la Nouvelle-Calédonie à la multinationale minière, nous tenterons de dégager la part des logiques économiques et environnementale dans la signature d'accord locaux bipartites, voire tripartites - avec l'Etat - en Nouvelle-Calédonie. Cette étude permettra également de replacer le Pacte pour un développement durable du Grand Sud dans l'échelle mondialisée des accords entre peuples autochtones et multinationales minières, de type *Impacts and Benefits Agreements* et de voir les différents moyens de responsabilisation des sociétés transnationales minières vis-à-vis de l'environnement et des droits humains à la fois au niveau étatique et transétatique.

UNEQUAL NEGOTIATIONS, UNEQUAL OUTCOMES (AUSTRALIA, INDIA)

Bryan Wyatt – National Native Title Council, Australia

Protecting Rights, Culture and Tradition in a Growing Economy

Australian native title groups are embarking on unprecedented opportunities to significantly improve the economic wellbeing of their families and communities. Negotiating agreements with extractive industry that provide financial benefits, employment opportunities and business development is in stark contrast to the adversarial approach of a few years ago. For Indigenous communities, however, these negotiations bring added pressures and challenges – not only the responsibility of Traditional Owners to protect their culture, tradition and heritage, but also to ensure that their rights are acknowledged and protected. The principles of the UN Declaration on the Rights of Indigenous Peoples, in particular the right to free, prior and informed consent and the right to self determination, are threatened in the rush to open up land for exploration and mining. This paper will discuss the challenges and pressures faced by Traditional Owners in protecting their culture within the changing economic environment and the opportunities for communities. Whilst the native title process provides a legal framework for Indigenous peoples to negotiate directly with extractive industry, Government policy and processes are often developed that negate the right of Indigenous peoples to fully and effectively participate in decision making and to benefit economically from their rights to land.



Samarendra Das – Centre for World Environmental History, Sussex University; jointly with Felix Padel

Can India's Adivasis stop the race to the bottom? Movements against mining-based over-industrialisation in India's tribal heartland

As investment in mining and metal production rises rapidly from the world's financial centres, takeovers of indigenous people's land and resources escalate, in India as in other 'developing countries', with all the familiar signs of the resource curse, including severe repression and manipulated civil war. Throughout India, Adivasis have become increasingly conscious of an Unbroken History of Broken Promises (B.D. Sharma 2010), and dozens of grassroots movements oppose further land-grabs and displacement, asking with Gladson Dungdung (an Adivasi activist from Jharkhand): Whose Country is it anyway? (2013) Can stakeholder agreements and promises to share mining profits with Adivasi communities help settle these conflicts? Or are these strategies that guarantee 'a race to the bottom', in terms of cultural genocide for indigenous people as well as ecocide for the forested mountains and water systems they have safeguarded over centuries?

MITIGATION STRATEGIES – A WAY FORWARD? (MEXICO, RUSSIA)



Juan Luis Sariego – National School of Anthropology and History (Chihuahua Unity)

Derechos indígenas y conflictos mineros en México

En el marco de las políticas mineras y agrarias vigentes en México, se analizan los diferentes impactos que el extractivismo y la expansión de la frontera minera están provocando en los ámbitos agrarios, territoriales, ambientales, laborales y culturales en diferentes regiones y comunidades indígenas de México. Además de presentar una tipología de los conflictos derivados de esta situación, se plantean algunas propuestas de reformas a la legislación minera vigente, tomando como referentes los derechos a la autonomía y control del territorio por parte de los grupos étnicos. Se concluye postulando la necesidad de transitar gradualmente hacia un modelo de post-extractivismo minero que supere la llamada "maldición de los recursos naturales" y asegure el derecho de los indígenas a participar en la toma de decisiones sobre el uso y destino de sus territorios.



Natalya Ivanovna Novikova – Institute of Ethnology and Anthropology, Russian Academy of Sciences, Moscow

Indigenous Peoples and Industrial Companies in the Russian North: Mitigating the Risks

In today's rapidly changing world, indigenous peoples of the Russian North face numerous problems, which can only be solved through the adoption of a long-term perspective. Increasing industrial pressure on their territories has led to a somewhat paradoxical situation. On the one hand, indigenous peoples' development currently depends on their involvement in the modernizing economy – in which the enlarging labor market, the market for traditional industries' products, and direct investments in the budgets of regions, territories and individual enterprises all play important roles. At the same time, the deteriorating ecological situation, alienation of traditional lands and psychological stress

caused by mines and other industries on their territories has created among the indigenous population negative attitudes towards industrial development.

This paper describes some measures that could potentially mitigate the risks, both for indigenous communities and for companies connected with the industrial development of the Russian North. These include, for example: legislation protecting the rights of indigenous numerically small peoples of the North, in the process of industrial development carried out on their territories; ethnological assessment (both to mitigate negative impacts and to elaborate mechanisms to facilitate productive and respectful communication between industrial companies and indigenous peoples); the wide-spread application of the UN instrument ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’ in the activities of companies and state authorities; and, finally, improving companies’ interaction with local (including indigenous) populations and their strategies for meeting their obligation to implement proper social and ecological policies.



CONCLUSION – Irène Bellier – CNRS, SOGIP Principal Investigator



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Vital Bambanze, an indigenous Mutwa, is currently an appointed Senator representing the Batwa in the Government of Burundi. Founding member of the group ‘Unissons nous pour la Promotion des Batwa’ (UNIPROBA) that works to promote and protect the Batwa peoples of Burundi, he is also Chair of the Indigenous Peoples of Africa Coordinating Committee (IPACC). From 2011-2012, he was a Member and Chair of the UN Expert Mechanism for the Rights of Indigenous Peoples. He has participated in numerous meetings at national, regional and international levels on the Rights of Indigenous Peoples and Minorities. Vitale Bambanze has a ‘Licence’ from the University of Burundi in African Languages and Literature.

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Morita Carrasco

Morita Carrasco holds a PhD in Law and teaches Anthropology in the Faculty of Arts and Philosophy of the University of Buenos Aires. For the last thirty years, she has been researching the indigenous peoples of the Chaco Province in Argentina. Since 1990, Carrasco's research has also focused on the dynamics of the recognition, implementation and enjoyment of the rights of indigenous peoples in Argentina. Since 1998, she has assisted the Association of Indigenous Communities Lhaka Honhat in its legal battle against the Argentinean State for title over their lands. She has also been following the progress of the legal suit being pursued by that Association in the Inter-American Commission on Human Rights. Two years ago, she began new research in the Misiones Province in order to improve knowledge of and facilitate the exchanges and interaction between the justice system and the Mbya Guarani communities, particularly concerning questions linked to criminal law and the indigenous justice system. For many years Carrasco has authored the chapter on Argentina in the annual IWGIA publication, Indigenous World.

Claire Charters

Claire Charters is currently in transition between her position as Human Rights Officer in the Indigenous Peoples and Minorities Section of the UN Office of the High Commissioner of Human Rights (OHCHR), in Geneva (since 2010), and a new position as senior lecturer at [Auckland University Law School](#). At OHCHR, Claire advises on issues associated with international and domestic law in relation to indigenous peoples, and is also responsible for the UN Expert Mechanism on the Rights of Indigenous Peoples. She has taught numerous courses at several institutions on the topic of Indigenous Rights in International Law and has worked as a consultant or legal advisor for international Human Rights bodies, including the UNPFII. She has also acted as a barrister or advocate in a number of domestic and international fora, and has advised governmental institutions from many countries on indigenous peoples' rights. She co-edited the book: *Making the Declaration Work: The Significance of the Declaration on the Rights of Indigenous Peoples*, IWGIA, 2009 (with Rodolfo Stavenhagen).

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Trained in mathematics and computer science at the universities of Brahmapur and Indore in India, Samarendra Das is a journalist and author, film-maker and political activist. His books in the Odia language translate as: *Rashoman and Other Stories* (1998), around the theme of State censorship; *From Salunki to St Lawrence* (2002), reflective essays on travel; and *Identity Quest* (2002), a translation with commentary of writings by Nirmal Varma on the relationship between Eastern and Western cultures. He is co-author with Felix Padel of *Out of This Earth: East India Adivasis and the Aluminium Cartel* (Delhi, Orient BlackSwan, 2010). His main documentary films, with Amarendra Das, are: *Wira Pdika* (Earth Worm, Company

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Robert Hitchcock has worked for several decades as a cultural anthropologist, archaeologist and international development specialist, as well as a specialist in genocide studies. He has served as an international development consultant on indigenous peoples' rights and land use planning, as well as social impact analysis and community-based natural resource

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James Suzman is an anthropologist specialising in the political economy of southern Africa, and is the founder of the research, consulting and analytics group Anthopos. He led the largest research programme into southern Africa's indigenous peoples to date, and he was appointed to the Smuts Fellowship in African Studies and the University of Cambridge in 2001. Suzman has consulted widely for governments, businesses, NGOs and other organisations on range of issues. Between 2006 and 2013, he was Head of Public Affairs for De Beers where he was responsible, among other things, for developing the De Beers' award winning sustainability functions and for shaping its relationships with Governments, NGOs, communities and other stakeholders. He also served as an executive director of the Responsible Jewellery Council and on the Boards of the Diamond Trust, the De Beers Trust and The De Beers Fund. He is also an executive director of the Protimos Foundation a legal NGO that works to empower communities through litigation.

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Leonardo Tamburini is an Argentine lawyer, trained at the National University of Córdoba (Argentina) and the University of Macerata (Italy). Since 1997, he has been working at the Center of Legal Studies and Social Research (CEJIS) in Santa Cruz de la Sierra, Bolivia. He was in charge of the 'native peoples' and 'lands and native territories' programs (2000-2006), then Executive Director (2006-2012) of that institution. He is currently a researcher in the CEJIS and one of the main advocates of human rights and indigenous peoples in Bolivia. He has worked in collaboration with numerous specialist journals on indigenous issues, human rights, natural resources and the environment. He is Director of the publication 'Articulo Primero', which proposes articles on the legal and political current events in Latin America. The last issue of Articulo Primero (No. 21) is entitled '[Extractives industries: policies and rights](#)'.

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Brian Thom is Assistant Professor in the Department of Anthropology at the University of Victoria (British Columbia, Canada). He has worked for over 15 years in British Columbia as a researcher, senior advisor and negotiator for Coast Salish indigenous communities involved in the BC Treaty Process, park co-management and at the Inter-American Commission on Human Rights. His work has supported their efforts to establish new governance institutions, resolve long-standing disputes about land title, promote the recognition of aboriginal and indigenous rights, and find places of reconciliation of state power and colonial settlement with the on-going presence of Coast Salish peoples on the land. One of his latest articles is entitled 'The Anathema of Aggregation: Towards 21st Century Self-Government in the Coast Salish World', *Anthropologica*, 2010.

Francesca Thornberry

Francesca Thornberry has been working for over 13 years in the field of Human Rights and Development, and has a degree in Geography and Social Anthropology from the University of Edinburgh and a Masters degree from the University of Oxford in International Human Rights Law. She is currently the Head of Programme at the [Rainforest Foundation UK](#), leading the strategic development of the Organisation's global programme, which works towards protecting the forest and securing the rights of forest communities in the Congo and Amazon basins. Prior to working at the Rainforest Foundation, Francesca worked for the International Labour Organisation as a Programme Coordinator on a major programme for the promotion of the rights of indigenous peoples. In that role she managed country programmes and

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Tuhiira Tucki Huke

Tuhiira Tucki Huke is Maori Rapa Nui (Te Pito O Te Henua) from the Tupahotu Riki Riki clan. She spent the first 12 years of her life learning the traditions, culture and language of her people before moving to France. When she was twenty she moved back to Rapa Nui with the wish to reconnect with her people and to help them with her knowledge from the outside. In order to fight for the determination of her people she went to Aotearoa, New Zealand, in 2005 to broaden her knowledge, completing a Masters in environmental planning, politics and Pacific Islands development. Since 2008, she has been involved in many projects aimed at maintaining culture, tradition and language.

Brian Wyatt

Brian Wyatt is a Churchill Fellow who has had more than 30 years experience in community and government administration of Aboriginal affairs in Australia, including as an adviser to government. He held the position of CEO with the Goldfields Land and Sea Council for 11 years and was the inaugural Chairperson of the National Native Title Council (an alliance of Native Title Representative Bodies and Native Title Service Providers from around Australia). Brian Wyatt participates regularly in the United Nations Permanent Forum on Indigenous Issues as well as the Expert Mechanism on the Rights of Indigenous Peoples. This has led to him being invited to represent the Pacific Region at various UN Permanent Forum Workshops on Mining and Indigenous Communities in Siberia and the Philippines, as well as Conferences on Climate Change in Alaska and Copenhagen. Brian took up the role as Chief Executive Officer with the [National Native Title Council](#) in March 2010.

Brigitte Wyngaarde

Brigitte Wyngaarde is currently President of 'Villages de Guyane', an Amerindian organization of French Guyana. Since 1997, she has also been leading Hanaba Lokono, the local organization of Balaté, a lokono (arawak) village located on the Maroni River in the western part of French Guyana. In 1998, during her presidency, Hanaba Lokono obtained ownership of the village land, which since that time has been administrated by Hanaba Lokono's Council. This created an ongoing conflict with the Mayor of the municipality in which the village is located. Brigitte Wyngaarde was also the Customary Chief of Balaté from 1999 to 2008. She has a degree in social and cultural community work and is a librarian. She was heavily involved in the Amerindian movement and regularly engaged in public debates (for example [on suicide](#), or the [national south reserve park](#)). For an indigenous activist, she has a strong [media presence](#). She entered into politics in 2004 and is the founder of the Green Party in French Guiana.

Biographies of SOGIP team members are available online :

<http://www.sogip.ehess.fr/spip.php?rubrique15>

Irène Bellier, Leslie Cloud, Yves-Marie Davenel, Rowena Dickins Morrison, Marion Dupuis, Verónica González, Stéphanie Guyon, Jennifer Hays, Laurent Lacroix, Martin Préaud, Raphaël Rousseau, Benoît Trépied



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PRACTICAL INFORMATION

Workshop venues

Venue day 1 – Opening lecture

Ecole des Hautes Etudes en Sciences Sociales (EHESS), campus 1
105 Boulevard Raspail, 75006 Paris
Amphithéâtre François Furet
Metro station: Saint-Placide (line 4)

Venue day 2

Ecole des Hautes Etudes en Sciences Sociales (EHESS), campus 2
96 Boulevard Raspail, 75006 Paris
Salle Maurice et Denis Lombard
Metro station: Saint-Placide (line 4)

Venue days 3 & 4

REID Hall
4 Rue de Chevreuse, 75006 Paris
Salle de conférence, troisième jardin, rez-de-chausée, (third garden, ground floor)
Metro station: Vavin (line 4)

Hotel addresses and directions

Hôtel Coypel

2 Rue Coypel, 75013 Paris
Phone: 01 43 31 18 08
Metro station: Place d'Italie (Line 5 & Line 6), Campo-Formio (Line 5)

To get to the EHESS (96 and 105 Boulevard Raspail – campuses 1 and 2) from the Hôtel Coypel: Take the metro at the station ‘Place d’Italie’ on line 6 towards ‘Charles de Gaulle Etoile’; change at station ‘Raspail’ and take line 4 towards ‘Porte de Clignancourt’. Leave the metro at station ‘Saint Placide’. From there it is a five-minute walk to the EHESS (campuses 1 and 2) – see the street map in the metro station and the map in this booklet.

To get to REID Hall from the Hôtel Coypel: Take the metro at the station ‘Place d’Italie’ on line 6 towards ‘Charles de Gaulle Etoile’; change at station ‘Raspail’ and take line 4 towards ‘Porte de Clignancourt’. Leave the metro at station ‘Vavin’. From there it is a five-minute walk to REID Hall – see the street map in the metro station and the map in this booklet.

From the ‘Gare du Nord’ to the Hôtel Coypel: Take the RER line B towards ‘Robinson’ or ‘Saint Rémy les Chevreuses’ (or metro line 4 towards ‘Mairie de Montrouge’), and change at the station ‘Denfert Rochereau’ to metro line 6 towards ‘Nation’. Leave the metro at station ‘Place d’Italie’. To walk to the hotel, see the map in the metro station and the map in this booklet.

Hôtel Perreyve
63 Rue Madame, 75006 Paris
Phone: 01 45 48 35 01

Ten minutes walk to the EHESS (96 and 105 Boulevard Raspail – campuses 1 and 2) and to REID Hall. See the map in this booklet.

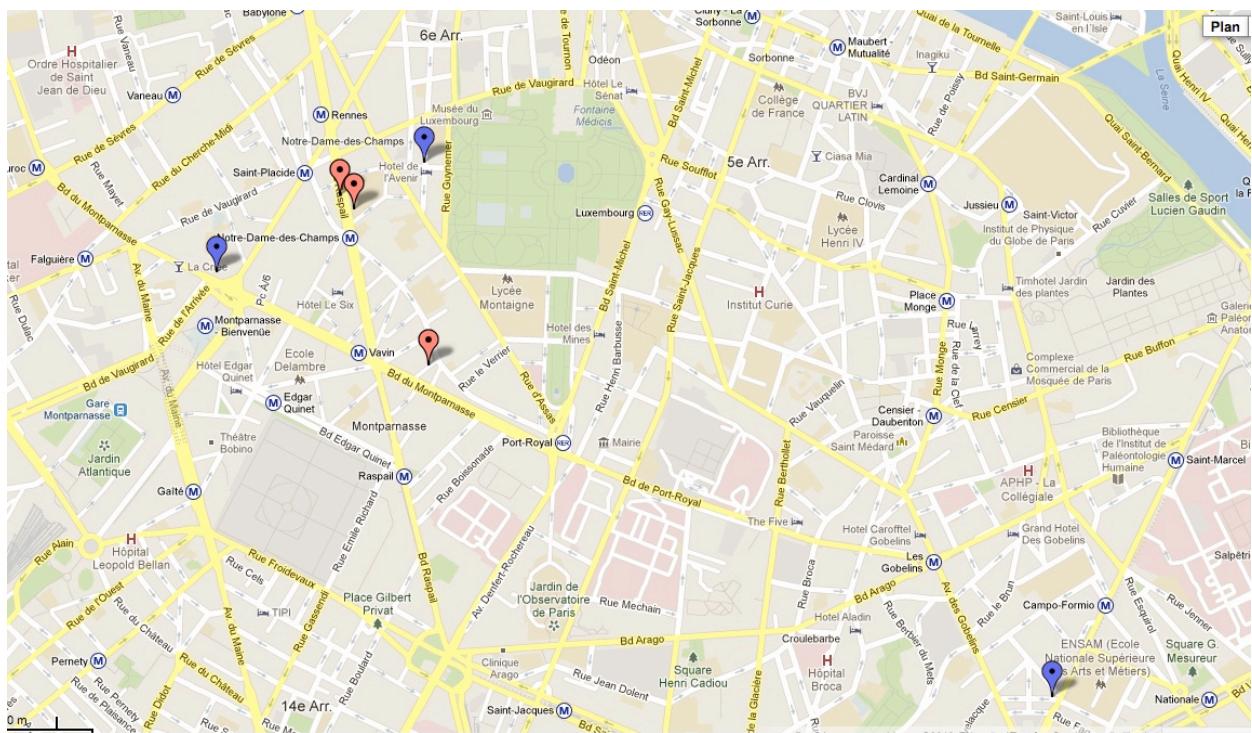
Hôtel Montparnasse Terminus
59 Boulevard du Montparnasse, 75006 Paris
Phone: 01 45 48 99 10

Ten minutes walk to the EHESS (96 and 105 Boulevard Raspail – campuses 1 and 2) and to REID Hall. See the map in this booklet.

From ‘Gare du Nord’ to EHESS (campuses 1 and 2): Take the metro line number 4 towards ‘Mairie de Montrouge’ and leave the metro at the station ‘Saint Placide’. From there it is a five-minute walk to the EHESS (96 and 105 Boulevard Raspail – campuses 1 and 2) – see the street map in the metro station and the map in this booklet.

Please note: The SOGIP office is located in the EHESS campus 3 – fifth floor, block B, office: 590, 190-198 Avenue de France, 75013 Paris. Tel : 0033 (1) 49 54 21 92/M: 06 72 78 82 49.

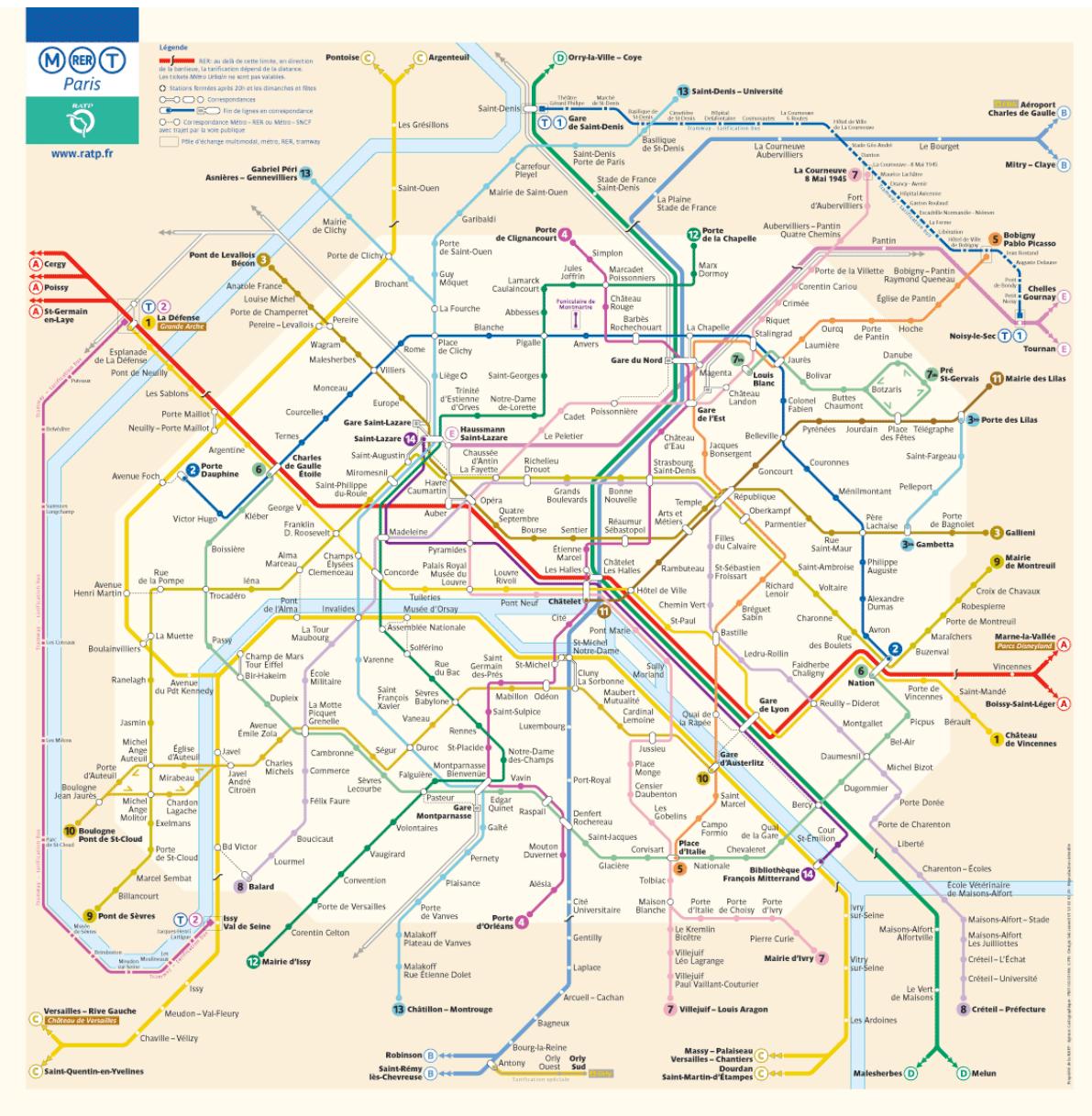
MAP



Blue markers indicate hotels.

Red markers indicate workshop venues.

METRO MAP



Note: Metro line 4 has been extended south – the final stop is no longer ‘Porte d’Orléans’ but ‘Mairie de Montrouge’.