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A Rights-Based Approach - What is it and how should it be integrated into the IUCN natural resources governance framework?

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What is a Rights-Based Approach to Natural Resource Governance?

- A rights-based approach frames natural resource governance as a human rights issue. It creates a framework that recognizes and the link between the environment and human rights that is supported by moral values and that is reinforced by legal obligations. It is based on international human rights standards and corresponding obligations.
- The framework itself promotes and protects human rights by following processes that empower rights holders and supports their participation in policy formulation, while holding duty bearers accountable.
- A rights-based approach promotes policies that protect natural resources in a manner that respects human rights by recognizing and prioritizing the rights of local communities and indigenous peoples over natural resources rather than making tradeoffs between them. It also reminds decision-makers of their obligations to respect human rights.
- Key elements of a rights-based approach could include:
 - o *Consistency with and integration of international human rights obligations and standards*
 - Civil and political rights: Rights to life, to liberty, to freedom of expression, to access to information, to own property, to equality and to non-discrimination, to assembly, to movement, to religion, and to be treated equally before the law
 - Economic, social and cultural rights: Rights to family, to education, to culture, to adequate standard of living, to health, to subsistence, to land, and to residence
 - o *Public participation in decision-making*
 - Ensures the full and effective participation of individuals and community members

- Participation is more than just consultation, but rather free, prior and informed consent (FPIC) in accordance with community customs and traditions
- Supports the empowerment of individuals and local communities, focusing on their engagement and partnership
- Promotes active and informed participation in the formulation, implementation and monitoring of natural resource governance
- *Transparency and accountability* of policymakers and others whose actions have an impact on the rights of people at the national and international levels
 - Accountability mechanisms must be accessible, transparent and effective

Why apply a rights-based approach?

- A rights-based approach to natural resource governance encourages the international community to reaffirm its commitment to international human rights, to ensure equity, and to support sustainable development that protects rather than threatens the individual and community rights.
- It provides a framework to prevent violations of stakeholders' rights that may result from natural resource governance initiatives, as well as protect community interests as a matter of duty.
- It encourages consideration of human rights in the development, implementation and monitoring of relevant natural resource governance processes.
- It is structured to empower individuals and communities that rely on and protect natural resources
 - Many argue that effective natural resource protection is not possible without the empowerment and true participation of local communities
- It appreciates that natural resource governance directly impacts the lives and livelihoods of indigenous peoples and local communities.
- It also recognizes that certain groups- women and children as well as indigenous peoples- are particularly vulnerable to natural resource mismanagement and weak governance
 - It notes how environmental changes in natural resources impact vulnerable peoples' ability to access water, food and shelter, which are basic human rights.
 - In addition, it acknowledges that natural resources are considered central to spiritual and cultural identity for indigenous peoples
- A rights-based approach translates and operationalizes norms, standards and principles into rights-based policies¹ that provides for more effective and equitable responses to governance
- It helps prevent problems with corruption because when there is access to information, freedom of expression, participation and accountability, corruption is less likely

¹ Office of the United Nations High Commissioner for Human Rights, Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies (2002)

- It Provides a framework that can be applied globally- in different cultural and legal settings

A Rights-Based Approach and the IUCN NRGF: How could it be integrated into the NRGF?

- The IUCN has adopted “rights-based approaches,” which suggests that incorporation of human rights should be applied in constructing the NRGF.
- To achieve NRGF’s objective of developing a method of natural resource decision-making
 - o Using a rights-based approach creates a space to highlight the importance of communities and other stakeholders in participating in natural resources decisions
 - o It ensures the access to information necessary to fully and effectively participate
 - o It respects specific indigenous peoples’ rights to territory and self-determination, among others, which are principles of the NRGF
- To achieve NRGF’s objective to help decision-makers make better and fairer decisions
 - o A rights-based approach supports institutional safeguard systems that prevent such social and environmental harms, promote sustainable development and maximize participation, transparency, accountability, equity and rights protections
 - o It takes into account human rights considerations in the development, implementation and monitoring of natural resource
- For the NRGF WG to build a framework for natural resource governance and develop assessment tools to encourage good governance results,² taking a rights-based approach will:
 - o Provide practical solutions to conservation and development challenges at both the global and local levels
 - o Create processes that will address communications by or on behalf of individuals and communities whose rights may be affected
- IUCN’s Environmental Law Centre’s analysis of governance assessment tools suggests that most existing tools do not respond to specific natural resource features related to respecting rights.
 - o Using a rights-based approach will enable users of these tools to not only have access to pertinent information, but also to feel encouraged to exercise their rights
- Key elements for NRGF to consider and harmonize in applying a rights-based approach to NRG:
 - o Incorporate social and environmental safeguards and accountability policies
 - o Institute monitoring systems to ensure these safeguards are respected
 - o Establish grievance mechanisms to ensure that affected peoples and communities can raise their concerns and have them addressed in a timely manner

² IUCN’s CEESP Natural Resource Governance Framework, available at: http://www.iucn.org/about/union/commissions/ceesp/ceesp_news/?12650/Natural-Resources-Governance-Framework

- Ensure opportunities for meaningful and effective participation in all stages of relevant decision-making processes
- Support/reinforce the right to a healthy environment
- Address and highlight the link between human rights and the environment

References:

Greiber, T., Janki, M., Orellana, M., Savaresi, A., Shelton, D., *Conservation with Justice: A Rights-Based Approach*, IUCN Environmental Policy and Law Paper No. 71, 2009

Boyle, A., Anderson, M., *Human Rights Approaches to Environmental Protection*, Oxford University Press, New York, 1996

CIEL, *A Rights-Based Approach to Climate Change Mitigation: The Clean Development Mechanism of the Kyoto Protocol*, August, 2008 (prepared for IUCN)

Johl, A., Lador, Y., *A Human Rights-Based Approach to Climate Finance*, International Policy Analysis, February 2012

UHCHR, *Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation* (New York and Geneva, United Nations, 2006), available at:

<http://www.ohchr.org/Documents/Publications/FAQen.pdf>

Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation; OHCHR, 2009; available at: <http://www.ohchr.org/Documents/Publications/FAQen.pdf>

CIEL, *Climate Change & Human Rights: A Primer*; available at:

http://www.ciel.org/Publications/CC_HRE_23May11.pdf

Campese, J., Sunderland, T., Greiber, T. and Oviedo, G. (eds.) 2009, *Rights-based approaches: Exploring issues and opportunities for conservation*. CIFOR and IUCN. Bogor, Indonesia.

Jodoin, S., *Rights-Based Framework for Climate Finance*, 2010, International Development Law Organization and the Centre for International Sustainable Development

Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, Decision 1/CP.16. Document No:

FCCC/CP/2010/7/Add.1, UNFCCC, available at:

<http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>

UN-REDD Programme, *Draft Social and Environmental Principles and Criteria*; available at:

www.un-redd.org/Multiple_Benefits_SEPC/tabid/54130/Default.aspx.

UN-REDD Guidelines on Stakeholder Engagement in REDD+ Readiness with a Focus on Indigenous Peoples and Other Forest-Dependent Communities, available at:

http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=7047&Itemid=53

Rio Declaration on Environment and Development (UN Doc. A/CONF.151/26 vol.I)/31 ILM 874 (1992); see especially Principle 10 on public awareness and participation; available at

<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

The Human Rights-Based Approach: <http://web.unfpa.org/rights/approaches.htm>