

## **IUCN's Rights-Based Approach: A Systematization of the Union's Policy Instruments, Standards and Guidelines**

### **Contents**

I. Introduction .....	3
A. Context and Purpose of this document .....	3
B. Rights-based Approach: Key Concepts & Definitions .....	4
II. IUCN RBA Entry Points & Resources .....	4
C. The IUCN Policy Framework .....	4
D. The IUCN Programme .....	5
E. IUCN Program Standards .....	6
1. Natural Resource Governance Framework (NRGF) .....	6
2. Green List of Protected and Conserved Areas .....	6
F. IUCN Implementation Systems .....	7
I. Environmental & Social Management System .....	7
II. IUCN's Project Guidelines and Standards (PGS) .....	8
G. Programmatic Guidance .....	8
H. Capacity building, knowledge and learning .....	9
I. Mainstreaming RBAs in Conservation .....	10
J. Broader accountability mechanisms for conservation .....	10
III. IUCN's Policy Framework on Rights-based Approaches to Conservation .....	11
Introduction .....	11
A. Components of the IUCN Policy Framework on RBAs .....	11
1. IUCN Gender Policy Statement (1998) .....	11
2. IUCN Policy on Social Equity in Conservation and Sustainable Use of Natural Resources (2000) .....	11
3. The Conservation Initiative on Human Rights (CIHR) Framework (2009) 12	
4. IUCN Policy on Conservation and Human Rights for Sustainable Development (2012) .....	13
5. Environmental and Social Management Standards .....	15

B. Guiding Principles, Procedural and Substantive Rights in IUCN's Policy Framework .....	17
1. Overarching principles .....	17
2. Procedural Rights.....	19
3. Substantive rights .....	21
4. Environmental rights.....	25
IV. Procedural and Substantive Rights in IUCN's ESMS .....	28
Procedural Rights in IUCN's ESMS .....	28
Substantive Rights in IUCN's ESMS .....	31

# **IUCN's Rights-Based Approach: A Systematization of the Union's Policy Instruments, Standards and Guidelines**

## **I. Introduction**

### **A. Context and Purpose of this document**

Rights-based Approaches have gained increasing prominence in conservation policy and practice over the last decade, reflecting increased awareness of the connections between conservation and human rights concerns. A healthy environment underpins the realization of many human rights, while the realization of rights – such as to participation and tenure – contributes to more successful conservation. However, conservation activities can also generate negative impacts where links to human rights and well-being are not taken into account, and weak fulfilment of rights can also undermine conservation outcomes.

IUCN has played a leading role in the evolution of Rights-based Approaches to Conservation, through the development of its institutional policies and knowledge resources, implementation of programs, and roles in engaging and influencing a wider range of conservation actors. These initiatives have generated a rich body of work; however, but much of it is scattered and/or difficult to access.

The aim of this document is to “systematize” key IUCN resources on rights-based approaches to conservation, including clarifying how different pieces of work relate to one another, so they can be more readily accessed and used. This document has been developed in conjunction with a companion “roadmap” for further work to strengthen RBAs in IUCN. While this document focuses on identifying and summarizing what exists, the roadmap also points to gaps and key aspects of a RBA in IUCN that still need to be addressed. Both documents accompany and make reference to the 2017-2020 IUCN Programme, and will be maintained as living documents – to be updated and revised over time.

Preparation of this RBA systematization and the roadmap has been supported by the IUCN Global Forest and Climate Change Programme (GFCCP). The GFCCP works with communities, government agencies, NGOs and businesses, to support the development of locally-driven and sustainable measures that will improve forest management by combatting the rate of deforestation and forest degradation, restoring forest landscapes, enabling rights-based land use, and unlocking forest benefits.

Following a brief introduction to RBA concepts and definitions, this document is organized in accordance with the “entry points” that structure the companion RBA Roadmap document, except that only policies, knowledge resources and other written materials are gathered here, whereas the Roadmap also includes processes and capacities that are or need to be in place for an effective institutional rights-based approach.

Each section below provides a brief description of the relevant IUCN body of work (such as policies, guidelines or knowledge resources) with links to relevant documents. In some cases, the links go directly to the IUCN resource, such as the Environmental and Social Management System (ESMS). In other cases, the linked documents are themselves a

synthesis of existing work, for example the synthesis of IUCN RBA-related policies. These synthesis documents, in turn, provide links to the relevant IUCN documents, and often to the work of other organizations, particularly IUCN Members, that are useful for understanding and implementing RBAs in IUCN.

## **B. Rights-based Approach: Key Concepts & Definitions**

A rights-based approach is an approach to conservation that respects, and seeks to protect and promote, recognized human rights standards.<sup>1</sup> These recognized human rights standards include, in particular, international human rights' frameworks developed and adopted through the United Nations, such as the UN Declaration on Human Rights, its associated Covenants, and UN frameworks articulating the rights of indigenous peoples, women and children.

The IUCN Environmental Law Centre links rights-based approaches to IUCN's mission, highlighting that a rights-based approach enables and promotes "conservation with justice." They note that:

Conservation with justice means that all State and non-State actors planning or engaged in policies, projects, programmes, and activities with potential impact on nature conservation shall secure to all potentially affected persons the substantive and procedural rights that are guaranteed by national and international law.<sup>2</sup>

Rights-based approaches are concerned with the relationships between "rights-holders" and "duty bearers." All human beings are rights-holders, and a rights-based approach calls particular attention to social inequalities and unjust distributions of power that constrain the exercise of legitimate rights. The groups responsible for respecting, protecting and/or realizing rights are duty bearers. States have historically been, and continue to be, recognized as primary duty bearers. At the same time, it is increasingly understood that non-state actors, particularly businesses,<sup>3</sup> but also non-governmental actors,<sup>4</sup> have human rights accountabilities.

## **II. IUCN RBA Entry Points & Resources**

In this document, an "entry point" refers to a way by which a rights-based approach enters into the work of IUCN. Entry points include IUCN policies, IUCN's four-year Programme, knowledge resources, and other dimensions of IUCN operations.

## **C. The IUCN Policy Framework**

The IUCN Policy Framework refers to IUCN policies as adopted through institutional policies, standards and IUCN resolutions. Since the mid-1990s, IUCN has developed a series of policies, resolutions and standards on human rights issues and conservation that articulate IUCN's accountabilities with regard to a rights-based approach. Key components of IUCN's Policy Framework on Rights-based Approaches include:

- IUCN Institutional Policies – such as
  - IUCN Policy on Indigenous Peoples and Conservation
  - IUCN Policy on Social Equity in Conservation
  - IUCN Gender Policy
  - CIHR Framework on Conservation and Human Rights
  - IUCN Policy on Conservation and Human Rights for Sustainable Development
- IUCN Resolutions concerning Rights & Conservation
- The IUCN Environmental and Social Management Standards – these standards derive from wider institutional policies and define specific requirements for IUCN projects to guard against risks to people and the environment. Rights-related ESMS Standards are those on:
  - IUCN Standard on Involuntary Resettlement and Access Restrictions (Version 2.0 – May 2016)
  - IUCN Standard on Indigenous Peoples (Version 2.0 – May 2016)
  - IUCN Standard on Cultural Heritage (Version 2.0 – May 2016)
  - IUCN ESMS Grievance Mechanism (Version 2.0 – May 2016).

**Chapter III** provides a synthesis of IUCN’s RBA Policy Framework, including brief descriptions of key institutional policies and the ESMS, and analysis of guiding principles, and procedural and substantive rights in IUCN’s Policy Framework.

#### **D. The IUCN Programme**

The IUCN Programme is the high-level document that sets priorities and results for each four-year IUCN program period. The 2017-2020 Programme includes 3 program areas, one of which (as it did in the 2013-2016 Programme) focuses on Governance, and sets as its Global Result that:

- **Natural resource governance systems at all levels integrate good governance principles to enable delivery of effective conservation and equitable social outcomes.**

A human rights or rights-based approach is explicitly at the foundation of this Governance Result. The 2017-2020 Programme (p13) states that:

***Human rights are the ethical foundation of good governance of natural resources.*** *IUCN includes the respect of human rights as a core principle of good governance because of the close and now widely recognised inter-linkages between environmental degradation and the fulfilment/violation of human rights. In this context, the pursuit of conservation goals can contribute positively to the realization of many fundamental human rights such as those related to water, health, food, shelter. This is particularly important for indigenous peoples, poor rural and urban communities, and many other vulnerable and/or disenfranchised groups of citizens especially women and children. Likewise, secure rights – for example, land tenure and participation in decision-making – can enable more effective environmental stewardship. Conversely, conservation activities can also generate negative impacts where their links to issues of human rights and well-being are not sufficiently understood or addressed, and weak fulfilment of rights can also undermine conservation*

*outcomes.<sup>5</sup> Rights-based approaches (RBAs) ... make rights and conservation mutually reinforcing. RBAs ensure the effective integration of rights considerations within any conservation policy, project, programme or initiative (ref. several WCC Resolutions, notably Res. 056 from 2008 WCC, and Res. 099 from 2012 WCC).*

While this language provides a broad orientation for programs on RBAs, integrating rights-based approaches at the program level will require more concrete development and adoption of indicators under the sub-results for each program.

#### **E. IUCN Program Standards**

The IUCN Programme highlights the development and use of specific standards and tools to promote rights-based governance, in particular: the Natural Resource Governance Framework and the Green List for Protected Areas.

##### **1. [Natural Resource Governance Framework](#) (NRGF)**

The Natural Resource Governance Framework (NRGF) is an IUCN initiative created for the purpose of providing a robust, inclusive, and credible approach to assessing and strengthening natural resource governance, at multiple levels and in diverse contexts. The overarching goal of NRGF is to: *set standards and guidance for decision-makers at all levels to make better and more just decisions on the use of natural resources and the distribution of nature's benefits, following good governance principles, such that improved governance will enhance the contributions of ecosystems and biodiversity to equity and sustainability.* The NRGF is hosted by the IUCN Commission on Environmental, Economic and Social Policy (CEESP), working in close collaboration with the IUCN Secretariat and partners across the Union.

A central focus of the NRGF is development of a Natural Resource Governance Framework providing principles, criteria and indicators for assessing, as a basis for improving, natural resource governance. The NRG Framework explicitly takes a rights-based approach, adopting human rights as an underlying value that guides and informs all other dimensions of the framework. The first phase of Framework development is continuing through 2016. While the NRGF is intended for use by multiple actors in diverse contexts, the Framework is also being used to inform the development of program-level indicators to promote mainstreaming of RBAs within the results of each of IUCN's global program areas (see above).

##### **2. [Green List of Protected and Conserved Areas](#)**

In light of the prominence of protected areas as a strategy for conservation, and the substantial human rights impacts associated with protected areas, IUCN is developing the Green List of Protected and Conserved Areas (GLPCA) as a new global standard. The objective of the GLPCA is to improve the contribution that protected areas make to sustainable development through the conservation of nature and provision of associated social, economic, cultural, and spiritual values.

The GLPCA Standard specifies objective, transparent, and globally consistent criteria for the identification of protected areas that are successful in achieving their conservation

objectives through effective management and equitable governance. This standard provides a globally recognized framework that protected area managers, policy makers and funders can use to measure progress and identify gaps in the effective management and equitable governance of protected areas.

Through the Global Protected Areas Programme and supported by Accreditation Services International (ASI), IUCN is developing and maintaining an Assurance Process that adheres to the International Social and Environmental Accreditation and Labelling Alliance (ISEAL Alliance) code of best practice. The Assurance Process measures the extent to which applicant protected areas meet the GLPCA Standard's criteria.

#### **F. IUCN Implementation Systems**

Implementation systems refer to the IUCN Environmental and Social Management System (ESMS) and the Project Guidelines and Standards (PGS) that set standards and provide guidance for IUCN project design, implementation and monitoring, and establish a project-level grievance mechanism (within the ESMS). A provision of the IUCN Policy on Conservation and Human Rights relevant to this entry point is to:

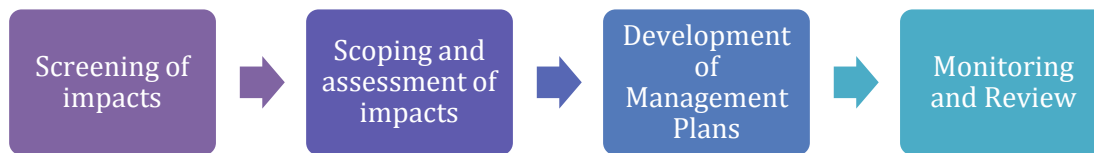
- *Ensure that IUCN programs, projects, and activities undertaken, sponsored or supported by the IUCN are assessed using international human rights standards. Such measures should include social, environment, and human rights impact assessments prior to any project implementation.*

#### **I. Environmental & Social Management System**

The Environmental and Social Management System (ESMS) is a central instrument for the implementation of IUCN's policy framework on rights-based approaches and a core component of IUCN's project cycle as defined in IUCN's Project Guidelines and Standards (PGS). It provides operational measures and tools to screen projects for potential negative environmental or social impacts. It also identifies appropriate measures to avoid, minimize or compensate for these impacts, while ensuring mitigation measures and their effectiveness are monitored and measured.

The ESM Standards on Indigenous Peoples, Biodiversity, Cultural Heritage, and Involuntary Resettlement lay out the requirements for projects to assess and avoid risks in these areas, while the ESM System identifies the process and points in the project cycle where these requirements come into play. In particular, at the project concept stage an ESM Screening is required prior to concept approval, and where risks are identified an assessment must be conducted and relevant environmental and/or social management plans integrated in the project proposal. An ESMS clearance is that required prior to project approval. The ESMS also establishes a grievance mechanism to enable the communication and resolution of any complaints regarding adherence to the ESMS' Standards in IUCN project.

The overall ESMS methodological approach to identify and manage environmental and social impacts is summarized as follows:



These tables [2] indicate how key procedural and substantive rights in IUCN’s Policy Framework are integrated in the ESMS and ESM Framework (policy standards). The application of the ESMS is required for now for donor-funded projects, including GEF funded projects, of CHF500,000 or more. Over time, IUCN aims to apply the ESMS to its entire project portfolio as well as all other institutional interventions, given that the ESM Standards are mandatory for the entire IUCN Programme.

## II. IUCN’s Project Guidelines and Standards (PGS)

IUCN’s PGS provide a roadmap and toolkit for selecting, identifying, planning, implementing, monitoring, evaluating and closing IUCN projects. While the rights-based ESMS is already integrated in the PGS, IUCN’s work to integrate rights-based approaches in the design and management of projects goes beyond the risk focus of the ESMS.

The IUCN publication *Conservation with Justice: A Rights-based Approach*, prepared by the Environmental Law Center, lays out a “step-wise approach” to implementing an RBA to conservation as part of project, policy or program initiatives. The step-wise approach involves:

- Undertaking a Situation Analysis
- Providing information
- Ensuring Participation
- Taking Reasoned Decisions
- Monitoring and Evaluating the Application of the RBA

Discussions are ongoing within IUCN on how to integrate the rights-based approach within IUCN’s PGS guidelines and associated tools.

### G. Programmatic Guidance

Programmatic guidance refers to technical guidance developed by global or regional programs in relation to specific themes or areas of work. Specific guidelines for thematic work supporting a rights-based approach include:

- In addition to the broad guidance on a rights-based approach, the *Conservation with Justice* publication described above (under PGS) includes chapters providing guidelines for implementation of a rights-based approach in specific areas of conservation work, including:
  - A Rights-based Approach to Climate Change Mitigation
  - A Rights-based Approach to Forest Conservation



- A Rights-based Approach to Protected Areas
- *Best Practice Guidance for Protected Area Managers on Governance for Protected Areas* - These Guidelines strongly promote respect of the rights of indigenous peoples and link to several Articles of UNDRIP including through provisions for an inclusive, participatory approach to the assessment and evaluation of protected area governance, supporting governance by indigenous peoples and local communities, and the application of FPIC in all aspects of assessment, evaluation, planning and reporting.
- *IUCN Sacred Natural Sites Guidelines for Protected Areas Managers*;
- *Guidance for Applying UNDRIP Articles in IUCN Programmes*
- The World Heritage Programme of IUCN has produced internal guidance on ensuring strong representation of indigenous issues as part of its advisory role towards governments.

#### H. Capacity building, knowledge and learning

This entry point focuses on the broad based orientation and training needed for all staff, to ensure mainstreaming of RBAs. It also encompasses platforms and mechanisms to ensure that knowledge resources are widely available to conservation stakeholders, and that IUCN staff members in particular have opportunities for learning and exchange on RBAs.

IUCN has produced or supported several key publications to build knowledge and foster learning on rights-based approaches to conservation. These include:

- Campese, J. et al. 2009. *Rights-based approaches: Exploring issues and opportunities for conservation*. CIFOR and IUCN. Bogor, Indonesia.
- Greiber, Thomas (ed.) 2009. *Conservation with Justice: A Rights-based Approach*. IUCN, Gland, Switzerland.
- Springer, Jenny and Jessica Campese 2011. *Conservation and Human Rights: Key Issues and Concepts* - Scoping Paper for the Conservation Initiative on Human Rights. CIHR.

The following IUCN- sponsored mechanisms and events are available to share knowledge and learning:

- An Internet platform on Rights-based Approaches to Conservation (RBA) was launched by IUCN's Environmental Law Centre's (ELC) in 2010, with the aim to provide a central point for collecting and sharing relevant information and experience on the conceptualisation, development and implementation of RBAs to conservation, and to build an interactive community of stakeholders, in order to ensure the integration of rights considerations into conservation practices. While this platform was discontinued in 2015, new mechanisms for information sharing have been explored for set up in 2017.
- *World Conservation Congress* – The WCC held every four years provides one of the most important opportunities to share knowledge and build awareness of emerging issues and innovations in the conservation sector. WCCs have included a significant

number of events to promote, exchange lessons, and build support for RBAs.

#### I. Mainstreaming RBAs in Conservation

This entry point focused on the role of IUCN in promoting efforts to mainstream RBAs across the Union, particularly with IUCN Members. It responds to the policy provisions to:

- *Work with all stakeholders on the integration of rights and conservation issues. IUCN is particularly committed to engage with its membership.*
- *Support IUCN members by a) actively engaging with the Conservation Initiative on Human Rights (CIHR) and b) supporting the integration of rights in their conservation programmes.*

Current actions and initiatives to promote mainstreaming of RBAs with Members include:

- The [Conservation Initiative on Human Rights](#)
- The ESMS Standards, including the Indigenous Peoples Standard, apply to all IUCN projects including actions of implementing partners. This is a requirement of IUCN's GEF accreditation and means that, by engaging with IUCN, government agencies and civil society organizations must themselves follow the ESMS Standards.
- IUCN has promoted and supported significant advances in improving formal World Heritage instruments, including the World Heritage Operational Guidelines, to ensure Free Prior and Informed Consent processes and safeguards for indigenous peoples' rights and values in World Heritage. These improvements help guide States in fulfilling rights when designating and managing World Heritage Sites.
- WCC events and activities on RBAs

#### J. Broader accountability mechanisms for conservation

This entry point highlights the potential roles of IUCN in promoting or facilitating broader accountability mechanisms for the conservation sector.

- [Whakatane Mechanism](#)

The "Whakatane Mechanism" is an approach in development to address grievances from indigenous peoples in protected areas. It has been proposed and implemented by IUCN Member The Forest Peoples Programme (FPP) with CEESP and IUCN Regional Programmes. The Mechanism invites affected communities and governments to engage in dialogue to identify and take steps for addressing grievances.

- UN Special Rapporteurs

IUCN has regular contact with the Special Rapporteurs for the Rights of Indigenous Peoples and for Environment and Human Rights. This also provides a channel for communicating related grievances received via the United Nations.

### III. IUCN's Policy Framework on Rights-based Approaches to Conservation

#### Introduction

IUCN has developed a series of policies, resolutions, standards and guidelines, notably since 1996, on rights and environmental issues. This chapter presents a synthesis of the IUCN policy framework on rights-based approaches (RBAs). The first section reviews key components of the IUCN policy framework, in the form of specific RBA-related policies adopted by IUCN. The second section summarizes the main overarching principles, procedural rights and substantive rights that IUCN has committed to uphold in its RBA policies.

#### A. Components of the IUCN Policy Framework on RBAs

Components, or sources, of IUCN's policy framework on IUCN presented here focus primarily on institutional policies adopted by IUCN. At the same time, it is important to note that these are set or have often been informed, motivated and called for by resolutions adopted by IUCN Members.

##### 1. IUCN Gender Policy Statement (1998)

Historically, the concern with rights in IUCN policy started with and was articulated in terms of social equity. This concern was expressed in the IUCN Gender Policy statement (1998<sup>1</sup>), which asserted that gender equity and equality are both matters of fundamental human rights and pre-conditions for sustainable development and for conservation. The IUCN Gender Policy calls for mainstreaming a gender perspective through a process of assessing the implications for women and men of any planned action, including policies or Programmes, in any area and at all levels. It states that gender equality and equity should be an integral part of all IUCN policies, programs and projects.

##### 2. IUCN Policy on Social Equity in Conservation and Sustainable Use of Natural Resources (2000)

As a further step in the articulation of IUCN's commitment to social equity, the IUCN Policy on Social Equity in Conservation and Sustainable Use of Natural Resources<sup>2</sup> (2000) calls for an effective and coherent strategy to ensure that conservation does

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<sup>1</sup> [https://cmsdata.iucn.org/downloads/gender\\_policy.pdf](https://cmsdata.iucn.org/downloads/gender_policy.pdf)

<sup>2</sup> *Policy on Social Equity in Conservation and Sustainable Use of Natural Resources*. Adopted by IUCN Council Meeting, February 2000. [https://cmsdata.iucn.org/downloads/sp\\_equity\\_policy.pdf](https://cmsdata.iucn.org/downloads/sp_equity_policy.pdf)

not accentuate or perpetuate existing social, economic and cultural inequities and inequalities.

The IUCN Policy on Social Equity in Conservation and Sustainable Use of Natural Resources draws on various global conferences and declarations (Convention on Biological Diversity (CBD); the Ramsar Convention; the Convention to Combat Desertification; UNCED, Rio de Janeiro, 1992; the International Conference on Population and Development, Cairo, 1994; the Social Summit, Copenhagen, 1995; and the Fourth World Conference on Women, Beijing, 1995), and makes explicit linkages with the International Labour Organization (ILO) Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, and the U.N. (then draft) Declaration on the Rights of Indigenous Peoples.

The policy includes an Action Plan for mainstreaming consideration of social equity across IUCN, including through development of guidelines, project cycle requirements and technical capacity.

### **3. The Conservation Initiative on Human Rights (CIHR) Framework (2009)**

The Conservation Initiative on Human Rights (CIHR) is a coalition of international conservation organization that aims to improve conservation by promoting the integration of human rights in conservation policy and practice. CIHR currently includes IUCN, Birdlife International, Conservation International, Fauna & Flora International, The Nature Conservancy, Wetlands International, Wildlife Conservation Society and the World Wildlife Fund (WWF). In 2009, the CIHR developed a Conservation and Human Rights Framework, committing to uphold a set of human rights principles and to put in place implementation measures, including relevant policies, enhanced implementation capacity and appropriate accountability mechanisms<sup>3</sup>.

The Conservation and Human Rights Framework recognizes that conservation programmes, projects and activities are closely related to the rights of people to secure their livelihoods, enjoy healthy and productive environments and live with dignity. It further recognizes that, while conservation objectives can contribute to the realization of fundamental rights, they can also generate negative impacts. Hence, the objective of the CIHR is to strengthen the integration of human rights in conservation policy and practice.<sup>4</sup>

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<sup>3</sup> Springer, J. Campese, J. and Painter, M. *Conservation and Human Rights: Key Issues and Contexts – Scoping Paper for the Conservation Initiative on Human Rights*. CIHR. October 2011.

[https://cmsdata.iucn.org/downloads/cihr\\_scoping\\_paper.pdf](https://cmsdata.iucn.org/downloads/cihr_scoping_paper.pdf)

<sup>4</sup> Ibid.

CIHR underscores the fact that people who live in high-biodiversity areas are often among a country's most vulnerable, and their livelihoods depend directly on ecosystem services and access to land and natural resources. Common principles each CIHR member commits to follow are to: 1) Respect human rights, 2) Promote human rights within conservation programs, 3) Protect the vulnerable and 4) Support the improvement of governance systems that secure rights.

#### 4. IUCN Policy on Conservation and Human Rights for Sustainable Development (2012)

At the 2008 World Conservation Congress, IUCN was called on by its Members to issue a comprehensive policy on conservation and human rights. In response, the IUCN Policy on Conservation and Human Rights for Sustainable Development<sup>5</sup> (Human Rights policy) was developed and adopted at the next Congress in 2012, through Resolution 5.099 "Policy on Conservation and Human Rights for Sustainable Development". The Human Rights policy provides overarching guidelines to integrate human rights issues into the work of IUCN. According to the policy, 'by referring to the need for the equitable utilization of natural resources, IUCN's mission explicitly recognizes the importance and value of fairness, impartiality and respect for rights in the practice of conservation.'

The IUCN Policy on Conservation and Human Rights for Sustainable Development proposes practices coherent with the respect and fulfilment of rights and which sustain related long-term outcomes. It requires alignment of the Union's programmes, projects and operations with rights' objectives, including through assessment of the possible effects of such activities on rights.

The IUCN Resolution 5.099 on Conservation and Human Rights calls for implementation of the IUCN Policy on Conservation and Human Rights for Sustainable Development in all Union's policies, programmes and activities. The Resolution further calls for measures to ensure that the necessary accountability arrangements and processes for its implementation - including coordination, consensus and capacity building on activities or programmes which relate to rights - are in place.

The IUCN Policy on Conservation and Human Rights for Sustainable Development endorses a series of guiding principles:

- Respect, protect, promote and fulfil all procedural and substantive rights, including environmental and customary rights, for just and equitable conservation;
- Promote the implementation of the provisions of international frameworks on human rights and ensure respect for them in all approaches to conservation

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<sup>5</sup> *IUCN Policy on Conservation and Human Rights for Sustainable Development*. WCC-2012-Res-099-EN. IUCN. 2012.

- Take into account the multiple recommendations of the 2003 V<sup>th</sup> World Parks Congress and Durban Action Plan which refer to rights concerning protected areas, including the acknowledgement of rights to the restitution of lands taken without free, prior and informed consent for the establishment of protected areas and the right to full and effective participation in protected area governance and management, in particular the targets under the Durban Action Plan's outcome 5;
- Consider and realize the rights of people that can be affected in development and conservation activities such as women, indigenous peoples and other most vulnerable groups and who could, at the same time, benefit from rights-inclusive and socially sensitive development measures;
- Work towards ensuring the respect for, and seeking further protection and the realization of general livelihood and human well-being considerations, always keeping in mind gender balance as an essential component;
- Focus on the roles and corresponding responsibilities of duty-bearers and right-holders in all steps and levels of a conservation process. Ground all work in the principle that communities are not merely stakeholders whose views governmental and conservation agencies may take into account, but are rights-holders to whom implementing agencies have statutory obligations;
- Promote transparency and develop tools to address and be accountable for the social effects of IUCN's work. Accountability is critical for the governance of any natural resource management system, providing the regulatory feedback that prevents over-use of natural resources and abuse of people;
- Ensure that IUCN programs, projects, and activities undertaken, sponsored or supported by the IUCN are assessed using international human rights standards. Such measures should include social, environment, and human rights impact assessments prior to any project implementation;
- In line with UNDRIP standards, require free, prior and informed consent when IUCN projects, activities, and/or initiatives take place on indigenous peoples lands and territories and/or impact their natural and cultural resources, sites, and/or assets;
- Apply the principles developed by the IUCN Environmental Law Centre in Annex to IUCN Resolution 4.056, as the basis for the further development of tools/methods to promote fair and equitable conservation action<sup>6</sup> (see Figure 1).

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<sup>6</sup> *IUCN Policy on Conservation and Human Rights for Sustainable Development*. Op. cit.

Figure 1. IUCN Environmental and Law Centre Principles on Human Rights in Conservation

ELC principles on human rights in conservation	Promote the obligation of state and non-state actors to secure the substantive and procedural rights of affected individuals and peoples
	Prior evaluation and identification of links between human rights and the environment
	Incorporate human rights' monitoring and evaluation guidelines and tools in project and programme planning
	Support improvement of governance frameworks that can secure the rights of local people in the context of conservation and sustainable resource use

The Human Rights policy contains an Action Plan section which lays out a concrete set of actions for mainstreaming respect for rights across the Union, setting up institutional arrangements for accountability in compliance with the Policy, building capacity within IUCN, and supporting IUCN members to actively integrate rights in their conservation programmes, including by engaging with the CIHR. The IUCN Action Plan stresses that the Union should mainstream respect for rights by (a) developing and updating guidance on rights-related issues, (b) developing rights based specific recommendations to IUCN programmes, and (c) mainstreaming the Policy principles by following the guidance and recommendations developed.<sup>7</sup>

## 5. [Environmental and Social Management Standards](#)

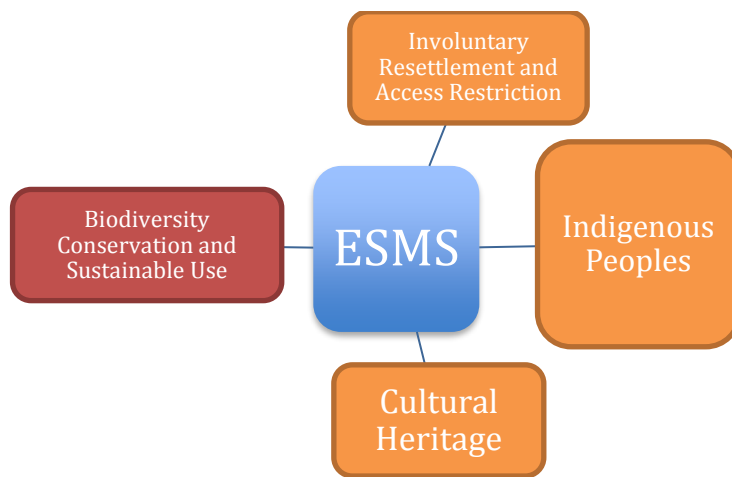
The IUCN Environmental and Social Management System (ESMS) is a systematic procedure to check IUCN projects for potential adverse environmental and social impacts, in order to avoid negative impacts and promote positive ones. The ESMS is grounded in a set of four ESMS Standards, which consolidate IUCN's environmental and social policies, relevant WCC resolutions, guidelines and instruments, and prevailing practice. The four ESMS Standards – first developed in 2014 and updated in 2016 - are:

- [The IUCN Involuntary Resettlement and Access Restrictions Standard](#)
- [IUCN Indigenous Peoples Standard](#)
- [IUCN Biodiversity Conservation and Sustainable Use of Natural Resources Standard](#)
- [IUCN Cultural Heritage Standard](#)

<sup>7</sup> IUCN Policy on Conservation and Human Rights for Sustainable Development. Op. cit.

To support implementation of the Standards IUCN has put in place an [ESMS grievance mechanism](#), which provides people or communities fearing or suffering adverse impacts from a project with an opportunity to raise their concerns. The mechanism covers complaints related to issues where IUCN projects have failed to respect ESMS principles, standards and procedures.

The ESMS Standards provide the overarching governance and policy framework for IUCN’s implementation of an Environmental and Social Management System to systematically understand and address potential social impacts of IUCN projects. Each Standard sets out the purpose and guiding principles for that Standard, its conformity with other policies and guidelines, the scope of the Standard, and requirements for its implementation.



In addition to the four Standards, the ESMS lays out a set of eight overarching principles stemming from IUCN’s Policies and Resolutions, guidelines and instruments, as well as current practice. The principles, which are discussed in the following section, focus on: Taking a Rights-Based Approach, Protecting the Needs of Vulnerable Groups, Gender Equality and Women Empowerment, Stakeholder Engagement, Free, Prior and Informed Consent, Accountability, the Precautionary Principle, and Precedence of the Most Stringent Standards.

IUCN does not adopt the term “safeguards” in the ESMS because of its association with an approach that is limited to ‘doing no harm’ (focusing on negative impacts and risks), but rather opts for the term “standards” to emphasize positive impacts (‘do more good’). ESMS components are consistent with current World Bank’s Operational Policies, GEF’s minimum standards on environmental and social safeguards, and the International Finance Corporation (IFC) Performance Standards.



## B. Guiding Principles, Procedural and Substantive Rights in IUCN's Policy Framework

The policies and standards described above articulate IUCN's commitment to a range of overarching principles, procedural rights and substantive rights. In most cases these rights and principles are explicitly laid out, while in others they are implicit in IUCN's adoption of a rights-based approach. This section synthesizes and provides information on the core set of principles and rights endorsed in IUCN's policy framework. It also discusses substantive rights that are highly relevant to conservation and often highlighted in rights-based approaches to conservation.

### 1. Overarching principles

IUCN's policy framework establishes a set of overarching principles that are intended to guide the Union's approach to addressing rights in conservation. As articulated in the [IUCN ESMS Manual](#), the eight overarching principles are:

- ***Principle on Taking a Rights-Based Approach.*** This first overarching principle establishes the rights-based approach as the guiding compass for all IUCN's policies and practices. A rights-based approach means that the organization respects, protects and promotes the fulfillment of human rights. It aims to ensure that IUCN projects show full respect for all fundamental human rights, including social, economic and cultural rights, and do not contribute directly or indirectly to a deterioration of people's livelihoods. The IUCN ESMS identifies the Universal Declaration of Human Rights, and the international Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights as the most prominent normative standards for a rights-based approach.
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- ***Prioritizing the needs of vulnerable groups.*** From a substantive rights focus, the principle of equal treatment and non-discrimination is a fundamental cornerstone of an RBA. To effectively integrate rights into conservation projects and programmes, an appropriate approach should ponder the relationship of relevant people with the environment, who has control and rights of access, who makes decisions, and how the environment is used and valued by different members of the society. Such an analysis needs to also ponder power relations among stakeholders and within communities, recognizing that there will be different patterns of natural resources' use between different sectors of societies, for instance, between women and men, different ethnic groups, groups who do not participate or who have minimum or indirect participation in community decision-making processes, and landless community members.

IUCN ESMS underscores the particular attention that should be granted to the needs of vulnerable groups. Reducing vulnerability, building resilience and promoting equity are at the core of the Union's approach to project design, assessment and implementation. The attention to vulnerable groups

should take into account the social, economic, cultural and environmental causes of vulnerability, including climate change. In the RBA, several groups are given a special consideration since they often suffer entrenched discrimination or complex forms of discrimination. The individual and collective rights of indigenous peoples are given a central place in the IUCN RBA, as discussed below.

- ***Gender equality and women empowerment.*** Women are especially exposed to environmental and conservation related risks due to existing gender discrimination, inequality and inhibiting gender roles. As highlighted in IUCN's Policy on Gender Equity and Equality, and reinforced in the IUCN ESMS principles, gender equality and women's empowerment are central to the application of the Union's RBA. The approach goes beyond identifying gender issues to helping to overcome historical gender biases. Planned projects should avoid exacerbating or reinforcing gender inequalities.
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- ***Principle on Stakeholder Engagement:*** As stated in the ESMS, *meaningful, effective and informed participation of stakeholders in the development and implementation of projects is an essential principle of IUCN's project management practice. Engaging stakeholders as early as possible is important to understand their views and interests, establish a constructive relationship with relevant parties and enable stakeholders to take ownership of the project.*
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- ***Principle on Free, Prior and Informed Consent:*** IUCN's ESMS describes free, prior and informed consent (FPIC) as *the right of a party with legitimate rights to their lands, territories and resources to freely grant authorisation to another party, within existing legal frameworks (including customary law), for the execution of certain activity that implies access to, and use of, tangible or intangible resources of the party granting authorisation, or that may affect such lands, territories and resources.* By using this definition, IUCN clarifies that its ESMS FPIC principle applies to indigenous peoples as well as to other rights-holders such as local communities.
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- ***Principle on Accountability:*** The principle of Accountability is reflected in IUCN's creation of organizational structures, internal controls and enforcement mechanisms to ensure that the ESMS principles, standards and review procedures are consistently followed in IUCN project design and implementation. Public disclosure requirements and the ESMS grievance mechanism further reinforce accountability by enabling feedback from external actors, including potentially affected groups.
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- ***The precautionary principle.*** *The precautionary principle* was incorporated as early as 1996 building upon the 1992 Rio Declaration on Environment and Development. IUCN has developed the *Guidelines for Applying the Precautionary Principle to Biodiversity Conservation and Natural Resource Management* and endeavoured to implement the precautionary principle to anticipate and prevent potential

environmental degradation, by: (i) applying the principle on the ground through its project portfolio; (ii) encouraging application of the principle through national legal frameworks that create enforceable obligations for decision-makers in the public and private sectors; and (iii) ensuring linkage and consistency of the precautionary principle with other principles, such as public participation in decision-making and involvement of local communities directly affected by projects.

- ***Precedence of the most stringent standards.*** It is important to highlight that IUCN ESMS supports the application of the most stringent standards. Following the World Bank Operational Guidelines principle, where IUCN standards and policies are more stringent than those of national laws and regulations, projects will adhere to the more stringent IUCN standards. This also applies to co-financed projects and the standards provided by the co-financier. As it will be discussed afterwards, when national laws are not consistent with human rights or IUCN standards this can nonetheless pose challenges to IUCN project implementers.

## 2. Procedural Rights

IUCN's policy framework stresses the importance of respect for a set of procedural rights (participation, access to remedy, and access to information) when implementing IUCN's programmes and activities. This sub-section discusses how several of these procedural rights are addressed in the IUCN Policy Framework, especially in the ESMS.

- ***Right to full participation and consultation.*** IUCN standards, particularly the ESMS, call for a robust, extensive and gender sensitive stakeholder engagement process. This process should empower individuals and ensure the effective participation of individuals and communities, particularly those who are in weaker positions, in the decision-making processes impacting their lives. Vulnerable groups should therefore be provided with enabling and empowering conditions for their engagement and participation. Access to information, awareness raising activities and capacities' strengthening when required, and transparent participation procedures, are central to achieve full participation in decision-making processes. Such participation should come upstream in decision-making processes, for example on the definition and demarcation of conservation areas, and projects or policy design.

An iterative relationship should be established with affected peoples and communities over the entire life of the project, allowing their views, interests and concerns to be taken into account and making sure that project activities are maximizing social benefits and mitigation measures. The approach goes beyond a stakeholder participation approach and is instead anchored in the recognition of affected groups as rights-holders.

- ***The right to free, prior and informed consent (FPIC).*** IUCN's ESMS Policy Framework defines FPIC as "a right [of a community] to give or withhold its consent

to proposed projects that may affect the lands, waters and resources it customarily owns, occupies or otherwise uses". As a right of indigenous peoples articulated in the United Nations Declaration on the Rights of Indigenous peoples (UNDRIP), FPIC is closely linked to the right to determine the development model and options they want to pursue. FPIC continues to consolidate as a standard of good practice in the field of sustainable development and conservation, including certain areas of the extractive industry, particularly since the United Nations General Assembly adopted UNDRIP in 2007. In several instruments of nonbinding nature, also called flexible instruments (soft law), the right to FPIC is also recognized to rural communities that are not indigenous but 'forest-dependent'. This applies, for example, to the Forest Stewardship Council (FSC) Guidelines for the Implementation of the Right to FPIC. IUCN uses an approach to FPIC that is inclusive of indigenous peoples and other local or rural communities.

The right to FPIC is centrally concerned with the conditions under which a community or people implement their fundamental right to negotiate the terms of externally-introduced policies, programs, projects and activities that impact their livelihoods and wellbeing. The principle requires that communities and / or their representatives are empowered and informed in good time when approving or rejecting decisions related to conservation or development. Decisions should be reached in accordance with indigenous peoples' or communities' customary law and practices, free of any manipulation or coercion. However, the exercise of FPIC cannot infringe the rights and fundamental freedoms of all members of the communities, including vulnerable groups as women. The principles of non-discrimination and full respect of rights also apply in the context of FPIC.

Consent would then have a role of safeguarding fundamental rights of indigenous peoples and communities. When indigenous peoples or communities freely give their consent to projects under advisable terms designed to protect their rights, it can be assumed that the restriction on the exercise of rights is admissible and that such rights are not being infringed (UNHCHR, Special Rapporteur for the Rights of Indigenous Peoples, 2013).

- ***Right to appropriate disclosure of information.*** Disclosure of information involves not only access to information on the Internet but also in or near the project site. Information should be accessible in terms of language, form and formats ahead of major decisions. For IUCN, the ESMS Manual specifies the types of documents to be disclosed as well as timing and conditions of disclosure (e.g. accessibility, time for feed-back).
- ***Right to an effective and fair grievance mechanism.*** Last in the procedural rights arena, IUCN's standards, particularly the ESMS, mandates capturing affected peoples' concerns through an effective grievance mechanism. Such a mechanism should be available for complaints stemming from the adverse social and environmental impacts of IUCN projects, including those of IUCN partners. A formal IUCN grievance system, entitled the Project Complaints Management Mechanism

(PCMS) establishes effective, accessible and transparent procedures to receive and resolve complaints.

### 3. Substantive rights

IUCN endorses a robust and comprehensive set of social, economic and cultural rights that are applicable to all people in the context of IUCN's conservation activities. This section discusses Social and Economic Rights, Rights of Indigenous Peoples, and Environmental Rights as key categories of rights endorsed by IUCN, given their relevance to conservation.<sup>8</sup>

- **Social and economic rights.** The following set of rights of rural and indigenous communities and individuals may be affected as a result of conservation projects and initiatives. Displacement and limitations of access to resources are two of the main – though not the only – possible causes of negative impacts.
  - *The right to life.* The right to life is considered a core and 'supreme' right protected under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. Quality of life (including an enabling natural and social environment) and finite natural resources are often included as relevant conditions that can have an impact on the right to life, notably in the conservation arena. Other interesting interactions include the responsibility of largest human contributors to atmospheric carbon dioxide, which may impact rights to life, particularly of other peoples whose economies and ways of life do not have such a significant impact on climate change.
  - *The right to health.* The right to the highest attainable standard of physical and mental health is most comprehensively addressed in article 12 of the International Covenant on Economic, Social and Cultural Rights and referred to in five other core international human rights treaties. Underlying determinants of health include adequate food and nutrition, housing, safe drinking water and adequate sanitation, and a healthy environment. Other key elements are the availability, accessibility (both physically and economically), and quality of health and health-care facilities, goods and services.
  - *The right to adequate food* (and to be free from hunger). This right is explicitly mentioned under the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities and implied in general provisions on an adequate standard of living of the Convention on the Elimination of All Forms of Discrimination against Women and the

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<sup>8</sup> This section draws substantially on treatments of the subject in Greiber et al., *Conservation with Justice: A Rights-based Approach*, IUCN, and in Springer and Campese, *Conservation and Human Rights: Key Issues and Contexts*, CIHR.

International Convention on the Elimination of All Forms of Racial Discrimination.

- *The right to clean drinking water.* This right entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, such as drinking, food preparation and personal and household hygiene. The Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities explicitly refer to access to water services in provisions on an adequate standard of living, while the Convention on the Rights of the Child refers to the provision of ‘clean drinking water’ as part of the measures States shall take to combat disease and malnutrition. The UN General Assembly recognized in 2010 “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”.<sup>9</sup>
- *Rights to land and natural resources* are articulated in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, officially endorsed by the UN Committee on World Food Security in May 2012. These guidelines, reflecting current global consensus on land and resource tenure, highlight the need to recognize and respect all legitimate tenure claims, including those derived from custom. They promote secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment.<sup>10</sup> Further, the Sustainable Development Goals (SDGs) state the need to, by 2030, “ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources...” (Target 1.4), and to “Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws” (Target 5.a).<sup>11</sup>
- *The right to housing* is enshrined most comprehensively under the International Covenant on Economic, Social and Cultural Rights as an element of the right to an adequate standard of living. The right to adequate housing has been defined as ‘the right to live somewhere in security, peace and dignity’. Core elements of this right include security of tenure, protection against forced evictions, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural

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<sup>9</sup>UN Resolution A/RES/64/292.

<sup>10</sup> FAO 2012. *Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests in the Context of National Food Security*

<sup>11</sup> UN General Assembly. *Transforming our world: the 2030 Agenda for Sustainable Development*. A/70/L.1, 2015.

adequacy. The right to housing deserves a special attention when displacement or resettlement actions are being considered by conservation activities and projects. IUCN Standard on Involuntary Resettlement and Access Restrictions deals with possible infringements and mitigation measures associated to the right to housing.

- *The right to culture.* Cultural rights are established primarily in the Universal Declaration of Human Rights (Art. 22 and 27) and the International Covenant on Economic, Social and Cultural Rights. The right to cultural diversity, sovereignty and expressions, including cultural relations with nature, is central in the conservation domain, and has been set out in instruments such as the UNESCO Universal Declaration on Cultural Diversity and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The IUCN RBA supports the concept of cultural diversity, further elaborated in its Policy Standards on Involuntary Resettlement, Indigenous Peoples and Cultural Heritage<sup>12</sup>. Traditional knowledge linked to natural resources management is a central feature of the right to culture in the conservation domain.
- ***Rights of indigenous peoples.*** Recognition of the particular situation of indigenous peoples with regards to customary institutions and traditional territories, often combined with vulnerable contexts, has resulted in explicit provisions in international rights instruments addressing indigenous peoples. ILO Convention 169 and UNDRIP specifically address indigenous peoples rights, and some international environmental instruments are also relevant to indigenous peoples, such as the Convention on Biodiversity and the U.N. Framework Convention on Climate Change.

Indigenous peoples' rights are particularly relevant to conservation due to the frequent overlap between high biodiversity and high conservation value areas and indigenous lands. In the conservation context, indigenous peoples often dwell in areas that will or have been committed to conservation efforts of different nature. For example the establishment of a protected area entailing populations' resettlement or the limitation of access and/or use of forest resources in order to set up a forest carbon project can result in infringements on the rights and aspirations of indigenous communities and individuals.

Indigenous rights especially relevant in the conservation context include:

- *Rights to lands, territories and resources.* In the case of indigenous peoples, rights to lands, territories and resources can be derived from formal land tenure systems, but also non-formal customary systems whose enforceability is always difficult and often linked to conflicts over resources

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<sup>12</sup> The principle is rooted in particular on the guidance provided in the Resolution WCC 2008-056 on *Rights-based approaches to conservation* and the *IUCN Policy on Conservation and Human Rights for Sustainable Development* (WCC 2012-099). Op. cit.

and land tenure insecurity. IUCN's Policy on Conservation and Human Rights for Sustainable Development stresses that IUCN should respect the indigenous peoples' rights to own and use their territory and natural resources, in the context of their self-governance and self-determination. This set of rights is therefore central in conservation initiatives.

- *Right to conservation and protection of the environment and the productive capacity of their lands or territories and resources*, which is an expression of environmental rights included in UNDRIP. It also follows ILO Convention 169 which requires protection of the environment of the areas which indigenous peoples occupy or otherwise use.
- *Right to self-determination*. Self-determination is a collective right aiming to sustain indigenous peoples' status as distinct peoples. Though sometimes controversial when applied to indigenous peoples and communities, *the right to self-determination* is a fundamental principle of international law. Article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights establishes that 'all peoples have the right of self-determination', by virtue of which 'they freely determine their political status and freely pursue their economic, social and cultural development'. Important aspects of the right to self-determination include the right of a people not to be deprived of its own means of subsistence and the obligation of a State party to promote the realization of the right to self-determination, including for people living outside its territory. While the right to self-determination is a collective right held by peoples rather than individuals, its realization is an essential condition for the effective enjoyment of individual human rights. IUCN's Policy on Conservation and Human Rights for Sustainable Development lays down the right to self-determination as embedded in UNDRIP, setting the emphasis on its link with rights to lands, territories and resources.
- *Right to free, prior and informed consent (FPIC)*. FPIC is a procedural right; it is nevertheless included in this section since it sustains the fulfilment of indigenous peoples' fundamental rights, notably rights to territories, lands and resources. UNDRIP establishes that indigenous peoples should be consulted through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that might affect them. IUCN's ESMS Policy Framework indicates that FPIC shall apply to planning, assessment and implementation processes and activities in all projects that have the potential to affect indigenous peoples and communities.
- *Rights to control and management of lands and resources through customary institutions and laws*. Project designers and implementers should be aware and familiar with the customary management systems and support their improvement as required from the perspective of environmental sustainability. The project should make every effort to integrate these systems and processes within the planned activities.



- *Rights to development and equitable benefit sharing.* These rights include the right of indigenous peoples to determine the development priorities and strategies on their lands, territories, and resources, and to benefit equitably from conservation and sustainable use of such areas and resources. Implementation might involve prioritizing the equity criterion in benefit sharing schemes, over other relevant criteria such as efficiency and effectiveness. It also involves enabling non-financial benefits, such as facilitating participatory and equitable management arrangements of conservation sites and projects that promote both biodiversity conservation, which ensures the provision of ecosystem services, and human well-being. These types of benefits should also apply to communities that are not indigenous.
- *Rights to traditional knowledge and indigenous heritage.* The knowledge, skills, management systems and traditional institutions of indigenous peoples relevant in conservation practice should be respected, revitalized and strengthened.
- *Redress.* UNDRIP includes provision for redress for deprivation of indigenous peoples means of subsistence and development, and for lands taken without FPIC.

*Box 1. Concerns on REDD+ and Indigenous Peoples' Rights*

**Box 2. Concerns on REDD+ and Indigenous Peoples' Rights**

Concerns have been raised about possible adverse effects of the mechanism reducing emissions from deforestation and forest degradation (REDD+). Overall REDD+ programmes aim to compensate forest carbon capture, forest cover and sustainable forest management. Hence, REDD+ could potentially benefit indigenous peoples who preserve, sustainably manage and depend on forest resources but it could also have negative impacts on their lands and resources, including forest use limitations, expropriation, displacement and constraints on their demarcation and titling processes or expectations. The U.N. Permanent Forum on Indigenous Peoples has stressed that REDD+ proposals should address the need for global and national policy reforms, respect for the rights to land territories and resources, and the rights of self-determination and free, prior and informed consent of the indigenous peoples concerned.

#### **4. Environmental rights.**

- The right to an environment of a certain quality is included in UNDRIP for indigenous peoples, and in some regional instruments such as the African Charter on Human and Peoples' Rights and the San Salvador Protocol to the American Convention on Human Rights. The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-

Making and Access to Justice in Environmental Matters (Aarhus Convention) establishes environmental procedural rights. Nationally most countries of the world have included some form of recognition of environmental rights in their constitutions.

Generally environmental rights mean the rights to conservation and protection of the environment and the productive capacity of natural assets. From this perspective, environmental rights are at the basis of human wellbeing and the fulfilment of other human rights. They involve at least two dimensions:

- The commonly accepted concept of the right of people to live in a healthy environment, as articulated in many national constitutions and through the work of UNHRC Special Rapporteurs on Environment and Human Rights.
- The right of people to benefit from nature, specifically the “services of ecosystems,” for their livelihoods, and for rewarding and dignified lives for today’s and future generations. This dimension of environmental rights is currently under development.<sup>13</sup>

Other human rights, such as the right to food and the right to health, depend of nature goods and environmental services such as water and food provision. Human health depends in many ways on nature. For example, according to the World Health Organization, nearly 80% of the world’s population in developing countries relies mainly on traditional medicines (mostly derived from plants) for their primary health care.<sup>14</sup> At least 25% of the medicines used by the world’s population are based on, or directly derive from, medicinal plants; many others come from microorganisms. Ecosystems also provide services that are crucial for human health – such as air purification and climate regulation. In sum, fulfilment of the right to health requires nature to continue providing the services that are at the basis of human health.

Furthermore, economic and cultural rights are also within the scope of environmental rights. Regarding culture, all societies in one way or another have nature as a key element of cultural value systems – this is particularly important for traditional societies.

The contemporary approach to understanding and assessing the ways in which nature underpins human rights should be based on the concept of ecosystem services for human wellbeing. This approach was articulated by

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<sup>13</sup> Oviedo, G (2015). *The relationship between the environment and human rights in nature conservation*. IUCN. Briefing for the Expert Consultation on implementation of Human rights obligations relating to the environment, convened by the UN Special Rapporteur on human rights and the environment and the office of the High Commissioner for Human Rights (OHCHR). Geneva, October 2015.

<sup>14</sup> <http://www.who.int/mediacentre/factsheets/2003/fs134/en/>

the Millennium Ecosystem Assessment (MA) and is widely used in international and national frameworks.

States are obliged to take measures towards the full realization of economic, social and cultural rights to the maximum extent of their available resources. For these purposes, States should adopt concrete and targeted measures to make the most of available resources and address the full realization of these rights. There are some aspects of economic, social and cultural rights that could require immediate implementation. Irrespective of resource limitations, States must guarantee a non-discriminatory access to economic, social and cultural rights and should protect groups in society who are in a particularly vulnerable situation.

## IV. Procedural and Substantive Rights in IUCN's ESMS

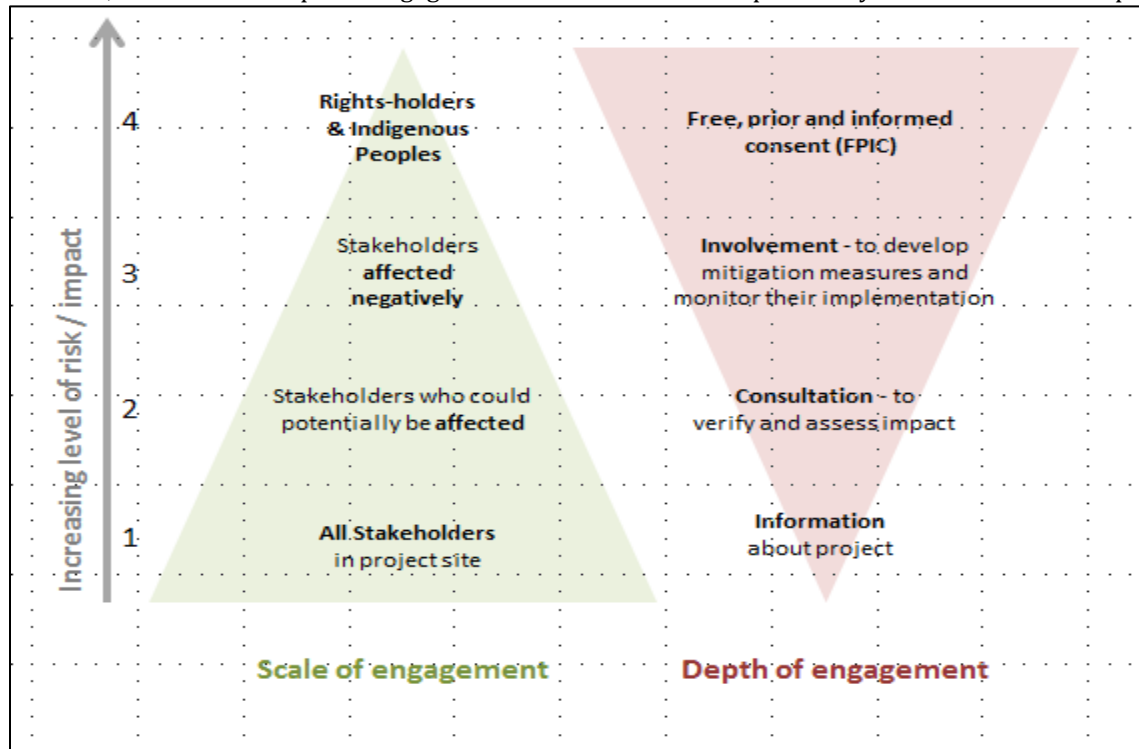
### Procedural Rights in IUCN's ESMS

Table 1. Procedural Rights in IUCN's ESMS

Overarching Principles: Rights-Based Approach, Protecting the Needs of Vulnerable Groups, Gender Equality and Women Empowerment, Stakeholder Engagement, Free, Prior and Informed Consent, Accountability, Precautionary Principle, Precedence of the Most Stringent Standards							
Right to FPIC	Full participation	Disclosure of information	Effective grievance mechanism	Gender responsive engagement process	Special attention to the needs of vulnerable groups	Involvement of customary decision-making processes	Accountability tools
<p>Recognized for all communities (no distinction made between indigenous peoples and other local communities)</p> <p>Rooted in principles laid out in the Policy on Conservation and Human Rights for Sustainable Development</p> <p>IRAR: Requires FPIC for the Preparation of IRAR Action Plan</p>	<p>IRAR: Requires full participation for the Preparation of IRAR Action Plan</p> <p>IP: Potential negative impacts to be assessed as part of the ESMS must rely on full participation of affected communities</p>	<p>Information about projects needs to be publicly disclosed at different points of the project cycle in order to assure transparency</p> <p>Rooted in principles laid out in the Policy on Conservation and Human Rights for Sustainable Development</p>	<p>Formal grievance mechanism entitled Project Complaints Management System (PCMS)</p> <p>Rooted in principles laid out in the Policy on Conservation and Human Rights for Sustainable Development</p>	<p>Endorses a gender responsive approach</p> <p>Aims to overcome historical gender biases</p>	<p>Reducing vulnerability, building resilience and promoting equity are the core of the approach</p> <p>Rooted in the IUCN Policy on Social Equity in Conservation and Sustainable Use of Natural Resources</p> <p>Links with IRAR, IP and PCM Standards</p>	<p>Respects and engages customary governance systems including traditional authorities, regulations and decision-making mechanisms</p> <p>Links with IRAR, IP and PCMS</p>	

<p>IP: Potential negative impacts must imply an FPIC process</p> <p>IRAR: Need for FPIC in involuntary resettlement and access restriction processes</p> <p>IP: Requirements to implement and achieve FPIC</p> <p>Incorporating FPIC procedures in the ESMS is crucial to redress experiences of conservation initiatives with indigenous peoples where they have not been fully engaged, decided upon their involvement, or provided with adequate information before decisions were made</p> <p>Key elements of an FPIC procedure</p>							
	<p>Includes stakeholder consultation since the project conceptualization stage and IUCN verification on whether consultations have been appropriate and meaningful</p>	<p>Defines decision points where disclosure of information is required</p> <p>IRAR: If a project involves involuntary resettlement or access restriction, draft resettlement instruments should be disclosed before project appraisal in a language understandable to key stakeholders in a culturally appropriate manner</p>	<p>Defines purpose, eligibility, preparation and filing of a complaint, review process and records and actions monitoring of the conflict resolution and grievance mechanism</p>	<p>Women will be meaningfully consulted during FPIC processes, in accordance with IUCN E&amp;S principles on gender equality and women empowerment</p>			<p>Defines IUCN accountability structure and corrective actions, including suggested steps for minor and major corrective actions under the accountability system</p>

Full participation as a procedural right has no qualifications that may imply limiting it by design or by imposed restrictions; however, its application is related to the level of potential impacts and is therefore operationalized in the context of identification and early assessment of impacts. In any given situation, the scale and depth of engagement with stakeholders is practically linked to the level of predicted impacts, as shown in the figure below.



## Substantive Rights in IUCN's ESMS

Table 2. Substantive Social and Environmental Rights in IUCN's ESMS

Overarching Principles: Rights-Based Approach, Protecting the Needs of Vulnerable Groups, Gender Equality and Women Empowerment, Stakeholder Engagement, Free, Prior and Informed Consent, Accountability, Precautionary Principle, Precedence of the Most Stringent Standards							
Right to Conservation of Nature for Human Wellbeing	Right to a Healthy Environment	Food	Clean drinking water	Housing	Culture	Lands, territories and resources	Economic rights, right to development, other rights relevant to human wellbeing
BD: Commitment to not cause or facilitate loss or degradation of critical and non-critical natural habitats, ecosystems and ecosystem services, and species	Pest Management Plan (for projects where the use of pesticides cannot be avoided); only foreseen for investments related to agriculture or control or eradication of invasive species. Pest management must ensure integrity of habitats.	IRAR: IUCN projects should not affect the right to food. If interventions may affect the right to food, alternatives are required.	IRAR: IUCN projects should not affect the right to water. If restrictions of access have such potential, alternatives are required.	IRAR: IUCN projects should not affect the right to housing (for example to physical settlements or to safe construction materials). If restrictions of access have such potential, alternatives are required.	IP: Impact management and benefits should respect cultural rights.  CH: Includes (i) tangible cultural assets with value for a nation, people or community, and (ii) natural features with significance for communities. This is linked to cultural rights to heritage protection.  CH: Relevant measures should be in place for projects that support protected areas	IRAR: No funding is granted to projects involving land acquisition and large-scale resettlement to protect tenure rights.  IRAR: IUCN projects should not affect tenure and access rights. If restrictions of access have such potential, alternatives are required.  IRAR requires preparing a	IRAR: economic rights, the right to development and other rights related to human wellbeing (including education and health) should not be affected by access restrictions. In case of potential impacts, alternatives are required.  IP: rights to self-development

					management plans, land use planning, livelihoods activities, and small infrastructure construction, with components that support cultural rights.	specific Action Plan if impacts are expected, to guarantee respect and support to tenure rights.	and indigenous-defined wellbeing should be respected by project interventions. Relevant provisions of UNDRIP apply.
IRAR: Screens project against S&E standards and Guidelines to ensure conservation of ecosystems for human wellbeing.	BD: Where impacts might be expected the ESIA should seek alternative project approaches or suggest alternative siting of physical infrastructure	IRAR: Screens project against S&E standards and Guidelines to ensure protection of the right to food			<p>IP: Standard establishes the need to conduct a comprehensive social analysis to improve understanding of the local context and delineates the elements to be covered in support of cultural rights.</p> <p>CH: Local and traditional knowledge will be sought during assessment and used as appropriate to identify potential risks</p>	<p>IRAR: Screens project against S&amp;E standards and Guidelines</p> <p>IRAR: Summary of IRAR included, citing preferred avoidance of involuntary resettlement and access restrictions</p> <p>IP: Standard establishes the need to conduct a comprehensive social analysis to improve understanding of the local context and delineates the elements to be covered in support of tenure rights.</p>	



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<sup>1</sup> Office of the United Nations High Commissioner for Human Rights. *Human Rights Indicators – A Guide to Measurement and Implementation*. 2012. United Nations. [http://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf)

<sup>2</sup> Greiber, T. (Ed.) *Conservation with Justice. A Rights-based Approach*. 2009. IUCN, Gland, Switzerland. [https://cmsdata.iucn.org/downloads/eplp\\_071.pdf](https://cmsdata.iucn.org/downloads/eplp_071.pdf)

<sup>3</sup> UN 2011. UN Guiding Principles on Business and Human Rights: Implementing the ‘Protect, Respect and Remedy’ Framework. United Nations. New York and Geneva.

<sup>4</sup> Makageon, J E, Jonas, H and Roe, D. 2014. Human Rights Standards for Conservation: Part 1. *To Which Conservation Actors do International Standards Apply?* IIED Discussion Paper. IIED, London.

<sup>5</sup> Springer, Jenny and Jessica Campese 2011. *Conservation and Human Rights: Key Issues and Concepts* - Scoping Paper for the Conservation Initiative on Human Rights. CIHR.