



Conservation and human rights: an introduction

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Photo credits

Cover photo: Justin Kenrick (Sengwer Indigenous territory, Embobut Forest, Cherangany Hills, Kenya)

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Summary

This guidance is intended as a resource for conservation professionals who are interested to learn more about the relationship between conservation and human rights, especially the rights of Indigenous peoples and local communities. A huge amount has been written on this topic over the past 50 years or so, but much of it is at the level of broad principles rather than their application in practice, and it is mostly targeted at large conservation organisations rather than at individual conservationists. Training opportunities on this topic are also limited, and awareness of human rights issues is currently very variable amongst conservationists. This document aims to help address this gap.

The guidance is in three Parts:

Part 1 introduces the commitments made by governments in 2022 to adopt a rights-based approach to conservation, as part of the Kunming-Montreal Global Biodiversity Framework. It then gives a brief introduction to human rights and human rights-based approaches.

Part 2 provides an overview of international norms and standards on human rights. It describes the international legal and policy framework, introduces some of the most influential international voluntary standards addressing human rights issues, and then provides a run-down of rights that are particularly relevant for conservation.

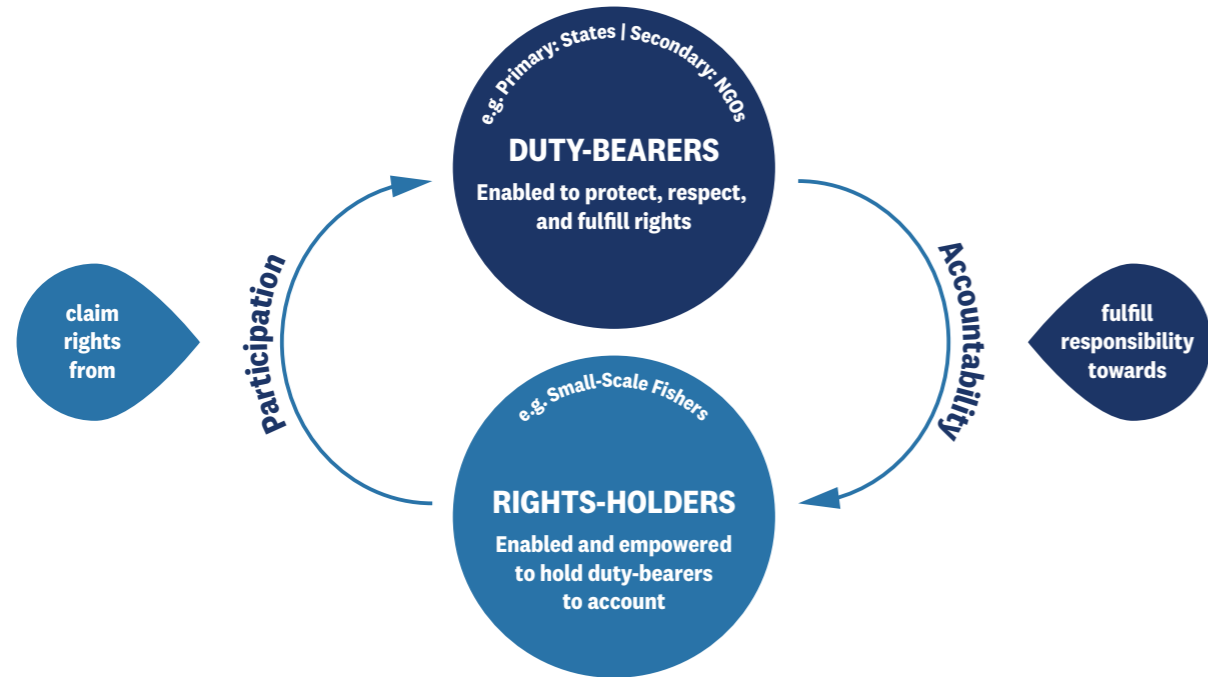
Part 3 introduces several practical tools and approaches for respecting, protecting and fulfilling the rights of Indigenous peoples and other groups with collective customary rights, showing how they apply to conservation. They include measures to guard against or remedy rights violations (“do no harm”) and measures to actively support rights-holders to conserve nature themselves.

Part 1: What are human rights?

Human rights are to do with basic values such as fairness, respect, dignity and autonomy. They are protected in international law, which recognises both individual rights and collective rights. Collective rights of particular relevance for conservation include the rights of Indigenous peoples and some other distinct groups. Human rights cannot (legally) and should not (ethically) be set aside or restricted except in very exceptional circumstances (and even then, only some rights). They are defined in law as universal (inherent to all human beings), inalienable (they cannot normally be set aside, restricted or given up), indivisible, interdependent and interrelated. Where restriction of rights becomes the norm, as has happened in conservation, this is a strong indication that these rights are not being treated as rights, but only as discretionary considerations. All conservationists have both a legal and a moral obligation to avoid human rights harms, and this must be the starting point for respecting human rights in conservation activities.

What is a human rights-based approach?

A human rights-based approach involves supporting individual and collective rightsholders in claiming and exercising their rights, and at the same time, working to strengthen actions by governments and others (known as duty-bearers) to respect, protect and fulfil rights. Thus, human rights-based approaches aim to reduce power imbalances.



Governments are the primary duty-bearers, but businesses, non-governmental organisations (including conservation organisations) and others also have an obligation to respect rights (“do no harm”). They should do so according to international human rights law and standards, even where these go beyond the requirements of national law. This means they must avoid causing or contributing to rights violations and they should actively seek to prevent and mitigate violations by collaborators, including governments. Where a conservation organisation fails to effectively address repeated human rights violations by collaborators, it may be considered as causing or contributing to the violations.

Key terms in a human rights-based approach

Respecting rights: abstaining from doing anything that violates rights.

Protecting rights: preventing violation of rights by others and guaranteeing access to remedy where violations do occur.

Fulfilling rights: taking necessary measures to enable people to claim or enjoy their rights.

Conservation and human rights have an uneasy relationship. Ever since the emergence of the modern ‘western’ concept of conservation in the late nineteenth Century, a central strategy has been the creation of uninhabited protected areas that are protected against any human exploitation (an approach known as ‘fortress conservation’). Fortress conservation commonly involves forced evictions, which can have devastating impacts on the rights and lives of indigenous peoples and local communities.

Since the 1970s, conservation organisations have made repeated commitments to respect human rights, but despite this, forced evictions and violent killings in the name of conservation remain common. These practices violate international human rights law. They are also often ineffective as a conservation strategy; for example, a recent systematic review reported that conservation by Indigenous peoples and local communities is more often associated with positive ecological outcomes than more coercive or externally driven approaches (Dawson et al, 2024).

However, in 2022, nearly 200 countries made a renewed and extended commitment to follow a human rights-based approach in conservation when they adopted the Kunming-Montreal Global Biodiversity Framework at the fifteenth Conference of the Parties to the Convention on Biological Diversity. Meeting this commitment will require a fundamental shift in how conservation is done, towards much greater support for Indigenous peoples and local communities to conserve their own nature, based on recognition of their rights under international law.

Part 2: International standards on human rights and their relevance to conservation

International human rights law is a common framework of norms agreed between States. Its primary source is international treaties and other instruments, such as declarations and principles. Respect for rights, including the right of all peoples to self-determination, is enshrined in Article 1 of the United Nations Charter, which came into force in 1945. The Universal Declaration on Human Rights (UDHR), which was adopted by the General Assembly of the United Nations in November 1948, is the foundation for a panoply of international human rights instruments that have been adopted since that time. These instruments are supplemented by other materials such as judicial decisions, authoritative guidance issued by treaty bodies, and advisory and expert opinions.

Major international human rights treaties and instruments especially relevant to conservation

United Nations instruments

- The Universal Declaration of Human Rights (1948)
- The International Covenant of Civil and Political Rights (ICCPR, 1966)
- The International Covenant of Economic, Social and Cultural Rights (ICESCR, 1966)

} The International Bill of Human Rights

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1969)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)
- Convention on the Rights of the Child (CRC, 1989)
- Convention on the Rights of Persons with Disabilities (CPRD, 2006)
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007)
- UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP, 2018)
- UN Declaration on Human Rights Defenders* (1998)

International Labour Organisation instruments

- ILO Convention 169: Indigenous and Tribal Peoples (1989)

* Officially titled the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

While there is no international court dedicated to resolving human rights disputes, human rights may be enforced by other courts at national, regional or international levels. For example, multiple cases brought by Indigenous peoples and other groups to the African or the Inter-American regional courts have successfully challenged human rights violations by States connected with the establishment of protected areas on the lands of Indigenous peoples. Some States also grant treaty bodies the power to decide claims by individuals or groups regarding violation of a treaty.

When States ratify an international legal instrument, international law requires them to make any necessary changes in their national legal systems ('harmonise' them) so that they are consistent with their new obligations under international human rights law. However, many have not done so. Where there is an inconsistency between international law and national law, the general rule is that conservationists should apply all applicable legal standards, for example by going beyond national law when this is necessary to comply with international law. The same considerations also apply to customary law, which refers to a set of laws based on the traditions, customs and norms of Indigenous people and some other groups.

Voluntary standards

Some leading international voluntary standards and frameworks on human rights

For the conservation sector:

- IUCN Resolutions
- The Conservation Initiative on Human Rights (2009)
- UNEP Human Rights Principles (under development)

For businesses:

- The UN Guiding Principles on Business and Human Rights (UNGPs)
- The Accountability Framework Initiative (for ethical supply chains in agriculture and forestry)
- The OECD Guidelines for multinational enterprises on responsible business conduct (on international trade and investment)
- The UN Global Compact (on indigenous rights)

Conservation organisations have developed many voluntary standards for how conservation practice should be undertaken, including numerous IUCN Resolutions and good practice guidance documents. IUCN Resolutions can change practice directly, through the active efforts of IUCN Members, and indirectly, through their wider influence on conservation standards. Additionally, conservation organisations have organised themselves in voluntary networks to collectively address human rights standards in conservation. One such network was established in 2009: the Conservation Initiative on Human Rights.

There are also many voluntary standards and frameworks for the business sector that deal with human rights issues, either as their sole focus or as part of environmental and social good practice standards. Some of the most important of these are the following:

- The United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs were not initially framed as legal obligations but they are increasingly regarded as mandatory. They are also regarded as applicable to at least some conservation organisations as well as to businesses.
- The Accountability Framework Initiative. This consists of twelve core principles that companies apply to ensure ethical supply chains in agriculture and forestry, including on deforestation, ecosystem conversion, and human rights. This Framework is particularly relevant for conservationists who work on supply chains or on conservation spatial planning in areas where agricultural and forestry commodities are produced.
- The Organisation for Economic Cooperation and Development (OECD)'s guidelines for multinational enterprises on responsible business conduct. These are concerned with social and environmental good practice in international trade and investment. It has been affirmed in specific instances that conservation organisations fall within the scope of the OECD Guidelines.

Certification schemes such as those of the Forest Stewardship Council and the Round Table for Sustainable Palm Oil integrate social and environmental aspects of good practice. These can offer fertile ground for collaboration between conservationists and businesses on human rights issues.

Rights of particular relevance for conservation

The rights of three overlapping groups of people are often impacted by conservation and are of particular concern: those of Indigenous peoples and local communities, women, and environmental human rights defenders.

The rights of indigenous peoples and local communities

Indigenous peoples and local communities have the full range of individual rights elaborated by international human rights law. Indigenous peoples, as well as some other groups, hold collective rights to their lands, territories and natural resources; to self-determination; free, prior, informed consent and also participation in decision-making; and to their cultures and cultural integrity, among others. Conservationists have often sought to place restrictions on the rights of Indigenous peoples and of local communities, but regional courts have on multiple occasions confirmed that the right of Indigenous peoples must be respected and protected in the context of conservation other than in exceptional circumstances. These include that conservation actions must be necessary and proportionate to a legitimate public objective; appropriate consultation and FPIC processes must have been undertaken and all avenues for negotiated agreement must have been exhausted; and any restriction of rights must proceed in accordance with international, national and customary laws. Where restrictions are imposed based on these criteria, those affected are entitled to compensation and, in some cases, restitution of their lands.

Women's rights and gender justice

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) calls on governments and others, including conservation organisations and individual conservationists, to challenge gender discrimination. Gender justice goes beyond securing individual women's rights and involves challenging and transforming the underlying power structures. Indigenous, rural or local women and girls often play a particularly pivotal role in conservation, contributing significantly to ecosystem management and community livelihoods. On the other hand, women and girls often face especially high impacts from biodiversity loss, both because of their primary role in ensuring a steady supply of natural resources for household use and because of unequal power relations. Therefore, gender justice is especially relevant in conservation. Conservation organisations and individual conservationists have an important role to play in promoting, recognising, and fulfilling women's rights. However, understanding and mitigating potential or actual unintended consequences of conservation interventions requires a nuanced approach that recognises the different roles, needs and vulnerabilities of different genders in local contexts.

The rights of environmental human rights defenders

Environmental human rights defenders are people or groups who take peaceful actions to promote or protect human rights in relation to the environment. They can be Indigenous leaders or Indigenous communities, Afro-descendant or other leaders and communities, farmers, women, children, environmental journalists, environmental lawyers, conservationists, NGO staff, community organisers, or others. Due to their actions, they may face intimidation, harassment, smear campaigns, criminalisation, arbitrary detention, torture, sexual violence and even killings. Because of the traditional divide between the conservation sector and Indigenous peoples or local communities, external conservation interventions often work directly against Environmental Human Rights Defenders, whereas in fact these individuals and communities are often the unsung heroes of conservation, putting their lives on the line for the defence of their lands and territories and the nature they contain.

The rights of environmental human rights defenders are recognised in the UN Declaration on Human Rights Defenders (1998). There are also two regional treaties that afford protections to them (the Escazú Agreement in Latin America and the Caribbean and the Aarhus Convention in Europe), and fifteen countries have adopted national policies for the protection of human rights defenders. In 2000, the IUCN World Conservation Congress passed resolution 2.37, calling on its members to do more to support them.

Part 3: Respecting, protecting and fulfilling rights in conservation: some tools and approaches

Part 3 introduces several practical tools and approaches for respecting, protecting and fulfilling the rights of Indigenous peoples and local communities in conservation. When using them, it should be borne in mind that rights-based approaches cannot be reduced to a set of steps or methodologies alone. Instead, they involve a shift away from approaches in which individuals, communities and peoples are treated as the passive objects of external interventions to one in which they are supported in conserving their own lands, territories and nature. The details of what this will involve in practice will vary from case to case.

Respecting, protecting and fulfilling rights in conservation: Some practical tools and approaches

Tools and approaches for respecting and protecting rights

- 3.1 Social safeguards and Human Rights Due Diligence (HRDD)
- 3.2 Human rights impact assessments (HRIAs)
- 3.3 Free, prior and informed consent (FPIC) processes
- 3.4 Grievance mechanisms
- 3.5 Remedy and restitution

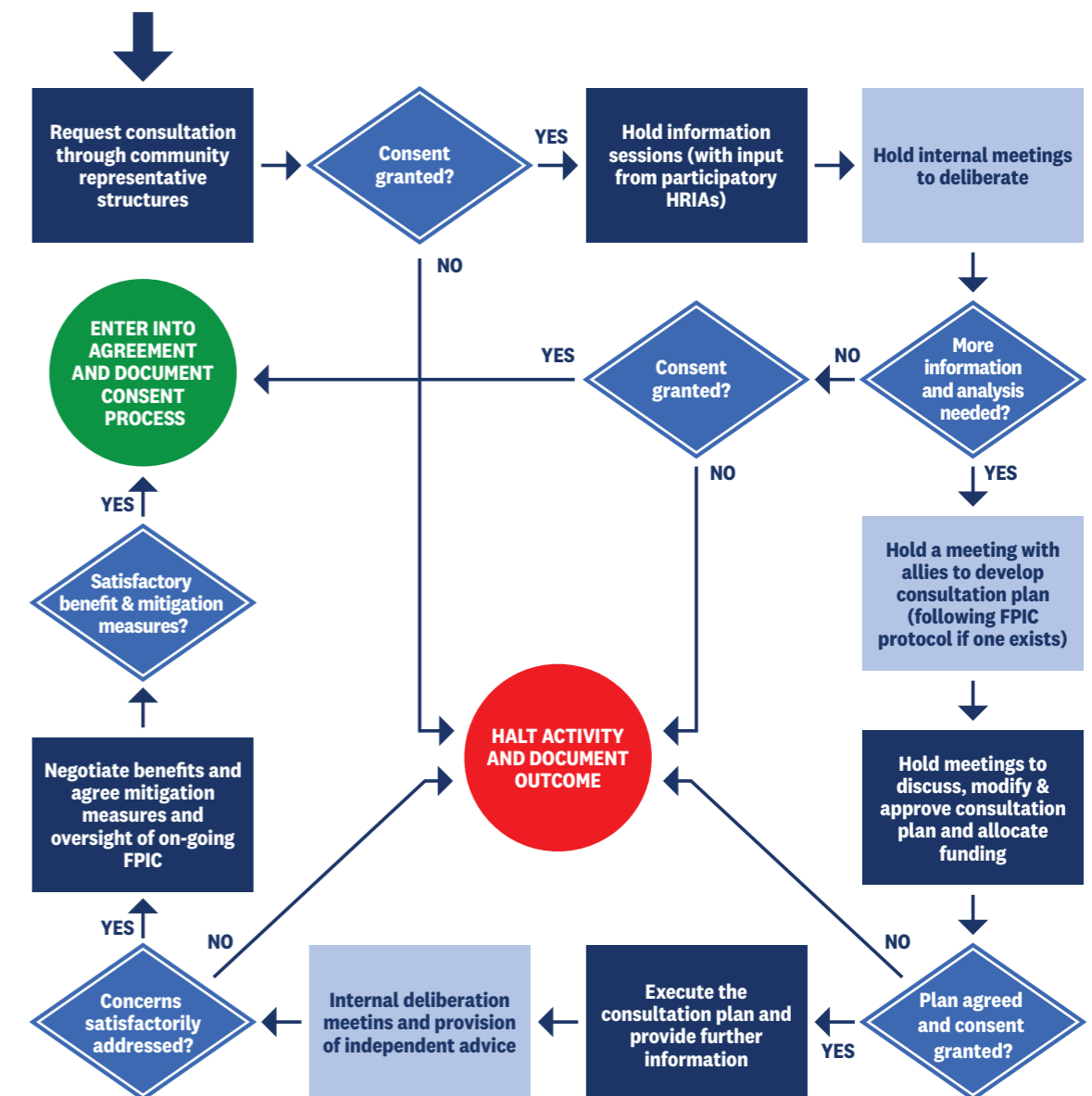
Tools to support rights-holders in fulfilling rights

- 3.6 The Whakatane Mechanism: a tool to address historic and current injustices
- 3.7 Participatory mapping
- 3.8 Participatory biodiversity monitoring

The first five sections describe tools for guarding against, assessing or remedying rights violations (“do no harm”). These are commonly formalised as institutional policies and procedures, but the same principles apply to the actions of individual consultants or researchers:

- **Social safeguard and human rights due diligence (HRDD) procedures:** These consist of measures to prevent harm by anticipating where it may occur and taking appropriate steps to pre-empt it. HRDD focuses specifically on the prevention of negative human rights violations (and remedy where they occur). Social safeguards systems are broader, encompassing all types of social impacts of an organisation’s work. The term HRDD is often used to refer to initial assessment of the potential risks of a new project, programme or activity. Where this is the case, it is important to bear in mind that one potential outcome is a decision NOT to proceed to the next stage if the impact on rightsholders is likely to be too great.
- **Human rights impact assessments (HRIAs).** HRIAs focus specifically on past, current or potential future negative impacts on human rights. They don’t consider positive impacts because human rights impacts cannot be balanced against one another; each negative impact must be addressed in its own right. Three key characteristics of HRIAs are that (i) they use international human rights standards as a benchmark; (ii) they include an analysis of the international, national and customary laws that apply, and (iii) they are carried out through a participatory process involving meaningful engagement with the rightsholders.

- **Free, prior and informed consent (FPIC) processes** are a legal requirement for all conservation actions that may potentially affect Indigenous peoples or certain other groups. This means that all those potentially affected must be fully informed about the proposed actions in advance; their collective consent must be sought, free from coercion, on whether or under what conditions the proposed action can proceed; and their decision must be respected. As part of the FPIC process, rights holders should be involved in assessing the risks of the proposed activities, and therefore there is a close relationship between FPIC and human rights impact assessments. Autonomous FPIC protocols have been developed by several Indigenous peoples and other groups that define how they are to be consulted and how their FPIC is to be sought, and, where these exist, conservationists should follow them.



- **Grievance mechanisms** are formal procedures setting out how rights-holders can lodge complaints, how these will be investigated, and how they will be remedied if they are found to be legitimate. **Remedy and redress** may include both compensation and also restitution of the situation before the rights violations occurred, as well as measures to guarantee non-repetition of the violations.

The next three sections give more detailed descriptions of some technical tools for working in partnership with indigenous peoples and local communities:

- The **Whakatane Mechanism** is a conflict resolution methodology developed by the IUCN and others to address historic and current injustices related to protected areas and the rights of indigenous peoples. It also celebrates and supports successful partnerships between peoples and protected areas. It works through multi-stakeholder dialogue, informed by a joint field evaluation to collect evidence on the situation. The Mechanism was adopted by the IUCN in 2012 and has been piloted in Kenya, Thailand and the Democratic Republic of Congo. The pilots confirmed that it is an effective tool for joint evidence-gathering and developing an agreed way forward. However, the medium- to long-term outcomes depend upon whether more powerful actors are willing to share power.
- **Participatory mapping** is a process by which Indigenous peoples and local communities map their lands and features in the lands. This has emerged as a fundamental tool for Indigenous rights and conservation. For example, it can be used to support legal titling of Indigenous lands, to monitor incursions, human rights violations, and environmental degradation by external actors, or to inform the development of community land-use plans, including for conservation, restoration and sustainable use. Increasingly, conservationists and natural resource management specialists are providing technical support for processes of this kind that integrate biodiversity values and Indigenous cultural values.
- **Participatory biodiversity monitoring** enables rights-holders to document the state of biodiversity on their lands and track changes. It provides a way for Indigenous peoples and local communities to assemble evidence of their own contributions to conservation and monitor changes in the state of biodiversity. In this way they can assess the effects of their own activities and of external activities, as well as broader patterns of environmental change. This can help them to improve their own management and monitoring. Again, conservationists are well-equipped to provide technical support for these activities, which often offer some of the most fertile ground for collaborations.

The last two sections take a different approach, exploring what a rights-based approach means for two common types of conservation intervention that often affect Indigenous peoples and local communities. These are interventions related to community livelihoods and interventions related to human wildlife conflict. We hope these sections will contribute to current discussions about what needs to be done to achieve a system-wide shift to rights-based conservation:

- Currently, many **livelihoods projects** linked to conservation start from the assumption that current livelihoods activities are damaging to biodiversity. This assumption is often made without assessing the evidence and without consulting rights-holders. A rights-based approach would involve joint deliberation with rights-holders to agree the best way forward, in order to maintain and improve both biodiversity and human wellbeing. Any interventions are subject to free, prior and informed consent, and genuine differences of interests need to be addressed through negotiation, based on respect for rights.
- **Human-wildlife conflict** can be made worse by legislation that focuses on combating wildlife crime without adequately protecting the rights of Indigenous peoples and others whose lives and livelihoods may be threatened by wildlife. The removal of the right of defence leads to an obligation for the government to protect Indigenous peoples and local communities from harm and provide reparation for damage caused by animals. In order to develop good practice in rights-based approaches to mitigating human wildlife conflict, gaps in legislation and implementation need to be addressed, and long-term solutions need to be sought through co-design with the affected peoples and communities.

Three key considerations affecting rights-based conservation in practice

Three overarching considerations affect how a human rights-based approach to conservation may work out in practice in a specific conservation initiative:

1. Is it an initiative of external actors, or of the affected rights-holders, or both?

In external initiatives, the affected rights-holders should be consulted as early as possible in the planning process, their FPIC should be sought (and their decision about whether to give FPIC should be respected), and if the project goes ahead, they should be involved at a strategic level as fully as they wish.

2. Does it build on existing relationships, or will these need to be developed from scratch?

Implementation is likely to be most straightforward where there are already established relationships between the conservationists and the rightsholders. Therefore, for conservationists with a long-term commitment to working in a particular geographical area, dedicating time to developing and maintaining relationships of trust is immensely valuable in establishing the foundation for successful collaborations. Specific projects and activities can then be agreed as part of ongoing discussions and exchanges, based on a mutual understanding of the context and of the different actors' perspectives, knowledge systems, and ways of making decisions and taking action.

3. What is the risk and potential severity of impacts on the rightsholders, for example through restricting their land and resource rights or impacting on their cultures?

Potential impacts on rightsholders should be assessed jointly, through a participatory process. The greater the risk and severity of potential impacts, the more comprehensive the assessment and the FPIC process need to be.

Conclusions

For rights-based approaches to become embedded in mainstream conservation policy and practice, there needs to be a systemic shift away from treating Indigenous peoples and local communities as passive objects of external interventions towards approaches in which they are treated as active, autonomous agents, and as rights-holders rather than simply as beneficiaries (UNDG, 2003; Sarmiento Barletti et al 2023). This means building on common interests and supporting them to conserve their own nature rather than imposing external priorities and strategies upon them (Milner-Gulland, 2024). Where there are genuine conflicts of interest, ways forward need to be negotiated through deliberative discussion and knowledge-sharing, with full respect for individual and collective human rights. Improving understanding of human rights issues and practical tools for their implementation amongst conservationists is obviously not the only thing that is needed to accomplish this shift, but it is a fundamental requirement, and we hope that this guidance will help to achieve this.

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