

# PROPOSING A RIGHTS-BASED LANDSCAPE HISTORY APPROACH TO CONSERVATION

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## INCREASING RECOGNITION OF HUMAN RIGHTS IN INTERNATIONAL CONSERVATION POLICY

In the early 1970s, recognition of the links between a healthy environment and human rights began to shape the international human rights agenda<sup>1</sup>. As articulated in the Convention on Biological Diversity (1992)<sup>2</sup>, Draft Declaration of Principles on Human Rights and the Environment (1994), United Nations Millennium Declaration (2000), and World Summit on Sustainable Development (2002), among other initiatives<sup>3</sup>, the environment has emerged as a key component of many human rights instruments. In recent decades, conservation initiatives have contributed to the realization of human rights by striving to maintain and enhance the long-term benefits of nature for all, including future generations. However, to the extent that some of these same initiatives have diminished the resource control and decision-making of Indigenous peoples and other vulnerable communities, conservation has also undermined human rights<sup>4</sup>.

While major conservation organizations were initially slow to develop a human rights agenda<sup>5</sup>, this now appears to be changing with a series of more coordinated efforts. Motions passed at the 3<sup>rd</sup> World Conservation Congress in Bangkok in 2004<sup>6</sup>, the 5<sup>th</sup> World Parks Congress in Durban in 2005<sup>7</sup>, and the 4<sup>th</sup> World Conservation Congress in Barcelona in 2008<sup>8</sup> expanded protections for the rights of Indigenous peoples and local communities to their land, territories, and livelihoods. In 2007, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples, which contains provisions for the protection of peoples' substantive rights to Indigenous lands (Articles 10, 25-27) and resources (Articles 23, 26), as well for the procedural rights of prior informed consent (Article 19) and participation (Article 18)<sup>9</sup>. Indicating further momentum on this front, following the 4<sup>th</sup> World Conservation Congress in 2008, the International Union for Conservation of Nature (IUCN) produced a step-by-step guide to implementing rights-based approaches to conservation<sup>10</sup>. That same year, a consortium of international conservation non-governmental

1 This recognition was articulated in, among other agreements, the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment. See Campese, J., G. Borrini-Feyerabend, A. Guignier, and G. Oviedo, 2007. "Just' conservation? What can human rights do for conservation...and vice versa?" *Policy Matters*, 15: 6-9; and Perrez, F., 2004. "Key questions concerning the human rights and environment debate: An introduction," pages 4-6 in United Nations Environment Programme, 2004. *Human Rights and the Environment: Proceedings of a Geneva Environment Network Roundtable*. UNEP: Geneva.

2 At the 4th Convention of Parties of the Convention on Biological Diversity in 1998, Article 8(j), which recognizes the importance of traditional knowledge in conservation, was mandated for implementation through a working group and the importance of *in situ* conservation was articulated in the Malawi Principles on the Ecosystem Approach.

3 Campese, J., and A. Guignier, 2007. "Human rights: a brief introduction to key concepts". *Policy Matters*: 15: 10-26.

4 Campese et al., 2007.

5 Colchester, M., M. F. Ferrari, J. Nelson, C. Kidd, P. Zaninka, M. Venant, L. Regpala, G. T. Balawag, B. Martin, and B. Lasimbang, 2008. *Conservation and Indigenous Peoples: Assessing the Progress since Durban*. Forest Peoples Programme: Moreton-in-Marsh, England.

6 Resolutions 3.015 ("Conserving Nature and Reducing Poverty by Linking Human Rights and the Environment"), 3.018 ("Mobile Peoples and Conservation"), 3.055 ("Indigenous Peoples, Protected Areas and the CBD Programme of Work"), and 3.065 ("Landscape/Seascape Approach to Conservation").

7 The Durban Accord urges commitment to "ensuring that people who benefit from or are impacted by protected areas have the opportunity to participate in relevant decision making on a fair and equitable basis in full respect of their human and social rights." Also, see Recommendations V.9 ("Integrated Landscape Management to Support Protected Areas"), V.21 (The World Heritage Convention"), V.13 ("Cultural and Spiritual Values of Protected Areas"), V.24 ("Indigenous Peoples and Protected Areas"), V.25 ("Co-management of Protected Areas"), and V.27 ("Mobile Indigenous Peoples and Conservation").

8 Resolutions 4.056 ("Rights-based Approaches to Conservation"), 4.052 ("Implementing the UN Declaration on the Rights of Indigenous Peoples"), 4.048 ("Indigenous Peoples, Protected Areas and Implementation of the Durban Accord"), 4.053 ("Mobile Indigenous Peoples and Biodiversity Conservation"), and 4.049 ("Supporting Indigenous Conservation Territories"). See IUCN, 2009. *Resolutions and Recommendations: World Conservation Congress, Barcelona 5-14 October 2008*. IUCN: Gland, Switzerland.

9 Article 29 also states that, specific to conservation projects, "indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources." Also see Campese, J., T. Sunderland, T. Greiber, and G. Oviedo., 2009. *Rights-based Approaches: Exploring Issues and Opportunities for Conservation*. CIFOR and IUCN: Bogor, Indonesia.

10 Greiber, T. (ed.), 2009. *Conservation with Justice: A Rights-based Approach*, IUCN Environmental Law and Policy Paper No. 71. IUCN: Gland, Switzerland.

organizations (NGOs)<sup>11</sup> developed a common framework for addressing human rights and conservation. In 2009, they established the Conservation Initiative on Human Rights<sup>12</sup>.

## PROPOSING A LANDSCAPE HISTORY APPROACH TO OPERATIONALIZE RIGHTS-BASED CONSERVATION

Notable progress in integrating human rights and conservation is being made; as representatives from Indigenous peoples and local communities, academia, and conservation organizations continue to contend, however, this work has arguably not gone far enough to achieve conservation policies and practices that address biocultural diversity and the plurality of meanings that different groups have for rights. Among other concerns, there is a need to reconcile the incommensurabilities between rights that are recognized by international law and the diversity of customary practices, laws, norms, and relations that determine environmental decision-making and management in local communities around the world<sup>13</sup>. In support of the legacy of efforts now mobilizing toward the goal of turning human rights principles into conservation practice, a landscape history approach is proposed here as one means of not only acknowledging, but also prioritizing the multiplicity of histories, types of knowledge, resource management strategies, and methods of making territorial claims that shape human-environment interactions worldwide.

A landscape history approach to rights-based conservation draws from the assertion that within conservation, “most attention should be paid to building a constituency of local support for conservation, by researching and then emphasizing ways in which human action has already, in some circumstances, served to enhance biodiversity”<sup>14</sup>. In recent decades, scholars have revealed how “much, if not all” of the biosphere, previously assumed to be untouched, has been shaped by humans<sup>15</sup> and how humans have often enriched rather than diminished biodiversity<sup>16</sup>. As climate change continues to intensify concerns regarding food and water sovereignty and as tolerance for exclusionary conservation practices wanes, recognition by Indigenous peoples and local communities, academics, conservation practitioners, and policy-makers of the conservation value of human-occupied landscapes is increasing.

This approach draws from and incorporates conservation initiatives that already recognize the contributions of Indigenous peoples and local communities to *in situ* conservation, including co-management and adaptive governance strategies, community mapping projects, agrobiodiversity conservation, internationally recognized cultural landscapes, and community conserved areas<sup>17</sup>. Each of these mechanisms works towards contextualized and collaborative conservation strategies, recognition of substantive and procedural rights, a notion of conservation that expands beyond exclusionary



**Figure 1.** Tony Paran (right) and Stephen Litah take a GPS point at a former longhouse site in the forests surrounding Pa' Lungan village in the Kelabit Highlands of Sarawak, Malaysia, as part of a community mapping project to document the cultural heritage and history embedded in this landscape in 2009. © Sarah Hitchner

11 BirdLife International, Conservation International, Fauna & Flora International, IUCN, The Nature Conservancy, Wetlands International, the Wildlife Conservation Society, and the World Wide Fund for Nature/World Wildlife Fund.

12 Conservation Initiative on Human Rights, 2010. Last accessed August 13, 2010, at: [http://cms.iucn.org/about/work/programmes/social\\_policy/scpl\\_cshr](http://cms.iucn.org/about/work/programmes/social_policy/scpl_cshr).

13 Peluso, N. L., and P. Vandergeest, 2001. “Genealogies of the political forest and customary rights in Indonesia, Malaysia, and Thailand”. *The Journal of Asian Studies*, 60: 761-812; Ribot, J. C., and N. L. Peluso, 2003. “A theory of access”. *Rural Sociology*, 68: 153-181; Zerner, C., 2003. *Culture and the Question of Rights: Forests, Coasts, and Seas in Southeast Asia*. Duke University Press: Durham.

14 Guyer, J., and P. Richards, 1996. “The invention of biodiversity: Social perspectives on the management of biological variety in Africa”. *Africa: Journal of the International African Institute*, 66(1): 1-13.

15 Balée, W. L., 1998. *Advances in Historical Ecology*. Columbia University Press: New York, page 14.

16 Balée, W. L., 1992. “People of the fallow: a historical ecology of foraging in lowland South America”, pages 35-57 in Redford, K. H., and C. Padoch (eds.), *Conservation of Neotropical Forests: Working with Traditional Resource Use*. Columbia University Press: New York; Fairhead, J., and M. Leach, 1996. *Misreading the African Landscape: Society and Ecology in a Forest-Savanna Mosaic*, African Studies Series. Cambridge University Press: Cambridge, New York; Guyer and Richards, 1996.

17 UNESCO, 2002. *Cultural landscapes: The challenges of conservation... shared legacy, common responsibility*, World Heritage Papers 7, Associated workshops, November 11-12, 2002, Ferrara, Italy. UNESCO World Heritage Centre: Paris.

*A landscape history approach ensures local integrity by focusing on social and cultural histories and diverse mechanisms for articulating rights.*

protected areas, and more nuanced understandings of the links between cultural and biological diversity<sup>18</sup>. A rights-based landscape history approach to conservation differentiates itself from these initiatives by using diverse historical data to translate between customary resource relations that determine environmental governance in specific places and the rights that are recognized by international law.

In anthropology, art, ecology, geography, and history, among other disciplines, the term “landscape” has taken on multiple meanings. An anthropological perspective proposes an explicitly anthropocentric sense of the term that highlights human-environment interactions through time, as experienced by the people who live or who have lived in these places. This does not negate other landscape approaches. In fact, ideally, an integrated landscape approach to conservation planning would incorporate landscape history into the full understanding of long-term, landscape-scale change. Finally, a landscape history approach ensures local integrity by taking as its starting point the social and cultural histories of specific landscapes and the diverse mechanisms for articulating rights, for example, through dream maps<sup>19</sup>, song<sup>20</sup>, memory<sup>21</sup>, and practices associated with naming<sup>22</sup>, representing and symbolizing<sup>23</sup>, hunting<sup>24</sup>, and planting<sup>25</sup>.

## CHALLENGES TO A RIGHTS-BASED LANDSCAPE HISTORY APPROACH TO CONSERVATION



**Figure 2.** Residents from the village of Makandezulu B await resettlement from Mozambique’s Limpopo National Park. By sharing stories about their links to the ancestors here and their daily resource use practices, these women not only contribute to orating the history of this land, but also legitimize their rights (and those of their children) to make decisions over resources here in the future. © Rebecca Witter

There are several distinct challenges inherent in using landscape history to operationalize rights-based conservation. First, as with any genuinely collaborative approach, this approach far exceeds the capabilities of rapid appraisal techniques and does not produce immediate deliverables to donors and others who expect quick and measurable results. Second, in places of extreme poverty, the anticipated economic benefits associated with the potential for tourism in conventional protected areas may take precedence over other, less lucrative conservation alternatives. Addressing these challenges will require new thinking, perhaps drawing from adaptive management models, in how to manage these landscapes not as cultural sites frozen in time, but as living and changing environments. However, these challenges are also opportunities for the creativity and collaboration that a rights-based landscape approach to conservation engenders. Such opportunities could lead to the discovery of what “an ethical, sustainable, *honorable* human place in nature might actually look like”<sup>26</sup>.

Given both the proliferation of global environmental concerns such as declining ocean health and climate change, as well as the shift in

18 Brosius, J. P., and S. L. Hitchner, 2010 (forthcoming). “Cultural diversity and conservation”. *International Social Science Journal*, 199.

19 Brody, H., 1982. *Maps and Dreams*. Pantheon Books: New York.

20 Roseman, M., 1998. “Singers of the landscape: song, history, and property rights in the Malaysian rain forest”. *American Anthropologist*, 100: 106-121; West, P., 2005. “Translation, value, and space: theorizing an ethnographic and engaged environmental anthropology”. *American Anthropologist*, 107: 632-642.

21 Moore, D. S., 1993. “Contesting terrain in Zimbabwe’s eastern highlands: political ecology, ethnography, and peasant resource struggles”. *Economic Geography*, 69: 380-401.

22 Feld, S., 1996. “Waterfalls of song: an acoustemology of place resounding in Bosavi, Papua New Guinea,” pages 91-136 in Feld, S., and K. H. Basso (eds.), *Senses of Place*. School of American Research Press: Santa Fe; Gengenbach, H., 2000. “Naming the past in a ‘scattered’ land: memory and the powers of women’s naming practices in southern Mozambique.” *International Journal of African Historical Studies*, 33(3): 523-542.

23 Velásquez Runk, J., 2009. “Social and river networks for the trees: Wounaan’s riverine rhizomic cosmos and arboreal conservation”. *American Anthropologist*, 111: 456-467.

24 Brody, 1982; West, 2005.

25 Dewees, P. A., 1995. “Trees and farm boundaries: farm forestry, land-tenure and reform in Kenya”. *Africa*, 65: 217-235; Peluso, N.L., 1996. “Fruit trees and family trees in an anthropogenic forest: ethics of access, property zones, and environmental change in Indonesia”. *Comparative Studies in Society and History*, 38: 510-548; Schroeder, R. A., 1993. “Shady practice: gender and the political ecology of resource stabilization in Gambian garden orchards”. *Economic Geography*, 69: 349-365.

26 Cronon, W., 1995. “The Trouble with Wilderness; or, Getting Back to the Wrong Nature”, pages 69-90 in Cronon, W. (ed.), *Uncommon Ground: Rethinking the Human Place in Nature*. W. W. Norton & Co.: New York, page 81, emphasis added.

conservation practices from place-based to market-based approaches, it is clear that the links between conservation and human rights are changing in both policy and practice. A rights-based landscape history approach to conservation is not a panacea; instead, it is one part of a much larger effort to genuinely respect human rights in conservation processes.

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## LEGAL EXPRESSION OF INDIGENOUS PEOPLES' WORLDVIEWS: AN ANALYSIS OF THE PROPOSED UNIVERSAL DECLARATION ON THE RIGHTS OF MOTHER EARTH

*Mary Munson*

### Abstract

A proposal to create rights for Mother Earth has been submitted to the United Nations. Its basic premise, that nature has inherent rights similar to those of humans, has arisen before in legal discourse, but has never been widely accepted. The sponsors of the proposal claim that it reflects an indigenous people's worldview, which often includes a spiritual connection to nature and respect for nature's intrinsic value as a source of life. Emerging norms in international law arguably support Mother Earth rights as an expression of indigenous people's recognized social and cultural rights. However, international support for the United Nations proposal might be weakened because the concepts are new and emerging, its terms are not well-defined, it challenges underlying assumptions of Western legal systems, and statements made by some of its supporters associate it with controversial political positions. Despite the obstacles, the proposal should be discussed and refined so can be given fair consideration by the international community.

In April 2010, Bolivian President Evo Morales Ayma hosted the first World People's Conference on Climate Change and the Rights of Mother Earth ("World People's Conference"). Indigenous groups and their supporters from about 140 countries attended what President Morales described as "bringing together the indigenous voices that had been left out of international discussions about strategies to address global climate change."<sup>1</sup> The World People's Conference produced a draft Universal Declaration on the Rights of Mother Earth (Universal Declaration), which specifies that "Mother Earth

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<sup>1</sup> Morales, E., 2010. "Combating climate change: lessons from the world's indigenous peoples". The Los Angeles Times online edition. Last accessed on August 26, 2010, at: <http://articles.latimes.com/2010/apr/23/opinion/la-ocw-0423-morales-20100423>.