

Conservation standards

From rights to responsibilities

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Biodiversity

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The aim of the Natural Resources Group is to build partnerships, capacity and wise decision-making for fair and sustainable use of natural resources. Our priority in pursuing this purpose is on local control and management of natural resources and other ecosystems.

Natural Justice

Lawyers for Communities and the Environment is a non-profit organisation, registered in South Africa since 2007. Through its offices in Cape Town, Nairobi, Cotonou and New York, Natural Justice works at the local level to support indigenous peoples and local communities, provide advice at the national level and engage in international processes.

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Although conservation interventions aim to protect biological and cultural diversity, they can affect communities in a number of ways. The vast body of international law, norms and standards protecting human rights offers little rights-based, practical guidance for conservation initiatives. Focusing on indigenous peoples, this paper aims to provide a set of draft conservation standards that outline:

- how indigenous peoples' rights are enshrined in international law
- how conservation interventions can infringe these rights
- which rights conservation actors need to be most aware of – and why – and
- conservation actors' responsibilities in upholding these rights.

The aim of this paper is to encourage discussion and collect feedback. We look forward to continuing to develop these conservation standards.

Contents

Acronyms	5
1 Background and scope of this report	6
2 Why conservation standards?	9
3 Whose rights? Which rights?	11
4 Methodology	14
5 The conservation standards	16
5.1 Rights most likely to be directly infringed	18
5.2 Rights most likely to be indirectly infringed	24
5.3 Redress for infringements of rights	26
6 Next steps	27
6.1 The IUCN Green List of Protected and Conserved Areas	28
6.2 The Conservation Initiative on Human Rights (CIHR)	28
6.3 The Whakatane Mechanism	28
6.4 Equity Framework for Protected Area Conservation	29
Appendix 1: The international instruments that underpin the conservation standards	30
A. Rights most likely to be directly infringed	30
B. Rights most likely to be indirectly infringed	32
C. Redress for infringements of rights	32
Appendix 2: Key resources	33
Notes and references	34

Acronyms

NGO	non-governmental organisation
IUCN	International Union for Conservation and Nature
CBD	Convention on Biological Diversity
CIHR	Conservation Initiative on Human Rights
IFC	International Finance Corporation
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

Background and scope of this report

1

The International Institute for Environment and Development (IIED) and Natural Justice collaborated during 2013–14 with a group of lawyers and experts on the rights of indigenous peoples and local communities to clarify the following issues:

- Which conservation actors have responsibility for upholding international human rights standards?
- Which international human rights standards are most relevant in a conservation context?
- Which redress mechanisms are available to indigenous peoples and local communities when human rights are infringed by conservation initiatives?

We determined that, while states are traditionally seen as the primary duty bearers under international law, human rights norms are increasingly considered to apply to non-state entities. This supports our conclusion that international organisations, non-governmental organisations (NGOs) and philanthropic foundations have human rights responsibilities under international law.

We identified several general legal standards that apply to conservation actors, although we recognised that much work remains to be done to make those standards more readily accessible and operational. Our research also highlighted that, while there are a number of international and regional redress mechanisms that can provide access to remedy, indigenous peoples and local communities face a range of challenges in accessing justice and ensuring that supportive decisions are upheld at the local level.¹

We presented the results of this work and our project – Human Rights Standards for Conservation – in a workshop at the 2014 World Parks Congress in Sydney. The workshop participants then proposed five non-mutually exclusive options for next steps:

1. Further distil the Human Rights Standards for Conservation series' findings and clarify the core rights afforded to indigenous peoples and local communities, to then present the rights as a set of conservation standards.
2. Develop a set of stakeholder-specific guidance and related tools, such as simple checklists for conservation implementers highlighting which principles apply in particular contexts. Alternatively – or also – develop a resource to help indigenous peoples and local communities to better know their rights in a conservation context and understand what they might do if they feel they have a grievance.
3. Further develop the standards and guidance into a site-based tool that funders, implementers or managers of conservation sites and initiatives could use to monitor and evaluate the projects they support, and third parties could use to verify project-level activities. We could link this approach to the International Union for Conservation and Nature (IUCN)'s Green List of Protected and Conserved Areas.²
4. Conduct a deeper assessment of existing redress mechanisms to explore the need for a globally recognised grievance mechanism dedicated to conservation-related disputes, with a focus on the Whakatane Mechanism.³
5. Form an independent body, modelled after entities such as the Roundtable on Sustainable Palm Oil, to develop, monitor and uphold the standards, guidance and grievance mechanism.

At the World Parks Congress, there was consensus that there is at least a need to articulate the core rights agreed in international law and to develop a set of guidelines that can help ensure these are upheld in a conservation context. Consultations were held with a range of rightsholders and stakeholders at organisations and international meetings in the UK, Switzerland and the US in 2015 and 2016. They confirmed that a set of standards articulating agreed rights relevant to conservation initiatives could be useful in many different contexts, including for:

- international organisations developing regional and national conservation programmes
- governments managing existing and gazetted new protected areas
- conservation NGOs working at the local level

- philanthropic foundations considering funding proposals of conservation projects, and
- peoples and communities asserting their rights.

This report responds to that need. We focus here on indigenous peoples' rights – because the body of international law is much clearer on these than on the rights of non-indigenous communities. But we suggest that what we describe here represents minimum standards that should be adhered to in any conservation-related context, regardless of how communities identify themselves.

This report provides an overview of indigenous peoples' rights, explains how conservation interventions can lead to both direct and indirect infringements of those rights, sets out our methodology and presents the first draft of the conservation standards: the minimum conditions conservation interventions are expected to meet, based on the body of international human rights law. The last section provides an overview of next steps.

WE WELCOME YOUR FEEDBACK AND INPUTS!

Please send comments to harry@naturaljustice.org and dilys.roe@iied.org

Why conservation standards?

2

Although many conservation interventions have helped protect biological and cultural diversity and improved the linkages between the two, others have led to the infringement of indigenous peoples' and local communities' rights. From the first denials of access of Native Americans to Yellowstone National Park in the 1860s to the ongoing plight of Uvinje villagers in Tanzania, there are many documented cases of indigenous peoples being evicted and subjugated in the name of conservation.

Conservation interventions can impact on indigenous and other local communities in a number of ways. A rapid assessment of 35 conservation-related conflicts around the world, conducted under the auspices of this project, highlights a number of activities or incidents that can lead to direct human rights abuses.⁴ These include: denial of free, prior and informed consent; lack of engagement with indigenous institutions; eviction; unjust resettlement; destruction of property and livelihoods; denial of access and use of natural resources; intimidation and physical harm; and exploitative employment.

Conservation activities have direct and indirect implications for human rights. For example, when a community is evicted from their lands without due process, they suffer an infringement of their right not to be evicted or involuntarily relocated. But they will also likely suffer a number of other indirect but equally severe human rights violations, including the denial of the rights to: culturally appropriate education; revitalise, use, develop and transmit to future generations their histories, languages and literatures; and non-exploitative and non-discriminatory employment.

In February 2015, the UN Special Rapporteur on the rights of indigenous peoples summarised the effect of three government-established nature reserves on indigenous peoples in Suriname in a testimony before the Inter-American Court on Human Rights. She noted that, under long-held approaches to conservation, "... large parts of indigenous territories were essentially expropriated and nationalized, and then made subject to coercive measures that often resulted in conflict, impoverishment, and cultural deterioration, not to mention other serious human rights violations."⁵

To compound the direct and indirect effects of unjust conservation interventions, there is evidence to suggest that both state and non-state agencies have at times colluded to deny communities and their advocates access to justice and have failed to implement judgements that support the respective peoples or communities.⁶

Such injustices raise an important question: Why, despite the large body of international law, norms and standards relating to the rights of indigenous peoples that has been elaborated over the last two decades, do they continue?

One possible reason is that there is little rights-based, practical and broadly accepted guidance specifically tailored to conservation initiatives. The body of international law that enshrines human rights standards is vast and scattered. In this report, we have distilled that body of law to provide conservation actors with easily accessible guidance on the following questions:

- How are indigenous peoples' rights enshrined in international law?
- In which ways can conservation interventions infringe indigenous peoples' rights, both directly and indirectly?
- Which rights should conservation actors be most aware of, and why are these important in a conservation context?
- What are conservation actors' responsibilities in upholding these rights?

BOX 1: CONSERVATION INTERVENTIONS AND ACTORS

In this paper we use the term conservation intervention to refer to site-based interventions designed to conserve land, wildlife, cultural artefacts and/or natural resources. These interventions will therefore include, but not be limited to, the establishment and management of protected areas, species conservation initiatives, natural resource management, REDD+ projects and so on.

We use the term conservation actors to mean government and non-government agencies, and public and private organisations. Of course, indigenous peoples and local communities are also conservation actors,⁷ but in this document we use the term mainly to describe the entities noted above, unless we state otherwise.

Whose rights?
Which rights?

3

Indigenous peoples have fought hard for the rights they have secured at the international level. Decades of concerted effort have led to important rights gains and legal recognition as detailed in Box 2.

Some of these instruments have special relevance to indigenous peoples, particularly ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

BOX 2: INTERNATIONAL INSTRUMENTS WITH HUMAN RIGHTS IMPLICATIONS IN A CONSERVATION CONTEXT

1. Universal Declaration of Human Rights
2. ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries
3. United Nations Declaration of the Rights of Indigenous Peoples
4. International Covenant on Civil and Political Rights
5. International Covenant on Economic, Social and Cultural Rights
6. International Convention of the Elimination of All Forms of Racial Discrimination
7. Convention on the Elimination of All Forms of Discrimination Against Women
8. Convention on the Rights of the Child
9. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
10. Convention on Biological Diversity , including:
 - a. Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization
 - b. Cartagena Protocol on Biosafety
 - c. Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol
 - d. Tkarihwaïé:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities
 - e. Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity
 - f. Akwé: Kon Guidelines
 - g. Strategic Plan for Biodiversity 2010–2020 (including the Aichi Biodiversity Targets)
11. United Nations Conference on Environment and Development Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests
12. United Nations Forum on Forests Non-Legally Binding Instrument on All Types of Forests
13. Convention on Wetlands of International Importance
14. United Nations Framework Convention on Climate Change Cancun Agreements
15. United Nations Convention to Combat Desertification
16. International Treaty on Plant Genetic Resources for Food and Agriculture
17. Global Plan of Action for Animal Genetic Resources and the Interlaken Declaration on Animal Genetic Resources
18. FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security
19. FAO Voluntary Guidelines on the Tenure of Land Fisheries and Forests in the Context of National Food Security (FAO Tenure Guidelines)
20. Convention on the Law of the Non-Navigational Uses of International Watercourses
21. Agreement on Trade-Related Aspects of Intellectual Property Rights
22. Convention Concerning the Protection of the World Cultural and Natural Heritage
23. Convention on the Protection and Promotion of the Diversity of Cultural Expressions
24. Convention for the Safeguarding of the Intangible Cultural Heritage
25. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.⁸

The ILO Convention, also known as the Indigenous and Tribal Peoples' Convention, entered into force in 1991. It is a binding treaty, and although only 22 countries have ratified it, is viewed – even in countries that have not ratified it – as illustrating the normative trajectory of international law.⁹ It protects many important rights of indigenous and tribal peoples, including their collective rights to own their traditionally occupied land and to be consulted on legislative or administrative measures that may affect them directly.

The UNDRIP, while not a treaty like Convention No. 169, goes further in certain ways. It explicitly affirms indigenous peoples' right of self-determination, and their rights to land and culture. It also protects their right to free, prior and informed consent in a number of circumstances, including approval of projects that affect their lands, relocation from their lands and the adoption and implementation of legislative measures that may affect them. Overall, the UNDRIP recognises “that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples.”¹⁰

The UNDRIP carries legal authority for several reasons. It has inherent authority because it is a declaration of the UN General Assembly, “the most representative political organ of the world body”.¹¹ It also encapsulates well established principles of human rights that are already integrated into human rights treaties, including those that make up the International Bill of Human Rights¹² and others described in Box 2. Finally, the basic normative principles set forth in the UNDRIP can be found in many other instruments and decisions by several international bodies.¹³ In sum, the UNDRIP “manifests a strongly rooted level of consensus about the human rights of indigenous peoples, and it also represents expectations of compliance with these rights.”¹⁴

Taken together, these developments demonstrate that indigenous peoples' rights are well established at the international level. Indigenous peoples' rights are made up of a “constellation of internationally accepted norms that flow from generally applicable human rights principles.”¹⁵

The rights of Indigenous peoples have also been recognised in safeguards governing the implementation of international programmes and projects. For example, parties to the UN Framework Convention on Climate Change (UNFCCC) agreed to safeguards in the context of reducing emissions from deforestation and forest degradation (REDD) and related conservation, management, and enhancements of forests (REDD+) that explicitly call for “[r]espect for the knowledge and rights of indigenous peoples and members of local communities” and their full and effective participation.¹⁶ Several international financial institutions – such as the World Bank and the International Finance Corporation (IFC) – also have social and environmental safeguard policies that require them to respect the rights of indigenous peoples.

The rights of local communities that do not identify as indigenous are perhaps less clear under international law. The term local communities is used in a variety of contexts, such as the IFC Performance Standards on Environmental and Social Sustainability and the 1992 Rio Declaration on Environment and Development.¹⁷ The Convention on Biological Diversity (CBD) refers to “indigenous and local communities” in its preamble and Article 8(j). In 2014, the Conference of the Parties decided “to use the terminology ‘indigenous peoples and local communities’ in future decisions and secondary documents under the Convention, as appropriate.”¹⁸ But the CBD Secretariat concluded that “‘local communities’ is a very ambiguous term,” and noted that it can apply to different groups of people.¹⁹ At this stage, whether specific local communities enjoy the same rights as indigenous peoples – such as the right to free, prior and informed consent – is beyond the scope of this paper.

For these reasons, this first draft of the conservation standards focuses specifically on indigenous peoples. In future renditions of these standards, the team will engage with experts on the rights of local communities.

Methodology

4

In 2012, Natural Justice compiled the 'Living convention',²⁰ a document that sets out relevant provisions in the most prominent international instruments that relate to indigenous peoples' and local communities' rights to their cultures, languages and territories, among other important aspects of their lives. The high volume of applicable law renders the document comprehensive, but diminishes its accessibility. To an indigenous group who is concerned that a conservation initiative is not upholding internationally agreed human rights standards or to a practitioner or funder who is involved in the implementation of a conservation intervention, the 'Living convention' provides a large amount of legal detail, but not focused guidance.

It became clear that a more accessible and tailored document was needed; and that is the objective of this report. As a basis, we began with the provisions of the UNDRIP because it already synthesises many of the rights that are embedded in other pieces of international law and the key issues that are relevant to indigenous peoples. We applied the methodology used to develop the 'Living convention', which includes ordering the provisions under various categories, such as self-determination, governance and free, prior and informed consent. We then summarised the provisions

to draw out the elements most relevant to conservation interventions, cross-referencing to other international instruments to ensure that our categorisation reflected not just UNDRIP provisions, but also the wider body of law, as described in Appendix 1. In our categorisation process, we also made a distinction between rights most likely to be directly and indirectly infringed by conservation interventions.²¹

We recognise that summarising negotiated text has the potential to result in the loss of some nuances, meaning and spirit of what the drafters intended. We also acknowledge that the above direct/indirect dichotomy will not always prevail in reality. But we also believe that some summary and interpretation is necessary to improve the accessibility of these important rights in the context of conservation interventions. We encourage readers to refer to original texts if they need more information on the detail of these provisions. See Appendix 2 for more details.

In sum, this first draft of conservation standards is an attempt to ensure a rigorous approach to the law while also promoting its accessibility to all rightsholders and stakeholders.

The conservation standards

5

In this section we present a set of 14 conservation standards. These reflect core human rights that conservation actors and interventions should seek to uphold at all times. For each standard, we highlight three things:

- the core rights, as derived from the UNDRIP and other international legal instruments
- a brief explanation of the importance of the right(s) to establish the context, and
- the duties and responsibilities of conservation actors related to this right.

We deliberately include the term ‘responsibilities’ in this section to indicate that both state and non-state conservation actors are covered by the provisions we discuss here. The UN Guiding Principles on Business and Human Rights make a clear case that the “responsibility to respect” human rights applies to businesses as well as to state actors.²² We have previously argued that this responsibility to respect also applies to NGOs and others whose actions can positively or negatively affect the enjoyment of human rights.²³

The responsibility to respect human rights means that non-state conservation actors should “avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.” This means that “enterprises can go about their activities, within the law, so long as they do not cause harm to individuals’ human rights in the process.”²⁴ This responsibility is a baseline standard – a minimum acceptable standard – for the conduct of non-state actors.

According to the UN Guiding Principles, states are subject to a higher standard: they must “protect against human rights abuse within their territory and/or jurisdiction by third parties.” This “requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.”²⁵ Box 3 describes the difference between respect and protection within the human rights framework.

BOX 3: RESPECT, PROTECT, FULFIL – WHAT IS THE DIFFERENCE?

The human rights-based approach is a framework that establishes three categories of duties for states with regard to human rights:

- **Respect:** simply not interfering with the enjoyment of human rights. This is often thought of as a negative obligation.
- **Protect:** taking steps to ensure that third parties do not interfere with the enjoyment of human rights.
- **Fulfil:** progressively taking steps to realise the right in question. This requires responsible parties to establish political, economic and social systems that provide access to the guaranteed right for all members of society.²⁶

Rights, duties and responsibilities

The UN Guiding Principles extend the requirement to respect human rights to businesses, and refer to “the corporate responsibility to respect human rights”. This use of ‘responsibility’ rather than ‘duty’ in the context of business is deliberate:

“The term ‘responsibility’ to respect rather than ‘duty’ is meant to indicate that respecting rights is not an obligation current international human rights law generally imposes directly on companies, although elements may be reflected in domestic laws. At the

international level it is a standard of expected conduct acknowledged in virtually every voluntary and soft-law instrument related to corporate responsibility, and now affirmed by the Council itself when it endorsed the UN Framework.”²⁷

Soft and hard law

Relevant to the distinction Professor Ruggie draws between responsibility and duty is the distinction many draw at the international level between ‘soft’ and ‘hard’ law. These categories are often used to classify instruments agreed by states among each other.

“States enter into international agreements all the time, and these agreements vary widely along several dimensions. Some are formal treaties, while others fall short of that classification, being labelled instead ‘soft law’; some include dispute resolution procedures while others do not; and some provide for sophisticated monitoring mechanisms that are absent from other agreements.”²⁸

An instrument’s particular dimensions will affect its level of ‘bindingness’ or enforceability. But many factors are at play with regard to the binding nature of a specific instrument – at both the domestic and international level – and a detailed discussion of this issue is beyond the scope of this paper.

5.1 Rights most likely to be directly infringed

5.1.1 Right to self-determination

Rights

Indigenous peoples have the right to self-determination and thereby to freely determine their political status and freely pursue their economic, social and cultural development.²⁹

Context

Self-determination means that indigenous peoples have the right to be in control of their lives and destiny and enables indigenous peoples to remain who they are and to live the way they want to live.³⁰ Any activities by conservation actors that infringe any of the rights set out below can impact a people's right to self-determination.

Duties and responsibilities

Conservation interventions should be undertaken with this overarching right in mind. By actively engaging indigenous peoples and conforming to the rights set out below, conservation actors will also respect, protect and fulfil indigenous peoples' right to self-determination.

5.1.2 Right to determine institutions for self-government

Rights

Indigenous peoples have the right to: autonomy or self-government in matters relating to their internal and local affairs; maintain and strengthen their distinct institutions; participate fully in the political, economic, social and cultural life of the state, and determine the structures, select the membership and determine the responsibilities of individuals to their institutions and communities.³¹

Context

Indigenous peoples govern themselves according to a great diversity of institutional arrangements and rules. Yet some conservation interventions have been carried out in ways that either ignore or are insensitive to their governance structures, leading to the marginalisation of these institutions and damaging the integrity of peoples and communities.

Duties and responsibilities

Conservation interventions should support, not undermine, indigenous peoples' governance systems. Conservation actors need to directly engage with indigenous peoples to ascertain and engage with their governance institutions in good faith (below).

5.1.3 Right to free, prior and informed consent

Rights

Indigenous peoples have the right to participate in decision-making in matters that affect their rights – through the representatives they choose in accordance with their own procedures – and to maintain and develop their own indigenous decision making institutions.

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, including regarding the approval of any project affecting their lands or territories and other resources.³²

Context

Indigenous peoples have the right to participate fully in decisions that would affect their rights, yet this standard has not always been upheld in the context of conservation interventions. Infringements include: not being invited to participate in decision making; participating but not being given the information they need to make an informed decision; or not being afforded the right to provide or withhold free, prior and informed consent. This includes being subjected to coercion, intimidation or violence.

Duties and responsibilities

Conservation actors should ensure that, having identified the respective indigenous people, they engage them in good faith and in accordance with the people's own procedures. This allows the indigenous people to exercise their right, among other things, to fully understand the proposal, discuss it among themselves, seek expert advice from within and outside the community, further engage the proponent, negotiate for changes to the original design and/or reject the proposal if they decide the it is not suitable, in whole or in part.

5.1.4 Rights to lands, territories and resources

Rights

Indigenous peoples have the right to own, use and develop priorities and strategies for, and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those they have otherwise acquired. States shall give culturally appropriate legal recognition and protection to these lands, territories and resources.

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with these areas and resources and to uphold their responsibilities to future generations in this regard.

States shall establish and implement – in conjunction with and with the participation of the indigenous peoples concerned – a fair, independent, impartial, open, transparent and culturally appropriate process, to recognise and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used.³³

Context

There are cases where conservation interventions have infringed indigenous peoples' rights to their lands, territories and resources. Indigenous peoples have suffered forced eviction from their traditional lands and territories, including due to the establishment of protected areas or when a protected area's boundaries are enlarged. Forced evictions are often characterised by a lack of due process and involve infringements of substantive rights relating to their lands and territories as well as a range of procedural rights (such as to information, participation in decision making and access to justice). These abuses are often carried out in conjunction with other infringements.

Resettlement or relocation are distinct from eviction because they should be conducted according to a plan that proposes compensation, including, for example, new housing and supporting infrastructure. But, like evictions, these processes are often conducted in the absence of due process and the compensation offered is often neither fair nor equitable. Communities who are being evicted, resettled or relocated may also find their property – including dwellings, belongings, livelihoods, trees and crops – are destroyed.

When conservation interventions are implemented on indigenous peoples' lands and territories, borders of protected areas are enlarged to encompass those areas or rules are revised to exclude indigenous peoples from areas they have traditionally accessed, they are prevented from accessing previously available natural resources. This affects peoples' livelihoods, restricts their access to medicinal plants, and has subsequent effects on their cultural, spiritual and knowledge systems.

Duties and responsibilities

Conservation actors should verify whether states have upheld their obligations towards indigenous peoples and their lands, territories and resources as due diligence for any conservation interventions. They also have a duty to ensure that, as well as being subject to free, prior and informed consent, their activities should respect the customs, traditions and land tenure systems of the indigenous peoples concerned. Conservation actors should not support conservation interventions that displace indigenous peoples from their traditional lands, territories and resources in a manner that violates their human rights.

5.1.5 Right to life, integrity, liberty and security

Rights

Indigenous individuals – including elders, men, women, youth and children, with and without disabilities – have the right to life, physical and mental integrity, liberty and security of person. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples, to not be subjected to any act of genocide or other act of violence, and to be free from any kind of discrimination.

Indigenous peoples and individuals have the right not to be subjected to forced assimilation, destruction of their culture or forcible removal from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.³⁴

Context

In many documented cases, human rights abuses such as evictions are carried out with intimidation and (sometimes fatal) physical harm directed at community members and their supporters. This issue can arise, for example, where an external actor is promoting an intervention against the wishes of the community or where the area that has been targeted for an exclusionary conservation intervention is populated by an indigenous people who the government or dominant sections of society discriminate against.

Duties and responsibilities

Conservation actors must verify – independently of other partners' assurances or statements – that their interventions do not affect indigenous peoples' rights to life, physical and mental integrity, liberty or personal security. This includes engaging directly with indigenous peoples according to their rights to determine institutions for self-government and free, prior and informed consent, among others.

5.1.6 Right to a healthy environment

Rights

Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.³⁵

Context

Indigenous peoples have traditionally lived in ways that have supported both their customary livelihoods and the conservation and sustainable use of nature. They are increasingly recognised as the original conservationists, blending customary uses of natural resources with sophisticated systems that ensure sustainability.

Unfortunately, some conservation interventions are conducted without considering the “knowledge, innovations and practices”³⁶ of indigenous peoples, which can undermine their self-determined plans, including those relating to local customary use and conservation.

The international conservation community has increasingly recognised indigenous peoples' contribution to conservation. The IUCN, for example, has formally recognised the global importance of indigenous peoples' and local community conserved territories and areas and locally managed marine areas, among others.

Duties and responsibilities

Conservation actors should respect – through dialogue and direct engagement – the right of indigenous people to develop locally appropriate conservation strategies and partnerships with outside actors on their own terms.

5.1.7 Right to cultural, spiritual and religious traditions, customs, heritage and knowledge

Rights

Indigenous peoples have the right to manifest, develop, practise and revitalise all aspects of their cultural and spiritual traditions and customs and related institutional structures.

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies cultures and intellectual property.³⁷

Context

When conservation interventions deny indigenous peoples access to their lands, territories and/or resources, they affect the community's ability to conduct cultural, spiritual and religious traditions and customs on the land. Breaking ties with the land can damage tangible and intangible cultural heritage, erode traditional knowledge relating to the land and territory and cause the loss of access to and knowledge about traditional forms of medicine.

These effects can negatively impact conservation effectiveness because indigenous peoples' knowledge, innovations and practices are inextricably linked to the conservation and sustainable use of biodiversity, as recognised in the CBD.³⁸

Duties and responsibilities

Conservation interventions must be designed in a way that does not cause indigenous peoples to be evicted, relocated or excluded from their lands and territories, including areas that are relevant to their culture, spirituality and religion.

5.1.8 Right to traditional medicines and health practices

Rights

Indigenous peoples have the right to: traditional medicines; maintain their health practices; including the conservation of their vital medicinal plants, animals and minerals; and enjoy the highest attainable standard of physical and mental health.³⁹

Context

Indigenous peoples have developed a deep understanding of medicinal plants and their uses. Denying them access to their lands, territories and natural resources also denies them access to important traditional medicines. This impacts their ability to conserve their natural resources relevant to their health practices and erodes the knowledge base upon which their health practices are founded.

Duties and responsibilities

Conservation actors have the responsibility of ensuring that any conservation interventions consider the importance of indigenous peoples' health practices and related resources, and engage with indigenous peoples' institutions to better understand the issues and support this right.

5.1.9 Right to determine development priorities

Rights

Indigenous peoples have the right to: maintain and develop their political, economic and social systems or institutions; be secure in the enjoyment of their own means of subsistence and development; engage freely in all their traditional and other economic activities; and determine and develop priorities and strategies for exercising their right to development. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.⁴⁰

Context

When conservation interventions assume a particular development model or view of the ideal society, they can impose external worldviews, values and/or approaches on indigenous peoples. This can lead to project implementers infringing indigenous peoples' rights to pursue independent development, economic and social growth.

Duties and responsibilities

Conservation actors are responsible for ensuring that any proposed interventions are aligned with indigenous peoples' endogenous development priorities. This includes first understanding local development priorities, and if appropriate, co-developing conservation interventions with indigenous peoples as opposed to developing independent plans and then presenting these to the respective communities.

5.2 Rights most likely to be indirectly infringed

5.2.1 Right to transboundary relationships

Rights

Indigenous peoples – particularly those divided by international borders, have the right to maintain and develop contacts, relations and cooperation with their own members as well as other peoples across borders.⁴¹

Context

Some indigenous peoples transcend national borders. So an exclusionary conservation intervention – such as a strictly protected area – that runs along a national border or is transboundary in nature may divide otherwise connected parts of a community.

Duties and responsibilities

Conservation actors must work with such indigenous peoples to ensure that interventions that are near national borders or are transboundary in nature do not infringe peoples' right to maintain contacts, relations and cooperation across borders.

5.2.2 Right to use and maintain languages and knowledge

Rights

Indigenous peoples have the right to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.⁴²

Context

Activities such as eviction or forced relocation can lead to major social and cultural shifts in a community. This can include eroding their linguistic diversity, especially when they are not taught in their local language(s).

Duties and responsibilities

Conservation actors must ensure their interventions do not have any secondary effects that negatively impact indigenous peoples' rights to their own languages, oral traditions, philosophies, writing systems and literatures.

5.2.3 Right to appropriate education

Rights

Indigenous peoples have the right to establish and control their educational systems and institutions to provide education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. They also have the right to the dignity and diversity of their cultures, traditions, histories and aspirations, and for these to be appropriately reflected in education and public information.⁴³

Context

National education systems have, in some cases, proven to be particularly damaging to indigenous individuals and their cultural, spiritual and religious traditions and customs. In some cases, conservation interventions have led to the disruption of local or traditional educational systems and the imposition of national-level systems that are not adapted to cultural, spiritual, religious or linguistic diversity. This damages peoples' dignity and diversity, especially in the context of relocation.

Duties and responsibilities

Conservation actors are responsible for ensuring they consider interventions from the perspective of potential impacts on indigenous peoples' education systems, and for addressing any potential impacts.

5.2.4 Right to non-discriminatory employment

Rights

Indigenous individuals and peoples have the right to fully enjoy all rights established under applicable international and domestic labour law, and not to be subjected to any discriminatory conditions of labour and, *inter alia*, employment or salary.⁴⁴

Context

Indigenous peoples who have been treated unfairly in the course of conservation interventions might subsequently find themselves seeking employment in connection to the intervention. For example, people who were evicted or resettled from a protected area may try to find work with tourism groups operating in and around the area. Such employment can be exploitative and may involve carrying out unsafe work or pay less than the minimum wage.

Duties and responsibilities

Conservation actors are responsible for ensuring that interventions actively consider this right and do not promote discriminatory forms of employment.

5.3 Redress for infringements of rights

5.3.1 Right to redress

Rights

Indigenous peoples have the right to redress (including compensation) for any lands, territories and resources they have traditionally owned or otherwise occupied or used that are confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

States shall also provide effective mechanisms for the prevention of, and redress for:

- any action that has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities
- any action that has the aim or effect of dispossessing them of their lands, territories or resources
- any form of forced population transfer that has the aim or effect of violating or undermining any of their rights
- any form of forced assimilation or integration, and
- any form of propaganda designed to promote or incite racial or ethnic discrimination against them.

States shall provide redress through effective mechanisms that deliver prompt decisions. These mechanisms, which may include culturally appropriate restitution, should be developed in conjunction with indigenous peoples and ensure appropriate measures are in place to mitigate adverse environmental, economic, social, cultural or spiritual impact.⁴⁵

Context

In many reported cases of injustice caused by conservation initiatives, indigenous peoples have struggled to secure an equitable remedy. The reasons are both systemic and individual and emerge on a case-by-case basis. Regrettably, these include deliberate efforts by state agencies to deny indigenous peoples access to justice.

Duties and responsibilities

Conservation actors have a responsibility to submit themselves to any redress mechanisms that call on them to appear and to ensure that their conduct promotes effective and prompt decisions.

Next steps

6

These conservation standards are only useful if they can assist rightsholders and stakeholders in the course of conservation interventions. We actively encourage feedback from state and non-state conservation actors and proponents of indigenous peoples' rights both on this synthesis of rights and on the responsibilities we have assigned to conservation actors. We will present these draft standards at a range of international conservation events during 2016 to encourage discussion and collect feedback.

We welcome the opportunity to discuss these standards with individual conservation organisations and to explore how best to integrate them into their operating procedures. We recognise that a number of organisations already have initiatives that seek to strengthen the social performance of conservation interventions. We hope that the standards we present here will further support and strengthen these and look forward to discussing partnership opportunities with them.

6.1 The IUCN Green List of Protected and Conserved Areas

Also known as the Green List – aims to improve the contribution that such areas make to sustainable development through the conservation of nature and the social, economic, cultural, and spiritual values that come with it. The Green List aims to evaluate and reward success in achieving conservation outcomes and progress towards more equitable governance and effective management.⁴⁶ These conservation standards could usefully be integrated into the Green List's standard, which is currently under development, to ensure that human rights are dealt with comprehensively.

6.2 The Conservation Initiative on Human Rights (CIHR)

This a consortium of eight international conservation organisations with a shared interest in conservation and human rights that promote the integration of human rights in conservation policy and practice.⁴⁷ Under the CIHR, each participating organisation commits to uphold a set of human rights principles, which include: respecting human rights; promoting human rights within conservation programmes; protecting the vulnerable; and encouraging good governance.

CIHR members have committed to making additional efforts towards implementing the principles, according to their individual governance structures and operating partnership models, including:

- further developing the principles and implementation measures in consultation with individual constituencies
- establishing relevant institutional policies
- enhancing their own capacities to ensure their implementation
- implementation capacity is in place
- addressing conservation–human rights links in the design, implementation and monitoring of their programmes,
- establishing the appropriate accountability measures, and
- applying the policies and principles in agreements with subcontracting organisations and implementing partners.

The CIHR does not specify which human rights conservation programmes should respect or promote. The conservation standards in this paper help to clarify these rights and will help ensure consistency across CIHR partners and other conservation actors.

6.3 The Whakatane Mechanism

This non-judicial redress mechanism aims to assess the situation in different protected areas around the world and, where people are negatively affected, propose and implement solutions, and celebrate and support successful partnerships between peoples and protected areas. Since its inception in 2011, the mechanism has started three assessments: in the Democratic Republic of Congo, Kenya and Thailand. Officially launched at the World Parks Congress in 2014, it has recently developed a governance framework. These conservation standards could make an important contribution to ongoing and new assessments by ensuring that all parties to each assessment have a clear understanding of the law and providing a basis on which to discuss the issues.

6.4 Equity Framework for Protected Area Conservation

IIED, IUCN, the United Nations Environment Programme World Conservation Monitoring Centre, the University of Southampton and the University of East Anglia are developing and testing an Equity Framework for Protected Area Conservation. Broadly, equity is considered to have three dimensions that should apply in any field of conservation or development: recognition, procedure and distribution.

- Recognition means acknowledging – and respecting – the legitimacy of rights, values, interests, priorities and human dignity.

- Procedural equity means ensuring the effective participation of all actors, giving particular consideration to the right of indigenous peoples and local communities to free, prior and informed consent and enabling the participation of marginalised groups.
- Distributive equity is about how costs are distributed and benefits shared among stakeholders. To distribute costs and share benefits equitably, parties need to recognise power dynamics and establish strong procedures to avoid elite capture of benefits and imposing unmitigated costs on particular groups.

Our conservation standards cut across all three equity dimensions and can help operationalise the equity framework.

WE WELCOME YOUR FEEDBACK AND INPUTS!

IIED and Natural Justice look forward to engaging a range of partners on next steps to work together to further develop the conservation standards and ensure they are made locally effective.

Please send your comments to harry@naturaljustice.org and dilys.roe@iied.org

Appendix 1: The international instruments that underpin the conservation standards

A. Rights most likely to be directly infringed

1. Right to self-determination

- UN Declaration the Rights of Indigenous Peoples, Article 3
- International Covenant on Civil and Political Rights, Article 1(1)
- International Covenant on Economic, Social and Cultural Rights, Article 1(1)
- United Nations Declaration on the Right to Development, Article 5

2. Right to determine institutions for self-government

- UN Declaration the Rights of Indigenous Peoples, Articles 4, 5, 33(1), 34 and 35
- ILO Convention No. 169 Articles 6 and 8
- International Covenant on Civil and Political Rights, Article 25
- Declaration on the Rights of Minorities, Article 2(3)

- Tkarihwaí:ri Code of Ethical Conduct, Sections 3(27) and 3(30)
- Bonn Guidelines, Provision 16(a)(vii)

3. Right to free, prior and informed consent

- UN Declaration the Rights of Indigenous Peoples, Articles 18, 19, 29(2–3) and 30(2)
- ILO Convention No. 169, Article 15(2)
- FAO Tenure Guidelines No. 9(9)
- Nagoya Protocol, Articles 6(2) and 15(1)
- Bonn Guidelines, Provision 16(d)(ii), 25, 31 and 33
- Nagoya Protocol, Articles 7, 12(1) and 16(1)
- Tkarihwaí:ri Code of Ethical Conduct, Sections 2(8), 2(10) and 2(11)
- Akwé: Kon Guidelines No. 37, 53 and 60
- Aarhus Convention Article 4(1), 5(2), 6(2), 6(7), 7 and 9(1)

4. Rights to lands, territories and resources

- UN Declaration the Rights of Indigenous Peoples, Articles 8(2), 10, 25, 26(1)-(3), 27, 31(1) and 32
- ILO Convention No. 169, Articles 13(1), 14, 15(1), 16, 17 and 18
- CBD Article 10(c)
- FAO Tenure Guidelines No. 3(1-2), 4(1), 4(5), 4(8), 9(1-11) and 23(1-3)
- FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (FAO Food Security Guidelines) No. 8.10
- Tkarihwaí:ri Code of Ethical Conduct, Section 2(17-20)
- FAO Food Security Guidelines No. 8.1
- Nagoya Protocol Article 5(2), 5(5) & 12(4)
- Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity, Section B
- CBD Program of Work on Protected Areas, especially Element 2
- Akwé: Kon Guidelines No. 31, 56 and 57
- International Treaty on Plant Genetic Resources for Food and Agriculture, Article 5(1)
- UNCED Forest Principles, Paragraph 2(d)

5. Right to life, integrity, liberty and security

- UN Declaration the Rights of Indigenous Peoples, Articles 2, 7, 8(1), 10, 15(2), 22 and 44
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities), Article 4(1)
- ILO Convention No. 169, Articles 2, 3 and 23
- Convention on the Rights of the Child, Articles 8(1) and 17
- International Convention on the Elimination on All Forms of Racial Discrimination, Article 5
- Declaration on the Rights of Minorities, Article 2(2)
- FAO Food Security Guidelines, No. 2.5

6. Right to a healthy environment

- UN Declaration the Rights of Indigenous Peoples Article 29(1) and 41

7. Right to cultural, spiritual and religious traditions, customs, heritage and knowledge

- UN Declaration the Rights of Indigenous Peoples, Article 9, 11, 12(1-2), 15(1), 31(1-2) and 34
- ILO Convention No. 169, Article 5
- International Covenant on Civil and Political Rights, Articles 18 and 27
- Declaration on the Rights of Minorities Articles 1, 2(1) and 4(2)
- CBD Article 8(j)
- Akwé: Kon Voluntary Guidelines, Nos. 3, 24, 38 and 59
- Bonn Guidelines, Provisions 41 and 44(g)
- UNCED Forest Principles, Paragraphs 5 and 12(d)
- United Nations Forum on Forests Non-legally Binding Instrument on All Types of Forests, Provision 6(f)
- Convention on Intangible Cultural Heritage Articles 11 and 15
- FAO Food Security Guidelines No. 8.12
- Global Plan of Action for Animal Genetic Resources, Nos. 15 and 20
- Interlaken Declaration Article 12
- UNFCCC, Cancun Agreements, Paragraph 2 of Appendix I
- Tkarihwaí:ri Code of Ethical Conduct, Sections 1(4), 2(14) and 2(25)

8. Right to traditional medicines and health practices

- UN Declaration the Rights of Indigenous Peoples, Article 24(1-2)
- ILO Convention No. 169, Article 25
- International Covenant on Economic, Social and Cultural Rights, Article 12(1)
- Convention on the Rights of the Child Article 24(2)(c)

9. Right to determine development priorities

- UN Declaration the Rights of Indigenous Peoples, Articles 21(1-3) and 23
- ILO Convention No. 169, Article 7
- Declaration on the Right to Development, Articles 1, 2 and 8

B. Rights most likely to be indirectly infringed

1. Right to transboundary relationships

- UN Declaration the Rights of Indigenous Peoples, Article 36(1)

2. Right to use and maintain languages and knowledge

- UN Declaration the Rights of Indigenous Peoples, Article 13(1)
- Convention on Cultural Expressions, Articles 2(3), 2(6), 4(3–4), 5(1), 6(1) and 7(1)

3. Right to appropriate education, dignity and diversity

- UN Declaration the Rights of Indigenous Peoples, Articles 14(1) and 15(1)
- ILO Convention No. 169 Articles 27 and 28

4. Right to non-discriminatory employment

- UN Declaration the Rights of Indigenous Peoples, Article 17(1–3)
- ILO Convention No. 169, Articles 11 and 20(1–4)
- International Covenant on Economic, Social and Cultural Rights, Article 6

C. Redress for infringements of rights

Right to redress

- UN Declaration the Rights of Indigenous Peoples, Articles 8(2), 11(2), 20(2), 28(1), 32 and 40
- ILO Convention No. 169, Article 12
- International Covenant on Civil and Political Rights, Article 2(3) and 14(1)
- Aarhus Convention Article 1, 3(9) and 9(2)
- Akwé: Kon Guidelines, No. 22
- Tkarihwaí:ri Code of Ethical Conduct, Section 2(22)
- International Convention on the Elimination on All Forms of Racial Discrimination, Articles 5 and 6

Appendix 2: Key resources

Previous papers in this series

Jonas, H *et al.* (2014) An analysis of responsibilities, rights and redress for just conservation. <http://pubs.iied.org/14644IIED>

Jonas, H *et al.* (2014) Which international standards apply to conservation initiatives? <http://pubs.iied.org/14645IIED>

Makagon, J E (2014) Which redress mechanisms are available to peoples and communities affected by conservation initiatives? <http://pubs.iied.org/14646IIED>

Makagon, J E *et al.* (2014) To which conservation actors do international standards apply? <http://pubs.iied.org/14631IIED>

Supporting documents

Jonas, H and Dilke, A (2014) Human rights standards for conservation, supporting document 2: decisions of the Conference of the Parties to the Convention on Biological Diversity that reference indigenous peoples' and local communities rights and concerns: CBD COP VII, VIII, IX, X. <http://pubs.iied.org/G03848>

Jonas, H and Dilke, A (2014) Human rights standards for conservation, supporting document 3: IUCN resolutions that reference indigenous peoples' and local communities' rights and concerns. <http://pubs.iied.org/G03849>

Makagon, J E *et al.* (2014) Human rights standards for conservation, supporting document 1: provisions from international legal instruments relevant to the rights of indigenous peoples and local communities. <http://pubs.iied.org/G03847>

Full texts of key instruments

UNDRIP: www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

ILO 169: <http://tinyurl.com/jf883hd>

Relevant initiatives

Conservation Initiative on Human Rights: <http://tinyurl.com/z6kz52e>

Green List of Protected Areas: www.iucn.org/theme/protected-areas/our-work/green-list

Whakatane Mechanism: <http://whakatane-mechanism.org>

Equity Framework for Protected Area Conservation: www.iied.org/equity-justice-ecosystem-services-what-do-we-mean and <http://pubs.iied.org/17344IIED.html>

Notes and references

- 1 Full details of the research and a synthesis report are available at www.iied.org/human-rights-standards-for-conservation-rights-responsibilities-redress
- 2 See www.iucn.org/theme/protected-areas/our-work/green-list
- 3 See www.whakatane-mechanism.org
- 4 Jonas, H *et al.* (2014) Human rights standards for conservation: an analysis of responsibilities, rights and redress for just conservation. IIED research report. See <http://pubs.iied.org>
- 5 Expert testimony of the UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, before the Inter-American Court of Human Rights on the case of Kaliña and Lokono peoples vs. the government of Surinam. Presented on 3 February 2015 in Costa Rica.
- 6 See, for example, Marlin, R (23 September 2014) The Endorois decision – four years on, the Endorois still await action by the government of Kenya. Minority Rights Group International. Despite its claims to support the Endorois decision, “steps taken by the [Kenyan] government indicate the exact opposite and new legislation on Lake Bogoria threatens to further separate the Endorois from their land.” See <http://tinyurl.com/endorois>
- 7 See, for example, Sobrevila, C (2008) The role of indigenous peoples in biodiversity conservation: the natural but often forgotten partners. World Bank.
- 8 Source: Jonas, H *et al.* (2014) Human rights standards for conservation, part II: which international standards apply to conservation initiatives? IIED discussion paper. See <http://pubs.iied.org>
- 9 Xanthaki, A (2009) Indigenous rights in international law over the last 10 years and future developments. In *Melbourne Journal of International Law* 27: 29.
- 10 United Nations (2008) United Nations Declaration on the Rights of Indigenous People (UNDRIP). Preamble. See www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- 11 Anaya J (2013) The human rights of indigenous peoples: United Nations developments, 35 *University of Hawaii Law Review* 983.
- 12 Davis, M (2008) Indigenous struggles in standard-setting: the United Nations Declaration on the Rights of Indigenous Peoples. 9 *Melbourne Journal of International Law* 439: 465.
- 13 See Daes, EI (2011) The UN Declaration on the Rights of Indigenous Peoples: background and appraisal. In: Allen, S and Xanthaki, A (eds). *Reflections on the United Nations Declaration on the Rights of Indigenous Peoples*. Hart Publishing: Oxford.
- 14 Anaya J (2013) The human rights of indigenous peoples: United Nations developments, 35 *University of Hawaii Law Review* 983.
- 15 *ibid.*
- 16 UNFCCC (2011) Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010. Addendum Part Two: Action taken by the Conference of the Parties at its sixteenth session. See <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>
- 17 IFC Performance Standard 1 states: “In cases where the exact location of the project is not known, but it is reasonably expected to have significant impacts on local communities, the client will prepare a Stakeholder Engagement Framework”. The Rio Declaration on Environment and Development, Principle 22, states: “Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices.”
- 18 COP 12 Decision XII/12 Section F: Terminology “indigenous peoples and local communities”. See www.cbd.int/decision/cop/default.shtml?id=13375
- 19 CBD Secretariat (2013) Compilation of views received on use of the term “indigenous peoples and local communities”.
- 20 See <http://naturaljustice.org/resources-and-research/the-living-convention>
- 21 Notably, their order does not denote their importance.
- 22 www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

- 23 See <http://pubs.iied.org/pdfs/14631IIED.pdf> where this point is discussed in depth. Relying on the UN Guiding Principles in this context should not be taken as an endorsement of their position over other interpretations of the international duties of non-state actors.
- 24 UN Office of the High Commissioner of Human Rights (2012) *The corporate responsibility to respect human rights: an interpretive guide*.
- 25 UN Guiding Principles, Principle 1.
- 26 See, for example: the United Nations' Human rights based approach portal, at <http://hrbportal.org/faq> or the Center for Economic and Social Rights, Economic, Social and Cultural Rights' Guide to the legal framework, at www.cesr.org/article.php?id=262
- 27 Ruggie, J (15 May 2010) *The corporate responsibility to respect human rights*. See <http://tinyurl.com/haquayl>
- 28 Guzman, A (2005) *The design of international agreements*. *European Journal of International Law* Vol 16(4).
- 29 United Nations (2008) UNDRIP. Article 3
- 30 Adapted from Henriksen, J (2001) *Implementation of the right of self-determination of indigenous peoples, indigenous affairs*. IWGIA.
- 31 United Nations (2008) UNDRIP. Articles 4, 5, 33(1) and 35.
- 32 United Nations (2008) UNDRIP. Articles 18, 19 and 32.
- 33 United Nations (2008) UNDRIP. Articles 26, 32, 25 and 27.
- 34 United Nations (2008) UNDRIP. Articles 22, 7, 2, 8(1) and 10.
- 35 United Nations (2008) UNDRIP. Article 29(1)
- 36 UNFCCC (1992) *Convention on Biological Diversity*. Article 8(j).
- 37 United Nations (2008) UNDRIP, Articles 11(1), 12(1), 34 and 31
- 38 UNFCCC (1992) *Convention on Biological Diversity*, Articles 8(j) and 10(c).
- 39 United Nations (2008) UNDRIP, Article 24
- 40 United Nations (2008) UNDRIP, Articles 20 and 23
- 41 United Nations (2008) UNDRIP, Article 36(1)
- 42 United Nations (2008) UNDRIP, Article 13(1)
- 43 United Nations (2008) UNDRIP. Articles 14(1) and 15(1)
- 44 United Nations (2008) UNDRIP. Article 17.
- 45 United Nations (2008) UNDRIP. Articles 28(1), 8, 40, 11(2) and 32.
- 46 See www.iucn.org/theme/protected-areas/our-work/green-list
- 47 CIHR member NGOs are: IUCN; Birdlife International; Conservation International; Fauna & Flora International; The Nature Conservancy; Wetlands International; Wildlife Conservation Society; and WWF.

Although conservation interventions aim to protect biological and cultural diversity, they can affect communities in a number of ways. The vast body of international law, norms and standards protecting human rights offers little rights-based, practical guidance for conservation initiatives. Focusing on indigenous peoples, this paper aims to provide a set of draft conservation standards that outline:

- how indigenous peoples' rights are enshrined in international law
- how conservation interventions can infringe these rights
- which rights conservation actors need to be most aware of – and why – and
- conservation actors' responsibilities in upholding these rights.

The aim of this paper is to encourage discussion and collect feedback. We look forward to continuing to develop these conservation standards.

IIED is a policy and action research organisation. We promote sustainable development to improve livelihoods and protect the environments on which these livelihoods are built. We specialise in linking local priorities to global challenges. IIED is based in London and works in Africa, Asia, Latin America, the Middle East and the Pacific, with some of the world's most vulnerable people. We work with them to strengthen their voice in the decision-making arenas that affect them – from village councils to international conventions.



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