

An Introduction to Conservation and Human Rights for BirdLife Partners



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1. INTRODUCTION

The conservation of biodiversity and natural resources is closely linked to the fulfilment of human rights. Conservation can help create environments that provide sustainable supplies of the goods and services people need to live healthy, fulfilled and dignified lives – helping to fulfil people’s right to development and to life and livelihood. Secure rights, for example tenure and access to resources, can also contribute to conservation by providing the incentives and legal frameworks for careful stewardship of resources. However, conservation can also impact negatively on people’s rights, for example by denying access to resources, and weak rights (insecure tenure for example) can undermine conservation efforts.

BirdLife has committed to support and promote the realisation of human rights within the scope of its conservation programmes (BirdLife’s Position on Conservation and Human Rights can be found at www.birdlife.org/action/ground/conservation-rights/index.html). This document provides an introduction to the issue of human rights in the context of conservation, including some of the practical steps that should be taken to integrate human rights into projects and programmes. It is intended for conservation practitioners at all levels within BirdLife – from senior managers with responsibility for programme delivery and the conduct of organisations, to field-officers delivering conservation projects on the ground.

If you have suggestions or comments on this document or the issues it contains please send them to david.thomas@birdlife.org

2. WHAT ARE HUMAN RIGHTS?

The United Nations adopted the Universal Declaration of Human Rights in 1948. It represented the first international recognition that human rights and fundamental freedoms are applicable to every person, everywhere. Today it is the foundation of international human rights law and serves as a model for numerous international treaties and declarations and is incorporated in the constitutions and laws of many countries.

Rights are things to which one is entitled, and can lay claim, either legally, or morally. This document focuses on individual human rights, which refer to the basic rights and freedoms to which all people are entitled.

Human rights are based on core principles like dignity, fairness, equality, respect and autonomy. They are a basket of complementary rights that include, for example, civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education; and collective rights, such as the rights to development and self-determination.

There are broadly two categories of human rights:

- ⇒ **Distributional or Substantive rights** are focused on fairness in the distribution of costs and benefits and include issues of compensation.
- ⇒ **Procedural rights** comprise the right of individuals or communities to be heard and to have a voice in decision-making, and include the rights to information and provision of free prior informed consent, and other wider issues of recognition, representation, participation, empowerment, and redress and remedy or withdrawal.

Human rights entail both rights and obligations. States (*duty bearers*) assume obligations and duties under international law to respect, to protect and to fulfill human rights (of rights *holders*). At the individual level while we are entitled our human rights, we (and organisations) should also respect the human rights of others.

Some rights issues are founded on absolute principles that apply to every society (**universal standards**), whilst others are **context-specific** based on socio-cultural norms and standards. Human rights are universal, but a challenge is to implement rights-based frameworks that respect these universal principles and which also recognise differences in cultures, priorities and beliefs affecting the existence of other rights, obligations and claims at local and national level.

3. HOW DO CONSERVATION AND THE ENVIRONMENT RELATE TO HUMAN RIGHTS?

In this section, we begin to explore how our work as conservationists and environmentalists relates to human rights. Fundamental to this is people's right to a healthy, functioning environment, and in the following section we explore this, the right to life and a livelihood, the right to health, to fresh water, to practice one's own culture, to sustainable development, to information and to participation. We also pay particular attention to the rights of Indigenous Peoples.

The right to a healthy environment

At least in the long-term, many human rights depend on a 'healthy' environment that can meet people's needs by providing the goods and services on which we all depend. Therefore conservation has the potential to contribute to the fulfilment of people's rights by helping to secure the delivery of these environmental benefits (and equally, wilful failure to conserve the environment can harm human rights). Therefore access to a healthy environment is recognised as a human right and a number of international rights instruments put legal obligations on states and other parties to protect the environment and respect and fulfil the rights of the individual, of society, and of future generations (Box 1).

Box 1: The environment in International Rights Instruments

UN Charter for Nature (1982): "Every form of life is unique, warranting respect regardless of its worth to man.... All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and shall have access to means of redress when their environment has suffered damage or degradation."

UN Declaration on the Right to Development (1986): "States should undertake, at the national level, all necessary measures for the realisation of the right to development and shall ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income..." (UN Resolution 45/94 recognises "that all individuals are entitled to live in an environment adequate for their health and well-being").

The Rio Declaration on Environment and Development (1992): Refers to the right to a healthy and productive life in harmony with nature, emphasising that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations. It stresses the right of access to environmental information and to participation in environmental decision-making.

Draft Declaration of Principles on Human Rights and the Environment (1994): The most comprehensive international statement on environmental rights to date. Although non-binding legally, national courts have used the Draft Declaration as a basis for decisions on environmental matters, deciding in favour for the protection of the fundamental right to a healthy environment.

United Nations Commission on Human Rights: **Resolution 2003/71 on human rights and the environment** reaffirms the linkages between protection of the environment and protection of human rights.

The right to a healthy environment is also recognised in many regional constitutions and laws (for example, the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Article 11); the 1981 African Charter on Human and People's Rights (Article 24)). At national level many countries have also clearly stipulated provisions of environmental rights in their constitutions and legislation.

Some of the specific human rights that have a link to the environment are described in the following sections.¹

The right to life and livelihood

Activities that damage the environment, such as mining, industrial development or commercial logging, can deprive people of their livelihoods and cultural rights. Disasters which may be related to environmental degradation, such as flooding or landslides, can take peoples lives directly. Strict environmental protection which excludes people and deprives them of resources on which they are dependent, without providing viable alternatives, can affect people's right to a livelihood.

ACNR

In Rwanda at the Nyabarongo Wetlands IBA, ACNR (BirdLife in Rwanda) has built capacity among local people for sustainable management of reedbeds, and production of high quality handicrafts. Using income from sale of handicrafts community members are able to pay for health insurance and school fees for their children, helping to deliver on their rights to health and education.



Nature Iraq

BirdLife Affiliate Nature Iraq has worked to restore large areas of the Mesopotamian Marshes, that were drained in the 1990s by Saddam Hussein. The marshes are the source of water, food, shelter and income for the indigenous Marsh Arab tribes.



The right to health

This right may be threatened by environmental pollution, but also when people are deprived of livelihood opportunities. It is therefore closely related to the right to life.

David Thomas/BirdLife

In Europe, conservation has been shown to enhance people's wellbeing – for example, various studies show that access to green space and the experience of nature improve both physical and mental health.²



¹ For a fuller treatment see: Svadlenak-Gomez (September 2007) *Human Rights and Conservation*. TransLinks, USAID and WCS, from which parts of this section are summarised.

² BirdLife International (2007) *Wellbeing through Wildlife in the EU*. (www.birdlife.org/eu/pdfs/Wellbeing_EU_final_version_2mb.pdf)

The right to water

The availability and quality of water are affected by a number of environmental factors including land degradation, pollution, over-use and global-warming. Water quality and quantity can affect human health directly (e.g. adequate clean drinking water is important to prevent illness) and indirectly (e.g. by impacting on productive ecosystems, such as agriculture and fisheries, on which livelihoods depend). Access to safe drinking water is a right under the UN Convention of the Rights of the Child (Article 24) which has been ratified by 194 countries including every member of the United Nations except Somalia and the United States of America.



In Kenya, NatureKenya (BirdLife in Kenya) has worked with KENVO Local Conservation Group to conserve the Kikuyu Escarpment forests. These protect an important watershed, helping to secure water supply to millions of users downstream.

KENVO



BirdLife and Haiti Audubon Society are working with local communities in the buffer zone of the Macaya Biosphere Reserve in South-Western Haiti, to conserve and reforest the areas around the primary water sources with native plant species. This stabilises the slopes in the face of predicted increasing severity of Caribbean hurricanes associated with climate change, and ensures continued supplies of drinking water to local communities.

Sam Turvey (Zool. Soc. London)

The right to practise one's culture

Cultural rights most often refer to the rights of traditional and indigenous peoples to pursue activities that are important to their cultural identity. When a natural feature or habitat of importance to such groups is destroyed, or when access to areas to practise such customs is prohibited, their cultural rights are violated.

In the 1990s populations of three *Gyps* vulture species in parts of their ranges in South Asia fell by more than 95 percent in just three years. It is now known that the cause of the decline was exposure to carcasses of animals that had been treated with the drug diclofenac, which causes renal failure in *Gyps* vultures. The decline in vultures has had serious impacts on the ability of some religious groups, such as Parsees in India, to practise their culture, as the birds play a key part in their funerary rites. BirdLife's Partner in India, the Bombay Natural History Society, is working with the Indian Government to ban diclofenac and replace it with a safe alternative.



The right to development

Whilst development has been acknowledged as a right, it needs to be development which respects a broader set of environmental and equity issues if is not to violate other human rights. Sustainable development recognises the issue of intergenerational equity – the need to “meet the needs of the present without compromising the ability of future generations to meet their own needs”.³ Development which is environmentally destructive will fail to meet the needs of the future and will very often lead to inequities in the present as the poorest and most marginalised bear the costs. Development needs to be viewed as a broad process which respects both people and the environment.

At Mount Siburan IBA in the Philippines, the Haribon Foundation (BirdLife in the Philippines) has built capacity for sustainable agriculture around the forest ('Bio-Intensive Gardening'), reducing the pressures that were leading to forest encroachment, and helping to provide food security and improve nutrition through a diversified diet .



³ *Our Common Future* (1987), Oxford: Oxford University Press. Also commonly referred to as 'The Brundtland Report'.

The right to information

People have a right to obtain information upon request, and to be informed of planned projects, developments or other initiatives which will affect them, their environment or their natural resources. Of particular importance in the context of biodiversity conservation is the notion of free, prior and informed consent (FPIC), under which duty bearers are expected to obtain the agreement for specific activities from an appropriate entity (rights holders), following a consultative process involving full disclosure of all relevant information, sufficiently in advance of the activities commencing, and without coercion or manipulation. This concept is particularly applicable to the planning of conservation projects and other such initiatives, but it is also important to provide information throughout the programme cycle, as part of a continuous process. The principle of FPIC also extends to the use of indigenous knowledge and practices relating to the environment, and the sharing of any resulting benefits.

The right of access to information is central to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Article 1) and to Principle 10 of the Rio Declaration on Environment and Development (which requires that 'At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities...').



David Thomas/BirdLife

BirdLife Europe advocates public participation that is both timely and inclusive of civil society, whether community groups or environmental stakeholders. Environmental organisations can be an important source of baseline information, and can provide expertise on the potential impacts of different plan options. For example, IBAs (Key Natura 2000 sites) in North-East Poland have been under threat from damage by a series of road projects on the so called 'Via Baltica' international road corridor. The Aarhus Convention has been integrated into the EU's Strategic Environmental Assessment (SEA) directive and access to, and provision of information have been important in relation to the campaign by BirdLife, OTOPI (BirdLife in Poland), WWF and the Polish Green Network/CEE Bankwatch to have the road re-routed.

The right to participation

This refers to the procedural right to have a say in the decisions that are made. There exists a gradient in the level of participation in decision-making, from simple 'consultation' to active partnership of stakeholders in project conception, design, implementation, monitoring and evaluation; and from 'limited' participation to 'full and effective participation' of 'all relevant stakeholders' with special attention given to the most vulnerable groups, minorities and those sectors of society that are underrepresented.

In Ecuador, Aves y Conservación (BirdLife in Ecuador) has built capacity amongst Local Conservation Groups at IBAs in montane forests of Northwestern Pichincha, enabling them to participate more effectively in policy and planning processes that affect the use of ecosystems on which their livelihoods depend.



The rights of Indigenous Peoples

The rights of Indigenous Peoples are of special relevance to conservation for two main reasons. The first is that priority sites for biodiversity conservation frequently overlap with the territories of Indigenous Peoples. This is often because of Indigenous Peoples' custodianship of those lands which has meant that they have retained their value for biodiversity. Secondly, Indigenous Peoples very often have a close relationship to the land and to nature and therefore conservation has the potential to affect that relationship – both positively and negatively.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) sets out the individual and collective rights of indigenous peoples. Box 2 provides a summary of some practical rights-related issues concerning indigenous peoples that are relevant to conservation projects and programs, particularly in the case of protected areas.

The Cameroon Biodiversity Conservation Society (BirdLife in Cameroon) is implementing a project around the Ngovayang Massif which aims to empower the indigenous Bagyeli and Bakola communities to play a bigger role in forest management, and claim their rights to land and resources. A key goal has been to help people to obtain national identity cards. Without such recognition, it is hard for Indigenous People to make claims for tenure or government services. Even marketing of non-timber forest products is made problematic, as travel through check points is difficult without identification.



Box 2: Indigenous and other traditional communities' rights at protected areas⁴

The following indigenous and other traditional communities' rights should be respected, in relation to the lands, territories, waters, coastal seas and other resources which they traditionally own or otherwise occupy or use, and which fall within protected areas, subject to agreements with the agencies in charge of national protected area systems, and in the context of agreed management regulations and plans:

- ⇒ rights with regard to sustainable, traditional use of their lands and resources
- ⇒ rights to participate in management
- ⇒ rights to participate in decision-making
- ⇒ rights to participate in determining priorities and strategies for the development or use of their lands
- ⇒ rights to use their own traditional institutions and authorities to co-manage their lands and resources
- ⇒ rights to require that States obtain the free and informed consent of the respective communities, prior to the approval of any project affecting their lands and resources
- ⇒ rights to improve the quality of their lives, and to benefit directly and equitably from the conservation and ecologically sustainable use of natural resources
- ⇒ collective rights to maintain and enjoy their cultural and intellectual heritage, and the knowledge related to biodiversity and natural resource management
- ⇒ rights not to be removed from the zones they have traditionally occupied within protected areas

As highlighted in Box 2, substantive rights around the use of land and natural resources are at the heart of Indigenous Peoples' rights. Crucial to the survival of Indigenous Peoples is their ability to remain on their lands and territories and to have access to associated natural resources. However, customary land rights are not always recognised by governments and this can present special challenges for conservation organisations working in such areas.



The BirdLife International Fiji Programme adopted a process designed to recognise and support the rights of Indigenous Peoples when it helped to develop community-managed protected areas at Natewa and Kadavu Important Bird Areas. The landowning clans and all members of the community were consulted and participated in the decision-making process (the clan leaders wouldn't have approved the protected area designation without the wider consent and commitment of clan members). The communities themselves set the priorities and action plans for the management of the sites. They also put together a strategy to ensure that small projects and enterprises are established to enhance their livelihoods, including payment for ecosystem services.

⁴ Summarised from: IUCN - World Conservation Union; WCPA - World Commission on Protected Areas; and WWF - World Wide Fund For Nature. Principles And Guidelines On Indigenous And Traditional Peoples And Protected Areas. Joint Policy Statement. (Downloaded from www.worldwildlife.org/what/communityaction/people/partneringwith/WWFBinaryitem6053.pdf)

4. WHY DO WE NEED TO TAKE HUMAN RIGHTS INTO ACCOUNT?

For environmentalists and conservationists whose core mission is sustaining biodiversity at all levels, there are, as well as the simple moral obligation, several reasons for taking account of Human Rights.

Moral obligation

Conservation organisations have a moral or ethical duty to respect the rights of people, as well as the rights of non-human living things. Addressing human rights in conservation is an issue of our ethical obligation to the people whose lives are affected by our actions, to the global community of stakeholders and rights holders who value biodiversity, wherever it exists, and to future generations whose lives may be enriched or impoverished depending on the decisions we make today.

Legal requirements

Internationally, the Universal Declaration on Human Rights (UDHR) is a global expression of the rights to which all humans are entitled and provides a foundational instrument concerning human rights. Its 30 articles have since been elaborated in a number of international treaties, regional human rights instruments, national constitutions and laws. Even though not formally legally binding, the Declaration has been adopted in or influenced most national constitutions and many international lawyers believe that the Declaration forms part of customary international law and is a powerful tool in applying diplomatic and moral pressure to governments that violate its articles. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) sets out the individual and collective rights of indigenous peoples, as well as their rights to culture, identity, language, employment, health, education and other issues. The UDHR and UNDRIP are just part of a body of human rights law that exists at international, regional and national level.

Practical grounds

Failure to respect, ensure and fulfil internationally and domestically guaranteed human rights can lead to environmental destruction by ignoring the needs of individuals and groups who could contribute to conservation. For example, a recent review of the CBD Programme of Work on Protected Areas found a correlation between management effectiveness and participation of local people⁵. Quite simply, conservation will often be more effective if people's rights are respected and fulfilled:

- ⇒ Local people who benefit from conservation and who are better able to meet their needs and achieve their development objectives are more likely to change any behaviours that damage the environment through overexploitation.
- ⇒ Local and indigenous people often have knowledge, skills and organisational capacities that are useful and relevant in resource management.
- ⇒ People are more likely to follow resource management agreements and rules if they have had input into these agreements. Participation in decision-making makes it more likely that the agreements will meet their needs and will reflect what is achievable⁶.

⁵ IUCN WCPA 2010. Next Steps: Convention on Biological Diversity Programme of Work on Protected Areas, Gland Switzerland

⁶ R.J. Fisher, Stewart Maginnis, W.J. Jackson, Edmund Barrow and Sally Jeanrenaud (2005) *Poverty and Conservation: Landscapes, People and Power*. IUCN

Donor and programme requirements

In response to the moral and international legal obligations of duty-bearers, many donors and conservation programmes now include human rights among the criteria of eligibility to receive funds or to participate (e.g. the REDD+ Social and Environmental Standards being developed for used by governments, NGOs, financing agencies and other stakeholders to design and implement REDD+ programs). Donors and programmes often have very specific eligibility criteria and requirements for verification. Also, many marks of 'quality', increasingly important where conservation projects aim to produce goods for international markets, apply standards concerning respect and promotion of rights (for example, Rain Forest Alliance certification requires producers to demonstrate that goods were produced in compliance with strict guidelines protecting the environment, wildlife, workers and local communities).



In Paraguay, Guyra Paraguay (BirdLife in Paraguay) has been working with indigenous communities in the Oriental and Chaco forests to form a carbon offsetting project. This project has been awarded the CCBA Gold Standard, recognising its Exceptional Community Benefits, in part because of its public consultation work that sought input into the project design and used visual information provision methods (e.g. participatory mapping exercises) to provide information to illiterate community members; and because of the rigorous community consent process that was undertaken.

5. IS THERE POTENTIAL FOR CONSERVATION TO HAVE A NEGATIVE IMPACT ON HUMAN RIGHTS?

Measures for the conservation of biodiversity and the sustainable use of ecosystems very often require changes in the way natural resources are managed, affecting how, when, how much and by whom natural resources, ecosystem services and biodiversity are used. From what has been said above about the links between human rights and the environment, it is clear that steps taken to conserve biodiversity can affect peoples' rights in positive ways.

However, there is also a danger that people's human rights might be *negatively* affected by conservation. Examples of where this might happen include:

- ⇒ Where a protected area restricts people's access to resources which they have traditionally used, depriving them of the resources on which their livelihoods are based.
- ⇒ Where decisions on the use and management of resources are made without consulting traditional or customary owners, users or managers.
- ⇒ Where access restrictions prevent people from accessing essential services (e.g. if creation of a strict protected area prevents children from travelling to school, or attending a clinic because they can no longer travel through the park).
- ⇒ Where benefits from conservation (e.g. tourism revenue, income from sale of carbon or other ecosystem services) are not shared equitably with or among customary owners or managers of the resource.

Conservation can also help to uphold peoples' rights by taking action that ensures equitable, sustainable access to natural resources. *Failing* to take action in such cases may lead to peoples' rights being undermined. For example:

- ⇒ Where upstream dams threaten to destroy a wetland on which local people depend, affecting their right to an adequate standard of living.
- ⇒ Where a mine risks polluting soils and aquifers, affecting people's right to health.
- ⇒ Where bush-meat is being over-harvested, affecting people's subsistence rights.

The way that conservation (as an activity) is conducted also has human rights implications. As outlined earlier and in Box 2, local communities and Indigenous Peoples have rights to participate in management and decision-making, rights to grant or withhold consent and rights to information. It isn't only **what** is conserved that is important – **how** it is conserved is just as significant in terms of delivering fair outcomes to society.

As a conservation organisation BirdLife is clearly in a position to affect people's rights through the work that it does. We therefore have a responsibility to be accountable for the impacts of our work on people and their rights.

6. HOW DO HUMAN RIGHTS AND CONSERVATION AFFECT OTHER KINDS OF RIGHT?

Although there is not universal agreement on their existence, scope, or application, there is growing recognition of rights in addition to individual human rights, including the rights of future generations and the rights of nature (Box 3).

Box 3. Different categories of Rights

Rights of Nature. Although most law treats nature as property, there is a growing movement that seeks to change the relationship between humans and the natural world. In the constitution of Ecuador, for example, ecosystems are recognised as possessing the right to exist and flourish, and people possess the legal authority to enforce those rights on behalf of ecosystems (and the government is required to rectify any violations of those rights). In January 2011, Bolivia became the world's first nation to grant the natural environment equal rights to humans. Bolivia's Law of Mother Earth establishes 11 rights for nature that include: the right to life and to exist; the right to pure water and clean air; and the right to not have cellular structure modified or genetically altered.

Rights of Future Generations. Our responsibility to future generations is grounded on the theory that all members of each generation of human beings inherit the earth from past generations and have a duty to pass on this heritage to future generations in no worse condition than it was received. Notwithstanding the problem of assigning rights to individuals or groups that don't yet exist, many international environmental agreements, including the 1992 Rio Declaration on Environment and Development, support and are based on this view.

Another consideration is that many environmental services provided by ecosystems are of societal benefit – clean air, fresh water, carbon sequestration, soil formation and pollination for example. In exercising individual human rights and freedoms, which may impact on these services, it is important that the welfare and rights of others in society are recognised and respected⁷.

In most cases individual human rights, conservation objectives, the welfare of society, and the rights of nature and future generations will be aligned. However, there may also be instances where competing rights claims present themselves. An example might include where the activities of communities or an individual farmer clearing vegetation within a forested watershed threaten the water supply to communities downstream - while local people may feel that they have customary rights to the resources of the land they farm, government may claim to be protecting the welfare of society, and the rights of individuals downstream, by declaring the land a protected area in order to protect water supplies. Even where rights are not universal (e.g. the rights of nature) they may be values held passionately by some rights-holders. For example, individuals harvesting species of wildlife for subsistence use or sale may threaten to drive it to extinction, but the species may be valued by other stakeholders, for whatever reason. Or threatened wildlife that is the focus of an organisation's conservation efforts may be endangering people's lives and livelihoods by damaging their crops. Such instances may pitch the rights of one individual against those of another.

Such conflicts between the rights of individuals (to land and resources), the welfare of society (based on services that are common goods) and the rights of nature (to exist) need to be negotiated and balanced and may require tradeoffs, compromise and compensation.

There are no simple solutions to this problem, but a participatory approach involving all relevant stakeholders and with provision of full information will help to achieve a negotiated solution. And on the positive side, as has already been illustrated, synergies do exist among rights at different levels and these can be built upon by conservationists.

⁷ Article 29 of the Universal Declaration of Human Rights.

7. WHAT COMMITMENT HAS BIRDLIFE MADE TO HUMAN RIGHTS?

BirdLife has adopted a position on Conservation and Rights. The core commitments of this position are contained in the Box below.

Box 4: BirdLife's commitment to human rights

The following is an extract from "**Conserving Biodiversity, Respecting Rights: BirdLife's Position**", adopted 23 July 2010. The full document can be found at: www.birdlife.org/action/ground/conservation-rights/index.html

BirdLife reaffirms its commitment to support the basic and procedural rights of the individual within its sphere of influence, and within a framework that brings these rights alongside those of future generations, wider society, and other species. BirdLife will:

- ⇒ respect internationally proclaimed human rights as contained in the Universal Declaration on Human Rights;
- ⇒ support and promote the realisation of human rights wherever appropriate within the scope of our conservation programmes;
- ⇒ strive to avoid harming the most vulnerable*;
- ⇒ and promote the improvement of governance systems that can secure the rights of local people, as they relate to conservation and the ecologically sustainable use of natural resources.

BirdLife is a Partnership of autonomous, grassroots conservation organisations. Thus this commitment will be implemented by individual BirdLife Partners in a way appropriate to national and local social, cultural and economic circumstances.

** BirdLife works in many political and social environments, where we may have little or no control or influence over circumstances at national and local level. However, BirdLife will work to ensure the most vulnerable are fairly and justly heard and represented.*

8. WHAT DOES THIS MEAN IN PRACTICE: HOW CAN WE MAKE SURE THAT WE DELIVER ON BIRDLIFE'S COMMITMENTS IN OUR PROJECTS AND PROGRAMMES?

There isn't a blueprint approach to addressing conservation and human rights, but several 'check-lists' or frameworks have been developed to help guide conservation projects in this area. The following considerations in the project process (conception, design, management and implementation, monitoring and evaluation) will help to ensure that human rights are effectively integrated into conservation.

Ensure genuine participation

It is of central importance to ensure the effective participation of local communities, Indigenous Peoples and other key stakeholders. Putting in place a process which ensures that people are provided with full information (in languages or media that they can use and understand); recognising the social, cultural and economic diversity that exists within and between affected communities (so not treating them as a homogeneous group of 'stakeholders'); building local capacity; and supporting local participation in decision-making, are some of the key mechanisms. This not only fulfils procedural rights *per se*, but also helps to provide a forum through which negative impacts on other rights can be avoided (and positive impacts enhanced).



Protecting Canada's boreal forest from the threats of development also protects the livelihoods of the region's indigenous communities, many of whom still live very close to the land. When bird populations decline or are impacted by habitat loss or toxic contamination this impacts the families in the communities. Therefore conservationists and Canada's First Nations have a common interest in protecting and conserving habitat that is important to migratory birds. Nature Canada recognises and supports First Nations harvesting and other traditional uses of the land and has been meeting with Indigenous peoples of James Bay and Hudson Bay, to explore opportunities to integrate habitat and bird conservation into their land-use planning and resource management initiatives – respecting and supporting their right to livelihood, information and participation.

Ted Cheskey

Box 5. Participation and Local Conservation Groups

BirdLife's Local Conservation Group approach can help provide the conditions for addressing procedural rights. Members of Local Conservation Group are generally from local communities, and the focus is on developing a partnership for conservation and sustainable use between the LCG and BirdLife – seeking the common ground between biodiversity conservation objectives and local people's economic, social and cultural interests. A focus is often on empowering and building institutional capacity of LCGs, and providing LCGs with the information they need to make informed decisions (and to inform the decisions of others). Although LCGs are often comprised of only a small part of communities at IBAs, and so may not always be fully representative (of typically very heterogeneous communities), they nevertheless provide an important entry point to the wider community. The long-term commitment implied by the LCG approach is also important, in that it gives time for the necessary relationship of trust and partnership to develop.

Undertake a situation analysis

Before embarking on the conservation intervention it is important to carry out a situation analysis in as much detail as possible, and proportionate to the scale of the project. Understanding the situation right from the start helps to ensure that all relevant stakeholders are involved in decisions, and can avoid costly mistakes being made further down the line. Some things to include might be:

- ⇒ Who are the actors/stakeholders and what are their roles, responsibilities, powers and influence?
- ⇒ What legal and customary rights and duties exist?
- ⇒ What are the likely potential impacts of the proposed activity or conservation project, and who will be affected (including impacts at a scale larger than individual communities, i.e. negative offsite stakeholder and environmental impacts)?
- ⇒ If there is a potential for conflicts, and if so, how might they be resolved?

In the wetlands of the lower Mahavavy River basin in NW Madagascar BirdLife International has worked with the government and other local stakeholders to develop institutional and technological models and management systems for sustainable, community-based wetland management. This required dissemination of information, awareness-raising and consultations with stakeholders, especially local communities in remote, rural areas. BirdLife collaborated with the UK NGO Dodwell Trust and its Malagasy counterpart Mitondrasoa, which specialise in the development and broadcasting of radio programmes to support rural development in Madagascar. Solar/clockwork radios were distributed to 24 listener groups and programmes were designed specifically for use at the Mahavavy, using local dialects.



Ensure Free, Prior and Informed Consent (FPIC)

Free, Prior and Informed Consent (FPIC) is an important collective right that can help make projects more sustainable. FPIC is a specific right of Indigenous Peoples as recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It has been stated as the right “to give or withhold their free, prior and informed consent to actions that affect their lands, territories and natural resources”. Although FPIC as a *right* applies to Indigenous Peoples, all local communities affected by conservation activities should be able to participate in effective decision-making and negotiation, and their views and traditional and indigenous knowledge should be respected and accounted for. Box 6 explains what FPIC means.

Provide information

It is important that all those likely to be affected by the conservation activity are made fully aware of what is being proposed. This may require information to be compiled and then disseminated in an understandable and easily accessible way (with attention to language and also the format – a verbal presentation or a visual participatory process may be more appropriate than providing written materials in cases where there are high levels of illiteracy).

Box 6. An explanation of FPIC

(Adapted from: Christina Hill, Serena Lillywhite and Michael Simon (2010) Guide to Free, Prior Informed Consent. Oxfam Australia, Victoria, Australia.)

- ⇒ Free from force, intimidation, manipulation, coercion or pressure by any government or company.
- ⇒ Prior to government allocating land for particular land uses and prior to approval of specific projects. Communities affected must be given enough time to consider all the information and make a decision.
- ⇒ Informed – communities must be given all the relevant information to make their decision about whether to agree to the project or not. Also:
 - ⇒ this information must be in a language that they can easily understand and in a format that is accessible (e.g. for illiterate communities);
 - ⇒ they must have access to independent information;
 - ⇒ they must also have access to experts on law and technical issues, if requested, to help make their decision.
- ⇒ Consent requires that indigenous communities are allowed to say “Yes” or “No” to the project and at each stage of the project, according to the decision-making process of their choice. The right to give or withhold consent is the most important difference between the rights of Indigenous Peoples and other project-affected peoples.

Avoid displacement; provide appropriate alternatives or compensation

The displacement of people (whether physical or socioeconomic, or both), and the taking away of rights and property in the name of conservation and the creation of protected areas, has received much negative media attention. There is justifiable concern at how taking away rights and property has impacted on the livelihoods of local people, especially where compensation is lacking, inappropriate or inadequate. Ideally, displacement should be avoided. However, some kind of ‘socioeconomic’ displacement is a frequent feature of conservation management, since conservation very often requires access to and harvest of wild resources (plants and animals) to be regulated or modified. In this case it is important to adopt a process that involves the participation of all those affected, and to provide adequate and appropriate alternatives to the livelihood dimensions affected and the necessary training, capacity building and infrastructure.

Share benefits

Benefits from conservation often accrue at the national or international level (e.g. climate change mitigation from forest conservation), whilst costs (forgone opportunities to develop land or harvest resources) are borne locally. Similarly with genetic resources, profits have often accrued to agriculture and pharmaceutical industries with little local benefit. Conservation projects need to examine how the costs and benefits are allocated, and ensure that distribution is equitable.

Link conservation and livelihoods

Because conservation has a focus on biodiversity, which provides important goods and services to rural people, there is the potential for conservation measures to impact both positively and negatively on people's livelihoods. Taking a livelihoods-based approach to conservation, which seeks to understand the links and include measures which aim to *enhance* the benefits from sustainable management of natural resources, can help to ensure that the rights of people affected by conservation projects are fulfilled through project interventions, rather than infringed. This can be achieved through, for example, improved and new markets for natural resource based products; developing schemes which provide payment for ecosystem services; building local capacity for better management of natural resources; and working with local communities on ecosystem-based approaches for climate change adaptation.

David Thomas/BirdLife

In Malawi, the Wildlife and Environment Society of Malawi (WESM, BirdLife in Malawi) is working with communities around the Mount Mulange Forest Reserve. The project is helping people develop livelihoods such as fish farming and beekeeping as alternatives to those based on illegal and unsustainable extraction of timber from the reserve.



Monitor, evaluate and communicate

Putting in place an effective monitoring and evaluation (M&E) framework, including a baseline, will help to assess the impacts of conservation activities on local people, providing 'early warning' of potential impacts on local people, and also a record of good practice that will facilitate more effective lesson learning and sharing. Participatory approaches to M&E which involve the local community and incorporate their chosen measures of impact will help ensure that relevant criteria are included and add validity to the results. It is also important to ensure that there are open channels of communication to all community members, providing opportunity for informal feedback.

9. A FRAMEWORK FOR INTEGRATING RIGHTS ISSUES INTO PLANNING AND IMPLEMENTATION OF CONSERVATION PROJECTS AND PROGRAMMES

To effectively integrate rights into conservation projects and programmes it is essential to understand factors such as people's relations with their environment, who has control and rights of access, who makes the decisions, and how the environment is used and valued. Such an analysis needs to differentiate within communities, recognising that there will be differing patterns of use between different sectors of society – women and men, different ethnic groups, land owners and landless people. The checklist below provides a basic framework of actions and information that can help ensure that conservation activities respect, and help fulfil people's rights. For more detailed guidance and information on methodologies to support implementation of this checklist refer to the '*Where to go for more information*' section that follows.

It is up to individual project managers to tailor the project process to the local situation (including the scale of the project and the risks attached) and to respond to information received to design projects which respond effectively to local contexts. Meeting these requirements, and answering the questions in Box 7 (and responding to them in project design), will help to ensure that projects effectively integrate human rights.

It is good practice to produce a report, even for small projects (where the depth of analysis will be much less) containing the information below, and to carefully document the process, the participants and the level and type of their engagement, recording how project design decisions have responded to rights issues. Making this information available to rights holders and stakeholders would help confirm its accuracy, and provide a process whereby conservation and human rights can be more effectively integrated during project implementation.

Box 7. Some analytical questions related to rights issues in conservation projects and programmes

1. Have you carried out a situational analysis?

- ⇒ What land and environmental goods and services are affected by the proposed action and how are they used?
- ⇒ Who are the potential right-holders, duty bearers, and other stakeholders?
- ⇒ Who are the most vulnerable groups likely to be affected (positively or negatively) by the impacts of the conservation activity?
- ⇒ What rights are most likely to be affected (positively or negatively) by the proposed activities (e.g. land tenure, water and resource access, participation and information, culture etc.)?

2. Do you understand issues concerning resource management?

- ⇒ What processes, mechanisms, and forums are used to manage resources? Why are they used?
- ⇒ Who is included, and who is left out?
- ⇒ Who manages, and who will control the conservation project or programme? And for whom?
- ⇒ Who participates in the decision making process, and how? Who does not, and why?

3. Do you understand issues pertaining to substantive and distributive rights?

- ⇒ Who has access to resources, and who has not?
- ⇒ Who gets what, and how much?
- ⇒ Who benefits, and who does not? Who loses, and why?
- ⇒ How will the substantive rights of individuals and communities be addressed in the project?
- ⇒ How fairly will any benefits from the conservation project/programme be distributed?

4. Do you have a project process that ensures participation?

- ⇒ Have you undertaken consultations with rights holders and stakeholders?
- ⇒ At what level is the community participating (are they informed, consulted, involved, engaged or empowered?).
- ⇒ Does the project process seek and promote free, prior informed consent?
- ⇒ Is the project likely to involve trade-offs between e.g. rights of individuals, rights of society etc. If so, are mediation, administrative procedures or other mechanisms in place to help resolve competing rights issues?

5. Have you provided local people with information?

- ⇒ Have you compiled, published or otherwise disseminated information about the activity in an understandable and easily accessible way?
- ⇒ Have you disseminated specific information regarding legal rights, claims and duties of people potentially affected by the project/activities?

6. Have you established a monitoring plan?

- ⇒ Have you established pre-defined objectives in relation to conservation and human rights against which the project's performance can be assessed?
- ⇒ Is there a plan for a post-project analysis?
- ⇒ Does a process exist for enforcement of rights and resolution of conflicts should they arise?

10. WHERE TO GO FOR MORE INFORMATION

Legislation and Conventions

For some general background on human rights in general, and the UDHR specifically, the website of the Office of the United Nations High Commissioner for Human Rights is a good place to start:

www.ohchr.org/EN/Pages/Welcomepage.aspx

Although focused on human rights and development, this document provides some clear explanations of what rights are and their relevance to a development agenda, much of which is also relevant in a conservation context: Office Of The United Nations High Commissioner For Human Rights (2006) *Frequently Asked Questions On A Human Rights-Based Approach To Development Cooperation*. United Nations, New York and Geneva.

www.ohchr.org/Documents/Publications/FAQen.pdf

Human rights and conservation

Svadlenak-Gomez (September 2007) *Human Rights and Conservation* describes itself as “intended primarily for conservation practitioners as a framework for considering and integrating human rights issues that arise in biodiversity conservation contexts. It purposely avoids an academic or legal treatment of the subject”. It is available from: <http://tinyurl.com/TranslinksBriefingHumanRights>

Special issue of *Policy Matters* (Number 15, 2007) on Conservation and Human Rights. This issue contains a collection of articles from around the world, exploring how conservation and human rights can support one another, but also how conservation can undermine human rights.

www.iucn.org/about/union/commissions/ceesp/ceesp_publications/pm/

Jenny Springer and Jessica Campese with Michael Painter (October 2011) *Conservation and Human Rights: Key Issues and Contexts*. This paper focuses on practical issues in the design and implementation of conservation strategies. It provides an introduction to international rights frameworks, identifies key issues at the intersection of conservation and human rights, and explores practical approaches to address these issues in conservation contexts. Available at: <https://community.iucn.org/cihr/pages/Resources.aspx>

Guidelines for projects

The following publication includes some step-wise guidance on implementing a rights-based approach to conservation (Chapter 2) and detailed descriptions of its application in different contexts, including at protected areas: Greiber, Thomas (Ed.) 2009. *Conservation with Justice. A Rights-based Approach*. IUCN, Gland, Switzerland. xiv + 118 pp. <http://data.iucn.org/dbtw-wpd/edocs/EPLP-071.pdf>

The ‘general’ section (G1 – G5) of the Carbon, Community and Biodiversity Alliance standards provides some useful rules and guidance designed to encourage effective and integrated project design.

http://climate-standards.org/standards/pdf/ccb_standards_second_edition_december_2008.pdf

Although focused on environmental and social impact assessment, the Akwé: Kon Guidelines provide a number of principles (Section III: Procedural Considerations) of general relevance to conservation projects. *Akwé: Kon Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities* (Secretariat of the Convention on Biological Diversity, 2004). www.cbd.int/doc/publications/akwe-brochure-en.pdf

Free Prior and Informed Consent

Oxfam Australia has produced a guide to Free Prior and Informed Consent:

www.oxfam.org.au/resources/filestore/originals/OAUs-GuideToFreePriorInformedConsent-0610.pdf

The Forest Carbon Partnership Facility (FCPF) has produced some technical guidance on how to prepare an effective Consultation and Participation Plan. Although produced in relation to REDD the guidelines have general relevance to other kinds of projects: <http://tinyurl.com/FCPF-Participation-Guidance>

Rights of Indigenous Peoples

The Network on Indigenous Peoples, Gender and Natural Resource Management (IGNARM) www.ignarm.dk/ includes a section on guidelines and resources, as well as a database of documents dealing with the interplay between Indigenous Peoples, gender, and natural resource management.

WWF have produced guidelines to support the implementation of WWF's Statement of Principles on Indigenous Peoples and conservation. They provide practical guidelines for mainstreaming these principles into programme and project management: Larsen, Peter Bille and Jenny Springer 2008. *Mainstreaming WWF Principles on Indigenous Peoples and Conservation in Project and Programme Management*. Gland, Switzerland and Washington, DC: WWF. www.panda.org/standards/mainstreaming_wwf_principles/

Websites for resources

IUCN has a programme on Social Policy: www.iucn.org/about/work/programmes/social_policy/

From these pages it is possible to access publications, information and updates on a range of social issues relevant to conservation, including human rights, governance of natural resources, poverty, indigenous peoples, social equity and gender.

BirdLife is a member of the Conservation Initiative on Human Rights (CIHR), a consortium of international conservation NGOs that seek to improve the practice of conservation by promoting integration of human rights in conservation policy and practice. Information on the CIHR can be found at:

<https://community.iucn.org/cihr>

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