

INFORMING THE DEVELOPMENT OF A STANDARD FOR RESILIENT HUMAN-WILDLIFE CO-EXISTENCE

Report on Rights, Responsibilities and Relationships

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Front cover image: A member of the Community Elephant Ranger Team with a Borneo elephant, Sabah Malaysia. © Forever Sabah

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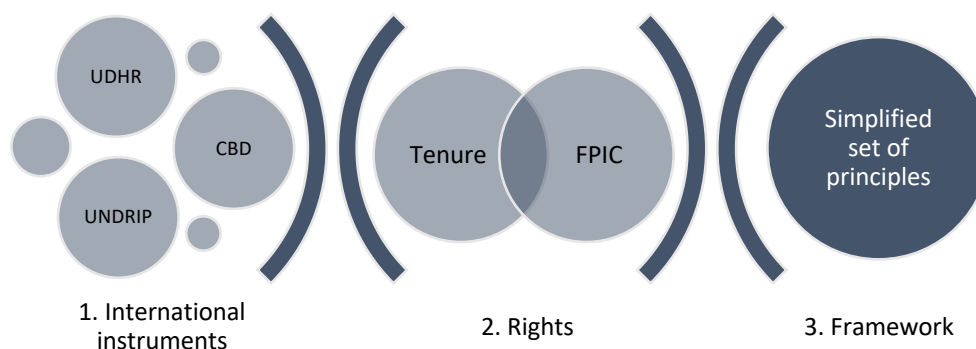
EXECUTIVE SUMMARY

The IUCN SSC Human-Wildlife Conflict Task Force describes human-wildlife conflict as struggles that emerge when the presence or behaviour of wildlife poses actual or perceived, direct and recurring threat to human interests or needs, leading to disagreements between groups of people and negative impacts on people and/ or wildlife. This report presents research to inform the development of a standard for human-wildlife co-existence, with a focus on human rights. It sets out to answer the following three questions:

- How do other frameworks incorporate human rights and what are the pros and cons of considering these aspects for the development of the human-wildlife coexistence standard?
- Which standards and agreements on human rights and the rights of Indigenous peoples, peasants and local communities should a standard in human-wildlife coexistence consider?
- Which stakeholder groups and international human rights processes should be engaged with to develop the HWC standard?

Towards these ends, we engaged with UN and World Bank level documents (3), standards (4), guidelines, frameworks and tools (5), industry roundtables (2) and other relevant documents (5) to assess which human rights standards they included and how they included them. Follow up communication (email/calls) was conducted with Sue Stolton (Equilibrium research and CA|TS), Jessica Campese and Barbara Nakangu (IUCN Natural Resource Governance Framework), Alexandra Zimmermann (University of Oxford and IUCN SSC Human-Wildlife Conflict Task Force) and Phil Franks (IIED and SAGE).

The findings demonstrate a great diversity in the way the documents engage with international instruments and rights. The most comprehensive approach is to set out which international instruments and rights the document aims to encompass and presents a framework (or set of principles) for ensuring all the relevant rights are addressed (below).



Documents that fail to do this likely fall into two camps. First, they may in fact cover the relevant rights but weaken the overall product by being less explicit about the approach taken. Second, they may not have engaged rigorously enough with human rights and therefore cannot be counted upon to have comprehensively addressed or incorporated the relevant human rights standards and related issues.

The report sets out seven recommendations for the engaging with human rights in the development of the standard:

1. **Explain why rights are important:** Set out the reasons for incorporating rights, which includes ensuring rights are not infringed as well as promoting a focus on responsibilities and establishing respectful relationships towards human-wildlife coexistence.
2. **Describe the groups whose rights are intended to be protected:** Be clear about the groups whose rights the standard intends to protect and set out the distinctions between them in international law, adding relevant national-level nuances.
3. **Explain the duties and responsibilities of actors regarding human rights:** Provide clarity about respective groups' duties and responsibilities to uphold human rights standards as part of the enabling conditions needed to engender collaborative partnerships.
4. **Note which international instruments and specific rights are intended to be integrated:** Reference to particular international instruments and specific rights gives the standard specificity.
5. **Explain the rights-based framework used:** The Framework Principles for Human Rights and the Environment, IUCN Natural Resource Governance Framework and the group of tools developed by IIED for social and governance assessments, among others, should be further explored to assess their suitability for being drawn to perform this function.
6. **Include a monitoring and grievance mechanism:** Including a monitoring and grievance mechanism in the overall architecture enables local level concerns to be properly monitored and addressed.
7. **Engage with a diversity of groups in the development of the standard:** There are a number of individuals and groups with strong experience who will be able to provide important inputs.

Overall, the research highlights the value addition of a standard for human-wildlife coexistence – especially if it draws on and is linked to existing standards, guidelines and other documents – and clearly addresses human rights in ways that protect rights as well promotes responsibilities and fosters collaborative relationships.

A. INTRODUCTION

To inform the development of a standard for human-wildlife co-existence, this report engages with the following questions:

- How do other frameworks incorporate human rights and what are the pros and cons of considering these aspects for the development of the human-wildlife coexistence standard?
- Which standards and agreements on human rights and the rights of Indigenous peoples, peasants and local communities should a standard in human-wildlife coexistence consider?
- Which stakeholder groups and international human rights processes should be engaged with to develop the HWC standard?

In response, a desk-based study of relevant standards, safeguards, guidelines, frameworks and tools was undertaken. Follow up communication (email/calls) was conducted with Sue Stolton (Equilibrium research and CA|TS), Jessica Campese (IUCN Natural Resource Governance Framework), Alexandra Zimmermann (University of Oxford and IUCN SSC Human-Wildlife Conflict Task Force) and Phil Franks (IIED and SAGE).

Section B analyses UN and World Bank level documents (3), standards (4), guidelines, frameworks and tools (5), industry roundtables (2) and other relevant documents (5) to assess which human rights standards they included and how they included them. **Section C** sets out and discusses the findings. **Section D** sets out seven recommendations and provides a non-exhaustive list of which stakeholder groups and international processes and bodies should be engaged in the next phase of the work.

B. ANALYSIS OF STANDARDS, SAFEGUARDS, GUIDELINES, FRAMEWORKS AND TOOLS

This section analyses UN and World Bank level documents (3), standards (4), guidelines, frameworks and tools (5), industry roundtables (2) and other relevant documents (5) to analyse three questions:

- Which are explicit about which instruments and/or rights it includes?
- Which set out a framework (or set of principles) for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment or the IUCN Natural Resource Governance Framework)?
- Which mention specific instruments?
- Which contain reference to specific rights?

1. UN and World Bank documents

1.1 Framework Principles on Human Rights and the Environment

To develop the [Framework Principles on Human Rights and the Environment](#), John Knox - the then Special Rapporteur on human rights and the environment, engaged in a rigorous process to analyse the full extent of relevant laws and supporting documents and then set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. The 16 framework principles, minus the commentary, are set out in **Box 1**.

Box 1: Framework Principles on Human Rights and the Environment

1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.
2. States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment.
3. States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.
4. States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.
5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.
6. States should provide for education and public awareness on environmental matters.
7. States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

8. To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.
9. States should provide for and facilitate public participation in decision-making related to the environment and take the views of the public into account in the decision-making process.
10. States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.
11. States should establish and maintain substantive environmental standards that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights.
12. States should ensure the effective enforcement of their environmental standards against public and private actors.
13. States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.
14. States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.
15. States should ensure that they comply with their obligations to indigenous peoples and members of traditional communities, ...
16. States should respect, protect and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development.

Each framework principle has a commentary that elaborates on it and further clarifies its meaning. The framework principles and commentary do not create new obligations. Rather, they *reflect the application of existing human rights obligations in the environmental context*. The framework principles are also not exhaustive: many national and international norms are relevant to human rights and environmental protection. The introductory note states that “nothing in the framework principles should be interpreted as limiting or undermining standards that provide higher levels of protection under national or international law.” This will be an important caveat in the document, as per TNC’s approach (below).

Results	
Is it explicit about which instruments and/or rights it includes?	Yes
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

1.2 CBD Voluntary Guidelines on Safeguards for Biodiversity Financing

[CBD Decision XII/3](#) includes voluntary guidelines on safeguards in biodiversity financing mechanisms. The guidelines state that any safeguards should “take into account relevant international agreements, declarations and guidance, developed under the Convention on Biological Diversity and as appropriate, the United Nations Framework Convention on Climate Change, international human rights treaties and the United Nations Declaration of the Rights of Indigenous Peoples, among others.” A follow up document (CBD [Information Note 14/22](#)), contains a policy paper that aims to help operationalise the guidelines, particularly in relation to biodiversity finance in mechanisms under the CBD. It provides an expansive overview of relevant international instruments (see page 32-33). Notably, unlike the other documents reviewed in this study, this is not the ‘final product’ so one cannot be sure whether any actual safeguards will be as explicit and/or draw on this list of instruments.

Results	
Is it explicit about which instruments and/or rights it includes?	Yes
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

1.3 World Bank Environmental and Social Framework

In the introduction, the [World Bank Environmental and Social Framework](#) references the Universal Declaration on Human Rights in the introduction. In relation to borrower requirements, it states:

Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, careful assessment and design is needed to help ensure that projects do not inadvertently compromise existing legitimate rights (including collective rights, subsidiary rights and the rights of women) or have other unintended consequences, particularly where the project supports land titling and related issues. In such circumstances, the Borrower will at a minimum demonstrate to the Bank’s satisfaction that applicable laws and procedures, along with project design features (a) provide clear and adequate rules for the recognition of relevant land tenure rights; (b) establish fair criteria and functioning, transparent and participatory processes for resolving competing tenure claims; and (c) include genuine efforts to inform affected people about their rights and provide access to impartial advice.

a. Environmental and Social Standard 6: Biodiversity conservation and sustainable management of living natural resources

ESS 6 does not mention the word 'rights'. But it does recognize the need to consider the livelihood of project-affected parties, including Indigenous Peoples, whose access to, or use of, biodiversity or living natural resources may be affected by a project as well as the potential, positive role of project-affected parties, including Indigenous Peoples, in biodiversity conservation and sustainable management of living natural resources.

b. Environmental and Social Standard 7: Indigenous peoples/sub-Saharan African, historically underserved traditional local communities

Environmental and Social Standard (ESS) 7 starts by discussing the different terminology for Indigenous peoples and other relevant groups. The top objective of the ESS is to: ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities. It then calls on projects to:

- Avoid adverse impacts, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- Promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate and inclusive.
- Improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation.
- Obtain the free, prior, and informed consent (FPIC).
- Recognize, respect and preserve the culture, knowledge, and practices and provide an opportunity to adapt to changing conditions in a manner and in a time-frame acceptable to them.

It also states that a key purpose of the ESS is to ensure that the groups in question present in, or with collective attachment to, the project area are fully consulted about, and have opportunities to actively participate in, project design and the determination of project implementation arrangements. I.e., the framework is an enabling one, intended to foster collaboration. This is an interesting mix of substantive and procedural rights and impacts. It would be better set out within a framework.

It includes a provision that requires borrowers of monies from the World Bank to ensure that a grievance mechanism is established for the project (elaborated on in ESS10 – below), which is culturally appropriate and accessible and takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the communities in question.

c. Environmental and Social Standard 10: Stakeholder engagement and information disclosure¹

The ESS recognizes the importance of open and transparent engagement between the borrower and project stakeholders as an essential element of good international practice. It also makes the point this has an instrumental effect: effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance, and make a significant contribution to successful project design and implementation. The objectives are interesting:

- Establish a systematic approach to stakeholder engagement that will help build and maintain constructive relationships.
- Assess the level of stakeholder interest and support for the project and to enable stakeholders' views to be taken into account in project design and environmental and social performance.
- Promote and provide means for effective and inclusive engagement with project-affected parties throughout the project life cycle on issues that could potentially affect them.
- Ensure that appropriate project information on environmental and social risks and impacts is disclosed to stakeholders in a timely, understandable, accessible and appropriate manner and format.

This ESS also further develops the requirement to establish a grievance mechanism. These are obviously all important and could be set out more comprehensively within a framework.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	No
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

2. Standards

2.1 IUCN Green List of Protected and Conserved Areas

The IUCN [Green List of Protected and Conserved Areas](#) contains a strong component on 'good governance', which includes reference to legitimacy and voice, transparency and accountability, and governance vitality – with links to multiple knowledge sources. It states

¹ ESS 8 on Cultural Heritage is relevant but does not add any further insights.

that the site's and local governance structures and mechanisms should recognise the legitimate rights of Indigenous Peoples and local communities, with explicit reference to UNDRIP, though not to other legal instruments. It has a focus on the right to participate in management planning, processes and actions. Respecting and conserving cultural values are referenced under other components.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	No
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

2.2 Conservation Assured Tiger Standards (CA|TS)

[CA|TS](#) is a conservation tool to set best practice standards for effective management of tiger conservation areas and comprises:

- Seven pillars
- 17 elements which are then broken down into more detailed standards
- Standards and associated criteria

It engages with human rights under 'Pillar C: Community'. The Standard promotes a proactive engagement with cultural issues relating to the area and promotes use of the Social Assessment for Protected Areas (SAPA) methodology (see below) to assist in this regard.

Relevant sections include:

- Effective mechanisms for dealing with human-wildlife conflict (HWC) are in place that include community participation, Conflicts or tensions related to the area are acknowledged and addressed,
- Relocation processes are voluntary, equitable and monitored – which includes reference to the right to free, prior and informed consent,
- Conservation impacts on the evacuated area are identified, managed and monitored,
- Involvement and engagement of Indigenous Peoples and local communities in governance – which also states that “The site’s local governance structures and mechanisms recognise the legitimate rights of Indigenous Peoples and local communities”
- Benefit-sharing/alternative livelihood mechanisms are in place and monitored
- Cultural identity is not compromised,
- Outreach and awareness programmes are in place and monitored,

- Processes are in place to coordinate and cooperate with stakeholders who may impact area management, and
- Resource use in the area is managed to balance conservation objectives and local users' needs.

The CA|TS Standards are not explicit about which legal instruments it draws upon.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	No
Does it mention specific instruments?	No
Is there reference to specific rights?	Yes

2.3 Certified Wildlife Friendly and Predator Friendly Production Standards for North America

The [Certified Wildlife Friendly and Predator Friendly Production Standards](#) for North America recognize wildlife stewardship on farm and ranch lands. Neither of these Standards refer to communities or rights.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	No
Does it mention specific instruments?	No
Is there reference to specific rights?	No

2.4 Human Rights Standards for Conservation

Natural Justice and IIED first worked together as part of a project called '[human rights standards for conservation](#)' to clarify three issues.

a. Which conservation actors have responsibility for upholding international human rights standards? The organisations argued that, in addition to states and UN agencies, NGOs and funders have responsibility to uphold international human rights standards under the [Guiding Principles on Business and Human Rights](#) ('Ruggie Principles'), a view that was echoed in the report of the WWF-related Independent Panel of Experts (2020).

b. Which international human rights standards are most relevant in a conservation context? While all human rights instruments are of relevance, **Annex I** sets out the instruments that are listed as being of most relevance to conservation initiatives.

c. Which redress mechanisms are available to indigenous peoples and local communities when human rights are infringed by conservation initiatives? The analysis shows that there are very few avenues for redress, and where they exist, and where they give judgements in favour of Indigenous peoples and local communities, remedies are rarely delivered (i.e., the group may win in court, but end up no better off).

The Conservation Standards emerged from this research (see **Annex II**). It sets out a number of rights that are most likely to be infringed by conservation initiatives (see **Box 2**).

Box 2. Indigenous peoples’ and local communities’ rights most likely to arise in a conservation context

Rights most likely to be directly impacted

- Right to self-determination
- Right to determine institutions for self-government
- Right to free, prior and informed consent
- Rights to lands, territories and resources
- Right to life, integrity, liberty and security
- Right to a healthy environment
- Right to cultural, spiritual and religious traditions, customs, heritage and knowledge
- Right to traditional medicines and health practices
- Right to determine development priorities

Rights most likely to be indirectly impacted

- Right to transboundary relationships
- Right to use and maintain languages and knowledge
- Right to appropriate education
- Right to non-discriminatory employment

Redress for infringements of rights

- Right to redress

For each core right, the document explains the content of the right, sets out the context in which that right might arise in a conservation setting, and provides the duties of the agencies, organisations and individuals involved in the conservation initiative. Unlike the above standards, the Conservation Standards have not been operationalised.

Results	
Is it explicit about which instruments and/or rights it includes?	Yes

Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

2.5 Other production standards

This report does not engage with a number of production-related standards including the Organic Standards and the Fairtrade Standards that on initial review were of not much relevant to this research on rights.

3. Guidelines, frameworks and tools

3.1 IUCN Best Practice Guidelines on Governance of Protected Areas

IUCN's [Best Practice Guidelines on Governance of Protected Areas](#) sets out five principles of 'good governance':

- Legitimacy and voice
- Direction
- Performance
- Accountability
- Fairness and rights

Each principle is further elaborated through a set of 'considerations'. These are set out in **Annex III**.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

3.2 TNC Human Rights Guide

TNC's [Human Rights Guide for Working with Indigenous Peoples and Local Communities](#) provides tools, resources and guidance in support of TNC's work to:

- Respect and promote the human rights of Indigenous Peoples and local communities
- Reduce organizational risk to TNC related to human rights and conservation

- Improve the practice of conservation by integrating a human rights approach

The guide does provide a brief note on ‘Indigenous peoples and local communities’ and states that the guide is informed by nine Principles and Safeguards that are drawn from TNC’s commitments to international human rights law and standards:

- Free Choice and Self-Determination
- Prior Engagement and Collaborative Relationships
- Informed Decision-Making
- Right to Withhold Consent
- Meaningful Consultation
- Equity
- Inclusion
- Accountability
- Overarching Good Faith

It explains that the Principles and Safeguards are drawn from TNC’s values, Code of Conduct, UNDRIP,² ILO Convention (No. 169) on Indigenous and Tribal Peoples, and other authorities, the Guiding Principles of the Conservation Initiative on Human Rights, and the Conservation by Design 2.0 Guidance Document.³

Results	
Is it explicit about which instruments and/or rights it includes?	Yes
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

3.3 IUCN Natural Resource Governance Framework

The [Natural Resource Governance Framework](#) is an IUCN initiative created to provide a robust, inclusive, and credible approach to assessing and strengthening natural resource governance, at multiple levels and in diverse contexts. It is co-convened between the IUCN

² Especially articles 18-19 and 32 (participation and FPIC), 23-26 and 29 (land rights and conservation), 31 (cultural rights), and 40 (conflict resolution), the requirements of Free, Prior & Informed Consent as articulated in the UNDRIP

³ It add the following which is commendable: Nothing in this Guide should limit any human rights obligations that TNC may have committed to or be subject to. Rather, the Guide operationalizes the values, methods and practices through which TNC honours our commitment to respect and promote the human rights of indigenous peoples and local communities.

Commission on Environmental, Economic and Social Policy (CEESP) and the Global Programme on Governance and Rights (GPGR). IUCN defines natural resource governance as:

Natural resource governance can be understood as the norms, institutions, and processes that determine how power and responsibilities over natural resources are exercised, how decisions are taken, and how rights-holders and stakeholders – including women, men, youth, Indigenous peoples and local communities – secure access to, participate in, and are impacted by the use and management of natural resources. (IUCN CEESP and GPGR, 2019)

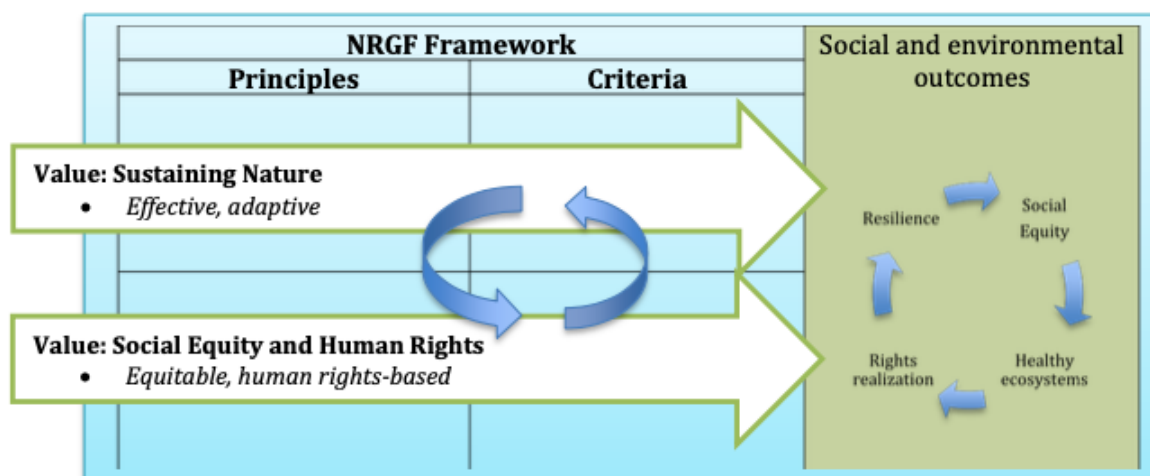


Figure 1: Cross-cutting NRGF values in relation to principles and criteria (Springer et al., forthcoming)

The NRGF Conceptual Framework is comprised of three inter-related components important for the realization and maintenance of effective and equitable governance:

- Two Cross-cutting Values – Orientations and foundational ethics and goals of NRG (See **Figure 1**)
- Ten Principles - Key elements that need to be in place to realize effective and equitable NRG (see **Box 1** and **Annex IV**)
- Fifty-two Criteria - Aspects important to the realization of the principles (see **Box 3** and **Annex IV**)

Box 3: NRGF Principles (2019)

1. Inclusive decision-making: Decision-making regarding natural resource policies and practices is based on the full and effective participation of all relevant actors, with particular attention to the voice and inclusion of rights-holders and groups at risk of marginalization.

2. Recognition and respect for tenure rights: Rights to lands, resources and waters are recognized and respected, with particular attention to the customary, collective rights of indigenous peoples and local communities, and to women’s tenure rights.

3. Recognition and respect for diverse cultures and knowledge systems: Natural resource governance is grounded in sound and diverse forms of knowledge and respect for diverse natural resource values and practices.

4. Devolution: Decisions are taken at the lowest possible level appropriate to the social and ecological systems being governed, with particular attention to supporting the roles and authority of local communities in natural resource governance.

5. Strategic vision, direction and learning: Natural resource governance is guided by an overall vision of desired environmental and social ends and allows for adaptation in response to learning and changing conditions.

6. Coordination & Coherence: Actors involved or affecting in natural resource governance coordinate around a coherent set of strategies and management practices.

7. Sustainable and Equitably Shared Resources: Actors responsible for natural resource governance have the resources they need to carry out sustainable management and governance activities, including from the equitable sharing of benefits generated from natural resources.

8. Accountability: Actors responsible for or affecting natural resource governance are accountable for their actions and the environmental and social impacts they produce.

9. Fair and effective rule of law: Natural resource-related laws and their application are fair, effective, and protect fundamental rights.

10. Access to justice and conflict resolution: People are able to seek and obtain remedies for grievances and resolve conflicts regarding land and natural resources.

Importantly, the NRGF acknowledges that there are many existing tools and approaches that address natural resource governance issues and underscores that while the NRGF is not intended to replace or duplicate these, it is intended to provide a common point of reference within IUCN.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

3.4 WWF Environmental and Social Safeguards Framework

WWF's [Environmental and Social Safeguards Framework](#) (ESSF) provides an institutional mechanism to manage the environmental and social risks of WWF's work, helps deliver better conservation outcomes, and enhances the social well-being of local communities in the places

where WWF operates. The safeguards framework is designed to address a broad range of environmental and social risks, mindful of the different challenges and needs in different parts of the world. It systematizes good governance practices to achieve human rights, transparency, non-discrimination, public participation, and accountability, among other goals. It cross references WWF's Statement of Principles on Indigenous Peoples and Conservation (1996 and updated in 2008), Policy on Poverty and Conservation (2009), and Gender Policy (2011) ([here](#)) and should also be considered in the context of WWF's [Integrated Policies and Safeguards](#).

WWF's global network of offices are expected to use a common set of standards to identify and manage the environmental and social risks where WWF field-based projects could have adverse impacts as well as opportunities for improving social and environmental outcomes. The safeguards framework has 10 standards that fall into three broad categories.

- Standards applied in all mitigation planning,
 - Environmental and Social Risk Management. This standard describes WWF's process
 - For identifying potential environmental and social risks and benefits.
 - Consultation and Disclosure. This standard outlines WWF's commitments to engaging potentially affected peoples and providing transparency on our safeguards.
 - Stakeholder Engagement. This standard ensures that WWF is committed to meaningful, effective, and informed stakeholder engagement with potentially impacted communities in the design and implementation of projects.
 - Grievance Mechanisms. This standard puts forth a mechanism to allow affected peoples to bring forth concerns about how they are being impacted by WWF projects.
- Standards that apply to specific risks that typically arise in WWF projects.
 - Access Restriction and Resettlement. This standard helps WWF identify and respond to involuntary restriction of access, displacement or other economic impacts associated with WWF project activities.
 - Indigenous Peoples. This standard ensures that all due consideration is taken in WWF projects that could potentially affect indigenous peoples' rights, including free, prior, and informed consent where appropriate.
 - Community Health and Security. This standard makes sure a review of potential consequences to communities' health and safety are addressed through the project, including consequences of engagement with rangers.
 - Protection of Natural Habitats. This standard ensures mitigation of any potential negative impact on natural habitats.
- Standards that are not likely to arise in typical WWF projects, but are required due to the accreditation of the safeguards framework.

- Pest Management. This standard ensures review and proper use of pesticides and fertilizers in order to mitigate impacts on communities and natural habitats.
- Physical and Cultural Resources. This standard ensures that physical cultural resources (PCR) are appropriately preserved and their destruction or damage is appropriately avoided. PCR include archaeological, paleontological, historical, architectural, and sacred sites such as graveyards, burial sites, and other sites of unique natural values.

The Screening Tool enables the application of the above standards.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

3.5 SAPA, GAPA and SAGE

The International Institute for Environment and Development (IIED) has developed [three tools](#) for stakeholders and rights-holders of a protected or conserved area to assess their social impact, the quality of governance and the equity of conservation (**Figure 2**).

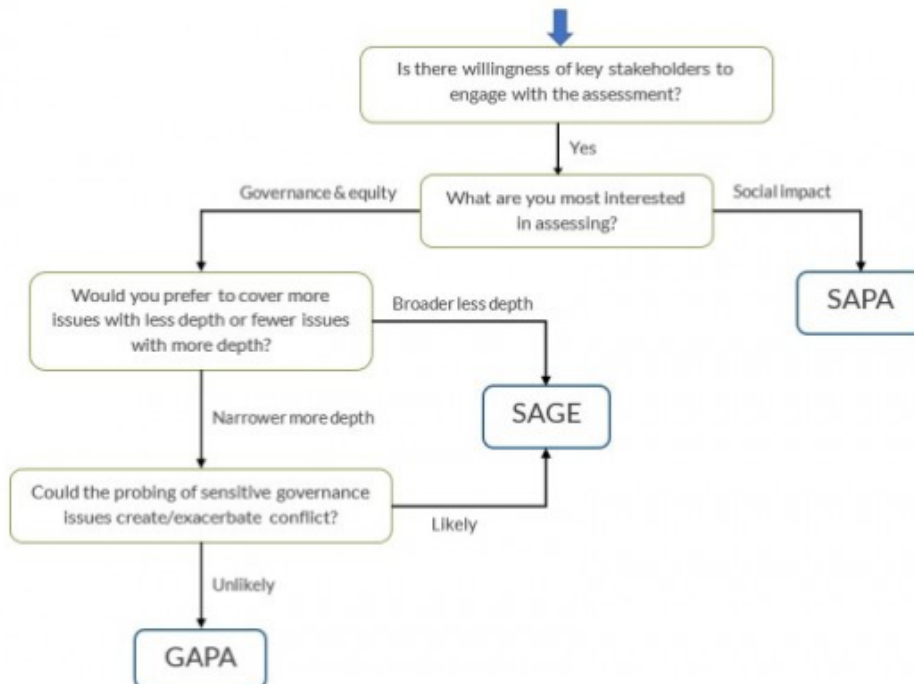


Figure 2: A flow diagram to help select the right tool.

The **Social Assessment for Protected and Conserved Areas (SAPA)** focuses on the impacts of PCAs on the wellbeing of local people, plus a basic governance assessment. SAPA can be used with almost any type of PCA. The **Governance Assessment for Protected and Conserved Areas (GAPA)** focuses on governance challenges and underlying causes but only for PCAs where actors are willing to explore sensitive governance issues. The **Site-level Assessment of Governance and Equity (SAGE)** focuses on governance and equity. SAGE is less deep than GAPA but covers a broader scope of issues and costs less. SAGE can be used with any type of PCA.

Importantly, IIED drew on the above IUCN governance principles and considerations to develop 10 principles, which are used by all three tools and are set out in **Table 1**.

Table 1: Framework of equitable governance principles.

Equity: recognition	1. Recognition and respect for the rights of all relevant actors
	2. Recognition and respect of all relevant actors and their knowledge
Equity: procedure	3. Full and effective participation of all relevant actors in decision making
	4. Transparency, information sharing and accountability for actions and inactions
	5. Access to justice, including effective dispute resolution processes
	6. Effective and fair law enforcement
Equity: distribution	7. Effective measures to mitigate negative impacts on communities
	8. Benefits equitably shared among relevant actors
Other governance	9. Achievement of conservation and other objectives
	10. Effective coordination and collaboration between actors, sectors and levels

The importance of this framework has been enhanced due to its inclusion in Annex II of [CBD Decision 14/8](#). SAGE also directly addressed ‘human-wildlife conflict’ in questions 7.1-7.4, namely:

- Have there been any recent studies of the negative impacts of human-wildlife conflict on the wellbeing of local people?
- For human-wildlife conflict, do members of your actor group know the responsibilities and rights of different actors?
- Do the organisations responsible for dealing with human-wildlife conflict have the skills and resources to do the job?

- When organisations responsible for human- wildlife conflict get a report, is their response timely and fair?

Phil Franks (pers. comm.) underscores that because SAGE focuses on governance, it approaches the issues from the perspective of whether the responsible authorities and communities know about the negative impact on communities’ wellbeing, respond appropriately to reports of HWC, and if not, why not and what could be done to improve the situation. It does not ask whether the conflict is actually avoided or compensated, i.e., it focuses on process instead of outcome.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	No
Is there reference to specific rights?	Yes

3.6 Human Wildlife Conflict Safe Systems

The WWF Human Wildlife Conflict Safe Systems (WWF, 2015) is a suite of actions across all six elements that contribute to a single long-term goal for an area: to make it safe - safe for people, assets, wildlife and habitat.⁴ It is based on four systems:

- It recognizes that wildlife is wild and conflict will occur. When conflicts occur however, the interventions across the system should ensure that the impact of an incident does not exceed the limits of community tolerance, and does not result in retaliatory killing.
- It stresses that individuals, communities, leaders and the public who design the system need to accept and share responsibility for the safety of the system, and those that use the system must accept responsibility for complying with the rules and constraints of it.
- It aligns conflict management decisions with wider development plans and processes that contribute to economic, human, and environmental goals.
- It guides interventions to meet the minimum standards and long term goals, rather than setting specific targets.

⁴ The Safe Systems approach comes from global traffic management systems aimed at reducing road fatalities. Since the early 20th century, national development, car ownership and road fatalities increased linearly. Just as with Human Wildlife Conflict, attempts to reduce fatalities through addressing symptoms and isolated actions had negligible effects on this strong relationship between increasing car numbers and road deaths. It wasn’t until concerted effort focused on addressing all the elements of road accidents concurrently, and backing this with the singular long term goal of making entire transport systems safer that accident rates were decoupled from vehicle numbers, and fatality rates fell dramatically (WWF 2015).

A report on Bhutan (2016) contains a ‘SAFE HWC SAFE System Rapid Assessment tool (66-77). The tool contains 60 questions and references types of rights (marginally) but neither references any international instruments nor sets out a framework relating to rights.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	No
Is there reference to specific rights?	Yes

4. Industry Roundtables

4.1 Roundtable on Sustainable Palm Oil

The [RSPO Principles and Criteria](#) state that “the RSPO and its members recognise, support and commit to following the United Nations Universal Declaration of Human Rights and the International Labour Organization (ILO)’s Declaration on Fundamental Principles and Rights at Work. It’s second of three impact areas is people, on which it states:

Human rights protected, respected and remedied. The palm oil sector contributes to reducing poverty and palm oil production is a source of sustainable livelihoods. Human rights are respected. People participate in processes that affect them with shared access and benefits. Everyone engaged in palm oil production has equal opportunities to fulfil their potential in work and community with dignity and equality and in a healthy working and living environment. (RSPO, 2018)

Under Principle 4, to respect community and human rights and deliver benefits, criteria include:

- The unit of certification respects human rights, which includes respecting the rights of Human Rights Defenders.
- There is a mutually agreed and documented system for dealing with complaints and grievances, which is implemented and accepted by all affected parties.
- The unit of certification contributes to local sustainable development as agreed by local communities.
- Use of the land for oil palm does not diminish the legal, customary or user rights of other users without their Free, Prior and Informed Consent.
- No new plantings are established on local peoples’ land where it can be demonstrated that there are legal, customary or user rights, without their FPIC. This is dealt with through a documented system that enables these and other stakeholders to express their views through their own representative institutions.

- Any negotiations concerning compensation for loss of legal, customary or user rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.
- Where it can be demonstrated that local peoples have legal, customary or user rights, they are compensated for any agreed land acquisitions and relinquishment of rights, subject to their FPIC and negotiated agreements.
- The right to use the land is demonstrated and is not legitimately contested by local people who can demonstrate that they have legal, customary, or user rights.

Rights also appear under other principles. RSPO has a complaints system, which is based on UN Guiding Principles on Business and Human Rights. The complaints framework and process fulfils the following:

- Provides a focal point for complaints against RSPO members or the RSPO system itself. Provides a fair, transparent and impartial process to duly handle and address complaints against RSPO members or against the RSPO system itself.
- Facilitates actions or initiatives that may enhance future dealings between parties.

RSPO notes explicitly that the complaints system is not intended to be a replacement for legal requirements and mechanisms in force by any regional, national, or international governmental body. RSPO requirements mandate adherence to such official governmental requirements, and as such, the RSPO complaints system is meant as a support and supplement to them.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

4.2 Global Roundtable for Sustainable Beef

It is interesting to note how succinct the [Global Roundtable for Sustainable Beef](#)'s guidance is on human rights, and the issues it raises. It states:

Global sustainable beef stakeholders protect and respect human rights and recognize the critical roles that all participants within the beef value chain play in their community regarding culture, heritage, employment, land rights and health. This principle and associated criteria are based upon respect for the rights of all human

beings, and recognition and respect for their rich and diverse cultural heritage. Compliance with applicable laws is an underlying assumption and expectation, and we recognise there may be areas of inconsistency between these criteria and applicable laws. In the absence of law, or where there is a difference between these laws and these criteria, it is expected that the more stringent of the two will be adhered to.

The criteria include the following: “companies and individuals throughout the beef value chain respect human rights in accordance with the UN Guiding Principles on Business and Human Rights through policies, regulation and due diligence.”

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	References UN Guiding Principles
Does it mention specific instruments?	No
Is there reference to specific rights?	No

5. Other relevant documents

5.1 Conservation Initiative on Human Rights

The [Conservation Initiative on Human Rights](#) (CIHR) is a consortium of international conservation NGOs that seek to improve the practice of conservation by promoting the integration of human rights in conservation policy and practice. CIHR membership is comprised of the following international conservation organizations: BirdLife International, Conservation International, Fauna & Flora International, The Nature Conservancy, the International Union for the Conservation of Nature (IUCN), the Wildlife Conservation Society, and the World Wide Fund for Nature (WWF).

The group has agreed to the following four common principles in their respective work:

- **Respect Human Rights.** Respect internationally proclaimed human rights and make sure that we do not contribute to infringements of human rights while pursuing our mission.
- **Promote Human Rights Within Conservation Programs.** Support and promote the protection and realization of human rights within the scope of our conservation projects.
- **Protect the Vulnerable.** Make special efforts to avoid harm to those who are vulnerable to infringements of their rights, and to support the protection and fulfilment of their rights within the scope of our conservation projects.
- **Encourage Good Governance.** Support the improvement of governance systems that can secure the rights of indigenous peoples and local communities in the context of our work on conservation and sustainable natural resource use, including elements

such as legal, policy, and institutional frameworks, and procedures for equitable participation and accountability.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	No
Is there reference to specific rights?	Yes

5.2 Living Convention

[The Living Convention](#) sets out provisions from international instruments that are relevant to Indigenous, peoples and local communities under a range of core headings. The approach enhances the accessibility of international law relevant to these groups. The Living Convention is organised around the following bundles of rights:

- Overarching Indigenous peoples' rights
- Traditional governance systems and customary laws
- Knowledge, innovations and practices
- Education and languages
- Development
- Non-removal from lands or territories
- Governance of territories, lands and natural resources
- Benefit sharing
- Local agricultural systems
- Free, prior and informed consent relating to lands, waters and natural resources
- Information, decision making and access to justice
 - Participation and decision making; and
 - Equality before the law and access to justice

The Living Convention also provides an overview of the differences between Indigenous peoples, local communities and peasants in international law (**Annex V**).

Results	
Is it explicit about which instruments and/or rights it includes?	Yes
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	Yes
Is there reference to specific rights?	Yes

5.3 Principles for best practice for recognizing and respecting Indigenous Peoples’, Local Communities’ and Afro-Descendants’ land and resource rights in landscape restoration, management, conservation, climate action, and development projects and programs

The Global Landscapes Forum (GLF), the Indigenous Peoples Major Group (IPMG) for Sustainable Development, and the Rights and Resources Initiative (RRI) are collaborating to produce a simple set of principles (which they refer to as a ‘[Gold Standard](#)’) that applies existing international legal requirements and best practice standards to guide all landscape-level actions and investments supported by civil society organizations and institutions, companies and investors – whether local, national or international.

In the context of this analysis, it is interesting that they note the following:

A wide range of social and environmental frameworks, standards, and certification systems have been developed, with many organizations setting up their own systems and commitments. While encouraging, efforts to date have largely been uncoordinated and absent from these is a common set of globally recognized principles, grounded in international human rights law and developed in collaboration with Indigenous Peoples, Local Communities, Afro-descendants, and women within these groups. This creates the risk of confusion and potential weakening of aspirational goals that can trigger a race to the top.

The Standard is currently being drafted and is planned to be published in 2021. **Annex VI** sets out the draft outline of the Gold Standard. This may be a useful group with whom to engage.

Results	
Is it explicit about which instruments and/or rights it includes?	No
Does it set out a framework for integrating rights into the document (i.e., such as Framework Principles on Human Rights and the Environment)?	Yes
Does it mention specific instruments?	No
Is there reference to specific rights?	Yes

C. FINDINGS AND DISCUSSION

1. Overall findings

The research highlights that there is a gap to which a human-wildlife standards can respond. While there are documents that are more broadly applicable (such as the Framework Principles on Human Rights and the Environment) and other forms of guidance that deals more specifically with human-wildlife conflict, there is not yet a dedicated standard that addresses this issue. This highlights the value addition of a standard that, among other things, clearly addresses a range of rightsholders' and stakeholders' rights and responsibilities as they relate to human-wildlife conflict and leverages that focus to generate enabling environments that build relationships and long-lasting solutions to the challenges of human wildlife co-existence.

In terms of their engagement with rights, only the World Bank Environmental and Social Framework (Indigenous peoples/sub-Saharan African, historically underserved traditional local communities) and the TNC Human Rights Guide (Indigenous peoples and local communities) sets out the differences between rightsholder groups. While all the documents that have been reviewed mention specific kinds of rights (e.g., FPIC), very few reference specific instruments and only one specifies the full extent of instruments from which the rights should be drawn (CBD Voluntary Guidelines for Safeguards). The following table provides a summary of the findings.

Table 1: Summary of findings

	Explicit about which instruments/rights are included	Set out a framework for incorporating human rights	Mentions specific instruments	Contains reference to specific rights
UN and World Bank documents				
Framework Principles on HR&E	✓	✓	✓	✓
CBD Voluntary Guidelines for Safeguards	✓	✓	✓	✓
World Bank ESS	—	—	✓	✓
Standards				
Green List	—	—	✓	✓
CA TS	—	—	—	✓
Certified Wildlife Friendly and Predator Friendly	—	—	—	—

Production Standards				
Human Rights Standards for Conservation	✓	✓	✓	✓
Guidelines, frameworks and tools				
IUCN BPG on Governance of Protected Areas	—	✓	✓	✓
TNC Human Rights Guide	✓	✓	✓	✓
IUCN Natural Resource Governance Framework	—	✓	✓	✓
WWF E&S Safe Framework	—	✓	✓	✓
SAPA, GAPA and SAGA (IIED Tools)	— ⁵	✓	—	✓
WWF HW Conflict Safe Systems	—	✓	—	✓
Industry roundtables				
Roundtable on Sustainable Palm Oil	—	✓	✓	✓
Global Roundtable for Sustainable Beef	—	✓ ⁶	✓	✓
Other relevant documents				
Conservation Initiative on Human Rights	—	✓	—	✓
Living Convention	✓	✓	✓	✓
'Gold Standard' (draft)	—	✓	—	✓

The documents that are less explicit about the instruments and/or rights they intend to include leave users less certainty about whether they engage rigorously enough with the relevant instruments and rights or, if they have intended to do so but simply been less explicit about their approach, how they have integrated the frameworks.

The review highlights the benefits of setting out (at least in brief) the core international instruments (1) and rights (2) that the standards intend to encompass as well as a simplified

⁵ Not in the tool, but the rights frameworks are explored in related literature, e.g., Schreckenberget al., 2016.

⁶ It does this by referencing the UN Guiding Principles on Business and Human Rights.

framework for incorporating rights (3) (**Figure 3**). By doing this, the standard will likely more effectively integrate the relevant rights and users and others can be more certain of the standard’s rigour in this regard.

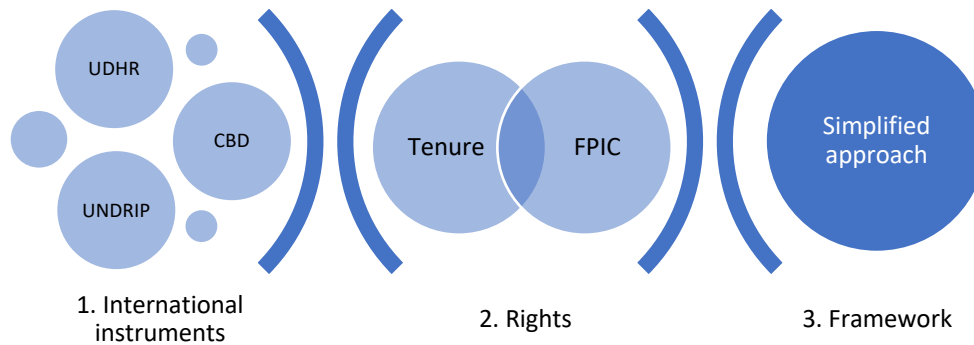


Figure 3: It is important to show the linkages between international instruments, bundles of rights and a simplified framework with which to integrate rights into the standard.

It is recommended to use existing knowledge and resources wherever possible, as opposed to conducting exercises that have been adequately conducted. Therefore, in the next phase of work, it will be useful to start with the following documents per category referenced above.

1. Good summaries of the relevant instruments are provided in the UN Framework Principles for Human Rights and the Environment, CBD Voluntary Guidelines on Safeguards for Biodiversity Financing and the Living Convention.
2. A set of relevant rights is set out in the Living Convention.
3. At least the Framework Principles for Human Rights and the Environment, IUCN Best Practice Guidelines on Governance of Protected Areas, the IUCN Natural Resource Governance Framework and the IIED tools listed above set out useful frameworks that synthesise these rights.

Within these documents, the review also highlights interesting nuances, such as the distinction between social assessments that deal with the impacts of conservation initiatives and governance assessments that focus on processes and interpersonal and institutional arrangements. It will therefore be useful to discuss these findings with colleagues who authored the above documents to develop a way forward (referenced in recommendation 7, below).

D. RECOMMENDATIONS

This section sets out seven recommendations based on the above analysis. It suggests forms of best practice and provides guidance on how to achieve those outcomes.

1. Explain why rights are important

The standard should provide an explicit explanation of why rights are important. This includes at least following:

- Ensure that rights are not infringed
- Where they are to ensure harms are remedied
- Establish a rights-based and respectful process and related institutional structures for engagement between the respective groups.

This should also speak to the complexity of protecting human rights in the context of the conservation of biodiversity – including in relation to competing claims by government agencies and corporate interests as well as rights afforded to nature. It should add that, in the context of human-wildlife conservation, rights-based conflict between groups is often generated by stakeholders operating at different scales. For example, human-elephant conflict is increasing in Sabah, Malaysia. The cause of the conflict is often due to the impacts of infrastructure and oil palm development, decisions about which have been taken at high levels and often without either consultation or consideration of the community members or wildlife in question. Thus, finding lasting solutions to these issues should also consider broader scales and not just engage with competing rights at the local level.

2. Describe the groups whose rights are intended to be protected

The standard should set out, in brief, some detail on the groups whose rights it aims to protect. It should note the different legal bases of such groups' rights at the international level. For example, while the term 'Indigenous peoples and local communities' is often used 'Indigenous peoples' and local communities have different bases under international law (**Annex V**). It should also note the fact that identity and rights are complex and further complicated by the differences in international human rights norms and (sub-)national level legal frameworks. It should state that the standard promotes the highest standard of rights as set out in the relevant international human rights and other relevant instruments and that it does not intend to limit any rights.

3. Explain the duties and responsibilities of actors regarding human rights

The standard should clearly set out the human rights-related duties and responsibilities of various types of actors. This will help establish the parameters for respectful engagement. **Box 1** provides an overview of the framework set out within the UN Guiding Principles on Business and Human Rights, which can be of use here.

Box 1: Respect, protect and fulfil human rights obligations (from Jonas et al., 2016)

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

- **Respect:** 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 rights for all members of society.

Rights, duties and responsibilities

The UN Guiding Principles on Business and Human Rights 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.

It is interesting to note that a number of the documents reviewed in Part B reference the UN Guiding Principles on Business and Human Rights.

4. Note which international instruments and specific rights are intended to be integrated

The standard should set out which international instruments it draws upon to inform the framework (next recommendation). While this would normally be a complex exercise if started from scratch, this exercise has been done within the Framework Principles on Human Rights and the Environment, CBD Voluntary Guidelines on Safeguards and the Living Convention. Cross referencing one or more of these documents (or other that may be found in the interim) will enable this process to be conducted efficiently.

5. Set out the rights-based framework used

It is good practice to set out the rights-based framework that the standard uses. Documents analysed in Section B that do not do this lead to questions about the rigour with which they integrate rights. The most useful frameworks are presented in the Framework Principles on Human Rights and the Environment, NRGF, IIED tools and other related documents such as the WWF ESS and the 'gold standard' (which is a work in progress). The next phase of this work should engage a range of the people involved in that work to develop a decision on the way forward. This is all important as the framework chosen will have a significant impact on the way rights are integrated into the standard.

6. Include a monitoring and grievance mechanism

Including a monitoring and grievance mechanism in the overall architecture enables local level concerns to be properly addressed. The UN Guiding Principles on Business and Human Rights provide guidance on this issue and should be consulted, among other documents, to develop this mechanism.

7. Engage with a diversity of groups

In addition to the groups involved in the Green List, CA|TS and referenced by Dudley and Stolton (2021), it will be useful to engage a range of the groups involved in the above documents, including:

- John Knox, who developed the Framework Principles on Human Rights and the Environment.
- Jessica Campese, who is coordinating the IUCN NRGF.
- Phil Franks and Francesca Booker, IIED, who lead SAGE.
- Claudia Ituarte Lima, SwedBio, who is involved in the CBD Safeguards work.
- Global Landscapes Forum, the Indigenous Peoples Major Group for Sustainable Development, and the Rights and Resources Initiative who are currently developing the 'Gold Standard'.
- Allison Martin and other people behind the TNC Human Rights Guide.

In addition, it will be important to engage with:

- Francisco Cali Tzay, UN Special Rapporteur on the Rights of Indigenous peoples
- David Boyd, UN Special Rapporteur on Human Rights and the Environment
- Joji Cariño and other relevant colleagues, International Indigenous Forum on Biodiversity/UN Permanent Forum on Indigenous Issues
- Ameyali Ramos, Policy Coordinator, ICCA Consortium

REFERENCES

Borrini-Feyerabend, G., N. Dudley, T. Jaeger, B. Lassen, N. Pathak Broome, A. Phillips and T. Sandwith (2013). Governance of Protected Areas: From understanding to action. Best Practice Protected Area Guidelines Series No. 20, Gland, Switzerland: IUCN.

IUCN CEESP, 2019. An introduction to the IUCN NRGF. IUCN: Gland.

Jonas H, Roe D., and Dilke A., 2014. Human Rights Standards for Conservation, Part II. Which International Standards Apply to Conservation Initiatives? IIED Discussion Paper. IIED, London.

Jonas et al, 2016. The Conservation Standards. IIED: London

Inuit Circumpolar Council, 2020. Policy paper on the matter of “local communities”. Inuit circumpolar council: Nunavut, Canada.

NPPC and WWF-Bhutan, 2016. Human Wildlife Conflict Strategy: Nine Gewogs of Bhutan, National Plant Protection Centre (NPPC), Thimphu, Bhutan and WWF Bhutan, Thimphu.

RSPO, 2018. Principle and Criteria for the Production of Sustainable Palm Oil. RPSO: Kuala Lumpur

WWF International, 2015. Safe Systems: Revolutionizing Human Wildlife Conflict. WWF: Washington D.C.

ANNEX I: List of relevant international instruments

This is drawn from 'Which international standards apply to conservation initiatives?' (Jonas et al., 2014)

1. Universal Declaration of Human Rights (UDHR)
2. ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries
3. United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)
4. International Covenant on Civil and Political Rights (ICCPR)
5. International Covenant on Economic, Social and Cultural Rights (ICESCR)
6. International Convention of the Elimination of All Forms of Racial Discrimination (CERD)
7. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
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 (CBD)
 - Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization
 - Cartagena Protocol on Biosafety
 - Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol
 - Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities
 - Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity
 - Akwé: Kon Guidelines
 - 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, including the Cancun Agreements
15. United Nations Convention to Combat Desertification
16. The 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. The 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

ANNEX II: Conservation Standards

This is drawn from The Conservation Standards (Jonas et al., 2016)

1 Rights most likely to be directly infringed

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.
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. 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.

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.
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).

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.
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 that it is not suitable, in whole or in part.

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.

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.

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.

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.

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.

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” 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.

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

<p>Rights</p> <p>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.</p> <p>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.</p>
<p>Context</p> <p>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.</p> <p>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.</p>
<p>Duties and responsibilities</p> <p>Conservation interventions must be designed in a way that do 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.</p>

1.8 Right to traditional medicines and health practices

<p>Rights</p> <p>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.</p>
<p>Context</p> <p>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.</p>
<p>Duties and responsibilities</p> <p>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.</p>

1.9 Right to determine development priorities

<p>Rights</p> <p>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.</p>
<p>Context</p> <p>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.</p>
<p>Duties and responsibilities</p>

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.

2. Rights most likely to be indirectly infringed

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.

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.

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.

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.

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.

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.

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.

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.

3. Redress for infringements of rights**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.

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.

ANNEX III: IUCN Principles of Good Governance for Protected Areas

Table drawn from Borrini-Feyerabend et al., 2013.

<p>Legitimacy and voice</p>	<p>Establishing and maintaining governance institutions that enjoy broad acceptance and appreciation in society</p> <ul style="list-style-type: none"> • Ensuring that all rightsholders and stakeholders concerned receive appropriate and sufficient information, can be represented and can have a say in advising and/or making decisions • Fostering the active engagement of social actors in support of protected areas, upholding diversity and gender- equity • Extending special support to vulnerable groups, such as indigenous peoples, women and youth, and preventing discrimination on the basis of ethnicity, gender, social class, financial assets, etc. <ul style="list-style-type: none"> • Maintaining an active dialogue and seeking consensus on solutions that meet, at least in part, the concerns and interest of everyone • Promoting mutual respect among all rightsholders and stakeholders • Honouring agreed rules, which are respected because they are “owned” by the people and are not only because of fear of repression and punishment • As much as possible attributing management authority and responsibility to the capable institutions closest to natural resources (subsidiarity)
<p>Direction</p>	<ul style="list-style-type: none"> • Developing and following an inspiring and consistent strategic vision (broad, long-term perspective) for the protected areas and their conservation objectives, grounded on agreed values and an appreciation of the ecological, historical, social and cultural complexities unique to each context • Ensuring that governance and management practice for protected areas are consistent with the agreed values • Ensuring that governance and management practice for protected areas are compatible and well-coordinated with the plans and policies of other levels and sectors in the broader landscape/seascape and respectful of national and international obligations (including CBD PoWPA) • Providing clear policy directions for the main issues of concern for the protected area and, in particular, for contentious issues (e.g., conservation priorities, relationships with commercial interests and extractive industries) and ensuring that those are consistent with both budgetary allocations and management practice • Evaluating and guiding progress on the basis of regular monitoring results and a conscious adaptive management approach • Favouring the emergence of champions, generating new ideas and carefully allowing/promoting the testing of innovations, including governance and management innovations for protected areas
<p>Performance</p>	<p>Achieving conservation and other objectives as planned and monitored, including through on-going evaluation of management effectiveness</p>

	<ul style="list-style-type: none"> • Promoting a learning culture for protected area policy and governance practice on the basis of mechanisms, tools and partnership that promote on-going collaborative learning and cross-fertilization of experience • Engaging in advocacy and outreach for the benefit of protected areas • Being responsive to the needs of rightsholders and stakeholders, including by providing timely and effective response to inquiries and reasonable demands for changes in governance and management practice • Ensuring that protected areas staff, and rightsholders and stakeholders, as appropriate, have the capacities necessary to assume their management roles and responsibilities and that those capacities are used effectively • Making an efficient use of financial resources and promoting financial sustainability • Promoting social sustainability and resilience, i.e., the ability to manage risks, overcome the inevitable crises and emerge strengthened from the experience
Accountability	<ul style="list-style-type: none"> • Upholding the integrity and commitment of all in charge of specific responsibilities for the protected areas • Ensuring transparency, with rightsholders and stakeholders having timely access to information about: what is at stake in decision-making; which processes and institutions can exert influence; who is responsible for what; and how these people can be made accountable • Ensuring a clear and appropriate sharing of roles for the protected areas, as well as lines of responsibility and reporting/answerability • Ensuring that the financial and human resources allocated to manage the protected areas are properly targeted according to stated objectives and plans • Evaluating the performance of the protected area, of its decision makers and of its staff, and linking quality of results with concrete and appropriate rewards and sanctions • Establishing communication avenues (e.g., web sites) where protected area performance records and reports are accessible • Encourage performance feed-back from civil society groups and the media • Ensure that one or more independent public institution (e.g., ombudsperson, human rights commission, auditing agency) has the authority and capacity to oversee and question the action of the protected areas governing bodies and staff
Fairness and rights	<p>Striving towards an equitable sharing of the costs and benefits of establishing and managing protected areas and fairness in taking all relevant decisions</p> <ul style="list-style-type: none"> • Making sure that the livelihoods of vulnerable people are not adversely affected by the protected areas; that protected areas do not create or aggravate poverty and socially-disruptive migratory patterns; and that the costs of protected areas—especially when born by vulnerable people—do not go without appropriate compensation

	<ul style="list-style-type: none"> • Making sure that conservation is undertaken with decency and dignity, without humiliating or harming people • Dealing fairly with protected area staff and temporary employees • Enforcing laws and regulations in impartial ways, consistently through time, without discrimination and with a right to appeal (rule of law) • Taking concrete steps to respect substantive rights (legal or customary, collective or individual) over land, water and natural resources related to protected areas, and to redress past violations of such rights • Taking concrete steps to respect procedural rights on protected area issues, including: appropriate information and consultation of rightsholders and stakeholders; fair conflict management practices; and non-discriminatory recourse to justice • Respecting human rights, including individual and collective rights, and gender equity • Respecting the rights of indigenous peoples, as described in the UN Declaration of the Rights of Indigenous Peoples²⁸⁴ • Ensuring strictly the free, prior and informed consent of indigenous peoples for any proposed resettlement related to protected areas • Promoting the active engagement of rightsholders and stakeholders in establishing and governing protected areas.
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ANNEX IV: IUCN Natural Resource Governance Framework - Principles and Criteria

Drawn from the latest version of the NRGF (IUCN, 2019)

<p>1. Inclusive decision-making <i>Decision-making regarding natural resource policies and practices is based on the full and effective participation of all relevant actors, with particular attention to the voice and inclusion of rights-holders and groups at risk of marginalization</i></p>	<ul style="list-style-type: none"> - Relevant legal/policy frameworks include robust provisions on the inclusion of rights-holders and stakeholders in decision-making - Platforms/processes are in place to enable full and effective participation in decision-making - Processes for inclusive decision-making engage diverse groups, are socially and culturally appropriate, and take account of power dynamics within and between groups - Rights-holders and stakeholders have access to information concerning the environment and natural resources - Rights-holders and stakeholders have the capacities and support they need to participate in decision-making, including through appropriate representation - Natural resource decisions take account of the views expressed through consultation/participation processes - Free, Prior, and Informed Consent is required and secured for decisions concerning indigenous peoples/customary rights-holders, their lands or their resources
<p>2. Recognition and respect for tenure rights <i>Rights to lands, resources and waters are recognized and respected, with particular attention to the customary, collective rights of indigenous peoples and local communities, and to women's tenure rights</i></p>	<ul style="list-style-type: none"> - Relevant laws/policies/rules mandate recognition and respect for all tenure rights, with particular attention to customary (including collective) rights and women's rights - Tenure rights are robust – enabling rights-holders to sustainably manage, use/benefit from and protect lands/resources from threats - Processes and capacities are in place to recognize and respect land and resource rights, including for purposes of formal recognition - Processes and capacities are in place to protect and enforce tenure rights - Overlapping tenure rights/claims are clarified in law and resolved in practice
<p>3. Recognition and respect for diverse cultures and knowledge systems <i>Natural resource governance is grounded in sound and diverse forms of knowledge and respect for diverse natural resource values and practices</i></p>	<ul style="list-style-type: none"> - Governance strategies and actions are informed by sound and diverse forms of knowledge, including traditional knowledge - Diverse cultural values and practices sustaining natural resources are respected and protected - Governance institutions foster a culture of learning and adaptive management - Traditional knowledge is integrated in natural resource governance in respectful, appropriate and meaningful ways
<p>4. Devolution <i>Decisions are taken at the lowest possible level appropriate to the social and</i></p>	<ul style="list-style-type: none"> - Legal/policy frameworks devolve natural resource management to capable institutions closest to natural resources

<p><i>ecological systems being governed, with particular attention to supporting the roles and authority of local communities in natural resource governance</i></p>	<ul style="list-style-type: none"> - Legal/policy frameworks for devolved natural resource governance, including community-based natural resource management, are widely implemented. - Local institutions have the capacities and support they need for effective and equitable natural resource governance - Appropriate consideration is given to the roles and authority of local communities in natural resource governance
<p>5. Strategic vision, direction and learning <i>Natural resource governance is guided by an overall vision of desired environmental and social ends, and allows for adaptation in response to learning and changing conditions</i></p>	<ul style="list-style-type: none"> - Relevant legal/policy/management frameworks establish strategic vision and direction for natural resource governance - Strategic vision and direction are set through inclusive processes that take account of diverse values and forms of knowledge of rights-holders and stakeholders - Strategic vision and direction incorporate key principles of environmental sustainability, such as the precautionary principle against risks of environmental and social harm - Strategic vision and direction address present threats and anticipate future challenges - Governance of natural resources is consistent with defined strategies - Governance institutions incorporate ongoing monitoring, reflection and learning that enables responsiveness
<p>6. Coordination & Coherence <i>Actors involved or affecting in natural resource governance coordinate around a coherent set of strategies and management practices</i></p>	<ul style="list-style-type: none"> - Legal/policy frameworks across sectors responsible for and/or affecting natural resource governance are aligned - Coordination mechanisms are in place to enable “horizontal” collaboration and coherence among multiple actors and/or sectors operating in the same geographical space - Mechanisms are in place to enable “vertical” coordination across multiple levels of actors with roles in the governance of the same ecosystem or resource - Institutions collaborate and overlap functions in ways that enable resilience
<p>7. Sustainable and Equitably Shared Resources <i>Actors responsible for natural resource governance have the resources they need to carry out sustainable management and governance activities, including from the equitable sharing of benefits generated from natural resources</i></p>	<ul style="list-style-type: none"> - People responsible for natural resource governance have access to revenues and/or livelihoods activities that enable them to carry out management activities - Resources/revenues provide sufficient financial sustainability for the people and actions required to manage and conserve natural resources. - Benefit-sharing from the use of natural resources is equitable. - Resources and benefit-sharing provide incentives for the conservation and/or sustainable use of natural resources. - Losses stemming from restrictions to enable natural resource sustainability are minimized and compensated where unavoidable - Natural resources and the environment are sustained so that each successive generation has equitable access to their benefits
<p>8. Accountability <i>Actors responsible for or affecting natural resource governance are accountable for their actions and the</i></p>	<ul style="list-style-type: none"> - Institutions responsible for natural resource governance have clearly- defined roles and responsibilities. - Actors responsible for or affecting natural resource governance operate transparently, sharing open and accessible information on their actions

<p><i>environmental and social impacts they produce</i></p>	<ul style="list-style-type: none"> - Capacities and mechanisms are in place to hold natural resource governance authorities responsible for their actions - Social and environmental safeguards that explicitly take account of the situation of vulnerable groups and environments are adopted and implemented - Potential impacts on vulnerable environments and people are understood in advance and avoided or minimized to the extent possible - Accountability mechanisms effectively rein in corruption (use of public power for private gain)
<p>9. Fair and effective rule of law <i>Natural resource-related laws and their application are fair, effective, and protect fundamental rights</i></p>	<ul style="list-style-type: none"> - A clear system of natural resource norms and sanctions is defined in law/policy and widely publicized - Natural resource-related laws/policies/rules are consistent with human rights and take account of the situation of indigenous peoples and local communities, women and vulnerable groups - Natural resource-related laws/policies/rules incorporate principles of environmental sustainability - Enforcement bodies have capacity to uphold established norms and sanctions - Natural resource-related laws/policies/rules are carried out equitably and humanely
<p>10. Access to justice and conflict resolution <i>People are able to seek and obtain remedies for grievances and resolve conflicts regarding land and natural resources</i></p>	<ul style="list-style-type: none"> - Formal and/or non-formal mechanisms are in place to resolve conflicts and grievances regarding land and natural resources - People are aware of their natural resource governance-related rights and the avenues available to them for resolving conflicts or seeking redress - Grievance/dispute resolution mechanisms are accessible to rights-holders and stakeholders, including vulnerable and marginalized groups - Mechanisms operate impartially and effectively to resolve disputes

ANNEX V: Indigenous peoples, local communities and peasants

This annex is drawn from *The Living Convention* (Jonas, 2020) and sets out the international definitions of Indigenous peoples, local communities and peasants. Indigenous peoples, in particular, are underscoring these distinctions due to a concern that conflating these categories will lead to a diminution of Indigenous peoples' rights (Inuit Circumpolar Council, 2020).

1. Indigenous Peoples

Indigenous peoples are recognised as having particular characteristics by various documents and bodies. Although there is no single definition, James Anaya, the former UN Special Rapporteur on the Rights of Indigenous Peoples, argues that Indigenous peoples are "*indigenous*, because their ancestral roots are embedded in the lands in which they live, or would like to live, much more deeply than the roots of more powerful sectors of society living on the same lands or in close proximity."⁷ The key characteristics of Indigenous peoples, as enunciated by José R. Martínez Cobo, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his "Study on the Problem of Discrimination Against Indigenous Populations", is set out in the box below.⁸ The source of Indigenous peoples' rights, therefore, is an extensive connection to the land of their ancestors and the critical importance that has for their identities and contemporary ways of life.⁹

Box 2: Key Characteristics of Indigenous Peoples

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form, at present, non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. This historical continuity may consist of the continuation, for an extended period reaching into the present, of one or more of the following factors:

- Occupation of ancestral lands, or at least of part of them;
- Common ancestry with the original occupants of these lands;

⁷ Anaya S., 2004. *Indigenous Peoples in International Law*. Oxford: Oxford University Press, 2nd ed., page 3, original emphasis.

⁸ See Cobo report submitted to the UN Subcommittee on the Prevention of Discrimination of Minorities, 1986, UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4. The information in the box is taken from paras 379-382.

⁹ Cobo report submitted to the UN Subcommittee on the Prevention of Discrimination of Minorities (1986). Martínez de Cobo, 1986, UN Doc. E/CN.4/Sub.2/1986/7

- Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, lifestyle, etc.);
- Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language);
- Residence in certain parts of the country, or in certain regions of the world;
- Other relevant factors.¹⁰

Today, Indigenous peoples' rights are enshrined in a recognized body of human rights law and are the focus of two major international instruments; namely, ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples.¹¹ Importantly, the rights of Indigenous peoples were developed within the framework of general human rights, which are considered inherent, indivisible, interrelated, and inalienable.¹² Therefore, they should be considered as human rights that are clearly elaborated for the special circumstances of Indigenous peoples.

The rights of Indigenous peoples have also been on the agenda of other international bodies like the Rio Summit Agenda 21 (Section III 23.3), which devotes a whole chapter to Indigenous peoples,¹³ and, more recently, in the Rio+20 outcome document, "The Future We Want". Indigenous peoples' rights are also invoked in a number of statements and declarations made by Indigenous peoples, including the Indigenous Peoples International Declaration on Self-Determination and Sustainable Development (2012).¹⁴

Box 3: Self-Identification

On an individual basis, an indigenous person is one who belongs to these indigenous peoples through self-identification as indigenous (group consciousness) and is recognized and accepted by the group as one of its members (acceptance by the group). This preserves for these communities the sovereign right and power to decide who belongs to them, without external interference.

2. Local Communities

¹⁰ United Nations Department of Economic and Social Affairs, Division for Social Policy and Development Secretariat of the Permanent Forum on Indigenous Issues, *The Concept of Indigenous Peoples*, PFII/2004/WS.1/3, page 2, para. 2.

¹¹ There were initially four States against the adoption of UNDRIP (Canada, the USA, New Zealand, and Australia), however, each has since reversed this position endorsed by UNDRIP.

¹² The UN Declaration on Indigenous Peoples Rights, when adopted in 2007, was considered a non-binding text (see <http://www.un.org/News/Press/docs/2007/ga10612.doc.htm>). However, in 2010 the Third Committee stated that the Declaration "should be regarded as a 'political, moral and legal imperative' without qualification" (see <http://www.un.org/News/Press/docs/2010/gashc3982.doc.htm>).

¹³ See Chapter 26.

¹⁴ Available at: http://www.iwgia.org/news/search-news?news_id=542.

The term, ‘local communities’, is not defined in international law. It appears for the first time in Article 8(j) of the Convention on Biological Diversity (CBD), which calls on Parties to “respect, preserve and maintain knowledge, innovations and practices of indigenous *and local communities* embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.”¹⁵ Despite this prominent reference, the definition of a ‘local community’ remains “ambiguous”¹⁶ and is not as well developed or widely accepted at the international level as that of ‘Indigenous peoples’. This issue became the subject of a dedicated meeting held under the auspices of the CBD in July 2011.¹⁷

At the meeting, a group of representatives of local communities and experts on the related issues agreed that any list of defining characteristics of local communities should be broad and inclusive, and allow for a clustering of unique cultural, ecological and social circumstances to each community.¹⁸ In their recommendations, they underscore that identity is a “complex and multi-dimensional issue”,¹⁹ and, as a result, self-identification as a local community should be foremost and essential in any list of characteristics. Other characteristics include:

- Lifestyles linked to traditions associated with natural cycles (symbiotic relationships or dependence), the use of and dependence on biological resources and linked to the sustainable use of nature and biodiversity;
- The community occupies a definable territory traditionally occupied and/or used, permanently or periodically. These territories are important for the maintenance of social, cultural, and economic aspects of the community;
- Traditions (often referring to common history, culture, language, rituals, symbols and customs) which are dynamic and may evolve;
- Technology/knowledge/innovations/practices associated with the sustainable use and conservation of biological resources;
- Social cohesion and willingness to be represented as a local community;
- Traditional knowledge transmitted from generation to generation including in oral form;

¹⁵ CBD Article 8(j). Emphasis added. At the tenth CBD Conference of the Parties, the Conference of the Parties (COP) decided to hold an “ad hoc expert group meeting of *local-community representatives* ... with a view to identifying common characteristics of local communities, and gathering advice on how local communities can more effectively participate in Convention processes, including at the national level, as well as how to develop targeted outreach, in order to assist in the implementation the Convention and achievement of its goals.” Para 21, decision X/43 on the multi-year programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity Decision available here: <http://www.cbd.int/decision/cop/?id=12309>.

¹⁶ UNEP/CBD/AHEG/LCR/INF/1, page 4. This document contains a background paper produced by the Secretariat of the Permanent Forum on Indigenous Issues on the concept of local communities for an expert workshop on the disaggregation of data.

¹⁷ Expert Group Meeting of Local Community Representatives Within the Context of Article 8(j) and Related Provisions of the Convention on Biological Diversity, 14-16 July 2011. UNEP/CBD/WG8J/7/8/Add.1.

¹⁸ UNEP/CBD/WG8J/7/8/Add.1, page 12.

¹⁹ UNEP/CBD/AHEG/LCR/1/2, page 2.

- A set of social rules (e.g., that regulate land conflicts/sharing of benefits) and organizational-specific community/traditional/customary laws and institutions;
- Expression of customary and/or collective rights; and
- Self-regulation by their customs and traditional forms of organization and institutions.²⁰

Beyond the CBD,²¹ courts are also recognizing non-Indigenous communities as having particular rights in relation to their lands and natural resources, as exemplified in the *Saramaka* judgment handed down by the Inter-American Court of Human Rights.²² In the context of the increased global focus on biodiversity, food sovereignty and ecosystem processes, local communities' rights are gaining prominence at all levels of law and policy.

3. Peasants

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018), describes a 'peasant' as someone who "engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land". Additionally, the Declaration applies to:

- Any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.
- Indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities, and the landless engaged in the above-mentioned activities, and
- Hired workers, including all migrant workers regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises.²³

4. National level interpretation and recognition

The above descriptions relate to UN-level concepts which are, in turn, engaged with at the (sub-)national levels. At this level they a) are referred to differently and b) may or may not be

²⁰ UNEP/CBD/WG8J/7/8/Add.1, page 12.

²¹ It should also be noted that ILO 169 applies to "tribal peoples" as well as Indigenous peoples. ILO 169 Article 1(a).

²² *Saramaka v Suriname*, Inter-American Court of Human Rights (Ser. C) No. 172 (28 November 2007) (IACHR No. 172). For further information, see Jonas H., et al. 2012. International Law and Jurisprudence Report.

²³ UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018. Article 1.

recognized. The notion of Indigenous peoples in Africa remains a controversial subject at the governmental level of many nations.

ANNEX VI: Draft ‘Gold Standard’

This is a copy of the principles for best practice for recognizing and respecting Indigenous Peoples’, Local Communities’ and Afro-Descendants’ land and resource rights in landscape restoration, management, conservation, climate action, and development projects and programs

Outline of the Standard

All organizations and entities engaged in promoting climate, conservation, or development actions will commit to respect and uphold human rights, both individual and collective, and therefore undertake the following:

1. To **acknowledge, respect and protect the full bundle of rights** of Indigenous Peoples as affirmed by the UN Declaration on the Rights of Indigenous Peoples, the rights Local Communities, and Afro-descendants, and of women within these groups, including their community-based rights to the lands, territories and resources they customarily own or use, regardless of whether such rights are legally recognized by a state.
2. To aid in **securing effective legal recognition** of these community-based rights to lands, territories and resources, and their associated customary tenure systems, governance structures and customary laws.
3. To **plan, implement, and monitor all landscape-level** projects, programs and initiatives⁶ in **full collaboration** with Indigenous Peoples, Local Communities, Afro-descendants, and women within these groups, taking into account their self-determined priorities and locally defined approaches.
4. To **respect rights to cultural heritage and traditional knowledge**, recognizing that cultural heritage is perceived and defined by the owners of that heritage, with Indigenous Peoples, Local Communities, Afro-descendants, and women within these groups having the right to control, protect and develop their cultural heritage, including their local ecological knowledge and governance institutions.
5. To **respect the free prior and informed consent of indigenous peoples** and their right to self-determination, including to fully respect and prohibit any contact with indigenous peoples in voluntary isolation. Likewise, the **rights of local communities and Afro-descendants to free, prior, informed and substantive participation in consultative processes and decisions that may impact their lands, resources or livelihoods** should be fully respected and upheld.
6. To ensure that the terms and execution of partnerships and agreements with Indigenous Peoples, Local Communities, Afro-descendants, and women within these groups concerning activities impacting their lands, resources, and territories provide for: (i) **Mutually agreed and equitable sharing of benefits**; (ii) **Respect for traditional knowledge**; (iii) **An independent, accessible, fair and mutually acceptable grievance and redress mechanism** to address

potential and actual harms; (iv) **Fair compensation for any current and future impacts** on their lands, territories and resources; and (v) **The preservation of locally-defined livelihoods and priorities**. All negotiations of such partnerships and agreements should include the substantive and effective engagement of Indigenous, Local Community, and Afro-descendant representatives, including women within these groups.

7. To establish written agreements prior to parties' participation in any interventions that ensure **prompt, fair and effective remedies** for harms or potential harms caused by interventions, and that guarantee independent, accessible, fair and mutually acceptable **grievance and redress mechanisms** that include procedures to address **historic harms and legacy issues** as well as their **ongoing impacts**.

8. To secure and promote the **equal rights of rural women** to lands, territories and resources, including women's equal participation and inclusion in the governance of such areas, and to ensure zero tolerance for violence, harassment or intimidation against women in all project operations.

9. To respect, promote and protect the **fundamental rights and freedoms of Indigenous Peoples, Afro- descendants and Local Communities and particularly environment defenders**, provide support for access to justice to victims and their families, and actively support initiatives to prevent criminalization, threats and violence against them.

10. To **promote the adoption of these Gold Standard principles** by private sector actors, investors, civil society organizations, multilateral agencies, and donors, and to encourage these actors to commit to transparency in these principles' implementation, the adoption of participatory assessments, full and effective cooperation with independent monitoring mechanisms involving Indigenous Peoples', local communities' and Afro-descendants' representatives, and reporting on the effectiveness of implementing measures.