



Advancing Human Rights-based Approaches to Target 3 Implementation

A working paper

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Cover photo: *Tana' ulen* are a vital conservation tradition for territories of life in North Kalimantan, Indonesia. This photo shows a *tana' ulen* in Pujungan territory. You can read more about *tana' ulen*, and the roles they play in rights and governance of Indigenous territories, [here](#) (Eghenter et al., 2021). Photo © Andris Salo



THE BIODIVERSITY PLAN
For Life on Earth

1. Introduction and Overview

1.1 Context

The Kunming-Montreal Global Biodiversity Framework (GBF) was adopted by Parties to the Convention on Biological Diversity (CBD) in 2022. It calls for transformative action “to halt and reverse biodiversity loss” by 2030, including through conservation that jointly advances rights, equity, and sustainability. GBF Target 3 is to:¹

“Ensure and enable that by 2030 at least 30 per cent of terrestrial and inland water areas, and of marine and coastal areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories.”

The rights and equity elements of Target 3 advance global commitments on area-based conservation. They present an opportunity and responsibility to improve policy and practice.² Target 3 implementation also needs to uphold cross-cutting provisions of the GBF. These include commitments to: full, equitable, inclusive, effective, and gender-responsive participation; recognition and respect for the rights and contributions of Indigenous Peoples and local communities; gender equality; inter-generational equity; protection of environmental human rights defenders; and a human rights-based approach to implementation. (See [Box 2](#))

The GBF explicitly acknowledges Indigenous Peoples’ and local communities’ contributions “as custodians of biodiversity and partners in... conservation” and commits to safeguarding their rights.³ Evidence of the expanse and importance of these contributions affirms that global targets cannot be equitably or effectively achieved without recognizing and respecting their leadership and rights.⁴ However, for many Indigenous Peoples and local communities, area-based conservation, particularly through protected areas (PAs), has historically resulted in, and continues to result in, profound injustices and human rights violations when rights are not recognised or adequately protected.⁵ These injustices

1 [Kunming-Montreal Global Biodiversity Framework](#) (CBD, 2022, Target 3)

2 e.g. [From Agreements to Actions](#) (HRBWG, 2024); [Respecting the rights and leadership of Indigenous Peoples and local communities in realizing global goals](#) (Tugendhat et al., 2023)

3 [Kunming-Montreal Global Biodiversity Framework](#) (CBD, 2022, para. 7(a)); [Respecting the rights and leadership of Indigenous Peoples and local communities in realizing global goals](#) (Tugendhat et al., 2023)

4 e.g. [The role of Indigenous peoples and local communities in effective and equitable conservation](#) (Dawson et al., 2021); [Local Biodiversity Outlooks](#) (FPP et al., 2016; 2020); [Territories of Life Report](#) (ICCA Consortium, 2021); [Rights-Based Conservation: The path to preserving Earth's biological and cultural diversity?](#) (RRI, 2020); [From Commitments to Action: Advancing Community Rights-based Approaches to Achieve Climate and Conservation Goals](#) (RRI, 2023); [The state of Indigenous Peoples’ and Local Communities’ lands and territories](#) (WWF et al., 2021)

5 e.g. [Human rights-based approaches to conserving biodiversity](#) (Boyd & Keene 2021); [From Commitments to Action: Advancing Community Rights-based Approaches to Achieve Climate and Conservation Goals](#) (RRI, 2023) ; [Cornered by PAs](#) (webpage and linked resources)

include disruption and loss of access to cultural and spiritual relationships to place and to traditional livelihoods and ways of living, as well as evictions, displacements, and other forms of violence. The ambition to conserve 30% of the earth stated in Target 3 has raised real concerns that a rapid expansion of area-based conservation approaches could, in too many areas, perpetuate and exacerbate these harms.

Implementing Target 3 through a human rights-based approach (HRBA) is crucial for avoiding the risks for harm and realising its potential to contribute to the wellbeing of people and nature. An HRBA involves actively seeking to avoid negative human rights impacts, provide remedy for harm, and enhance positive human rights outcomes as much as possible. It requires addressing power relationships, and taking action with rights-holders⁶ as leaders and equal partners. (See [Sec 2.2](#))

A closer look: The 2021 ICCA Consortium [Territories of Life report](#) includes a global spatial analysis of conservation by Indigenous Peoples and local communities. It highlights their outsized contributions and reaffirms that appropriate recognition and support of territories and areas governed, managed, and conserved by Indigenous Peoples and by local communities is crucial to achieving Target 3. The report also features 17 detailed cases about territories of life, including the innovative pathways their custodians have taken in self-strengthening, collective action, and assertion of collective rights.⁷

6 This working paper aims to focus on rights-holders most likely to be directly impacted by area-based conservation, including Indigenous Peoples, local communities, women, youth, persons with disabilities, and other people living in rural areas who depend on and may have customary claims to land, water, or natural resources. See subsection on [rights-holders](#) for further discussion.

7 [Territories of Life report](#) (Overall report: ICCA Consortium, 2021; Spatial analysis: UNEP-WCMC & ICCA Consortium, 2021; See individual case examples for further information)

1.2 Paper Purpose and Scope

This working paper explores concepts, considerations, and approaches to advance rights in the context of area-based conservation. Its purpose is to provide a practical resource on HRBAs for actors responsible for, participating in, and potentially impacted by Target 3 implementation.⁸

The paper scope includes area-based conservation considerations and approaches for:⁹

- Avoiding and providing remedy for rights infringements and violations
- Respecting rights-holders' leadership, contributions, and equal partnership
- Contributing to enjoyment of human rights and equity, including by upholding responsibilities for a sustainable environment and equitable distribution of benefits, with intergenerational justice

Addressing this broad scope of issues requires decisions and actions at both site- and system-levels¹⁰ and across multiple aspects of Target 3 implementation, including to:

- Transform power relationships and narratives in ways that advance rights and equity
- Ensure that designation, identification, and recognition of conserved areas upholds human rights norms, through three pathways (see [Box 1](#))
- Enhance rights and equity in the governance and management of area-based conservation sites and systems

The paper aims to contribute to the [Road Map for Advancing Rights and Equity in Conservation](#) and to complement the guide 'From Agreements to Actions', which focuses on an HRBA to the GBF as a whole.¹¹

A closer look: The collaborative Road Map on Advancing Rights and Equity in Conservation details 32 actions across 11 priority areas, identified by diverse knowledge holders gathered for an international workshop in Nanyuki, Kenya in early 2024. The workshop aimed to provide space for inclusive discussion to chart paths towards more equitable governance and respect for rights in area-based conservation¹².

8 GBF Targets 1 and 2 (on spatial planning and restoration respectively) are taken into consideration in relation to Target 3 (e.g. in terms of how protected and conserved area systems are situated within spatial planning). Exploring HRBA to spatial planning or restoration specifically is beyond the scope of this paper, though many of the issues and approaches will be relevant to them, with adaptation. The guide "From Agreements to Actions" and other resources also explore HRBAs in the context of restoration and marine spatial planning.

9 These elements align with the main points of both mutuality and tension between conservation and human rights noted in [Sec 2.1](#) and specifically with the recommendations of the 2021 brief [Human rights-based approaches to conserving biodiversity](#) (Boyd & Keene 2021).

10 'Site-level' generally refers to an individual protected or conserved territory or area while 'systems-level' generally refers to a national or sub-national network of protected or conserved areas. This paper considers both site- and system levels, as well as the broader contexts in which they are situated. While they are closely linked in terms of rights considerations, we try to differentiate between scales where relevant.

11 [From Agreements to Actions](#) (HRBWG, 2024)

12 [Road Map on Advancing Rights and Equity in the Implementation of Conservation](#) (Nanyuki, Kenya, 2024). The workshop was co-convened by the International Institute for Environment and Development (IIED), the Indigenous Movement for Peace Advancement and Conflict Transformation (IMPACT Kenya), the International Indigenous Forum on Biodiversity (IIFB), the ICCA Consortium, the Forest Peoples Programme, (FPP), and the International Union for the Conservation of Nature (IUCN), including its World Commission on Protected Areas (WCPA), Commission on Environmental, Economic, and Social Policy (CEESP), Eastern and Southern Africa Regional Office (ESARO), and headquarters.

While we explore a wide range of issues, it is also important to note the paper's limitations. Conservation outcomes and relationships with nature emerge from a wide diversity of values, cultures, and lifeways. We aim to advance HRBAs that recognize and respect this diversity, including the knowledge, agency, and self-determined collective-action of those who often make the greatest contributions while often being simultaneously marginalised in mainstream conservation narratives. We also acknowledge that there are diverse worldviews and generational relationships of care and responsibility that cannot be fully captured in this paper. There are also ongoing and evolving discussions about what an HRBA to area-based conservation requires in diverse contexts. Action moving forward should be informed, in particular, by guidance from rights-holders and their representative institutions, including Indigenous Peoples' and local communities' **networks and organisations**.

A closer look: The TRUA World Summit on Traditional Knowledge Related to Biodiversity (Trua TK Summit) gathered more than 150 leaders of Indigenous Peoples and local communities and government representatives in Bogota, Colombia in August, 2024. Its overall objective was to "increase the visibility of traditional knowledge related to biodiversity and the contributions of Indigenous Peoples and local communities to biodiversity conservation and climate action, in order to achieve the goals of the ... KM-GBF) and the Paris Agreement". Results include recommendations on GBF implementation and to establish a subsidiary body on CBD Article 8(j), which would, among other functions, "provide specific guidance on the implementation of Target 3... which recognizes the contributions of Indigenous Peoples and local communities to biodiversity conservation and sustainable management of their territories. This advisory role should focus on how Indigenous Peoples and local communities can and should be an integral part of the global solutions for achieving conservation targets."¹³

13 Trua TK Summit Executive Summary; Presentations and reference documents, including the full report, are available on the IIFB webpage here: <https://iifb-indigenous.org/event/tk-summit/>

1.3 Overview

You can read this document from start to finish, or go to the sections of most interest to you.

Section 2 explores key concepts, including:

- What **human rights** are and how they are **linked to conservation**
- How conservation and human rights standards have **evolved over time**, noting their increasing connections
- What human rights based approaches (**HRBAs**) are
- Who **rights holders** and **duty-bearers** are in the context of area-based conservation. This section highlights that, while states hold the primary legal obligation to respect, protect, and fulfil human rights, non-State actors (including businesses, conservation NGOs, and funders) have important responsibilities

Section 3 explores ways that some procedural and substantive rights relate to conservation. These include rights to: **self-determination**; **lands**, territories, and resources; **participation** and access to information; free, prior and informed consent (**FPIC**); **culture**, knowledge, and biocultural rights; **sustainable use** and linked substantive rights; **gender equality** and non-discrimination; clean, healthy, and sustainable **environment**; **life**; and access to **justice** and remedy.

Section 4 explores practical approaches to advance rights in area-based conservation, in relation to:

- **Getting started** - e.g. identifying the conservation decisions or actions being proposed and ensuring rights-holder led and inclusive processes for deciding how to advance rights in the context. Approaches will differ depending on, inter alia, whether proposals are from rights-holders (e.g. asserting legal rights to Indigenous and traditional territories) or duty-bearers (e.g. government or NGO establishing a PA)
- **Understanding the situation** - e.g. identifying rights-holders (and rights), duty-bearers (and responsibilities), power relationships, and opportunities and challenges to advance rights in the context
- **Taking responsive action** - e.g. revising statutory legal and policy frameworks; asserting and securing rights, including to own, govern, steward, and manage territories; removing barriers to implementation; (co-)developing initiatives that advance rights-holder priorities; and enabling remedy and redress
- **Rights-based (and rights-holder led) monitoring**, including of conservation impacts, equitable governance, and the extent to which rights and contributions are recognized
- Fostering **relationships and resource access** that support people in asserting rights and upholding duties

Annex 1 links to a resource library with international human rights and conservation instruments and further resources to support and advance HRBAs.

Box 1: Rights-based recognition of Indigenous- and community-led conservation in Target 3

Territories and areas that are governed, stewarded, managed, and conserved by Indigenous Peoples and by local communities are found all over the world. They hold diverse values (and may or may not include conservation as an objective), are sustained in diverse ways, and are referred to by diverse terms and names.¹⁴ However, many are not yet (legally/externally) recognized. There are many reasons for this, including:

- They may be overlapped by an area under other legal ownership or governance (e.g. a State-governed PA)¹⁵
- Rights over land or territory, or other rights of Indigenous Peoples, may not be recognized or secure under national law
- There may not be a law recognizing areas conserved by non-State actors as part of the national system
- Rights-holders may not want external recognition under the available statutory (or other) frameworks for a variety of reasons, e.g. the costs or restrictions such recognition may impose

Target 3 identifies three broad pathways for identification/recognition:

- **Protected areas (PAs)**, which are defined by the CBD as “geographically defined area which is designated or regulated and managed to achieve specific conservation objectives”. PAs are generally understood as having a primary objective of biodiversity conservation.¹⁶ The CBD recognizes that PAs can be governed by different actors, including by and with Indigenous Peoples and local communities. (See section on [diverse governance](#))
- **‘Other effective area-based conservation measures’ (OECMs)**, which are defined by the CBD as “a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values”. The OECM framework can provide a pathway for identifying or recognizing areas that are already (and in many cases have long been) effectively conserved, but that are not designated as PAs.¹⁷ Like PAs, OECMs can, in principle, be governed by various actors, including by Indigenous Peoples or by local communities. Unlike PAs,

14 CBD decisions have recognized and referred to territories and areas conserved by Indigenous Peoples and by local communities using various and evolving terms since 2004. This can be seen, for example, in the ICCA Consortium summary of related CBD decisions (and other international law and policy decisions, mechanisms and reports) between 2004 and 2018, [here](#). The ICCA Consortium notes that these territories and areas (sometimes abbreviated as “ICCA” or “territories of life”) are “age-old, widespread, diverse and dynamic phenomenon that have many different manifestations and names around the world”, and further describes characteristics [here](#). There are also ongoing discussions and diversity in understanding, including in relation to Target 3.

15 [Recognising and Respecting ICCAs Overlapped by Protected Areas](#) (Stevens et al., 2016) [Recognising territories and areas conserved by Indigenous peoples and local communities \(ICCA\) overlapped by protected areas](#) (Stevens, et al., 2024)

16 IUCN uses a generally compatible definition. In both, a key element is that conservation is an objective of the management of a designated or dedicated area. This does not mean that a PA can’t have other, complementary objectives. However, “IUCN ... stresses that, in order to qualify as ‘protected’, an area must be managed with conservation of nature as a conscious management objective, which “must prevail in case of conflict with other, equally legitimate, objectives” - [Meanings & More](#) (Sajeva et al., 2019:36, citing Borrini-Feyerabend and Hill, 2015:177).

17 Globally, the focus on OECMs has generally been as a framework for identification / recognition of areas that are already effectively conserved. However, the framework does not necessarily preclude recognition of new (or newly restored) areas, and these may be given greater focus over time.

however, OECMs *do not need to have conservation as their objective*. Rather, they need to demonstrate that they achieve conservation in practice.¹⁸ This is an important distinction. For example, custodians often govern and sustain their territories or areas for reasons other than conservation. They may decide to self-identify such areas as an OECM, e.g. if, in their context, doing so provides additional protection over their rights and interests.

- Indigenous and traditional territories¹⁹, all or part of which could be self-declared as protected areas (e.g. as in Indigenous protected areas) or self-identified as OECMs, where this designation or identification is freely chosen. However, it is crucial to understand that Indigenous and traditional territories may also contribute on their own terms, as a distinct pathway that is in addition to PAs and OECMs.

To “count” towards Target 3, areas that are under protected status and/or achieve conservation outcomes must be identified/recognized or designated. Currently (September, 2024) only States can directly report areas against the commitments made under the CBD, via the World Databases on PAs and on OECMs maintained by UNEP-WCMC.²⁰

As we will explore throughout this document, it is crucial that Indigenous Peoples and local communities hold the decision-making power in any designation/ identification/ recognition of territories or areas they own, govern, manage, and/or conserve. The ICCA Consortium has distinguished between self-recognition, peer-recognition, and recognition by other external (governmental and non-governmental) authorities in the case of Territories of Life.²¹ Options for external (e.g. legal) recognition will vary by context, including in terms of whether that recognition respects and supports rights-holders. In some contexts, self-determined declaration or identification/recognition might support custodians in asserting and exercising their rights and defending against external threats - e.g. from harmful industries, displacement, or encroachment.²² This may be true particularly where Indigenous Peoples’ rights over land and resources are not otherwise recognized by State governments. However, in other contexts, designation or recognition as a PA or OECM may not be appropriate or supportive - e.g. this may pose undue restrictions and/or fail to provide any legal or other benefit.²³ Further, protected area related law and policy continue to evolve, and in many places OECM related policy is in early stages of development, with potential benefits and challenges still to be seen.²⁴

18 [CBD/COP/DEC/14/8 Annex III](#)

19 This term is not defined by the CBD, but ‘traditional territories’ has been defined by the Working Group on Article 8(j) and Related provisions, as “Lands and waters traditionally occupied or used by indigenous peoples and local communities.” Any future definition of the term will likely draw on this document. See: <https://www.cbd.int/doc/guidelines/cbd-8j-GlossaryArticle-en.pdf>

20 According to the [User Manual](#) for the world databases on PAs and OECMs, while data can be reported by either government or non-government actors, “Incoming data from non-government data providers undergo a verification process before being added to the WDPA or OECM database...” (UNEP-WCMC, 2019:26).

21 See Meanings and More webpage subsection on “Do territories of life need ‘recognition?’”

22 [The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities](#) (UNDP, 2022); [Territories of Life Report](#) (ICCA Consortium, 2021)

23 [Target 3 of Kunming Montreal Protocol and its implementation in India](#) (Tatpati, 2023), [Respecting the rights and leadership of Indigenous Peoples and local communities in realizing global goals](#) (Tugendhat et al., 2023)

24 e.g. [Indigenous Peoples, local communities and area-based conservation targets](#) (Ramos Castillo and Tugendhat, 2022)

2. Key concepts

2.1 Conservation & Human Rights

What are human rights?

Rights and responsibilities, whether individually or collectively held, are understood and expressed across many different legal systems. This is true within customary law (legal systems not necessarily codified by a State jurisdiction), as well as in national, regional, and international laws. Human rights law as described here is primarily those understandings that have been codified in international instruments and are increasingly reflected in many national and regional systems.

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Some human rights are individual, including the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Some human rights, while individual, are exercised with other members of a particular group, such as minority rights.²⁵ Some rights can only be effectively protected by being recognised as belonging to collectives - the right to practise one's culture, for instance. There are, moreover, also rights that are held collectively. For example, the right to self-determination is only a right of Peoples, not of individuals. Indigenous Peoples hold collective rights to self-determination, and to lands, territories, and resources, as recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). While everyone is entitled to human rights, the ways in which both individual and collective rights are expressed or enjoyed can differ significantly between groups and contexts, including because that expression is linked to social, economic, and cultural histories and dynamics.

A common distinction is made between 'procedural' and 'substantive' rights. This distinction deals with whether a right is related to *the way in which something should be done* (such as access to information or participation) or to the *underlying substance of the issue* (such as education or health). This distinction is not absolute however, and some rights will have elements of both. Procedural and substantive rights are also closely connected, including because secure procedural rights (e.g. participation in decision-making about conservation) can help ensure rights-holders are able to assert and defend their substantive rights (e.g. to a clean, healthy, and sustainable environment; to culture; or to food). Both procedural and substantive rights - and the links between them - are important for understanding how human rights and conservation intersect.²⁶

25 International Covenants on Civil and Political Rights (ICCPR), Article 27.

26 While this paper uses the concepts of procedural and substantive rights, and of collective and individual rights, to understand the range of and relationships between rights, human rights are categorised in diverse and evolving ways. For example, another distinction in human rights law is often made between 'civil and political rights' and 'economic, social and cultural rights'. This division is apparent in the two international covenants adopted in 1966 to provide further detail to the Universal Declaration on Human Rights (itself adopted in 1948), although increasingly the universality, indivisibility and interdependence of all rights is emphasised and the term 'International Bill of Human Rights' is used to refer to them all. In addition to the Universal Declaration of Human Rights, and the two International Covenants, the Bill also refers to two additional protocols adopted to expand on the International Covenant on Civil and Political Rights. (See Annex 1). Some also refer to certain rights, including many collective rights and those related to intergenerational equity, sustainability and a healthy environment, as '3rd generation' or 'solidarity' rights. This paper aims to be inclusive of the full range of human rights.

How are conservation and human rights linked?

There are multiple links between human rights and conservation - and, more specifically, between the enjoyment of human rights, the state of the natural world, and choices about how to manage, conserve, or protect nature. Links explored in this paper include that:

- Human rights and conservation can be, and often are, mutually reinforcing
- Conservation actions also can, and too often have, violated rights, including of Indigenous Peoples, local communities, and other **rights-holders**
- Indigenous- and community-led conservation often faces threats due to lack of rights recognition

These links illustrate why a human-rights based approach can provide a foundation for just and effective conservation practice.

A closer look: A 2021 **policy brief** from the Special Rapporteur on Human Rights and the Environment highlights cases from six countries that, together, illustrate “the devastating impacts of fortress conservation on Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth” and the “promise of rights-based approaches for both people and nature”.²⁷

These links between human rights and conservation are being increasingly recognized. In 2021, the UN Human Rights Council passed a resolution that highlighted their mutuality:

*Recognizing that **degradation and loss of biodiversity often result from and reinforce existing patterns of discrimination**, and that environmental harm can have disastrous and at times geographically dispersed consequences for the quality of life of indigenous peoples, local communities, peasants, and others who rely directly on the products of forests, rivers, lakes, wetlands and oceans for their food, fuel, and medicine, resulting in further inequality and marginalization,*

*Recognizing also that sustainable development and the **protection of the environment, including ecosystems, contribute to human well-being and to the enjoyment of human rights, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to safe drinking water and sanitation and to housing, and cultural rights.***²⁸

It then recognised the right to a clean, healthy, and sustainable environment as a human right.²⁹ Following this, in 2022, the UN General Assembly adopted a similarly-worded resolution, also recognizing access to a clean, healthy and sustainable environment as a universal human right.³⁰

²⁷ Human rights-based approaches to conserving biodiversity (Boyd & Keene 2021)

²⁸ UN Human Rights Council Resolution 46/7 on human rights and the environment (A/HRC/46/7) adopted in March 2021.

²⁹ UN Human Rights Council Resolution 48/13, the human right to a clean, healthy and sustainable environment (A/HRC/48/13) adopted in October 2021

³⁰ UN General Assembly Resolution on the human right to a clean, healthy and sustainable environment (A/RES/76/300) adopted in August 2022

The ways in which humans, individually and collectively, relate to the natural world are also addressed across many different legal systems. Conservation – broadly understood as actions to protect, maintain, and manage natural resources – is intimately connected to the systems of rights and responsibilities that humans have asserted and recognised. Customary laws in many places address these connections, and the same can be true for international human rights law as codified in international instruments and reflected in many national and regional systems. These connections have been addressed before, underscoring how foundational they are for understanding how conservation can be and should be practised.³¹ This is the case both for systems and individual sites under all governance types.

However, externally imposed conservation, particularly in the colonial era when many significant and large national parks and protected wilderness areas were established, has had serious negative impacts on human rights. This approach – often called ‘fortress conservation’ – is based on the exclusion of local rights-holders. It still dominates in too many places, particularly where underlying rights to land, territories, and resources are unrecognised (or insufficiently recognised) and are not protected.³² Past displacement often has serious on-going impacts.³³ Further, forced evictions in the name of conservation, although far less common, are still seen today.³⁴ The history and continuation of these practices has created a gulf of mistrust between many Indigenous Peoples and the States, NGOs, and other organisations involved in conservation.

While ensuring the enjoyment of human rights shall not be contingent on making conservation contributions, today the crucial roles and contributions of Indigenous Peoples and of local communities are increasingly recognized by State and non-State conservation actors,³⁵ including in the GBF (Box 2). Based in part on recognition of both rights and contributions, respectful partnerships have been possible in some areas, moving away from fortress conservation. Nonetheless, many rights-holder groups still face threats due to lack of rights recognition, including over their lands, territories, and resources.³⁶

A closer look: Indigenous Protected Areas in Australia are “areas of land and sea Country managed by First Nations groups in accordance with Traditional Owners’ objectives”. IPAs now form half of the Australian protected areas system, and cover over 87 million hectares.³⁷ Such partnerships in conservation rest on the prior recognition of the underpinning land and sea rights.

31 e.g. [Conservation and Human Rights: Key Issues and Contexts](#) (Springer et al., 2011)

32 For reflections on history and impacts of fortress conservation, and examples of both exclusion and efforts towards improved approaches, see, e.g. [Cornered by PAs webpage](#)

33 See, e.g., example about Manu National Park, Peru in ‘[Human rights-based approaches to conserving biodiversity](#)’ (Boyd & Keene, 2021)

34 See related ICCA Consortium [alerts](#), including in relation to Ogiek peoples of Sasimwani and Nkareta in Narok County, Kenya (posted in Nov, 2023) and Maasai community of Loliondo in Ngorongoro District, Tanzania (posted in June, 2022)

35 e.g. [The role of Indigenous peoples and local communities in effective and equitable conservation](#) (Dawson et al., 2021); [Local Biodiversity Outlooks](#) (FPP et al., 2016; 2020); [Territories of Life Report](#) (ICCA Consortium, 2021)

36 [The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities](#) (UNDP, 2022)

37 <https://www.niaa.gov.au/indigenous-affairs/environment/indigenous-protected-areas-ipas>

How are human rights and conservation links reflected in international standards and norms?

The conservation practices favoured by State governments and NGOs have evolved over many years, from fortress conservation to increasingly, though unevenly, inclusive approaches, with a long way yet to go.³⁸ International standards and norms related to the relationship between conservation and human rights have developed in tandem. The establishment of the International Union for the Conservation of Nature (IUCN) in 1948 began serious attempts at establishing agreed international standards for conservation, the same year in which international human rights law was founded with the adoption of the Universal Declaration on Human Rights. While international human rights and environmental law and policy are distinct, including in their systems of oversight, they are linked. It is helpful to look at them in relation to each other. Below are non-exhaustive examples. *These and other relevant instruments are also included with hyperlinks in Annex 1.*

With respect to **international environmental law**, the CBD, adopted in 1992 explicitly addresses certain human rights and provided one of the first clear bridges between environmental and human rights law. Article 8(j) recognises the importance of the traditional knowledges and practices of Indigenous Peoples and of local communities³⁹ and their rights to continue to use, transmit, and maintain such knowledge.⁴⁰ Further, in the conservation-focused Article 10(c), the Convention recognises rights to customary sustainable use by Indigenous Peoples and by local communities.⁴¹ Parties to the CBD have subsequently adopted decisions and guidance that further recognize the importance of rights and equity in conservation, most recently, and, with respect to area-based conservation, in the GBF (Box 2).

International human rights law instruments adopted by the UN since 1945 also recognize and affirm many rights that may be impacted by area-based conservation processes and outcomes. This began with adoption of the **International Bill of Human Rights** (1948, 1966).⁴² Instruments adopted since then have further specified and developed the scope of rights recognized in international human rights law.⁴³ The landmark UN Declaration on the Rights of Indigenous Peoples (**UNDRIP**) was adopted in 2007. The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (**UNDROP**) (2018) is among the most recently adopted instruments.

38 e.g. Protected Areas and the Land Rights of Indigenous Peoples and Local Communities Current Issues and Future Agenda (RRI, 2015)

39 Although the Convention text itself uses the term 'indigenous and local communities' the CBD through its Conferences of the Parties has confirmed that the Convention addresses both "indigenous peoples and local communities". This fuller reference has been used consistently in COP Decisions since the 12th Conference of the Parties in Korea, 2014. <https://www.cbd.int/doc/meetings/cop/cop-12/information/cop-12-inf-01-en.pdf>

40 "Each contracting Party shall, as far as possible and as appropriate: Subject to national legislation, 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 and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices."

41 Wherein each contracting party commits to (among others): "(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements"

42 The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 1948. Then, in 1966, it adopted two international human rights treaties: the International Covenant on Economic Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR). Together, the UDHR, ICESCR, and ICCPR are known as the International Bill of Human Rights.

43 Key instruments include: Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979); Convention on the Rights of the Child (CRC) (1989); Convention 169 on Indigenous and Tribal Peoples (ILO 169) (1989); Convention on the Rights of Persons with Disabilities (CPRD) (2006). These are non-exhaustive examples, listed by year of adoption. See also Annex 1

Several **regional agreements** also explicitly recognize connections between rights and conservation, including the Aarhus Convention (1998) and Escazú Agreement (2018). Regional courts and other monitoring bodies, including the **African Court on Human and Peoples' Rights**, **African Commission on Human and Peoples' Rights**, and **Inter-American Human Court of Human Rights**, are also important sources of decisions pertaining to human rights of Indigenous Peoples and of local communities, including in relation to area-based conservation.

Intergovernmental organisations' policy and guidance also reflect progressively (though unevenly) strengthening links between human rights and conservation. Examples include:

- UNEP convened **process** with multiple rights-holder and stakeholder groups to develop Core Human Rights Principles for Private Conservation Organizations and Funders⁴⁴
- FAO Voluntary guidelines on **Governance of Tenure and Sustainable Small-Scale Fisheries**, which aim to operationalize rights-based approaches, including in relation to the right to food, and provide a framework for the governance of all forms of tenure⁴⁵
- IUCN Resolutions on human rights, including rights and contributions of Indigenous Peoples and of local communities⁴⁶
- Guidance from the Office of the High Commissioner for Human Rights (OHCHR) and UNEP, such as the **Key Messages on Human Rights and Biodiversity**, and from **Special Procedures** (see **Box 3**)
- Guidance developed by the **UN Environment Management Group**

Rights-holder organisations and networks have played significant roles in advancing the changes in law, policy, and guidance described above. They have done so through collective action over many years and at international, regional, national, and local levels. In the CBD context, Indigenous Peoples' representatives and members of local community groups established the International Indigenous Forum on Biodiversity (IIFB) in 1996, which has since then asserted and defended a rights-based approach to the Convention. Rights-holder and allied networks have also set out collectively developed principles, standards, and declarations, together with initiatives to advance their implementation (see examples below).

The advances in international law, policy, and guidance explored above are important. However, they must be matched by improvements in conservation practice. This includes improving how financial and technical resources are provided to support rights-holder-led action and enhancing accountability for rights impacts.

44 Core Human Rights Principles for Private Conservation Organizations and Funders (UNEP et al., forthcoming)

45 This includes public, private, communal, collective, Indigenous and customary tenure

46 Resolutions are adopted by, and provide a source of general policy for, IUCN members. There are, for example, over 40 still-active Resolutions explicitly mentioning human rights. All active and archived Resolutions and Recommendations are available here: <https://portals.iucn.org/library/resrec/search>

*A closer look: Declarations, protocols, and other directives from Indigenous Peoples and local community representatives provide crucial guidance for advancing rights, equity, and effectiveness in area-based conservation. Recent examples include:*⁴⁷

Api Api Declaration - made by Indigenous Peoples' and local community representatives gathered at the 2nd Asia Parks Congress (2022). It reflects on realities they are facing and calls for actions to advance recognition of their rights (including to self-determination and FPIC), governance systems, leadership, and contributions in conservation as well as in relation to climate and nature-based solutions.⁴⁸

Kigali Declaration - created by representatives of Indigenous Peoples and local communities convened for the 1st IUCN Africa Protected Areas Congress (2022), as a culmination of **sub-regional gatherings**. It sets out their commitments and calls for action from governments, donors, conservation organisations, and research, media and academia. Among these is a call to “end funding to actors that do not respect a rights-based approach to conservation”.⁴⁹

Land Rights Standard - developed through collaboration of the Rights and Resources Initiative (RRI), Global Landscapes Forum (GLF) and the Indigenous Peoples Major Group (IPMG) for Sustainable Development. It sets out “principles for best practice for recognizing and respecting Indigenous Peoples', local communities' and Afro-Descendant Peoples' land and resource rights in landscape restoration, management, conservation, climate action, and development projects and programs”.

How do equitable and diverse governance relate to HRBAs?

GBF Target 3 calls for “equitably governed systems”. This builds on earlier CBD decisions related to *equity* and *diversity* in the governance and management of protected and conserved area sites and systems.⁵⁰ Equitable and diverse governance are also both related to HRBAs. CBD guidance on protected areas adopted in 2018, for example, points to three dimensions of equitable governance:⁵¹

47 See further examples in [Annex 1](#)

48 Among its calls is for “conservation agencies and governments to make a rights-based approach standard in all existing and future conservation initiatives and to recognise and support the leadership of grassroots communities in conservation”. The specific and full text of the Declaration is available [here](#)

49 In October 2023, the 1st Africa Indigenous Peoples & Local Communities Conservation Congress was convened to, inter alia, discuss, debate, and offer ideas on how to implement the Kigali Call to Action and Kigali Declaration. The resulting Communiqué commits and affirms participants' positions on a range of related issues.

50 For example, [Element 2](#) of the Programme of Work on Protected Areas adopted in 2004 was on Governance, Participation, Equity and Benefit Sharing (Decision 7/28). [Target 11](#) of the The Strategic Plan (2011-2020) and Aichi Biodiversity Targets called for “equitably managed” area-based conservation (Decision 10/2). Earlier decisions also called for, more specifically:

- Considering and incorporating principles of equitable and effective governance (e.g. Decision 7/28, para. 3.1.4; Decision 10/31 para. 23), including through governance assessment (e.g. Decision 10/31, para. 32 (f); Decision 13/2, para. 5(d); and Decision 14/8)
- Recognising and supporting the contributions of PAs under diverse governance types, including territories and areas conserved by indigenous peoples and local communities and by private actors (Decision 7/28, paras. 2.1.2., 2.2.4; Decision 9/18, paras 6(a,b); Decision 10/31, paras 31(b), 32(a,b); Decision 13/2 para 5(b)(vii); and Decision 14/8)

51 [CBD/COP/DEC/14/8](#) (Annex II)

- *Recognition* - “acknowledging and respecting all actors and their rights, identities, knowledge, values, and institutions”
- *Procedure* - “inclusive rule and decision-making, access to information and justice, including grievance redress, and accountability”
- *Distribution* - “equitable distribution of costs/burdens and benefits among relevant actors”

Each of these dimensions embeds elements of human rights and an HRBA.⁵² Further, an HRBA can be an overall enabling condition for realising and sustaining equity in area-based conservation.⁵³ An HRBA to area-based conservation can therefore advance, and be advanced by, equitable governance.

Governance *diversity* is also important in relation to HRBAs to area-based conservation. Governance diversity, here, refers to the many actors involved in decision-making about protected and conserved areas, as well as the diversity of institutions and knowledge systems through which they make those decisions. Various CBD decisions and guidance call for enhancing governance diversity, including through recognizing and supporting protected areas and OECMs under four governance ‘types’: (1) by governments (at various scales); (2) by Indigenous Peoples (including, where appropriate, Indigenous governments) and local communities, (3) by private actors, including individuals, NGOs, businesses or religious institutions; and (4) by different actors working together (shared governance).⁵⁴ Importantly, appropriately recognizing and supporting governance diversity requires recognizing and respecting the rights of Indigenous Peoples and of local communities to govern their collective lands, territories, and resources. In this sense, recognizing and enhancing governance diversity can be supported by, and can in turn support, HRBAs. Understanding and respecting the role of Indigenous and traditional territories within governance diversity will be important going forward.

A closer look: Guidelines on ‘Recognising territories and areas conserved by Indigenous peoples and local communities (ICCAs) overlapped by protected areas - “Many protected areas worldwide overlap with ‘territories and areas conserved by Indigenous peoples and local communities’ or ‘ICCAs’... These ...include conserved commons, sacred places and Indigenous and community protected areas. Appropriately recognising and respecting overlapped ICCAs in protected area governance, management and practice can strengthen conservation, affirm rights and promote equitable protected area governance.” A recently published guide “identifies six approaches or pathways and provides guidance on implementing 20 good practices for appropriately recognizing, respecting and supporting overlapped ICCAs in existing, new and expanded protected areas of all governance types and management categories.”⁵⁵

52 Recognition centres the overall importance of recognizing and respecting rights, while specific procedural rights are central to the dimension of procedure, and equitable distribution can help ensure respect for and promotion of substantive rights.

53 [Advancing equitable governance in area-based conservation](#) (Franks et al., 2024)

54 See summary of CBD decisions related to governance diversity through CoP 13 in [Protected and Conserved Areas Governance in the Convention on Biological Diversity: A review of key concepts, experiences, and sources of guidance](#) (CBD/SBSTTA/22/INF/8 Para 1) as well as [CBD/COP/DEC/14/8](#) (Annex II)

55 [Recognising territories and areas conserved by Indigenous peoples and local communities \(ICCAs\) overlapped by protected areas](#) (Stevens, et al., 2024)

Box 2: Rights and equity commitments in GBF and broader CBD that should guide T3 implementation

Commitments in Target 3, and in other GBF targets that should guide Target 3 implementation, include:⁵⁶

- “**equitably governed systems** of protected areas and other effective area-based conservation measures, **recognizing indigenous and traditional territories**” (T3)
- “Recognising the **rights of indigenous peoples and local communities**” (T1, T3, T5, T9, & T22, in varied forms) “including over their traditional territories” (T3)
- “full, equitable, inclusive, effective and gender-responsive **representation and participation** in decision-making” including women and girls’ “full, equitable, meaningful and informed participation and leadership” (T22, T23)
- **Gender equality** and a gender-responsive approach, including women and girls’ “equal rights and access to land and natural resources” (T23)
- Enhancing “**collective actions**, including by indigenous peoples and local communities”, **Mother Earth centric actions**,⁵⁷ and “**non-market-based approaches** including community based natural resource management” (T19)
- **FPIC** for access to Indigenous Peoples’ and local communities’ “traditional knowledge, innovations, practices and technologies” (T21)
- “**access to justice and information** related to biodiversity by indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge, as well as by women and girls, children and youth, and persons with disabilities” (T22)
- “**full protection of environmental human rights defenders**” (T22)

Further, [Section C](#) commits to Target 3 (and all of the GBF) being “understood, acted upon, implemented, reported and evaluated, consistent with...”:

- “**a human rights-based approach**, respecting, protecting, promoting and fulfilling human rights... acknowledg[ing] the human right to a clean, healthy and sustainable environment”
- “**Contributions and rights of indigenous peoples and local communities**” acknowledging their “important roles and contributions... as custodians of biodiversity and partners in the conservation...” and ensuring “their rights, knowledge, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices... are respected, documented, preserved with... [FPIC], including through... full and effective participation in decision-making”⁵⁸ “In this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future”

56 GBF commitments to rights and equity are explored in detail in the guide [From Agreements to Actions](#) (HRBWG, 2024). Here, we highlight provisions to guide Target 3 implementation.

57 i.e. “Ecocentric and rights-based approach enabling the implementation of actions towards harmonic and complementary relationships between peoples and nature...”

58 “..., in accordance with relevant national legislation, international instruments, including ... [UNDRIP] and human rights law...”

- **Different value systems** including recognizing and considering “diverse value systems and concepts, including, for those countries that recognize them, rights of nature and rights of Mother Earth...”
- **“Whole-of-government and whole-of-society approach... [relying on] political will and recognition at the highest level of government and... action and cooperation by all levels of government and by all actors ...”**
- **Right to development⁵⁹, gender equality**, including empowerment of women and girls and reducing inequalities, and **inter-generational equity⁶⁰**

Other CBD decisions and mechanisms important for HRBAs to Target 3 include the Gender Plan of Action,⁶¹ outcomes of the Ad Hoc Working Group on Article 8(j),⁶² and earlier CBD decisions on equitable and diverse governance; participation, recognition, and respect for the rights, knowledge, and contributions of Indigenous Peoples, local communities, and women; gender equality; and cost and benefit distribution.⁶³

59 Recognizing the 1986 United Nations Declaration on the Right to Development, and “... enabl[ing] responsible and sustainable socioeconomic development that, at the same time, contributes to the conservation and sustainable use of biodiversity...”

60 “which aims to meet the needs of the present without compromising the ability of future generations to meet their own needs and to ensure meaningful participation of younger generations in decision making processes at all levels”

61 [Gender Plan of Action \(CBD/COP/DEC/15/11\)](#)

62 This Working Group was established under the CBD in 1998 at the 4th Conference of the Parties to provide a coordination point for issues related to Indigenous Peoples and to local communities. [Click here for more information](#)

63 See [Protected and Conserved Areas Governance in the Convention on Biological Diversity: A review of key concepts, experiences, and sources of guidance](#) (CBD/SBSTTA/22/INF/8 Section A. (BACKGROUND AND PURPOSE) Para 1) for a summary of CBD decisions related to governance, equity and rights in area-based conservation through CoP 13. From COP 14, see [Decision 14/8 Annex II](#)
See [Gender Equality and the Convention on Biological Diversity: A Compilation of Decision Text](#) (WEDO & CBD Secretariat, 2024)

2.2 Human rights-based approaches

What is a human rights-based approach?

A human rights-based approach (HRBA) actively seeks to avoid negative human rights impacts, to provide remedy to harms, and to enhance positive human rights outcomes as far as is possible. An HRBA also requires (and must apply) processes that respect procedural rights and address power relationships. This includes respecting rights-holders' leadership and equal partnership in decision-making about *how* to avoid and remedy negative, and enhance positive, rights impacts.

An HRBA requires careful identification and analysis of the rights and rights-holders that may be (or have been) impacted by each decision or action; the duty-bearers responsible for respecting, protecting, and fulfilling those rights; and the underlying power dynamics. It also requires willingness to engage positively on the side of individuals and groups who may be disadvantaged, marginalised, or potentially more vulnerable to harm, and to actively foster more equitable power relationships, including through recognition and support for the leadership and equal partnership of rights-holder groups. The Human Rights and Biodiversity Working Group has noted – in particular – the importance of “supporting duty-bearers to meet their obligations, and rights-holders to claim and exercise their rights” noting that “this latter element is particularly important, requiring proactive, concrete measures to ensure full and effective participation of rights holders, including in virtual spaces, and with particular focus on Indigenous Peoples and local communities”.⁶⁴

Often thought of in the context of development⁶⁵, an HRBA can be equally well applied in any policy and practical action area – e.g. in education⁶⁶, health care, or conservation projects and initiatives⁶⁷.

⁶⁴ [Implementing a human rights-based approach](#) (HRBWG, 2022:5)

⁶⁵ [The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies](#) (UNSDG, 2003)

⁶⁶ [A Human Rights Based Approach to Education for All](#) webpage

⁶⁷ [Human Rights Standards for Conservation](#) initiative

Rights-holders in area-based conservation

Part of what makes a human rights-based approach powerful is the explicit connection it makes to rights and corresponding obligations. The approach brings focus to the relationships between rights-holders and duty-bearers. This and the next subsection focus on rights-holders and duty-bearers in area-based conservation.

A closer look: The Guide [From Agreements to Actions](#) (Section 1) includes a detailed discussion on rights-holder groups in the context of the CBD, including: children, youth, and intergenerational equity; women and girls, and gender justice; Indigenous Peoples; other rural rights holders; environmental human rights defenders; and persons with disabilities.

Rights-holders most directly impacted by conservation measures: All human beings are rights-holders. Because this paper is about HRBAs in the context of Target 3 implementation, we focus on rights-holder groups most likely to be directly impacted by area-based conservation measures. They include Indigenous Peoples, local communities, women, youth, persons with disabilities, and other people living in rural areas who depend on land, water, or natural resources and who may have customary or other claims to them (e.g. small-scale fishers or farmers).⁶⁸

Collective and individual rights and responsibilities: As noted above, some human rights are held and enjoyed individually, and some are defined or held as collective rights.⁶⁹ The term ‘rights-holders’ can refer both to those holding individual rights and to those holding collective rights. This is crucial to understand in the context of area-based conservation, given its close links to collective rights over land, territories, water, resources, knowledge, and culture.⁷⁰ It also important to recognize that, for many Indigenous Peoples, and other peoples and groups with collective governance and tenure, collective rights are often interconnected with responsibilities, and/or framed as responsibilities; these responsibilities may also often be collective and relational – e.g. responsibilities to ancestors, future generations, and land and territory.

Differentiated rights, including distinct rights of Indigenous Peoples: Recognizing rights-holders’ distinct rights is an important – and sometimes complex – part of HRBAs. CBD decisions, including the GBF (and specifically Target 3) use the term ‘Indigenous Peoples’

⁶⁸ [Implementing a human rights-based approach](#) (HRBWG, 2022); [From Agreements to Actions](#) (HRBWG, 2024)

⁶⁹ See paper subsection on [What are Human rights](#)

⁷⁰ [Implementing a human rights-based approach](#) (HRBWG, 2022)

and the term ‘local communities’ together.⁷¹ This document therefore also uses these terms together when referring to CBD decisions. At the same time, under international human rights law,⁷² Indigenous Peoples are recognized as having distinct, collective rights to, among others, self-determination; lands, territories, and resources; self-governance; FPIC; and to their distinct institutions.⁷³ Some Afro-descendent communities and other peoples (who self-identify using varied terms) may also hold similar collective rights in their contexts.⁷⁴ The term ‘local communities’ can be understood in different ways. While not specifically defined,⁷⁵ use of the term ‘local communities’ in the CBD has been understood to pertain to communities who “maintain intergenerational connection to place and nature through livelihood, cultural identity and worldviews, institutions and ecological knowledge”.⁷⁶ The question of whether a local community can claim specific collective rights needs to be understood in relation to their context.⁷⁷ Nonetheless, in many contexts there are people working in rural areas who have close relationships to lands, waters, and resources that they depend on directly for their livelihoods, cultural life, and many other human rights,⁷⁸ and whose rights States have obligations to protect from harm, including those arising from exploitation of natural resources, conservation measures, and other policies.⁷⁹

Rights-holders also have diverse contexts and identities that intersect and change the ways in which they experience rights violations, or the ways in which their rights need to be understood and protected, e.g., in the case of Indigenous women and girls where tenure security requires context specific answers.

These are important and ongoing discussions. Fully addressing them is outside the scope or role of this paper. Our aim here is rather to highlight some of the considerations for understanding rights in a given context.

71 As noted (and further elaborated on) in the guide *From Agreements to Actions* (HRBWG, 2024:16), the original text of the CBD “does not use the term ‘Indigenous Peoples’, referring instead to ‘indigenous and local communities’. In using this phrase, the Convention contains multiple provisions, from the Preamble²⁶ through into operative Articles, for recognising and protecting the rights of communities “who embody traditional lifestyles and make sustainable customary use of resources and manage their territories in accordance with these practices” as noted in Article 8(j), and/or who practise “customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements” as stated in Article 10(c). Since 2014 all decisions of the Convention on Biological Diversity have referred to Indigenous Peoples and local communities (instead of indigenous and local communities) as a result of long-term advocacy by Indigenous Peoples’ advocates after the adoption of UNDRIP and in recognition of the distinctness of these groups. Although the term ‘local communities’ has no universal definition, the use of the term in the Convention is bounded and specific, as shown above, tied to communities who “maintain intergenerational connection to place and nature through livelihood, cultural identity and worldviews, institutions and ecological knowledge”. This use of the term ‘local communities’ in the CBD does not, as IPBES has noted “ignore differences and diversity within and among Indigenous Peoples and between them and local communities; Indigenous Peoples have recognized and distinct rights, which are not extendable to the broader and encompassing concept of local communities.”

72 Including as detailed in UNDRIP and ILO Convention 169

73 [UNDRIP \(A/RES/61/295\)](#)

74 See, for example, *Saramaka people v Suriname*, IACtHR, 2007

75 The Glossary of Relevant Key Terms and Concepts within the Context of Article 8(j) and Related Provisions (SCBD, 2019) notes that “The Convention on Biological Diversity does not define the terms “indigenous and local communities” or “indigenous peoples and local communities.” The United Nations Declaration on the Rights of Indigenous Peoples does not adopt a universal definition for “indigenous peoples”, and a definition is not recommended.”

76 See footnote 71

77 The [ICCA Consortium Toolbox - Meanings and More page on local communities](#) provides in-depth reflections on diverse meanings of the term local communities, including in the context of the CBD and in relationship to Territories of Life

78 Other rights holders can include, among others, peasants and other people working in rural areas as outlined in UNDROP, Women as outlined in CEDAW, minorities as outlined in the [UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities](#).

79 [Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#) (2017)

Rights-holder power and voice: Duty-bearers alone should not decide the terms of HRBAs. On the contrary, a human rights-based approach must respect and support rights-holders' leadership, knowledge, power, and voice - including in decisions about how to advance rights. This is important both as a matter of rights, and in recognition of rights-holder contributions.

A closer look: Small-scale fishers' movements to secure rights and set rules for conduct in partnership

At the UN Oceans Conference (UNOC) (June, 2022), small-scale fishers' organizations launched a **Call to Action** for governments to "ensure that small-scale fisheries are protected and restored, so that they can continue contributing to economies, health, [food security], culture and wellbeing". The Call's priority actions are to: (1) Urgently secure preferential access and co-manage 100% of coastal areas; (2) Guarantee the participation of women and support their role in innovation; (3) Protect small-scale fisheries from competing blue economy sectors; (4) Be transparent and accountable in fisheries management; and (5) Build resilient communities to face climate change and offer prospects to youth. It calls on governments and their partners to "develop national strategic plans to implement these actions by 2030", with adequate funding and guided by **FAO Guidelines to Secure Sustainable SSF** and other relevant policies. Small-scale fishers' **declaration** at the close of UNOC stated: "*We are ready to work with you, decision-makers, donors, scientists and NGOs to save our ocean [...]. But to work well together, we need consent, agreement, a definition of what a good partnership is...*" In follow-up, signatories to the Call to Action set out **Rules of conduct for working with small-scale fishers and fishworkers to save our ocean**. These ground rules for partnership address: "(1) our rights in the context of ocean conservation, (2) our participation and representation in decision-making, (3) our voice and messaging and, finally, (4) financial and other types of support".

Duty-bearers and the scope of their duties

Here we briefly explore the nature and scope of obligations and responsibilities of some key State and non-State duty-bearers in the context of area-based conservation.

States

States are the primary duty-bearers under international human rights law. Their obligations under international human rights law include:

- **Respecting rights** - refraining from directly or indirectly interfering with people(s)' pursuit or enjoyment of their rights, e.g., by refraining from forced eviction
- **Protecting rights** - ensuring that 'third-parties' do not interfere with people(s)' pursuit or enjoyment of their rights, e.g. by regulating, monitoring, and enforcing standards concerning human rights impacts of businesses, NGOs, or other states
- **Promoting and fulfilling rights** - which encompasses
 - creating an enabling environment in which people can realise their rights, e.g., through legislation, policy, regulation, budgeting, and/or other effective means (i.e. promoting rights)
 - directly securing rights when people cannot do so for themselves , e.g., food aid following a severe drought (i.e. fulfilling rights)

These three obligations are closely linked, and each requires active measures. For example, avoiding displacement when establishing a protected area will require identifying rights-holders and their rights, and may require further protection and promotion, e.g. supporting rights-holders in securing tenure and negotiating fair access. Further, processes through which rights are respected, protected and promoted must themselves uphold procedural rights, including to information, participation, and FPIC.

A closer look: Recognizing customary land rights as prerequisite for rights-based conservation

Liberia's 2018 Land Rights Act recognizes customary land rights. In February, 2023, stakeholders and rights-holders gathered for a Conservation Area and Land Dialogue to "seek consensus on and provide a harmonized rights-based approach to the establishment of protected and conserved areas ... while ensuring compliance with the ...Act ". The resulting Gbehzohn Declaration includes, *inter alia*, a "Commitment to undertake land formalisation and respect the right to FPIC... of affected communities before the commencement of any new protected areas and other area-based conservation initiatives".⁸⁰

80 [Gbehzohn Declaration: Conservationists and Land Rights Proponents agree on a Rights-based approach to Conserving Liberia's Biodiversity \(FPA March, 2023 press release\)](#)

Non-State actors

Non-State actors also hold duties in relation to human rights.⁸¹ This includes the responsibility to respect rights - not to violate or infringe on the rights of another person or group. Where non-State actors exercise State authority, their responsibility to respect human rights turns into human rights obligations. There is also growing attention to the responsibilities of non-State actors to contribute to protection and promotion of rights within the scope of their work (explored in more detail below). The GBF also calls for implementation through a whole of society approach, with “action and cooperation by all levels of government and by all actors” (see [Box 2](#)). This highlights the need for both State and non-State actors to take responsibility for their roles in realising the global targets.

Below we explore the responsibilities of some non-State duty-bearer groups - businesses, conservation organisations, and conservation funders - in more detail.⁸² It is also important to note that recognizing and operationalizing their responsibilities does not mean negating or diminishing the obligations of States to respect, protect, and fulfil rights.⁸³ This includes the State duty to protect rights by regulating the actions of non-State actors and holding them accountable when they do not uphold their obligations.

81 Reference to non-State actors as duty-bearers in this context is consistent with the following definition, from UNICEF: “Duty-bearers are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.” (UNICEF [Gender Equality - UN Coherence and You](#) – Glossary: p.1.)

82 Adapted from the framework of actors in [Human Rights Standards for Conservation](#) (Makagon et al., 2014) with understanding that some organisations and individuals may hold several roles.

83 Rights-based approaches: Exploring issues and opportunities for conservation (Campese et al., 2009)

Businesses

Businesses have substantial impacts on both human rights and conservation, including the rights of environmental human rights defenders. PAs, OECMs, and/or associated enterprises may be owned, governed, or managed by businesses or other private actors. Businesses therefore have the potential to cause or contribute to any of the (positive or negative) human rights impacts explored throughout this paper. Rights-holders - and their lands, territories, resources, and associated rights - also often face threats from encroachment, pollution, or other impacts associated with large-scale extractive industries, agribusiness, and other businesses.⁸⁴

Respecting rights: Businesses have a clearly recognized responsibility to respect rights. The 2011 UN [Guiding Principles on Business and Human Rights](#)⁸⁵ (UNGP) and 2012 interpretive [guide](#)⁸⁶ provide an internationally-accepted framework for understanding this responsibility. The responsibility encompasses both avoiding infringements on others' human rights and addressing adverse impacts that they are involved in, e.g. including by providing for or contributing to remedy. Importantly, this includes human rights impacts that businesses cause (or may cause) or contribute (or may contribute) to.⁸⁷

Contributing to protection: The UNGP and interpretive guide also address instances in which a business has not contributed to an adverse human rights impact, but where that impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity. In these more complex cases, if the business has leverage to prevent or mitigate the adverse impact, it should exercise it. If it lacks leverage, it can seek to increase it. And, if it is unable to sufficiently increase its leverage, the business should consider ending the relationship, taking into account potential adverse human rights impacts of doing so.⁸⁸ In this sense, the guidance suggests that businesses have a responsibility to contribute to protecting rights within the scope of their work.

A closer look: Guidance and action to help ensure respect for human rights defenders.

The [Working Group on Business and Human Rights](#) was established by the Human Rights Council in 2011 to promote, disseminate, and implement the UNGP and to exchange and promote good practices and lessons learned on, and make recommendations related to, their implementation. In 2021, the Working Group published [guidance](#) for States and business that is focused on safeguarding and supporting human rights defenders. This guidance was developed as part of a broader set of activities focused on the issues of human rights defenders and civic space, including multi-stakeholder dialogues and efforts to identify and support collective actions.⁸⁹ As noted below, the UNGP is instructive for conservation organisations. Given this, it is logical that this guidance on human rights defenders is also relevant for conservation organisations, including NGOs and donors.

84 [In defence of land rights: A monitoring report on land conflicts in six Asian countries](#) (ANGOC, 2019)

85 [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework](#) (A/HRC/17/31)

86 [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide](#) (HR/PUB/12/02)

87 UNGP and the [interpretive guide](#) specify that, where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. Where it contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible.

88 [United Nations Guiding Principles on Business and Human Rights, Principle 19 and commentary](#); [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide](#) (OHCHR, 2012)

89 [Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders](#) (A/HRC/47/39/Add.2)

Conservation organisations, including NGOs

International conservation NGOs and similar conservation organisations play substantial roles in shaping area-based conservation narratives and approaches,⁹⁰ and hold large proportions of global conservation funding⁹¹. This role comes with responsibilities.⁹²

Respecting rights and contributing to protection: The Core Human Rights Principles for Private Conservation Organizations and Funders set out principles that every private conservation organisation and funder should comply with, at a minimum, to uphold their responsibilities to respect human rights.⁹³

Further, while directed to businesses, the [Guiding Principles on Business and Human Rights](#) are also instructive for conservation organisations, including NGOs. This was highlighted in the [Human Rights Standards for Conservation](#)⁹⁴ and confirmed again in an independent expert review of allegations regarding human rights violations in the context of World Wildlife Fund’s (WWF) work. The expert review explicitly states that:⁹⁵

“The responsibility to respect human rights requires international conservation organisations: (a) to avoid causing or contributing to adverse human rights impacts through their own activities, and to address such impacts when they occur; and (b) to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their relationships, even if they have not contributed to those impacts.”

Like businesses, the responsibility to seek to prevent or mitigate adverse impacts linked to the work of conservation organisations suggests a responsibility to contribute to protection within their sphere of impact and direct influence.

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- 90 [e.g. Conservation and the right to fish: international conservation NGOs and the implementation of the voluntary guidelines for securing sustainable small-scale fisheries](#) (Singleton et al., 2017)
- 91 [Conservation and human rights: The public commitments of international conservation organizations](#) (Ford-Learner et al., 2024)
- 92 [To Which Conservation Actors do International Standards Apply?](#) (Makagon et al., 2014); [Conservation standards: From rights to responsibilities](#) (Jonas et al., 2016)
- 93 [Core Human Rights Principles for Private Conservation Organizations and Funders](#) (UNEP et al., forthcoming) These principles are the result of a 2022 to 2024 multistakeholder process to clarify how existing human rights norms and standards apply to private conservation organizations and funders, convened by the United Nations Environment Programme.
- 94 [Human Rights Standards for Conservation](#) was a 2014 - 2016 IIED and Natural Justice initiative to provide a foundation for clear guidance about the human rights obligations of conservation actors and related redress. Outputs include: Part I. [To Which Conservation Actors do International Standards Apply?](#) (Makagon et al., 2014); Part II: [Which international standards apply to conservation initiatives?](#) (Jonas et al., 2014); Part III: [Which redress mechanisms are available to peoples and communities affected by conservation initiatives?](#) (Makagon, 2014); and [Conservation standards: From rights to responsibilities](#) (Jonas et al., 2016)
- 95 [Embedding Human Rights in Nature Conservation: From Intent to Action](#) (Pillay et al., 2020, emphasis added)

A closer look: Human rights responsibilities of in conservation law enforcement and the conduct of rangers.

Human rights impacts and risks of armed enforcement in area-based conservation have received particular attention and concern in recent years.⁹⁶ Rangers and other conservation enforcement actors who use force or firearms when acting in law enforcement roles are human rights duty-bearers.⁹⁷ The [Ranger Code of Conduct](#), “developed in 2020 by the International Ranger Federation (IRF), following a global, interactive consultation process” includes commitments to “Respect human dignity and uphold the human rights of all persons... treat everyone with equal respect and impartiality... not discriminate against, harass, or abuse people under circumstances... respect gender, age, ability, race, social-economic or ethnic status, sexual orientation, and religious beliefs or lack thereof...”; and “not [to] tolerate actions by others that violate anyone’s human rights” and to “report any violations or wrong doing”.⁹⁸

Promoting rights: Part of conservation organisations’ power/influence comes from their position as civil society actors working to advance public/collective interests. This role also comes with responsibilities. Conservation organisations can be understood to have an ethical responsibility to promote rights within the scope of their programming, including because of their roles in civil society.⁹⁹

The scope of responsibilities outlined here - i.e. to respect rights and to contribute to their protection and promotion - is recognized by some conservation organisations (see box below). It is also consistent with the definition of an HRBA in GBF Sec C (see [Box 2](#)). Because conservation organisations will have important roles in implementing the GBF, the implementation guidance in Section C is also relevant to them.

96 See, e.g. Why we must question the militarisation of conservation (Duffy et al., 2019) and the Beyond Enforcement, initiative, highlighting “the importance of local communities in efforts to tackle illegal wildlife trade, and the impact of heavy-handed approaches to law enforcement on these communities and on their incentives to engage in conservation” (Co-organised by IIED and partners)

97 [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#) (Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, 1990)

98 [Ranger Code of Conduct](#) (International Ranger Federation, 2021:8) This Code of Conduct also recognizes that the contexts, roles, and titles of ‘rangers’ vary widely. They include State employees, non-State organisation staff, and community members, not all of whom carry firearms.

99 e.g. [Rights-based approaches: Exploring issues and opportunities for conservation](#) (Campese et al., 2009) ; [Why human rights matter for marine conservation](#) (Smallhorn-West et al., 2023); [To Which Conservation Actors do International Standards Apply?](#) (Makagon et al., 2014);

A closer look: The Conservation Initiative on Human Rights (CIHR) is a consortium of eight international conservation NGOs¹⁰⁰ that have made a public commitment to (1) respecting human rights, (2) supporting and promoting protection and realisation of human rights, (3) protecting those who are vulnerable to rights infringements and (4) supporting improvement in governance systems that can secure the rights of Indigenous Peoples and local communities, in the context of their work and within the scope of their programs.¹⁰¹ The CIHR was formed in 2009. Analyses of their progress as of 2014/ 2015,¹⁰² and more recent reflections in the context of UNPFII meetings,¹⁰³ point to both some important steps that have been taken and the need for substantial further analysis and action put these commitments into practice. Conservation NGOs are also being called upon to further transform their roles and relationships with rights-holders.¹⁰⁴

100 CIHR members are Birdlife International, Conservation International (CI), Fauna & Flora International (FFI), International Union for Conservation of Nature (IUCN), The Nature Conservancy (TNC), Wetlands International (WI), Wildlife Conservation Society (WCS) and World Wide Fund for Nature (WWF)

101 <https://www.thecihr.org/>

102 *Human Rights in Conservation: Progress Since Durban* (CIHR, 2014); *Governing the Global Commons* (Cosentino, 2015)

103 Implementation gaps were noted in a 2019 International Expert Group Meeting on “Conservation and the Rights of Indigenous Peoples”, held in advance of the annual UN Permanent Forum on Indigenous Issues. [E/C.19/2019/7](#). The Permanent Forum then recommended that the CIHR “commission independent evaluations of the impact of their organisations’ work on indigenous peoples”. [18th Session of the Permanent Forum \(2019\) Actionable Recommendations Matrix](#)

104 Examples can be seen in direct calls from rights-holders (see, e.g. declarations by Indigenous Peoples and by local communities, including the [Api Api](#) and [Kigali Declarations](#)), reports from Special Rapporteurs (see [Box 3](#)), and within some NGO-led and engaged reflection processes, such as the [Future of Conservation NGOs](#) project.

Conservation funders and donors

Conservation funders drive, influence, and enable conservation decisions and actions that impact human rights. Their responsibilities can therefore be seen as similar in nature and scope to those of other conservation organisations. This is reflected in the Core Human Rights Principles for Conservation Actors, which include conservation funders among the private conservation actors with responsibilities to respect human rights.¹⁰⁵ Conservation organisations' ethical responsibilities to contribute to promotion of human rights (outlined above) would also logically extend to funders. And there are growing calls for direct funding to Indigenous Peoples, local communities, women, youth, and other rights-holder groups in conservation (see subsection on funding).

Box 3: Special Rapporteur Reports Focused on Human Rights & Conservation

UN Special Rapporteurs have helped bring global attention to links between conservation and human rights, including the rights of Indigenous Peoples, and developed guidance for State and non-State actors. Below are examples.¹⁰⁶

Former Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli-Corpuz's 2016 report to the UN General Assembly focused on rights violations associated with PAs and fortress conservation as well as Indigenous Peoples' unrecognised contributions. It includes recommendations to States, NGOs, UNESCO, and monitoring mechanisms.¹⁰⁷

PAs "have the potential of safeguarding biodiversity for the benefit of all humanity; however, these have also been associated with human rights violations against indigenous peoples.... While the high rate of biodiversity in indigenous ancestral lands is well established, the contribution of indigenous peoples to conservation has yet to be fully acknowledged. Although a new rights-based paradigm to conservation has been advancing... it remains in its initial stages... hampered by the legacy of past violations and... lack of legal recognition by States of indigenous peoples' rights...".¹⁰⁸

Special Rapporteur on the Rights of Indigenous Peoples José Francisco Calí Tzay's 2022 report to the UNGA "*revisits the issue of protected areas and the rights of indigenous peoples and assesses recent developments with a focus on the obligations of States and international organizations to respect, protect and promote indigenous peoples' rights*". It finds that, overall, "*Indigenous peoples... have... not seen a concrete improvement in the realization of their rights in the context of conservation initiatives*" since issuance of the 2016 report (above). He includes recommendations to States, UN agencies, donors and all actors involved in conservation.¹⁰⁹

105 Core Human Rights Principles for Private Conservation Organizations and Funders (UNEP et al., forthcoming)

106 This box focuses on reports and guidance issued in the last decade. They are not exhaustive, and, as noted in Victoria Tauli-Corpuz's below-described 2016 report, earlier Special Rapporteurs also gave focus to violations of Indigenous Peoples' rights caused by conservation measures.

107 Report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples (A/71/229)

108 *Ibid*

109 Protected areas and indigenous peoples' rights: the obligations of States and international organizations (A/77/238) Recommendations include that States should: "Recognize indigenous peoples' special and unique legal status..."; "Provide indigenous peoples with legal recognition of their lands, territories and resources... with due respect for the legal systems, traditions and land tenure systems of the indigenous peoples concerned..."; "Apply a strict rights-based approach to the creation or expansion of existing protected areas... [and] Only extend protected areas to overlap with indigenous territories when indigenous peoples have given [FPIC]..."; "Ensure that indigenous peoples have the right of access to their lands and resources and undertake their activities in accordance with their world view... [and] Protect indigenous peoples from encroachment on their ancestral lands and strictly forbid logging and extractive activities in protected areas...".

Former Special Rapporteur on HRs and the Environment John Knox's 2017 report to the HR Council "describes the importance of ecosystem services and biodiversity for the full enjoyment of human rights and outlines the application of human rights obligations to biodiversity-related actions".¹¹⁰ In 2018, he published principles that "summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment".¹¹¹

"The full enjoyment of human rights ... depends on biodiversity, and the degradation and loss of biodiversity undermine the ability of human beings to enjoy their human rights... Protecting the rights of those who live closest to nature is not just required by human rights law; it is also often the best or only way to ensure the protection of biodiversity.... In short, respect for human rights should be seen as complementary, rather than contradictory, to environmental protection".¹¹²

Former Special Rapporteur on Human Rights and the Environment David Boyd's 2020 report to the HR Council focused on good practices in implementation of the right to a safe, clean, healthy and sustainable environment.¹¹³ In 2021, he issued a brief on HRBAs to conservation, including cases and recommendations. The brief concludes that:

"In recognition of... mutual dependence ... all conservation, restoration, and sustainable use initiatives must ensure that: (1) Rights-based approaches are obligatory ...including conservation financing; (2) Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth are acknowledged as key rights-holders and partners in protecting and restoring nature, whose human, land and tenure rights, knowledge, and conservation contributions must be recognized, respected, and supported; and (3) Everyone's right to ... sustainable environment is acknowledged..."¹¹⁴

110 [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#) (A/HRC/34/49)

111 [Framework Principles on Human Rights and the Environment](#) (Knox, 2018)

112 [Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment](#) (A/HRC/34/49 paras. 5 & 59)

113 [Right to a healthy environment: good practices](#) (A/HRC/43/53). As noted above, this report was followed by related UN Human Rights Council (2021) and UN General Assembly (2022) Resolutions.

114 [Human rights-based approaches to conserving biodiversity](#) (Boyd & Keene 2021:17)

3. Rights closely linked with area-based conservation

Here we explore some of the rights most closely linked to conservation processes and outcomes.¹¹⁵ These examples are not exhaustive, and should be read with the understanding that human rights are indivisible and interdependent - i.e. “one set of rights cannot be enjoyed fully without the other”.¹¹⁶

Self-determination

Right: Self-determination is a fundamental right of all peoples, affirmed in international human rights law.¹¹⁷ The right to self-determination includes both the right to determine political status and freely pursue economic, social, and cultural development¹¹⁸ as well as the right to freely dispose of natural wealth and resources.¹¹⁹ Often realised through democratic expression in States, international treaty bodies and regional human rights courts have repeatedly confirmed that self-determination also applies to Indigenous Peoples, and in some cases other peoples, living within States.¹²⁰ Indigenous Peoples’ right to self-determination is also reiterated in UNDRIP.¹²¹

Links to area-based conservation: Rights-based conservation policy and practice must uphold Indigenous Peoples’ rights to self-determination, including to determine their own futures; to meaningful participation in the development of policies, programmes, laws or regulations impacting on their rights (including those related to conservation); to freely enjoy and decide how to use their natural resources; and to continue their chosen ways of life and perpetuate their cultures, values, and belief systems.

A closer look: Episode one of the Women4Biodiversity podcast [Voices Unveiled](#), on [Championing Indigenous Peoples’ Rights and Self-determination](#), features a discussion on, *inter alia*, Indigenous Peoples’ right to self-determination and autonomy, Indigenous cultural practices and legal systems, and UNDRIP.

115 See [Annex I](#) for links to international and regional instruments that affirm and recognize these and other rights, as well as additional and more detailed compilations of related rights, including [The Living Convention \(2020\)](#) and [Conservation and Human Rights: Key Issues and Contexts](#) (Springer et al., 2011)

116 UN OHCHR ‘[What are human rights](#)’ webpage

117 Including common Article 1 of the [International Covenants on Civil and Political Rights \(ICCPR\)](#) and on [Economic Social and Cultural Rights \(ICESCR\)](#)

118 [ICCPR & ICESCR \(Art 1\(1\)\)](#)

119 [ICCPR & ICESCR \(Art 1\(2\)\)](#)

120 [Right to Self-Determination of Indigenous and Tribal Peoples \(IACHR, 2021\)](#)

121 [UNDRIP Articles 3 and 4](#)

Rights over land, territory, and resources

Rights: Indigenous Peoples have collective rights over their lands, territories, and resources, including as recognized in UNDRIP.¹²² Land, water, and resource rights and equitable **tenure governance** are also important for securing other universal substantive rights, e.g. to **housing** and **food**, including for **women**.

GBF Target 3 commits to “recognizing Indigenous and traditional territories” and “recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories”. Target 23 commits to recognition of women and girls’ “equal rights and access to land and natural resources” (see **Box 2**).

Links to area-based conservation: In many countries, collective land, territory, and resource rights are not yet sufficiently or appropriately recognized or respected, though progress is being made in some places.¹²³ Partly because these rights have not been sufficiently recognized, protected areas have often been established on lands and territories of Indigenous Peoples and of local communities, though many continue to govern and manage those areas (in whole or part) without recognition of their rights and roles.¹²⁴

Recognition and security of collective rights over lands, territories, and resources is a crucial prerequisite for ensuring area-based implementation that, *inter alia*:¹²⁵

- Prevents displacement or eviction, including as PAs or OECMs are established/ identified and other land use changes are made to enhance connectivity
- Protects territories and areas conserved by Indigenous Peoples and by local communities from land grabbing, encroachment, and ecologically damaging activities by others
- Enhances enjoyment of rights, including over land, territories, and resources and exercise of traditional knowledge, and practices
- Enables redress and remedy

A closer look: A **Featured Map** launched by the Environmental Justice Atlas’ (Autonomous University of Barcelona) and Kalpavriksh (an environmental action group in India) documents 26 of India’s PAs, revealing that the expansion of conservation projects is leading to repeated undermining of rights and access to land of local people.¹²⁶

122 UNDRIP explicitly recognizes Indigenous Peoples’ “right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired” and calls on states to “give legal recognition and protection to these lands, territories and resources... conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned” Art. 26, emphasis added. Within this and other articles, UNDRIP further specifies that this includes, *inter alia*, rights to not be “forcibly removed from their lands or territories” (Art 10), “to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard” (Art 25), and “to own, use, develop 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 which they have otherwise acquired” (Article 26).

123 Cornered by PAs (webpage and linked resources); Territories of Life Report (ICCA Consortium, 2021); The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities (UNDP, 2022)

124 Report of the Special Rapporteur ...on the rights of indigenous peoples (A/71/229); Recognising and Respecting ICCAs Overlapped by Protected Areas (Stevens et al., 2016)

125 Recognition and Respect for Tenure Rights (Larson & Springer, 2016); Recognising and Respecting ICCAs Overlapped by Protected Areas (Stevens et al., 2016)

126 <https://ejatlas.org/featured/conflictprotectedareaindia>

Rights to participation and to access to information

Right: Participation in decision making and access to information are important in themselves and also support the realisation of substantive rights. They are crucial in order for rights-holders to know what their rights are, know how these rights could be impacted, assert/claim those rights, hold duty-bearers accountable for decisions and activities that may affect them, and bring their own vision, knowledge, and contributions into those decisions and actions.¹²⁷

Important aspects of the right to participation include the quality of the process, how and by whom representation is decided, and through which and whose institutions decisions are made. UNDRIP recognizes Indigenous Peoples' rights to "participate in decision-making... through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions"¹²⁸ and to participate in "fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems," to recognize and adjudicate the rights pertaining to their lands, territories, and resources.¹²⁹

GBF Target 22 specifies that participation must be full, equitable, effective, and gender-responsive. It (and Sec. C) also highlight that the exercise of access to information must itself respect rights of Indigenous Peoples and of local communities, including to culture and to free, prior, and informed consent (FPIC) (see [Box 2](#)).

Links to area-based conservation: Rights to participation and to access to information (including all of the dimensions of these rights noted above) are crucial when developing area-based conservation related laws, policies, and plans.¹³⁰ Rights to participation and to access to information are also crucial in conservation practice in all phases. Rights-holders' views and priorities must be reflected in decision-making processes and outcomes, including in their roles as leaders and equal partners in conservation. This includes decisions about how Indigenous and traditional territories, knowledge, innovation, and practice are recognized and respected.

127 Two crucial instruments in this regard are the regional treaties, the Aarhus Convention (formal name: UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters) adopted in the 1980's, and the Escazu Agreement 'Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean' adopted in 2018.

See further information and resources on the UN OHCHR webpage on [equal participation, including Draft guidelines for States on the effective implementation of the right to participate in public affairs \(A/HRC/39/28\)](#) and a list of related [international standards](#)

128 UNDRIP Art 18

129 UNDRIP Art 27 ("States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize 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. Indigenous peoples shall have the right to participate in this process.")

130 See more specific examples in subsection on rights-holder led and co-developed plans below

Like many rights, access to information and participation in conservation will be shaped by the broader context. HRBAs to area-based conservation should therefore take that broader context into account. Considerations include the extent to which legal frameworks enable participation in decision-making overall, whether there are effective and accessible processes for rights-holders to engage in and inform decision-making, and whether there are effective mechanisms for holding duty-bearers accountable for their obligations related to participation and to access to information. In many places, rights-holders face constraints on civic space and marginalisation from political decision-making.¹³¹

A closer look: Integrating rights in PA governance and management through local agreements

In Madagascar, the Protected Areas Law requires the establishment of a Community Management Agreement (CMA), a binding agreement between local communities and PA managers. The CMA clarifies the rights and responsibilities of all rights-holders and stakeholders and aims to ensure the effective involvement of local communities in protected areas governance. CMAs integrate both customary and statutory rights of local communities. It also facilitates the securing of their free, prior, informed consent; just compensation; and participation in the establishment and management of protected areas.

Free, prior, and informed consent

Right: Free, prior, and informed consent (FPIC) refers to the right of Indigenous Peoples to give or withhold consent to decisions and actions that will affect them, including the adoption or implementation of legislative or administrative measures and actions affecting their lands, territories, and natural resources.¹³²

The core principles of FPIC have also been recognized as important for some local communities, especially those who maintain customary relationships with their lands and natural resources. The GBF calls for FPIC in, *inter alia*, documentation of and access to traditional knowledge, innovations, worldviews, values, and practices of Indigenous Peoples and of local communities.¹³³

131 From Darkness to Blue Skies: Listening to Indigenous Peoples, local communities, and Afro-descendant Peoples about their journey to a better future (RRI, 2022); Enhancing meaningful Indigenous leadership and collaboration in international environmental governance forums (Zurba et al., 2024)

132 Including as affirmed in UNDRIP Article 19

133 e.g., GBF Sec. C (a) and Target 21. (See [Box 2](#))

Links to area-based conservation: Respecting rights to FPIC must be central to an HRBA to area-based conservation decisions and actions proposed by duty bearers, including (but not limited to):

- Formation of related national law and policy impacting rights-holders
- Expansion, creation, or recognition of government or private-actor governed PAs or OECMs that may impact rights-holders
- External recognition of indigenous and traditional territories (including whether and how they are recognized)
- External actors' access to or use of Indigenous and traditional knowledge
- Land use changes proposed to enhance connectivity that may impact rights-holders
- Site-level governance and management decisions that may impact rights-holders
- Externally-developed conservation projects and programs (of various scales) that may impact rights-holders

FPIC processes should be meaningful and rights-based, with ongoing ways of maintaining consent, rather than being one-off decisions.

FPIC is increasingly adopted as a standard for conservation project safeguards or other frameworks that aim to prevent negative impacts and establish equitable agreements with rights-holders, including fair benefits from activities on their lands.¹³⁴ Securing FPIC in relation to wider development pressures will also be critical to a HRBA to area-based conservation. Customary and collectively held lands and territories are often threatened by commodity-driven development, such as large-scale logging, agriculture and mining, that carry significant risks of ecological damage.¹³⁵ Where such externally-driven developments are not subject to FPIC, they negatively impact rights-holders and their efforts to protect and conserve their land and territories.

A closer look: There is a provision under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of India to declare 'Critical Wildlife Habitats'. These are areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation. This procedure to declare these areas clearly states that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation, and that free informed consent of the Gram Sabhas (village councils) to the proposed resettlement and to the package has been obtained in writing. However, its actual implementation remains contested.¹³⁶

¹³⁴ See, for example, IUCN [Environmental and Social Management System \(ESMS\) Standard on Indigenous Peoples](#) and related guidance

¹³⁵ See, e.g., [Territories of Life Report](#) (ICCA Consortium, 2021); [In defense of land rights: A monitoring report on land conflicts in six Asian countries](#) (ANGOC, 2019)

¹³⁶ [Critical Wildlife Habitat: What is it, how should it be implemented, and how is it being pushed through?](#) (Lele et al., 2020)

Culture, knowledge, and biocultural rights

Rights: Cultural rights include rights to take part in cultural life; to intangible and tangible cultural heritage, including rights to bio-cultural diversity, traditional knowledge, practices, and institutions; and to express, enjoy, and promote cultural and self-determined ways of life and visions of the world.¹³⁷ ILO Convention 169, on Indigenous and Tribal Peoples, calls on governments to protect cultural rights, customs, traditions, and institutions, and calls for due regard for customary laws. It also recognises the need to respect the special importance of the cultures and spiritual values of the peoples concerned of their relationship with their lands and territories, in particular the collective aspects of this relationship.¹³⁸

Biocultural rights are a community's long established rights, in accordance with customary laws, to steward its lands, waters, and resources.¹³⁹ They are not simply claims to property but collective rights to carry out traditional stewardship roles and responsibilities as conceived by Indigenous ontologies.¹⁴⁰ Biocultural rights are increasingly recognised in international and national environmental law and include the rights of Mother Earth, rivers or lakes. The Potato Park biocultural territory in Peru provides an example of a biocultural-rights based approach to area-based conservation (see example below).

Related elements of the GBF are found in T19 (including enhancing collective actions, Mother Earth centric actions, and non-market-based approaches), T21 (including FPIC in relation to Indigenous Peoples' and local communities' traditional knowledge, innovations, practices, and technologies), and commitments in Sec. C to recognize contributions and rights of Indigenous Peoples and of local communities, and diverse value systems and concepts, including rights of nature and of Mother Earth. (See [Box 2](#))

Links to area-based conservation: Area-based conservation approaches that fail to recognize and respect (bio)cultural rights risk violating those rights and undermining the associated relationships to land, territory, and culture. This requires respecting rights-holders' diverse worldviews, values, knowledge, and ways of knowing.¹⁴¹

A key consideration for area-based conservation is whether there are appropriate statutory (or other) options for asserting and securing rights to steward territories, lands, waters, and resources in accordance with peoples' cultures, spiritual values, and self-determined governance and knowledge systems. More generally, decolonising, rights-holder led, and co-created approaches and relationships will be important foundations for respecting and upholding cultural rights in area-based conservation.¹⁴²

137 See further information and resources on the UN OHCHR webpage on [Cultural rights and the protection of cultural heritage](#)

138 [Indigenous and Tribal Peoples Convention, 1989](#) (No. 169)

139 [Fifth Session of the UN Permanent Forum on Indigenous Issues. Statement by IIED, Andes \(Peru\) and Call of the Earth](#) (2006)

140 [Community stewardship: the foundation of biocultural rights](#) (Bavikatte & Bennett, 2015)

141 [Assessment Report on Diverse Values and Valuation of Nature](#) (IPBES, 2022)

142 Examples of HRBA in co-creation of knowledge for biodiversity and ecosystem services conservation are shared in this [webinar](#), hosted by BES-Net, IIFB & SwedBio

A closer look: The Potato Park Biocultural Heritage Territory, Peru

The Potato Park in the high andes is an area of 9,200 ha which is collectively self-governed by 5 Quechua communities based on customary laws. Rather than using the western concept of 'conservation', which does not exist in many Indigenous cultures, it is guided by the Andean holistic wellbeing concepts of Ayllu and Sumaq Kawsay. Andean people believe that the 3 ayllus or communities - the human and domesticated, the wild, and the sacred and ancestral - have to be in balance to achieve wellbeing, and that these elements are related through reciprocity. This philosophy has conserved very rich agrobiodiversity and wildlife for millennia and continues to do so today, through a food-centred approach, where food is not only for humans but also for plants, animals etc. Conservation outcomes are sustained across the Potato Park landscape through low-intensity customary sustainable use and protected sacred sites (mountains, lakes etc). Biocultural territories are an autonomous approach for establishing and strengthening Indigenous and Traditional Territories which emerged from a 20 year struggle for self-determination in the Potato Park. They use decolonising methodologies to revitalise traditional knowledge systems and cultural and spiritual values that provide normative territorial governance principles. They share the 3 characteristics of ICCAs - a deep connection with the territory and functioning governance institution contributing to nature conservation, livelihoods and wellbeing. But they also have an explicit focus on Indigenous methods and tools and holistic wellbeing concepts, cultural revitalisation, biocultural rights, agrobiodiversity and food sovereignty. Biocultural territories have been defined as "land use mosaics encompassing Indigenous and traditional land tenure, production and exchange systems, cultural identity, community organisation and simultaneous goals of endogenous development and biodiversity conservation'. They provide an important decolonial approach for meeting the 30x30 Target and other GBF Targets.¹⁴³

143 Biocultural heritage territories: key to halting biodiversity loss (Swiderska et al 2020) ; Indigenous Peoples' Food Systems and Biocultural Heritage: Addressing Indigenous Priorities Using Decolonial and Interdisciplinary Research Approaches (Swiderska et al, 2022)

Sustainable use and closely linked substantive rights

Rights: International human rights instruments recognize the right of a people not to be deprived of its means of subsistence.¹⁴⁴ It also recognizes substantive rights to land, territories, and resources (see above), and to an adequate standard of living, **health**, **food**, and **water**, among others. In the CBD context, Article 8(j) and related provisions recognize and guide conservation action that respects the right to sustainable use (see **Box 2**).

Links to area-based conservation: Area-based conservation can (positively or negatively) impact rights to sustainable use and other substantive rights - e.g.

- Area-based conservation can help sustain, enhance, and restore resources and ecosystem services that people rely on and generate shared benefits to help ensure respect for and promote substantive rights.
- Conversely, unjust access and use restrictions can limit or eliminate access to resources on which people rely for enjoyment of their human rights.¹⁴⁵
- Human-wildlife conflict can also infringe on rights to food security, health, and even life. Without effective ways to avoid and mitigate these conflicts, efforts to expand area-based conservation, and to enhance its effectiveness, may exacerbate these human rights impacts.

Equality and non-discrimination

Rights: International law affirms the rights of all people to **equality and non-discrimination**, including gender **equality and women's rights**.¹⁴⁶ In the CBD context, responsibilities to uphold gender equality and a gender responsive approach are reflected in GBF Target 23 and Section C, as well as the Gender Plan of Action and earlier decisions (see example box below).

Links to area-based conservation: As noted above, a 2021 UN Human Rights Council resolution recognizes that “*degradation and loss of biodiversity often result from and reinforce existing patterns of discrimination*”.¹⁴⁷ While the resolution also recognizes that “*protection of the environment, including ecosystems, contribute to human well-being and to the enjoyment of human rights*”, inequality can prevent people from enjoying those contributions, including where Indigenous Peoples, local communities, and women face discrimination. Further, those who depend most directly on nature and natural resources, and those already in vulnerable situations, may be disproportionately affected by biodiversity loss and action. States have heightened obligations towards these rights-holders to protect and fulfil their rights, including the rights to equality and non-discrimination.

¹⁴⁴ International Covenants on Civil and Political Rights (ICCPR) and on Economic Social and Cultural Rights (ICESCR)

¹⁴⁵ Not all access and use restrictions constitute human rights violations. Indeed, access restrictions may be core components of equitable and effective conservation approaches, including rightsholders' ability to defend territories and areas they govern and manage from threats. Nonetheless, area-based conservation measures must recognize and carefully [avoid and mitigate] impacts that do not respect substantive rights, including to sustainable use

¹⁴⁶ See articles 2 para 1 and 26 ICCPR and Article 2 para 2 ICESCR, as well as the CEDAW and ICERD Conventions

¹⁴⁷ UN Human Rights Council Resolution 46/7 on human rights and the environment ([A/HRC/46/L.6/Rev.1](#)) adopted in March 2021.

A closer look: Gender Equity and the CBD

The GBF includes landmark commitments to a gender-responsive approach, and women and girls' equal rights, including access to land and natural resources. These commitments also build on gender considerations in CBD decisions over many years. A [Compilation of Decision Texts from COP1 to COP15](#) prepared by Women4Biodiversity “not only highlights the CBD’s recognition of the pivotal role of gender in biodiversity governance but also serves as a comprehensive resource for policymakers, practitioners, and stakeholders seeking to integrate gender perspectives into their policies, planning and initiatives”.¹⁴⁸

Clean, healthy, and sustainable environment and intergenerational equity

Rights: The human right to a clean, healthy, and sustainable environment has been recognized by the United Nations¹⁴⁹ and acknowledged in the GBF (see [Box 2](#)). Healthy biodiversity and ecosystems are one of its crucial components. This human right is further essential to the full enjoyment of a wide range of other human rights, including to life, health, food, or water. It is also closely linked to intergenerational equity, because intergenerational equity is not possible without environmental and social sustainability.

Links to area-based conservation: Effective and equitable area-based conservation is a key strategy for biodiversity and ecosystem sustainability. As noted above, prior CBD decisions affirm the diversity of governance arrangements through which these contributions are made, and the GBF specifically acknowledges the contributions of Indigenous Peoples and of local communities, including in Indigenous and traditional territories and through their knowledge, practice, and innovation. Recognizing and upholding rights is often crucial to sustaining these diverse relationships and contributions.

A closer look: Founded in 2010, “the Global Youth Biodiversity Network (GYBN) represents the voice of global youth in the negotiations under the ...CBD, raises awareness among young people of the values of biodiversity, and connects individuals and youth organizations in order to build a global coalition to halt the loss of biodiversity.”¹⁵⁰

148 [Gender Equality and the Convention on Biological Diversity: A Compilation of Decision Texts from COP1 to COP15](#) (Women4Biodiversity, 2024)

149 Resolutions of the UN Human Rights Council, 2021 (A/HRC/RES/48/13) and General Assembly, 2022 (A/RES/76/300)

150 See [GYBN webpage](#) for more information about the network, including publications and reports from [youth engagement](#) in the CBD

Life

Rights: The international human rights framework affirms the fundamental right of all to life with dignity.¹⁵¹ This is closely related to, and supported through realisation of, all human rights. It is also upheld in part through the **rule of law**, including **enforcement approaches that uphold human rights**, without arbitrary, excessive or discriminatory use of force. GBF Target 22 recognizes, in particular, the urgent need to protect human rights defenders.

Links to area-based conservation: The fundamental human right to life with dignity can be, and too often has been, threatened and violated by unjust PA boundary enforcement, forced eviction, and unmanaged human-wildlife conflict, among other impacts. At the same time, communities and individuals across the world face violent threats for their actions to defend and protect land, territories, and resources they have relationships to and sustain.¹⁵² Indigenous Peoples are disproportionately affected¹⁵³ and threats and violence are often directed at Indigenous leaders when they speak out or seek to organise against development projects that threaten their rights and livelihoods.¹⁵⁴ An HRBA to area-based conservation must acknowledge and address both of these threads - i.e. ensuring that conservation approaches (including enforcement) do not violate rights to lives of dignity, as well as taking proactive measures to protect environmental defenders.

A closer look: A **video documentary** on rights-based conservation “presents the lived realities of Indigenous Peoples in Nepal and India, shedding light on the struggles and triumphs within and beyond the borders of national parks and conservation areas”.¹⁵⁵

151 See ICCPR Article 6

152 [Environmental Defenders](#) (Ramos et al, eds., 2021., Vol. 1 - 3)

153 While Indigenous Peoples make up just five percent of the earth's population, they accounted for over 40 percent of environmental and human rights defenders killed in multiple years, including in 2021 ([Decade of Defiance](#) - Global Witness, 2022)

154 [USAID Policy on Promoting the Rights of Indigenous Peoples \(PRO-IP\)](#) (USAID, 2020)

155 Source: CIPRED Nepal (available in [Nepali](#) and [English](#))

Access to justice and remedies

Rights: A crucial part of realising rights is ensuring that there are accessible and effective mechanisms for access to justice when rights are violated.¹⁵⁶ UNDP has defined “access to justice” as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards”.¹⁵⁷ This includes judicial or administrative institutions, as well as non-judicial and customary systems for conflict resolution and remedy.

Links to area-based conservation: Within area-based conservation systems, there is urgent need for fair, accessible, and effective:

- Grievance and conflict resolution mechanisms
- Remedy and redress for adverse impacts on human rights and on the environment
- Protection of environmental human rights defenders, with remedy for harm

Factors that impact whether such processes/mechanisms are accessible include their formats, languages, locations, etc. Rights-holders, including defenders, may also need access to legal, financial, and technical resources.¹⁵⁸ Area-based conservation also takes place within, and is impacted by, broader political and social contexts. Efforts to ensure access to justice will therefore often need to reach beyond the conservation system.

156 Key related instruments include the Aarhus Convention and Escazu Agreement

157 Programming for Justice: Access for All - A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice (UNDP, 2005:5)

158 Conservation and Human Rights: Key Issues and Contexts (Springer et al., 2011)

4. Approaches to advance HRBAs in area-based conservation

Specific approaches for advancing rights will vary by context. This section offers examples of approaches that may be applicable, with adaptations, across the various Target 3 implementation pathways and scales explored in this paper. [Annex 1](#) includes additional resources, including about the approaches explored here.

Rights-holders may have other preferred approaches, which should be prioritised.

4.1 Getting started

Identify which and whose conservation decisions or actions are being considered

What an HRBA ‘looks like’ in practice will depend in part on what the proposed conservation decision or action is, and who is proposing it. Although power and responsibility in conserved areas are often shared, a key, early question must be whether the decisions or actions being considered are primarily:

- A proposal by a rights-holding group, e.g. about their lands, territories, or resources; or
- A proposal by an external / duty-bearing group and, in that case, whether it is primarily intended to advance that external group’s conservation objectives and/or to support concerned rights-holders.

Depending on the answers to these questions, an HRBA might be focused on, e.g.:

- Asserting and defending rights
- Upholding duties to respect and protect rights when developing and implementing conservation initiatives
- Promoting rights, with rights-holders’ leadership and equal partnership
- Elements of several of these

For example, FPIC is commonly understood as a response to an external proposal or question - e.g. a community or people are agreeing or not to a proposed set of actions. Beyond this, however, decisions related to identifying/recognizing areas under Target 3, for self-governing peoples and communities, must be self-directed and self-determined choices.

The scope and scale of the proposed decisions/actions also matter. For example, is the intent to apply an HRBA to overall Target 3 implementation in a (sub)national context? To the policy or practice of a conservation organisation or funder? To the governance and management of a specific site? A specific conservation project? Or something else?

Ensure rights-holder led and inclusive processes for deciding how to advance rights

An HRBA will often require information gathering, negotiation, and decision-making about how to advance rights, and then implementation and monitoring for accountability to those decisions. Each phase of this process should involve rights-holders' leadership, co-creation, and full, equitable, effective, and gender-responsive participation.

A closer look: A Common Position Paper of Indigenous Peoples and Local Communities

Regarding National Park and Conservation Law and Policy was developed through a 2023 national workshop on rights-based conservation in Nepal. Then it was submitted to government authorities. It “marks a historic achievement of Indigenous Peoples, Local Communities, women, Dalits, Madheshis, people with disabilities, and other marginalized communities for... issues and concerns in the protected areas to be internalized and reflected, our roles and contributions in conservation to be recognized in the legal provisions of the country and for enhancing rights-based conservation in line with the [GBF].”¹⁵⁹

159 [CIPRED summary about the 2023 workshop and its outcomes](#)

4.2 Understanding the situation

Build understanding of the current and historical circumstances and contexts

It is important to understand the opportunities and challenges for advancing rights in a given context. Gathering and analysing information about the (historical and current) context can help ensure a deeper understanding of what those opportunities and challenges are. The scope of analysis may include identifying:

- Rights-holders (and their rights, e.g. including those explored [Sec. 3](#)), duty-bearers (and their duties), and the institutional and power relationships between them
- Rights-holders' priorities, values, relationships with, or visions for the areas of concern
- Opportunities, gaps, challenges in how rights are (or could be) addressed - e.g. in terms of:
 - Law, policy and plans¹⁶⁰
 - Conservation practice and lived experience
 - Broader (political, social, ecological, historical) context shaping conservation and rights linkages
- Capacities and resources to build on opportunities and address challenges
- Potential risks presented by different options for advancing rights, e.g. risks to rights-holder safety

The focus and scope of analysis will vary by context. For example, a rights-holding group seeking to assert or defend rights to their lands, territories, or resources might focus primarily on identifying the pathways (and barriers) for doing so. The social/cultural and ecological context and scale are also important factors. For example, rights-holder groups and allies have highlighted specific issues they face in coastal¹⁶¹ and rangelands¹⁶² contexts.

Relevant approaches and tools include:¹⁶³

- Discussion/dialogues within and across rights-holder groups¹⁶⁴ and/or between rights-holders and duty-bearers
- Rights-mapping and power-mapping
- Human rights impact assessments

160 Include (as relevant) statutory frameworks; customary laws; by-laws, community protocols, and Life Plans; conservation organisation and donor policy; jurisprudence

161 See the "closer look" box based on [Marine, Coastal and Shoreline Tenure](#) (Cohen et al., 2024) below

162 See the "closer look" box based on rangelands below

163 See related resources in [Annex 1](#)

164 See, e.g. the module on Reflect within broader the broader Territory of Life [Self-strengthening Processes](#)

- Governance and social impact assessments and gender analyses that include a strong rights-focus
- Rights-focused situation analysis
- Other relevant rights-holder led research and analysis

A closer look: Site- and systems-level governance assessments

CBD voluntary guidance on protected areas calls on Parties and other actors to “facilitate and engage in site-level governance assessments in participatory multi-stakeholder processes, take actions for improvement at the site level and draw lessons for the policy level”. It notes that “site-level assessments help to understand governance in practice and to identify options for improvement and/or for better tailoring governance type and decision-making arrangements to the local context”. The guidance also states that these assessments should be conducted “in ways that are inclusive of rights holders and stakeholders, and take action aimed at improvement”. In this way, the guidance points to the importance of assessment processes that are themselves rights-based and well governed.¹⁶⁵ There are a growing number of resources and tools to support site-level governance assessments, as well as lessons for good practice in their use.¹⁶⁶

This voluntary guidance also calls on Parties and other actors to assess and find pathways to improve recognition and support for governance diversity in national and subnational systems.¹⁶⁷ Systems-level governance **assessments** and **legal reviews** have been undertaken to identify and strengthen pathways for recognition of territories and areas conserved by Indigenous Peoples and by local communities in countries around the world.¹⁶⁸

165 [Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity, Taking into Account... 8\(j\) and Related Provisions](#) (CBD/COP/DEC/14/8 Annex II, para. 12 (b) ; footnote 35; and para 13(a))

166 See, e.g. examples of methods, approaches, and lessons learned in [Management Effectiveness, Governance, and Social Assessments of Protected and Conserved Areas in Eastern and Southern Africa: A rapid inventory and analysis to support the BIOPAMA programme and partners](#) (Campese and Sulle, 2019) and [Site-level assessment of governance and equity \(SAGE\)](#) webpage, including linked resources

167 [Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity, Taking into Account... 8\(j\) and Related Provisions](#) (CBD/COP/DEC/14/8 Annex II)

168 Undertaken as part of Phase I of the [ICCA Global Support Initiative](#) (see UNDP, 2022)

Assess impacts of proposed conservation measures

Duty-bearers have a responsibility for due diligence, including assessing and addressing actual or likely adverse human rights impacts of conservation actions.¹⁶⁹ Several of the approaches noted under situation analysis can also be useful here, including because a deep understanding of potential or actual impacts is not possible without a good understanding of the situation and context.

Social and environmental safeguard frameworks are a tool commonly used in screening and addressing the potential impacts of proposed actions. Safeguards can help implement an HRBA, where they have strong alignment with human rights. As with any approach, there are also limitations to be aware of. While their scope varies, some impact assessment tools and safeguards are focused on avoiding or mitigating risk (e.g. to violation of rights) vs. actively promoting and supporting fulfilment of rights. This scope would be helpful, but not sufficient, for supporting a full HRBA.

A closer look: Rights mapping as an approach to identify and assert rights in the context of area-based conservation

‘Rights-mapping’ can refer to a variety of participatory approaches to support rights-holders (sometimes together with duty-bearers and other stakeholders) in discussing and documenting/expressing rights in their context, often using visual and/or narrative elements.¹⁷⁰ In the context of area-based conservation, rights-mapping often involves a community-based and participatory process of identifying the (statutory and customary) individual and collective rights and responsibilities toward land, forest, water, traditional knowledge, territory, etc. in a particular landscape. It is, therefore, a context-connected process. Full, equitable, and effective participation of concerned communities and context-responsive approaches to mapping processes are therefore crucial to ensure that outcomes effectively reflect the full range of rights, including customary rights.¹⁷¹

169 [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework \(A/HRC/17/31\)](#); [The Corporate Responsibility to Respect Human Rights: An Interpretive Guide \(HR/PUB/12/02\)](#); [Core Human Rights Principles for Private Conservation Organizations and Funders \(UNEP et al., forthcoming\)](#)

170 See, for example, [MappingForRights](#) (Rainforest Foundation UK, 2015)

171 Box written by co-author, Jazzy Rasolojaona, based on their experience

Getting to shared understanding?

Getting to a shared, agreed upon understanding of the situation (e.g. who rights-holders are, who duty-bearers are, what their respective rights and responsibilities are, and what can and should be done) can be challenging. Area-based conservation takes place across diverse contexts and scales, as noted above. It also often involves multiple actors, including State and non-State duty-bearers. States vary in the extent to which they recognize rights and uphold their duties. Non-State actors may also be unaware of, or unwilling to uphold, their responsibilities.¹⁷² And, perhaps particularly where duty-bearers have overlapping or intersecting roles, it may be challenging to ensure that all acknowledge and take accountability for their respective responsibilities. Further, human rights and conservation standards and norms continue to evolve, and understanding rights and responsibilities in a given context will often require reflection, discussion, and awareness raising.

Challenges like these do not mean that an HRBA should not be sought and advanced. Rather, taking action to better understand the situation can help to identify where such challenges lie, and where more engagement, negotiation, capacity development, or advocacy may be needed to advance rights in the context.

A closer look: Building understanding of diverse tenure systems in coastal contexts

“For centuries, [coastal] societies have defined and exercised rights and responsibilities over coastal ecosystems, determining who is allowed to use which resources, in what way, for how long, under what conditions, and how entitlements, responsibilities and cultural values are passed on. This is tenure....”. The publication [Marine, Coastal and Shoreline Tenure](#) seeks to “build knowledge and awareness about diverse tenure systems in an effort to empower and respond to rights-holders as partners”, “prime informed discussion among duty bearers and rights-holders on what recognizing and strengthening tenure entails in different coastal contexts...” and “stimulate action... toward more equitable and secure aquatic tenure”, with rights-holders’ leadership and in partnership with the full range of duty-bearers.¹⁷³

172 For example, businesses, NGOs, and other non-State actors may lack sufficient resources or technical capacity to identify and uphold their human rights responsibilities. However, they may also be unwilling to secure and commit the needed resources and capacities - e.g if they not believe themselves to have the power or leverage to change human rights outcomes, or are unwilling to take on the perceived ‘costs’ of doing so, including perceived risk of taking on more liability by naming NGO responsibilities. These barriers may be particularly challenging in contexts where States are not upholding their duties. This includes States duties to be accountable for their own human rights impacts as well as their obligations to protect human rights by implementing measures to ensure non-State actors meet their responsibilities.

173 [Marine, Coastal and Shoreline Tenure](#) (Cohen et al., 2024)

4.3 Taking responsive action

Ensure rights-holder leadership and co-design in area-based conservation and HRBAs

Build on understanding of the situation (Sec 4.2) to identify and undertake/support rights-holder led or co-developed actions that address rights-holder priorities. These may be ‘new’ actions or ones that enhance rights-holders’ existing visions and initiatives. The appropriate approaches and actions will vary by context. Below are some examples, ordered roughly by those pertaining to law, policy, and planning (4.3.1); and implementation and practice (4.3.2).

A closer look: The National Alliance for the Support and Promotion of Indigenous and Community Heritage Areas and Territories (ANAPAC-RDC) promotes the recognition, conservation, governance, and security of Territories of Life (APAC, in French) in the DRC. This includes supporting self-strengthening of APAC governance and management; enabling appropriate legal and policy recognition (including collaboration in developing the [national strategy](#) for nature conservation outside protected areas in the DRC); monitoring implementation of CBD decisions related to APACs; and supporting the sustainability of and advocacy for APACs and their governing communities through networking. More than 20 APACs have already been identified, and the advocacy process for legal recognition continues.¹⁷⁴

174 ANAPAC webpages on their [axis strategies](#) and engagement in the [national strategy development](#)

4.3.1 Law, policy, and plans

Reform legal and policy frameworks

While often a longer-term strategy, rights may be advanced through participatory processes to reform statutory law and policy. For example, law and policy frameworks for recognition and support of territories and areas conserved by Indigenous Peoples and by local communities remain limited, though progress is being made in some contexts.¹⁷⁵ Reforms can help ensure these frameworks are:

- **Complete** - ensuring that area-based conservation approaches respect, protect, and promote the full range of human rights, including in enabling appropriate, self-determined recognition and support for Indigenous- and community-led conservation through all three of the pathways envisioned in Target 3
- **Responsive to the context** - e.g. recognizing diverse governance systems, including customary systems, reflecting the full range of socio-ecological systems, and supporting rights-holder-led innovations
- **Coherent and coordinated** - For example, in many countries legal frameworks governing protected areas and collective tenure were established separately and at different times. As a result, they may not be aligned, and may even directly contradict one another. Particularly where protected area legislation was enacted prior to statutory recognition of collective land rights, PAs may have been established over lands that could now be legally recognized as community lands.¹⁷⁶ An HRBA could include legal reforms (and implementation initiatives) to address these conflicts and resolve these overlaps.

Advancing rights-based conservation may also require changes to frameworks that impact but are not exclusively focused on protected and conserved areas - e.g. strengthening requirements for participation, access to information, and FPIC in broader national frameworks and other sectors, such as extractive industry and large-scale agriculture and development.

¹⁷⁵ Key findings from analysis of existing legal and policy options for recognition and support of territories and areas conserved by Indigenous Peoples and by local communities in 18 countries include that: (1) "Few countries explicitly recognize ICCAs, with some exceptions, demonstrating that appropriate, national-level recognition is still lacking and needed"; (2) "The examples of community conservation are more often shared governance models, which are often imposed rather than community-driven"; (3) "The relevant rights for ICCAs in national law are often dispersed across legal frameworks, with a limited number of explicit rights found in sectoral laws, such as for forestry and fishing. Though Indigenous Peoples and local communities can utilize these sectoral legal frameworks to affirm their rights to lands, territories, and resources, they offer insufficient protection to external threats, such as extractive and/or other industrial projects"; and (4) "Criminalization and violence against land and environmental human rights defenders persists and is increasing as governments and companies seek additional resources to exploit". Analyses were conducted in Benin, Kenya, Madagascar, Morocco, Namibia, Senegal, Tanzania, and Zambia (Africa); Argentina, Belize, Colombia, Guatemala, and Paraguay (South America); and Georgia, Indonesia, Iran and Viet Nam (Asia). They were led by the NGO Natural Justice as part of the ICCA GSI (Phase I). ([The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities UNDP, 2022](#))

¹⁷⁶ [Recognising and Respecting ICCAs Overlapped by Protected Areas](#) (Stevens et al., 2016);

A closer look: Law and policy reform as part of broader movements towards progressive realisation of rights

In 2022, the Democratic Republic of Congo (DRC) enacted a law on the protection and promotion of the procedural and substantive rights of Indigenous Pygmy Peoples, including rights to the environment and over land and natural resources.¹⁷⁷ This was the first national legislative instrument in DRC recognizing and seeking to safeguard their specific rights. The law also marks an apparent departure from a history of ‘fortress conservation’ in the country, including the exclusion and displacement of Indigenous Peoples and of local communities from their customary lands. The passage of this landmark legislation follows over a decade of advocacy by Indigenous Peoples organisations in the DRC.¹⁷⁸

Highlighting the progress and the challenges in the DRC, in 2024 the African Commission on Human and Peoples Rights issued a decision recognising multiple violations of the rights of the Batwa people in the creation of the Kahuzi-Biega National Park in the 1970’s. This case, brought to the Commission in 2015, highlighted in its arguments the lack of accessible and suitable remedy at the national level. Progress in implementing the recommendations of the Commission, including restitution of land, will be a test of the real progress in the DRC in recognizing and protecting the rights of Indigenous Pygmy Peoples.¹⁷⁹

Enhance conservation organisation and funder policies

A number of international conservation NGOs and donors have developed policies and safeguard systems that incorporate human rights, including in relation to Indigenous Peoples rights. Policies and safeguard systems vary in terms of, among other things, how comprehensive and operational they are.¹⁸⁰ These efforts should be expanded (e.g., with adoption amongst more organisations) and strengthened, including ensuring comprehensive content¹⁸¹ and funded, effective processes for implementation, e.g. robust grievance mechanisms.

177 Provisions include that “Without prejudice to the State’s property rights over the soil and subsoil, indigenous pygmy peoples have the right to the lands and natural resources they own, occupy or use”; that “No relocation or resettlement may take place without the free, informed and prior consent of those concerned, in return for fair and equitable compensation” (Article 42 of Chapter 5); and that “The State shall grant legal recognition and protection to the lands and resources traditionally owned, occupied or used by indigenous pygmy peoples. Such recognition will respect the habits and customs of the peoples concerned” (Articles 42 and 48 of chapter 5)

178 After 14 years of advocacy, the DRC president finally signs new Indigenous peoples law (Hemedi, 2022)

179 The African Commission sets a significant precedent for indigenous peoples’ land rights in the context of conservation, 5 August 2024

180 Conservation and human rights: The public commitments of international conservation organizations (Ford-Learner et al., 2024)

181 Including provisions for respecting rights, and contributing to protection and promotion within the organisation’s scope of programmes. Resources that can help define key elements include: Conservation and human rights: The public commitments of international conservation organizations (Ford-Learner et al., 2024); Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31); The Corporate Responsibility to Respect Human Rights: An Interpretive Guide (HR/PUB/12/02); Core Human Rights Principles for Private Conservation Organizations and Funders (UNEP et al., forthcoming); and others in Annex 1

Integrate human rights in conservation plans and enable/support rights-holder led plans

Relevant plans and strategies can be developed/revised to better address human rights. This includes any Target 3 specific plans or strategies as well as related instruments - e.g.

- NBSAPs and their national equivalents
- Connectivity plans and spatial planning related to area-based conservation
- Site-level governance and management plans and other relevant conservation programming

Like law and policy reform, the process for developing/revising plans should, at a minimum, respect rights to participation, access to information, and FPIC, among others. Beyond this, Target 3 implementation presents an opportunity and responsibility to recognize rights-holder led plans and strategies.

A closer look: Indigenous Peoples Biodiversity Strategy and Action Plan (IPBSAP)

The Indigenous Peoples and Biodiversity Coalition Philippines has been collaborating since 2023 on a series of roundtable discussions to collectively strengthen the coordination, advocacy, and leadership of Indigenous Peoples on biodiversity issues in the Philippines. Through this process, they have formulated the first iteration of an Indigenous Peoples' Biodiversity Strategy and Action Plan (IPBSAP). This landmark document includes Indigenous Peoples' targets, indicators, and commitments to contributing to GBF implementation. The IPBSAP was shared in August 2024, during a National Consultation on the Updating of the Philippine Biodiversity Strategy and Action Plan (PBSAP). The National Consultation was convened to update the PBSAP and gather inputs, including from Indigenous Peoples. The IPBSAP, and its submission during this National Consultation, mark a pivotal moment for Indigenous Peoples in the Philippines, advancing recognition of self-determined commitments and celebrating their roles as guardians of biodiversity.¹⁸²

182 Indigenous Peoples' Biodiversity Strategy and Action Plan (IPBSAP) in the Philippines: Challenges and Opportunities (CBD CoP 16 side event description); Celebrating the Guardians of Biodiversity: Recognizing Indigenous Peoples' Pivotal Role in Inclusive Conservation in the Philippines (Lapiz & Segundo, 9 August, 2024)

4.3.2 Implementation and practice

While having responsive laws and policies in place is often helpful, it is not necessarily sufficient for advancing rights in practice. Laws and policies have to be effectively implemented. Further, legal reform may not be a ‘first step’ in advancing rights, including because those reforms can take a long time. In this section, we explore approaches for putting law/policy into practice, as well as approaches that are not necessarily contingent on having supportive legal frameworks already in place.

Resolve barriers to implementation

Rights-based legal and policy options may face barriers to implementation. Rights can therefore be advanced by identifying and resolving such barriers. Laws for recognizing areas and territories conserved by and with Indigenous Peoples and local communities, for example, may face barriers such as:¹⁸³

- Disagreement or lack of clarity about how to interpret or implement them
- Lack of political will to shift power to rights-holders
- Technical or process barriers, e.g. in mapping or titling
- Lack of appropriate financial and non-monetary support
- Unresolved land /resource claims, rights violations, and overlaps

Strategies for addressing barriers will vary by context. In some places, rights-holders have made headway by creating spaces to connect with one another (and with duty-bearers and other stakeholders), exchange experience/learning, and create opportunities for collective action (see example below).

A closer look: Putting shared governance and rights-based approaches to marine areas into practice in Costa Rica

In Costa Rica, recognized marine conserved areas can be governed jointly (in Responsible Marine Fishing Areas) or by government (in marine reserves or marine management areas). Under both models, it is crucial that small-scale fishers’ rights are secured. The short video [here](#) describes progress towards and challenges in securing rights under each. One way rights-holders are addressing these challenges is through the Network of Responsible Marine Fishing Areas and Marine Territories of Life. This national network brings together and supports alliances between diverse organizations “dedicated to small-scale artisanal fishing, with the purpose of articulating efforts and ideas to influence public policies linked to the artisanal fishing sector”. Since being created by artisanal fishers in 2014, the network “has been leading struggles in defense of artisanal fishermen, both in marine and continental waters, and strengthening small-scale artisanal fishing practices to ensure the proper use and protection of marine-coastal resources”.¹⁸⁴

183 See examples in, e.g., [Recognising and Respecting ICCAs Overlapped by Protected Areas](#) (Stevens et al., 2016); [The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities](#) (UNDP, 2022); [Territories of Life Report](#) (ICCA Consortium, 2021); and [CoopeSolidar](#)

184 [CoopeSolidar](#) webpage

Asserting and strengthening rights, including over land, territories, resources and their governance

Experiences shared by rights-holder groups and their organisations highlight diverse approaches through which they can assert and secure their rights and self-determined collective-action. Examples include:

- Documenting/mapping lands, territories, resources, governance and knowledge systems, and other relevant rights-holder led reflection and analysis¹⁸⁵
- Visioning, celebrating, and communicating about lands, territories, resources, and their stewardship¹⁸⁶
- Building solidarity networks and collective actions initiatives, including for asserting and defending¹⁸⁷
- Self-identifying conserved areas, e.g. in global, regional, and/or national platforms¹⁸⁸
- Engaging in dialogue and negotiation, e.g. to equitably recognize and resolve situations where territories and areas are overlapped by PAs or OECMs under other governance types¹⁸⁹
- Establishing Life Plans, community protocols, bylaws, or other instruments - e.g. for access to and use of land, resources, and related knowledge.¹⁹⁰

A closer look: Documenting, defending, and sustaining territories of life in Southeast Asia

The 2022 report [Celebrating Territories of Life in Southeast Asia](#) “invites readers to discover the situation, context, contributions, and values of Indigenous and local community-conserved territories of life through the extensive and grounded experiences of the Members of the ICCA Consortium in Southeast Asia. In the report, Indigenous and local voices from Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, and Vietnam illustrate how communities document, defend, and sustain their territories. All the case stories are written from the perspective of Indigenous Peoples and local community members”. The report highlights “effective and robust Indigenous and traditional governance systems that conserve nature, strengthen cultures, and sustain biodiversity”. An accompanying [video](#) “features five stories of Indigenous peoples documenting, defending, and sustaining territories of life.”¹⁹¹

185 See [Document](#) module in [Territory of Life Self-Strengthening Process](#), for more detailed discussion, guiding questions, and examples

See also examples in, e.g. [Territories of Life Report](#) (ICCA Consortium, 2021) and the [Mapeo](#) webpage

186 See [Vision & Celebrate](#) and [Act & Communicate](#) modules in [Territory of Life Self-Strengthening Process](#), for more detailed discussion, guiding questions, and examples

187 See [Act with Others](#) module in [Territory of Life Self-Strengthening Process](#), for more detailed discussion, guiding questions, and examples

188 See, e.g. the [ICCA Registry](#); the [Community Conserved Areas Southeast Asia](#) portal; and examples in [Celebrating Territories of Life in Southeast Asia](#) (Conlu (ed), 2022)

189 [Recognising and Respecting ICCAs Overlapped by Protected Areas](#) (Stevens et al., 2016); [Cornered by PAs](#) (webpage and linked resources)

190 <https://naturaljustice.org/community-protocols/>

191 Description: [San Jose et al., 2023](#); Report: [Conlu \(ed\), 2022](#)

Leading/supporting the resurgence of Indigenous and traditional governance systems

Connected to securing rights is the ability of Indigenous Peoples and of local communities to actively (re)establish their governance systems. Resurgence acknowledges the application of past and ongoing knowledge and governance systems and the need for contemporary revival.¹⁹² It is a concept and action that connects to reconciliation and decolonization, together creating the conditions for Indigenous and traditional governance systems to thrive. Resurgence can be an important pathway to securing and advancing Indigenous-led governance and conservation of lands and seas.¹⁹³

A closer look: Resurgent Indigenous-led governance

The papers “Awakening the sleeping giant”: re-Indigenization principles for transforming biodiversity conservation in Canada and beyond, and Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation highlight the importance of Indigenous resurgence in relation to nature conservation with a particular focus on the lands that are currently known as Canada.

Establishing/enhancing duty-bearer accountability mechanisms

A variety of mechanisms can help ensure that (State and non-State) conservation organisations can be held accountable for their duties. Their effectiveness in practice will depend on multiple factors, including capacity, resources, and political will. Example approaches include establishing:

- Robust due-diligence processes (e.g. connected with impact assessment and safeguard systems)
- Accessible dispute resolution / grievance mechanisms
- (Internal and/or external) positions responsible for ongoing review and compliance - e.g. ombudsman
- Multi-stakeholder review/ decision making processes for specific cases
- Publicly available commitments, co-developed or negotiated between rights-holders and duty-bearers¹⁹⁴
- Rights-holder defined protocols, setting out the terms on which they will engage with duty-bearers

192 “Awakening the sleeping giant”: re-Indigenization principles for transforming biodiversity conservation in Canada and beyond (M’sit No’kmaq et al., 2021)

193 Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation (Artelle et al., 2019)
Paragraph and text box developed by Melanie Zurba

194 See, e.g. the [Open Government Partnership](#)

A closer look: Community Protocols

“Community protocols articulate community-determined values, procedures, and priorities. They set out rights and responsibilities under customary, state, and international law as the basis for engaging with external actors such as governments, companies, academics, and NGOs. They can be used as catalysts for constructive and proactive responses to threats and opportunities posed by land and resource development, conservation, research, and other legal and policy frameworks.” Examples, stories, and tools to support Community Protocols are available on the [Natural Justice](#) webpage.¹⁹⁵

Improving site level governance and management

Rights-holder led and participatory analysis/assessment can help to understand the current state of governance and identify pathways to improve it (see [Sec 4.2](#)).¹⁹⁶ The specific improvements will vary by context. Broadly, they may include:

- Enhancing and strengthening legal recognition of Indigenous or community-led or shared governance (e.g. shifting from de jure arrangements that are less rights-holder-led)¹⁹⁷
- Strengthening procedural rights - e.g. related to access to information and full, equitable, effective, and gender-responsive participation and representation
- Enhancing rights-based measures to avoid and remedy human wildlife conflict¹⁹⁸
- Addressing other impacts on substantive rights, including food and water access

Within and across such approaches, it will often be necessary to transform not just policies and processes, but also the relationships, including of power, that underpin them.¹⁹⁹

¹⁹⁵ <https://naturaljustice.org/community-protocols/>

¹⁹⁶ [SAGE](#) and its early contributions to improvements in governance of area-based conservation (Pinto & Dehmel, 2023)

¹⁹⁷ For example, a site-level governance assessment was part of a broader process informing and supporting a shift from governance by government to a formalised shared governance arrangement in Hin Nam No National Protected Area in Lao PDR) ([PANORAMA](#) case summary)

¹⁹⁸ For example, the [Lion Guardians](#) conservation organisation focuses on “finding and enacting long-term solutions for people and lions to coexist”, including “recruiting young, traditional Maasai and other pastoralist warriors to learn the skills needed to effectively mitigate conflicts between people and wildlife, monitor lion populations, and help their own communities live with lions”.

¹⁹⁹ See paper section on [enabling factors and relationships](#) below

A closer look: 'Journeys to more equitable and effective conservation: the central role of Indigenous peoples and local communities' (Policy Matters 23) includes detailed cases highlighting "varying pathways towards more equitable and effective forms of conservation". Some show "the beginnings of a shift away from archetypal conservation structures and political norms", with "others demonstrating sudden and more substantive shifts in power dynamics, and some presenting alternatives ...through Indigenous and local knowledge systems". While diverse, all cases "focus on or refocus towards a central role for Indigenous peoples and local communities in the design and implementation of conservation activities" and "document[] historical trajectories to explain the current circumstances". Together, they illustrate that practical pathways to equity must "extend far beyond support for income generation and livelihoods, to also address trust and relationships, recognise diverse worldviews, place-based connections, cultural values and practices, and to centre governance structures around local and customary institutions".²⁰⁰

Enhance protection of environmental human rights defenders

Actions will need to be tailored to the context, and may require working across multiple scales. Example approaches include:

- Establishing and enhancing monitoring (see Sec 4.4) and mechanisms for accountability and remedy
- Establishing and enhancing networks through which defenders can connect with one another and with allied organisations
- Providing direct technical and financial assistance to prevent harm (including capacity support and development for both rights-holders and duty-bearers) and to ensure rights-holder access to judicial proceedings and other effective remedy

A closer look: Environmental Defenders (Policy Matters 22) highlights "struggles, pains and successes of some environmental and land defenders around the world" (Vol. I); "initiatives taken by defenders to protect the environment and themselves, in often adverse contexts" (Vol. II); "calls for action and examples of initiatives that have been taken to support environmental defenders"; and examples of "where conservation has been detrimental to environmental defenders and where it must work harder to protect them" (Vol. III).²⁰¹ Through articles, testimonials, videos, and poems, this expansive collection explores the diverse experiences and approaches of environmental defenders and allies, and the urgent need for more (and more effective) action and accountability for their protection in conservation.

²⁰⁰ Towards more equitable and effective nature conservation led by Indigenous peoples and local communities (Dawson et al., 2023)

²⁰¹ Introduction (Le Billon and Ramos, 2021) in *Special Issue on Environmental Defenders* (Ramos et al, eds. Vol 1)

Enable remedy and reconciliation

An HRBA to Target 3 implementation must provide for remedy for rights violations going forward. It must also, as far as is possible, acknowledge and provide remedy, redress, and reconciliation for past violations. In line with this, the Road Map for Advancing Rights and Equity in Conservation identifies the need for both (1) responsive, site-level grievance mechanisms and (2) long-term efforts to address historical injustices related to the establishment, governance, and management of some protected and conserved areas, and the ongoing legacies of exclusion.²⁰²

A closer look: “The [Conservation through Reconciliation Partnership \(CRP\)](#) is an Indigenous-led network that brings together a diverse range of partners to advance Indigenous-led conservation, including Indigenous Protected and Conserved Areas (IPCAs) and to transform the conservation sector in Canada. The CRP is a collective of Indigenous leadership, environmental conservation organizations, academic institutions, scholars and researchers, and communities acting on and building from the recommendations set out by the Indigenous Circle of Expert’s report [We Rise Together](#). ”²⁰³

202 Several of these and other approaches are reflected in the [Road Map on Advancing Rights and Equity in the Implementation of Conservation](#), Nanyuki, Kenya (2024)

203 [Conservation through Reconciliation Partnership webpage](#)

4.4 Monitoring

Advancing rights in area-based conservation, including holding duty-bearers accountable, requires ongoing monitoring and reporting. This section explores approaches for monitoring rights and equity in area-based conservation and considerations for an HRBA to monitoring. It includes approaches/indicators reflected in the current GBF monitoring framework as well as other approaches that rights-holders and (State and non-State) duty bearers can use at site and system levels.

A closer look: Full monitoring of Target 3 implementation would encompass all elements of the target - including equitable governance and recognition of Indigenous and traditional territories and of the rights of Indigenous Peoples and local communities - together with the GBF's cross-cutting commitments (see [Box 2](#)). The guide [From Agreements to Actions](#) explores monitoring and reporting for HRBA to GBF implementation as a whole, including these elements. It highlights that Parties are required to use the CBD-led GBF monitoring framework “to guide their NBSAPs and data collection efforts, and to report on their use in the national reports”, using a mix of indicators selected from the GBF framework and “additional national and sub-national level indicators” countries may develop or select. The guide also notes gaps in the current GBF monitoring framework related to equity/equitable governance, the rights of Indigenous Peoples and local communities, and GBF Section C.²⁰⁴ To address these gaps, it highlights the need to operationalize ‘traditional knowledge indicators’²⁰⁵ and proposes development of an indicator for delivery of an HRBA.

Monitoring at the site-level

Monitoring processes and impacts on rights and equity can help to identify pathways for improvement and enhance accountability. The scope can include the full range of rights impacts (see [Sec 3](#)) with a focus on rights-holders’ priorities (see [Sec 4.2](#)). Approaches and tools to support such monitoring include:

- Human rights impact assessments
- Site-level governance assessments,²⁰⁶ social impact assessments and gender analyses that incorporate substantive equity and rights focus
- Including context-relevant human rights indicators in periodic site-level monitoring, review and planning, e.g. in governance and management plans

204 [From Agreements to Actions](#) (HR&BWG 2024:48 - 51)

205 These indicators, adopted in previous COP decisions, are: (1) Status and trends of linguistic diversity and numbers of speakers of indigenous languages (2) Status and trends in the practice of traditional occupations (3) Status and trends in land-use change and land tenure in the traditional territories of indigenous and local communities (4) Trends in which traditional knowledge and practices are respected through their full integration, safeguards and the full and effective participation of indigenous and local communities in the national implementation of the Strategic Plan.

206 Conducting a site-level governance assessment is a complementary indicator for equitable governance in the current GBF monitoring framework. There is also an ongoing effort to develop a methodology for disaggregating the headline indicator (on coverage) by several dimensions of effectiveness, including equity. (Monitoring ‘effectiveness’ of areas contributing to Target 3 (UNEP-WCMC et al., 2023)

Supporting the creation or expansion of locally-led monitoring systems for outcomes and impacts, including biological and cultural or social outcomes and impacts, ensures both grounded information and knowledge being collected and recognises the agency of communities in monitoring their own lands, waters, or resources. There may also be other approaches preferred by rights-holders, and in all cases monitoring should itself be rights-based (see below).

A closer look: This [Introduction to community-based environmental monitoring](#) offers practical guidance to “local organisations working with communities (e.g. community-based organisations and local non-governmental organisations), which are facilitating Indigenous Peoples and Local Communities... to design and implement environmental and biodiversity monitoring activities on their lands”. The guide also includes case examples of community-based monitoring initiatives in diverse contexts.²⁰⁷

Monitoring in area-based conservation systems and broader contexts

Monitoring rights and equity in national or subnational area-based conservation systems and their broader contexts should encompass multiple factors. These include how / the extent to which:

- Human rights are recognized and upheld/implemented in national and subnational systems, including rights over lands, territories, and resources
- Rights-holders are able to fully, effectively, and equitably participate in national and subnational processes for Target 3 related policy/decision-making and implementation
- Statutory systems enable appropriate, self-determined recognition and support for Indigenous- and community-led conservation as part of diverse governance systems²⁰⁸ and through all pathways (including as PAs, OECMs, and Indigenous and traditional territories in their own right)
- Injustice and conflict associated with area-based conservation are tracked/acknowledged, including displacement, eviction, and impacts on environmental human rights defenders, and effective access to justice and remedy are available

Several of the approaches noted above in relation to site level monitoring can also contribute to systems level monitoring, with adaptations. Human rights impact assessments, for example, can focus on national policies and programs. The extent of site-level monitoring can also be an indicator of systems-level progress; this is reflected in the GBF monitoring framework, which includes having done site-level governance assessments as a complementary indicator for equitable governance. CBD guidance also

²⁰⁷ [Introduction to community-based environmental monitoring](#) (Brittain et al., 2024)

²⁰⁸ The current GBF Monitoring Framework includes coverage disaggregated by governance type, including the number/proportion of sites governed by and with Indigenous Peoples and by and with local communities, which can serve as a rough proxy for systems level equity and (recognized) diversity.

suggests doing systems-level protected and conserved area governance assessments, which can include consideration of rights and equity (see below). There are also a wide range of other relevant (sub/)national reporting efforts by duty-bearers, rights-holders, and allied organisations, such as those being developed through the Indigenous Navigator initiative (see below). There may also be other approaches preferred by rights-holders, and in all cases monitoring should itself be rights-based (see below).

A closer look: “The **Indigenous Navigator** is a framework and set of tools for and by Indigenous Peoples to systematically monitor the level of recognition and implementation of their rights.” The website includes free tools and resources based on community-generated data.²⁰⁹ Recent reports developed within the initiative include an analysis of how Brazil is applying rules in ILO 169, UNDRIP, and other relevant human rights documents; and results of a national survey assessing the recognition and implementation of UNDRIP in Japan.²¹⁰

Human rights-based and equitable approaches to monitoring and data governance

Monitoring and data governance should themselves uphold human rights norms. Key considerations include how and by whom monitoring is done, whose knowledge and ways of knowing are included, how resulting information is governed, and how and by whom related decisions are made. Attention to monitoring and data governance is crucial because what is measured and monitored (and how and by whom) shapes what is rendered visible and the direction of future decision-making. An HRBA to monitoring and reporting in area-based conservation includes (tailored to context and scale):²¹¹

- **Rights-holder-led** monitoring and reporting on biodiversity/conservation and human rights. Indigenous Peoples and local community-led monitoring plays important roles in asserting and securing rights and supporting self-determined collective action.²¹² Rights-holder-led and other relevant third-party reporting should be supported.²¹³
- **Inclusive**, with rights-holders’ full, equitable, effective and gender-responsive participation in states’ human rights and conservation monitoring and reporting, including NBSAPs and national reports
- Duty-bearer **accountability** for upholding responsibilities to monitor, and to move from monitoring to **effective, inclusive action** to address identified issues
- Upholding **rights and principles** for information access, research, and data and knowledge governance, including related to **Indigenous Data Sovereignty and Governance** and **HRBA to data** overall

209 <https://indigenousnavigator.org/>

210 Report on the Indigenous Navigator national survey in Japan (Uzawa, 2024)

211 Drawing on *From Agreements to Actions* (HRBWG, 2024:50), which focuses on national and subnational monitoring and reporting in the context of GBF implementation overall

212 See, e.g. Documentation module in *Territories of Life Self-strengthening Process*

213 See LBOs in the “closer look” box

A closer look: **Local Biodiversity Outlooks (LBO)** provides a snapshot of local initiatives that are led by Indigenous Peoples and local communities and that contribute to implementation of the CBD and related multilateral agreements.²¹⁴ LBOs are a form of Indigenous Peoples and local community-led monitoring and reporting; supporting such initiatives is important for ensuring HRBAs to monitoring.²¹⁵

Moving from monitoring to responsive action

Monitoring is important, but not sufficient, for advancing rights. To have impact, outcomes of (or issues identified in) monitoring will often need to inform decision-making and accountable action. Pathways for linking monitoring to action will vary by context. For example, rights monitoring and governance assessment processes can include developing practical action plans and/or be part of regular reflection and planning cycles.²¹⁶

Noting the importance of linking monitoring to responsive action also highlights that HRBAs are not strictly linear. Advancing rights in conservation will need to be an ongoing and iterative process, and one that incorporates and responds to what is learned along the way.

214 <https://localbiodiversityoutlooks.net/>

215 [From Agreements to Actions \(HRBWG 2024:50\)](#)

216 See, e.g., action planning step in several governance assessment methods, including in [Governance of protected areas : from understanding to action](#) (Borrini-Feyerabend et al, 2013); [The NRGF Assessment Guide: Learning for improved natural resource governance \(2022\)](#); [Site-level Assessment of Governance and Equity \(SAGE\) for protected and conserved areas: manual for SAGE facilitators](#) (Franks, 2023)

4.5 Relationships and resources

Here we explore approaches to foster relationships, capacities, and resources to enable HRBAs. This subsection comes last not because it is the least important, but because these are cross-cutting considerations. They are important in themselves and can help support the approaches explored above.

Rights-holders' collective action

Rights-holder assertion, championship, and innovation are often at the centre of rights advancements in area-based conservation. Through sustained engagement and advocacy, the networks and organisations of Indigenous Peoples, local communities, women, and youth have had substantial impacts on recognition of rights issues in conservation - internationally (including in the GBF²¹⁷), nationally (e.g. in national conservation plans²¹⁸ and frameworks for recognition of conservation areas under diverse governance²¹⁹) and locally. Rights-holder led practice and innovation also often precede and inform changes in national frameworks.²²⁰ Specific approaches to sustain and enhance related rights-holder efforts should be determined by the concerned rights-holders. Examples include:²²¹

- Access to sufficient, flexible funding (see below)
- Rights-holder networks and opportunities for peer-exchange and solidarity
- Access to legal and advocacy services and tailored training for rights-holders
- Platforms for meaningful, ongoing dialogue between rights-holders and duty-bearers, including governments, to enhance participation in decision-making and duty-bearer accountability
- Initiatives that enhance public awareness and access to information on human rights and conservation, including through documentation and learning from experiences
- Other related, rights-holder led research/analysis/monitoring, communications, and collective action

217 [Respecting the rights and leadership of Indigenous Peoples and local communities in realizing global goals](#) (Tugendhat et al., 2023)

218 [Celebrating the Guardians of Biodiversity: Recognizing Indigenous Peoples' Pivotal Role in Inclusive Conservation in the Philippines](#) (Lapiz & Segundo, 9 August, 2024) ; [Protecting Nature, Respecting Rights: Putting Indigenous and community rights at the heart of National Biodiversity Strategies and Action Plans](#) (Climate Focus and Parabukas, 2023)

219 [The Global Support Initiative to territories and areas conserved by Indigenous Peoples and local communities](#) (UNDP, 2022); [Territories of Life Report](#) (ICCA Consortium, 2021)

220 See, e.g., examples in [Territories of Life Report](#) (ICCA Consortium, 2021)

221 Drawing on [Road Map on Advancing Rights and Equity in the Implementation of Conservation](#), Nanyuki, Kenya (2024)

A closer look: Rangelands cover approximately 50% of the earth’s terrestrial surface. Pastoralism is essential to their sustainability and to the rights and wellbeing of communities who govern, manage, and rely on them. Pastoralist communities and organizations are leading efforts to raise awareness, assert their rights, and highlight their knowledge, innovation, and practice. For example:

- ICCA Consortium convened virtual workshops in 2021 and 2022 to “acknowledge the vital roles of rangelands and pastoralism for human wellbeing and nature conservation and to support ... [International Year of Rangelands and Pastoralists](#)”.²²²
- In northern Tanzania, many pastoralist, agro-pastoralist, and hunter-gatherer communities are using an innovative legal strategy for securing collective land title to sustain livelihoods and contribute to wildlife conservation, including in [Lake Natron](#).²²³

Relationships and partnerships

Rights-holder allies and partners play important roles in advancing rights. Equity in these partnerships, including within power relationships, is crucial and often challenging. Shifts in narratives and approaches will often be needed, including to ensure partnerships that recognize and respect rights-holders’ leadership, knowledge and ways of knowing, and worldviews, and that enable equitable co-development of HRBAs. This includes respecting Indigenous cosmovisions and rights to cultural life and maintenance of lifeways.

A closer look: In the COP15 side event [All Our Relations](#), participants explored the role of relationships, partnerships, and networks in supporting Indigenous Peoples and local communities and reflected on guiding values for relationships and partnerships and the power imbalances they often face. They highlighted the “importance of reconceptualising partnerships from the perspective of Indigenous Peoples and local communities themselves and in the form of networks of solidarity and support”.²²⁴

222 See event descriptions and more information at [Pastoral communities’ territories of life in Asia: Tales of coexistence](#) (2021 workshop) and [Rangelands and pastoralism: towards a global initiative for pastoralists’ territories of life](#) (2022 workshop) The UN General Assembly adopted a resolution declaring that 2026 will be the International Year of Rangelands and Pastoralists ([a/res/76/253](#)). This resolution recognizes that “pastoralism is a dynamic and transformative livelihood linked to the diverse ecosystems, cultures, identities, traditional knowledge and historical experience of coexisting with nature” and notes growing challenges facing many pastoralist communities. See also the [International Year of Rangelands and Pastoralists](#) (IYRP) support group website

223 [Lake Natron - A territory of life in northern Tanzania conserved by the Maasai of Engaresero](#) (Sulle et al., 2021 in [Territories of Life Report](#))

224 Event co-organised by the ICCA Consortium, Maliasili, Luc Hoffmann Institute, and IUCN CEESP

Duty-bearer capacity

Duty-bearer commitment and capacity to fulfil obligations are important for HRBAs. Conversely, lack of awareness (or acceptance) of and capacity to uphold duties is a barrier. Strategies to enhance duty-bearer capacity and accountability include human rights training, platforms to engage in dialogue with and learn from rights-holders, and human rights-based budgeting (see below). These capacity building measures can complement, but should not replace, more direct accountability measures such as grievance mechanisms.

Funding

Funding is a crucial consideration in advancing HRBAs.²²⁵ Example approaches include:

- **Human rights standards/safeguards for conservation funding** to ensure that the processes and outcomes it enables uphold human rights.²²⁶
- **Direct funding** to rights-holders and their networks and organisations, in sufficient quantities and on fair and flexible terms, to support self-identified and co-designed action. There initiatives seeking to provide more direct and appropriate funding,²²⁷ as well as guidance and reflections on practice and lessons.²²⁸
- **Human rights-based budgeting**, ensuring that, inter alia, duty-bearers have the resources and skills needed to uphold obligations and that funding is equitably distributed.²²⁹

225 See *From Agreements to Action* (HRBWG, 2024:45-49) and *Road Map on Advancing Rights and Equity in the Implementation of Conservation* (Nanyuki, Kenya, 2024) (among others) for more detailed possible guiding questions and actions related to rights, equity, and conservation funding in the context of GBF implementation.

226 COP decisions 12/3 and 14/15 and *The Core Human Rights Principles for Private Conservation Organizations and Funders* (UNEP et al., forthcoming) are sources of related guidance

227 e.g., *Donor pledge* made at 2021 UN Climate Change Conference; [CLARIFI](#) ; [GEF Inclusive Conservation Initiative](#) ; [Podong Indigenous Peoples Initiative](#), among others

228 e.g., *Greening the Grassroots: Rethinking African Conservation Funding* (Paul et al., 2022); *Inclusive Conservation Initiative (ICI) Phase Two Report - A focus on conservation finance* (CI & IUCN, 2024); *Realising the Pledge: How increased funding for forest communities can transform global climate and biodiversity efforts* (Rainforest Foundations, 2022)

229 e.g. *Realizing Human Rights through Government Budgets* (OHCHR-IBP, 2017)

5. Conclusion

Human rights and area-based conservation can (and should) be mutually reinforcing. But meaningfully advancing rights requires understanding and addressing past and present-day violations and harms from area-based conservation policy and practice. It also requires transformations in, inter alia, the power relationships, narratives, and funding streams that shape area-based conservation, to centre approaches that recognize, respect, and appropriately support rights-holders' leadership and equal partnership.

A human rights-based approach can help ensure Target 3 implementation upholds these commitments. Examples shared throughout this working paper illustrate that this is both necessary and possible. They also highlight some of the challenges that will need to be addressed in moving from commitment to action.

This working paper aims to offer a practical resource for those responsible for, engaged in, or potentially impacted by Target 3 implementation. There are also important issues, worldviews, lived experiences, and open questions that cannot be fully addressed in a paper like this. Advancing HRBAs to area-based conservation will require continued reflection, learning, and action.

Annex I: Instruments and resources to support HRBA

This external Annex can be accessed [here](#).

It is a (non-exhaustive) 'living library' of:²³⁰

- International and regional human rights and conservation instruments
- Resources and tools to support HRBAs to area-based conservation

The library includes complete citations for and links to all of the documents referenced in this working paper, as well as additional resources. It therefore also serves as the reference list for this paper.

²³⁰ This Annex draws on resource tables in [Agreements to Action](#), the [Living Convention \(Vol 1\)](#), and [CBD/SBSTTA/22/INF/8](#), as well as resources shared by working paper co-authors and identified during the drafting process.