



Conservation, Human Rights, & Protected Areas Governance:

**A field-based workshop in
the Baviaanskloof Mega-Reserve, South Africa
6-7 July, 2007**

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Background and Overview

Recognizing the growing attention to protected area (PA) governance, and increasing demands for conservation actors to address their human rights impacts, colleagues working at the intersections of **conservation, human rights, and protected area (PA) governance** gathered for a two-day workshop in the **Baviaanskloof Mega-Reserve** (South Africa) on 6-7 July, 2007. The workshop was organized and supported by a partnership between South Africa's Cape Action for People and the Environment (C.A.P.E.),¹ the International Institute for Environment and Development (IIED),² the Mac Arthur Foundation,³ the South African National Biodiversity Institute (SANBI),⁴ the Theme on Governance, Equity, and Rights (TGER)⁵ of the Commission on Environmental, Economic, and Social Policy (CEESP) of the World Conservation Union (IUCN), and the Strategic Direction on Governance, Communities, Equity and Livelihood Rights in Relation to Protected Areas (TILCEPA)⁶ of both CEESP and the IUCN World Commission on Protected Areas (WCPA).⁷

The workshop was preceded and informed by two linked symposia, described below, at the Society for Conservation Biology (SCB) annual meeting (1-5 July, 2007, Port Elizabeth, South Africa),⁸ and by *Policy Matters No 15: Conservation and Human Rights*, which many workshop participants contributed to.⁹

- ***Conservation and Human Rights: Exploring Key Promises, Challenges, and Questions*** (2 July 2007): TGER and TILCEPA co-organised a symposium to explore the multiple dimensions of the relationship between conservation and human rights. Most of the seven speakers were presenting papers published in the recent *Policy Matters No 15*. For presentation titles and abstracts, please see Appendix II.
- ***Sharing Rights and Responsibilities in New Approaches to Protected Area Governance*** (4 July 2007): The Forestry School of the University of Antananarivo, Madagascar, Durrell Wildlife Conservation Trust, TGER, and TILCEPA co-organised a symposium on new approaches to shared governance of protected areas. For titles and abstracts of the eight presentations, which address shared governance in 7 countries and regions, spanning Africa, Asia and South and Central America, please see Appendix II.

The original workshop objectives¹⁰ were reshaped and specified by participants at the start of the event. The resulting workshop focus was around developing **understanding, practical mechanisms and tools, and further action towards reconciling conservation, human rights, and PA governance** across local, landscape, national and international levels. Participants also raised a set of challenging questions that served as reminders of the complexity of the issues as we progressed. The contents and outcomes of our two days of work, which included a facilitated meeting with a local community whose rights to land and livelihood are closely linked to governance of the protected area in which they now reside, are provided in detail below.

Some clear themes emerging from the workshop include that:

- Achieving conservation objectives impacts peoples lives – positively and negatively - and must at least respect and, wherever possible, enhance human rights;
- Human rights also support conservation. Synergies between the two are possible and should be pursued;
- Local socio-ecological history must be understood and incorporated into efforts to leverage these synergies; rights-conservation relationships do not exist in an historical vacuum;
- A rights-based approach (RBA) is in part about changing power relations to increase the capacity of both rights-holders and duty-bearers to realize human rights. Power asymmetries between poor rural communities and conservation agencies - whether they are state or NGO - must be recognized.
- Governance drives conservation outcomes and shared governance can strive to integrate and reconcile diverse global, national, and local interests across natural, cultural, political and socio-economic landscapes;
- Shared governance in conservation can empower communities, including those that are vulnerable and marginalized, and mobilize their capacities to protect and fulfil their rights and conservation vision;
- Community governance is another important option for conservation and sustainable livelihoods. Community governance, however, needs a human rights approach as much if not more than other governance regimes. Human rights provide a powerful counterbalance to tendencies of parochialism, isolationism, racism and various forms of ethnic violence that sometimes characterise strong localised authority.

Participants generally agreed that to move towards achieving positive synergies between conservation, human rights, and PA governance, much work remains to be done, including:

- Creating practical, simple, and adaptable tools for conservation actors and others to bring human rights considerations into PA governance and conservation initiatives in general;
- Documenting and sharing information regarding the necessary circumstances for human rights and conservation to generate positive synergies, in particular through effective and equitable governance of natural resources.
- Engaging with conservation organizations about why and how they could address governance and human rights issues, and encouraging them to improve their policy, practices and overall standards.
- Developing more sophisticated understanding of the nature and potentialities of communities', including supporting the development and self-awareness of new communities taking on governance and other conservation-enhancing roles;
- Ensuring that we not forget the limits and costs of a human rights approach (no silver bullet);
- Committing to reconcile conservation, human rights, and governance of natural resources in creative and energetic ways – working towards practical solutions while embracing complexity.



(Above). A key part of our workshop was a facilitated meeting with members of the Coleske community, pictured here with workshop participants. The approximately 130 person Coleske community is comprised primarily of former farmworkers and their dependents. Community members had been living on land legally titled to the farmer for whom they worked – some for several generations – when the farm was purchased in 2001 for inclusion in the Baviaanskloof mega-reserve. Community members are now in negotiations with the government and several other actors to develop a solution in line with their tenure rights. *(Photograph courtesy of Grazia Borrini-Feyerabend)*

Activities and Key Outcomes: Day 1

The primary workshop facilitators,¹¹ Grazia Borrini-Feyerabend¹² and Trevor Sandwith¹³, invited participants to identify their objectives and desired outcomes for the workshop. Box 1 includes some of the responses, organized into four rough categories, though not necessarily listed in order of importance.¹⁴

Box 1: Workshop objectives and desired outcomes identified by participants

Understanding

Gain greater understanding of:

- What tools and capacity building resources conservation actors need to implement rights-based approaches
- The broader issues, including the linkages between human rights and governance innovations in PAs – ‘move beyond case studies’
- How human rights benefit the most disadvantaged groups (homeless, farm workers, etc.)
- The positive role of conservationists in supporting human rights
- Power issues in conservation

Guidance

Identify/ begin development of:

- Clearer conceptual framework, key questions, guidelines, and steps for adopting a human rights approach (based on minimum standard or rights enhancement) to conservation (in the PA context)
- Tools, mechanisms and methods for rights approaches that reflect community interests and can be implementing in a ‘rights based’ (e.g., participatory) manner
- Criteria for deciding on whether or not to intervene in local circumstances

Mobilization / future action

- Agree on a set of priorities to input into CBD COP9 and WCC 08
- Identify realistic recommendations on how governments and conservation organizations can be assisted (or compelled) to take human rights into account
- Strengthen our network and build a coalition to collaborate after the workshop



(Left) Participant responses regarding their objectives and desired outcomes for the workshop.

Box 2 summarizes questions raised by participants in response to the two above mentioned symposia and their general experience. Questions are presented here in rough categories, not in order of importance. Many questions are broader than their categories would suggest and should not be interpreted narrowly. Not all questions could be discussed in detail in the course of the workshop. However, these questions demonstrate the range and complexity of the issues, and thus provided an important reminder of the broader goals and challenges at hand.

Box 2: Key Participant Questions	
Translating concepts into policies / Translating policies into action	
<ul style="list-style-type: none"> • What are the best ways for international policy agreements to get translated into local (community) action and experience... and vice versa? • What changes have arisen from the introduction of new PA governance types in the international PA policy framework? • How are human rights issues dealt with in the international policy regime for PAs? How should they be dealt with? • How do we support <i>genuine</i>, experience-based learning and effective communication among diverse practitioners, and then translate our knowledge into effective action? 	
New challenges and opportunities for conservation organizations in adopting RBAs	
<ul style="list-style-type: none"> • How can conservation NGOs effectively address the rights-conservation linkages in the broader (political, socio-economic) environment? • How can conservation NGOs incorporate a greater focus on drivers (e.g., consumption by wealthier individuals, communities, states) and resource redistribution as part a rights-based 	

approach?

- How do we partner with human rights NGOs and develop a common understanding between conservations and human rights actors?
- How can we integrate human rights into the core functions of conservation agencies?
- How can conservation NGOs be held accountable for their human rights impacts?
- As conservation actors, should we be: Focusing on conservation-rights links in relation to high-priority issues (climate change/ energy)? Lobbying for national institutions for human rights? Partnering with human rights NGOs to develop our capacities? Targeting the most disadvantaged groups (e.g., farm dwellers)?
- How do we, as conservation actors ensure that the things we're advocating for are effective at all levels and are practical for people on the ground?
- How do we support human rights within states that don't?

Reconciling human rights and conservation (to their mutual benefit) / Content of rights approaches

- What do we do to reconcile: Conservation and human rights goals when 'win-win' isn't possible? Individual and collective interests? (Competing) global, national, and local interests? Intra and inter-generational rights?
- What is the dividing line between aspirations and rights?
- How can we promote CCAs and community involvement in conservation towards the end of increasing sustainable food security and other rights directly supported by natural resource sustainability?
- How can human rights be used to mediate power relations between people (e.g., guiding compensation, ensuring substantive empowerment, etc.)?
- How can we protect broader (global) rights to the environment?
- How do communities' (short term) expectations/ needs from conservation and understandings of nature get met in PA governance, especially when these don't necessarily align with government or NGO expectations for conservation areas?
- Whose rights are we concerned with? How do we effectively direct our attention and action to the least powerful?
- What are the limits of a human rights approach?

Appropriate role / interactions between actors in PA governance and RBA

- How can we be sure that the right persons/ institutions are involved in PA governance?
- What *is* a community? How do we address heterogeneity within and across communities?
- What role do traditional institutions play in international protected areas management and governance, especially in relationship to state institutions?
- What is the role of governments and/or NGOs in CCAs? Is there always one? If there is none, what is the benefit of being recognized as one? How do we know when/how government/ NGO intervention is helpful in CCAs?
- What powers should actors at each level have in the negotiation process?
- What are the costs/ benefits of co-management (as opposed to other governance types in a given context)?
- Are we trying to marginalize the state role in PA governance? Should we be?

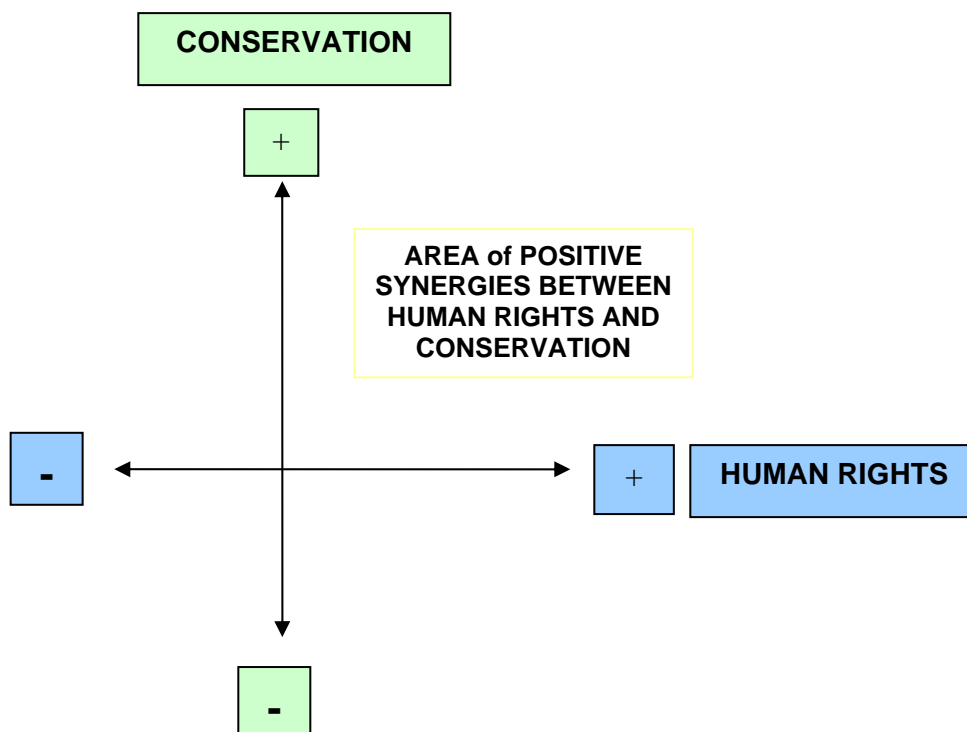
Discussion of conservation – human rights conceptual framework

Having raised these questions, and recognized that their breadth and depth is such that we would not be able to address them all in the course of the short workshop, discussion focused on the nature of the relationship between conservation and human rights, first discussing Figure 1 and then adding a second dimension and using Figure 2 as our guide.

Figure 1: Continuum of human rights approaches to conservation¹⁵

Disregard	Address Superficially	Respect	Support Protection	Support Fulfilment
←-----→				
Ignore/ allow conservation to undermine human rights	Address human rights in an insufficient manner, or only when 'convenient'	Use human rights as a minimum standard – do no harm	Ensure that partners and those you can influence respect rights	Include fulfilment of human rights among conservation objectives
Strength of rights approach →				

Figure 2: Integrated conservation & human rights diagram



Discussion focused on **identifying factors and circumstances** that move us towards Figure 2's upper-right quadrant, **where conservation and support for human rights create positive synergies**. Placing ourselves here is, in fact, a key goal of developing and implementing a rights approach to conservation. Participants raised several key considerations for promoting conservation – human rights synergies; these are summarized in Box 3.

Box 3: Key considerations to promote conservation – human rights synergy

- **Procedural rights** as entry points for supporting **substantive rights**
- **Critical importance of timing** (interim vs. long-term measures and effects) **and scale of cooperative governance** (e.g., the need to work at multiple, nested levels in an integrated way, including as part of bioregional-scale planning systems)
- Role of **local history** and the broader **natural, cultural, political, and socio-economic systems** in which any conservation – rights relationship is situated
- Potential for conservation's support of **inter-generational** and **intra-generational** rights (e.g., addressing drivers & redistribution) to contribute to sustainable use and development
- Complexity of relations between **local** rights holders **vs. global** values/ interests
- Relationships between, and importance of both **individual** and **collective** rights in supporting conservation – rights synergies
- Approaches to reconciling conservator, human rights, and PA governance should be **flexible and practical while embracing complexity**¹⁶
- **Need to seek synergies**, but also appreciate the role of **equitable and rights-consistent compensation**, compromise, and trade-offs in reconciling conservation and rights where 'win-win' is not possible
- Importance of identifying, ensuring empowered facilitation of, and **building capacity** of both **rights-holders** and **duty-bearers**, and recognition that the distinction between them may be complicated in practice (e.g., conservation actors can be both rights-holders and duty-bearers)
- **Seek effective entry points in the landscape** to allow a planning process in which rights and responsibilities can be met sustainably (in line with local system capacities) and resources shared/ redistributed in ways that are consistent with people's minimum entitlements

Outstanding questions participants raised for further exploration include:

- Who is responsible for human rights? When are conservation organizations duty-bearers?
- When talking about a rights-based approach to conservation, are we talking about conservation of BIODIVERSITY or also of NATURAL RESOURCES? How can we incorporate culturally diverse understandings of 'nature' in rights approaches? These

distinctions may be important for understanding the conservation objectives and thus the possibilities for equitable trade-offs and synergy.

- Does focusing on procedural rights always result in support for substantive rights or is this too simplistic?
- *Can* conservation that is not in line with human rights be effective? Can it be sustainable?¹⁷ At what scale, in what timeframe, under what circumstances? What does this mean for a rights-approach?
- How do we focus on local/ regional issues affecting a given PA or conservation area while also addressing broader systems, e.g., global values for biodiversity and consumption and inequitable global distribution, both of which may also impact local circumstances?



(Above) Eleanor McGregor explains the history of the Coleske Community living inside what has become the Baviaanskloof Nature Reserve. (Photograph courtesy: Gerianne de Klerk)

Case Study: the Coleske Community and the Baviaanskloof Nature Reserve

We next turned attention to our local participants to learn about initiatives underway in the Baviaanskloof which attempt to reconcile conservation and human rights.

Trevor Sandwith set the broader context with a presentation on C.A.P.E.'s¹⁸ regional efforts to establish a sustainable '**biodiversity economy**'.¹⁹ Key points included:

- The area is comprised of mixed land ownership, mostly private (70%) and government, with very little communal land ownership.
- It is critical to work at the bioregional scale, which means, among other things, an area where the jurisdictional scale matches with the ecosystems of the area. In South Africa, bioregions are defined as district municipalities.
- Biodiversity science should be mainstreamed in community development and planning at the bioregional level. C.A.P.E. projects reflect this objective.

Eleanor McGregor then presented the history and present circumstances of the local **Coleske community, living in what has recently become part of Baviaanskloof mega-reserve**. Important points for understanding the conservation, PA governance, and rights linkages include the following:

- The approximately 130 person Coleske community is comprised primarily of former farmworkers and their dependents. Community members had been living on land legally titled to the farmer for whom they worked – some for several generations – when the farm was purchased by the Eastern Cape Department of Economic Affairs, Environment and Tourism (DEAET) in 2001 for inclusion in the Baviaanskloof mega-reserve.
- In addition to losing several permanent farm jobs, the community's access to local resources (plants, minerals, wood) was restricted when the land became part of the reserve.
- In violation of South African law, community member resettlement was discussed by conservation authorities without involvement of or communication with the community. In the meantime, community expectations were raised and then not fully realized by insufficient employment schemes.
- In 2003, in an atmosphere of mounting frustration and distrust between DEAET and the community, the conservation authorities convened a project management unit (PMU), in partnership with the NGO Wilderness Foundation, C.A.P.E., and others to engage with Baviaanskloof stakeholders, including the Coleske residents.
- In response to SA legislation on tenure rights, PMU recommendations, and an indication by the World Bank that their Social Safeguard Policy has been triggered, DEAET and the Eastern Cape Parks Board (ECPB: established in 2005 to Manage the Baviaanskloof Nature reserve) began a more transparent and equitable multi-party settlement negotiation with the Coleske community.
- Part of the problem was that neither DEAET nor the community fully understood the former farmworkers' rights under national law. As a result, a consortium of experts were contracted to undertake a rights and entitlement study, relevant agencies (e.g. Local Government, Provincial Government, Department of Land Affairs, Housing etc.) were brought in as part of the negotiation team, and the negotiation team was advised to use the results of the study as a

basis for fair negotiations. A detailed study had to be carried out to fully understand the nature of each household's rights.

- As part of the negotiation, the Coleske community has been able to identify options for the settlement, the feasibility and logistics of which are researched and developed by the negotiation team. Ultimately, each household will be able to choose the option that best suits their interests and needs, within the terms of tenure laws.
- Many concerns remain, including that the process is slow and community frustration is increasing and the representation structures for the community in the negotiation process may be viewed by some as inadequate.
- Concerns and complexities noted, there is a process in place to see that, ultimately, community members' rights are respected. While this process is imperfect, it is also plausible that, in this case, the conflict of community and conservation objectives may have, in fact, made the community's rights more visible and therefore more likely to be respected. Had the farmland been sold to another private owner, e.g., for a private game reserve, the process may not have carried the same level of scrutiny and, ultimately, response to rights concerns.

Following this presentation, workshop participants engaged in a facilitated dialogue with approximately 50 representatives of the community on their current residence. We were able to hear their story and concerns from their perspective, learn about how they see and value the Baviaanskloof area, and better understand the local history and their vision for how the current conflict might be equitably resolved. The case reflects the **complexity of reconciling conservation and rights objectives, particularly where history has already brought the two into conflict**. As such, this provided an important opportunity for learning and reflection on the multi-dimensional and multi-level links between conservation, human rights, and PA governance.

Activities and Key Outcomes: Day 2

Exploring the human rights – governance link...

In response to a request from several participants, day two began with an open discussion of what connects **human rights and PA governance**. It was proposed at the outset that the **key linkage is through the concept of ‘communities’**. PAs affect community livelihoods and lifestyle in profound ways, and among the rights of local communities is the right to, *inter alia*, participate in governance of protected areas. While agreeing in general, participants raised a number of **issues for further consideration**, including:

- Community rights to participate in decision-making affecting their lives and environment are a key dimension of the link between PA governance and human rights, but are not the only link. Individual and other collective rights (e.g., to non-discrimination, culture, property, food, water, life...) must also be considered in governance processes and outcomes.
- Community organization and sufficient/ appropriate capacities must be in place.
- Besides the above, factors that are needed to ensure an effective rights-approach may include supportive policy and legal frameworks, effective horizontal and vertical communication and— depending on the context –financial and technical support.
- Heterogeneity within and across communities demands a sophisticated understanding of “community rights”, and of communities themselves. Some are comprised of individuals with strong collective, cultural linkages to one another and their landscape reaching back millennia. Others may be newly formed networks of individuals coming together around common concerns (e.g., Australian Landcare groups and Land Trusts in the United States). Further, differentials in power, capacities, and interests within and across communities require that rights of all individuals, households, and communities – and especially so of the most vulnerable among them— be taken into account.²⁰
- While ‘communities’ in general can be geographically dispersed, in the context of PA governance geographical proximity and scale remain highly relevant.

Identifying Needed Policies, Tools, Mechanisms, and Actions

Participants gathered in four smaller groups to discuss policies, actions, and mechanisms likely to support positive synergies between conservation, human rights, and PA governance. The groups focused on these topics at the local, landscape, national, and international levels respectively. Results from each group are below.

Local Level

- Interventions into community livelihoods/ institutions should be approached with careful attention to community rights, desires, perceptions, and capacities.
- Highest priority should be given to ensuring that engagement with local actors is an empowering process and ensuring that representation is effective and just
- Information flow among different governance levels should be facilitated and independent facilitators/ mediators should be involved wherever possible, including to promote fair conflict resolution mechanisms
- Resources should be provided to create horizontal linkages between local actors (e.g., grassroots networks)
- Operating at the local level is not necessarily less expensive and resources are required ... who are the responsible parties for such transaction costs?
- What trade-offs there might be in 'institutionalizing' [formalizing] local processes? Can we "make local voices louder" without changing what they say?

Landscape Level

Steps/ broad considerations towards promoting bioregional cooperation for synergies between conservation and human rights:

1. **Entry points** may vary depending on circumstances but **scale** is important (not too big, logistical challenges are crucial, face to face meetings must be possible...)
2. **Supportive legislation** is always a plus...
3. **Build upon existing and/or new potential communities and networks**, facilitate their move through a **process**... towards a **vision**... remaining engaged throughout as key actors...
4. Involve a broader range of **stakeholders (government, business,...)** build upon what exists in an incremental approach...
5. The **basic understanding** needed before acting includes: ecological and anthropological history, political economy, who are the communities?, human rights of all stakeholders...
6. **Spread information** (pay specific attention to issues of language...) **about new opportunities in the landscape ...**
7. **Nourish an open, flexible, facilitated process with everyone having the right to participate...**
8. **Human rights provide a key part of the normative framework** for the process (livelihood, dignity, biodiversity conservation for the future generations...)
9. Inject possible innovate ideas but **wait for the active engagement and self-organising of key actors...**
10. **Support champions** while promoting **broad capacity building ...**
11. **Start small and simple**, do not wish for the overall perfect planning, and build up in an **adaptive mode focusing on key issues and priority areas...**
12. **Utilise appropriate mechanisms and incentives such as:**
 - developing a broad **charter** as part of a process to mobilising society
 - adopting spatial **planning with a purpose** (e.g., buffering the impact of climate change, promoting specific equity and rights initiatives such as access to disabled people, poor people, initiatives; local Agenda 21, MdGs, etc.)

- **injecting a pot of money from outside** (possibly as small grants through community investment funds) for instance for ecosystem service maintenance and selling, for the marketing of regional/local labelled products, etc.
 - **facilitating the setting up of legal mechanisms** such as land use trusts, conservation agreements, MoUs between stakeholders, taxation rebates...
 - providing **legal assistance** to ensure the protection of human rights...
13. **Learning networks at landscape, national and international level are crucial for the whole process**—they are amazingly empowering and they should be promoted throughout!
14. **Maintain flexibility and a learning approach/** iterative/ building feedback loops...identify and celebrate milestones...

Target for action: Case studies of cooperative planning translated into effective implementation, identifying proper mandates and resources to take plans into action.....**Scan across the world eco-regional programs and see the consistent sets of principles (adaptive management, participation, etc.)...**

National level

Preconditions: (Without the following at some minimal level, no rights agenda can be pursued)

1. A viable state with functioning institutions²¹ built on some fundamental democratic principles
2. Some explicit national commitment to a rights framework that provides some anchor to hook demands on, e.g., state is a signatory to international covenants, etc.

Provided the above is there, some practical measures needed include the following:

1. National policy or legislation that governs conservation programmes should include an explicit requirement that new conservation proposals/initiatives be preceded by an in-depth social assessment of affected communities alongside the biophysical assessment;
2. A social safeguards policy must be embedded in the core mandate of the conservation authority or local parks board, and accompanied by associated internal performance management systems;
3. Any biodiversity conservation programme should have a governance structure that provides for meaningful participation of local communities;
4. Vulnerable rural communities need support in negotiating and defending their position and their interests in the context of conservation initiatives. Such support should also include organisational development where such communities are not organised or lack organisational capacity. However, national government rarely provides such support, and may not be the most suitably placed institution to do this. A key question is: what institutional mechanism and resource mechanism can be set up to ensure that such support is more readily available to often isolated and marginalised communities? Options might include:
 - Trust fund for civil society organisations
 - Ombudsman or public protector/human rights commission

International Level

International level group participants developed the acronym '**CHARGE**' to refer to:

- Conservation
- Human rights
- Shared governance
- Environments (natural, historical, cultural, social, political, economic,)/ Equity ...

....Noting that:

- Achieving conservation objectives impacts peoples lives and must respect human rights;
- Governance drives conservation outcomes and shared governance can seek to effectively integrate and reconcile diverse global, national, and local interests across cultural, economic, historical, natural, political, and social landscapes; and
- Shared governance in conservation can empower communities, including those that are vulnerable and marginalized, and mobilize their capacities to protect/ fulfill their rights and conservation vision.

Questions arising from taking international level action include:

- Whose perspective are we approaching this from? (The group focused on international conservation organizations.)
- What are the powers of international conservation actors and how should they use them?
- What are the limits of that power and influence?
- If taking a rights approach means "politicizing the issues" (which it appears to do, in the eyes of some observers) what are the risks for conservation actors and how should these be addressed?

To develop greater understanding of the relationships between conservation and human rights, international conservation organizations can:

- Contribute to creating broad consensus regarding what a rights based approach to conservation IS, including the nature and scope of non-state actor (e.g., conservation NGO) responsibilities
- Raise awareness and appreciation of conservation's role in supporting human rights by generating more information about the multi-dimensional CHARGE linkages (including positive!) and sharing these with relevant international bodies (including human rights organizations).
- Increase understanding of and capacities to address human rights within international conservation organizations (with a focus on the most vulnerable individuals and communities)

To develop tools and mechanisms and support future action international conservation organizations can:

- **Identify and learn from development of parallel international instruments and processes that have proven effective** (e.g., international complaint and conflict resolution mechanisms, resolutions of the former Human Rights Commission and the current Human Rights Council, Voluntary Right to Food Guidelines, Local Agenda 21, local version NBSAPs, MDGs, etc.). Use this learning to understand what kinds of instruments (and processes for formulating them) might be most effective for encouraging international action

on conservation-related rights.

- **Link crucial global and local interests and concerns** (e.g., climate change and human rights of the most vulnerable and likely to be affected communities).
- **Showcase examples** (case studies) from around the world at international conferences, side events, and meetings, and in publications, to demonstrate how/ when CHRGE works towards positive outcomes. Follow up to ensure that these examples can inform resulting international guidance.
- **Communicate** rights issues **in ways that can be understood as locally relevant** (even when communication concerns the international level). This may include understanding the power/ controversy surrounding the human rights framework, considering whether or not 'human rights' language should always be explicit, and identifying what forms of communication with diverse international (and national, regional, and local) actors are most appropriate.
- **Develop mechanisms (markets, regulations, standards, certification systems) to ensure global actors' (including non-state) impacts are consistent with human rights.** Examples may be found in CCBA, FSC, WB safeguards. Can also learn from experience of international development NGO and private sector use of rights-based tools (human rights impact assessments, human rights compliance assessments, rights-based codes of conduct, governance assessment systems, etc).
- **Support development and adoption of human-right related policies and practices by conservation organizations.** This can take advantage of voluntary networks such as TGER, TILCEPA, CEL, who can spread and advocate for these ideas within institutions at multiple levels. Such efforts can support change within IUCN and other international bodies.

Linkages with other levels:

- International action must be informed by practice and experience at local, landscape, and national levels.
- When addressing CHRGE in states that are not respecting / protecting rights, international conservation bodies can use their channels of communication to raise issues and use internal or international policies/ instruments to communicate and potentially change government actions

Reflections on Future Areas for Action

To wrap up, participants engaged in informal and open discussion about which objectives and desired outcomes were addressed. Reflection indicated that:

- Participant understanding of the key issues was enhanced. In particular participants understood the central place that procedural and tenure-based rights, and rights to culture and non-discrimination, have in PA governance.
- Network-building among participants was successful, and concrete plans for establishing a wider and more formal network of interested colleagues were developed. This network will contribute to the development of policy commitments to be progressed through the CBD COP9 and the World Conservation Congress in 2008.
- While developing or identifying specific tools or mechanisms was beyond the objectives of the workshop, participants were able to identify key needs for such tools and mechanisms,

and suggested some steps for pursuing their development, at the local, regional, national, and international levels.

In sum, participants agreed that the workshop was useful as a foundation for further action. There was also general consensus that, to move forward on practically integrating conservation, human rights, and PA governance, we need, *inter alia*:

- **Practical, simple, and adaptable tools** that can be implemented in a rights-consistent manner and can help identify (the most vulnerable) rights-holders; analyze what their rights are and how those are (or could be) impacted; engage responsible parties; develop options for ensuring respect, protection, and fulfilment of those rights; empower rights-holders in the development and implementation of such remedies (at the landscape scale); and monitor and evaluate change over time.
- Wide circulation of *Policy Matters No 15: Conservation and Human Rights* and other documents that can provide guidance and explain why (and under what circumstances) human rights and conservation can generate positive synergies (e.g., through good PA governance) and why conservation organizations should advocate/ pursue human rights and governance issues.
- Greater recognition that shared governance means sharing power, that sharing power is a political exercise, that power differentials are likely to persist even in more inclusive processes, and that therefore shared governance – including towards the end of human rights realization – requires constant dialogue, negotiation and active mediation of conflict in order to succeed.
- A better and more realistic understanding of the limits and costs of a rights approach.
- **A commitment to reconcile conservation, human rights, and PA governance in creative and energetic ways – working towards practical solutions while embracing complexity.**

Appendixes

Appendix I - Workshop Participants

	Name	Role/ associated SCB symposium
1	Borrini-Feyerabend, Grazia	Organizer <i>PA Governance symposium</i> <i>Conservation and Human Right symposium chair</i>
2	Camacho, Claudia	<i>PA Governance symposium</i>
3	Campese, Jessica	Organizer <i>Conservation and Human Right symposium</i>
4	Crane, Wendy	<i>Conservation and Human Right symposium</i>
5	De Klerk, Henning	Organizer
6	Durbin, Joanna	Organizer <i>PA Governance symposium</i>
7	Jaireth, Hanna	<i>Conservation and Human Right symposium</i>
8	Mazumder, Azharul	<i>PA Governance symposium</i>
9	McGregor, Eleanor	Organizer <i>Conservation and Human Rights symposium</i>
10	Newing, Helen	<i>PA Governance symposium</i>
11	Noam, Zao	<i>Conservation and Human Right symposium</i>
12	Pollini, Jacques	<i>Conservation and Human Right symposium</i>
13	Raharinjanahary, Holy	<i>PA Governance symposium</i>
14	Ranaivonasy, Jeannine	<i>PA Governance symposium</i>
15	Sandwith, Trevor	Organizer <i>Conservation and Human Right symposium</i> <i>PA Governance symposium chair</i>
16	Springer, Jenny	<i>Conservation and Human Right symposium</i>
17	Younge Hayes, Amanda	<i>Conservation and Human Rights symposium</i>

Appendix II: Symposia abstracts

Content of Symposia Preceding Workshop:
SCB Annual Meeting, 1 – 5 JULY 2007, Port Elizabeth (South Africa)

CONSERVATION AND HUMAN RIGHTS: EXPLORING KEY PROMISES, CHALLENGES, AND QUESTIONS

JESSICA CAMPESE:

CONSERVATION AND HUMAN RIGHTS: EXPLORING KEY PROMISES, CHALLENGES, AND QUESTIONS

Despite increasing interest in a “human rights approach” to conservation, there is little consensus on the form and content of such an approach for scientists, practitioners, or conservation organizations. Drawing on broad research, including very recent papers submitted for a special issue of Policy Matters to be launched at the symposium, this presentation reviews broad questions, e.g., What are human rights? What is a human rights approach? Why should such an approach interest conservation actors? The presentation concludes by providing a range of options for what might constitute a human rights approach to conservation, including a brief review of possible policies, practices, and tools.

LAPOLOGANG MAGOLE:

THE HISTORY OF CONSERVATION EVICTIONS IN BOTSWANA: THE STRUGGLE CONTINUES... WITH NEW HOPE

Botswana has, over time since the colonial era, designated large tracks of land as national parks, forest reserves, and wildlife management areas. While this is a laudable act of conservation, as its proponents claim, it is the continual removal of people, especially minority Koi San groups, from their land which causes concern. Not only are the evictions a violation of human rights, they also serve to impoverish these communities and cause them to be dependent on Government and NGO hand outs for their livelihood. Historically, resistance to these evictions has brought more suffering to the evicted communities and their supporters; that is until the popular Central Kgalagadi Game Reserve (CKGR) eviction, where Government decision to evict a San group from the park was successfully challenged in court.

ZAO NOAM:

CONSERVATION AND ETHNIC CONFLICT IN BURMA: WORKING TOWARDS SOCIALLY-BASED ENVIRONMENTAL ENGAGEMENT

Burma (Myanmar) has the unfortunate distinction of being the country with the longest running civil war in the world, and blessed, as well as cursed, with plentiful, world-renowned natural resources. In addition, Burma is home to numerous ethnic minorities, mostly living along its vast frontier regions bordering its neighboring countries (Thailand, China, Bangladesh and India). It is precisely this threatening combination of rich, valuable natural resources and great ethnic diversity that has contributed to the long-lasting political unrest in Burma, and which has begun to be shaped into an ethno-ecological crisis. The recluse Burmese military dictatorship,

continuing regime corruption, flagrant human-environmental rights abuses, and a divided international community on engagement vs. isolationism all contribute to the difficulties of doing conservation in Burma. This paper/presentation will examine the ethnic political situation in Burma, and its forms of on-going resistance, mapped onto the landscape of conservation. The case studies and recommendations hope to illustrate ethically- and socially-based, long-term solutions to protecting Burma's environment and the people that rely upon it for their livelihoods.

JACQUES POLLINI:

CBNRM AND HUMAN RIGHTS IN MADAGASCAR

In 1996 the Malagasy government issued the GELOSE law, a legal framework for the transfer of natural resources management rights to local communities. Some recent studies show that the application of this law has at times enhanced conflicts inside local communities and led to mismanagements of natural resources. This paper offers some hypothesis to explain such problems. First, the legal framework was designed to reshape community organizations according to the canon of "modernity". Second, the main motive for the law seemed to be the promotion of conservation as conceived and understood in western cultures. The paper discusses these hypotheses via an analysis of the history and structure of the GELOSE legislation, and of the scientific and political discourses associated to it. To promote genuine and effective community management of natural resources in Madagascar, more flexibility seems to be required in terms of relevant legislation, policies and field-based practices.

TREVOR SANDWITH, WENDY CRANE, ELEANOR MCGREGOR, AMANDA YOUNGE-HAYES, AND WAYNE ERLANK:

ENGAGING AND INVOLVING COMMUNITIES IN LANDSCAPE-SCALE CONSERVATION: A CASE STUDY FROM THE CAPE FLORISTIC REGION

South Africa's Cape Action for People and the Environment Programme (C.A.P.E.) seeks to conserve the globally significant biodiversity of the Cape Floristic Region, while ensuring that people are involved and benefit from conservation opportunities. Often the product of top-down conservation planning, strategy formulation and implementation, landscape scale bioregional programmes run the risk of negatively impacting human rights at the local level. In this case study, the protection of land and tenure rights in the Baviaanskloof Mega-reserve illustrates the complexity of the task to ensure that community rights are not negatively impacted. It also examines the nascent efforts to ensure that rights to a healthy environment and livelihoods in a burgeoning biodiversity-based economy are enhanced, that governance of conservation programmes responds to the demands of the new democratic order in South Africa, and that effective participation and from grass roots to programme level is enabled.

JENNY SPRINGER:

RIGHTS-BASED APPROACHES AND SCALING UP: NEW APPROACHES IN COMMUNITY CONSERVATION

Rights-based approaches and "scaling up" -- both spatially and by addressing overarching policy and governance issues -- are two related trends in community conservation and natural resource management. Rights-based approaches seek explicitly to promote the realization of human rights; in the context of conservation, rights to participation and land and resource rights are particularly prominent concerns. Orientations towards scaling up have emerged as part of large-scale conservation approaches and also from lessons regarding the need to address

broader policy, institutional, and economic factors constraining or enabling community conservation. Drawing on examples of field experience in the Amazon, Central Africa and elsewhere, the paper identifies a range of strategies emerging at the intersection of rights and scale issues, including in relation to land and resource rights, institutions and governance, traditional knowledge and increasing access to conservation-related benefits.

HANNA JAIRETH:

ROLE OF PARLIAMENTS IN PROTECTING ENVIRONMENT-RELATED HUMAN RIGHTS

The presentation will focus on the potential and limitations of the involvement of parliaments in the protection of environment-related human rights. Factors will be identified and discussed which enhance and constrain positive outcomes for human rights protection. The risks and benefits of a focus on parliamentary intervention rather than other governance sites will be noted and illustrated on the basis of selected examples from Australia.

SHARING RIGHTS AND RESPONSIBILITIES IN NEW APPROACHES TO PROTECTED AREA GOVERNANCE

GRAZIA BORRINI-FEYERABEND AND JOANNA DURBIN:

INNOVATIONS IN PROTECTED AREA GOVERNANCE: EXPERIENCE AND LESSONS SINCE THE DURBAN 2003 WATERSHED

Crucial to conservation effectiveness, sustainable livelihoods and social justice, “governance” of protected areas emerged as a topic of essential concern during the Durban Parks Congress of 2003 and was enshrined in conservation discourse by the CBD in 2004. Since then, governance “types” are slowly becoming familiar to professionals and the public. If co-management and private protected areas are increasingly adopted as mainstream, national policies are often poorly equipped to recognise and support Community Conserved Areas. Analyses and attempts at policy accommodations are underway to “rediscover” and nurture these oldest forms of conservation that risk disappearing along with much else that is historically rooted and culturally unique in many countries. Besides types, governance “quality” also greatly affects protected area impact and can be assessed by criteria such as participation in decision-making, non-discrimination and fairness, subsidiarity, transparency and accountability, performance, access to justice and—overall—the reconciliation of conservation and human rights. These are complex and controversial topics and it is understandable that progress tends to be slow. Some bold examples of new protected areas legislation and implementation, however, are opening the path and offering important grounds for learning.

ZELEALEM TEFERA:

SHARED GOVERNANCE IN CONSERVATION OF BIODIVERSITY: COMMUNITY CONSERVED AREA PROTECTING THE ENDEGERD ETHIOPIAN WOLF

Community conserved areas are a sophisticated form of governance for protected areas. The Guassa area of Menz (central highlands of Ethiopia) has always been very valuable for the local communities, which depend on it for thatching grass, firewood and emergency grazing. The indigenous governance system used to coincide with an institution known as Qero, based on descent groups from founding fathers who agreed on dividing the land in 17th century. The Qero system, supported by the authority of the church, ensured the equitable distribution of natural resources among the members of the user communities by enacting and enforcing

various bye-laws. The Qero system was declared illegal in 1975, following the 1974 revolution, but was picked up by the local communities under changed name and circumstances. This indigenous governance system was not designed to conserve wildlife, but it certainly achieved this goal. Its highly regulated use of natural resources promoted the survival of the rodents that constitute the main prey of the critically endangered Ethiopian wolf (*Canis simensis*). Under the modern version of the system, the Ethiopian wolf is still thriving. The Guassa Community Conserved Area represents a model of community governance that has shown remarkable effectiveness and resilience to political change.

CARLOS DEL CAMPO-GARCIA; CLAUDIA I. CAMACHO-BENAVIDES; AND GARY MARTIN:
*A PRELIMINARY PERSPECTIVE ON THE STATUS AND NEEDS OF COMMUNITY
CONSERVED AREAS IN MESOAMERICA, WITH A PARTICULAR FOCUS ON MEXICO*

Within the global effort to understand the current situation and needs of Community Conserved Areas (CCAs), the present study focuses on northern Mesoamerica, and particularly on Guatemala, Belize and the Mexican states of Chiapas, Oaxaca, Yucatán and Quintana Roo. In the case of Mexico, community conservation efforts include: 1) community forestry; 2) community land use planning; and 3) community initiatives of voluntary conservation. Concrete examples of CCA creation include community and ejidal reserves, campesino reserves, symbolic sites, and cultural reserves. In all cases, the interacting stakeholders are: a) communities, through representative institutions; b) environmental NGOs and community development consultants; c) federal government agencies; and in some cases d) international development agencies. After a few decades of work, we can observe a development in which communities are appropriating local conservation processes through training of local technicians and creation of decision making mechanisms relevant to resource use and protection. CCA achievements can be enumerated as follows: inclusion of community responsibility in conservation schemes; higher achievement of conservation objectives; community maintenance of property and use rights; integration of different conservation schemes with landscape management and use; greater suitability of conservation schemes for land owners; and protection of community resources. Nevertheless, there is much work ahead, because the role of CCAs is extending throughout the region. The real contribution of CCAs to biodiversity and environmental services is not known and there is no specific funding mechanism to maintain these protected areas. In addition, there are inherent contradictions between conservation and use in some management schemes and existing institutional and legal recognition is weak.

HELEN NEWING AND EMILY CARUSO:
*PERUVIAN COMMUNAL RESERVES: NATIONAL HERITAGE OR INDIGENOUS
TERRITORY?*

At the 2003 World Parks Congress, Peru was congratulated on its enlightened approach to protected areas co-management, as exemplified in the innovative protected areas category of 'communal reserves'. Communal Reserves are defined in law as 'areas destined for conservation of flora and fauna for the benefit of neighbouring rural populations', and exceptionally for a formal protected area that is recognised in a national system, they should be managed by the local people, under supervision by the state. However, after several years of negotiations on the rights, roles and responsibilities of local people within the collaboration there is much disillusionment with the model, both amongst indigenous representatives and among state officials. This paper will summarise the legislative mechanism for communal reserves and then highlight some recent practical experiences from the field. Barriers to effective collaboration

include mismatches between technical, bureaucratic and traditional perspectives on natural resource management; a lack of capacity on the part of both the state and local community organisations; and a state policy of intensification of resource extraction across the Peruvian Amazon, that outweighs the priorities of the protected areas authority. It is argued that in view of such barriers the 'common ground' that can provide an incentive for collaboration is currently insufficient to overcome the tension between those who view communal reserves as part of the national heritage and those who see them as inviolate indigenous territory. Some general conclusions are drawn concerning external factors that commonly contribute to the fluctuating intensity of collaborative management efforts.

MARK INFIELD AND ARTHUR MUGISHA:

"THIS AREA PROTECTS" SHARING THE RIGHT TO DEFINE MEANINGS OF NATIONAL PARKS IN UGANDA

The dialogue over how to reconcile the responsibilities of governments and the rights of communities with respect to conservation has governance at its heart and has given rise to the development of a range of mechanisms to deliver greater rights and responsibilities for communities in the management of protected areas. These include co-management arrangements, Community Conserved Areas and private protected areas. Though Sacred Natural Sites are perhaps exceptions, much of the dialogue on protected area governance has mirrored the thinking that underpins more conventional approaches to protected areas by focusing on what protected areas are being protected from and presenting a range of benefits as justifications for their protection. Equally important, however, is the discussion of what protected areas are for. The 'meaning' of protected areas has been largely defined in terms of economic and scientific values, often distorted to provide powerful imperatives for conservation. However, more truthful meanings are determined by culturally mediated values that link people and landscapes, and sharing the right to determine the meaning of a protected area is a key element of governance. This paper describes an initiative to find practical ways to share the determination of meaning of two protected areas in Uganda. By modifying their management to incorporate values that have cultural resonance for local communities this project is redefining the meaning of these protected areas.

AZHARUL H. AZUMDER, PHILIP DECOSSE, DARRELL DEPERT:

COLLABORATIVE GOVERNANCE OF PAs IN AREAS OF HIGH POPULATION DENSITY: LESSONS LEARNED FROM EIGHT CO-MANAGEMENT PILOT SITES IN BANGLADESH

Bangladesh can be characterized by high population density, rapid economic growth and one of the lowest proportions of its surface under "Protected Area" (PA) status in the world (1.4%). While some populations neighboring PAs can be called "indigenous", most cannot. Bangladesh is characterized by resource extraction decision-making that operates outside of a transparent legal framework, while generally being executed with collusion of Government and commercial interests at all levels of society, even in relatively remotely located PAs. These factors decimated the PAs in recent decades. In response to this worsening situation and a perceived fear that PAs may be taken away from their jurisdiction entirely, the Forest Department (FD) developed a collaborative PA management program in 2002, and has now implemented the program at five pilot areas covering 22,500 hectares of core conservation area with a surrounding landscape of over 100,000 hectares. The FD recognized that without the participation and benefits sharing with a cross-section of local population, it would be powerless against other interest groups. To date, Government has given official recognition to Councils for the pilot sites, and approved Management Plans, which did not exist before. Both these

documents confer considerable rights and responsibilities to the Councils to benefit from the PAs. Implementation of this approach is generating a number of lessons about co-management participant identification, benefits sharing, nature tourism, supporting policy and capacity development of both local stakeholders and the FD.

JOELISOA RATSIRARSON, HOLY RAHARINJANAHARY, JEANNIN RANAIVONASY
AND JOANNA DURBIN DURRELL:

*DIVERSIFYING PROTECTED AREA GOVERNANCE AND ADOPTING INNOVATION AS
PART OF THE TRIPLING OF PROTECTED AREAS IN MADAGASCAR*

In 2003, the Government of Madagascar made a commitment to triple protected areas to cover 6 million hectares. The new Malagasy protected area system aims to manage natural habitats for biodiversity while maximizing benefits, particularly to local people, through substantial areas of sustainable use, sharing benefits from tourism and ecosystem services and conserving cultural heritage. Legislation passed in 2005 enables the full range of IUCN categories and paves the way for shared governance. Although new protected areas currently retain strong Government control, pluralist structures formally sharing management are developing, often with support and participation of conservation NGOs. Areas managed by local communities in contracts with the State are being included in new protected areas, encouraging recognition of rights and voice of local people. Local participation is sometimes provided through Communes, although these have divided loyalties since they also represent the State and have political affiliations. Increasingly, community natural resource management associations are representing interests of local resource users, which better reflect traditional management units and structures. Business interests and private landowners are rarely included in protected area management so far. Varied shared governance institutions are evolving, reflecting local conditions and complexities, with progression towards devolution of power to communities and civil society.

ELKE MANNIGEL:

*INVOLVEMENT OF CIVIL SOCIETY IN PROTECTED AREAS WITH DIFFERENT
GOVERNANCE TYPES*

Participatory approaches are more and more applied in protected area management. Studies comparing different governance levels concerning effectiveness of civil society involvement are still scarce. Three case studies from protected areas with different governance levels in Brazil are presented here. The areas studied are located in the Brazilian Mata Atlântica, one of the 25 conservation hotspots worldwide. The three areas belong to different governance types: 1. a national park, 2. a state park and 3. a private reserve. Differences of interests and implementation concerning joint management of natural resources by the different stakeholders were assessed and qualified. Methods used were adapted from qualitative social research, such as active and passive participant observation, free dialogues and the analyses of secondary literature. Similarities in understandings of participation were found for four distinct groups in all three governance types: 1. protected area staff, 2. employees of the headquarters of the protected area institutions, 3. local institutional stakeholders and 4. community residents. Factors influencing participation level were similar in all three areas. Individual factors were especially important in the early phase of the processes. Social factors promoted adaptation of the approaches to local and institutional realities later on. This proved important for long term sustainability of the activities.

Note

¹ <http://www.capeaction.org.za/>

² <http://www.iied.org/index.html>

³ <http://www.macfound.org/>

⁴ <http://www.sanbi.org/>

⁵ <http://www.iucn.org/themes/ceesp/TGER.html>

⁶ http://www.iucn.org/themes/ceesp/Wkg_grp/TILCEPA/TILCEPA.htm

⁷ <http://www.iucn.org/themes/wcpa/>

⁸ <http://www.nmmu.ac.za/scb/>

⁹ Policy Matters 15 was officially launched at the SCB Annual Meeting, during the Symposium on Conservation and Human Rights. This and all past issues of Policy Matters can be downloaded at:

<http://www.iucn.org/themes/ceesp/Publications/Publications.htm>

¹⁰ The preliminary objectives developed by the workshop organizers were:

- Learning about an example *in context* of a community whose rights to land and livelihood are closely linked with the protected area in which it is situated, and understanding what they and their partners are doing to try and make PA governance work FOR their rights realization (including the challenges with this).
- Deriving from our collective experience conclusions / guiding points regarding how conservation and human rights can be reconciled, and more specifically **how good PA governance can support human rights in conservation and vice versa**.

¹¹ While Grazia Borrini-Feyerabend and Trevor Sandwith were the primary facilitators, all workshop participants were invited to take as much or little of a leadership role as they desired. Helen Newing, Eleanor McGregor, Jessica Campese, and others lead discussions and activities at different points during the workshop.

¹² Grazia Borrini-Feyerabend is Vice-Chair of CEESP, Chair of TGER, and Co-Chair of TILCEPA

¹³ Trevor Sandwith is Project Coordinator for Cape Action for People and the Environment and the Deputy Chair for WCPA

¹⁴ Cross-cutting these categories was the objective that, through our focal case study, participants share information about and enhance understanding of C.A.P.E.'s and encourage contribution to it

¹⁵ Developed by Jessica Campese, with the support of Grazia Borrini-Feyerabend, in the context of her on-going

¹⁶ In a related note, while helpful for clarifying our thinking, **respecting, protecting, and fulfilling** rights can often be difficult to distinguish in practice (e.g., needing to fulfil land rights in order to respect and protect resource access rights) and thus the very concept of a rights based approach should be flexible.

¹⁷ In reference to this question, several participants raised Brockington's evidence that, in fact, effective PA may not require local support. Brockington, D., "Injustice and conservation: is local support necessary for sustainable protected areas?", *Policy Matters (12) Community Empowerment for Conservation*, September 2003.

¹⁸ For more information on C.A.P.E., see <http://www.capeaction.org.za/>

¹⁹ Project goals include: "unleashing the potential of protected areas, promoting conservation stewardship, [and] mainstreaming biodiversity in productive areas"

²⁰ One participant suggested zoning as a possible mechanism to address conflicts of resource use interests and tenure claims across communities. Other participants raised concerns that, while all families and communities (including recent migrants, refugees, and landless people) have rights, PA governance discourse as tended to focus on communities with (long-held or recent) place-based values and knowledge. We may need to think more carefully about how we integrate rights and responsibilities of all communities into PA governance structures...

²¹ See Igoe, J. "Human rights, conservation, and the privatization of conservation in Africa", *Policy Matters (15) Conservation and Human Rights*, July 2007.