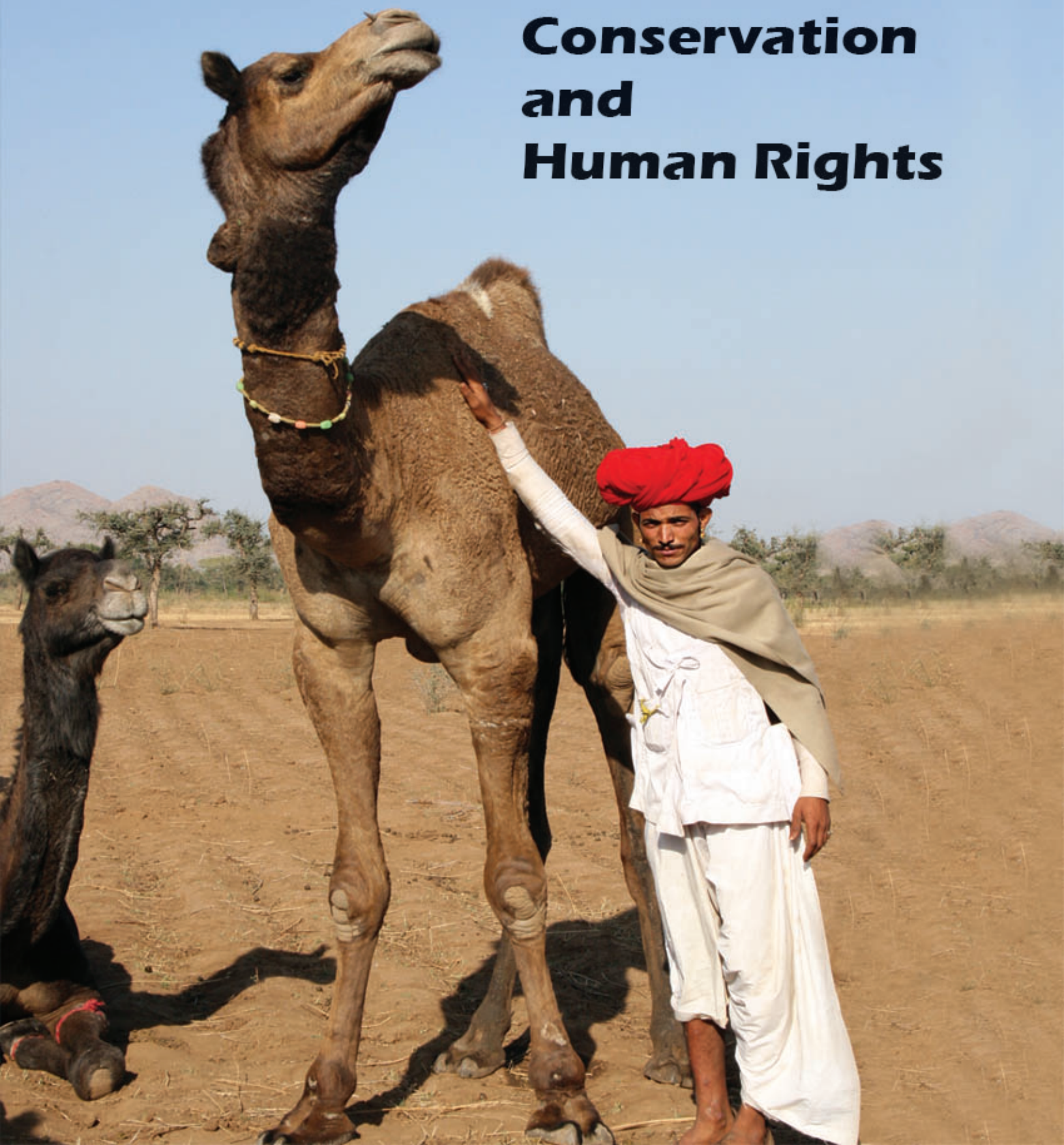


IUCN Commission on Environmental, Economic & Social Policy

Issue 15, July 2007

Policy **Matters**

**Conservation
and
Human Rights**



International Peace Palace– the World Court Building

Forces for Sustainability

For the first time environmentalists (such as IUCN-CEESP and Green Peace) and the security-military arena (such as NATO and “private military companies”) met in March 2007 to seek innovative means to address the interrelated challenges of conflict, human development, equity and natural resource decimation.

www.envirosecurity.org/sustainability and www.iucn.org/themes/ceesp/seaprise.htm#council



IUCN Commission for Environmental, Economic and Social Policy
Institute for Environmental Security
Netherlands Ministry of Foreign Affairs

Table of Contents

Letter from the Chair.....	M. Taghi Farvar	3
Editorial: 'Just' conservation?.....	Jessica Campese <i>et al.</i>	6

Section 1: What ARE human rights anyway?

Human rights— a brief introduction to key concepts.....	Jessica Campese and Armelle Guignier.....	10
Human rights and the environment— a practical guide for environmental activists.....	Stefano Sensi.....	27
Derechos humanos y medio ambiente.....	Mario Peña Chacon y Ingrid Cruz.....	40
Human rights— a new "territory" for nature conservation organizations.....	Yves Lador.....	53

Section 2: Conservation can undermine human rights...

Conservation and human rights— the #Khomani San and Kgalagadi Transfrontier Park, South Africa	Phillipa Holden.....	57
The history of conservation evictions in Botswana— the struggle continues ...with new hope.....	Lapologang Magole.....	68
Is biocultural heritage a right? Conflicting priorities in China.....	Andreas Wilkes & Shen Shicai...	76
Where there is no room for local people in conservation... reflections from Northern Thailand.....	Frankie Abreu.....	84
Voices from the margins— human rights crises around protected areas in Nepal.....	Sudeep Jana.....	87
Protected areas and human rights in India.....	Milind Wani & Ashish Kothari.....	100
Conservation's engagement with human rights— "traction", "slippage", or avoidance?.....	Janis Bristol Alcorn & Antoinette G. Royo.....	115

Section 3: ...but conservation and human rights can also work in mutual support...

The right to know and the right to speak— Citizens' Advisory Councils in Alaska.....	Richard Steiner.....	140
Reflections on integrating a rights-based approach in environment and development.....	Gina E. Castillo & Marjolein Brouwer.....	153
Applying a rights-based approach to conservation— experience from CARE in Uganda.....	Phil Franks.....	168
In search of environmental justice— linking land rights, livelihoods and conservation in South Africa.	Wendy Crane.....	172
The 2006 Recognition of Forest Rights Act, India— a tool to support conservation through human rights.....	Pradeep Kumar & P. Senthil Kumar.....	185
Reconocimiento y protección de los derechos humanos de los pescadores artesanales.....	Patricia Madrigal Cordero y Vivienne Solis Rivera.....	190
Using human rights instruments for biodiversity conservation....	Svitlana Kravchenko.....	200
Indigenous peoples, protected areas and the right to restitution	Fergus MacKay.....	209
The role of parliaments in fostering environment-related human rights.....	Hanna Jaireth.....	223

Conservation, protected areas and humanitarian practice.....	Nicholas Winer, David Turton & Dan Brockington...	232
--	---	-----

Section 4: ... within, and only within, a supportive enabling environment...

Human rights, conservation and the privatization of sovereignty in Africa.....	James Igoe.....	241
Derechos humanos y conservación ambiental— errores, horrores y terrores.....	José Sánchez Parga.....	254
Parks and people in North America— one hundred and thirty five years of change.....	Robert G. Healy.....	261
Eco-authoritarian conservation and ethnic conflict in Burma.....	Zao Noam.....	272
El Ordenamiento Comunitario del Territorio conservación y derechos sociales e indígenas.....	Francisco Chapela y Yolanda Lara.....	288
Human rights— a guiding principle or an obstacle for conservation?...	Naya Sharma Paudel, Somat Ghimire, & Hemant Raj Ojha	299
Migratory pastoralists' rights— a guarantee for rangeland conservation in Iran.....	Mansour Khalighi.....	311
Beyond the instrumental view of Corporate Social Responsibility.....	Rajat Panwar & Eric Hansen..	323

Section 5: Book Reviews

Review of <i>Negotiation and mediation techniques for natural resource management</i>	Steve Collins.....	334
Review of <i>Les conventions locales de gestion des ressources naturelles et de l'environnement</i>	Aboubakry Kane.....	335
Review of <i>Nature Based Tourism— A Draft International Covenant</i> ...	Sylvie Blangy.....	337
Review of <i>Le Guide des destinations indigènes</i>	Alain A. Grenier.....	339
Review of <i>Visionaries of the 20th century— a Resurgence anthology</i> ..	David Pitt.....	340
Review of <i>Sharing Power</i>	Jacques Pollini.....	342

Section 6: CEESP News and Events

CEESP Network Highlights.....	346
Governance of Biodiversity and Community Conserved Areas— new and on-going projects.....	Grazia Borrini-Feyerabend & Barbara Lassen.....	350
Nyeleni Forum for Food Sovereignty— Selingue, Mali, February 2007.....	352
A Co-Management Learning Network— protected areas and indigenous peoples in South East Asia.....	Jeremy Ironside, Grazia Borrini-Feyerabend, & Jannie Lasimbang.....	357
Poverty Indicators for Protected Areas.....	Alessandra Giuliani.....	360
Amélioration des modes de vie et de l'équité— un nouveau projet de CIFOR.....	M. Kante Bocar & Bouda Henri-Noël.....	362
Declaración oficial de Chake Ñuha— South American farmers' movements reject biofuels.....	An introduction by Simone Lovera.....	365

CEESP Steering Committee members and staff contact persons...	370
---	-------	-----

LETTER FROM THE CHAIR OF CEESP

Many of us in CEESP are strong believers in the values and power of human communities. We trust the virtues of local knowledge and customary practice, the potential of local solidarity and cooperation and the collective ingenuity of people managing natural resources for the common good of present and future generations. If we look at history, however, we can discern some dangers. Throughout the world, particularly in Europe in the early 20th Century, the emphasis on localism has been a double-edged sword. Self-sufficiency, voluntary simplicity, local sovereignty, living close to the land and following community values are marvellous ideals... but those same ideals can also slip into extreme conservative and nationalist thinking, intolerance, fear and mistrust of "the other". It is not impossible for a movement based on the primacy of rural communities to distrust "the city" and all that is cosmopolitan and innovative. It is also all too possible for nationalism and fundamentalism to degenerate into imperialism, colonialism, racism, wars of occupation against near and distant peoples, apartheid, antisemitism, Zionism, ethnocide and even genocide and "ethnic cleansing". Simply put: that is why we need to identify, declare and respect human rights!

Universal human rights provide the balancing perspective to local, communitarian action. They force us to lift our eyes from the little garden in front of us and appreciate the larger humanity we share with other fellow beings—no matter their gender, age, appearance, culture and ideas. Human rights keep our mind open to egalitarian, anti-sexist and multi-cultural perspectives and ultimately are the most

powerful foundation on which we can base our conservation values. But of course they are not exempt from their own dangers and degenerations... first among all the "abstract thinking" that makes us perceive universal concepts and lofty connections while forgetting that all those have to make sense for ourselves and the persons right in front of us—our indigenous peoples, minority cultures, co-workers, neighbours and even our family.

This special issue of *Policy Matters* brings to light some elements that will hopefully allow us to **strike a balance between the local and the universal**, the need to anchor our action in



Human rights bring us to appreciate the humanity we share with other fellow beings—no matter their gender, age, appearance, culture and ideas. (Courtesy Grazia Borrini-Feyerabend)

human solidarity at the local level and the need to elevate our thinking and moral inspiration to those principles and values that can be broadly applied to all human beings—the "rights" we have for the simple fact of being born human. This act of "striking a balance" is incredibly complex, of course, and we can at most all try very hard and do the best we can... there are no

recipes and often only uncharted territories. To understand this we need only to refer to thorny issues such as the

“the other” can be easily advanced to explain injustices and irrationalities, with the pernicious consequences we

Cover story. The persons* shown on the cover of this journal—members of an indigenous tribe of nomadic pastoralists in Rajasthan—face multiple and interrelated opportunities and challenges at the interface of conservation and human rights. Their community’s livelihood depends on sustainable use of and access to scarce pastureland and associated resources. Conservation in support of sustainable use is clearly in harmony with their community rights to livelihood, i.e., to food, culture, health, life. But exclusionary, discriminatory, technocratic and strictly protectionist conservation efforts have most often undermined these very same rights by reducing access to natural resources. Further, community access rights to land and resources are intrinsically linked to the self determination and development of mobile indigenous peoples. These are among the most fundamental human rights. And, enlarging the view to the overall picture, the conditions of the land one can see in the picture and the decisions about whether or not, when, where exactly and how this community has access to pasture, depend on the larger historical, cultural, political, social and economic context. It is only within this larger context, in fact, that the interplay between conservation and human rights finds its full meaning and can be positively addressed. Read in this way, this photograph provides a snapshot of the collective content of this journal. See the article by Mansoor Khalighi in this Journal for more information on the community rights of indigenous nomadic pastoral peoples and the conservation of natural resources.

* In many camel herding societies, camels are counted and referred to as “persons” and are treated with utmost respect, which shows the interdependence of these cultures with these magnificent beings. (Thanks to Aghaghia Rahimzadeh of CENESTA for the permission to use this picture)

rights of present versus those of future generations, or the alternative environmental values that can be preserved by incompatible interventions. The “human rights perspective” can also bring other fundamental benefits. It can provide us with **the foundations of an analysis of power**, the beginning of an explanation of why we live in a world where injustice and ecological destruction are so pervasive and intertwined. Without an analysis of power—the understanding of the agencies that fuel ecologically-destructive growth and human exploitation—the world can indeed be a confusing and depressing place. Conspiracy theories and stereotypes about

keep seeing in human history. An alternative perspective would stress instead the common humanity of all peoples, and the bond of life that ties that humanity to the rest of living beings, to nature and to the biosphere. In this perspective **the respect for our common humanity and the larger bond to life and nature are the roots of our moral behaviour** and the main cause of our success or failure as a species. Environmental destruction, the exploitation of humans by humans and the humiliation and dispossession of entire peoples and cultures are the consequences of forgetting the bond

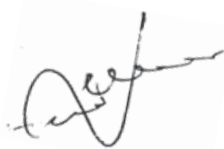
of humanity (or “human rights”) that links us all. In this sense, our failures are not isolated failures but common ones. And so are our achievements—first among all the appreciation, care and empathy we are still able to bring to biological *and cultural* diversity, including multi-cultural societies. Human rights have much less to do with legality than with meaning, and much more to do with the broader environment of life than we usually see.

CEESP has received partial financial support from IIED’s Sustainable Agriculture, Biodiversity and Livelihoods Programme to produce and diffuse this volume, and we are most grateful for

the unfailing support of this sister organisation. We would also like to thank here the outspoken and, at times, frankly courageous authors of the papers collected here. They have shared many stories that are not simple or even safe to tell. It is only through their work, endurance and passion for conservation and justice that we can see powerful advances and lessons learned.

Let me also thank most gratefully and warmly, **Jessica Campese**, who has provided an unfailing reference point for all the work that went in this volume, the organisation of related symposia, workshops and innumerable meetings and the development of practical options for the IUCN to tackle human rights in its conservation work. Jessica has been working with **Grazia Borrini-Feyerabend** for about two years and this volume is very much one of their cherished products, surely a

labour of love, and a result of the work of the members of TGER—the CEESP Theme on Governance, Equity and Rights. With them, who did the lion's share of the work, I also would like to acknowledge most sincerely the guest co-editors of this volume (and CEESP/TGER members) **Michelle de Cordova, Armelle Guigner, Gonzalo Oviedo, Marcus Colchester, Maurizio Farhan Ferrari** and **Barbara Lassen**. I trust they will all keep collaborating with CEESP and with IUCN at large to advance understanding, policy and action at the interface of conservation and human rights. I can see few more worthwhile and more powerful subjects for our personal and political engagement as conservationists. As usual, both our website and future issues of *Policy Matters* will be available for any comments, replies and discussion on the challenges posed by the articles in this issue.



M. Taghi Farvar,
Chair, IUCN Commission on Environmental, Economic and Social Policy (CEESP)



'Just' conservation? What can human rights do for conservation... and vice versa?!

Jessica Campese, Grazia Borrini-Feyerabend, Michelle de Cordova, Armelle Guigner and Gonzalo Oviedo,
with Marcus Colchester, Maurizio Farhan Ferrari and Barbara Lassen

Within the broad IUCN circles we are all familiar with the conservation of biodiversity and natural resources. But what are human rights, and what do they have to do with our work? The first section of this journal addresses these questions in a straightforward way, and highlights how, despite historic separation between the two,¹ attention to linking conservation and human rights has recently been increasing. This trend poses new challenges for conservation organizations, called to recognize and address some new direct and indirect responsibilities.² Yet, as conservation protects resources critical to fulfil rights to life, health, food, water, and security, this trend also opens new doors for conservation organizations to be recognised as performing invaluable roles in the realization of those rights, and in overall support to human societies.

Recognition of the relationship between human rights and the broadly defined *environment* has been developing since the 1970s.³ In this sense, many government and civil society actors— including CEESP— work to address the rights abuses that can arise from the extractive industry and other sources of environmental degradation.⁴ Similar action and attention around *conservation practice* has been slower to emerge, but can now be clearly identified.⁵ Since 2004, for example, IUCN as a whole recognizes human rights as an important component in supporting its mission to “influence, encourage and assist” societies to ensure that “any use of natural resources is

equitable and ecologically sustainable”⁶ (see Box 1). This special issue of Policy Matters deals primarily with the emergent understanding of the relationship between *conservation* and human rights.

There is little consensus regarding the roles, responsibilities and interests conservation organizations have in addressing human rights, or how these factors should be practically addressed—a fact made evident by the collection of articles included in this journal. The conservation–human rights relationship is complex, multi-dimensional, and dynamic. If the articles defy a single overall message, however, some broad themes can be perceived. Each of these themes— described in the main sections of this collection— is significant for understanding how conservation actors can work in just and sustainable ways.

First, it is now abundantly clear that **conservation has too often undermined human rights**, most clearly through protected area-related displacement and oppressive enforcement measures. This phenomenon, common in the past,⁷ continues today in subtle and less subtle ways. The articles in section two of the journal, which primarily demonstrate this negative dynamic, also discuss how this is changing, if slowly.

The second broad theme emerging in this collection is that **conservation and human rights can also work in mutual support**. Some **mechanisms, practices, policies and principles guiding conduct appear successful**

in responding to the challenge of their integration. The journal includes both case-based examples and general discussions of

Conservation is not an isolated or value-neutral endeavour— rather, it is infused with political meaning and values that originate outside and independently from it.

positive links between conservation and rights. For instance, mechanisms such as on-going Citizens' Advisory Councils or case-based legal procedures have been capable of fostering human rights as well as preventing/ mitigating negative environmental impacts.

While no one article presents a complete framework for a "human rights

approach to conservation," it is in the third section that the components of such an approach begin to emerge. Through these articles, we come to understand that:

- ▶ human rights instruments and rights-based codes of conduct can be leveraged to protect people from potential and/or realized violations arising from conservation practice;
- ▶ human rights instruments can be used to protect the environment; and
- ▶ natural resource management can (and should) be incorporated as a key factor in rights-based approaches to human development.

As a matter of fact, some of the most powerful examples of synergistic linkages between conservation and human rights emerge from experience within development organizations that have adopted a rights-based approach to their work.

The third broad lesson we learn from this collection— one present in most articles but arising most clearly in the fourth section— is that **the link between conservation and human rights is embedded in larger historical, political, cultural and socio-economic contexts that shape it and determine its meaning.** Conservation is not an isolated or value-neutral endeavour— rather, it is infused with political meaning and values that origi-



Picture 1. It is often the case that environmental damage and human rights violations go together. In Peru, the rural communities of Huancavelica, in the high Andes, are currently protesting major hydraulic works decided without their informed consent and expected to dry out 1,000 hectares of wetlands in their customary territories. The diverted water will feed a hydroelectric reservoir and will irrigate export monocultures, such as asparagus, in the Peruvian lowlands. Meanwhile, the highland communities will lose the ecological integrity of their pastures and wetlands and will suffer important economic losses. Communities living close to the hydroelectric reservoir will also lose land, as the water level is expected to rise seven meters as a consequence of the hydraulic works. Fifty years ago, the people of Choclococha lost their homes and the heart of their land (see the semi-submerged, abandoned houses in the background) when the reservoir was initially constructed. These people are still waiting for the promised compensation. The history of 'development' initiatives throughout the world is full of situations and events such as these. Who benefits? Who loses? Who speaks for environmental integrity and the rights of the affected people and communities? While many conservationists still focus on protecting a few "islands of biodiversity", others are beginning to address the intertwined issues of ecological integrity and respect for human rights in the overall landscape. (Courtesy David Bayer bayedavid@speedy.com.pe)

nate outside and independently from it. In this sense, poverty, environmental destruction and violation of human rights exist within power structures that may perpetuate them despite all the commitments and pronouncements to the contrary. We should view

We should view neither conservation nor human rights with tunnel vision, focusing on a single area or species or on the well-being of a particular group or class of people...

neither conservation nor human rights with tunnel vision, focusing on a single area or species or on the wellbeing of a particular group or class of people. Equity and sustainability demand that we enlarge the vision to the landscape and to humanity in general, and that we understand the broad phenomena that— sooner or later—will affect even our precious protected areas and comfortable lives.

Despite the complexities we have just mentioned, overall the articles in section four encourage the conservation community to take greater responsibility for respecting and supporting human rights. It is clear that conservation actors' scope of action is limited, that engaging with human rights implies understanding and responding to the broader institutions of society, and that the historical forces at play are often overpowering. Yet, the global situation is uneven, and local, national and international efforts by governments, civil society and even business actors can indeed make a difference. And they should.

The themes we have just described— themes which are differentiated by journal sections, but which can also be read into most articles— are further linked by several cross-cutting lessons. Transforming exclusionary conservation practice, empowering rights-holders, and enhancing the accountability of duty bearers (including non-governmental conservation organizations) are all important in addressing human rights. Further, procedural rights are a major entry point for substantive rights and should be forcefully stressed in conservation.

Our collection leaves open many questions and does not cover the full breadth of the relevant issues. Most notably, despite actively seeking submissions about the topics, we received little regarding the potential costs to conservation arising from the requirement to address human rights, and very few articles dealing with the positive role that conservation can play in supporting human rights. That notwithstanding, this collection contains sufficiently diverse perspectives and opinions to further a substantive discussion—a discussion whose time has definitely come.

Jessica Campese (jessica@cenesta.org) is a Fulbright Fellow working in Geneva with CEESP/TGER, the IUCN Secretariat and IUED. **Grazia Borrini-Feyerabend** (gbf@cenesta.org) is a Vice Chair of IUCN CEESP and WCPA. **Michelle de Cordova** (mdecordova@gmail.com) is an environment and social development consultant, based in Vancouver. **Armelle Guignier** (armgui@yahoo.fr) is a French PhD law student and a member of IUCN Commission on Environmental Law. **Gonzalo Oviedo** (gonzalo.oviedo@iucn.org) is Senior Social Policy Advisor with the IUCN. **Marcus Colchester** (marcus@forestpeoples.org) is Director of the Forest Peoples Programme. **Maurizio Farhan Ferrari** (maurizio@forestpeoples.org) is Environmental Governance Coordinator with the Forest Peoples Programme. **Barbara Lassen** (barbara@cenesta.org) is Executive Officer of TGER, working as a volunteer. All the co-editors of this issue are members of CEESP/TGER.



Picture 2. Fulfilling substantive rights often requires securing procedural rights— empowering right-holders and supporting their participation in developing and implementing conservation policy and practice. (Courtesy Grazia Borrini-Feyerabend)

Box 1. IUCN Resolution 3.015 Conserving nature and reducing poverty by linking human rights and the environment

"...The World Conservation Congress at its 3rd Session in Bangkok, Thailand, 17–25 November 2004:

1. DECIDES that IUCN should consider human rights aspects of poverty and the environment in the context of its overall mission, under the leadership of the IUCN Director General;
2. FURTHER DECIDES to assess the implications of the use of human rights-related legal resources and actions to protect the environment and the rights of those who defend it, especially through existing international human-rights protection systems;
3. ENCOURAGES IUCN's State members, in cooperation with its non-governmental members, to analyse legislation in the field of human rights and the environment in their respective countries and regions with the aim of providing effective access to justice in the event of the violation of those human rights;
4. REQUESTS the CEL to provide additional legal research, analysis and resources, and contribute to building the capacity of members in the enforcement of environmental laws, in close collaboration with IUCN members; and
5. FURTHER REQUESTS the CEL to provide a progress report to future World Conservation Congresses summarizing legal developments in human rights law and litigation that are pertinent to IUCN's Mission, with an emphasis on human-rights tools that may be used by IUCN and its members in pursuit of the Mission."⁸

Notes

- 1 See, among many, Perez (2004) for a general discussion.
- 2 Organized movements of indigenous peoples, local communities, and other civil society actors increasingly demand greater accountability from conservation actors regarding past and present impacts of protected areas establishment and management. Examples can be found in <http://www.danadeclaration.org/text%20website/textindex.html>, <http://www.forestpeoples.org/>, <http://www.survival-international.org/> and <http://www.iucn.org/themes/ceesp/WAMIP/WAMIP.htm>
- 3 A trend reflected in several UN and regional human rights communications and non-binding instruments that variously link environment and human rights.
- 4 For CEESP's work in this area, see <http://www.iucn.org/themes/ceesp/seaprise.htm>. See also CIEL Human Rights and Environment program at <http://www.ciel.org/Hre/programhre.html>, EarthJustice at www.earthjustice.org, EarthRights International at <http://www.earthrights.org/>, and Global Witness at <http://www.globalwitness.org/>.
- 5 WWF and CARE have called for "social and environmental justice", which they define as "the equitable achievement of both human and environmental rights". See <http://www.panda.org/downloads/policy/socialenvironmentaljustice2.pdf>.
- 6 <http://www.iucn.org/en/about/> (emphasis added)
- 7 Two important sources are West and Brechin (1991) and Ghimire and Pimbert (1997).
- 8 IUCN, 2004, p2.

References

- Ghimire, K. B. and M. P. Pimbert (eds.), *Social Change and Conservation. Environmental politics and impacts of national parks and protected areas*, UNRISD, Geneva (Switzerland) and Earthscan, London, 1997.
- Perrez, F. "Key questions concerning the human rights and environment debate: An introduction" in *Human Rights and the Environment: Proceedings of a Geneva Environment Network Roundtable*, UNEP for the Geneva Environment Network, Geneva, 2004. Available at: <http://www.environmenthouse.ch/docspublications/reportsRoundtables/Human%20Rights%20Env%20Report.pdf> (visited Oct 2006).
- West, P.C. and S.R. Brechin (eds.), *Resident Peoples and National Parks*, University of Arizona Press, Tucson, Arizona (USA), 1991.
- World Conservation Union (IUCN) IUCN, *Resolution 3.015: Conserving nature and reducing poverty by linking human rights and the environment*, Adopted at the 3rd Session of the World Conservation Congress in Bangkok, Thailand, 17–25 November 2004. See full text in: http://www.iucn.org/congress/2004/members/Individual_Res_Rec_Eng/wcc3_res_015.pdf (21 May, 2007).