



## IUCN CEESP Theme on Governance, Equity and Rights Background

### ***Governance of natural resources***

If one issue is central for the conservation of biodiversity and the sustainable and equitable use of natural resources this is-undoubtedly-governance. Yet, governance is a relative latecomer in the conservation community, and for decades was generally eschewed by the relevant institutions. Recently, however, due in part to the impulse of the World Conservation Union and its Commissions, it has come into the policy spotlight. Soon all parties interested in conservation may have to contend with 'governance'. Governance has to do with power, relationships, responsibility and accountability. A specific "governance setting" for a body of natural resources reflects what a society enables as fair, or is prepared to accept as such; the setting defines the whos and hows of authority, responsibility and accountability regarding natural resources. Clearly, governance depends on formal institutions, processes, tenure and access to resources and other legal rights. For instance, governance settings change dramatically when authorities open up to pluralism and recognize multiple interests and values in society. But governance also depends on history, culture, customary rights, access to information, presence of markets, financial flows and a variety of informal influences on decisions. Governance affects the achievement of the relevant management objectives (effectiveness), the sharing of costs and benefits (equity) and the generation and sustenance of community, political and financial support towards sound management of natural resources.

### ***Ambiguity of the concept***

The concept of governance is both complex and ambiguous, and it can even be used with nearly opposed intentions in mind. For some, improving governance means "curbing the power of the state, releasing a country's trade barriers and opening up as much as possible to the influence, the values and the working style of the private sector (liberalisation, decentralisation, "corporate governance", transforming the "political" into a decision mode analogue to the one of markets).[1] In this sense, requirements of "good governance" practices may be an excellent means through which Western perspectives can be imposed on governments in the South. For others, it means highlighting debate, fair procedures, negotiation processes and the seeking of consensus among a plurality of actors as the best foundations for decision-making in society (deliberative processes, participatory democracy).[2] By curbing the power of the state and favouring the appreciation of differences-in particular cultural differences- pluralistic governance would have a liberating value, and it might even usher the dissolving of uncritical certainties about the foundations of power, laws and knowledge in society.[3] For others still, "good governance" is the meeting point of "performance"and "equity", an evolving

process through which fundamental principles and values, including environmental rights and human rights, can percolate in society. This is the position often advanced by some United Nations agencies [4] and by many members of TGER, who believe that a fundamental tenet of good governance should be decent, fulfilling and sustainable livelihoods. Another interesting set of opposing views deals with governance of natural resources in relation to governance in a country's politics at large. Some believe that the first can only happen as a result of the second. Others consider that improved natural resource governance can be an effective entry point to improve governance in other sectors in society as well. The above set of seemingly incompatible perspectives on "governance" render the concept in need of unpacking and clarification. The term "good governance", in particular, implies that governance can also be "bad" or, at least, that "it can be improved". In fact, in this sense, "improving governance" becomes a crucial area of inquiry and concern for the IUCN and all interested in sound natural resource management and equity. The lessons learned thereby ought to be understood and applied in policy and practice.

### ***Improving governance***

From the early 1990s, a form of governance called co-management of natural resources (CMNR) has become an increasingly visible governance option for natural resources under common property, communal property or mixed property, and has been increasingly "adopted" in a variety of settings. Co-management is based on the recognition of a multiplicity of entitlements and/or valid claims of social actors interested to have a say in the management of a given body of natural resources. It implies a partnership among such actors, and a process by which they negotiate management agreements and institutions among themselves. The partnership can involve local communities, organised resource users, local authorities, governmental agencies, non-governmental organisations, private operators, and many others. A strong rationale for CMNR has been built on a variety of considerations, including the fact that a fair sharing of the costs and benefits of managing natural resources requires the active involvement of all relevant stakeholders. Among such stakeholders, primary attention has to be given to indigenous peoples and local communities.

IUCN and the CEESP's Collaborative Management Working Group have played a non-negligible role in the understanding and diffusion of lessons learned in co-management experiences and in the promotion of co-management practices. At times this has resulted in improved community control over natural resources and environment-related rights, and has managed to raise issues of fairness and equity in the sharing of costs and benefits of conservation.[6] Overall, however, it is not clear, to what extent co-management experiments have helped communities to find a legitimate role in deciding about natural resources, or to what extent such experiments have prevented harming and impoverishing indigenous peoples or ensuring a better respect of human rights. In some cases co-management processes may have even "hurt" communities, for example in bringing land that had been theirs by customary rights into the public domain or helping introduce "alien" stakeholders who carved out new entitlements over the resources of historical

"rightholders". In general, it is thus not clear whether co-management efforts "perform" in terms of both sound environmental management and lasting improvements in the livelihood conditions of the relevant communities. Can we thus affirm that co-management has "improved" the governance of natural resources? Moreover, avenues other than co-management may be equally or more effective, rapid and/or long-lasting in effectively managing natural resources and mainstreaming equity, accountability and environment-related rights. For instance, how do co-management experiences fare when compared with specific legal procedures, top-down policy change, well-organised and media-backed civil disobedience (e.g., land occupation), union-supported movements or even outright collective buying of land and natural resources, possibly with the help of third-party financing? These different avenues refer to different forms and scales of interventions, and may be hardly comparable. Their analysis, however, can shed light on ways to improve NR governance, provided that the questions are asked and answered by people directly involved.

The rapidity with which co-management initiatives have emerged is both remarkable and worrying. On the one hand, they offer tremendous scope for sustaining natural resources and expanding the active involvement of local actors in social and ecological dynamics that have a direct bearing on their livelihood security and well-being. On the other, they may be misapplied and used to "pacify" grievances and water down the legitimate rights of communities. This is especially so in the case of ambitious initiatives that scale-up pilot interventions and spread innovations under a tight time schedule. In such cases the façade (of participation, co-management, and the like) may hide a different reality and actually contribute to destroying the hopes and goodwill of people engaged in initiatives that take them nowhere. In these circumstances, attention to ways of "improving governance" might help the affected parties to analyse the full implications of a processes. It might help them to figure out-beyond co-management- what specific governance changes are needed and how to bring them about.

It is quite understandable, especially in view of the ambiguous and evolving meaning of the concept, that different societies and cultures may have different appreciations of what "improving governance" is all about. Inspiration, however, is often taken from a variety of principles that have been discussed and endorsed internationally. First among those are the "do no harm!" imperative and the respect of human rights -in particular with regard to indigenous peoples and local communities. Other basic criteria that have been broadly discussed include "legitimacy and voice", "rule of law", "subsidiarity", "equity -including gender equity - in the sharing of costs and benefits of managing natural resources", "direction/ shared vision", "performance", "transparency" and "accountability".

TGER's activities continue and expand the work that has been carried out from 1996 to 2005 by the Collaborative Management Working Group, broadening its perspective towards improving the governance of natural resources and the respect of human rights. At least part of its focus is on understanding and capacity building through a variety of national and local learning groups. TGER members promote, animate and support such Learning Groups in particular contexts and distil/derive lessons towards further capacity building and policy advice.

Particular attention is given to ways of improving governance in large scale contexts, such as across landscapes, ecosystems, and transboundary protected areas, and ways of involving indigenous and local communities and the civil society in general. Transboundary protected areas and the Model Forests promoted by CIFOR also serve as learning examples. The Model Forests are landscape-scale arrangements involving voluntary partnerships across a range of interests, values and land uses and span various management and governance models related to municipalities, logging concessions, conservation areas, community forests and agro-forests.

### ***A rights-based approach to conservation***

Throughout history, conquerors subjugated the conquered by confiscating their lands or otherwise limiting their access to property. Especially in agrarian societies, control of land, water and other natural resources by ruling elites has been the principal mechanism employed for consolidating the monopoly of political, economic and social power throughout society. Present-day rights that regulate access and tenure of resources among diverse social actors are extremely varied from country to country and within them among different localities. In all cases, however, the rules regulating the use of, and control over, land and other natural resources inevitably reflect the interests of dominant social actors at the time these rules were institutionalised by custom or law. These rules, however, also evolve in response to social change and it is not unthinkable that- as human rights hopefully become better understood, recognised and protected- the communities hitherto excluded from the control of natural resources will better come to the fore. Indigenous peoples, landless workers, small producers, mobile communities, low-income consumers, and all others who are dependent on natural resources, but without property rights over them, will hopefully acquire some form of rights entitling them to an equitable participation in managing those resources and benefiting from them.

Currently, new social movements and peoples' coalitions throughout the world are reaffirming both the importance of human rights over economics and the rule of market forces [7], and their intent to be active makers and shapers of the realities that affect their lives.[8] These arguments draw their legitimacy from the Universal Declaration of Human Rights and resonate with political traditions that uphold citizen empowerment and action and celebrate diversity, empathy and virtue.[9] Adopted by the General Assembly of the United Nations on 10 December 1948, the Declaration of Human Rights is not legally binding but is considered as an international instrument of tremendous political and symbolic importance. After the adoption of this Declaration, the UN Commission on Human Rights began drafting legally binding documents. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) were adopted in 1966. Both uphold the right of all peoples to self-determination and development. Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, commonly known as ILO 169 stresses the need for the participation of indigenous peoples in the decision-making process regarding resources and lands on which they have claims of dependence.

Environmental rights were first spelled out in the Declaration of the United Nations Conference on the Human Environment in 1972, later expanded by the 1982 World Charter for Nature. Agenda 21, adopted at the 1992 UN Conference on Environment and Development, called for effective participation in all the elements of planning and development.

More recently, the Convention on Biological Diversity (CBD) has stressed the need to involve indigenous and other local communities in the conservation of biological diversity. Its 2004 Program of Work on Protected Areas emphasized that communities should enjoy a fairer sharing of conservation benefits and that indigenous peoples cannot be resettled to make room for protected areas without their prior and informed consent. Besides the international instruments just mentioned, others address the rights of refugees, children and women, and prohibit torture, discrimination and genocide. Conservation practices and human rights are critically linked, but their relationship remains complex and ambiguous. Conservation is essential to livelihood sustainability, poverty eradication, and security— themes often understood as central to human rights. Yet there are also far too many known cases of conservation efforts carried out in ways that directly violate human rights, not least through forced resettlement, exclusion and direct economic and cultural impoverishment of entire communities. Similarly, while supporting human rights often has positive consequences for the environment, there are cases in which human rights initiatives (e.g. provision of housing and shelters of refugees) have directly caused serious environmental problems. It may also be that fear of infringing upon human rights may restrict conservationists from initiating needed measures to protect endangered ecosystems and species.

Over the past 60 years, the world community has thus endorsed international conventions that detail civil, political, social, and economic rights, and the right of all people to enjoy a healthy and sustainable environment. These conventions are meant to reduce human suffering all over the world, promote human well-being and ensure the sustainability of life on our planet. And yet, the right to work, food, education, and a safe environment are far from being enjoyed by a large portion of humanity. Under current political, economic, and financial realities there appears to be little immediate prospect for improvements. If the fulfillment of human and environmental rights is the responsibility of all who have it within their means to act, it can be maintained, then, that action towards such rights should guide the distribution of the material benefits and limit the environmental costs of economic growth. This may demand profound reforms in current policies governing international trade, investment and development. New regulatory frameworks, binding agreements, and commitments may be required to ensure that the private sector also assumes a larger share of responsibilities towards the fulfillment of human and environmental rights. TGER has just started its own reflection on this topic and further work is needed. Ultimately, we wish to identify a clear strategic direction towards "a rights-based approach to conservation". A Human Rights Taskforce has been created to this end. Further information can be found under:

<http://cms.iucn.org/about/union/commissions/ceesp/topics/rights>

## Notes

[1] Rhodes, R.A.W. « The new governance : governing without government », Political Studies, vol. 44, no. 4, p. 652-667.

[2] Pimbert, M.P., "Natural resources, people and participation" in Chambers, R., N. Kenton and H. Ashley (eds.), Participatory Learning and Action: Critical Reflections, Future Directions, IIED and IDS, IIED London, 2004; Borrini-Feyerabend, G., Pimbert, M., Farvar, M.T, Kothari, A. and Renard, Y. Sharing Power ' Learning by doing in co-management of natural resources throughout the World, IIED and IUCN/CEESP/CMWG, Ed. Cenesta, Teheran, Iran, 2004b.

[3] Lefort is quoted in Moreault (2004) as speaking of « une dissolution des repères de la certitude ». Moreault, F., « Penser la démocratie dans un contexte mondialisé : la gouvernance à épreuve du politique », Conférences de la Chaire MCD, <http://www.chaire-mcd.ca> , 2004.

[4] UNDP, Human Development Report 1999- Globalisation with a Human Face, United Nations Development Programme, New York, NY (USA), 1999. UNDP, Human Development Report 2002- Deepening Democracy in a Fragmented World, United Nations Development Programme, New York, NY (USA), 2002.

[5] See 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.

[6] See <http://www.iucn.org/themes/ceesp/Publications/sharingpower.htm>

[7] Amin and Houtard, 2002; Le Monde Diplomatique, 2004.

[8] Cornwall and Gaventa, 2001.

[9] Woodcock, 1975.