Achieving effective and equitable protected area governance

Draft Message from WG4 on Collaborative Management of Protected Areas

Governance is about the *"interactions among structures, processes and traditions that determine how power and responsibilities are exercised, how decisions are taken and how citizens or other stakeholders have their say".*[1] Governance is different from management wherein management is about what is done in the pursuit of objectives and the means and activities to achieve this, and governance is about who decides what those objectives are and what will be done to achieve them. Governance concerns the exercise of power, authority and accountability.

Governance has been an issue central to the international dialogue on protected areas in the past 10 years. The 2003 V[th] IUCN World Parks Congress dedicated a major workshop stream to governance as well as a cross cutting theme on Indigenous/Local Communities, Equity, and Protected Areas. Several WPC Recommendations were adopted on protected area governance, local communities, rights and new types of protected area governance models.[2] The Convention on Biological Diversity's (CBD) Programme of Work on Protected Areas (PoWPA) has one of its four core elements dedicated to governance, participation, equity and benefit sharing with 13 actions centred on goals that promote equity, benefit-sharing and the engagement of relevant stakeholders, indigenous and local communities. The 193 Parties to the CBD have, through their adoption of the PoWPA, committed to these principles in planning, establishing and managing protected areas, however this remains one of the least developed of the four PoWPA elements in terms of implementation.

IUCN encourages its members and partners to think about both protected area governance type and quality. Along with familiar State-governed protected areas, managed by government employees, there are now increasing numbers of areas being recognized as equivalent to protected areas but managed by indigenous peoples, local communities, ecotourism companies, non-profit trusts, private individuals, commercial companies and religious groups. Many government managed protected areas are also increasingly bringing rightsholders and stakeholders into decision-making processes[1]. Four protected area governance types have been formally recognized by IUCN, WCPA and UNEP's World Conservation Monitoring Centre (UNEP-WCMC).[3] The Parties to the CBD have also agreed to report about governance of protected areas as part of their obligations.[1] The voluntary conservation of areas and territories by private landholders, religious groups, indigenous peoples and local communities (ICCAs[4]) reflect this increasing diversity of governance types.[5] In terms of governance quality IUCN recognize principles of good governance for protected areas as including: legitimacy and voice; direction; performance; accountability; and fairness and rights.[1]

Why then is protected area governance such a central issue in Asia? Most protected area systems in Asia have been established as classical Government centric systems, many modelled on western and/or colonial park systems. Outside of formal protected areas, there have been a number of notably successful programmes focused on community-based conservation and stewardship of natural resources (an example being Nepal's successful Community Forest Programme[6]). In addition there are many more ICCAs which exist, and have existed for hundreds of years, outside of formal programmes. In Asia there is an

increasing trend to see protected areas used for purposes which go beyond the protection of the natural environment to include the improvement of social cohesion, livelihoods and economic benefits. IUCN and the CBD advocate for a diverse set of governance types to build flexibility and resilience into national protected area systems.

Much of Asia's protected area legislation is also outdated and in need of reform. Laws and regulations which are often quite legally powerful have a strong regulatory tone, however, they are often weak, inflexible or even silent on recognising community interests and/or initiatives in protected area management. Customary law and, sometimes, even the very existence of communities is often not recognized. Compounding this is the fact that many protected area systems have large numbers of people either living inside the protected areas or in adjacent buffer zones with these communities heavily dependent on these areas for their livelihoods. In addition protected area laws are commonly not harmonized with, or may contradict, other laws relevant to communities and natural resource management.

Asia has a proud record of establishing protected areas (7,043 protected areas covering and average of 15.97% of land area[7]) and several national protected area systems were created using best practice ecological gap filling processes (for example PDR Lao's system of National Biodiversity Conservation Areas and India's mid 1980s biogeographical classification system to enhance ecological representation in the protected area network[8]). Nevertheless many areas, whilst well designed and ecologically representative, were regrettably created without due consideration to the needs of local people. In many countries support for protected areas has dwindled and reforms are underway to create more robust and flexible systems of protection that embrace different types of governance and are cognizant of the needs of local people. Again in Laos a process has been working to re-categorise the national protected area system to accommodate a diversity of IUCN Protected Area categories reflecting more flexible management objectives[9].

Asia is a region with an enormous diversity of religions, ethnic minorities[10], languages, cultures and indigenous groups with deep-rooted traditional associations to the land. Asian cultures display a long-held and strong tradition of religions that place emphasis on human duties of custodianship and of the sacred nature of certain landscapes, species and features. Again the model of Government centric, often top-down protected area planning establishment and management has not always served well the rights of these groups. There have in the past, and continue to be, cases where local people have been moved out of protected areas, with the consequent impact on traditional social structures and/or the disenfranchisement of communities from the natural resources on which they depend.

As with the international dialogue on governance so too rights and duty-based approaches to conservation have increasingly become central to debates on protected areas. Nearly all the international conservation organizations have embraced conservation practice that respects human rights. For example the Conservation Initiative on Human Rights (CIHR) is a consortium of international conservation organizations that seek to improve the practice of conservation by promoting integration of human rights in conservation policy and practice[11]. IUCN's vision encompasses the concept of justice and its mission and policies fundamentally reinforce rights-based approaches to conservation. IUCN Resolution 4.056 adopted in 2008 speaks to rights-based approaches to conservation[12] and reinforces the Union's overall objective to "work towards ensuring the protection of rights and biodiversity conservation become mutually reinforcing.[13]" When speaking of rightsholders in Asian cultures one must also speak of duty-bearers reflecting the custodial philosophies toward nature which pervade many Asian cultures. Here rights are often inseparable from duties.

In summary then there is a need to foster diversity in governance including co-management which empowers communities in a way that sustainably accommodates their needs with the conservation of biodiversity. Where the needs and rights of local people are sensitively accommodated the mutual benefits to both protected areas and people become evident. Protected areas become relevant and valued and so enjoy greater long- term security.

Therefore, PARTICIPANTS in the Working Group on <u>Collaborative Management of Protected Areas</u> at the 1st Asia Parks Congress, in Sendai, Japan (14- 17 November, 2013) <u>commend</u> to those international organizations, governments, NGOs, CBOs, academic institutions, businesses and donors who influence directly and indirectly the future of protected areas the following set of <u>best practice protected area policy and management principles</u>:

1. Actively work to broaden governance types to include an appropriately balanced mixture of the four types of governance recognized by IUCN. These include:

    a) governance by government (at various levels);

    b) governance by various rightsholders and stakeholders together (shared governance);

    c) governance by private individuals and organizations; and

    d) governance by indigenous peoples and/or local communities.[1]

2. Recognize that rightsholders, duty-bearers and stakeholders are different with differing entitlements and interests and may require tailored policies and strategies of respect, engagement and empowerment. IUCN have defined the difference between rightsholders and stakeholders in the context of protected areas[14].

3. Recognize that each governance regime is unique. The specific ecological, historical and political contexts and the variety of worldviews, values, knowledge, skills, policies and practices that contribute to conservation should be reflected in different governance regimes in different regions and countries, and even among different protected areas in the same country.[1] The hierarchy that exists in many Asian communities requires special consideration in engaging with the socially vulnerable and issues of equity need to be considered in order to ensure that collaborative management and ICCA regimes are genuinely equitable.

4. Adopt and commit to IUCN's principles of good governance (equitable governance) for protected areas[1] which include legitimacy and voice; direction; performance; accountability; and fairness and rights. Specifically consideration should be given to the principles of:

    a) <u>Legitimacy and voice</u>: recognizing entitlements; keeping rightsholders, duty-bearers and stakeholders informed and empowering them to have a say.

    b) <u>Direction</u>: setting a clear, appropriate and achievable vision (broad, long-term perspective) that is shared by all rightsholders, duty-bearers and stakeholders; direction should be inspiring and open to innovation.

    c) <u>Performance</u>: ensuring protected areas are effectively and efficiently managed consistent with their objectives and in a way that builds resilience to change and impact; building the necessary capacity among rightsholders, duty-bearers, stakeholders and staff to achieve this.

d) <u>Accountability</u>: applying the principles of integrity and transparency to decision making; ensuring independent oversight and review; ensuring clear lines of responsibility and reporting.

e) <u>Fairness and rights</u>: operating in a way that does not discriminate; avoiding unfair shouldering of the cost burdens of protected areas; promoting equitable access to benefits; respecting human rights and the principles of free prior and informed consent (FPIC) with respect to protected area interventions.

See Appendix 1 for more information[1]

5. Consistent with the CBD Programme of Work on Protected Areas and other CBD decisions countries should develop a forward looking plan to improve governance for their systems of protected areas or for specific sites[1]. Such a plan should adopt a process for assessing, evaluating and planning for action on improving governance. The process comprises:

a) a preparatory workshop to raise awareness and scope out the planning process;

b) a process of gathering information to systematically assess the diversity and quality of protected area governance,

c) identifying needed expertise, and supporting the self-organisation of participants;

d) a core event (or series of events) pulling together information, expertise and concerned actors and institutions to assess, evaluate and plan for action; and

e) a follow-up period, where appropriate action is taken to improve governance in concrete ways.

6. Foster a rights or duty-based approach to the conservation of nature whilst respecting the overall IUCN principles of good protected area governance[1]. Such approaches should be consistent with international rights frameworks such as the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP): a universal framework for the survival, dignity, well-being and rights of the world's indigenous peoples[15] and the International Labour Organization's ILO Convention 169 on the rights of indigenous and tribal people[16]. For instance, good governance principles should safeguard public rights in cases where voluntary conservation practices, driven by economic incentives, are formally recognised by the State and consequently impact rights and freedoms. These include the right to know about policies and expenditures related to the conservation of nature, and the right to demand clear management objectives and equitable and effective performance in protected areas.[1] The UNDRIP enshrines the principle of free prior and informed consent (FPIC) which should be appropriately applied in the context of protected areas.

7. Systematically assess, at system and/or individual protected area level, the social costs and benefits of protected areas on surrounding and wider communities. IUCN through its expert networks has recently developed methodologies to undertake such Social Assessments of Protected Areas.[17] Processes of this type can quantify how costs are borne and the benefits derived from protected areas are distributed leading to strategies to address these issues in a more equitable fashion.

8. Recognize the need for governance to work at a scale appropriate to protected area management. Managing protected areas requires an understanding of the wider ecological-social landscape for biodiversity conservation necessitating partnership approaches with relevant actors and a diversity of governance approaches[18]. Connectivity conservation which seeks to build land and seascape scale interconnectedness also has a clear social dimension requiring social cohesion, a set of shared values and intentions.[19] Scales may vary from a single forest grove up to transboundary landscapes and connectivity corridors under international treaties[20].

9. Actively seek out and incorporate the use of traditional knowledge from indigenous peoples and local communities in the establishment, planning and management of protected areas.

10. Report all protected areas, whatever their management category or governance type, to the World Database on Protected Areas as a contribution to the CBD Aichi targets.

Appendix 1

Extracted from Borrini-Feyerabend, G. et al. (2013) *Governance of Protected Areas - from understanding to action.* IUCN WCPA in press

IUCN principles of good governance (equitable governance) for protected areas[1]	
Principles	**Considerations related to the Principles**
1. **Legitimacy and voice**	• Establishing and justifying governance regimes on the basis of legal and/or socially accepted (legitimate) **entitlements** • Ensuring that all rightsholders and stakeholders who have direct concerns on a protected area receive appropriate and sufficient **information** and can **have a say** in advising and/or making decisions • Extend **special support** to groups that might be marginalised, such as indigenous peoples, women and the youth, and strive to **prevent discrimination** on the basis of gender, ethnicity, social class, financial assets, etc. • Maintaining active **dialogue** and **seeking consensus** on solutions that meet, at least in part, the concerns and interest of everyone • Promoting **mutual respect** among all rightsholders and stakeholders • Promoting **agreed rules**, which are respected because they are "owned" by people and not solely because of fear of repression • As much as possible, attributing management authority and responsibility to the institutions closest to the resources, compatible with capacities (**subsidiarity**)
2. **Direction**	• Developing and following an inspiring and consistent **strategic vision** (broad, long-term perspective) for the protected areas and their conservation objectives, grounded in an appreciation of the ecological, historical, social and cultural complexities unique to each context • Ensuring **coherence** and compatibility of protected areas with plans and policies of other levels and sectors in the broader landscape/ seascape and with national and international obligations (including CBD PoWPA) • Providing clear and consistent **policy directions** for the main issues of concern/contention for the protected area (e.g. conservation priorities; relationships with commercial interests and extractive industries)

[1] This compact description of the principles follows Institute on Governance, 2002; Graham *et al.*, 2003; Abrams *et al.*, 2003; Borrini-Feyerabend *et al.*, 2006; and Eagles, 2009.

		• Evaluating and guiding progress on the basis of monitoring results and a conscious and open *adaptive management* approach
		• Generating new ideas and carefully promoting/ allowing the testing of *innovations*, including governance and management innovations
3. Performance		• Achieving conservation and other objectives as planned and monitored, including by an on-going evaluation of *management effectiveness*
		• Promoting *learning institutions* and *a learning culture* by carefully monitoring and evaluation results and by changing management decisions consequently to lessons learned
		• Being *responsive* to the needs of rightsholders and stakeholders, including the need for timely information and responses to inquiries
		• Ensuring that rightsholders, stakeholders and staff have the *capacities* necessary to assume their management roles and responsibilities
		• Making a wise use of available resources (*efficiency*)
		• Ensuring *financial sustainability* of processes and results
		• Promoting *robustness* and *resilience* of the protected areas, i.e. the ability to overcome the inevitable crises and come out strengthened from the experience
4. Accountability		• Upholding the *integrity* and *commitment* of all individuals in charge of specific responsibilities for the protected areas
		• Ensuring *transparency* (concerned rightsholders and stakeholders have timely access to information about what is at stake in decision-making, which processes and institutions can exert influence, who is responsible for what, and how can these people be made accountable)
		• Ensuring that decision makers and other individuals in charge do respond to rightsholders, stakeholders and the public at large, as appropriate (this includes ensuring clear lines of *responsibility* and *reporting*/ answerability)
		• Ensuing that the *financial and human resources* allocated to manage the protected areas are properly targeted according to stated objectives and plans
		• Linking the quality of results with concrete and appropriate *rewards and sanctions*
		• Establishing clear avenues (e.g. web sites) where records can be accessible, reports can be solicited and responsible actors can be made accountable

		• Ensure that some independent public institution (e.g. auditing agency, ombudsperson, human rights commission) has the authority and *capacity to oversee and question* the action of the protected areas governing bodies
5.	**Fairness and rights**	• Striving towards an *equitable share of the costs and benefits* of establishing and managing protected areas • Making sure that the *livelihoods* of vulnerable people are *not adversely affected* by the protected areas; that protected areas do not create or aggravate poverty and vulnerability, and that the costs of protected areas are not disproportionally born by weaker social actors— including women, the youth, indigenous and mobile peoples-- or born without appropriate *compensation* • Making sure that conservation is undertaken with *decency* and *dignity*, without humiliating or harming people • Enforcing laws and regulations in fair and impartial ways, consistently through time, without discrimination and with a right to appeal (*rule of law*) • Promoting a variety of avenues for rightsholders and stakeholders to be *actively engaged* in the establishment, expansion, governance and management of protected areas, including marine protected areas • Ensuring the *free, prior and informed consent* of indigenous peoples for eventual resettlements related to protected areas • Promoting the *free, prior and informed consent* of rightsholders on protected areas interventions that affect their rights • Taking concrete steps to *secure substantive rights (legal or customary) regarding land, water and natural resources* related to protected areas, and to resolve eventual disputes regarding them • Respecting *human rights*, including individual and collective rights, gender equality and the *rights of indigenous peoples* • Making available fair avenues for *conflict management* and non-discriminatory *recourse to justice* in relation to protected areas

---

[1] Borrini-Feyerabend, G. et al. (2013) *Governance of Protected Areas - from understanding to action.* IUCN Gland, Switzerland.
[2] IUCN. (2005). *Benefits Beyond Boundaries. Proceedings of the Vth IUCN World Parks Congress.* IUCN, Gland, Switzerland and Cambridge, UK. (Vth IUCN WPC Recommendations 5.16 *"Good Governance of Protected Areas"*; 5.17 *"Recognising and Supporting a Diversity of Governance Types for Protected Areas"*; 5.24 *"Indigenous Peoples and Protected Areas"*; 5.25 *"Co-management of Protected Areas"* 5.26 *"Community Conserved Areas"* and 5.27 *"Mobile Indigenous Peoples and Conservation"*)
[3] Dudley, N. (ed.) (2008). *Guidelines for Applying IUCN Protected Area Categories.* IUCN Gland, Switzerland.
[4] ICCA: Indigenous peoples' or community conserved territory or area

[5] Kothari, A., Corrigan, C., Jonas, H., Neumann, A. and Shrumm, H. (eds). (2012). *Recognising and Supporting Territories and Areas Conserved By Indigenous Peoples and Local Communities: Global Overview and National Case Studies.* Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh, and Natural Justice, Montreal, Canada. Technical Series no. 64

[6] Community Forest Programme, Nepal: http://www.forestrynepal.org/wiki/137. Accessed October 2013.

[7] UNEP-WCMC. (2013). *World Database on Protected Areas.* Data extracted October, 2013.

[8] Rodger, W.A., Panwar, H.S. and V.B. Mathur (2002). *Protected area network in India: A review.* Wildlife Institute of India, Dehradun. (http://www2.wii.gov.in/envis/panetworks/panetwork_pdf).

[9] Shadie, P., Kim, H. Tsechalicha, X. (2008). *Review of Lao PDR National Protected Areas: tools for applying the IUCN protected area categories.* IUCN Lao, Vientianne, Lao PDR.

[10] Wikipedia. *Ethnic Groups in Asia.* http://en.wikipedia.org/wiki/Ethnic_groups_in_Asia. Accessed October 2013.

[11] Conservation Initiative on Human Rights (CIHR) includes 8 International NGOS: Birdlife, CI, IUCN, WWF, FFI, TNC, Wetlands International and WCS: https://community.iucn.org/cihr/Pages/default.aspx. Accessed October 2013.

[12] IUCN Resolutions & Recommendations: http://www.iucn.org/about/work/programmes/global_policy/gpu_resources/gpu_res_recs/ IUCN Policy Statements: http://www.iucn.org/about/work/programmes/global_policy/gpu_resources/statements_gpu/. Accessed October 2013.

[13] Larsen, P. (2012). *IUCN World Heritage and Evaluation Processes related to Communities and Rights.* IUCN Gland, Switzerland

[14] "In the context of protected areas, we refer to "*rightsholders*" as actors socially endowed with legal or customary rights with respect to the land, water and natural resources under consideration. "*Stakeholders*" possess direct or indirect interests and concerns about those, but do not necessarily enjoy a legally or socially recognised entitlement to them." Extracted from Borrini-Feyerabend, G. et al. (2013) *Governance of Protected Areas - from understanding to action.* IUCN Gland, Switzerland.

[15] UNDRIP: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf. Accessed October 2013.

[16] ILO Convention 169: http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm. Accessed October 2013.

[17] Schreckenberg, K., Camargo, I., Withnall, K. et al. (2010) *Social Assessment of Conservation Initiatives: a review of rapid methodologies.* Natural Resource Issues No 22. International institute for Environment & Development. London K.

[18] Parr, J. et al. (2013) *Multi-level Co-management in Government-designated Protected Areas – opportunities to learn from models in Mainland Southeast Asia.* Submitted to PARKS Journal as yet unpublished. IUCN Gland Switzerland.

[19] Worboys, G., Francis, W. and Lockwood, M. (2010). *Connectivity Conservation Management: a global guide.* Earthscan, London UK

[20] Nigel Crawhall pers comm. *Theme on Indigenous Peoples & Local Communities, Equity and Protected Areas (TILCEPA).* IUCN.