



SCALING-UP PARTNERSHIPS ON RIGHTS-BASED AND EQUITABLE WORLD HERITAGE CONSERVATION

REPORT OF THE SESSION HELD ON SEPT. 4TH, 2016 - IUCN WORLD CONSERVATION CONGRESS IN HAWAII.

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- What progress been made on working with rights in World Heritage?
- What can be done to scale-up partnerships on rights-based and equitable World Heritage conservation?



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■ WHAT PROGRESS HAS BEEN MADE ON WORKING WITH RIGHTS IN WORLD HERITAGE?

■ WHAT CAN BE DONE TO SCALE-UP PARTNERSHIPS ON RIGHTS-BASED AND EQUITABLE WORLD HERITAGE CONSERVATION?

Achieving the effective and equitable conservation of culture and nature while responding to the needs and rights of indigenous peoples and local communities connected to those sites is at a crossroads. With 1052 World Heritage sites listed globally the sheer scale and diversity of challenges and opportunities calls for great leaps forward in rights based approaches. The World Conservation Congress represented a critical opportunity to bring together key players in the field spanning from the World Heritage Centre, the advisory bodies (IUCN, ICOMOS and ICCROM) over NGOs and community representatives. The meeting was the second in a row after a side-event on rights-based approaches and the Sustainable Development policy at the World Heritage Committee in Istanbul.

The Hawai'i event was facilitated by the University of Lucerne and the Our Common Dignity Initiative, in coordination with the advisory bodies and IUCN members such as the Forest Peoples Programme and the The Indigenous Peoples of Africa Co-ordinating Committee. Panellists considered on-going research findings, their own institutional realities and offered important recommendations to strengthen a way forward. An intense discussion followed with the audience pointing to the relevance of the topic to Congress participants at large.

■ INTRODUCTION AND BACKGROUND

Peter Bille Larsen, the University of Lucerne, introduced workshop objectives. The Congress event followed a major advisory body joint initiative – Our Common Dignity as well as research coordinated by the University of Lucerne, which have raised a number of challenges and questions for States Parties, World Heritage institutions and society at large. The new Sustainable Development policy has created an unprecedented policy basis for addressing rights and social equity. Questions now are how to expand work in to rights-areas currently neglected. How are systematic approaches consolidated in the World Heritage convention on social equity and rights? How can vulnerable groups, who are often below the radar screen of common evaluation and monitoring mechanisms be reached? How can the gap between policy and practice be bridged, while leveling the playing field? How can the World Heritage system be fine-tuned to reward progressive efforts, where it pays to solve problems rather than hide them? What can be done to address the legacy issues from prior conservation activities? Whereas the new Sustainable Development policy is a moment of opportunity, neglect of rights remains a recurrent challenge across the world. Larsen introduced the on-going SNIS-funded research, which includes a series of policy briefs for national policymakers and the global World Heritage community based (see web-site for more information). Panelists were encouraged to think about what it would take to move from policy ambitions to effective and equitable rights-based conservation. Organized as a Q & A session, the starting point of the panel debate involved institutional reflections on the incorporation of rights.



[Sharing lessons learned, photo: J. Woolhead]

■ HOW FAR HAVE YOUR RESPECTIVE INSTITUTIONS BEEN ABLE TO INCORPORATE AND ADDRESS RIGHTS IN THEIR WORLD HERITAGE WORK?

Mechtild Rössler, Director of the UNESCO World Heritage Centre underlined how UNESCO aligns itself with international human rights instruments and standards, including the UN Declaration on the Rights of Indigenous Peoples, and the rights based approaches in its operations. She underlined recent decisions by the World Heritage Committee to advance these issues, including the inclusion of rights of the indigenous peoples in the operational guidelines and the Sustainable Development Policy as key in taking the next steps and fully embracing the concept within the convention.



[Mechtild Rössler speaking during panel, photo: P. Larsen]

Joseph King, Director of the Sites Unit, ICCROM explained how the organization had approached the topic of rights for a long time, but “never actually called it that way” till their recent activities with other advisory bodies. He stressed how their training and capacity building activities are today more explicitly introducing these specific contents and definitions, for example in their training on People-Centered Approaches.



[Joe King, ICCROM, Photo: J. Woolhead]

Peter Shadie, Senior Advisor on World Heritage at the IUCN noted how IUCN had explored rights-issues since the 1990s stressing how justice is central to the very vision of the organization. In the World Heritage context, he explained how IUCN now undertakes pre-screening on rights issues before site evaluations, raises the topic in field evaluations and invites the Senior Social Policy advisor the IUCN Panel. **Peter Phillips, Vice-President of ICOMOS**, observed how rights-based approaches have been around for a while in ICOMOS circles without being explicitly named as such. Indigenous perspectives, contested history at sites, and different interests in heritage places are part of a place and its interpretation. He emphasised the role of ICOMOS Norway in catalysing a process to name the issues and contribute to policy. The ICOMOS approach involves balancing expertise in the World Heritage Panel and requesting mission experts to investigate stakeholder engagement, consent and involvement in management. Rights based approaches are not just a question of equity but a question of sustainable and successful management.



[Peter Phillips on the ICOMOS experience, photo: J. Woolhead]

Terence Hay-Edie, UNDP Small Grants Programme presented the UNDP context and shared lessons from the COMPACT initiative, which also resulted in a methodological guide for World Heritage sites. Cooperation continues, notably in Africa through the Small Grants Programme.

■ WHAT DO YOU SEE AS CHALLENGES AND OPPORTUNITIES IN SCALING UP WORK ON RIGHTS IN WORLD HERITAGE WORK?

The second Q & A round broadened the discussion to include insights from other panellists in terms of identifying challenges and opportunities to scale-up work on rights.

Sophia Rabliauskas, Poplar River First Nation and spokesperson for Pimachiowin Aki presented an indigenous perspective with the major boreal site nominated by Canada. She explained how land had been protected. “We believe that our land has spiritual values and all the work we have done on our land incorporate the work of our ancestors and elderly”, she noted. “Everything is tied to the land, right to that land as a heritage from the past, protected the lands, teachings of the elders are crucial to keep that alive.” First nations had initially met to discuss the nomination, later inviting provincial governments to take part. Starting with “our own beliefs and understanding” was key to success, she underlined, calling for future World Heritage nominations to acknowledge the rights of indigenous peoples. **Justin Kenrick, Forest Peoples Programme** raised cases reported by the UN Special Rapporteur on the rights of indigenous peoples, where tourism development following heritage designation led to their displacement. Inscription of sites, without the agreement of communities and indigenous peoples, remains a common challenge, and we need to better understand the interests and powerful forces involved, he said. Listing challenges identified in recent years from the Endoroi case in Kenya to the lack of community involvement in the Sangha site, he underlined how standards such as Free Prior Informed Consent should be incorporated as requirements in the Operational Guidelines, not just as recommendations, he noted, calling for further revisions. **Kristal Buckley, Deakin University – Australia** started by paying tribute and respect to the traditional owners of Hawaii. She presented lessons and findings from the on-going research partnership between Deakin University and the University of Lucerne. In Australia, this included research in Fraser island and a practitioner dialogue on rights-based approaches. She also listed findings from a collaborative event-ethnography around the World Heritage Committee meeting in Bonn, which revealed changing patterns of dealing with rights. **Gakemotho Satau, Programme Manager, Kuru Family of Organisations, Botswana and the board member of the The Indigenous Peoples of Africa Co-ordinating Committee** spoke about his experience in the Okavongo delta. There are challenges of social and economic justice, he said. Development plans may conflict with local perceptions pressing and there is a need for a bottom-up approach that brings communities to the forefront. Yet, very often this rarely happens, and there

are risks of problems being perpetuated, relocation and people being disconnected from their environments. “Wildlife and people are connected”, he stressed. **Ingunn Kvisterøy, Norwegian Ministry of Climate and Environment** underlined the importance of continuously building knowledge on the links between World Heritage Conservation and rights. These range of rights-based approaches to situations, where rights collide. “We must gain more knowledge”, she said pointing to the diversity of concerns on topics such as property rights, gender rights and indigenous rights. Discussions were started in Norway in 2008, she explained with questions about the impact of World Heritage designation. Current challenges in Norway include how to deal with situations where recognition of rights involves views diverging to those of the government, even opposition to the site nomination. **Ben Boer, Deputy Chair of the IUCN World Commission on Environmental Law** stressed the important links between environmental law and human rights law, and the importance of looking into how it is addressed at the international and national levels. “There is a need to think further on how to frame these issues and on the adequate wording”, he said. Important issues include the right to nature, participation of minorities and vulnerable groups in consultations and decision-making and use of international environmental law. **Mat Jacobson, Boreal Conservation officer, Pew Charitable Trust** presented his experience in working closely with indigenous communities in Canada and Australia. The environmental field has much work left to do, he said, and is yet to fully endorse working with a rights-based approach. There is a need to further address the question of consent and how to incorporate it into practice. Jacobson underlined how indigenous peoples and conservationists must work together to prevent degrading activities by third parties.

■ ENGAGING THE AUDIENCE

Osvaldo Munguia, Honduras shared his experience with indigenous land-titles in the context of the Rio Platano Biosphere Reserve. Inscribed in 1982 without consultation, nor taking into account indigenous land rights, these concerns had remained as an issue until 2012 when negotiations ultimately led to the recognition of land rights, and ultimately the titling of 1.4 million hectares were titled. This, however, required congress to pass a specific law. **Peter Bille Larsen** noted how such good examples were important to learn from in the context of multiple legacy issues. A commentator from Fiji stressed the importance of real inputs from communities and the legislation as a lengthy process. Jonathan Liljeblad asked about how the World Heritage system would deal with the complexity of dealing with questions of national sovereignty and different perceptions of rights. **Mechtild Rössler, UNESCO World Heritage Centre** noted how the limits of the system are real and concrete. The UNESCO World Heritage

Centre has noticed that some countries did not want changes to the Operational Guidelines in term of right based approach. Still, much can be done to reinforce existing standards and processes, build capacity of the Committee, the Secretariat and engage with the Advisory Bodies. **Peter Shadie, IUCN** raised further challenges in terms of high levels of turn-over, inflexible legislation and institutional weaknesses. **Joseph King, ICCROM** stressed the central role of the Committee in taking decisions and exemplified it with prior discussions about establishing an indigenous advisory committee. There is a need to make the Committee aware of the issues involved, he said. **Susan McIntyre – Tamwoy, Australia** requested further guidance on consent mechanisms. “How do we know if people have actually been engaged properly?”, she asked. “What would guidance look like in terms of mechanisms for consultation and participation?”. **Mat Jacobson, Pew Charitable Trust** also stressed the importance of clear references and the necessity of standards. **Nigel Crawhall, IPACC** raised the question of public access to dossier documents and decisions in terms of State Party transparency in the nomination process. He particularly emphasized the importance of making documents available at different stages in the process and clarifying questions of governance.



[Nigel Crawhall commenting from the audience, photo: P. Larsen]

Justin Kenrick, Forest Peoples Programme noted how processes are easily determined by national elites revealing a divide in practice that easily leads to local opposition. There is a need for more transparency, security and stability for people to be able to stay and practice their culture. **Stefan Gruber, Kyoto University** underlined the importance of recognizing the bigger jurisdictional context. **Jan Woolhead, WCPA** emphasized how people as local guardians of place, with longstanding relationships to these places and values, are often forgotten. **Ingunn Kvisterøy, Norwegian Ministry Climate and Environment** encouraged the group to work enforcing and examining the connection between human

rights and the World Heritage convention. There is the need to train the committee on the meaning of free prior informed consent and there is the need to also continue working with the communities also after inscription. They are not static, nor homogenous. Involvement is not just before nomination but also after listing has taken place. We should continue to build knowledge, she said, in order for the Committee to make informed decisions. **Terence Hay-Edie, UNDP Small Grants Programme** called for more attention to reporting processes, training of government representatives and site managers illustrating such work with an example from Thailand.

■ WHAT ARE YOUR THREE PRIORITY ACTIONS IN ORDER TO SCALE UP WORK ON RIGHTS?

After the lively debate, the final part of the discussion involved each panellist listing their own priorities to scale-up work on rights.

Gakemotho Satau noted how UN processes are far from the local level. He called for action plans and national decisions on management that acknowledges indigenous rights and decentralisation. **Sophia Rabliauskas** emphasized the importance of long-term work as a learning process. “We want to build a strong and healthy communities, the lesson learned is that it is important to stand on the side of those convictions.”, she said. We have been told that “you don’t have a chance to succeed in the process”. We have the right to be listened to and respected by the people who make the policies. We’ve been criticised a lot, but there is need to work with governments and we have approached them. We have done land use planning, identifying traditional territory, to identify the steps of where we want to go. Mutual respect is needed between national laws and traditional laws, she concluded.



[Gakemotho Satau speaking to further action, photo: P. Larsen]

Mat Jacobson commended how the World Heritage Centre and Advisory Bodies have come far in past decade, yet noted there is more work to be done.

Justin Kenrick called for better recognition of people in the landscape, transparency and accountability, equally allowing for communities to take on nomination processes themselves. Conservation is strongest, when begun from the local level. **Terence Hay-Edie** recommended the establishment of a local consultative body in every nomination. **Ingunn Kvisterøy** called for continuing the efforts of the Our Common Dignity initiative to gather knowledge, also raising the question of consultations on the establishment of tentative lists. Better consultations and emphasis on rights in upstream processes would be critical, she said. Further training of the World Heritage Committee on these topics, in particular, would be important. **Ben Boer** recommended mechanisms to look at legislative processes at the national level noting how only 5 countries currently have World Heritage-specific legislation. We need to look further into the recognition of rights, access to information, rights to participation, and the ability to require that rights are met. He also recommended further addressing the question of customary law.

Mechtild Rössler underlined the need to finalize the UNESCO policy on indigenous peoples. She stressed the importance of policy coherence and the role of the sustainable development policy, which feeds into work on the 2030 agenda. There is a need to step up action and bring policy into implementation by acknowledging and working with cultural rights, indigenous rights and more. We need to learn from each other, learn from the site level as each site is different, she said.

Joseph King called for more action before handing in nominations. There is a need for early action with a national focus as things are usually already late when they reach the World Heritage Committee level. Upstream work is needed in the identification and management of sites. This requires more communication, King said. While it is known that States Parties are often in a hurry, there is a need to slow down the processes, and build capacity at the international level. ICCROM will work with IUCN, with the Norwegian support on rights issues, King concluded. **Peter Phillips** noted the important role of advisory bodies in the evaluation process, and also called for better guidelines, a protocol on consent and good governance. ICOMOS and the Advisory Bodies could encourage governments to take enough time to get it right. This may not always be a popular message, but it is vital for good outcomes, and further guidance would help to manage expectations

and guide the process. **Peter Shadie** expressed that IUCN would continue with the reforms that are going on and the nature-culture agenda provides a good entry into the World Heritage Convention and the system. Live-streaming the committee sessions has improved transparency a lot. Systematic screening is needed with the UN system of human rights, he recommended. **Kristal Buckley** underlined the importance of the right wording. Right holders are not the same as stakeholders, she said. Calling it rights can be uncomfortable at times but it has helped the agenda. Rights holders are specific group of people. We have to be nuanced about whose rights and whose interests we are talking about. Practitioners are hungry for better knowledge and skills, and feel vulnerable with these issue, there is wish for more capacities. Operational Guidelines would need a reform, she concluded. A final question from the audience concerned the already inscribed sites. How are those issues being challenged and addressed at the moment? “You are beautifully optimistic but how to deal with the legacy issues?”, it was asked. **Mechtild Rössler** the constant flow of letters on such issues, also mentioning the 2012 meeting in Copenhagen (Disko and Tugendhat 2013). Monitoring and reporting processes of the Convention are the main and effective ways to do with the issues, she said. **Peter Shadie** noted how IUCN believes there is a need to look at the sites through mechanisms such as the World Heritage Outlook. The next round has started and it represents a way to feed into the formal system. ICOMOS is now looking into it to understand whether it could be applicable to cultural heritage sites too. Overall, he said, there is a need to make the committee focus on conservation and management as well as listing sites. A point reiterated by Joseph King. **Terence Hay-Edie** mentioned the use of safeguards in the Global Environmental Facility (GEF) as well as the a scientific and technical advisory panel, a governance assessment and people on staff to ask the right questions. **Mat Jacobson** called for investments in building trust, hard work and addressing what is already happening now. **Ingunn Kvisterøy** cautioned that not all issues fall under the World Heritage system. In any case, she said, Advisory Bodies’ and the World Heritage Centre’s capacity will need to be increased to address these issue. Fresh knowledge and advice is needed. Committees changes over time, how problems are addressed evolve.



[Ingunn Kvisterøy during the final discussion, photo: P. Larsen]

Ben Boer spoke to specific proposals and documents, not least the growing use of heritage impact assessments, but also cultural assessments and human rights assessments. Stefan Gruber talked to the importance of making people aware of their rights, as an on-going process.

■ PANELISTS

Mechtild Rössler, UNESCO World Heritage Centre
 Joseph King, ICCROM
 Peter Shadie, IUCN
 Peter Phillips, ICOMOS
 Terence Hay-Edie, UNDP Small Grants Programme
 Sophia Rabliauskas, Poplar River First Nation, spokesperson for Pimachiowin Aki and recipient of the Goldman Environmental Award
 Justin Kenrick, Forest Peoples Programme
 Kristal Buckley, Deakin University - Australia
 Gakemotho Satau, Programme Manager, Kuru Family of Organisations, Botswana/ IPACC
 Ingunn Kvisterøy, Norwegian Ministry of Climate and Environment
 Ben Boer, Deputy Chair of the IUCN World Commission on Environmental Law
 Mat Jacobson, Pew Charitable Trust

Introduction and moderator: Peter Bille Larsen, University of Lucerne

■ REFERENCES

Disko, Stefan and Tugendhat, Helen (2013), 'International expert workshop on the World Heritage convention and indigenous peoples, 20-21 September 2012 – Copenhagen, Denmark', (Copenhagen: IWGIA).

■ FURTHER INFORMATION

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