



**IUCN, World Heritage and Evaluation Processes**

**Related to**

**Communities and Rights**

**An independent review**

**By**

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# 1. Introduction

## ***Motivation and justification***

As an advisory body to the World Heritage Convention, the IUCN each year undertakes independent evaluations of nominated natural properties, as well as undertaking joint evaluations with ICOMOS of “mixed” (natural and cultural) properties. IUCN may also provide input to ICOMOS evaluations of cultural landscapes.

The purpose of this review as described in the Terms of Reference (see annex 1) was to:

“briefly analyse the overall IUCN framework related to rights in the World Heritage context and undertake a desk based review of IUCN’s evaluation processes for nominations of sites to be recognised on the World Heritage List, in specific relation to the identification and recognition of issues related to rights of local communities (including indigenous peoples) within nominations submitted by signatory States Parties to the World Heritage Convention.

While some space is dedicated in the first sections to overall conceptual and policy matters, it was also framed as a rapid review of current evaluation operations and options for strengthening procedures in relation to community and rights concerns.

“The exercise is considered a learning-by-doing process explicitly aiming at generating lessons and tools to be tested by IUCN and its evaluators in 2012. The emphasis is therefore operational. Draft proposals developed will be tested by IUCN, its panel and field evaluators and adapted accordingly.”

The brief thus forms part of a broader effort since the 1990s to strengthen World Heritage site nomination and evaluation processes. Completion checks were introduced in 1999, and nominations are overall becoming increasingly comprehensive through detailed and more annotated formats including a strong emphasis on participation as the Director of the UNESCO World Heritage Centre, Kishore Rao, noted in the most recent edition of the nomination evaluation manual (UNESCO 2011b: 2-3). Indeed, this brief complements wider efforts to consolidate the participation of local communities in the nomination process to address shared responsibilities, resource use and local knowledge (ibid:52-54) from the advisory body/ evaluation angle. As part of its specific mandate as an advisory body, the IUCN continuously seeks to strengthen its performance and process (Cameron 2005; IUCN-WCPA 2006). This assignment particularly addresses the growing concern and experience with community and rights issues emerging in natural site nominations. Whereas IUCN has taken on board rights-based approaches, lack of operational frameworks are often underlined as among the obstacles hindering more effective integration (Greiber, et al. 2009). This assignment and its outputs form part of supporting and guiding IUCN in terms of integrating rights-based approaches in its World Heritage work.

## 2. A brief overview of the broader IUCN framework of rights in relation to World Heritage

### ***WH, communities and rights – emerging trends and opportunities***

Throughout its 40 year history, work in the World Heritage context on community and rights issues have gradually taken on more importance and received explicit attention, not least through the adoption of the fifth “C” to “enhance the role of communities in the implementation of the World Heritage Convention” (WHC, 2007 in Christchurch, New Zealand). At the time, community was defined broadly as non-state actors (UNESCO 2007), and the argumentation involved several references to rights. This essentially builds on what is already in the convention in terms of Parties adopting “a general policy which aims to give the cultural and natural heritage a function in the life of the community” (Article 5a). Clearly, approaches to community conservation and development are also increasingly appearing in specific processes. In part, human presence is no longer considered an anomaly in the Natural World Heritage context, but is at least partially recognized, evaluated and referred to.

The Convention framework increasingly alongside wider conservation policy seeks to contribute to wider sustainable development objectives and diverse management approaches. Site renomination to acknowledge cultural values has, for example, taken place. The 1992 inclusion of cultural landscapes led the addition of cultural criteria to Tongariro National Park in New Zealand and the Uluru- Kata Tjuta in Australia. There are now 66 recognized cultural landscapes worldwide<sup>1</sup>. The term encompasses a diversity of interactions between human kind and the natural environment such as reflecting certain forms of land-use and specific spiritual relations. Such developments increasingly seek to bridge the common separation or gap between outstanding natural or cultural values and cultural values from the perspective of contemporary communities.

At stake are thus evolving standards for linkages between the “cultural” and the “natural” and furthermore moving beyond one-size-fits all models of World Heritage management. Rennell Island in the Solomon Islands was under customary ownership when it was nominated<sup>2</sup>. Many sites today contain a mix of different land tenure forms, although the general norm is for a World Heritage Site to be a protected area or encompass several of them.

More broadly speaking, not many countries and community organizations are aware of the potential under the Convention and its operational guidance, which *de jure* allows State Parties to nominate World Heritage sites harbouring distinct social, cultural and legal diversity they often harbour. In practice, many sites have

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<sup>1</sup> <http://whc.unesco.org/en/culturallandscape/>, accessed 19/5/2012.

<sup>2</sup> It was debated back then (Kyoto, 1998), and arguably the recognition and working through customary ownership and management practices remains to be consolidated while clearly acknowledged in the Operational Guidelines. This being said, such recognition has not prevented reporting from being critical of developments there. Highly problematic cases – crisis:

<http://whc.unesco.org/archive/periodicreporting/apa/cycle01/section1/sb-summary.pdf>

undertaken work to address customary ownership and rights. In 1985, two years prior to World Heritage listing, the traditional owners of Uluru, Anangu, were handed back the title deeds of the national park in return leasing it back to Parks Australia for 99 years. The Anangu and Parks Australia currently work together through “joint management”. It is not surprising that the recent volume of the Heritage journal is dedicated to indigenous peoples’ concerns. Considerable progress is being made in many countries, still to be adequately reflected by international processes. In practice, there is often a separation between WH expertise and processes, and social processes to recognize and defend rights. This partly reflects policy gaps in relation to rights in general and indigenous peoples rights in particular (Cunningham 2012). At the tenth session of the UN Permanent Forum on Indigenous Issues, a joint statement referring to the “Continuous violations of the principle of free, prior and informed consent in the context of UNESCO’s World Heritage Convention” was issued on behalf of a large group of indigenous organizations. The statement emphasized inscriptions taking place without the free, prior and informed consent of indigenous peoples concerned calling for adequate consultations and deferrals in the absence of this<sup>3</sup>. While the conclusions are being discussed, there point here is not to single out such deficits, but rather to show the need for putting in place a more comprehensive approach to rights and World Heritage.

A decade ago, there was a proposal to set up a World Heritage Indigenous Peoples Council of Experts. Such attention reflects the high stakes in relation the collective rights of indigenous peoples. As part of the Programme of Action for the Second International Decade of the World’s Indigenous People UNESCO was requested to “establish mechanisms to enable indigenous peoples to participate effectively in its work relating to them such as ... nomination of indigenous sites in the World Heritage List”. Indeed, the World Heritage Committee at its 35<sup>th</sup> session encourages State Parties to:

- “Involve indigenous peoples and local communities in decision making, monitoring and evaluation of the state of conservation of the properties and their Outstanding Universal Value and link the direct community benefits to protection outcomes,
- Respect the rights of indigenous peoples when nominating, managing and reporting on World Heritage sites in indigenous peoples’ territories” (WHC-11/35.COM/20, p. 271)

Several presentations in the 2003 conference on linking World Heritage with local values also emphasized the centrality of rights (Merode, et al. 2004). The issue here is the uneven level of progress in this respect. UNESCO has only recently (late 2011) embarked on developing an indigenous peoples policy<sup>4</sup> and indigenous issues are being included in the theme “World Heritage and Sustainable Development: The Role of Local Communities in the Management of World Heritage”. Moreover, the UNESCO World Heritage Centre is in the process of developing policy guidelines for the Convention, at the request of the World Heritage Committee.

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<sup>3</sup>[http://www.iwgia.org/iwgia\\_files\\_news\\_files/0314\\_UNPFII\\_2011\\_Joint\\_Statement\\_on\\_FPIC\\_and\\_orld\\_Heritage.pdf](http://www.iwgia.org/iwgia_files_news_files/0314_UNPFII_2011_Joint_Statement_on_FPIC_and_orld_Heritage.pdf), accessed 8/4/12.

<sup>4</sup> It should be noted however that World Heritage affairs, while hosted by UNESCO, are not *per se* governed by UNESCO policy.

Addressing community and rights concerns require long-term processes rather than quick-fixes, as most will readily acknowledge. Efforts spearheaded by ICOMOS and ICOMOS Norway have recently sought to shed light on how a Convention without specific references to human rights may nonetheless address these concerns in heritage deliberations (Sinding-Larsen 2012). This has led to the “Our Common Dignity” agenda notably since November 2011 involving a working group of the advisory bodies and the UNESCO WH Centre seeking to among other things develop good practice about WH evaluations and monitoring.

Customary rights may end up being extinguished or long-standing claims and conflicts may in fact be resolved through the significant attention sites up for World Heritage recognition receive from State authorities. They are matters that may be positively or negatively affected by a given nomination process, something evaluations in turn need to be able to capture and help State parties in addressing.

The earlier issues are addressed and understood, the higher likelihood that the nomination will effectively contribute to the effective protection and realization of indigenous peoples’ and other local community rights. In effect, a growing number of evaluations in natural sites address the concerns of indigenous and local communities (see comparative matrix further below). IUCN and ICOMOS, although explicitly not involved in preparation of nominations in view of their role to evaluate them, can through the evaluation process in a sound and well-documented manner, help clarify to what extent nominations processes and documents have addressed such concerns adequately. They can also make sure that site-specific recommendations as fully as possible reflect and support action to address community and rights concerns.

### ***IUCN framework in relation to World Heritage and rights***

What constitutes the IUCN framework in relation to World Heritage and rights? There are two major building blocks to take into consideration from an IUCN perspective. On the hand, there is the specific mandate of the IUCN in relation to the World Heritage Convention as a technical advisory body. On the other hand, there is a wider move within the IUCN and its membership to analyze, promote and address community and rights concerns as a scientific, policy and practice field.

IUCN has recently together with other advisory bodies and the Secretariat embarked on a more systematic exploration of rights-based approaches (Sinding-Larsen 2012). Overall the IUCN evaluation process is legally defined by the specific mandate provided under the World Heritage Convention in articles 8, 13 and 14. This positions the IUCN as the formal technical and scientific advisory body on natural heritage and the general implementation of programme and project work of the Committee. Article 14 speaks of the WHC using the respective “areas of competence and capability” (article 14) of the advisory bodies. For more than 3 decades (since 1979) IUCN has supported the World Heritage Committee to provide technical advisory services on eight general functions, and the services are the subject of a combination of contracted work and a substantial voluntary contribution of IUCN and its networks. Each of these functions offers opportunities for the mainstreaming of rights outlined in the following matrix.



## IUCN World Heritage Functions and opportunities for rights inter-linkages

IUCN WH Functions	Rights linkages
Evaluation of new nominations;	Evaluating nominations and associated processes from a community and rights angle as integral dimension
Monitoring the status of existing sites;	Monitoring progress on addressing rights concerns (respect, protection and realization)
Participation in training and technical workshops	Facilitating training and technical workshops on community and rights concerns Targeted training for duty-bearers and right-holders
Management of information (with the UNEP World Conservation Monitoring Centre (UNEP-WCMC));	Facilitating the integration of community and rights concerns as part of the information system and site data sheets
Communication and promotion activities;	Communicating good practice and state of the art guidance on community and rights concerns in the WH context
Advice on international assistance requests;	Facilitating inputs on assistance requests related to community and tenure concerns (revisit format with WH Centre)
General standard-setting on protected area management;	Advising the WH Committee and the UNESCO WH Centre on possibilities for strengthening standard-setting in relation to communities and rights in relation to natural sites, mixed sites and cultural landscapes
Contributing to the Global Strategy for a representative World Heritage List (e.g. identification of gaps in WH list).	Strengthening the integration of nature-culture inter-linkages, indigenous heritage priorities and broader issues linked to biocultural diversity in the global strategy

(Built from Thorsell and Hogan 2009; UNESCO 2011a)

The wider mandate and emphasis within the IUCN and its membership to analyze, promote and address community and rights in relation to conservation concerns is part of the technical capabilities IUCN brings to the World Heritage Convention and its *Operational Guidelines*. This includes the very mission of the Union and the overall IUCN body of policy in relation to human rights and conservation and general policy statements in the making. It also includes resolutions and policies in relation to specific concerns such as indigenous peoples and their collective rights. Resolution 4.056 in 2008 (“rights-based approaches to conservation”) “promotes the analysis of rights-based approaches as a crosscutting principle within IUCN and its membership”, and to “undertake further work to support and guide IUCN on the implementation of policies and actions reflecting a rights-based approach to conservation”. The overall objective for the IUCN involves “working towards ensuring that the protection of rights and biodiversity conservation become mutually reinforcing”.

## Human rights and conservation principles

“Principles concerning human rights in conservation prepared by the IUCN Environmental Law Centre (ELC):

1. Promote the obligation of all state and non-state actors planning or engaged in policies, projects, programmes or activities with implications for nature conservation, to secure for all potentially affected persons and peoples, the substantive and procedural rights that are guaranteed by national and international law.
2. Ensure prior evaluation of the scope of conservation policies, projects, programmes or activities, so that all links between human rights and the environment are identified, and all potentially affected persons are informed and consulted.
3. Ensure that planning and implementation of conservation policies and actions reflect such prior evaluation, are based on reasoned decisions and therefore do not harm the vulnerable, but support as much as possible the fulfilment of their rights in the context of nature and natural resource use.
4. Incorporate guidelines and tools in project and programme planning to ensure monitoring and evaluation of all interventions and their implications for human rights of the people involved or potentially affected which will support better accountability and start a feedback loop.
5. Support improvement of governance frameworks on matters regarding the legal and policy frameworks, institutions and procedures that can secure the rights of local people in the context of conservation and sustainable resource use.” (Greiber, et al. 2009: viii)

IUCN has elaborated a policy statement on rights and as well as adopting the following framework with other conservation organizations.

<b>Conservation and Human Rights Framework<sup>5</sup></b>	
<b>Commitment to</b>	<b>Implementation</b>
<p><b>1. Respect human rights.</b> Respect internationally proclaimed human rights and make sure that we do not contribute to infringements of human rights while pursuing our mission.</p> <p><b>2. Promote human rights within conservation programmes</b> Support and promote the protection and realization of human rights within the scope of our conservation programmes.</p> <p><b>3. Protect the vulnerable.</b> Make special efforts to avoid harm to those who are vulnerable to infringements of their rights and to support the protection and fulfilment of</p>	<p>5. Further develop these principles and implementation measures in consultation with our constituencies Discuss and develop the principles and implementation measures with our constituencies and with support as needed from individuals and networks that have relevant experience and expertise.</p> <p>6. Establish relevant institutional policies Establish our own institutional policies to ensure that these principles are fulfilled; communicate our policies internally and externally and periodically review and revise them as needed.</p> <p>7. Ensure implementation capacity is in place Determine the competencies needed within our organizations to implement these policies and principles and ensure that the necessary capacity is in place.</p> <p>8. Address conservation-human rights links in the design, implementation and monitoring of our programmes, including by: Undertaking impact assessment and consultation in advance of conservation interventions: Conduct prior evaluation of the scope of proposed conservation policies, programmes, projects and activities, so that the links between human rights and conservation are identified, and ensure that potentially affected persons are informed, properly consulted, and able to participate in decision making about relevant interventions. This includes respect for the right of indigenous peoples</p>

<sup>5</sup> Available in English, French and Spanish through <https://community.iucn.org/cihr/>

<p>their rights within the scope of our conservation programmes.</p> <p>4. <b>Encourage good governance.</b> Support the improvement of governance systems that can secure the rights of indigenous peoples and local communities in the context of our work on conservation and sustainable natural resource use, including elements such as legal, policy and institutional frameworks, and procedures for equitable participation and accountability.</p>	<p>and local communities with customary rights to lands and resources to free, prior, informed consent to interventions directly affecting their lands, territories or resources.</p> <p>Reflecting local concerns in design and implementation: Ensure that the design and implementation of conservation interventions reflect such prior evaluation and the participatory decisions that were made.</p> <p>Monitoring and adapting: Monitor and evaluate interventions and their implications for human rights, as a basis for ongoing improvement.</p> <p>9. Establish accountability measures</p> <p>Establish processes to monitor and evaluate compliance with our policies and principles on a regular basis, and effective, accessible and, transparent procedures to receive and resolve complaints.</p> <p>10. Apply the policies and principles in agreements with subcontracting organizations and implementing partners Include appropriate provisions on compliance with these policies and principles in subcontracts, partnership agreements and capacity-building activities with other implementing organizations.</p>
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Translated into the advisory body mandate this implies:

1. Promoting the analysis of rights-based approaches in a WH context both by IUCN itself and its membership (i.e. State Parties nominating WH sites and undertaking tentative listing)
2. Undertaking further work to support and guide IUCN on RBA in a WH context
3. Collaborating with the WH Committee, the Secretariat and other advisory bodies to apply policies and principles
4. Strengthen the evaluation process to enhance State and right-holder capacity to identify links between human rights and WH conservation, and to do the same for other WH processes, such as monitoring.

It should be underlined that the IUCN has an advisory body mandate, and that this involves supporting and complementing work by the World Heritage Centre, the Secretariat and State Parties themselves. It is not IUCN's responsibility as such to conduct full prior evaluations of a given World Heritage site nomination to identify rights issues and engage with affected persons, but rather to technically support the process whether through wider guidance (see further discussion below) or specific evaluations. States will for example in specific World Heritage contexts put in place efforts to respect, protect and fulfil rights, which the evaluation can address and assess.

**IUCN guidance and evaluations may enhance the capacity of State Parties to:**

Revisit the nomination process, so that the links between human rights and conservation are identified, and ensure that potentially affected persons are informed, properly consulted, and able to participate in decision making about relevant interventions. This includes respect for the right of indigenous peoples and local communities with customary rights to lands and resources to free, prior, informed consent to interventions directly affecting their lands, territories or resources.

## What rights?

“Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible... International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.”

Source: [www.ohchr.org](http://www.ohchr.org)

- ☐ Beneficiaries of rights or right-holders may be individuals as well as groups or peoples. Obligations in terms of respecting, protecting and implementing human rights lie with State parties.
- ☐ From an IUCN perspective the kinds of rights addressed concern both international standards and domestic measures and legislation.

“International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.”

Source: [www.ohchr.org](http://www.ohchr.org)

International standards start from the International Bill of Human rights including Universal Declaration of Human Rights and the two international covenants<sup>6</sup>. More than 80 percent have ratified 4 or more of the 9 core international human rights treaties. These treaties include economic, social and cultural rights, civil and political rights, the elimination of racial and gender discrimination, protection against torture and forced disappearance and the rights of women, children, migrants and persons with disabilities. This basically means that the majority of State Parties are committed to range of both procedural and substantive rights as the following two boxes show.

### Examples of Substantive Rights

- Non-discrimination and equal protection of the law
- Right to life
- Prohibition of force and child labour
- Freedom of movement and residence
- Right to privacy and home life
- Right to property
- Freedom of religion
- Right to an adequate standard of living (food, medicine, clothing, housing, water)
- Cultural rights
- Minority rights

<sup>6</sup> There are 160 Parties to the International Covenant on Economic, Social and Cultural Rights and 167 Parties to the International Covenant on Civil and Political Rights largely overlapping with State Parties to the World Heritage Convention.

- Right to safe and healthy working conditions
- Freedom of assembly and expression/opinion
- Right to health
- Right to privacy
- Right to self-determination of peoples
- Right to a certain quality of environment

(Greiber, et al. 2009: 13)

#### **Examples of Procedural Rights**

- Access to information
- Participation in decision-making
- Access to justice/judicial review
- Due process/fair hearing
- Substantive redress
- Noninterference with international petition (where applicable)

(Greiber, et al. 2009: 15)

International standards include both binding and non-binding instruments. The United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007 may not be binding, for example, yet is considered a “universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples”<sup>7</sup>. The ILO Convention 169 on the rights of indigenous and tribal peoples is in turn binding for the 22 countries having ratified it as well as being a source of domestic legislation in many others.

#### **Core collective indigenous rights**

- The right to self-determination
- The right to equality and non-discrimination;
- The right to cultural integrity
- The rights over lands, territories, and natural resources
- The right to participate in the use, management and conservation of natural resources
- The right to self-government and autonomy
- The right to free, prior, and informed consent

A core question thus relates to what rights should be addressed when evaluating World Heritage nominations. The bottom-line is that the rights pertinent to a given World Heritage context are multiple and will often vary between countries and individual sites. This may range from disability rights in terms of access to a given heritage sites to indigenous territorial rights when sites are found to overlap with customary lands and waters of indigenous and tribal peoples. Nor is the split between domestic and international standards given beforehand.

Countries may be in a process of studying ratification or even adopting or testing international standards and principles in practice without yet having ratified the

<sup>7</sup> <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx>

treaties at stake. It is therefore critical to keep a broad and inclusive gaze when evaluating nomination processes.

IUCN, similar to wider agencies employing Rights-based Approaches (NORAD 2001: 20), generally emphasizes promoting analysis in the highest possible standards framework, acknowledging that international collaboration, may offer important tools to enhance respect for rights also where they have not yet been recognized. For many rights holders potentially affected by World Heritage site nominations, the key challenge remains inadequate recognition and respect of their territorial and resource rights. In other words, using international standards related to indigenous peoples, for example, when indigenous identity, territories and rights are claimed remains relevant for the IUCN evaluation even if international standards may not have been adopted yet by the specific country.

A recommended working premise for IUCN is therefore an inclusive rather than minimalist recognition of right-holders in the evaluation process. This is particularly crucial when dealing with indigenous peoples, where a wide range of national and local categories as tribal, native, ethnic groups, pastoralists and hunter-gatherers may be employed. Different categories should not hinder a shared framework for evaluating how State Party efforts to reflect such community and rights concerns have been integrated in the nomination process outputs.

### **3. Lessons learned about challenges and opportunities**

It is well-established that the relationship between rights and conservation is complex, and this is equally the case within World Heritage. Whilst there are many good examples, there is recognition that a number of nomination processes have generated problems and discontents due to rights concerns, just as there is awareness of some State Parties spearheading far more proactive engagement with and use of rights as an integral dimension of the nomination process. Heritage conservation may in effect allow for the protection of rights, just as it may potentially clash with or infringe upon them. The following synthesis of issues lists *some* of the major concerns identified in discussions with informants and the literature reviewed. The list is far from comprehensive, but seeks to illustrate the breadth and diversity of issues at stake. Specific key findings have been extracted for the relevance of the IUCN evaluation process.

#### ***Overall guidance on World Heritage and communities and rights growing, but still deficient***

There has been a marked increase in World Heritage Committee references and recommendations to community and rights issues commending or requesting State Parties to address and resolve outstanding matters. State Parties increasingly present detailed information in this respect, just as wording is increasingly apparent in guidance material. Yet, there are also inconsistencies recognized across the line of activities, in part stemming from the lack of a comprehensive approach to community and rights concerns. A major reason also concerns rapidly international rights standards and technical frameworks to put them into practice. New standards and practices generate new needs, also in the World Heritage context. While references to participation and local values have become more common, the approach needs to be far more systematic. The current 2011 manual for “preparing world heritage nominations”, for example, includes no specific wording on either rights or community tenure issues. Although some aspects have been strengthened, others are lacking largely reflecting the deficient nature of the Operational Guidelines. Core nomination guidance is thus yet to fully reflect the importance attached to community concerns and rights by the World Heritage Committee and the advisory bodies in a comprehensive manner. While some countries have advanced such work stimulated by domestic policies or other international standards, there is a need for upstream guidance to facilitate State Party engagement on the issues.

Key finding: Core nomination guidance is yet to fully reflect the importance attached to community concerns and rights by the World Heritage Committee and the advisory bodies in a comprehensive manner

Recommendation: the current manual for “preparing world heritage nominations” should be revised with a dedicated chapter on community and rights concerns along with relevant considerations in the Operational Guidance

## ***Working with rights-holders is different from stakeholders***

Engaging with rights-holders implies different approaches compared to working with other stakeholders in the nomination process. While stakeholder involvement and rights-based approaches at times are used interchangeably, they imply very different things. Right-holders such as indigenous peoples are thus currently bundled together with other stakeholders as researchers, commercial interests and NGOs without clearly identifying the differences in terms of rights and obligations (See e.g. UNESCO 2011b). Nomination processes that have taken on board specific right-holders, in turn, illustrate the specific rights and processes this implies. This was for example evident in approaches to deal with aboriginal rights in Australia. Yet, it appears that IUCN evaluation processes do not assess in a systematic manner whether right-holders have been adequately identified as part of the nomination process. Whereas the identification of indigenous peoples is growing, it also remains contested apparently preventing systematic identification of indigenous rights concerns in evaluation processes. While the topic, for example, receives fairly comprehensive treatment in evaluations in some countries with relatively strong legislation and longstanding indigenous engagement with heritage processes, evaluations are much weaker in countries lacking such practice. Paradoxically, the latter are often countries where reviewing how rights have been addressed in the nomination are most needed. In addition to the identification of indigenous rights-holders, most sites will involve a complex of different types of rights holders, potentially affected by WH nomination. These may include children, migrants, settlers or addressing specific gender concerns and rights. Again, nominations differ markedly in terms of the extent to which such different right-holders are adequately identified in the evaluation process.

Key finding: Recognizing the difference between stakeholders and rights-holders, and adequately identifying rights-holders in a systematic remains weak in the IUCN evaluation process as well as the preparatory guidance for State parties

Recommendation: IUCN is recommended to systematically engage with State parties and request the early identification and mapping out of stakeholders and right-holders as well as their respective stakes and rights upon the initiation of the site evaluation process. A brief annotated guidance note may be require to facilitate State responses to information requests

## ***Recognizing complexity and working systematically***

Several informants highlighted the complexity of dealing with community and rights issues in the World Heritage context. This was underlined as another fundamental reason for strengthening IUCN engagement on the topic in the evaluations. Firstly, some sites harboured particularly complex make-ups of different right and stakeholders. Secondly, such complexity required prolonged engagement. Thirdly, community engagement was rarely a simple “either or” scenario, but involved a whole range of issues, person issues and challenges. In some cases, there was a perception that field missions due to their short durations easily risked missing the complexity of a given topic especially if evaluators lacked knowledge of the region



and issues. For State Parties investing time and resources to address these, it was deemed important that IUCN evaluation paid due credit to both the complexity of the issue and the wide range of efforts being made. A more systematic approach to the range of community and rights issues was deemed important both to recognize what was being done, but equally to allow for evaluations to clarify complexity and identify workable follow-up solutions where problems were identified.

Key finding: The evaluation process is deemed critical to assess community and rights concerns, yet needs to recognize complexity, avoid simplistic judgements and pay due attention to the wide range of efforts undertaken by State Parties in a systematic manner

Recommendation: IUCN is recommended to retain and further develop a systematic approach to community and rights issues through strengthened consultation, safeguard mechanisms and evaluation procedures

### ***Rights may be misunderstood as problematic for World Heritage recognition and site management***

In a number of countries, informants noted World Heritage processes having intensified state expropriation of community lands and the relocation of settlements. Such action may reflect a misconception that World Heritage nomination requires community presence and rights to be extinguished in order to heighten chances for recognition. This may, in part, also result from the fact that IUCN Category 2 protected areas are often a preferred management model for many World Heritage sites without fully exploring alternatives. Depending on the site and the level of civil society involvement, such neglect of basic rights would only in some cases be raised and addressed in the nomination and evaluation process. Within recent years, “fortress” approaches and relocation interventions have come under criticism in the protected area community not only in terms of social impacts, but also in terms of relying on Western notions of nature and neglecting longstanding human ecological relationships and other management possibilities. This confirms the importance of further upstream guidance in this respect, while reinforcing the need for advisory bodies to identify and address how rights are being addressed in the nomination process and its preceding steps.

Key finding: Community and rights concerns may by some perceived as a “problem” or obstacle to effective World Heritage designation

Recommendation: Far more explicit policy guidance from the IUCN, advisory bodies the World Heritage Centre is recommended to raise the importance of rights and their compatibility with World Heritage recognition. Further guidance should be developed on how to mainstream and work with community concerns and rights from nomination to designation and implementation

**Legacy issues: “Rights were already infringed upon before the nomination process, so recognition does not change anything”**

One argument raised concerns the fact the World Heritage *recognition* itself does not involve a direct change of tenure and protection arrangements. It merely recognizes a site and form of land use e.g. a park that is already there, it is argued. Thus, for example, it is argued, by some, that relocation of people of a protected area process happening prior to the WH should not be used as an argument against WH recognition, merely recognizing the values but not fundamentally transforming the tenure set-up of the site. Conversely, others have indeed used prior relocation and claims to those lands as arguments against site recognition in part noting how WH processes may accelerate or intensify relocation processes. The debate is important, yet more emphasis is needed to consider the transformative potential in the situation. While recognition as such may not in principle change a given tenure situation, it in practice often does either through particular evaluation recommendations for the inclusion of certain areas or bufferzone-related recommendations. World Heritage processes, decisions and recommendations may have fundamental implications for zoning arrangements, land and resource tenure issues, which undeniably in either direct or indirect manners affect the rights of communities. In addition, rights infringement are rarely finalized, but may be contested in more or less open manners, as they may be revoked, repaired or further deepened. Historical infringements are often kept alive through claims, informal use or entrenched judicial process. They may certainly be felt by e.g. by people living with the long-term impacts of resettlement. Furthermore, it is evident that World Heritage recognition has important, often dramatic, consequences for third-party investments and capture of World Heritage-related land and resources both within the site itself and the bufferzone. Unless, community land and tenure is adequately addressed in the preparation process, indigenous and local communities are likely to suffer from increased land and housing prices etc. This is particularly so if prior neglect of rights is not repaired in the nomination process. Conversely, WH recognition may be a leverage point to revoke or repair prior infringements, restore relationships with land and resources, and pursue socially beneficial management and economic relations. Unless infringements prior to WH processes are addressed in explicit terms, actual potential to resolve and repair the rights deficit may be lost, and even further deepened.

Key finding: there is need for evaluation missions to assess whether and how State parties have adequately identified both past and present rights concerns within the nomination site.

Recommendation: IUCN is recommended to include both past and present rights issues in the assessment of a given nomination document when writing up final findings and recommendations

## ***“Community and rights concerns only appear if there are special reports or protest”***

This comment largely may not reflect the full picture of debates preceding an evaluation report, yet does help to explain why certain community and rights issues in some cases are overlooked. While many evaluators will have an eye on such concerns, civil society organizations active on community and rights concerns may not be actively involved in raising such concerns in a given country, nor are they systematically picked up by the evaluation process. This essentially confirms the relevance of this very exercise, and the need for a more systematic approach in the evaluation process.

Key finding: Treatment of community and rights issues remains somewhat too “dependent” on the level of civil society reporting and critique. There is a need to systematically broaden and implement consultation processes as part of the evaluation process.

## ***Rights concerns neglected in evaluation processes***

In prolongation, multiple cases of indigenous and local community rights not being identified as part of the evaluation process have appeared throughout the years. The recent case of the Kenya Lake System in the Great Rift Valley, inscribed as a World Heritage site in 2011, is a case in point. The Endorois were relocated from the Lake Bogoria following earlier reserve creation, a concern that was not picked up in the evaluation of the nomination process. A major reason for this was the lack of mentioning in the nomination document or field consultations during the field evaluation. The African Commission on Human and Peoples Rights followingly considered World Heritage inscription a violation of the Endorois’ right to development under Article 22 of the African Charter’ (ACHPR/Res.197 (L) 2011). What is evident is that even where consultations are in place, unresolved human rights matters e.g. in terms of access, benefits or in this case relocation and long-standing grievances, may not appear on the evaluation “radar screen”. There are multiple reasons for such issues not being raised. For one, the Lake Bogoria case, revealed how grievances of indigenous and local communities did not appear through the stakeholder consultations and public hearings, which did take place during the field evaluation. The case is notable because the nomination, according the evaluator, presented evidence of an extensive 10 year consultation process, which in many ways was considered exemplary. Still, a major point of discontent was not raised creating a problematic situation. This is far from a unique case, but reflects the challenge of making consultations around the nomination process and documentation as inclusive as possible. In relation to other evaluation processes, another informant spoke of how evaluation arrangements were easily “staged” by State Parties interested in avoiding problematic areas including possible human rights violations. It was noted how this might manifest itself in community meetings and consultations organized and selected by State officials etc. Furthermore, key right-holders may be unaware of the nomination process suggesting the need for more proactive outreach to indigenous and local community representatives if

genuine participation is sought. This is particularly clear in natural sites often involving large distances, poor infrastructure and weak communication means.

Key finding: Critical rights concerns cannot be expected to appear naturally through normal means of consultation and evaluation procedures, and information on them may be withheld by States Parties hence a need for evaluation safe-guard mechanisms to facilitate comprehensive documentation and consultations

Recommendation: IUCN is encouraged to put in place a bundle of safe-guard measures, within realistic means, to assess whether and how State Parties have identified any outstanding rights concerns that directly or indirectly emerge or could be improved through the nomination process. It is also recommended to use alternative channels to set up complementary and independent meetings with community and other representative organizations as necessary during the field evaluations.

### ***Lack of clear performance criteria for community and rights***

While it is clear that overall protected area standards are being consolidated in relation to community and rights concerns not least through the CBD Programme of Work on Protected areas, similar standards are less clear in relation to World Heritage sites. The somewhat uneven treatment of core community concerns in the evaluations raises the need for a more structured framework or check-list allowing for evaluators to assess relative country progress on key community and rights topics. Such a checklist would involve the development of specific questions and, when applicable performance criteria, along key community and rights concerns. The source of such performance criteria will involve WH Committee decisions, *Operational Guidelines*, policies and wider standards applicable. A number of observers raised the question of how to better reflect IUCN standards in relation to community and rights as part of the evaluation process. They specifically pointed to cases, where nomination processes did not reflect international conservation and right standards recognized by the IUCN. The underlying question was the lack of a consolidated set of policy principles and performance indicators on community and rights issues guiding World Heritage Committee decisions on specific site nominations. Until these are finalized, one suggestion was for the IUCN to make more use of own standards on community and rights and share relevant good practice with State Parties when undertaking evaluations. In grey-zone areas where standards are being developed, IUCN could make use of its own standards as a reference agreed upon by its membership. This may form part of technical inputs to help strengthen the Committee's own policy framework. Finally, it is also clear that this effort would benefit substantially from upstream work to ensure that guidance to State Parties and nomination formats are strengthened in terms of more explicit policy standards and dedicated space to address community and rights issues.

Key finding: IUCN currently does not operate with a clear set of performance criteria and standards in relation to community and rights when evaluating World Heritage

site nominations. This in part is a reflection of lack of initial guidance and dedicated space on such issues in the official guidance material and nomination format

Recommendation: it is recommended that IUCN develops a brief annotated list of performance criteria for the different community and rights issues described.

Recommendation: IUCN is recommended to explore options for strengthening the wider guidance material and nomination formats and present technical advice to the World Heritage Committee and the Secretariat to advocate for necessary improvements.

### ***Unresolved rights issues and WH as turning points for change***

Any place may have deep-running structural conflicts, which are unlikely to be resolved unless problems are addressed in a comprehensive manner. World Heritage nomination, as any public policy process, involves public and governmental attention to a given area and its on-going conflicts, problems and unresolved issues. From this perspective, nominations offer important opportunities to catalyze the necessary attention and availability of resources to resolve a given conflict if evaluations identify the concerns at stake. The most obvious cases are sites with specifically include indigenous and local community rights and objectives in the nomination itself. Yet, less evident cases should also be mentioned. The Lake Bogoria case illustrates the potential for action. Raised anonymously with the field evaluator, it appeared that a waste landfill was being planned right between two conservation areas making up the nominated site. As an environmental challenge and concern, debates had run for years without being clearly identified in the initial nomination document. Through dialogue between the mission and the State Party a solution was found to the problem. The evaluator considered that similar “problem-solving” effects could likely appear in relation to community and rights concerns. It is important to note that evaluators interviewed considered that more explicit questions and formalized and structured attention to community and rights issues would significantly heighten opportunities for undertaking dialogue with State Parties and resolving many of the matters currently either neglected or only addressed when conflict erupts

Key finding: Nomination and evaluation processes were considered key moments to advance or even resolve outstanding community and rights concerns if addressed in a systematic manner

Recommendation: IUCN is recommended to make full use of the evaluation process to raise outstanding community and rights concerns with State Parties in order to ensure that such issues are resolved as effectively and equitably as possible

## 4. Draft framework and review of selected reviews

A number of key areas may be synthesized where WH standards are evolving and where evaluations are already addressing community and rights concerns. These have been synthesized as follows:

1. **Rights to information, consultation and consent**
2. **Tenure rights**
3. **Management and decision-making**
4. **Livelihoods and benefit-sharing**
5. **Culture**

Upon a brief introduction to each element, a rapid assessment of a selected number of IUCN evaluations from 2011 is done in the end of the chapter essentially to explore variability and consistency on such community and rights concerns. The assessment is by no means comprehensive, but is mainly used for the sake of exploring how evaluation processes can and need to be strengthened on community and rights concerns.

### ***Rights to information, consultation, and consent***

The component on information, consultation and consent cannot be understood without the change of provisions in 1992 where the World Heritage policy shifted from not making publicity about nomination processes to one of making sure stakeholders were informed. Depending on the context, right holders may be entitled to information rights, consultation, participation in decision making or free prior informed consent procedures as part of the nomination process. *Operational Guidelines* paragraph 12 specifically encourages State Parties to:

“Ensure the participation of a wide variety of stakeholders, including site managers, local and regional governments, local communities, non-governmental organizations (NGOs) and other interested parties and partners in the identification, nomination and protection of World Heritage properties.”

Stronger language appears in annex, 3 paragraph 12 in relation to the nomination of cultural landscapes reflecting good practice e.g. in relation to indigenous participation in nomination (IUCN-WCPA 2006: 18).

“The nominations should be prepared in collaboration with and **the full approval** of local communities. (bold added)”

Nomination processes vary considerably in terms of the time and resources invested, expertise brought in and the adequacy of consultation measures in respect to the socio-political fabric of the nominated site. A significant issue concerns actual time to undertake adequate consultations with rights holders. As it has been noted “Lack of preparation time is the biggest enemy of successful nominations” (UNESCO 2011b), something particularly true in the context of rights. Good practice in a number of countries thus involves requirements that full consensus is achieved and verifiable

before a nomination is presented to UNESCO. This may even, as in Canada, involve central authorities reviewing site-specific processes in terms of adequacy of consensus before a nomination proposal is proposed. It may also involve processes supporting indigenous nominations or co-nominations and taking the time necessary to build up genuine joint proposals.

Several field evaluators in effect, already assess the quality of consultation processes, which throughout Committee recommendations, evaluations and technical guidance is established as a yardstick when judging WH site nomination processes. Yet, it was also clear that evaluations varied substantially in terms of how consultation processes were “interrogated”. In this respect, both the WHC Secretariat and the advisory bodies have been encouraged by the UN Permanent Forum on Indigenous Issues in their effort to review “current procedures and capacity to ensure free prior and informed consent, and the protection of indigenous peoples’ livelihoods, tangible and intangible heritage”. Under this framework, evaluators could explore how and the extent to which State Parties have put in place consultation mechanisms and sought to apply standards related to the Free Prior Informed Consent of Indigenous Peoples. It would allow to differentiate types of stake and right holders to whether general public participation and information principles are employed and specific consultation and consent measures are employed for vulnerable groups. What is clear is that the evaluation process should be able to capture (“give credit”) the extra efforts by State parties to invest in strengthened consultation and governance approaches.

Assessing consultation processes directly linked to the nomination process may be relatively straightforward involving a series of semi-structured questions to local and community authorities, NGOs and knowledgeable experts. The evaluator needs to assess consultations in terms of:

- Overall quality, coverage and representativity of consultations
- Data-gathering and problem analysis
- Assessing impacts of WH nomination (are main issues/ impacts covered in the consultation?)
- Addressing conflicts and identifying “hidden” problems
- Quality of decision-making processes with indigenous and local community representatives (what are the consent measures in place for decisions and the nomination itself?)

Key finding: Nomination processes vary considerably in terms of the time and resources invested, expertise brought in and the adequacy of consultation measures in respect to the socio-political fabric of the nominated site.

Recommendation: IUCN is recommended to retain “rights to information, consultation and consent” as a key criterion to assess nominations

## ***Rights to participation in decision-making and management***

*'Tjukurpa (Anangu traditional law, knowledge and religious philosophy) above all else'*

### Cover of the Management Plan in Uluru-Kata Tjuta National Park

Participation in decision-making processes and management design and implementation cover a vast range of issues involving both the nomination process itself and how the site is ultimately managed. Several informants noted the need for evaluators to better identify the extent to which WH nominations involved investments in participatory management planning processes, innovative governance forms and adaptive management mechanisms to e.g. build on customary institutions and practices. The *Operational Guidelines* clearly emphasize that “adequate management” is a must to ensure the safeguarding of a property (para. 78). This is detailed in terms of « legislative, regulatory, institutional **and/or traditional protection** and management to ensure their safeguarding » (bold inserted).

There is equally a strong emphasis on cultural variation in terms of management approaches and needs (Para. 110), and “participatory means” are preferred (Para.

*“Establishing any new management system introduced as a result of nomination as a natural World Heritage site should fully recognise the pre-existing governance system and usage that has made the site special. Where applicable the management system developed for the World Heritage site should draw on these systems to help facilitate long-term management, equity and bio-cultural sustainability”* *Managing Natural Heritage, 3011.*

108). Para. 111 speaks of “the involvement of partners and stakeholders”. Such language, for example, very well accommodates well with indigenous peoples’ right to customary institutions. Finally, operational guidance emphasizes that

“Sustainable development principles should be integrated into the management system.” (para 132, art. 5).

The point here is that this actually establishes a number of performance criteria not only in terms of the extent to which management plans are in place, but the extent to which they reflect participation, cultural variation and sustainable development principles. These are also fields where IUCN in general has developed considerable work in terms of both policy and technical guidance. Take for example the work on World Heritage and management effectiveness. The guidance contains critical elements on “community well-being” including some references to rights (Hockings, et al. 2008: 42). Yet, even such assessment tools are partial in terms of their coverage. They indicate some rights, yet tend to confuse tenure and rights. Similarly, evaluations reveal substantial variation in terms of the extent to which such management concerns are addressed in the evaluations. The recently updated manual on managing natural world heritage contains important description of such matters as well a number of useful case studies (Stolton, et al. 2011).

Key finding: Nomination processes vary considerably in terms of the extent to which they recognize and support the implementation of rights to participation in decision-making and the management of World Heritage sites
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Recommendation: IUCN retains “Rights to participation in decision-making and management” as a key criterion for the evaluation of nominations

## **Tenure rights**

Tenure concerns often appear in IUCN evaluations, and evaluators increasingly consider whether there are current unresolved tenure matters potentially affecting the nomination. Yet, tenure is often interpreted as limited to questions of clear landownership without addressing the wider questions of other resources, access, use and benefits aspects. It also appeared that assessments may often remain at the surface and rarely have the focus, time and resources to adequately identify longstanding and unresolved claims. In some cases, although rarer, evaluators have addressed the histories or legacies of tenure injustices resulting from land-use decisions taken prior to World Heritage designation. Whether in the form of loss of access, use, settlement or property rights, there are multiple forms and graded variations of such loss taken place in the context of protected area designation, which have often profoundly affected the communities concerned. Assessing how State Parties are paying explicit attention to such contemporary and legacy issues in terms of acknowledging their presence and exploring measures to redress is critical. “Adequately delineated” boundaries is another fundamental aspect of evaluating whether management is deemed on track. Such delineation could very well address the extent to which the delineation of community lands and territories overlapping with possible World Heritage sites was deemed adequate. On a more basic level, evaluations could be far more systematic in assessing the variety of tenure aspects.

“Tenure systems define who owns and who can use what resources for how long, and under what conditions” (Sunderlin, et al. 2008: 3). Clarifying such matters are integral to understanding whether and protection measures are or may come in place in an equitable manner relation to a given nomination.

### **Bundles of rights associated with different positions**

	<b>Ownership</b>	<b>Proprietor</b>	<b>Claimant</b>	<b>Authorized user</b>
<b>Access and withdrawal</b>	X	X	X	X
<b>Management</b>	X	X	X	
<b>Exclusion</b>	X	X		
<b>Alienation</b>	X			

(Schlager and Ostro1992: 252)

Tenure situation in a given nomination will likely vary for different groups and resources, as there will be variations in terms of how they are recognized by statutory law. Certain access and withdrawal rights may be accepted, whereas overall claims to property rights and co-management may be questioned.

*States Parties should demonstrate adequate protection at the national, regional, municipal, and/or traditional level for the nominated property. Para. The should append appropriate texts to the nomination with a clear explanation of the way this protection operates to protect the property (Para. 97).*

Here is a clear provision that speaks to different administrative levels and the co-existence of different tenure arrangements. It is likely that more guidance is needed for countries to think beyond WH as one “site” towards increasingly construing it as a bundle of co-existing tenure and protection arrangements. This will also allow evaluations to not consider diversity an obstacle, but an opportunity for site management. The Sangha trinational evaluation includes a discussion of different

tenure arrangements addressing possibilities for State action to recognize local and indigenous rights and need for access to natural resources. The commonality and complexity of such concerns justify a far more explicit and dedicated attention. Furthermore, given the fragility of community tenure and rights in many countries, it is deemed a critical aspect to strengthen rights-based approaches.

Key finding: Nomination processes vary widely in terms of addressing tenure rights and concerns and there is a need to secure more systematic and explicit attention in the nomination evaluations

Recommendation: IUCN retains “tenure rights” as a key criterion for assessing WH site nominations

### ***Addressing livelihoods, development and benefit-sharing rights***

Compared to the growing emphasis on in WH guidance and recommendations on broad stakeholder consultation and consensus building as part of the nomination process, there is generally less systematic attention to livelihoods and benefit-sharing rights. Indeed, the majority of natural heritage sites strictly limit use within such sites.

*. The purpose of a management system is to ensure the effective protection of the nominated property for present and future generations Para. 109*

*future generations (inter-generational). They also emphasize management contributing to sustainable development, which essentially translates into also delivering on social and economic objectives. Key concerns from a rights-perspective involves making sure that vulnerable groups benefit equitably from WH site recognition in terms of sustainable livelihood opportunities, development rights and benefit-sharing.*

*Human activities, including those of traditional societies and local communities, often occur in natural areas. These activities may be consistent with the Outstanding Universal Value of the area where they are ecologically sustainable. Para. 90*

Sites vary a great deal in terms of the extent to which community livelihoods are

protected, and to what extent possible trade-offs in relation to development rights are treated and negotiated in an upfront manner. Historically, such concerns have been restricted in core-zones and relegated to buffer zones, although a number of sites, not least those with covering multiple land use designations, allow for different forms of use. Policy guidance tends to remain negatively defined as allowed use not undermining the Outstanding Universal Value, rather than positive policy language to promote sustainable livelihoods, while conserving Outstanding Universal Value. Nor is there from a rights-based perspective clear emphasis on the particularities of traditional and customary livelihoods. Evaluations only partially address these concerns, which are often at the heart of questions and potential conflicts with local populations. Site management processes may also be more or less explicit about benefit sharing mechanisms in relation to the explosion of tourism, employment and other economic opportunities arising from World Heritage recognition. Thus while statistics may reveal the significant contributions World Heritage sites make to the economy, the extent to which such benefits are shared equitably is far less evident. Rights-based approaches are fundamental to assess whether key local right-holders are effectively involved in designing equitable benefit-sharing mechanisms and reaping tangible benefits from site designation.

Key finding: Approaches to livelihoods, development and benefit rights vary considerably in the nomination documents

Recommendation: IUCN is recommended to adopt livelihoods and equitable benefit rights as a cross-cutting criterion for evaluations

## ***Cultural rights***

Whereas cultural heritage is a central element in the Convention itself, its treatment as a cross-cutting theme also in natural sites and a question of rights needs to be addressed in a far more systematic manner. This is particularly raised by indigenous representatives. The *operational guidance* stresses cultural heritage being judged “primarily within the cultural context it belongs”. While the Convention operates with an encompassing set of attributes (see box below), a number of more unsettled cultural concerns include questions of the role of indigenous cultures, intangible heritage and the commoditization of culture and sacred values. While a handful of sites exist where indigenous cultural values are formally recognized and highlighted either as mixed sites or cultural landscapes, the majority of indigenous territories overlapping with world heritage sites are listed as natural sites (Cunningham 2012). From a cultural rights perspective, nominations thus vary considerably in terms of addressing such concerns. This, in part, reflects the structural problem of the heritage convention focusing on Outstanding Universal Values without fully fleshing out how to deal with local cultural values and rights. One of the operational entry points for IUCN evaluations is to specifically explore whether and how State Parties have addressed the need and relevance of culture, heritage and values in criteria selection and wider nomination considerations. This should include, but not be limited to, questions of indigenous culture.

***Cultural values and attributes***

- form and design;*
- materials and substance;*
- use and function;*
- traditions, techniques and management systems;*
- location and setting;*
- language, and other forms of intangible heritage;*
- spirit and feeling; and
- other internal and external factors. (Para 82)

In the 2011 reports, this was emphasized in the report on the Sangha Trinational under “additional comments” on “local people and cultural values”, among other things, recommending to evaluate the potential application of cultural criteria. This was not raised in the case of Phong Nha Ke Bang, for example, even though the area

represents critical cultural diversity densities and the current national park director at an early stage had been involved in exploring a mixed site nomination. There is a clear-cut argument, notably for World Heritage sites involving longstanding human ecological relationships to recognize the cultural dimension as an integral part of what the convention calls for in terms of “integrity” being a measure for the “wholeness and intactness of the natural and/or cultural heritage and its attributes” (Para. 88, Operational Guide). This is also fleshed out in paragraph 89 speaking of maintaining “Relationships and dynamic functions present in cultural landscapes, historic towns or other living properties”. Yet, it is also clear through the work of the UN Special Rapporteur on cultural rights, that a clear definition of cultural rights remains work in progress<sup>8</sup>.

Key finding: There is an important need to strengthen the integration of cultural rights in the evaluation of natural properties in particular

Recommendation: IUCN is recommended to adopt and apply cultural rights as a criterion in its evaluation of natural sites.

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<sup>8</sup> First Special Rapporteur report to the Human Rights Council, submitted in June 2010 (A/HRC/14/36).  
*IUCN, World Heritage and Evaluation Processes related to Communities and Rights, Peter Bille Larsen, June 2012* 28

## ***Highly variable treatment of community and rights concerns in the evaluations***

Using a few examples from the 2011 evaluations assessed along the lines of the criteria identified above, highly variable treatment of key community and rights concerns appears between the respective site nominations. The following matrix includes sites that all have indigenous and tribal peoples, central tenure concerns and management. The assessment is by no means in-depth, but is merely presented here to illustrate the challenges at stake in strengthening IUCN evaluations.

### **Selected cases of 2011 IUCN evaluations and their community elements**

	<b>Kakadu</b>	<b>Western Ghats</b>	<b>Sangha Trinational</b>	<b>Phong Nha Ke Bang</b>
<b>Consultation</b>	request by Djok traditional land owner Jeffrey Lee, supported by the Northern Land Council and Kakadu Board of Management, Northern Lands Council confirms the deep wish of its represented landowners to use the land traditionally and their commitment to never consent to mining.	Meetings with NGOs and Ecodevelopment committees set up for participatory management + “members of the public”. Not clear whether tribal or local community organizations were met. Lists “local people” expressed concern + observation of “strident opposition” in Kodagu and Karnataka. Issues not detailed though. Addresses participatory element of nomination process + “Panel of Expert” process (Case listed in joint statement on violations of free, prior, informed consent)	Not clear whether any consultation with indigenous and local communities or local authorities took place	Not clear whether any consultation with indigenous and local communities (nor communal or district authorities listed)

	<b>Kakadu</b>	<b>Western Ghats</b>	<b>Sangha Trinational</b>	<b>Phong Nha Ke Bang</b>
<b>Tenure rights</b>	Traditional landownership lease arrangements Proposal to now include the enclave within the property follows a request by the World Heritage Committee in 1998 to prevent mining in the park	Mentions unclear land tenure issues, and questions relationship between property rights and protection regimes. Recognizes tenure complexity, but does not address tenure security of communities. Later mentioning of Recognition of Forest Rights act in somewhat vague terms	User rights / hunting issues e.g. mentioning of zone for community hunting in one of the three parks (Lobéké). Identification of resource use bans + measures to secure clearly defined user rights Broader territorial and tenure concerns of communities not addressed. Notes different country commitments to rights	Tenure rights within park not addressed  2003 park extension recommendations reiterated without reference to forest tenure rights
<b>Management &amp; decision making</b>	Traditional ownership / leasing arrangement  Process to include Koongarra in the National Park and thus add an additional layer of protection in the Environment Protection and Biodiversity Protection Act 1999 is under way.	“unconvinced” about protection potential through 40 % outside formal PAs. Recommendation to exclude incompatible land use, another to foster participatory governance	Promotes integrated management + suggests inclusion of community hunting areas and “different” management regime	WHC calls for participatory process to update management plan
<b>Livelihood and Benefit-sharing</b>	Traditional landuse. Commitment not to permit mining within area (lost development costs not described). Plans to set-up outstation.	“There is a need for greater communication of the benefits of World Heritage inscription if managed in a way that engages local communities and ensures benefits flow equitably”  use generally listed as threat  listing of traditional livelihoods, benefit distribution and development yet implications unclear  Recommendation about equitable benefit-sharing (implications unclear)	Inclusion of use zones. Addresses hunting concerns partially. An assessment of Baaaka indigenous livelihood concerns included where hunting zones are there + banning of indigenous resource use	Tourism and benefit-sharing mentioned for bufferzone only (yet current practice since WH designation not addressed)  Traditional livelihood loss identified, yet inadequate treatment of livelihood concerns (mainly as “illegal” concern). All listed under “threats” section  Final recommendation does speak of sustainable use of natural resources and equitable benefits

	<b>Kakadu</b>	<b>Western Ghats</b>	<b>Sangha Trinational</b>	<b>Phong Nha Ke Bang</b>
<b>Culture</b>	Indigenous peoples linkages highlighted. Mixed site.	No mentioning.	Mentioning of human ecology relationships  Rich cultural heritage/ indigenous/ intangible heritage. IUCN comment about possible mixed nomination. Local knowledge does not feature	Human ecological interactions not addressed (other than as threat)  Cultural diversity not addressed other than acknowledging ethnic minority presence in the “additional comments” (no recommendations)  No mentioning of mixed site possibility (earlier proposed by park director, dropped due to lack of funding)

It is clear in the above matrix, that evaluations – from the same year - vary considerably in terms of how:

- State Party consultation processes in the nomination process are described
- And with whom consultations are undertaken by the IUCN evaluation missions
- Community tenure issues are addressed and (if they) are described
- Indigenous rights are articulated
- Participation in decision-making and management planning is described
- What livelihood, development and benefit-sharing issues are addressed
- Culture both as possible nomination criterion and integral aspect is included

While observers mentioned increasing emphasis on community and rights issues in IUCN evaluations, some also noted cases where evaluations had not picked up on key issues. Variation again confirms the need for a far more systematic approach. It is quite clear that critical community and rights concerns are “spread out” in the reporting format and being addressed in uneven and somewhat haphazard ways. Mentioning of community and rights issues under “threats” and “additional commitments” appears somewhat like bringing the topic in the back-door rather than giving it the up-front treatment it requires. Given the centrality of these matters, this would essentially confirm the need for a dedicated section with sub-sections considering the kinds of categories listed above.

Key finding: Community and rights issues appear frequently in IUCN evaluations, yet in highly varying ways and without a dedicated reporting space allowing for a systematic treatment of its main elements

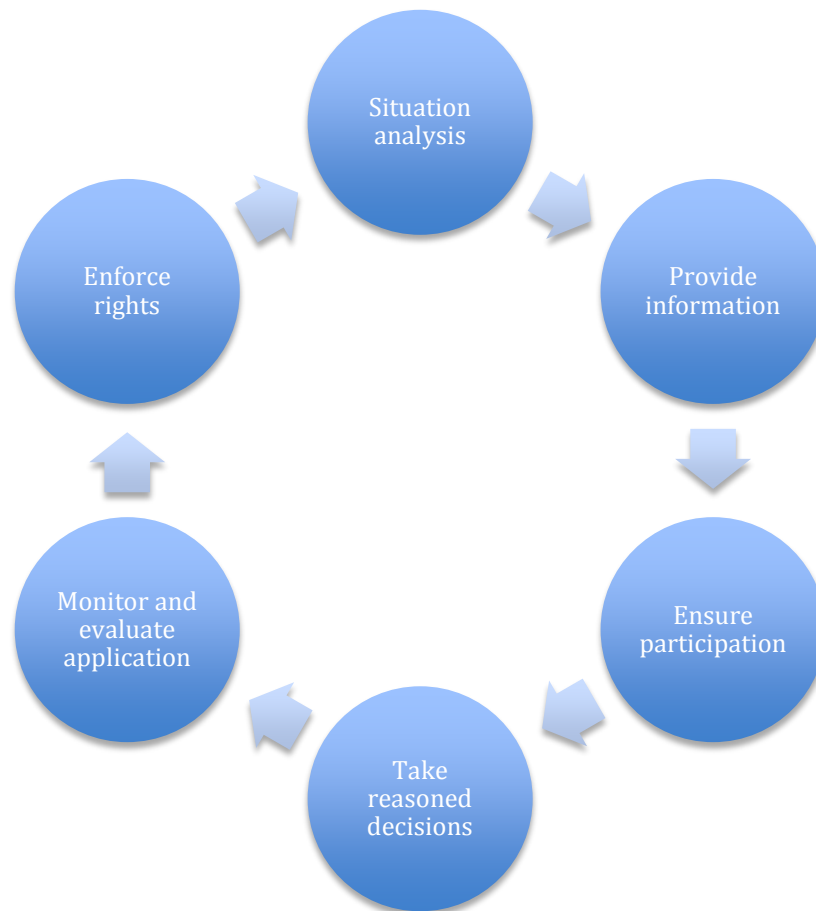
Recommendation: IUCN should rework its reporting format to allow for a dedicated community and rights section with relevant sub-sections. An annotated guide for these sections could be added.

### ***Implications for the IUCN evaluation process***

Despite continuous global commitments, protecting, respecting and realizing such rights are complex challenges. Yet, a core lesson is that much can be done through working with the State Party as the duty-bearer and strengthening the involvement and participation of right-holders in the evaluation process itself. The evaluation process can, in this sense, not replace a fully-fledged rights-based approach, but within reasonable limits catalyze or contribute towards making the nomination process a positive contribution towards protecting and realizing the rights of socially vulnerable groups. It is here useful to return to the step-by-step rights-based approach adopted by the IUCN.



## Step by Step Rights-based Approach



If the rights-based approach is applied to the overall nomination process of World Heritage sites, this generated a series of questions to be posed during desk reviews and field missions. Answering these questions will allow for the evaluation team to systematically address how and to what extent rights are being addressed in different nomination processes. The framework on the following page summarizes these questions, which also allow State Parties to compare processes among themselves and allow to report on practical experiences and emerging good practices in the field of World Heritage, communities and rights.

Key finding: there is a need for a systematic review of all steps of the nomination process using a Rights-based Approach

Recommendation: The IUCN is recommended to systematically apply the community and rights matrix when reviewing country nomination processes

## Community and rights Process matrix

<p><b>Situation analysis</b></p> <p>To what extent has the State Party identified..</p>	<ul style="list-style-type: none"> <li>- right-holders and duty-bearers?</li> <li>- Applicable legal rights, claims and duties?</li> <li>- Potential impacts of the proposed nomination on key community concerns and rights?</li> </ul>
<p><b>Information</b></p> <p>To what extent has the State Party ..</p>	<ul style="list-style-type: none"> <li>- Compiled, Published, and/or Otherwise Disseminated Information about the nomination in an Understandable and Easily Accessible Way</li> <li>- Disseminated Specific Information Regarding Legal Rights, Claims, and Duties of Potentially Affected Persons</li> </ul>
<p><b>Participation</b></p> <p>To what extent has the State Party undertaken..</p>	<ul style="list-style-type: none"> <li>- Undertaken consultations the nomination process in good faith?</li> <li>- Sought and Promoted Free and Prior Informed Consent?</li> <li>- Put in place stable participation arrangements for WH questions?</li> <li>- Provided and used Conflict Resolution Mechanisms as part of the nomination process to Secure Rights ?</li> </ul>
<p><b>Reasoned decisions</b></p> <p>To what extent has the State Party taken decisions:</p>	<ul style="list-style-type: none"> <li>- Modify the nomination proposal to reflect key community concerns and rights? (<i>such as boundaries, management design/ planning, modalities of participation</i>)</li> <li>- Resolve outstanding community rights concerns?</li> <li>- Post-pone decisions and put in place additional consultation process</li> </ul>
<p><b>M&amp; E</b></p> <p>To what extent is the State Party</p>	<ul style="list-style-type: none"> <li>- monitoring implementation of WH community and rights plans?</li> <li>- Reacting upon monitoring findings?</li> </ul>
<p><b>Enforce Rights</b></p> <p>To what extent has the State Party put in place</p>	<ul style="list-style-type: none"> <li>- Strengthened enforcement of rights measures as part of the WH Nomination?</li> <li>- Remediation measures or restoration of rights that have been infringed such as using restitution as a remedy as part of the nomination process?</li> <li>- Compensation measures for losses caused by the Nomination?</li> </ul>

(Adapted from: Greiber, et al. 2009)

### Quick checklist covering 5 core areas of rights

The aim here is not a final assessment, but rather a working tool that allows to make as best use as possible of the brief field mission. For each thematic row the evaluation teams seeks to assess the quality and extent to which the nomination project has an impact.

Degree of impact	Score	Follow-up - -in-depth comments
<b>Positive impact</b>	PI	
<b>No change</b>	NC	
<b>Negative impact</b>	NI	
<b>No (or inadequate) information available</b>	N.A.	
<b>Consultation and consent processes</b>		
<b>Tenure Rights</b>		
<b>Management and decision-making</b>		
<b>Livelihood and benefit-sharing rights</b>		
<b>Cultural rights</b>		

Format adapted from (NORAD 2001)

## Principles and Standards

*“The listing of a World Heritage property raises expectations and increases public scrutiny, making it even more important that such properties serve as models of best practice in terms of rights-based approaches... Superlative properties deserve superlative management, applying global best practice approaches to governance, participatory management and equitable access to resources and benefits.”*  
(Stolton et al 2011: 27)

As State Parties and advisory bodies are embarking on evaluating nomination processes according to their community and rights performance, clarifying core principles and standards is the obvious next step. For State Parties investing time and resources in attaining recognition of outstanding universal value and its protection and management, there is growing consensus about the need for World Heritage sites to represent the highest level of standards, also when it comes to community and rights issues. the

Committee has requested the World Heritage Centre to develop policy guidelines, which are just beginning preparation and which will be useful in this respect. Relevant are also broader debates and analysis in relation to human rights standards and World Heritage (Oviedo and Puschkarsky 2012; Sinding-Larsen 2012). This will in the long run raise the question about:

1. What levels of performance on community and rights should be expected in order for a site to recommended without reservation?
2. What kinds of exceptional practices and rights concerns would lead to properties not being recommended for inscription (e.g. forced relocation, massive human rights abuses)?
3. What kinds of practices or levels of information gaps would result in referrals or deferrals?
- 4.

While on-going work to develop policy standards is needed to qualify this, wider human rights standards form part of the shared starting point whether or not a World Heritage nomination is accepted or not. As on-going policy move forward, it is justifiable to accompany the normative debate with hands-on evaluations that can help State Parties identify such concerns at stake and allow for the enhancement of rights in practice.

*“Actions undertaken on behalf of the World Heritage Committee and in the name of the Convention should be guided by the 1948 Universal Declaration of Human Rights, the ILO C169 Indigenous and Tribal Peoples’ Convention (1989) and the Convention on Biological Diversity (1992), particularly its Programme of Work on Protected Areas (2004). State Parties should also take note of the Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly in 2007. Although not a legally binding instrument under international law the UN describes this as setting an important standard for the treatment of indigenous peoples and a significant tool towards eliminating human rights violations.”*

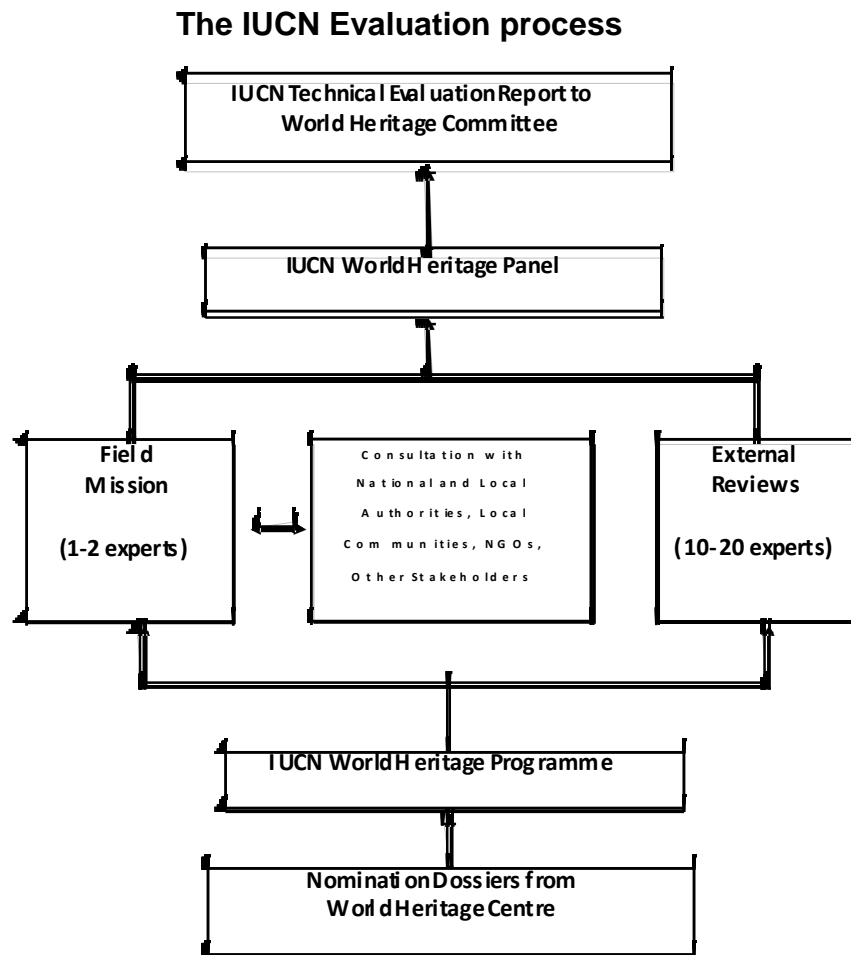
“Managing natural heritage”, UNESCO et al., 2011

Key finding: Emerging WH policy standards on community and rights issues are yet to be fully consolidated

Recommendations: The WH Panel is recommended to adopt a series of technical quality criteria for assessing the degree to what community and rights are addressed based on well-established IUCN standards and good practice (e.g. using Best Practice guidelines)

## 5. Review of IUCN evaluation processes

*Description of IUCN evaluation process in Steps, phases or flow chart*



(Thorsell and Hogan 2009)

The IUCN procedure, as described in the *Operational Guidelines*, involves 5 distinct steps:

Steps	
1. Data assembly	Compilation of data sheet by UNEP-WCMC using PA data
2. External review	Desk review by up to 15 experts primarily from IUCN Specialist commissions and networks
3. Field inspection	1-2 IUCN experts visit property: clarify details, evaluate site management, discuss nomination with authorities and stakeholders
4. Other sources of information	IUCN consults additional literature, comments from local NGOs and others
5. IUCN World Heritage Panel Review	Panel reviews

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The nomination follows a well-defined time schedule with relatively clearly defined moments for providing inputs to the process. What emerged from the brief review process was, however, a perception of the relative complexity of the evaluation process. Nor was there always clarity about the role of advisory bodies in the broader nomination process.

**Key finding:** Some actors lack a clear understanding of the evaluation process and how to support and feed into it. There is a need for more targeted awareness raising and outreach to key constituencies.

**Recommendation:** Given the lack of resources to undertake outreach, IUCN is encouraged to produce brief videos and general information material targeting communities and their organizations in major languages outlining the evaluation process and how and when communities and other organizations can feed into the process

Currently IUCN combines the Udvardy biogeographic classification system and priority setting systems for conservation (eco-regions, centres of plant diversity, hotspot, Endemic Bird Areas) in determining properties of Outstanding value (UNESCO 2011a: 118-119). This, in practice, means that outstanding sites of biocultural diversity are not automatically registered and valued when comparing natural sites and assessing boundaries of nominations. A second aspect concerns the standard list of relevant publications in the evaluation process. This currently includes 20 references volumes on protected areas. It would be useful to add a number of reference volumes related to indigenous peoples, human development concerns and rights.

**Key finding:** Documentation and analysis of biocultural diversity are not automatically included when comparing natural sites and assessing boundaries

**Recommendation:** IUCN is recommended to include reference documents related to biocultural diversity to identify properties of outstanding value as well as include reference volumes on indigenous peoples, human development concerns and rights.

### **Mixed properties and cultural landscapes**

Mixed properties and cultural landscapes present distinct evaluation challenges as evidenced by cases such as the Ngorongoro Crater in Tanzania. There is a need to undertake separate work to further assess collaborative procedures between IUCN and ICOMOS in relation to mixed properties and cultural landscapes including the review of “Guidelines for Reviewers of Cultural Landscapes - The Assessment of Natural Values in Cultural Landscapes” (IUCN 2001). This has appeared in previous assessments as a field where improvements have been called for (Cameron 2005). It requires working on harmonizing reporting formats, bridging expertise and institutional divides (IUCN-WCPA 2006: 31). This remains an area to explored further with both advisory bodies and relevant stakeholders.

## ***IUCN engagement before (and after) evaluations***

IUCN engagement with World Heritage is not limited to evaluations, but involves several other functions. This, in principle, allows for a holistic understanding of the overall process that State Parties engage in from its early considerations to put a site on the tentative list to the actual submission of a nomination document. Tentative listing, and State Parties exploration of requirements and inputs for actual nominations is a critical moment for inputs. While IUCN, as a principle, does not offer site-specific support to nomination processes, interviews also revealed interest among State Parties to learn from good practice. There is the very concern of identification and qualification of World Heritage in the first place, as well as core concerns related to what constitutes adequate management practice. It is for example clear that community concerns in the most updated management guidance on World Heritage sites have taken on a far more prominent role as appears in the following indicator.

<b>Indicators in the manual</b>	<b>Explanatory notes on assessment measures</b>	<b>Link to Periodic Reporting questions</b>
Relationships with local people (chapter 2.5) <ul style="list-style-type: none"> <li><i>Do relationships with stakeholders in the property help facilitate effective conservation of the property's OUV?</i></li> <li><i>Are the needs of local stakeholders addressed effectively within the management system for the property, and are benefits provided by the World Heritage site shared equitably with local people?</i></li> </ul>	Measures could include participation in governance; stakeholder consultation processes; cooperation with people living around the property; equitable benefit sharing	Local people relationships (question 4.3.7 to 4.3.9)  (Stolton, et al. 2011: annex 1)

A critical entry point for addressing community and rights concerns effectively is in part structured by the extent to which the official nomination formats allows for such types of data and information. A preliminary review of the current nomination format points to the following gaps.

### **Preliminary identification of gaps in nomination format**

<p>There is no separate section for describing the people and communities of the area and their distinct rights</p> <p>There is no explicit entry dedicated to consultation and participation mechanism</p> <p>There is currently only a subheading for ownership, and not tenure more broadly</p> <p>There are no entries for describing management arrangements with indigenous and local communities (limited to space to illustrate how sustainable development guidance is materialized)</p> <p>There are no entries for describing cost and benefit-sharing arrangements</p>
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This leaves state parties poorly prepared to describe their efforts confirming the need for far more up-front treatment.



Key finding: the current nomination format contains major gaps in relation to community and rights concerns in part preventing better prepared and coherent nomination documents

Recommendation: IUCN is recommended to urgently work with the Committee and the Secretariat as well as other advisory bodies to improve the nomination format in relation to community and rights concerns.

It is clear that the formulation of nominations does not take place in isolation, but involves use of guidance material and preparatory grants in some cases whether through the WHC or varying national and bilateral means. From the late 1970s till 2012, some 5,645,424 USD have been distributed through the WHC for preparatory studies<sup>9</sup>. It was noteworthy that one State Party noted the common question to IUCN whether there were additional ways of signalling significant issues at an earlier stage allowing for remedial or mitigation on behalf of the State Party. While the IUCN as an advisory body evaluating nominations does not directly engage in assisting countries with nominations, guidance material has been developed and is available in multiple languages (Badman, et al. 2008). While not thoroughly reviewed here, it is recommended to strengthen the resource manual on a number of fronts:

- a) In terms of IUCN recommendations for preparing tentative lists, consultation guidance could be updated in terms of specifying indigenous peoples and local communities and their organizations as well as highlighting other consultative methods possible (2.2)
- b) Specific recommendations on relevant team compositions to develop a nomination (particular social assessment and consultation skills) (2.4)
- c) Strengthening and fleshing out “involving local people and stakeholder” as more than only a question of participation and involvement, but involving a complex set of issues related to tenure, governance, benefits and management (2.5). Far more guidance may be needed in this respect.
- d) Strengthening guidance on WH site management in relation to governance, tenure, benefits and management (2.6)
- e) Complementing emphasis on stakeholder consensus building with due emphasis on the particular needs of rights indigenous and local communities and duty-bearers (2.6)
- f) Add specific guidance on indigenous and local communities (3.1-3.6)
- g) Strengthening emphasis on general understanding of integrity in operational guidance in terms of wholeness to complement criteria specific conditions of integrity (3.7)
- h) Emphasize human ecology aspects equally (3.7)
- i) Elaborate the “how” aspect of Parties expected to describe human activities (3.7)
- j) Add steps on addressing needs and rights of indigenous and local communities in bufferzone (3.8)
- k) Provide more explicit emphasis on rights, different governance options, sustainable development objectives, benefit sharing in the management guidance (3.9)

<sup>9</sup> <http://whc.unesco.org/en/intassistance/action=stats>, accessed 6/4/2012.

- l) Revisit consultation, payment and distribution strategy advice and practical tips (3.10)

Key finding: there is a need to update nomination guidance to better reflect community and rights concerns

Recommendation: IUCN is recommended to rapidly update current guidance documents to better incorporate community and rights concerns along with to assist an improved nomination format

An important input to the nomination process also involves the thematic studies (e.g. forests, mountains, wetlands and geological sites). Such studies are reportedly used by some, but far from all, State parties as a comparative basis and baseline, when formulating nominations (Cameron 2005: 5). It is in this respect interesting to note that thematic studies related to social concerns are somewhat outdated and could benefit from an updated thematic study focus<sup>10</sup>.

Key finding: there is a need to develop and update a thematic study on community and rights concerns

Recommendation: the WHC considers a decision to request the IUCN to conduct a thematic assessment into indigenous and local communities, tenure, benefits and governance.

### **Monitoring and State of Conservation Reporting**

Apart from the evaluation assessment, there are also important opportunities to address community and rights issues in other IUCN activities such as monitoring processes and state of conservation reporting. A core element of IUCN's mission in relation to WH sites concerns monitoring conservation status as well as identifying threats and recommending mitigation measures to state parties, the Centre and the Committee. The revised periodic reporting format includes categories to assess different forms of "use"<sup>11</sup>. They are, however, not *per se* addressed as rights issues. Social and cultural uses are listed as distinct from biological and physical uses and sites are requested to list whether impact is negative or positive. Such rapid appraisals are easily problematic in terms of risking to simplify complex human ecological relationships and, secondly, again neglecting rights aspects. This being said indigenous hunting, gathering and collecting are listed as well as traditional knowledge, ways of life and identity matters. The management section does refer to customary management as well as have specific questions to the assessment of local community "inputs" in management.

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<sup>10</sup> A number of other themes could equally deserve further attention in particular related to certain regions, biomes etc.

<sup>11</sup>

## ***Upon receiving a nomination***

Countries vary considerably in terms of how and what kinds of community and rights concerns may be relevant to be addressed in a more in-depth manner. Informants noted how rapid scanning of nomination proposals by experienced readers in many cases would allow for early identification of important community and rights issues to take up with the State Parties. One observer also noted how State Parties are generally interested in rapid responses to their nomination documents, potentially allowing them to resolve certain issues in preparation for the advisory body field mission.

Key finding: In a number of cases, possible community and right questions may be identified very early on facilitating better documentation and response possibilities.

Recommendation: IUCN is recommended to set-up an early screening process of nomination documentation that allows to identify community and rights concerns early on.

### **Rapid Screening matrix on community and rights**

To what extent has the nomination format adequately identified and described the different population groups and rights holders?	If not, engage rapidly with State Party on the matter
To what extent does the nomination document describe consultation and consent processes with local authorities and representative organizations?	If not, engage rapidly with State Party on the matter
Specifically, has relocation of people or the exclusion of tenure such as use rights taken place prior to the WH nomination?	If yes, make sure that an effective consultation process is put in place to assess the process and rights concerns during the field mission
Have State parties or other actors already identified community and rights concerns for further assessment in the evaluation process?	If yes, start early exploring how to best address identified issues in the field evaluation. Request more data from State Party as necessary.
Are there immediate indications of community and rights concerns (protests, NGO communications, “conspicuous absence”)?	If yes, explore whether more general or topic specific desk reviews should be requested. Explore with State Parties and other actors how to ensure an effective and equitable consultation process during the field visits.
Overall need for in-depth assessment deemed necessary?	If yes, fast track in-depth preparatory activities for field consultations and seek additional desk reviews

## **Desk review**

Desk reviews are important for the IUCN and have often “pointed out decisive issues which may otherwise have gone unnoticed.” This was deemed equally true for community and rights issues, where some desk reviews had been particularly helpful to identify outstanding concerns. Desk reviewers are unpaid and contribute their review time on a voluntary basis. Reviewers are provided electronic access to the nomination dossier through a password protected website. The number of desk reviewers varies considerably from site to site.

Current guidance for desk reviews consist of 7 pages of guidance and a 1-page reporting format (IUCN 2011). Guidance mainly lists mobilizing WCPA members and scientific networks, such as the International Association of Geomorphologists (IAG) and the International Union of Geological Sciences (IUGS). No specific mentioning is made of CEESP expertise, although it was also clear that many CEESP members have direct World Heritage related experience or specific site relevant knowledge, some of whom have been mobilized. TILCEPA was highlighted by several in this respect. Discussions with the chair revealed strong interest and potential in this respect, as well as a need for a gradual “learning by doing” approach to flesh out with whom and how to work on WH desk reviews through their membership. This would, among other things, come through an improved database. Yet, it was clear that there was a significant potential to mobilize experienced members to undertake more “generic” type assessment of social and governance processes employed in the nomination processes not least building on experience with the CBD PoWPA. Another IUCN network could be the Inter-Commission Specialist Group on Indigenous Peoples, Customary & Environmental Laws and Human Rights (SPICEH). Another good opportunity here could be involvement with the Social Science Working Group of the Society for Conservation Biology.<sup>12</sup>

The contract between UNESCO and the IUCN on World Heritage underlines “making full use of IUCN membership” in its work and particularly emphasizes collaboration with the WCPA. It also clearly stresses the importance of evaluations undertaken in a “professional manner”. Community and rights concerns have today gained increasing importance in the conservation community, and are increasingly structured, regulated and professionalized. As for relevant knowledge-holders from a community and rights perspective, they may generally hold very diverse backgrounds and insights ranging from overall knowledge of management processes to site and community-specific knowledge. One informant stressed, however, that for certain regional actors with an overall understanding of the rights and governance issues, significant contributions could be made from an overall review of the nomination process in terms of levels of consultation and participation. This, in turn, also puts even greater need for professionally competent staff to review site nominations from a social perspective. Both CEESP and TILCEPA chairs expressed strong support and interest in facilitating stronger involvement of their membership in the evaluation process. Current guidance emphasizes that:

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<sup>12</sup> “The Social Science Working Group (SSWG) of the Society for Conservation Biology (SCB) is a global professional community interested in the social dimensions of biodiversity conservation. With nearly 700 members in more than 70 countries, the SSWG is home to a diverse array of social scientists, natural scientists, and conservation practitioners.”

“Desktop reviewers communicate exclusively with IUCN staff involved in the evaluation process and must not contact the State Party or management of the nominated property related to the evaluation.”

Clarifying rules and good practice with CEESP and TILCEPA chairs would be important to ensure clarity about how information is handled by desk reviewers.

Key finding: there is a good potential, however not equally strong for all regions, to further mobilize CEESP and TILCEPA membership for the desk review process

Recommendation: The WH programme is recommended to put in place a work plan for engaging CEESP and TILCEPA membership for the 2012/2013 evaluation process among, other things, seeking to have one dedicated community desk review undertaken per nominated site

Current guidance for desk reviewers lists paragraph 97 from the operational guidance to describe “compliance with requirements for management and protection”. While indicating the variety of management measures possible, it only in indirect ways encourages desk reviewers to address community and rights concerns in more detail. More extensive wording is provided to cultural landscapes (yet this is only limited to sites nominated as such under cultural criteria). The current review format could benefit from an additional review question specifically asking to what extent indigenous and local community concerns such as tenure rights, consultation, participation in management and benefit-sharing have been adequately addressed by the nomination document. In addition, it is deemed useful to test a separate desk review format specifically dedicated to community and rights issues. This could involve recruiting a reviewer with local knowledge and social science background for each nominated site for the 2012/2013 cycle.

Key finding: Current desk-review guidance and formats do not allow for fully exploiting the knowledge potential among IUCN networks

Recommendation: IUCN is recommended to add a specific question linked to community and rights to the general desk review format as well as elaborate an additional “community-specific” review format to be tested for all sites in the 2012/2013 cycle.

## ***Field mission & preparations***

Field mission preparation is a critical starting point and this section seeks to synthesize both experiences and practical tips from experts interviewed. Field missions may reveal important hands-on work with indigenous and local communities poorly captured by the nomination format, as it may unravel outstanding management concerns. Given the eagerness of State Parties to secure support for their proposal, addressing such is not always straightforward. Much thus depends on the competencies of the evaluator and the preparatory process. In some cases, it was commented, evaluators with little regional experience, also relied heavily from local support (interpreters and national experts).

## **Cost concerns**

Cost concerns linked to field evaluation are a useful starting point. The main costs associated with the mission are borne by the IUCN (unlike monitoring missions) notably in terms international and national travel as well as accommodation. Yet, IUCN does not cover “exceptional expenses” such as boat or helicopter hire. Furthermore it is expected that host country “covers the costs associated with the participation of representatives of national and local authorities and institutions as well as national experts that are designated to join the field mission”. In effect, both the “exceptional costs” and the “associated costs” are critical to:

- Enable the evaluator(s) to reach remote areas where community and rights issues may be significant, or simply different from areas closer to administrative HQ
- Enable independent travel. Does it involve contracting of independent vehicles or use of government transportation?
- Ensure free movement. Is the team allowed to follow-up on emerging leads or transportation routes defined in advance?
- Identify and select independent national experts and translators to accompany the evaluation
- Enable adequate resources for the effective participation of indigenous and community authorities and national indigenous/ community experts where appropriate

Key finding: Cost-sharing arrangements and budget management may have indirect effects on the extent the evaluation mission is tailored to effectively identify community and rights issues

Recommendation: IUCN should in the introduction note to State Parties reiterate the independent nature of the evaluation and stress best practice in terms of independent transportation, choice of experts and the availability of resources

## Selecting field evaluators and having strong teams

Field missions cannot be expected to clarify everything. They are short and need to cover a wide range of concerns. Yet, it is critical to as far as possible adhere to a number of principles in order to ensure that they have been undertaken in good faith and will be as independent as possible when addressing community and rights issues. It is also a critical moment to assess the nature of contentious community and rights concerns identified in the desk reviews, and determine whether there is sufficient capacity within the evaluation team to address the topic. Complex tenure and rights concerns may require distinct social science or even legal expertise.

General emphasis when selecting field evaluators is to identify people with competences related to the subject area and natural criteria. This remains fundamental to ensure that the core science enabling a robust assessment of the OUV is in place. Yet, such evaluators also need to identify the basics of broader concerns, which increasingly form part of the discussions with State parties. It is recommended to early on have a frank discussion with the field evaluator about cross-cutting concerns as community and rights issues. Many evaluators have direct hands-on experience in such matters, whereas others may not have this. In the case, that community concerns are reckoned very complex, IUCN should aim to integrate national experts unconnected to the site in the evaluation team.

Key finding: where site nominations beforehand reveal highly complex community and rights concerns beyond the core competencies of the evaluation team options for expanding the evaluation team with relevant national expertise is necessary

Recommendation: In the case, that community concerns are reckoned very complex, IUCN should aim to integrate national experts unconnected to the site in the evaluation team.

## Getting organized

A key element involves the joint planning of the field missions between States and IUCN. It was mentioned by one interviewee that field evaluators may not always be well-prepared in terms of having an adequate overview of the kinds of stake and right-holders or the possible issues involved. One interviewee recommended making further use of regional and national IUCN focal points in advance to gather further information and advise mission preparations. In especially challenging cases, it was recommended for focal points to help out with a pre-mission fieldvisit to help put in place consultation meetings and appropriate people to be met.

“It’s sad to see local communities not being involved, they feel they will loose access, they become enemies..” (interview)

As a general practice, as part of the preparatory process, it was recommended that State Parties are requested to early on provide an overview of stakeholders and their specific rights and concerns prior for IUCN to comment on. Before the evaluation

mission, IUCN should have the possibility to cross-check whether the identification of stakeholders for public consultations is reasonably exhaustive. It was recommended that IUCN in a politically sound way seeks to identify others that may not have appeared on the first list through literature review and wider consultation. Such initial mapping will allow to better identify what local institutions should be contacted, where field visits are most needed (to avoid “community tourism”).

**Recommendation:** IUCN should request the State Party in advance to provide an extensive list of all right and stakeholders along with an elaborate description of the consultation process and its results. Ideally, the evaluation team will have the resources to work with a local independent expert with experience in locally appropriate forms of community consultation.

Practical measures are needed to ensure that field evaluators meet up with local representatives and actors, which have informed opinions about the rights situation and concerns in the respective areas. In this respect, interviews with a regional indigenous organization (Asian Indigenous Peoples Pact) and global support organizations (IWGIA and FPP) all confirmed readiness to help IUCN through their networks of national organizations and experts to facilitate contacts at the national level for the evaluations. Depending on the country and regions concerned, interviewees reckoned the identification of relevant local contacts to be more or less straightforward. Although not interviewed specifically on this, similar support is expected from other regional as, for example, the Indigenous Peoples of Africa Coordinating Committee (IPACC) and La Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA), as well as national organizations such as the Russian Association of Indigenous Peoples of the North (RAIPON). Other relevant organizations mentioned included the UN Permanent Forum on Indigenous Issues (UNPFII), Cultural Survival, Amazon Watch, the Tebtebba Foundation and the International Indigenous Forum on Biodiversity.

**Key finding:** IUCN has an important opportunity to benefit from more regular and systematic engagement with regional indigenous organizations and global support organizations

**Recommendation:** IUCN is recommended to reach out to regional indigenous organizations and support institutions as part of the 2012/2013 review exercise and develop/ test a simple mechanism for the identification of relevant national and local representatives and experts for the field evaluations. A follow-up meeting could be organized at the WCC in Jeju.

Albeit indigenous peoples are estimated to number some 370 million people, they are far from the only communities present in World Heritage sites. In some cases, nomination sites may be inhabited by rural communities facing similar challenges, yet without being organized in representative organizations. Consultations revealed good opportunities to consult with global networks of farmer and food rights organizations to allow linking up field evaluations with national and local farmers organizations and networks.



Key finding: IUCN has an important opportunity to benefit from more regular and systematic engagement with farmers and food rights organizations in the evaluation processes

Recommendation: IUCN is recommended to reach out to farmers and food rights organizations and support institutions as part of the 2012/2013 review exercise and develop/ test a simple mechanism for the identification of relevant national and local representatives and experts for the field evaluations..

## **Creating consultation spaces**

The purpose of consultations are not, as its main objective, to resolve on-going matters and concerns, but to assess whether and how consultation processes have and are taking place on community and rights issues as part of the nomination process. Only acknowledging that a public consultation has taken place is not sufficient. Determining the adequate forms of consultation for the field mission is an important question to raise early on in the evaluation preparations. Evaluation teams being met by local protestors once arriving to the field-site is not only an unpleasant experience, but reveals the importance of carefully tailoring the consultation process to be transparent and accessible to all stakeholders concerned. Important questions to ask include:

- At the national level, are there national federations or support organizations knowledgeable about the specific community concerns and how best to consult?
- What are the best ways to meet with (different) indigenous and community organizations at the WH site?
- How and in what language and form can adequate information about the evaluation process be provided in advance to ensure that community representatives are prepared?
- Can IUCN networks help identify national or local experts ready to facilitate effective consultations on the ground?
- What are locally forms of gender-sensitive and appropriate consultation measures during the field-visit?
- How might the official meeting programme be complemented by targeted consultation processes of specific vulnerable groups?

## **Documenting community and rights issues**

Field evaluations allow to verify information and further document the kinds of issues raised by the State Party, NGOs and others. Documenting such issues will need to ensure accuracy, objectivity, transparency and credibility. If community and rights issues are being raised during the field evaluation, the evaluator is requested to as far as possible seek impartiality and reflecting all views allowing for both community voice and State Party responses. This may also involve to:

- Encounter relevant human rights organizations independently

- Only quote public documents
- Not cite individuals for the sake of protection
- Double check findings
- Ensure that interpreters are independent and ideally familiar with local languages (notably for natural WH sites often in remote areas, where other indigenous languages)
- Ensure the safety of informants is protected

Recommendation: Strengthen documentation of community and rights concerns through applying reworked matrices and engaging further with other knowledge networks

UN Resident Coordinators (e.g. UNDP Country Directors) can play key roles in informing about the country context and wider process, given that the UN since 2000 has moved towards rights-based approaches. Interaction with the country representatives of the Office of the High Commissioner on Human Rights (OHCHR) may be particularly useful in terms of access to and ways of engaging with the national human rights community. Such offices may also help providing access to further analysis and documentation relevant to particular field findings.

### OHCHR offices



Country offices	OHCHR regional offices
10 country offices in Bolivia, Cambodia, Colombia, Guatemala, Guinea, Mauritania, Mexico, Nepal, Togo and Uganda, as well as two stand-alone offices, in Kosovo (Serbia) and the occupied Palestinian territory.	12 regional offices/centres, in East Africa (Addis Ababa), Southern Africa (Pretoria), West Africa (Dakar), Central Africa (Yaoundé), South-East Asia (Bangkok), the Pacific (Suva), the Middle East (Beirut), Central Asia (Bishkek), Europe (Brussels),

	Central America (Panama City), and South America (Santiago de Chile), and South-West Asia and the Arab Region (Doha).
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<b>14 human rights components of Peace Missions</b>	<b>Human Rights advisors to UN country teams</b>
Afghanistan, Burundi, the Central African Republic, Côte d'Ivoire, Darfur (Sudan), Democratic Republic of the Congo, Guinea Bissau, Haiti, Iraq, Liberia, Sierra Leone, Somalia, Sudan, and Timor-Leste.	Chad, Ecuador, Great Lakes (Bujumbura), Honduras, Kenya, Moldova, Niger, Papua New Guinea, Paraguay, Russia, Rwanda, Southern Caucasus (Tbilisi), Sri Lanka and Tajikistan Ukraine as well as two national Advisers in Serbia and FYR of Macedonia.

Source: OHCHR web-site

Key finding: there is a good opportunity to engage the OHCHR network of offices in identifying relevant local actors and accessing other information

Recommendation: IUCN explores the development of an MoU with the OHCHR for a protocol and steps to take to request assistance in the identification of actors and meetings.

### ***World Heritage Panel and the final report***

IUCN is in charge of preparing, organizing and hosting the independent World Heritage Panel. It is also specifically charged with “securing the necessary information to underpin the eventual conclusion...including field evaluation reports, reviews, comparative analysis”. Finally, IUCN may request further information from State parties “prior to, and after” the Panel. These provisions essentially offer three important entry points to strengthen how community and rights issues are addressing.

#### **WH Panel related follow-up opportunities**

WH Panel preparation and organization	<ul style="list-style-type: none"> <li>Securing community and rights expertise in panel</li> <li>Dedicating a specific time slot for community/ rights issues</li> <li>Request presence/ inputs of Senior Social policy advisor</li> <li>Having a Panel member exclusively dedicated to community and rights issues</li> </ul>
Securing necessary information	Putting in place a “problem-shooter” mechanism to request further expertise on challenging community and rights findings from desk reviews
Request further information from State parties	<ul style="list-style-type: none"> <li>Review adequacy of existing information in relation to community and rights</li> <li>Request further information following discussions of field evaluations and desk reviews</li> </ul>

Key finding: there is a good opportunity to strengthen the role WH Panel on community and rights issues through recruiting relevant expertise and time allocation

Recommendation: IUCN recommended to ensure that dedicated expertise is recruited for the 2012/2013 Panel

The final report according to *Operational Guidelines* contains “a concise summary of the Outstanding Universal Value”. It should obey a certain number of principles.

### Key principles for the IUCN report

- a) adhere to the World Heritage Convention and the relevant *Operational Guidelines* **and any additional policies set out by the Committee** in its decisions;
- b) be **objective, rigorous and scientific** in their evaluations;
- c) be conducted to a **consistent standard of professionalism**;
- d) comply to standard format, both for evaluations and presentations, to be agreed with the Secretariat and include the name of the evaluator(s) who conducted the site visit;
- e) indicate clearly and separately whether the property has Outstanding Universal Value, **meets the conditions of integrity and/or authenticity, a management plan/system and legislative protection**;
- f) **evaluate each property systematically according to all relevant criteria**, including its state of conservation, relatively, that is, by comparison with that of other properties of the same type, both inside and outside the State Party's territory;
- g) include references to **Committee decisions and requests concerning the nomination under consideration**; (para 148, bold inserted)

On a number of occasions, specific site nominations have generated substantial questions and debate about the most appropriate IUCN response for the final report on a given community and rights issue. In such cases, the Panel needs to in, a structured manner, address whether rights issues concerned are adequately documented, unbiased and can be relied upon in order to determine how best to be raised in the final report. This may in some cases also benefit from double-checking certain information with knowledgeable actors and relevant documentation within the broader community and rights community<sup>13</sup>.

Key finding: the Panel is often in need of technical inputs, further knowledge elements and advice to carefully tailor conclusions and recommendations in the final evaluation report

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<sup>13</sup> Human rights concerns often involve substantially documentation by both national and international organizations and agencies. Whether speaking of the Universal Periodic Review or national reports to treaty bodies and processes, significant human rights practices of most States are documented in one way or another. Added to this are specific global reports related to specific groups as children or rights holders as indigenous peoples as the Yearbook of the International Work Group of Indigenous Affairs (web-site), reports of Special Rapporteurs or human rights organizations as Amnesty International or Human Rights Watch. In only a few cases are there specific references to World Heritage. This has come from the Permanent Forum members and the Special Rapporteur.

Recommendation: IUCN is recommended to explore options for consolidating a small expert group of indigenous, community and social science experts to provide further knowledge elements and “trouble shooting” advice on complex cases

Whereas the Panel in many cases thus end up addressing community and rights matters in conclusions and recommendations, reporting on such matters appears under varying headings in the evaluation report (e.g. as “threats” or “additional matters”). As has been argued elsewhere, this does not favour a consistent reporting practice and there is good reason to update the reporting format to make full use of further information being gathered on communities and rights concerns.

Key finding: while there are a number of examples of reports treating key community, tenure and rights concerns, treatment is highly variable justifying a far more explicit treatment by the IUCN in terms of a revised reporting format with a dedicated space for such concerns

Recommendations: IUCN is recommended to integrate a specific element in the reporting format dedicated to community and rights issues there is a need for dedicated spaces in the report and an annexed checklist

### ***Overall SWOT in relation to community and rights concerns***

	<b>Positive</b>	<b>Negative</b>
<b>Internal factors</b>	<b>Strengths</b>	<b>Weaknesses</b>
	Well-recognized scientific authority and role Committed programme staff Access to diverse networks Strong group of experienced evaluators, many with longstanding experience on community issues Growing emphasis on community and rights concerns in evaluations, yet inconsistent	Lack of internal shared data gathering and guidance tools in relation to community and rights concerns Not full mobilization of TILCEPA network in terms of access Limited TILCEPA representation in certain regions and on many rights issues Lack of dedicated space in reporting formats
<b>External factors</b>	<b>Opportunities</b>	<b>Challenges</b>
	Commitment from regional indigenous organizations to facilitate introductions  Interest in global consultation meeting.  Possibility to strengthen better coordination with UN Resident representatives at national level in the preparation of missions	Lack of awareness about WH provisions about community and rights concerns in certain regions Limited awareness about WH processes among key constituencies

## **7. Concluding remarks and key findings**

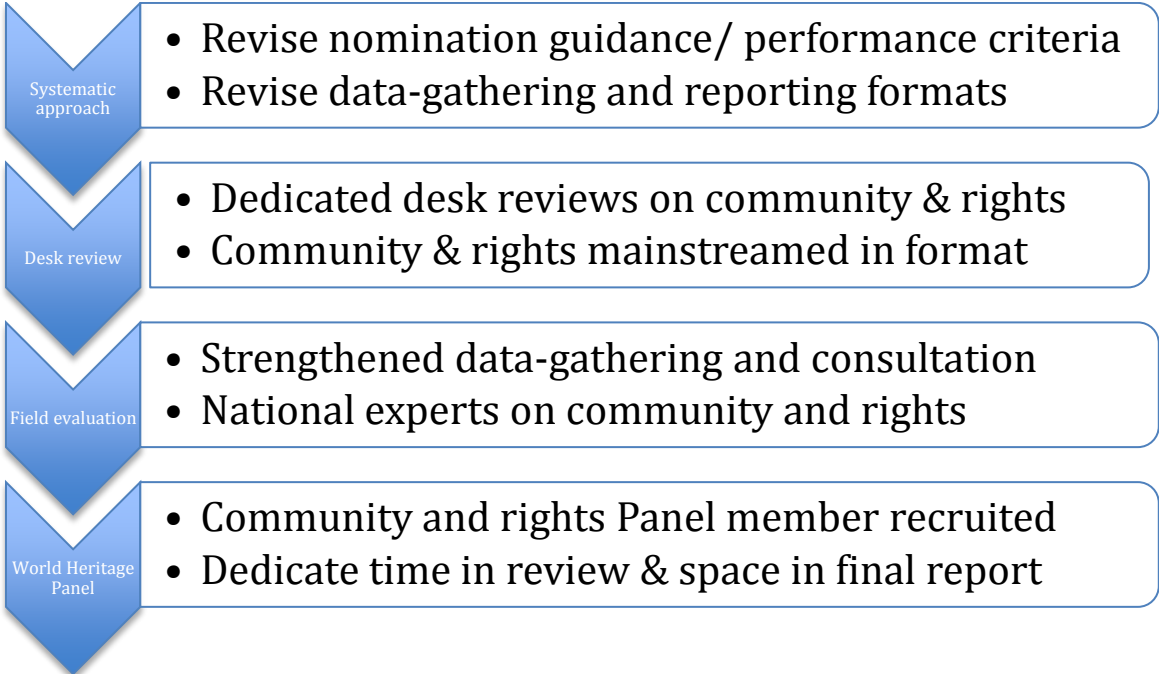
IUCN is taking important steps to consolidate its work on community and rights concerns as part of its advisory body mandate. This review has addressed the policy context as well as the practical experiences and process implications of taking this work a step further. There is no doubt that the IUCN evaluations play a valuable role in the nomination process, and increasingly have taken on board community and rights issues both in its conclusions and recommendations. Interviews confirmed wide support to IUCN in strengthening this dimension of their evaluation work, and furthermore pointed to several ways in which this could be done. First of all, there was considerable enthusiasm about catalyzing a learning-by-doing process already for the 2012/ 2013 cycle of evaluations. Such a process could start reworking the “bigger picture” of strengthening overall nomination guidance and format currently lacking in these respects, while simultaneously testing how the evaluation process could improve its data-gathering, consultation practices, knowledge management and reporting.

The evaluation process is deemed critical to assess community and rights concerns, yet needs to recognize complexity, avoid simplistic judgements and pay due attention to the wide range of efforts undertaken by State Parties in a systematic manner. Treatment of community and rights issues remains somewhat too “dependent” on the level of civil society reporting and critique and cannot be expected to appear naturally in all evaluations through normal means of consultation and evaluation procedures. While they appear frequently in IUCN evaluations, it happens in highly varying ways and without a dedicated reporting space allowing for a systematic treatment of its main elements. IUCN currently does not operate with a clear set of performance criteria and standards in relation to community and rights when evaluating WH site nominations. This in part is a reflection of lack of initial guidance and dedicated space on such issues in the official guidance material and nomination format. Some actors lack a clear understanding of the evaluation process and how to support and feed into it. There is a need for more targeted awareness raising and outreach to key constituencies. Current desk-review guidance and formats do not allow for fully exploiting the knowledge potential among IUCN networks.

There is a good potential, however not equally strong for all regions, to further mobilize CEESP and TILCEPA membership for the desk review process. This could ideally involve a specific desk review dedicated to community and rights issues for each site. In a number of cases, possible community and right questions may be identified very early on facilitating better documentation and response possibilities in the remaining stages, not least for the field evaluations. Cost-sharing arrangements and budget management may have indirect effects on the extent to which the evaluation mission is tailored to effectively identify community and rights issues. Where site nominations beforehand reveal highly complex community and rights concerns beyond the core competencies of the evaluation team, options for expanding the evaluation team with relevant expertise is necessary. In terms of undertaking field consultations and accessing relevant national expertise, IUCN has an important opportunity to benefit from more regular and systematic engagement with both CEESP/TILCEPA networks, regional indigenous and farmer’s organizations and global support organizations. There is also a good opportunity to strengthen the role of the WH Panel on community and rights issues through recruiting relevant

expertise and time allocation in the panel meetings. While there are a number of examples of reports addressing key community rights concerns, treatment is highly variable justifying a far more explicit and systematic treatment by the IUCN in terms of a revised reporting format with a dedicated space for such concerns.

**Strategic direction for improving the evaluation process**



In the following weeks, the strategic approach above and the following recommendations will need to be translated into a do-able road map. The detailed recommendations below are followed by a proposed time-line distinguishing between immediate and medium term opportunities for action.

## 8. Recommendations

<p>IUCN retains a systematic approach to community and rights issues in the evaluation process</p>	<p>IUCN is recommended to</p> <ul style="list-style-type: none"><li>- Systematically engage with State parties and request the early identification and mapping out of stakeholders and right-holders as well as their respective stakes and rights upon the initiation of the site evaluation process.</li><li>- Rapidly update current guidance documents for evaluators, desk reviewers and the World Heritage Panel to better incorporate community and rights concerns:</li><li>- Include both past and present rights issues when assessing a given nomination document when writing up final findings and recommendations</li><li>- Retain “rights to information, consultation and consent”, “Rights to participation in decision-making and management”, “tenure rights”, “livelihoods and benefits rights” and “cultural rights” as a key criteria to assess nominations</li><li>- Put in place a bundle of safeguard measures, within realistic means, to assess whether and how State Parties have identified any outstanding rights concerns that directly or indirectly emerge or could be improved through the nomination process.</li><li>- Develop a brief annotated list of performance criteria for nominations in terms of the different community and rights issues described</li><li>- Make full use of the evaluation process to raise outstanding community and rights concerns with State Parties in order to allow for the early identification of challenges and obstacles preventing rapid recommendations for acceptance</li><li>- Raise awareness among state parties and constituents about new approach</li></ul> <p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"><li>- Raise further awareness among State Parties about how to mainstream and work with community concerns and rights from nomination to designation and implementation</li><li>- Revise the current manual for “preparing world heritage nominations” with a dedicated chapter on community and rights concerns</li><li>- Prepare the technical background analysis and recommendations for the Committee to improve the nomination format and amend the <i>operational guidelines</i> accordingly</li></ul>
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	<ul style="list-style-type: none"> <li>- Recommend the Committee to consider a thematic assessment into indigenous and local communities, tenure, benefits and governance.</li> </ul>
IUCN should rework its data-gathering and reporting formats to allow for a dedicated community and rights section with relevant sub-sections.	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Systematically apply a community and rights matrix when reviewing a country nomination processes</li> <li>- Integrate a specific element in the reporting format dedicated to community and rights issues with an annotated guide for these sections</li> <li>- Facilitate the adoption of a series of technical quality criteria for assessing the degree to which community and rights are addressed in nominations under evaluation based on well-established IUCN standards and good practice (e.g. using Best Practice guidelines)</li> <li>- Add a specific question linked to community and rights to the general desk review format as well as elaborate an additional “community-specific” review format to be tested for all sites in the 2012/2013 cycle.</li> <li>- Include reference documents related to biocultural diversity and reference volumes on indigenous peoples, human development concerns and rights as part of the standard evaluation reference volumes</li> </ul> <p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"> <li>- Explore how data-gathering and reporting on community and rights issues may be harmonized among different advisory bodies</li> </ul>
IUCN is encouraged to fast-track learning by doing evaluation processes for the 2012/ 2013 cycle	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Set-up an early screening process of nomination documentation that allows to identify community and rights concerns early on</li> <li>- Given the lack of resources to undertake outreach, IUCN is encouraged to produce brief videos and general information material targeting communities and their organizations in major languages outlining the evaluation process and how and when communities and other organizations can feed into the process</li> <li>- Put in place a work plan for engaging the IUCN constituency working on rights, including CEESP and TILCEPA membership and member organizations, for the 2012/2013 evaluation process among, other</li> </ul>

	<p>things, seeking to have one dedicated community and rights desk review undertaken per nominated site</p> <ul style="list-style-type: none"> <li>- IUCN should aim to integrate national experts unconnected to the site as reviewers when cases are deemed complex</li> <li>- Ensure that dedicated expertise on community and rights is recruited for the 2012/2013 Panel</li> <li>- Explore options for consolidating a small expert group of indigenous, community and social science experts to provide further knowledge elements and “trouble shooting” advice on complex cases</li> <li>- Reach out to indigenous, farmers and food rights organizations and support institutions as part of the 2012/2013 review exercise and develop/ test a simple mechanism for the identification of relevant national and local representatives and experts for the field evaluations.</li> </ul> <p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"> <li>- Strengthen learning by doing processes on community and rights across the different bodies</li> </ul>
Strengthen field evaluation processes	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Emphasize the independent nature of the evaluation and stress best practice in terms of independent transportation, choice of experts and the availability of resources for consultation processes</li> <li>- Inform State Parties about learning process and request extensive list of all right and stakeholders along with an elaborate description of the consultation process and its results.</li> <li>- Ideally, the evaluation team will have the resources to work with a local independent expert with experience in locally appropriate forms of community consultation.</li> <li>- Set up complementary and independent meetings with community and other representative organizations as necessary during the field evaluations.</li> <li>- IUCN explores the development of an MoU with the OHCHR for a protocol and steps to take to request assistance in the identification of actors and meetings in case of complex cases</li> </ul>
Put in place a “learning by doing” strategy	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Identify how lessons learned will be identified and by whom</li> <li>- Identify means and moments for sharing lessons learned with wider stakeholders (WCC, WH processes)</li> <li>- Define how lessons will feed into the planning of next year’s cycle of WH evaluations.</li> </ul>

## 9. Proposed time line of opportunities for action

	<b>Short-term</b>	<b>Medium term</b>
Retaining a systematic approach to community and rights issues in the evaluation process	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>-Update current guidance documents</li> <li>- Develop safeguards and performance criteria</li> <li>- Raise awareness among state parties and constituents about new approach</li> </ul>	<p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"> <li>- Raise further awareness about mainstreaming</li> <li>- Revise the current manual for “preparing world heritage nominations”</li> <li>- Facilitate improving the nomination format and operational guidelines</li> <li>- Recommend the Committee to consider a thematic assessment into indigenous and local communities, tenure, benefits and governance.</li> </ul>
Reworking its data-gathering and reporting formats to allow for a dedicated community and rights section with relevant sub-sections.	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Apply a community and rights matrix</li> <li>- Integrate a specific element in the reporting format</li> <li>-Facilitate the adoption of a series of technical quality criteria</li> <li>-Add a specific question linked to community and rights to the general desk review format as well as elaborate an additional “community-specific” review format</li> <li>-Expand reference documents</li> </ul>	<p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"> <li>- Harmonize data-gathering and reporting formats</li> </ul>
Fast-tracking learning by doing evaluation processes for the 2012/ 2013 cycle	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>-Set-up an early screening process of nomination documentation</li> <li>-Undertake awareness raising about the process</li> <li>-Engage IUCN constituents working on communities and rights concerns</li> <li>-Ensure dedicated desk reviews on topic</li> <li>- Ensure that dedicated panel expertise -- Consolidate “trouble shooting” group</li> <li>-Test mechanism for identifying representatives</li> </ul>	<p>IUCN, with the Advisory Bodies and the WH Centre are recommended to:</p> <ul style="list-style-type: none"> <li>- Strengthen learning by doing processes on community and rights across the different bodies</li> </ul>
Putting in place a “learning by doing” strategy	<p>IUCN is recommended to:</p> <ul style="list-style-type: none"> <li>- Identify and document lessons learned</li> <li>-- Define how lessons will be shared and feed into the planning</li> </ul>	

## 10. Evaluation formats

<b>Rapid Screening matrix on community and rights</b>	
To what extent has the nomination format adequately identified and described the different population groups and rights holders?	If not, engage rapidly with State Party on the matter
To what extent does the nomination document describe consultation and consent processes with local authorities and representative organizations?	If not, engage rapidly with State Party on the matter
Specifically, has relocation of people or the exclusion of tenure such as use rights taken place prior to the WH nomination?	If yes, make sure that an effective consultation process is put in place to assess the process and rights concerns during the field mission
Have State parties or other actors already identified community and rights concerns for further assessment in the evaluation process?	If yes, start early exploring how to best address identified issues in the field evaluation. Request more data from State Party as necessary.
Are there immediate indications of community and rights concerns (protests, NGO communications, “conspicuous absence”)?	If yes, explore whether more general or topic specific desk reviews should be requested. Explore with State Parties and other actors how to ensure an effective and equitable consultation process during the field visits.
Overall need for in-depth assessment deemed necessary?	If yes, fast track in-depth preparatory activities for field consultations and seek additional desk reviews

<b>Process aspects</b>	
<p><b>Situation analysis</b></p> <p>To what extent has the State Party identified..</p>	<ul style="list-style-type: none"> <li>- right-holders and duty-bearers?</li> <li>- Applicable legal rights, claims and duties?</li> <li>- Potential impacts of the proposed nomination on key community concerns and rights?</li> </ul>
<p><b>Information</b></p> <p>To what extent has the State Party ..</p>	<ul style="list-style-type: none"> <li>- Compiled, Published, and/or Otherwise Disseminated Information about the nomination in an Understandable and Easily Accessible Way</li> <li>- Disseminated Specific Information Regarding Legal Rights, Claims, and Duties of Potentially Affected Persons</li> </ul>
<p><b>Participation</b></p> <p>To what extent has the State</p>	<ul style="list-style-type: none"> <li>- Undertaken consultations the nomination process in good faith?</li> <li>- Sought and Promoted Free and Prior Informed Consent?</li> <li>- Put in place stable participation arrangements for WH</li> </ul>

Party undertaken..	<p>questions?</p> <ul style="list-style-type: none"> <li>- Provided and used Conflict Resolution Mechanisms as part of the nomination process to Secure Rights ?</li> </ul>
<p><b>Reasoned decisions</b></p> <p>To what extent has the State Party taken decisions:</p>	<ul style="list-style-type: none"> <li>- Modify the nomination proposal to reflect key community concerns and rights? (<i>such as boundaries, management design/ planning, modalities of participation</i>)</li> <li>- Resolve outstanding community rights concerns?</li> <li>- Post-pone decisions and put in place additional consultation process</li> </ul>
<p><b>M&amp; E</b></p> <p>To what extent is the State Party</p>	<ul style="list-style-type: none"> <li>- monitoring implementation of WH community and rights plans?</li> <li>- Reacting upon monitoring findings?</li> </ul>
<p><b>Enforce Rights</b></p> <p>To what extent has the State Party put in place</p>	<ul style="list-style-type: none"> <li>- Strengthened enforcement of rights measures as part of the WH Nomination?</li> <li>- Remediation measures or restoration of rights that have been infringed such as using restitution as a remedy as part of the nomination process?</li> <li>- Compensation measures for losses caused by the Nomination?</li> </ul>

Degree of impact	Score	Follow-up - -in-depth comments
<b>Positive impact</b>	PI	
<b>No change</b>	NC	
<b>Negative impact</b>	NI	
<b>No (or inadequate) information available</b>	N.A.	
<b>Consultation and consent processes</b>		
<b>Tenure Rights</b>		
<b>Management and decision-making</b>		
<b>Livelihood and benefit-sharing rights</b>		
<b>Cultural rights</b>		

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2008 Protected Areas and Property Rights: Democratizing Eminent Domain in East Africa: WRI.

# Annex 1: Terms of Reference

## BRIEF OF IUCN WORLD HERITAGE EVALUATION PROCESSES REGARDING COMMUNITIES AND RIGHTS

### Terms of Reference

1. The purpose of this contract is to briefly analyse the overall IUCN framework related to rights in the World Heritage context and undertake a desk based review of IUCN's evaluation processes for nominations of sites to be recognised on the World Heritage List, in specific relation to the identification and recognition of issues related to rights of local communities (including indigenous peoples) within nominations submitted by signatory States Parties to the World Heritage Convention. The exercise is considered a learning-by-doing process explicitly aiming at generating lessons and tools to be tested by IUCN and its evaluators in 2012. The emphasis is therefore operational. Draft proposals developed will be tested by IUCN, its panel and field evaluators and adapted accordingly.
2. IUCN undertakes an evaluation of each new nomination to the World Heritage List. This process is governed under the Operational Guidelines to the World Heritage Convention, and IUCN's own internal guidance to those undertaking field evaluations, those submitting desktop reviews, and to the IUCN World Heritage Panel – which is ultimately responsible for forming IUCN's advice to the World Heritage Committee. The World Heritage Committee takes the decision on listing sites on the World Heritage List, and IUCN's advice is a principal source of evidence for the Committee – alongside the nomination file submitted by the nominating State Party. In addition to the requirements of the World Heritage Convention, IUCN has its own bodies and resolutions in relation to rights, and these provide the context within which the World Heritage evaluation processes of IUCN should operate. Those policies specifically related to communities and protected areas are particularly relevant in this regard. The key documents noted above will be provided to the consultant by IUCN.
3. The reviewer is asked to review IUCN's procedures, and to undertake a consultation via telephone/internet with c.10 representatives of stakeholders in the process, both inside and outside IUCN, in order to consider the potential needs and opportunities to strengthen IUCN's evaluation process to assure, as far as possible, that rights-based issues are identified and addressed in its evaluations, and in the advice it provides to the World Heritage Committee. A list of consultees will be agreed between the consultant and IUCN.
4. Based on a review of selected case studies and the existing processes of the Convention and IUCN's evaluation practices, consideration of the IUCN policy environment on rights, and the views gained from interviews with stakeholders, the consultant is asked to prepare a report which should include the following elements:
  - a) A brief overview of the broader IUCN framework of rights in relation to World Heritage
  - b) Lessons learned about challenges and opportunities in relation to rights from selected WH cases
  - c) An analysis of the present status of IUCN's evaluation processes, including strengths and weaknesses in relation to addressing the rights of local communities and indigenous peoples.
  - d) Proposals for amendments to IUCN's evaluation processes to remedy identified weaknesses, including both the documentation of procedures, and the operation of



the evaluation of process to be tested in 2012. Specific attention should be paid in this regard to the involvement of appropriate stakeholders within IUCN's evaluation processes. As far as possible the list of possible actions should be prioritized and an indication given of the cost and timeline that might be envisaged to make each action operational.

5. The evaluation will be supervised by Gonzalo Oviedo, in close collaboration with the IUCN World Heritage Programme (focal point, Tim Badman).
6. The consultant will undertake this project within the allocation of 20 working days for the assignment (indicative distribution of working days below).

### Timing:

	Dates	No. of working days (indicative distribution)
Initial briefing sessions and inputs to Terms of Reference	January	1
Develop table of contents	End January	2
Review of material	February	3
Preparing interview matrix and undertaking consultations	March	3
Drafting review material and draft report.	By 10 April 2012	8
Revised and finalized final report and recommendations.	Final draft delivered by 20 April 2012	3

### Outputs:

- 1) Draft Table of Contents by end January
- 2) Draft report by April 10
- 3) Final report by April 20

## Annex 2: List of interviews

Name	Organization
Nigel Crawhall	TILCEPA
Aroha Mead	CEESP
Tilman Jaeger	IUCN
Tim Badman	IUCN
Gonzalo Oviedo	IUCN
Geoffroy Mauvais	IUCN
Peter Shadie	WCPA
Sue Stolton	Equilibrium
Kanyinke Sena UNPFII	UNPFII (contacted, not possible to find date)
Valmaine Toki UNPFII	UNPFII I(contacted, not possible to find date)
Myrna Cunningham,	UNPFII I(contacted, no response)
Mechtild Rossler	UNESCO/WH Secretariat
James Anaya	Special Rapporteur (not available)
Maia Campbell	Officer supporting James Anaya
Christophe Golay	IHEID
Lola Garcia	IWGIA
Stefan Disko	IWGIA
Helen Tugendhat	FPP
Joan Carling	AIPP
Rodrigo de la Cruz	COICA
Amund Sinding- Larsen	ICOMOS Norway
Tarek MM Abul Hawa	RJSNP
Julia Miranda	Colombia (contacted, no response)
Greg Terrill	Australia
Larry Ostola	Canada