

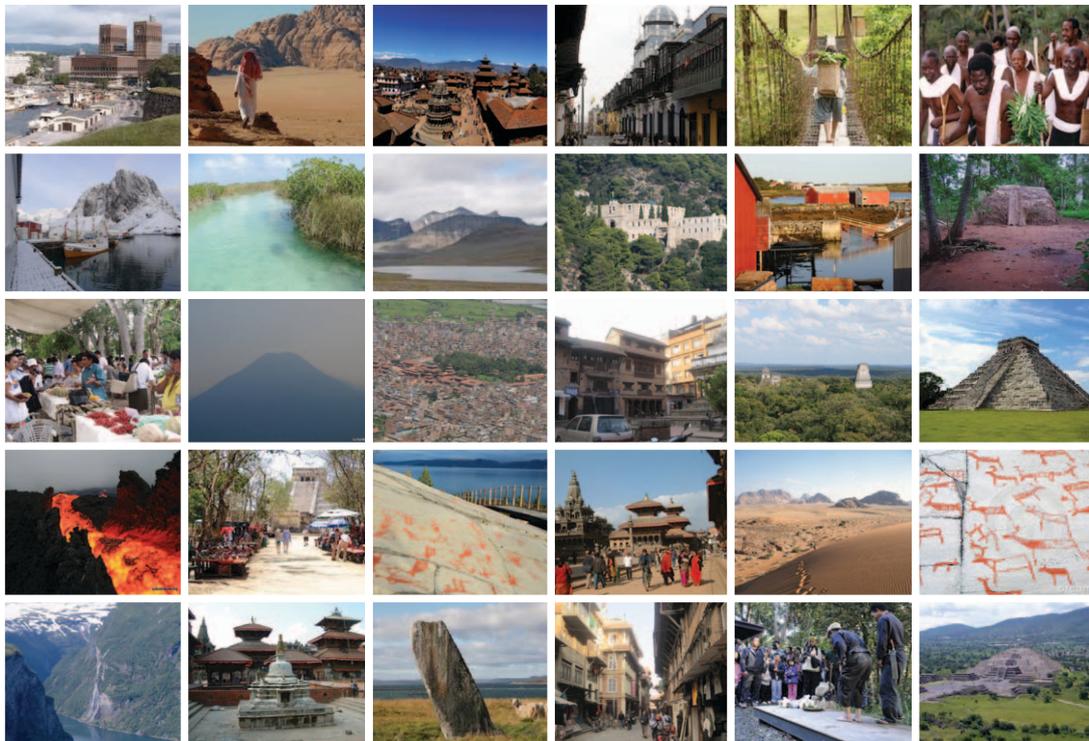


ICOMOS



INTERNATIONAL UNION FOR CONSERVATION OF NATURE
INTERNATIONAL COUNCIL ON MONUMENTS AND SITES
INTERNATIONAL CENTRE FOR STUDY OF THE PRESERVATION AND
RESTORATION OF CULTURAL PROPERTY

WORLD HERITAGE AND RIGHTS-BASED APPROACHES



REPORT FROM WORKSHOP IN OSLO 1-3 APRIL 2014
BUILDING CAPACITY TO SUPPORT RIGHTS-BASED APPROACHES IN
THE WORLD HERITAGE CONVENTION: LEARNING FROM PRACTICE



Coordinated by ICOMOS NORWAY
Funded by MINISTRY OF CLIMATE
AND ENVIRONMENT, NORWAY

THE PROJECT

“Building capacity to support rights-based approaches in the World Heritage Convention: Learning from practice” carried out by IUCN, ICCROM and ICOMOS, and coordinated by ICOMOS Norway.

THE PROJECT FUNDING

The project was generously funded by the Ministry of Climate and Environment, Norway. The Advisory Bodies wish to express their gratitude for the support over a number of years from the Ministry for the ‘Our Common Dignity’ and ‘World Heritage and Rights-Based Approaches’ project.

THE TEXTS

The enclosed texts of this publication express from page 2 onwards the opinion and understanding of the project team, based on input from the project and case study authors. The Introduction, page 1, expresses the views of IUCN, ICOMOS and ICCROM

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THE PROJECT TEAM

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Oslo 24 May 2014
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WORLD HERITAGE AND RIGHTS-BASED APPROACHES

Learning from practice: Building capacity to support rights-based approaches in the World Heritage Convention

INTRODUCTION

Human rights issues have been an integral dimension of UNESCO's mission and work since its establishment. While rights issues are not explicitly mentioned in the 1972 World Heritage Convention, its Strategic Objective "To enhance the role of communities in the implementation of the World Heritage Convention" (commonly known as the '5th C') underscores the need to respect and support communities to be involved in World Heritage processes. The Universal Declaration on Human Rights was adopted by the United Nations General Assembly on 10 December 1948 and remains the first pillar of rights law and practice. Many States Parties to the World Heritage Convention have cited the Declaration or included its provisions in their basic laws or constitutions, and further human rights covenants, conventions and treaties concluded since 1948 have been built on its principles.

In the context of the implementation of the World Heritage Convention, our shared work on nominations and conservation issues has shown the importance of finding constructive solutions where World Heritage processes intersect with the rights of indigenous peoples, cultural groups, local communities and individuals associated with World Heritage properties. Where rights issues are not addressed, a range of problems and conflicts can arise. There have been notable criticisms of some aspects of the World Heritage Convention practices that require a positive response. National rights frameworks only translate into equitable heritage conservation when the practicalities of implementation are addressed. In response, this activity also supports the ongoing work coordinated by the World Heritage Centre to develop a policy on sustainable development to effectively incorporate a rights-based approach.

ICOMOS, IUCN and ICCROM, as Advisory Bodies to the Convention, in consultation with the World Heritage Centre, are collaborating to increase understanding and identify effective approaches to clarifying the rights dimension in World Heritage work. The goal is to promote the application of "good practice" approaches to rights and their enabling conditions in relation to World Heritage, and to develop and recommend possible tools that would assist our work in the nomination and state of conservation processes, as well as the overall work of the Advisory Bodies, to ensure rights issues are appropriately considered.

Since 2011, the Advisory Bodies have worked together on these issues through the 'Our Common Dignity' program. An important step in this process was the "*Building Capacity to Support Rights-Based Approaches in the World Heritage Convention: Learning from Practice*" project, carried out in 2014 with generous support from the Norwegian Ministry of Climate and Environment, and the leadership of ICOMOS Norway. It culminated in an international expert workshop, held in April 2014, with over thirty participants from all continents. Key outcomes of that workshop are presented in this report, with selected recommendations on next steps to carry forward this work.

Acknowledging the valuable lessons and recommendations emerging from the project and the workshop, ICOMOS, ICCROM and IUCN intend to continue their collaboration to raise awareness and improve knowledge of this complex topic, and advance approaches beneficial to our shared work with States Parties, local and associated communities, indigenous peoples and all stakeholders in World Heritage.

IUCN - International Union for Conservation of Nature
 ICOMOS - International Council on Monuments and Sites
 ICCROM - International Centre for the Study of Preservation
 and Restoration of Cultural Property

THE REPORT IN A NUTSHELL

The overall goal of this pilot project has been to promote recognition and understanding of “good practice” approaches to human rights and their enabling conditions in the World Heritage arena

The project was carried out over the brief period from January to end of April 2014. Case study authors from Asia-Pacific, Africa, the Arab States, Latin America and Europe enthusiastically engaged with the project focus (see page 5) carrying out field research, preparing papers and presentations for the Project Workshop that was held as an Advisory Bodies Expert Meeting in Oslo, Norway on 1st to 3rd of April 2014.

The Workshop over three days was arranged as interlinked case study presentations, each followed by a discussant's review, with formal and informal discussions in an atmosphere of excellent dialogue, sharing of experience and knowledge, and expressed will to advance mutual understanding and support of the complex topic of the project and workshop.

Central questions in the workshop activity have been:

- What are the emerging lessons about how rights are addressed in different World Heritage sites?
- What are the enabling conditions and specific opportunities for strengthening RBA?
- What are the opportunities for Advisory Body action to support and facilitate effective RBA?

This report presents key issues discussed and recommended for further action by the Advisory Bodies, with a brief presentation of the Advisory Bodies Project and Workshop.

LEARNING FROM PRACTICE

The project approach sought to learn from on-going World Heritage practice in order to better identify lessons, challenges and opportunities for action with Rights-based approaches. For the project background see page 3.

ADDRESSING THE DIVERSITY OF WORLD HERITAGE SITES AND RIGHTS

Case studies presented at the workshop covered natural, cultural and mixed sites from Asia, Africa, the Pacific, Europe and Latin America. It also sought to mobilize inputs from the academic and wider sustainable development community. For a list of case studies and presenters. See page 4.

EMERGING ISSUES AND PRELIMINARY LESSONS

Workshop discussions identified common ground in terms of critical issues and preliminary lessons for strengthening rights-based approaches in the World Heritage system. This section synthesizes main points covered in discussions illustrated with case-specific examples. See page 5.

CONCLUSIONS AND RECOMMENDATIONS

Workshop participants initiated a collective discussion about key areas of work and ways forward to strengthen RBA. These included specific suggestions for how to strengthen policy and operational guidance and create effective enabling conditions. See page 10.

COLLECTIVE STATEMENT AND WAY FORWARD

The workshop led to a final statement encapsulating the constructive spirit and a call for action in the World Heritage system. For the full statement see page 12

For further information on this topic (papers and related material), please link to the website of ICOMOS Norway: <http://www.icomos.no/whrba>

PROJECT CONCEPT FOCUS

Building capacity to support rights-based approaches in the World Heritage Convention: Learning from practice

Overall project goal has been: Promoting recognition and understanding of “good practice” approaches to human rights and their enabling conditions in the World Heritage arena

Specific objectives were to:

1. Document and analyze how rights issues have been addressed in selected initiatives making progress around community engagement in the World Heritage field.
2. Identify enabling conditions and specific opportunities for strengthening rights-based approaches.
3. Explore opportunities for Advisory Body action to support and facilitate RBA reflective of country specific needs and opportunities.

Central questions:

1. What can be learnt from existing WH site engagement with community and rights issues in terms of major challenges and advances?
2. What are the overall lessons learnt which may inform the improved design of rights-based approaches and facilitate enabling conditions for their implementation?
3. What are major needs and opportunities for Advisory Body action to strengthen rights-based approaches?

BACKGROUND REFLECTIONS:

‘Good practice’: Promoting „good practices“ constitutes an important, if debated, modality for exchange in the conservation and development field. Its application in the World Heritage field can appear challenging. Important questions raised were: i) who ultimately decides upon what is considered a best practice and based on which criteria?, ii) how are regional and other contextual differences recognized?, iii) when is knowledge sufficient to determine good practice?„

Further, there is debate about the notion of replicability as well as the normative context of rights in the heritage field. A combination of case studies and collective learning was designed to prepare the ground for reflection and Advisory Body coordination. The project sought to trigger an experience-based exploration of “good practice” in order to better understand the diversity of conditions, challenges and opportunities. The workshop brought together practitioners and scholars to take stock of specific World Heritage issues and identify ways of strengthening rights-based approaches.

World Heritage progress in relation to community issues: Recent years have seen considerable progress in aligning World Heritage management with wider sustainable development objectives. Showcasing of advances and success stories, however, rarely allow for explicit and in-depth analysis of the rights dimension. The study sought to foreground learning and experience sharing from sites proactively addressing community issues in different regional and heritage contexts with a specific focus on different aspects of rights-based approaches.

Case studies: Case study authors were asked not merely to “reproduce” language acknowledging their “community” engagement, but to analyze constructively how human rights have been approached and formed part of the specific approach. The case studies shared a learning framework with a set of common learning questions. Authors had different backgrounds: independent researchers, community representatives or government authorities. The main author of each case study presented at the Oslo Workshop, April 1-3, 2014. In preparation for the Workshop, a brief “setting the scene” discussion document was prepared.

Workshop flow: The case studies and Workshop process aimed to stimulate a discussion on experiences with a panoply of rights issues and concerns – whether ‘confirmed’ or challenged . This involved the identification of key rights issues and dimensions to consider in moving towards a better understanding of “good practice” Group work entailed a collective review of lessons learned and a process to identify recommendations for further action to strengthen enabling conditions, identify good practices and strengthened rights-based approaches in the World Heritage system. This informed Advisory Body deliberations with results to be presented at a side event at the 38th session of the World Heritage Committee in Qatar in June 2014.

PRESENTATIONS AND CASE STUDIES

CASE STUDY PRESENTATIONS

AUSTRALIA	<i>Tasmanian Wilderness and the Wet Tropics WHAs comparative study:</i> Chrissy Grant, Principal Director, CTG Services; Deputy Chair of Federal Ministerial Indigenous Advisory Committee (Australia)
JORDAN	<i>Wadi Rum WH Protected Area:</i> Tarek Abulhawa, IUCN World Heritage Panel; IUCN World Commission on Protected Areas (Jordan)
KENYA	<i>Sacred Mijikenda Kaya Forests: Approaches to Human Rights:</i> Anthony Githitho, Senior Advisor, National Museum of Kenya, Nairobi-Mombasa (Kenya)
MALAYSIA	<i>Kinabalu Park WHA relationship with surrounding communities:</i> Amran Hamzah, Professor; Vice-Chair, IUCN TILCEPA (TILCEPA - Theme on Indigenous Peoples, Local Communities, Equity and Protected Area (Malaysia)
MEXICO	<i>Sian Ka'an and Rights-Based Approaches:</i> Julio Moure, Independent Consultant (Mexico)
NEPAL	<i>Rights issues in World Heritage - a case study of Patan Monuments Zone of Kathmandu Valley World Heritage Site:</i> Sudarshan Raj Tiwari, Professor of Architecture, Institute of Engineering Patan, Tribhuvan University, Kathmandu (Nepal)
NORWAY	<i>Alta World Heritage sites: Saminess, Representativity and Narratives of Colonization and Decolonization:</i> Gro Birgit Ween, Associate Professor, Cultural History Museum, Oslo University (Norway)
PERU	<i>Lima Historic Centre:</i> Alberto Martorell, ICOMOS Peru, President; Professor of Law, incl. National University of Engineering (Peru)
REGIONAL SCOPE	<i>Recognition of Sacred Natural Sites in World Heritage:</i> Bas Verschuuren, Vice-chair, IUCN Specialist Group on Cultural and Spiritualist Values of Protected Areas (Netherlands)
INTERNATIONAL WORKSHOP REPORT	<i>"International Expert Workshop on the World Heritage Convention and Indigenous Peoples"- 20-21 September 2012 - Copenhagen, Denmark:</i> Stefan Disko, Member, International Working Group for Indigenous Affairs (IWGIA), Copenhagen (Germany)

PERSPECTIVES

Building Capacity to support Rights-Based Approaches in the World Heritage Convention: Peter Bille Larsen, Consultant to the Project, Denmark/ Switzerland.

ICCROM Perspectives on rights-based approaches: Joseph King, ICCROM Unit Director.

IUCN Perspectives on rights-based approaches: Gonzalo Oviedo; Senior Social Advisor.

ICOMOS Perspectives on rights-based approaches: Carolina Castellanos, ICOMOS World Heritage Advisor, and Rohit Jigyasu, ICOMOS Executive Committee.

UNDP and Human Rights: Shireen Said, Chief Policy Advisor, UNDP NY.

NORAD experience with rights-based approaches: Stener Ekern, Associate Professor, National Centre for Human Rights, Oslo University, Norway.

World Heritage in Mexico: Cultural sites: Marion Woynar (member, ICOMOS France).

World Heritage in Israel and Palestine: Antoine Raffoul (member, ICOMOS UK).

World Heritage in Tunisia: Mustapha Khanoussi (President of ICOMOS Tunisia).

EMERGING ISSUES AND PRELIMINARY LESSONS

The expert meeting identified a set of emerging issues and preliminary lessons and explored possible follow-up action. The full workshop report shall provide a detailed description of specific case study lessons and results of group work. The following text extracts main issues considered of critical importance to convey to the wider World Heritage community.

THE RIGHTS OF INDIVIDUALS AND COMMUNITIES ASSOCIATED WITH WHS ARE PART OF EVERYDAY WORLD HERITAGE MANAGEMENT AND LEARNING

The rights of people living within World Heritage sites or using their resources form part of the everyday management reality of both cultural and natural heritage properties, even if many sites do not operate with an explicit rights framework. Effective RBAs are therefore not about re-inventing the wheel, but building on existing practice of involving local people in heritage management and doing things better. Case studies discussing indigenous rights in Australia, urban sites in Nepal or sacred forest custodians in Kenya revealed the wide range of hands-on experiences among States Parties in dealing with rights. This offers important practice and insights ready to build on.



ADDRESSING THE COMPLEXITY OF RIGHTS: WADI RUM, JORDAN

Inscribed on the World Heritage List in 2011, Wadi Rum is Jordan's largest protected area and features several advances and specific challenges with rights-based approaches. Decentralized bodies with decision-making authority over resource management have been developed along with legal and management frameworks that take into account community concerns. Conflicts of interest, enforcement challenges and political uncertainty nevertheless pose specific challenges in terms of securing effective capacity building, balanced representation and decision-making. The case study recommends reviewing governance systems and investing in leadership and capacity building on a basis of community engagement and rights-based approaches.

Based on the case study by Tarek Abulhawa

RESPECT FOR THE RIGHTS OF LOCAL PEOPLE IS A CRITICAL INGREDIENT FOR SUSTAINABLE IMPACTS

Respecting and supporting rights is no panacea, but has to be considered part of an equitable and sustainable approach to World Heritage management. Mistrust resulting from heritage management neglecting the rights of sacred sites custodians, for example, are found from the Altai region in Russia to sites in Guatemala. Where vulnerabilities and rights issues are left unresolved, discontentment and even conflict may occur. Effective progress on addressing rights in World Heritage offers an important contribution on the ground to put into practice the social equity pillar of Sustainable Development. Such long-term benefits of rights-based approaches were also confirmed by the experiences of Norwegian Development Cooperation and UNDP experiences presented in Oslo. While efforts to address rights-issues may prolong initial engagement processes, long-term outcomes are considered more sustainable and firmly grounded in local ownership.



A BOTTOM-UP APPROACH TO LOCAL COMMUNITY RIGHTS: THE KAYA FORESTS, KENYA

The Sacred Mijikenda Kaya Forests, represented by 10 sites, were placed on the UNESCO World Heritage List, as a serial site in 2008. These small forests (10 to 800 ha) are regarded as sacred by the coastal Mijikenda peoples. Addressing rights was never an explicit strategy. Rather they are a practical set of observances to maintain respect of Kayas values and sense of ownership. Land title for most sites is held by the local communities. In practice, customary rights formed the basis for site planning and maintaining the sacred forests' OUV in the wider landscape. In protective activities traditional rules and sanctions are implemented side by side with national legal protective provisions. The State confers protective legal designation. The authorities also affirm the sacredness of the site and enforce traditional rules of access and use.

Based on the case study by Anthony Githitho

UNDERSTANDING THE WORLD HERITAGE CONTRIBUTION TO LOCAL PEOPLE'S RIGHTS: TOWARDS MAPPING THE ISSUES

From urban development in Peru to resource extraction in Australia, presentations revealed the complex set of development and rights issues often faced in World Heritage planning and management. How rights are addressed in part reflect deep historical, systemic and structural conditions. The World Heritage system cannot solve all such issues, but through careful planning aim to “do no harm” when vulnerabilities are identified and positively contribute to the realization of rights of the people associated to the sites. This requires a clear understanding of how World Heritage processes intersect with their rights – knowledge that is often lacking. Much can be achieved by carefully mapping out specific vulnerabilities and rights issues in each site and promoting an incremental learning process together with the local rightsholders involved.



RECOGNIZING THE RIGHTS OF CUSTODIANS: SACRED NATURAL SITES AND WORLD HERITAGE

Sacred natural sites are defined as “areas of land or water having special spiritual significance to peoples and communities”, some of which are found within World Heritage areas. While some recognition is often in place, rights dimensions are often contested. In Guatemala, for example, the Tikal National Park and World Heritage site management continues to be contested by indigenous Maya and their spiritual leaders for their lack of effective involvement. They ultimately seek to control management of the sacred sites in the area. Failing to recognise the rights-dimension of socio-cultural significance can exacerbate misunderstandings, and jeopardize effective management.

Based on the case study by Bas Verschuuren

LACK OF CLARITY AND SYSTEMATIC ATTENTION ABOUT THE WHO, WHAT, WHEN AND HOW OF RIGHTS REMAINS A MAJOR OBSTACLE

All the presented case studies pointed to the potential benefits of clearer guidance about the “who, what, when and how” of addressing the rights of local people and other groups in World Heritage processes. Rights-based practice, however, currently lacks a reference point in terms of a common World Heritage framework. While many countries have clear-cut commitments and individual legislation, anchor points in the World Heritage system remain vague. The scenario of national processes, from nomination to management, often advancing without the systematic identification of rights holders remains common. As a result, rights questions may not benefit from early identification and planning. Upstream guidance and standards for the World Heritage system were deemed critical to ensure a “do no harm” approach. A strong call appeared for the World Heritage system to put in place policy standards and systematic operational mechanisms. Presented cases also revealed the importance of informing third parties, including the private sector, about relevant rights obligations given their role and influence in World Heritage.



BUILDING CORRIDORS: KINABALU NATIONAL PARK, MALAYSIA

The Kinabalu Park, located in Sabah, Malaysian Borneo is moving from a legacy of exclusion to a process of remediation, which embraces many facets of human rights. Initial creation of the park resulted in the displacement of the indigenous *Kadazandusun* communities and excluding them from customary foraging areas. Three enabling factors are contributing to a more inclusive approach by Sabah Parks, the management authority : i) a Green Economy approach has led to better opportunities for community forestry management; ii) international donor support to rights-based approaches have allowed for the establishment of Community Use Zones being recognized by management agencies; and iii) community protection efforts, such as the *Kampung Bundu Tuhan* are increasingly recognized as effective models. Finally, park authorities have initiated a process to allow the *Kadazandusun* to restore spiritual relationships with their sacred mountain. Next steps include incorporating rights-based approaches in the general planning process.

Based on the case study by Amran Hamzah

WORKING WITH THE DIVERSITY OF RIGHTS-HOLDERS, VULNERABLE GROUPS AND SIGNIFICANT RIGHTS ISSUES: A KEY TO CHANGE

Case studies revealed that a wide range of rights issues are relevant to each site. Communities and management authorities often have growing experiences with certain rights of local people, yet may lack familiarity with others. Whereas the application of the right to participation is increasingly common, the operational focus on other social, economic and cultural rights remains uneven. Understanding how World Heritage processes intersect with both individual and collective rights, in particular, remains a major knowledge challenge. For vulnerable groups some rights may be considered more significant than others. The workshop identified the need to develop clearer guidance for vulnerable groups pointing to a need for comprehensive mapping of the rights of people potentially affected by World Heritage processes, rather than simply creating a checklist of rights. For example, while there is an overall commitment to indigenous peoples and their individual and collective rights, practical guidance and standards are needed to effectively implement key principles such as respecting *Free Prior Informed Consent* of potentially affected communities.



RECOGNIZING INJUSTICE AND LOOKING FORWARD: INDIGENOUS RIGHTS AND WORLD HERITAGE

In 2012, the International Expert Workshop on the World Heritage Convention and Indigenous Peoples (20-21 September 2012 - Copenhagen, Denmark) aimed to document the legacy of past and on-going injustices and rights violations experienced by indigenous peoples in many World Heritage areas. A call for action stressed the need for operational guidance and World Heritage Committee action on indigenous rights. Recommendations emphasized the need for consistency with the UN Declaration on the rights of indigenous peoples, and for such nominations to be based on free, prior and informed consent, strengthening transparency and effective indigenous advisory bodies.

Based on the case study by Stefan Disko



SIAN KA'AN BIOSPHERE RESERVE: ENABLING RIGHTS IN PRACTICE, MEXICO

The Sian Ka'an Biosphere Reserve (1986) and World Heritage Site (1987) is the largest protected area in the Mexican Caribbean. Covering 652,192 ha, it protects a 110-km portion of the Meso-American Barrier Reef and forest landscape within the wider Meso-American Biological Corridor. Sian Ka'an in Yucatec Mayan means "where the sky is born" or "gift from the sky." While the initial lack of consultations resulted in a management approach separate from surrounding Mayan communities and cultural values, many efforts including the UNDP-supported COMPACT project have sought to bridge the gap. Such work including a bundle of enabling activities to translate national and state-level rights provisions into World Heritage practice through awareness raising about legal provisions and a collective empowerment process. This included 7 months of participatory debates, bio-lingual documents and collective planning. Strengthening local organizations and capacity was found to be a crucial success factor in making real progress on rights on the ground.

Based on the case study by Julio Moure

RIGHTS-BASED APPROACHES LINKING OUTSTANDING UNIVERSAL VALUE (OUV) WITH LOCAL VALUES: BRIDGING THE GAP

A major challenge with World Heritage concerns a risk of gradual disassociation of OUV attributes from the values of local communities, social practices and lives. First, local values, cultural continuity and practices have often been dismissed by international conservation priorities. Second, an often held misperception is that effective protection of OUV requires excluding or displacing local values and their holders. Several case studies pointed to the instrumental role of community rights in allowing heritage conservation to better reflect cultural continuity and change, whether organized as efforts to retrieve traditional knowledge or promoting continued access and use.



CREATING A SPACE FOR LIVING CULTURE IN MONUMENTS: PATAN, KATHMANDU VALLEY

The expert-driven World Heritage nomination of 1979 neglected rights and the incorporation of traditional heritage values and practices. In the absence of a clear definition of living urban cultural heritage, the resident and living historic community considered their cultural rights were being overlooked. Monument conservation failed to respond to the demands of continuity of a living culture, contemporary living, livelihoods and urban development. Four active Hindu and Buddhist religious monuments illustrated the complex rights of worship and rituals of living. During the “Danger listing” by the WH Committee (2003-2007), the State Party initiated a process in which community participation and the right to adequate standards of living and safety were central components. It marked the beginning of RBA in procedural and substantive terms. World Heritage management needs to balance conservation efforts with the right to development and change of the present generation ‘living the culture’ – and hence support cultural continuity.

Based on the case study by Sudarshan Raj Tiwari

DEVELOPING NATIONAL RIGHTS FRAMEWORKS AND SECURING ADEQUATE INVESTMENTS

Strong national rights frameworks have led to important advances, yet do not automatically translate into equitable heritage conservation. Cases from Mexico, Australia and Norway illustrated the complexity of implementing indigenous rights in the heritage field. On the one hand, experiences revealed significant, if uneven, progress in terms of specific legislation and innovative management models. On the other hand, whether due to external pressures, regional variation or existing heritage practices, many World Heritage tools and approaches remain grounded in expert knowledge and top-down planning. There is a continuous need to engage more actively with the implementation of rights-based approaches in the heritage sector. Such efforts can benefit from overall support from the World Heritage system as well as investments in new planning tools and governance approaches together with a more comprehensive implementation strategy to complement legislation.



LEARNING FROM ON-GOING WORK ON RIGHTS: THE WET TROPICS AND TASMANIAN WILDERNESS, AUSTRALIA

Despite ‘good intentions’ of national and state governments, varying legislative and operational approaches result in different ways in which Indigenous peoples are engaged in processes affecting cultural values in Australia’s World Heritage Areas. In the case of the Wet Tropics, the Rainforest Aboriginal People (*Bama*) are seen as the Traditional Owners whether or not they have a determined Native Title claim, whilst in Tasmania there has never been a successful Native Title claim. The Tasmanian Aboriginal community are seen as a group of people who have an ‘interest’ in the National Parks and protected areas, whereas the communities themselves believe they have a right to manage the Aboriginal cultural heritage sites and World Heritage values.

Based on the case study by Chrissy Grant



LINKING PAST AND PRESENT: ALTA ROCKS ART AND SAMI RIGHTS IN NORWAY

Alta has the largest concentration of hunter-gatherer rock art in Northern Europe, and is also highly significant in the history of Sámi rights. The World Heritage property could have served to recognize the depth of Sámi history in the region. Yet, neither the inscription process, management nor the inscription make this connection explicit. The rock art carvings are instead viewed as a testimony to a past stage in the history of mankind. Although those who created the Alta rock carvings were the forefathers of the Sámi, the link has not been made. The setting aside of the rock carvings from Sami history, means that there is no view of their religious significance to the Sami. Sami opinions of the management of the rock art sites are made irrelevant; archaeological separations of prehistory from history has resulted in a predominantly scientific approach to management.

Based on the case study by Gro Birgit Ween

ENSURING SUPPORT INITIATIVES AND CAPACITY BUILDING FOR COMMUNITIES AND OTHER STAKEHOLDERS

In World Heritage processes the neglect of community rights is often accompanied by or the result of weak or project-dependent support mechanisms for rights-holder engagement. Development cooperation such as NGO support can play a vital role in showcasing innovative collaborative work and raising awareness among duty-bearers. In Malaysia, this involves efforts to promote community forest management exploring alternative modalities to legacies of top-down management. Australian cases underlined the importance of capacity building initiatives directly targeting and empowering rights-holder communities with long-term mandates and adequate public financing to engage in World Heritage processes. The workshop considered targeting rights-holders with comprehensive capacity building support to be a critical success factor.



BUILDING EFFECTIVE CAPACITY: KAKADU, AUSTRALIA

Kakadu National Park is Australia's largest national park. Listed for both natural and cultural values, its integrity depends on the on-going relationship between the *Mirarr* traditional owner community and their land. Inextricably linked to their land via complex totemic and kinship obligations, *Bininj* (Aboriginal) landowners have two leading responsibilities – looking after country (*gunred*) and looking after people (*guhpleddi*). However, resources made available to the *Mirarr* are tied to mining development and royalties and not to a formal role in World Heritage management. Case study authors called for strengthening capacity building tied to a heritage management function rather than dependent on development revenues.

Based on the case study by the Gundjeihmi Aboriginal Corporation



HISTORICAL CENTRES AND SOCIAL SPACES: HISTORIC CENTRE OF LIMA, PERU

The Historic Centre of Lima was inscribed on the World Heritage List in 2001. Initially promoted by a small group of architects and business people, there is a growing understanding of the need to rethink the site not only as cultural heritage, but equally as a social and inhabited space. A number of social organizations have since inscription sought to raise social issues. The *Patronato del Rimac* is supporting a capacity building process sharing information, visiting poor and discriminated social groups. Organizations set-up by local inhabitants offer a complementary approach to deal with social problems. There is a need to strengthen capacity building targeting local involvement in the World Heritage and other management processes. A rights-based approach would include issues such as participation, identity, improvement of quality of life, access, respect of traditional and sacred use, and of heritage as a potential driver of development.

Based on the case study by Alberto Martorell

DRAFT RECOMMENDATIONS

The expert meeting generated a series of insights and recommendations appearing both through case study presentations and the ensuing discussions. On the final day of the workshop this collective thought process was taken further with group discussions about three main entry-points considered to fundamentally shape the effectiveness of rights-based approaches. These included i) policy guidance, ii) operational guidance and iii) enabling factors.

POLICY GUIDANCE

The rights of individuals and communities associated with World Heritage Sites matter as an integral part of the Convention's approach and contribution to the 5th "C", social equity and sustainable development. The case studies also revealed significant efforts being made at the site-level, yet the current World Heritage policy framework does not clearly enable State Parties to articulate such linkages. Policy guidance is a priority of the World Heritage Committee to consolidate coherence and clarity for efficient and rapid nomination processes. Including adequate wording on human rights issues in policy guidance would help States Parties to better identify, document and address rights implications. Whereas there is much implicit rights language in the Operational Guidelines, there is a need for a more explicit policy input tailored to the needs of State Parties. Meeting Group Work involved a first brainstorm on relevant issues and concerns. There was a clear call for guidance on clarifying what rights and standards are relevant in the World Heritage context and how they matter. This would involve spelling out overall principles and standards as well as providing guidance on particular procedural and substantive aspects appearing in both natural and cultural heritage sites.

PRELIMINARY POLICY GUIDANCE RECOMMENDATIONS FROM GROUP WORK

- World Heritage management must be an example of rights-based Best Practice to other heritage sites.
- Policy guidance should reflect that people have different rights including those deriving from relevant international standards ratified by State Parties and covering both procedural and substantive rights.
- Best practice standards should ensure that all Rights Holders and Duty Bearers especially the most vulnerable can exercise their rights in the WH operations and processes as early as possible.
- Governance following rights based approaches is inclusionary and shared based on equality, adequate representation and mutual understanding.
- Understanding and access to information for all right holders is necessary to create an equitable decision-making basis for WH management and process.
- Free, Prior and Informed Consent (FPIC) of associated communities should be part of the guidance and principles of practice for developing rights-based processes on governance and management of WH sites and the processes related to operationalizing the convention (35 COMV).
- A system of safeguards is necessary to secure representation and voice in a transparent manner and to ensure that the livelihoods of vulnerable communities are not affected.
- Development activities, local values and rights to cultural change should be addressed as integral to rights based processes.

OPERATIONAL GUIDANCE

To complement overall policy guidance, the meeting considered further operational guidance translating policy principles into concrete operational measures, indicators and practices for the different actors of the World Heritage system to constitute an important "catalyser" bundle of elements. Again, the meeting recognized the significant efforts being undertaken by Advisory Bodies, States Parties and the World Heritage Centre. Furthermore, rights-based approaches outside the World Heritage system today involve a series of well-established practices and tools. By connecting existing experiences both within and outside the system in a streamlined operational framework, a number of positive synergy effects could be expected to enhance the contribution of World Heritage processes to realize rights.

PRELIMINARY OPERATIONAL GUIDANCE RECOMMENDATIONS FROM GROUP WORK

- To ensure participation of right holders in all stages (tentative listing, nomination, management and evaluation), all relevant stakeholders and duty bearers should be mapped and included on the basis of relevant rights.
- A Guidance note should be prepared for the States Parties for identifying and addressing rights issues upstream starting from the process of preparing the tentative list.
- A Guidance note should be prepared on how to involve right holders and duty bearers in the nomination process.
- To allow for greater accountability and transparency, the nomination files should be available in the public domain to allow for comments, objections and review by all the relevant rights holders. Files should be made available in local languages to make these accessible to local communities.
- A framework of principles should be adopted to ensure the quality of implementation of rights based approaches such as the FAO “PANTHER” framework (Participation, Accountability, Non-discrimination, Transparency, Human Dignity, Empowerment, Rule of Law).
- World Heritage Resource Manuals on OUV, Nomination, Management etc. should specifically articulate rights-based approaches. Other possibility is to prepare an exclusive resource manual articulating human right dimensions in various stages of World Heritage Process.
- States parties should include effective channels of communication with indigenous peoples, local communities and their organizations as part of their national institutional framework for WH matters.

ENABLING FACTORS

The expert meeting put particular emphasis on identifying enabling conditions for effective rights-based approaches. Establishing policy and operational clearance is only one side of the coin. Case studies illustrated and recognized the role of a range of other institutions, factors and processes in either preventing or enhancing the resolution of rights issues associated with World Heritage. Whether through the role of government support programmes, institutional reform or building capacity much can be done to create favourable conditions and processes, which in more explicit terms address the particular needs of rights-holders and duty-bearers. This sends a crucial message about complementary bottom-up efforts needed to work with and benefit from rights including the importance of capacity building.

PRELIMINARY RECOMMENDATIONS ON ENABLING CONDITIONS FROM GROUP WORK

- Effective articulation and communication of international guidance and standards helps raise awareness and increase understanding.
- Project work can play an important role to trigger new approaches.
- Region specific knowledge and adapted approaches about “how and when” are critical to effectively operationalize rights-based approaches on the ground.
- Documentation of model projects and good practice on rights-based approaches in the WH nomination and inscription process should be disseminated to State parties.
- Advisory Bodies should conduct regular workshops targeting site managers on the incorporation of rights-based approaches.
- A region-based network of sites demonstrating success in incorporating rights-based approaches, participation and engagement with local culture and communities should be developed.
- Capacity building programmes should target rights-holders with a particular focus on youth.
- World Heritage donors should be convened to secure targeted funding for RBA mainstreaming.

STATEMENT FROM THE PARTICIPANTS

BUILDING CAPACITY TO SUPPORT RIGHTS-BASED APPROACHES IN THE WORLD HERITAGE CONVENTION: LEARNING FROM PRACTICE, WORKSHOP IN OSLO 1- 3 APRIL 2014

- We, participants at the international workshop 'Building capacity to support rights-based approaches in the World Heritage Convention: Learning from practice' held in Oslo, Norway, from the 1st to the 3rd of April 2014, co-organized by ICOMOS Norway, ICOMOS, ICCROM and IUCN, with support from Norway's Ministry of Climate and Environment, commend the organizers of the Workshop for taking the initiative to convene the meeting, and congratulate and thank the Ministry of Climate and Environment of Norway for its support to this process;
- We appreciate that the objective of the Workshop was to promote recognition and understanding of good practice for integrating human rights considerations in World Heritage conservation;
- We recall the international workshop 'Our common dignity: Towards Rights-Based World Heritage Management' held in Oslo, Norway, on 9-11 March 2011, co-organized by ICOMOS Norway, the Norwegian Centre for Human Rights (NCHR) and the Norwegian Helsinki Committee (NHC), with support from Norway's Ministry of Environment, and acknowledge with appreciation its results contained in the Statement of Participants and the papers published in the International Journal of Heritage Studies (vol 18, 3, May 2012);
- We welcome the richness and diversity of approaches and lessons brought up by the case studies presented at the workshop, which show the need and importance of learning from the ground and valuing the local and national practice;
- We emphasize that internationally proclaimed human rights must be upheld, respected and included in the implementation of the World Heritage Convention, consistent with the commitment of States Parties to internationally proclaimed human rights;
- We also emphasize that World Heritage Sites should be not only prime places for the conservation of the heritage of humankind, but also for the application of the highest standards for the respect of human rights;
- We recognize that to this end, improved policy guidance, appropriate operational tools, education and capacity building, among other measures, are required;
- We welcome the collaborative work undertaken by the Advisory Bodies since March 2011 to support the integration of rights considerations in World Heritage, and invite them to continue their collaboration particularly for the development of a common framework on rights and World Heritage, innovative approaches, and appropriate tools to support implementation and monitoring with a rights-based approach;
- We therefore invite the Advisory Bodies to confirm through their decision-making organs at highest levels their commitment and engagement in this important process, and to continue working with World Heritage Convention's State Parties for learning from their experiences, successes and challenges in integrating rights in World Heritage;
- We also invite the Advisory Bodies to consider and use the recommendations from this workshop to advance their collaborative work and their engagement with State Parties, indigenous peoples and community organizations, conservation and human rights institutions and experts to advance this agenda, building on what is already available;
- We further invite the Advisory Bodies to present the results of this workshop at the 38th meeting of the World Heritage Committee to be held in Doha, Qatar, in June 2014;
- We call States Parties to the World Heritage Convention to champion the cause of rights-sensitive World Heritage conservation, to showcase their successes and challenges, to put in place actions to further implement it, and to invite other State Parties to join these processes;
- We invite UNESCO to continue facilitating and supporting this process, consistent with its mandate under the World Heritage Convention and with its commitment to human rights under its Constitution.



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