

**The Whakatane Mechanism**

**An IUCN “One Programme” initiative to support conflict resolution on protected areas and indigenous peoples and local communities**

***Draft v5.0***

**The Whakatane Mechanism**

**An IUCN “One Programme” initiative to support conflict resolution on protected areas and indigenous peoples and local communities**

Table of Contents

[*Executive Summary* 3](#_Toc332298084)

[*1. The Situation – Protected Areas and Indigenous Peoples and Local Communities* 4](#_Toc332298085)

[*2. Progress in international policy frameworks* 4](#_Toc332298086)

[*3. A new paradigm for protected areas* 6](#_Toc332298087)

[*4. How the new paradigm is implemented?* 8](#_Toc332298088)

[*5. What we have been doing with key members and partners* 9](#_Toc332298089)

[*6. A strategic approach to moving forward* 10](#_Toc332298090)

[*7. The Whakatane Mechanism* 11](#_Toc332298091)

[7.1 Antecedents 11](#_Toc332298092)

[7.2 Purpose and Objectives 12](#_Toc332298093)

[7.3 Selection of the sites and planning 13](#_Toc332298094)

[7.4 Running the Whakatane Mechanism at site level 14](#_Toc332298095)

[*7.4.1 Preparatory steps* 14](#_Toc332298096)

[*7.4.2 Local Assessments* 15](#_Toc332298097)

[7.5 Consensus Building Meeting(s) 16](#_Toc332298098)

[7.6 Implementation 17](#_Toc332298099)

[7.7 Dissemination of the outcomes and lessons 17](#_Toc332298100)

[7.8. Coordination of the Whakatane Mechanism 17](#_Toc332298101)

[*Annex 1* 19](#_Toc332298102)

[Working as a Union to Deliver IUCN’s One Programme: Summary Statement 19](#_Toc332298103)

[*Annex 2* 21](#_Toc332298104)

[The pilot Whakatane Assessments 21](#_Toc332298105)

[Kenya: Hosted by the Ogiek of Chepkitale, Kenya 21](#_Toc332298106)

[Thailand: Hosted by the Karen of Ob Luang 22](#_Toc332298107)

[*Annex 3* 24](#_Toc332298108)

[Potential subjects for assessment of the situation in specific areas 24](#_Toc332298109)

[*References* 27](#_Toc332298110)

**The Whakatane Mechanism**

**An IUCN “One Programme” initiative to support conflict resolution on protected areas and indigenous peoples and local communities**

# *Executive Summary*

The Whakatane Mechanism is an IUCN “One Programme” initiative involving the Union’s global and regional programmes, Commissions and Members. It aims to support implementation of “the new paradigm” of conservation, focusing on situations where indigenous peoples and local communities are directly associated with protected areas as a result of their land and resource tenure, access and use. The Whakatane Mechanism promotes and supports the respect for the rights of indigenous peoples and local communities and their full and effective participation in protected areas policy and practice, as required by the Convention on Biological Diversity (CBD), and the application of relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Over 160,000 protected areas have been established in the world, covering about 12.9% of the Earth’s lands and 6.3% of territorial waters. Many of these areas overlap totally or partially with traditional lands, territories and resources of indigenous peoples and rural communities. Processes of establishing and managing protected areas have often created or aggravated situations of exclusion, dispossession, marginalization and poverty of such peoples and communities, due to policies and practices of nation states that often do not recognize their rights.

Advances in international policy frameworks have led to a “new conservation paradigm” where protected areas include the objective of protecting or restoring people’s sustainable relationships with their environment at local and landscape levels based on respecting human rights. The implementation of such a paradigm, however, remains limited due to many factors linked primarily to national level policies and practices. Implementation requires a strategic and multi-faceted approach that involves, among others, national level legal and policy reform, capacity building, community empowerment, institution building, conflict resolution, especially in support of greater livelihood security for communities, and national and sub-national level policy dialogue that promotes concerted actions.

The objectives of the Whakatane Mechanism are to (i) Assess respect for human rights through multi-stakeholder fieldwork in protected areas to provide a solid shared evidence-base which will contribute to resolution of conflicts at the local level involving indigenous peoples and local communities and protected areas; (ii) support and promote national multi-stakeholder dialogue and consensus-building for advancing application of the “new conservation paradigm” (iv) Enable indigenous peoples affected by protected areas to address and redress the effects of historic and current injustices against them in the name of conservation of nature and natural resources (iv) Explore and harness opportunities to support indigenous peoples to protect or restore the sustainability of their ecosystems.

The methodology of the Whakatane Mechanism involves undertaking multi-stakeholder assessments of local situations where indigenous peoples and local communities feel affected by protected areas designation, policies and practice, and subsequently engaging in systematic exploration of possible responses through multi-stakeholder dialogue and platforms. The Whakatane Mechanism also celebrates and promotes best practice and successful partnerships between indigenous peoples and local communities and protected area institutions.

IUCN’s rights-based approach requires addressing the rights of all people and communities in relation to protected areas; however, the Whakatane Mechanism, due to its antecedents and pilot experiences, gives priority to cases involving indigenous peoples in protected areas, but does not exclude communities whose human, tenure and other rights are at stake in relation to protected areas’ establishment and management.

The Whakatane Mechanism is managed by a Steering Committee formed by representatives of indigenous peoples’ organizations, the Chairs of the Commission on Environmental, Economic and Social Policy (CEESP) and the World Commission on Protected Areas (WCPA), the Chairs of the CEESP-CEL Specialist Group on Indigenous Peoples, Customary & Environmental Laws and Human Rights (SPICEH) and WCPA-CEESP Theme on Indigenous Peoples, Local Communities, Equity and Protected Areas (TILCEPA), a representative of the Conservation Initiative on Human Rights (CIHR), a representative of Forest People’s Programme (FPP), and Directors of IUCN’s Protected Areas and World Heritage Programmes and Nature-Based Solutions Group.

# *1. The Situation – Protected Areas and Indigenous Peoples and Local Communities*

Over 160,000 Protected Areas have been established in the world for conservation purposes, covering about 12.9% of the Earth’s lands and 6.3% of territorial waters (WDPA, cited by CBD, 2012). Many of these areas overlap totally or partially with traditional lands, territories and resources of indigenous peoples and rural communities, as widely documented in the literature.

It has been long recognized that the processes of establishing and managing protected areas have often created or aggravated situations of exclusion, dispossession, marginalization and poverty of associated communities, due to policies and practices that do not recognize the rights of ownership, occupation and use for such communities within protected areas. While the roots of these problems in most cases are not mainly or uniquely in protected area policies and approaches but in broader legal and policy frameworks on land and resource ownership and use, as well as on decision-making and governance structures, protected areas have been in those cases part and instrument of decisions and practices of social inequity.

# *2. Progress in international policy frameworks*

The protected area policy frameworks however have significantly evolved in the past two decades. The IV World Congress on National Parks and Protected Areas (Caracas, 1992) called for “the development of policies for protected areas that safeguard the interests of indigenous peoples, and take into account customary resource practices and traditional land tenure systems” (Beltran, 2000:vii). Subsequently, in 1996, the IUCN First World Conservation Congress adopted Resolution 1.53 in which IUCN acknowledged indigenous peoples’ rights in relation to protected areas and called for clear policy based on the principles of “recognition of land/territorial and resource rights, the necessity for prior agreement on the establishment of new protected areas on their lands or territories, and rights to effective participation in protected area management” (Beltran, 2000:4).

Indigenous peoples’ and community rights have been a constant since then in IUCN protected area policies, notably through the outcomes of the V World Protected Areas Congress of 2003 and numerous decisions of its Second to Fourth World Conservation Congresses.

At different pace and levels, similar processes have been undergoing in other major conservation organizations of the world. The Conservation Initiative on Human Rights (CIHR), a consortium of the eight largest international conservation organizations created to promote the integration of human rights in conservation programmes, adopted a series of policy principles and commitments that include “Protect the vulnerable: Make special efforts to avoid harm to those who are vulnerable to infringements of their rights and to support the protection and fulfilment of their rights within the scope of our conservation programmes” and “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” (CIHR:2009).

These developments parallel (and to an important degree preceded) changes in intergovernmental policy frameworks on protected areas, notably in the CBD. The 2004 CBD Programme of Work on Protected Areas stated the need to achieve “full and effective participation [...] of indigenous and local communities, in full respect of their rights and recognition of their responsibilities” in the establishment and management of protected areas, and included a series of activities that parties should implement in that order. (CBD: 2004). The CBD Programme of Work represents in this sense a very important shift in official protected area policies in relation to indigenous peoples and local communities.

In the human rights field, it is particularly noteworthy the adoption in 2007 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which states in Article 29. 1 that “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination”; and in Article 10, that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return”. Among other important provisions, UNDRIP also recognizes that “indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired (article 26.1), as well as the right of indigenous peoples to participate in decision making on matters that affect their rights (Article 18) and the obligation of states to obtain the free, prior and informed consent of indigenous peoples before adopting measures that could affect them (Article 19). All such provisions are of direct relevance to protected areas (existing or future) that overlap with the traditional lands, territories and resources of indigenous peoples.

# *3. A new paradigm for protected areas*

Progress in international policy frameworks on protected areas, as described, where IUCN has played a visible and influential role, has led to the emergence of what is commonly referred to as a “new conservation paradigm”. In this approach protected areas are not about protecting nature from local people, but are about protecting or restoring people’s sustainable relationships with their environment. .

|  |
| --- |
|  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

The commitment of IUCN to this “new conservation paradigm” has been repeatedly confirmed and further elaborated by several policy decisions of its two last Congresses (2004 and 2008), as well as by numerous policy statements, technical guidance documents, and policy and field interventions at all levels. Similar commitments have been made and ratified by other non-governmental conservation organizations active in protected areas. As a result, the “new conservation paradigm” is currently understood as based on the following principles (Larsen, P.B. and G. Oviedo, 2004; Kothari, 2006; Oviedo & Troya, 2010; Colchester et al., 2008; IUCN, 2008):

* Conservation of areas that overlap with traditional lands, territories and resources of indigenous peoples and local communities is more effective when it supports their sustainable livelihoods rather than through ‘fortress conservation’ that excludes them from their ancestral lands, territories and resources.
* Indigenous peoples and local communities should meaningfully participate in the designation and establishment of protected areas that overlap with their traditional lands, territories and resources, and their free, prior and informed consent has to be obtained before any activities take place therein;
* Indigenous peoples and local communities should meaningfully participate in the management and decision making of protected areas that overlap with their traditional lands, territories and resources, with a central role recognized for their own traditional authorities and institutions;
* Consequently, protected area management decisions and actions that affect the livelihoods of indigenous peoples and local communities, including restriction of access to resources or relocation of communities, can only take place with their free, prior and informed consent and without causing them any harm;
* Benefits derived from protected areas should be equitably distributed with the communities concerned;
* Traditional knowledge and customary laws and resource management practices should be respected, promoted and integrated;
* Forcible resettlement of communities in connection with protected areas must not happen in any circumstance;
* Historical injustices caused through the establishment of protected areas should be addressed, and appropriate measures including compensation and restitution should be implemented;
* Protected area laws and policies should be reformed and enacted so that they recognize and guarantee indigenous peoples’ and local community rights and comply with relevant human rights obligations;
* The contribution of Indigenous Conservation Territories and Indigenous and Community Conserved Areas, as well as areas co-managed with indigenous peoples and local communities, should be recognized and actively supported.

There is no doubt that, in terms of policy commitments, taking forward and applying the “new conservation paradigm” is today a formal and moral obligation of IUCN and other conservation organizations, and they need to be accountable for what they do to honour such commitments. On the other hand, protected area policies and decisions at the national level are not solely in their hands but are also the responsibility of governments at different levels.

# *4. How the new paradigm is implemented?*

Unfortunately, the actual implementation of policy decisions in support of indigenous peoples and local communities in protected areas has been limited as described in numerous publications on the social effects of conservation (Chatty and Colchester, 2002; Brockington, 2002; FPP, 2009). Forced evictions and imposed restrictions have been reported in some cases, which continue to cause hardship for indigenous peoples and local communities and have even led to violent conflict. Countries’ reports to the Tenth CBD Conference of the Parties (COP10) in 2012 showed that generally the least progress had been made on the implementation of element 2 on governance, participation, equity and benefit sharing of the CBD programme of work on protected areas. Overall there is still a large gap between policy and practice on this matter. What are the obstacles hindering implementation?

The situations in countries where important overlaps exist between protected areas and indigenous peoples’ and local communities’ lands, territories and resources are very varied. While some countries have made important progress in implementation of new policies, such as Australia, others lag far behind. Several factors determine the effectiveness in implementing new policies, such as:

• Inadequacy of legal frameworks: despite commitments under the CBD, many countries have not updated their protected areas legislation to bring it in line with the provisions and targets of the CBD programme of work. One of the difficulties at the national level lies in the exclusive mandate of parliaments to reform protected areas legislation – parliamentarians not necessarily have this as their priority.

• Land tenure and use policies: protected areas legislation and policies are not sufficient on their own to guarantee the rights of indigenous peoples and local communities in protected areas, since land tenure and use legislation usually determines rights and entitlements at the broader level. This is particularly the case in most African and Asian countries where the land (especially forestlands, savannahs, grasslands and other ecosystems) and the associated resources belong to the state and there is no recognition of ownership for communities – outside or inside protected areas. In such cases, changes in protected areas legislation can help, but cannot change the root causes of dispossession.

• Gaps / weaknesses of institutional frameworks: very often protected area institutions are among the weakest areas of government in terms of enforcement of national laws and policies, and they cannot guarantee the application of new policies and procedures.

• Lack of recognition of customary systems: similarly to the case of land tenure, broader recognition of customary systems at the country level is absent in many countries, and therefore at the protected area level the respective agencies and managers don’t have at hand instruments and approaches to legitimize the involvement of customary institutions and the application of customary normative.

• Weaknesses in capacity of all actors specifically on these matters.

• Lack of awareness and will in political circles and amongst conservation organizations and agencies about addressing human rights in protected areas in many countries.

• Specific conflicts over land and resource use where governments tend to lean towards ripping economic and political benefits than to meeting the needs of the communities, such in cases where protected areas are subject to extractive industry operations.

# *5. What we have been doing with key members and partners*

Especially since the V World Protected Areas (Durban, 2003), IUCN has been at the forefront of conservation organisations working to gain greater respect for the rights of indigenous peoples in conservation, on paper and on the ground. No less than twenty IUCN Congress Resolutions adopted in 2004 and 2008 have not only provided direction for the work of the organization on this matter, but have also been instrumental to disseminating concepts, principles, approaches and recommendations about possible actions to the wider conservation community, governments and civil society alike, especially IUCN Members. Policy interventions and initiatives from IUCN and its Members have inspired, animated and supported the progress made in international policy frameworks as described in previous sections.

IUCN’s Global Protected Areas Programme has been steadily strengthening its focus on governance of protected areas, with emphasis on issues of rights and responsibilities, accountable and inclusive decision-making, social equity, community-based governance and management, among others. Several technical guidance publications from the Programme and WCPA with direct relevance to the topic issued in the last few years have been growingly gaining status of standards in protected areas policy and practice.

IUCN’s World Heritage programme has been increasingly paying attention to topics of indigenous peoples in its role as Advisory Body to the World Heritage Convention. Most recently, the Programme started a collaborative effort with the other Advisory Bodies to develop a rights-based framework for their activities, which would allow better decision-making by the Convention organs and parties on matters concerning indigenous peoples and local communities. Some of the products of this work are currently being tested and implemented in new evaluations, and tangible results in terms of better inclusion of indigenous peoples and local community issues in this work, using a rights-based approach, are already emerging.

At the regional level, IUCN works actively with indigenous peoples’ organizations to influence and encourage positive changes in protected areas governance and management. IUCN Regional Programmes such as Meso-America, South America, Asia, Eastern and Southern Africa, working in collaboration with Members and Commissions, have been implementing regional, subregional and national policy dialogues, field-based interventions in specific cases, capacity-building projects, support to networking, learning and policy influencing. Bridging between indigenous and community organizations and government agencies is a constant approach, given the importance of achieving greater understanding, support and commitment from government bodies and officials through constructive engagement.

Similar initiatives have been growing very significantly in the policy and practice of many IUCN Members, globally and regionally. A good illustration of this is the creation of the Conservation Initiative on Human Rights (CIHR), a consortium of eight major international conservation organizations that seeks to improve the practice of conservation by promoting integration of human rights into conservation policy and practice. Indigenous peoples and communities issues and rights-based approaches related to protected areas are core topics in the consortium.

At the regional level, all conservation organizations members of CIHR, as well as many other regional and national conservation organizations, have been continuously strengthening their work with indigenous peoples in relation to protected areas in several ways. More efforts are certainly needed, but progress made in terms of the commitment of conservation organizations to the issues is noticeable and encouraging.

The emergence of a new programme area in IUCN’s quadrennial programme 2013-2016 on “Equitable Governance of Nature’s Use” opens new opportunities for concerted action by all IUCN constituents in addressing these topics. The Whakatane Mechanism will be, in this context, a tangible, results-oriented collaborative effort, under a “One Programme” approach (see Annex 1), to catalyze work of IUCN constituents in support of a new protected areas paradigm on the ground.

# *6. A strategic approach to moving forward*

Progress towards implementation of the new paradigm requires a strategic and multifaceted approach that involves among others:

* Promotion of and support to national level legal and policy reform. This is especially critical in countries where both the protected areas and the land tenure/use legislations have not been updated recently to clarify rights, entitlements and responsibilities of communities, government agencies and other actors and to ensure the consistency of such laws with human rights obligations
* Capacity building for all involved about applying inclusive protected areas management approaches and specifically on the ways and means to ensure that human rights are respected in protected areas
* Community empowerment and strengthening of community networks so that they can become active, critical and contributing players in the process
* Institution building at all levels and for all actors
* Conflict resolution in specific cases, to ensure that human rights are respected and historical injustices against indigenous peoples and local communities are addressed and redressed; to support greater livelihood security for the respective communities and also to learn lessons that can feed into the policy processes
* National and sub-national level policy dialogue, including for instance the creation of multi-stakeholder platforms that become active instruments for policy reform on matters relevant to protected areas, human rights and local people

The situation at country and regional level is very uneven, as indicated earlier, and therefore the articulation of specific strategies to move forward has to be done on a contextual basis; there is no blueprint that can serve the process in every place. IUCN, working within a “One Programme” concept that brings together the strengths and experience of its constituents, will have to devise specific strategies at regional and country levels and in specific protected areas. Within that context, notwithstanding the diversity of situations, addressing the two lines of action of the above list – conflict resolution (especially in relation to the rights of local communities and indigenous peoples and the need to redress past injustices) and policy dialogue for reform (especially to ensure the recognition of human rights and securing community land tenure),, will be fundamental areas of intervention in most countries where IUCN and Members are active. This is where the Whakatane Mechanism comes in.

# *7. The Whakatane Mechanism*

## 7.1 Antecedents

At the “Sharing Power” conference of the IUCN Commission on Environmental, Economic and Social Policy (CEESP), in Whakatane, New Zealand, in January 2011, a meeting was held between indigenous representatives, the chairs of three IUCN Commissions (CEESP, World Commission on Protected Areas – WCPA, and Species Survival Commission - SSC), their specialist groups Theme on Indigenous Peoples, Local Communities, Equity and Protected Areas (TILCEPA) and Theme on Governance, Equity and Rights (TGER), staff of IUCN Headquarters and Oceania Regional Office, and IUCN Members Conservation International (CI) and the Forest Peoples Programme (FPP). The purpose of the meeting, convened at the initiative of indigenous representatives and FPP, was to explore options to support further implementation of IUCN Resolutions related to indigenous peoples.

Specifically, the meeting discussed the request from Resolution 4.052 to develop a “mechanism to address and redress the effects of historic and current injustices against indigenous peoples in the name of conservation of nature and natural resources”. A decision was taken to develop a proposal for the creation of such a mechanism, called Whakatane Mechanism, which is also pursuant to other Resolutions, such as 4.048 to follow up on the Durban Accord and Action Plan.

A test phase of the Whakatane mechanism was implemented in Kenya and in Thailand. A short summary of this phase is presented in Annex 2.

Based on the lessons from the test cases, on broader consultations within IUCN including Commissions, on the ongoing work of the IUCN Global Protected Areas Programme, the World Heritage Programme, Regional Programmes and IUCN Commissions especially WCPA and CEESP, on the perspectives for implementation of the IUCN Programme in 2013-16, and on the experience and inputs of IUCN Members, a decision to create the “Whakatane Mechanism” is proposed as an integral part of the IUCN Programme, using a “One Programme” approach, to focus on the two strategic interventions described in the above section, namely:

* To implement actions and processes and explore opportunities for conflict resolution at the local level, assessing respect for human rights in conservation and constructively addressing grievances of indigenous peoples and local communities in relation to protected areas and actively searching fair, just and lasting solutions;
* To support and promote multi-stakeholder dialogues for advancing implementation of new protected area policies at national and sub-national levels especially with a view to supporting indigenous peoples’ and local communities’ rights and to improve their livelihoods and sustain their cultures and societies.

The Whakatane Mechanism contributes through this focus on the broader strategic approach that is required to effect change in the relationship between protected areas and indigenous peoples and local communities, and through addressing particular situations on the ground to make a material difference and demonstrate the effectiveness of the new paradigm.

IUCN’s rights-based approach requires addressing the rights of all people and communities in relation to protected areas; it encompasses human rights but also rights in a broad sense, including those which may not be recognized and protected, such as tenure and other customary rights of indigenous peoples and local communities. The Whakatane Mechanism, while applying this approach, due to its antecedents and pilot experiences gives priority to cases involving indigenous peoples, but does not exclude communities whose human, tenure and other rights are at stake in relation to protected areas’ establishment and management.

The Whakatane Mechanism builds on the good work to date, uses opportunities that emerge, seeks specific solutions to specific problems, and explores how to contribute to longer term structural solutions to complex problems.

## 7.2 Purpose and Objectives

The Whakatane Mechanism’s **purpose** is to support implementation of “the new paradigm” of conservation worldwide, in situations where indigenous peoples and local communities are directly associated with protected areas as a result of land and resource rights, including tenure, access and use.

Its **objectives** are to:

- Assess respect for human rights through multi-stakeholder fieldwork in protected areas to provide a solid shared evidence-base which will contribute explore and harness opportunities for resolution of conflicts at the local level involving indigenous peoples and local communities and protected areas;

- Support and promote multi-stakeholder dialogues and consensus-building actions for ensuring the respect for human rights and the application of policies that implement the “new conservation paradigm” at the local, national and sub-national levels, drawing from lessons and good practice, and that support fair and lasting resolution of conflicts.

- Enable indigenous peoples affected by protected areas to address and redress the effects of historic and current injustices against them in the name of conservation of nature and natural resources

- Explore and harness opportunities to support indigenous peoples to protect or restore the sustainability of their ecosystems through drawing on the “new conservation paradigm” to recognise their rights in the context of protected areas

The Whakatane Mechanism includes as key elements of its **approach**:

* Doing evidence-gathering fieldwork in protected areas involving key stakeholders and right-holders
* Facilitating interactions
* Advancing consensus on objectives and strategies
* Creating good will
* Empowering stakeholders
* Promoting awareness raising and information sharing
* Leading to the creation of multi-stakeholder platforms and other similar mechanisms that can follow up and be longer-term instruments for consensual action
* Identifying, communicating and promoting best practice in implementing the “new conservation paradigm” and advancing the recognition and respect for the rights of indigenous peoples and local communities in protected areas.

The **methodology** of the Whakatane Mechanism consists primarily of undertaking multi-stakeholder assessments of conflicts or problems surrounding protected areas and indigenous peoples and local communities, and subsequently engaging in systematic exploration of possible responses through multi-stakeholder dialogue and platforms. The steps are explained in more detailed below.

## 7.3 Selection of the sites and planning

Selection of cases for action by the Whakatane Mechanism is mainly based on requests made by indigenous peoples and local communities for an intervention of IUCN to address their concerns; requests are channelled through any of the institutions or programmes that are part of the partnership. The Steering Committee of the Mechanism considers the requests and explores the feasibility of responses.

The selection process will take basically the following steps:

1. Indigenous peoples and/or local communities make a request for an intervention of IUCN through the Whakatane Mechanism to conduct an assessment of their problems and subsequent search for solutions. Requests can be channelled through the IUCN Secretariat (IUCN Regional or global programmes), or any of the members of the Mechanism.
2. The Steering Committee of the Mechanism discusses the request and solicits feedback from the IUCN Secretariat (including the respective IUCN regional programme), relevant indigenous peoples’ and community organizations and other bodies as appropriate. Based on feedback and recommendations, the Steering Committee (with the IUCN Regional Programme and other relevant actorts) initiates a dialogue with representatives of all relevant stakeholders linked to the case to explore the feasibility of action.
3. On the results of the previous step, the Steering Committee the respective IUCN Regional Programme and the indigenous peoples’ representatives discuss and decide on a plan of action and communicate it to the indigenous peoples’ or communities to seek their consent, especially on whether the proposed process can provide appropriate responses to their concerns.
4. The Steering Committee with the involvement of the respective IUCN Regional Programme and indigenous peoples and/or local communities make consultations with other key stakeholders to seek their engagement in the proposed action plan.
5. The Steering Committee decides on selection in a timely manner, publicises the decision and makes operational and logistical arrangements to initiates the process.

The selection of the cases for action is based on the following criteria, among others:

**(i) Urgency** of resolving the issues, whether for the people, the environment, or both;

**(ii) Potential** of the Whakatane Mechanism to be effective. This needs to be based on an assessment of a range of factors, including:

* Are IUCN and partners well enough established there?
* How well do we know the people and situation?
* What capacity do we have to develop constructive dialogue with the government?
* Do the respective indigenous peoples and local communities have the capacity to be represented in a dialogue process?
* How good is the timing within a broader context (local, national, international)?

**(iv) Potential** of the case to have demonstrative and multiplier effects;

**(iii) Sustainability** of the involvement, in terms of reasonable options to achieve results and sustain a process in the medium to long terms.

## 7.4 Running the Whakatane Mechanism at site level

### *7.4.1 Preparatory steps*

The respective IUCN Regional Programme, representatives of the indigenous peoples and local communities, and representatives of the Whakatane Mechanism appointed by its Steering Committee are responsible for the running of the specific actions and processes of the Whakatane Mechanism in a given country and area. Based on the Free, Prior and Informed Consent of the concerned indigenous peoples and local communities as well as with the consultation of the protected area offices and other actors as required, they will decide how best to proceed, including assessing the scope of the actions geographically and in terms of what levels of government and community representatives are involved.

Decisions regarding the plans for running of the Whakatane Mechanism will be taken by consensus between the IUCN Regional Programme, representatives of the indigenous peoples, and the Steering Committee of the Whakatane Mechanism, in appropriate consultation with stakeholders. The Whakatane Mechanism is based on respect for the Free, Prior and Informed Consent (FPIC) of indigenous peoples and local communities, therefore their FPIC during the planning and before starting actions will be required.

For each site selected, a team responsible for the exercise will be appointed with representation of:

* The IUCN Regional Programme;
* The partners represented in the Steering Committee of the Whakatane Mechanism, as relevant to the specific locations;
* Indigenous peoples’ and /or local community organizations of the area;
* Indigenous peoples’ and /or local community organizations of the country or region or global if appropriate;
* Relevant government agencies;
* Conservation organizations active in the area, if appropriate.

### *7.4.2 Local Assessments*

In order to gain a common understanding of the situation involving indigenous peoples and local communities living in and around the protected area, the site assessment will address the following core issues:

* Rights frameworks and other aspects of the land tenure and resource rights for the indigenous peoples and local communities concerned
* Livelihoods of indigenous peoples and local communities and how they relate to the protected area and its management
* Participation in decision-making and management, decentralization, autonomy, self determination, FPIC, and other relevant political rights of indigenous peoples and local communities in the area
* Problems of conflicting or overlapping rights and entitlements
* Other specific issues identified by the indigenous peoples and/or local communities

Indicative details of the topics that the Assessment could look at are given in Annex 3. In every case, however, under this general guidance the stakeholders involved will identify the priority issues so as to make the assessment pertinent and tailored to the situation and the local problems. Further, the assessment will be framed in a way that is conducive to conflict-solving processes and to finding practical solutions.

A preliminary roadmap for the site assessments emerged from the experience of undertaking pilot assessments in Kenya and Thailand. This roadmap is proposed as a general guide that will be adapted to each situation:

* **Initial contacts** with relevant actors (communities, protected area mangers and authorities, other institutions) to present the situation and request their engagement in the process.
* **1st Roundtable** bringing all relevant stakeholders to the table to discuss and agree on the process of the Whakatane Mechanism. A briefing paper on the key issues will be distributed to participants prior to this first meeting.
* **Assessment** of the situation through a field visit to the area with relevant actors. The team would look at the core issues above and those outlined in Annex 3, using any appropriate sources of information, including prior research reports, project documents, management plans, national legislation; interviews with national and local policy-makers; interviews and meetings with representatives of indigenous peoples and of local communities; meetings and consultations with other stakeholders.
* **Validation** of the findings with the indigenous and local communities concerned, and preparation of a report that reflects the results of the assessment and the perception of the communities. It is expected that the resulting report will include conclusions and recommendations on matters such as:
* Legal situation of the communities
* Policy implementation
* Legal security
* Management and governance arrangements
* Land tenure
* Access to natural resources and livelihoods
* Benefit sharing and compensation mechanisms
* Customary institutions
* Approaches to valuing local cultures
* Practices, experiences and lessons of working with Indigenous peoples and local communities that could be strengthened or expanded

## 7.5 Consensus Building Meeting(s)

Following the assessment and finalization of the report, the next step will focus on building consensus around concrete actions to resolve the conflicts and put in place new ways of addressing the community-protected area relationship. To this end, the suggested action is a **2nd Roundtable or workshop, at local or national level as appropriate,** to discuss the report and its conclusions and recommendations, and to make decisions on the possible steps that could be taken to resolve conflicts; address and redress the effects of historic and current injustices against indigenous peoples in the name of conservation; reconcile the interests of the communities and the protected area at the local level while respecting their rights; and/or to advance national policies and actions for the entire protected area system if that’s considered the appropriate level.

A tangible, concrete agreement on the steps to be taken and the associated responsibilities is the expected output of this roundtable. In some cases more than one meeting and further consultations could be required to arrive at this stage.

## 7.6 Implementation

It is envisioned that implementation of the agreed actions will involve all or most of the stakeholders parties to the process and agreements; relevant actions would include site-level measures to improve the situation of indigenous and local communities in relation to the protected area in question, for example on matters of clarifying and securing land tenure and resource use, enhancing involvement in decision-making, updating of management plans, improving benefit-sharing arrangements, implementing redress and compensation, etc. Implementation could also include national-level actions to spread lessons learnt and good practices, as well as initiating or supporting legal and policy reform as needed.

Regular monitoring and periodic updates on implementation of the agreed actions will be invited from the parties to the process. Further assessments and in-depth fieldwork could complement this information as appropriate.

## 7.7 Dissemination of the outcomes and lessons

The outcomes and lessons learnt of the site assessments and subsequent actions will be published and disseminated in order to allow others to benefit from this experience. This will be achieved through multiple channels such as:

* On a website dedicated to the Whakatane Mechanism (www.Whakatane-Mechanism.org)
* Through presentations in national and international events
* Through IUCN communication channels (listserves for Members, Commissions, etc.)

The dissemination of information will be made based on agreements of the parties to the process and with due care to issues that may be sensitive. All efforts will be made to ensure that the information for dissemination is constructive, fair, accurate and supportive of partnership approaches.

Before each IUCN World Conservation Congress, or other relevant opportunities, the Steering Committee will prepare a report outlining the progress of the Whakatane Mechanism, including the assessments that took place, the state of implementation of the recommendations of the Whakatane Mechanism in each location and future plans.

## 7.8. Coordination of the Whakatane Mechanism

The Whakatane Mechanism will be coordinated by a Steering Committee housed under CEESP and supported by the IUCN Secretariat and FPP. This Committee will be formed by:

* Two representatives of indigenous peoples’ organizations Members of IUCN
* Two representatives of indigenous peoples’ organizations nominated by the International Indigenous Forum on Biodiversity (IIFB)
* The IUCN CEESP Chair
* The IUCN WCPA Chair
* A representative of the joint IUCN CEESP-CEL Specialist Group on Indigenous Peoples, Customary & Environmental Laws and Human Rights (SPICEH)
* A representative of the joint IUCN CEESP-WCPA Theme on Indigenous Peoples, Local Communities, Equity and Protected Areas (TILCEPA)
* A representative of the Conservation Initiative on Human Rights (CIHR)
* A representative of FPP
* The Director of the IUCN Global Programme on Protected Areas or the Director of the IUCN World Heritage Programme
* The Director of IUCN’s Nature-Based Solutions Group

The Terms of Reference of the Steering Committee will include decision-making on the selection of sites for assessments and subsequent processes, oversight of fundraising efforts, and general coordination. Decisions of the Steering Committee will be taken by consensus of its members. If a consensus cannot be found, the decision will be by majority vote.

# *Annex 1*

## Working as a Union to Deliver IUCN’s One Programme:Summary Statement

We, the different parts of IUCN – government and NGO Members, Council, National and Regional Committees of Members, Commissions of experts, and the Secretariat – work together to develop, implement and advance IUCN’s Programme of work.

Our unique strength lies in proactive collaboration across the different parts of the Union to achieve our mission *to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable*. We are all working together to ultimately achieve our vision of *a just world that values and conserves nature*.

The following principles guide the way we work together:

* We deliver the Programme at the most appropriate level, using the best-placed part of the Union to deliver national, regional or global results
* We cooperate and don’t compete for roles and resources
* We allocate resources to the part of the Union responsible for delivery
* We communicate openly and transparently to keep each other informed of plans and activities.

The different parts of IUCN each have specific Programme roles as defined by IUCN statutes, agreements and practices. We all act in accordance with the above principles, reflecting a collaborative culture, and demonstrate accountability to the Union through agreements and reporting.

IUCN Leadership

Our leadership comprises the President, Council, Director General, Commission Chairs, and the Chairs of National and Regional Committees. We lead by example and demonstrate mutual cooperation. As the Council we provide direction and support for implementation of this Charter and prioritize plans and budgets that involve Commissions and Members and build capacities of National and Regional Committees.

IUCN Members

Our Members are national States, government agencies and non-governmental organizations. Recognizing our independence, as IUCN Members we are responsible to support and provide information on our activities that contribute to the IUCN Programme. We participate in programme development and delivery where our priorities and capacities align with the IUCN Programme.

IUCN Commissions

Our Commissions are six networks of volunteer conservation scientists, experts and managers, each with specialist and regional sub-groups. We broaden conservation knowledge and competence, and help drive IUCN’s work into new areas of conservation. We provide knowledge and the conservation science and management base for the IUCN Programme. We work with Members, Council and the Secretariat to provide expertise and leverage financial and human resources for Programme delivery.

IUCN National and Regional Committees

Our Committees are officially recognized groups of Members in countries and regions. We work in partnership with the Council, Secretariat and Commissions to develop, coordinate and implement the Programme. We work with Members and the Secretariat to leverage financial and human resources.

IUCN Secretariat

Our Secretariat coordinates the work of the Union. We implement the policy and Programme of IUCN as established by Congress and Council, and coordinate work with all parts of the Union to deliver the Programme. We collaborate with Council and involve Commissions and their sub-groups, Members, and National and Regional Committees in Programme development, fundraising and delivery, in line with their capacities and interests. We raise funds in a way that integrates the efforts of Members, Commissions and the Secretariat. We work with National Committees to strengthen their capacities.

# *Annex 2*

## The pilot Whakatane Assessments

### Kenya: Hosted by the Ogiek of Chepkitale, Kenya

In January 2011, the Ogiek people of Mt Elgon, Kenya, requested urgent help from FPP to resist further evictions from their ancestral land, Chepkitale, the high moorland and forest land on the Kenyan side of Mt Elgon.

In response, FPP met with the Ogiek leaders who then organized a meeting at Mt Elgon. The Ogiek requested that one of the IUCN/FPP pilot Whakatane Assessments be held at Mt Elgon. During a subsequent trip, meetings with FPP and the Ogiek were organized by the Ogiek leaders in each community of Chepkitale, the risks and potential benefits from the pilot Whakatane Assessment were explained in detail in each community and they unanimously agreed to request that the site assessments takes place on their land. FPP and IUCN ESARO then involved the Kenya Wildlife Service, Kenya Forest Service and the World Bank, to prepare the ground for the pilot Whakatane Assessment.

IUCN ESARO and FPP worked with the Ogiek to pilot the first Whakatane Assessment in November/ December 2011. The successful process led to a better understanding of the sustainable livelihood practices of the Ogiek, and determining that their presence at Mt Elgon plays an important role in protecting the forests, fauna and water catchment area. The Assessment also provided a context in which the Ogiek could enter into dialogue with the Mt Elgon County Council, as well as with conservation organisations and Government institutions. The decisions taken during the Assessment are now being implemented.

**Structure:**

* **Consultations and dialogue** separately with high-level decision-makers and community leaders to develop understanding, secure buy-in for the process and enable a constructive round-table dialogue.
* **1st Roundtable** at the IUCN regional offices in Nairobi on November 21st 2011. This brought all the key stakeholders to the table: the Ogiek, Mount Elgon County Council, IUCN, FPP, IPACC, ERMIS mapping, Peace and Rights local peace building NGO, World Bank (that has a NRM project on Mt Elgon), IMPECT from Thailand, Kenya Wildlife Service and Kenya Forest Service. The new conservation paradigm was presented by FPP.
* **Scoping Study** visit to Chepkitale, Mt Elgon, to consult with the Ogiek and assess the situation. The team consisted of the Ogiek, Mount Elgon County Council, IUCN, FPP, IPACC, IMPECT, KFS and KWS.
* **2nd Roundtable** on December 5th: All the previous participants attended, plus the Office of the President and the Ministry of Forests and Wildlife. The World Bank did not attend but asked to be informed of the outcome.

**Outcomes:**

* **Conservation**: The Assessment’s Scoping Study found that the Ogiek have a positive relationship with their natural environment and indicated that community structures, presence and livelihood practices contribute to protecting the forest, moorland and fauna. There is therefore an opportunity for decision-makers of the County Council to reverse their earlier attempts to evict the Ogiek, and to instead support their continued conservation of their lands.
* **FPP and IUCN ESARO** put together a programme of work – validated by all participants at the 2nd Roundtable - to work on establishing clear evidence based co-management structures that can ensure Ogiek management of their land is respected. There is currently no resource to implement this programme of work.

### Thailand: Hosted by the Karen of Ob Luang

The pilot Assessment in Ob Luang National Park in the northern province of Chiang Mai took place in January/February 2012 at the request of the Karen indigenous people and with the collaboration of the Department of National Parks, Wildlife and Plant Conservation (DNP). In Ob Luang, the park authorities, local communities and NGOs have been working together since 2004 to develop and put in place a joint management system. The Whakatane Assessment was requested by the local indigenous people in order to show this positive example of co-management and ensure that best-practice policies continue in Ob Luang and are replicated elsewhere in Thailand.

The pilot Whakatane Assessment was carried out by a team of indigenous people as well as nearly all of the institutions with an interest in Ob Luang: the Inter Mountain Peoples Education and Culture in Thailand Association (IMPECT), Thailand’s DNP, FPP, IUCN, local NGOs, the Watershed Network and Highland Nature Conservation, Chomthong. They spent several days visiting communities in the park and local government staff to hear their views and recommendations.

The team found that the joint management approach was supported by everyone due to its visibly positive effects for the communities and the conservation work, including reduced tensions between the government and communities, increased protection of forests and watersheds, and improved livelihood security for indigenous peoples and local communities.

Unfortunately, Ob Luang is only one of a limited number of national parks in Thailand where joint management practices are actively promoted. Joint management practices which allow people to live inside national parks go against some outdated laws, so the majority of communities and indigenous peoples living in Thailand’s parks are still considered to live there illegally. This is why those involved in the joint management of Ob Luang wanted to use the pilot assessment to inform and reinforce the case for reforming old national laws and policies to enable this type of successful experience to be replicated and scaled-up in other protected areas.

A national forum to review the findings of the pilot Whakatane assessment at Ob Luang National Park and identify a possible path for promoting the new conservation paradigm in Thailand was held on 26–27 April 2012. The main recommendations from the forum were as follows:

• Continue supporting joint management practices in Ob Luang, i.e. strengthening collaboration between indigenous people, local communities, park authorities and other stakeholders, emphasising nature conservation and environmentally friendly income generation.

• Request DNP to adapt and replicate Ob Luang’s joint management approach to other national parks and wildlife sanctuaries nationwide.

• As reform of the existing law is still problematic, efforts are recommended to develop a special law or policy on joint management of protected areas.

• Advocate for deeper decentralization of natural resources management to local authorities.

# *Annex 3*

## Potential subjects for assessment of the situation in specific areas

The following is an illustrative list of subjects that could be included in local-level assessments of the situation of indigenous peoples and local communities in protected areas:

* Land and resource rights/tenure
	+ Customary rights, other interests and other jurisdictions
	+ Formal titles/tenure
	+ Conflicts over land and resource tenure and access
	+ Effects of the establishment of protected areas on land and resource tenure and access
* Indigenous and community representation in the area
	+ Institutions (e.g. traditional governments, council of elders, spiritual leaders, etc.)
	+ Connections and interactions with other communities
	+ Indigenous and community networks and organizations
	+ Representation in the management of the protected area
* Self-determination and decision-making
	+ Recognition of self-determination by the political system and protected area institutions and degree to which it is respected
	+ Forms of application of self-determination
	+ Gender-differentiated roles in decision-making in the protected area and other decision-making structures
	+ Legal and policy frameworks on self-determination, decision-making, FPIC
	+ Views and understanding of the local people and other stakeholders on FPIC
	+ Conditions and processes on FPIC related to protected areas and natural resources
	+ Conditions for application of FPIC in future protected areas management
	+ Application of FPIC in the creation of the protected area
* Livelihoods
	+ Customary uses of the area
	+ Competing land uses
	+ Current and past uses of the area and neighbouring areas/resources (e.g. rivers and right of ways for passage)
	+ Restrictions to livelihood activities arising from protected areas regulations and management
	+ Compensation regimes for access restrictions
	+ Community and other stakeholders’ views of sustainability/viability of livelihoods
	+ Experiences and opportunities for redressing inappropriate access restrictions
* Cases of resettlement and displacement
	+ Historical processes of forced, involuntary or voluntary displacement
	+ Impacts of resettlement and displacement
	+ Compensatory measures applied
	+ Opportunities for restitution, redress or compensation
* Role of communities in protected area management
	+ Use of traditional knowledge and practices in management of lands and resources
	+ Level and effectiveness and participation in protected area management
	+ Role in management planning (resource assessment, devising options for actions, drafting of documents, adaptation of plans)
	+ Dispute resolution mechanisms and practices
* Benefit sharing and compensation arrangements
	+ Who bears which costs and who reaps which benefits
	+ Cost and benefit sharing arrangements implemented
	+ Effectiveness
	+ Social and cultural appropriateness
	+ Gender differentiated benefits
* Cultural aspects
	+ Existence and number of sacred sites or other areas with cultural and spiritual importance
	+ Ability and opportunities of communities to maintain cultural practices such as spiritual ceremonies
	+ Awareness of the “new paradigm” amongst indigenous and local people as well as other stakeholders such as government staff, national and local conservation organisations, ecoguards or rangers, visitors, operators of facilities, etc.
* Gender as a cross cutting topic. The perspective of women and men needs to inform all the topics of the assessment (respecting local ways and gender roles).

# *References*

Beltrán, J. (Ed.). 2000. Indigenous and Traditional Peoples and Protected Areas: Principles, Guidelines and Case Studies. IUCN: Gland, Switzerland and Cambridge, UK and WWF International: Gland, Switzerland.

Brockington, Dan. 2002. Fortress Conservation: The Preservation of the Mkomazi Game Reserve, Tanzania. Mkuki Na Nyota: Dar-Es-Salaam.

Chatty, Dawn, and Marcus Colchester. 2002. Conservation and mobile indigenous peoples.

Colchester, M. 1994. Salvaging Nature: Indigenous Peoples, Protected Areas, and Biodiversity Conservation. Geneva: United Nations Research Institute for Social Development.

Colchester. Marcus et al. 2008. Conservation and Indigenous Peoples: Assessing the Progress since Durban: A Synthesis Report. Forest Peoples Programme: Moreton-in-Marsh, UK.

Conservation Initiative on Human Rights (CIHR). 2010. Conservation and Human Rights Framework. <http://cmsdata.iucn.org/downloads/cihr_framework_feb_2010.pdf>. Accessed on 10 July 2012.

Convention on Biological Diversity (CBD). 2004. Decision VII/28: Protected areas.

Convention on Biological Diversity (CBD). 2012. Protected Areas: Global summary of PoWPA implementation. <http://www.cbd.int/protected/implementation/>. Accessed on 10 July 2012.

Forest Peoples Programme (FPP). 2009. Series on Forest Peoples and Protected areas, <http://www.forestpeoples.org/topics/rights-based-conservation/publication/2011/fpp-series-forest-peoples-and-protected-areas>. Accessed on 10 July 2012.

IUCN. 2008. Indigenous Peoples at the IUCN World Conservation Congress: Selected Resolutions and Recommendations. <http://cmsdata.iucn.org/downloads/indigenous_res_wcc4_2.pdf>. Accessed on 10 July 2012.

Kothari, Ashish. 2006. Collaboratively Managed Protected Areas and Community Conserved Areas. In Lockwood, M. Et al (eds.). Managing Protected Areas: A global Guide. Earthscan: London. Pp 528-573.

Larsen, P.B. and G. Oviedo. 2005. Protected areas and indigenous peoples: the Durban contributions to reconciliation and equity. In McNeely (ed). Friends for Life: New partners in support of protected areas. IUCN: Gland.

Phillips, A. 2003. “Turning ideas on their head: the new paradigm for protected areas”. The George Wright Forum 20(2).

UN Declaration on the Rights of Indigenous Peoples (UNDRIP). 2007. <http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf>. Accessed on 10 July 2012.