Protected Areas and Indigenous Peoples

Nearly 30 years have passed since the World Conservation Union, at its 12th meeting held in Kinshasa, first acknowledged the need to respect indigenous peoples' rights to their lands in the establishment of protected areas. The resolution called on governments and conservation bodies to recognise the value of indigenous peoples' ways of life and to devise ways for indigenous peoples to bring their lands into conservation areas without having to relinquish their rights or be displaced.

Yet the great majority of protected areas established since then have violated these rights. For example, it is estimated that to date some 1 million square kilometres of forests, savannah, pasture and farmland in Africa have been redefined as protected areas yet in the great majority of these areas the rights of indigenous peoples to own, control and manage these areas have been denied. No one knows how many people have been displaced by these protected areas and little has been done to ameliorate the suffering and poverty that has resulted.

In the past 15 years, the conservation community has made more concerted efforts to develop principles and guidelines designed to reconcile indigenous rights with conservation initiatives. The Convention on Biological Diversity imposes obligations on governments to respect, preserve and maintain indigenous peoples' knowledge, innovations and practices, and to protect and encourage their customary use of natural resources. At the same time major advances in international law have more clearly defined the rights of indigenous peoples and these advances have been consolidated in the form of a draft United Nations Declaration on the Rights of Indigenous Peoples.

It is now possible to point to international human rights instruments and treaties, and to the jurisprudence of the United Nations human rights committees which interpret them, and state with confidence that international law now recognizes the rights of indigenous peoples to:

- Self-determination
- Freely dispose of their natural wealth and resources
- In no case be deprived of their means of subsistence
- Own, develop, control and use their communal lands, territories and resources, traditionally owned or otherwise occupied by them
- The free enjoyment of their own culture and to maintain their traditional way of life
- Free and informed consent prior to activities on their lands
- Represent themselves through their own institutions
- Exercise their customary law
- Restitution of their lands and compensation for losses endured.

Through its resolutions and recommendations the World Conservation Congress has explicitly recognised these advances in international law and called on governments and its members to comply with them. In 1994, the IUCN revised its system of categories of protected areas to allow indigenous peoples, among others, to be the owners and managers of protected areas – previously the IUCN system had required protected areas to be controlled by State agencies. In 1999, the World Commission on Protected Areas adopted guidelines for putting these new conservation principles

into practice. These guidelines place emphasis on co-management of protected areas, on agreements between indigenous peoples and conservation bodies, on indigenous participation and on a recognition of indigenous peoples' rights to 'sustainable, traditional use' of their lands and territories.

Since 1997, the Forest Peoples Programme has jointly organised a series of conferences, with indigenous peoples to assess the extent to which these new principles of international law and conservation are being put into practice. A first conference held in Pucallpa, Peru, with the Asociacion Interetnica para el Desarrollo Sostenible de la Selva Peruana (AIDESEP) and the International Work Group for Indigenous Affairs (IWGIA), examined 16 cases of indigenous experiences with protected areas in Latin America. A second conference held in Kundasang in Malaysia, with the Asia Indigenous Peoples Pact, IWGIA and Partners of Community Organisations in Sabah (PACOS) looked at a further 12 cases in South and South East Asia. A third conference held in Kigali in partnership with the Communauté des Autochtones Rwandais (CAURWA) examined a further 9 cases.

The overall findings from this review are sobering but not entirely discouraging. In general, protected areas continue to be established and administered in violation of indigenous peoples' rights and in ignorance of the new standards. Serious problems are faced by the communities as a result, in terms of impoverishment, forced resettlement, human rights abuse and cultural loss. However, in all regions, examples can also be found of protected areas where sincere efforts to apply these new standards are being made. These examples demonstrate that it is possible to recognise the rights of indigenous peoples and achieve conservation goals in the same areas.

The case studies also show that a number of serious obstacles stand in the way of an effective recognition of indigenous rights in conservation practice. These include:

- Entrenched discrimination in national societies' attitudes towards indigenous peoples such that indigenous peoples' ways of life are seen as backward, dirty or subhuman. In the context of conservation initiatives, the result may be a denial of rights and a feeling among affected peoples that they are treated as worse than animals
- Absence of reform of government policies and laws regarding indigenous peoples. Many governments, especially in Asia and Africa, pursue integrationist or assimilationist social policies towards indigenous peoples, designed to elevate them from 'backward' ways into the national mainstream
- National laws and policies with respect to land which deny indigenous peoples' rights to own and manage their lands.
- National conservation policies and laws still based on the old exclusionary model of conservation. Few of the countries studied have adopted the revised IUCN protected area category system, which would allow communities and indigenous peoples to own and control protected areas.
- Conservation agencies and NGOs lack appropriate training, staff and capacity to work with communities.

These studies by indigenous peoples of their own experiences with protected areas, and the conclusions that flow from them, have important implications for conservationists gathering in September 2003 for the Vth World Parks Congress in Durban South Africa. If conservation organisations, including IUCN and WCPA, and State agencies are to ensure that existing and future protected areas are to be managed and established in conformity with indigenous peoples' rights, then they must:

- give priority to reforming national laws, policies and conservation programmes so that they respect indigenous peoples' rights and allow protected areas to be owned and managed by indigenous peoples;
- ensure that sufficient funds are allocated to national conservation programmes, and to the regional and international programmes that support them, to carry out these legal and policy reforms;
- retrain conservation personnel in both national and international bureaux so that they understand and know how to apply these new principles;
- encourage other major international conservation agencies to adopt clear policies on indigenous peoples and protected areas in conformity with their internationally recognized rights and these new conservation principles;
- combat entrenched discrimination in national and international conservation programmes and offices and, where necessary, adopt affirmative social policies that recognize and respect cultural diversity;
- support the consolidation of indigenous peoples' organisations as independent, representative institutions;
- support initiatives by indigenous peoples to secure their territorial rights; and
- initiate transparent, participatory and effective procedures for the restitution of indigenous peoples' lands, territories and resources incorporated into protected areas and compensate them for all material and immaterial damages in accordance with international law.

Clear measures to undertake these actions need to be introduced into the Durban Accord, which is the expected outcome of the Vth World Parks Congress. This is especially important as the successful uptake of the conclusions of the World Parks Congress will depend on debates at the VIIth Conference of Parties of the Convention on Biological Diversity to be held in Kuala Lumpur in 2004. The credibility of the CBD will be greatly enhanced by full compliance with the human rights standards already established in other UN treaties.

Source: Forest Peoples Programme. For supporting documentation see www.forestpeoples.org