



WORKSHOP SUMMARY REPORT

Events' co-leaders:	Jennifer Mohamed-Katerere, Santiago Martinez and, Lydia Slobodian
Time and date:	17 November 2014, 13:30-17:00 (double session)
Original rapporteurs:	Kim Bellingham
Presenters:	Rosemary Hill, Rana Koroglu, Cecilia Cronemberger, Malgorzata Blicharska, Dani Ndebele and Leonardo Crippa

Six panel presentations provided examples from around the world highlighting both the obstacles to effective procedural rights, and the important role procedural rights can play in achieving concrete conservation and social goals. This was followed by break-out sessions focussing on the three key procedural rights of participation, access to information and access to justice. The discussions powerfully indicated the connectedness of other rights (e.g. to equality, self-determination, property and resource use) and the varied mechanisms to implement these rights: legislative, administrative, customary, or de facto (through government and civil society).

Key emerging lessons:

1. Effective procedural rights to participation, access to information and justice are crucial to achieving better conservation decisions and a just world that values nature.
2. Trust, respect and dignity are central to avoiding the obstacles that impede the effective use of procedural rights in achieving better conservation and social outcomes.
3. Any consideration of rights to participation, access to information and access in the conservation context is inseparable from a consideration of rights to equality, self-determination, property and resource use.
4. Procedural rights play a key role in the diversity and quality of natural resource governance, which in turn can lead to better conservation outcomes and positive social justice outcomes, as shown in workshop examples (see Brazilian and Australian examples).
5. Procedural rights need to be considered within different legal paradigms, for instance within the context of customary law as well as the legal systems of the nation state. They also need to be fully considered within the specifics of their local context, in order to

determine the most effective mechanisms for providing rights to participation, access to information and access to justice for individuals and communities (communities of place and communities of interest).

Exemplary case/s and other useful links:

The importance of procedural rights in the conservation context was amply evidenced by real life examples from around the world:

- the procedural right to participation of indigenous peoples in Australia in land and natural resource governance arrangements, providing a vehicle to sustainable livelihoods and thus improved social and health outcomes (e.g. \$250k saved in health costs in one community through this initiative);
- a not for profit/NGO community environmental law office in Australia improving access to information, participation and justice by undertaking legal education, law reform, and succeeding in court proceedings on behalf of communities;
- establishment of a more inclusive governance arrangement within Serra dos Orgaos National Park in Brazil empowered the indigenous people with procedural rights to participation and justice, leading to the resolution of a historical conflict of 30 years standing over the boundaries to the park;
- a Polish forest conflict example highlighted some key elements to effective procedural rights of access to information and participation: the lengthy conflict had engendered very low trust resulting in barriers to understanding and engagement by the local forest community. It was clear that the effectiveness of these procedural rights were dependent on trust, respect, and an understanding of different perspectives (eg of the local needs, knowledge and fears);
- a South African NGO was resourced to undertake a project to build capacity amongst marginalised stakeholders through a “people and parks toolkit”, with the aim of improving the relationship between the park and communities living adjacent to the park. The toolkit was powerful in its effectiveness at crossing language barriers and understanding the human elements and the core principles underlying our interactions. The example highlighted the advantages of measuring the effectiveness of the action taken: through impact assessment the toolkit was shown to have increased the communities’ understanding of their procedural rights and to thus effectively participate;
- Mesoamerican case studies highlighted the need to understand the local and customary context, particularly through respect for indigenous peoples’ self-determination and collective ownerships rights. The role of procedural rights as the complement to substantive rights was emphasized, for instance through due process and effective remedies.

Original presentations and report are available in the event’s folder (see link in annexed “Repository of original Powerpoint presentations and Rapporteur reports”).

Key recommendations:

1. By 2015, civil society and governments commit to enhance access to information, participation and access to justice, along the lines of the principles contained within international instruments such as the Aarhus Convention, ILO 169, UNDRIP as well as other relevant international principles and norms.
2. By 2020, governments and civil society take steps to improve protection of procedural and substantive rights relating to protected areas through effective and well implemented legal frameworks and institutional arrangements.
3. By 2020, governments guarantee that communities have clear and effective rights to participate in decision-making processes that determine land uses, the activities carried out, the costs incurred and the benefits allocated in and around protected areas.
4. Recognizing the importance of conflict prevention and resolution to achieving conservation goals and enhancing human welfare, by 2020 governments should ensure communities, civil society and other stakeholders have access to fair, equitable, timely and affordable procedures for preventing and resolving conflicts and redressing wrongs.
5. By 2020, governments and civil society should work together to ensure that information relating to activities and decisions affecting protected areas and communities in and around them is accessible, public, and provided in a timely manner and in an appropriate form, as a prerequisite to meaningful participation and access to justice.

The above key recommendations have been instrumental in shaping the following final recommendations of the Stream:

Rec#	Title
9	Aarhus and beyond
4	Collective rights and responsibilities
16	Innovative legal guidance
17	Justice and redress