



Rights-Based Approaches in Climate Change, Conservation and Development Initiatives

Preliminary analysis and recommendations from a review
of the scholarly literature

Léna Prouchet

Juan Pablo Sarmiento Barletti

Anne M. Larson



Occasional Paper 6

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Léna Prouchet

University of Exeter

Juan Pablo Sarmiento Barletti

CIFOR-ICRAF

Anne M. Larson

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Photo by Marlon del Aguila Guerrero/CIFOR-ICRAF
Farm of Pablo Granda, who arrived at San Martín from Ayabaca, Piura. Now he produces cacao.

CIFOR
Jl. CIFOR, Situ Gede
Bogor Barat 16115
Indonesia
T +62 (251) 8622622
F +62 (251) 8622100
E cifor@cifor-icraf.org

ICRAF
United Nations Avenue, Gigiri
PO Box 30677, Nairobi, 00100
Kenya
T +254 (20) 7224000
F +254 (20) 7224001
E worldagroforestry@cifor-icraf.org

cifor-icraf.org

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Abbreviations

CBD	Convention on Biological Diversity
CBNRM	Community Based Natural Resource Management
CI	Conservation International
CIFOR-ICRAF	The Center for International Forestry Research – World Agroforestry
CIHR	The Conservation Initiative on Human Rights
COICA	Coordination of Indigenous Organizations of the Amazon Basin
EU	European Union
FPIC	Free, Prior, and Informed Consent
ICCA	Community Conserved Area
IIFB	International Indigenous Forum on Biodiversity
ILO	International Labor Organization
IPs and LCs	Indigenous Peoples and local communities
IUCN	International Union for the Conservation of Nature
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OHCHR	The Office of the High Commissioner for Human Rights
PES	Payment for Ecosystem Services
RBA	Rights-Based Approach
REDD+	Reducing Emissions from Deforestation and Forest Degradation, and Enhance Forest Carbon Stocks in Developing Countries
RIA	REDD+ Indígena Amazónico (Indigenous Amazonian REDD+)
RRI	Rights and Resources Initiative
UN	United Nations
UNDP	UN Development Program
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNICEF	UN International Children’s Emergency Fund

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Executive summary

Rights-Based Approaches (RBAs) purposefully position the recognition of, respect for, and access to individual and collective rights as central to an initiative's planning, design, implementation, monitoring process, and outcomes. In mainstream climate change, conservation, and development programs and policies, this means refocusing the relationship between 'beneficiaries' and 'implementers' to one of right-holders and duty-bearers. RBAs hold growing discursive importance in relation to the rights of Indigenous Peoples and local communities (IPs and LCs) in conservation and climate change spheres and the agendas of international agencies.

The growing interest in RBAs, and their inclusion in frameworks that will guide development, conservation, and climate projects over the next decade is laudable. However, there is a shortage of analysis of RBA experiences, both their conceptualization and practice. Such analysis would advance discussions on the impact of these approaches and provide lessons to enable transformative change. This review is a preliminary assessment that aims to advance the ongoing conversation on RBAs. Our primary interest is the conception and implementation of RBAs in forest-based initiatives, but we reviewed the wider scholarly and gray literature on RBAs in development, conservation, and climate action. The review was complemented by interviews with a multi-actor group of specialists and advocates. Our key findings are summarized below.

Factors to ensure effective implementation

Despite their diversity, strategies across sectors share three essential steps that should be considered to ensure the successful preparation, implementation, and conclusion of initiatives.

1. Project and program planning should be preceded by a thorough contextual analysis, as every context of intervention is different. Different cases may require different solutions to similar problems; if the same strategy is applied to all cases uniformly, the outcomes will likely vary.
2. Context analysis should be complemented by a stakeholder analysis. Project designers should understand the roles and power dynamics that accompany workplace actors, and identify the right-holders and duty-bearers. Context and stakeholder analysis will provide critical insights into effective initiative design aimed at promoting rights and minimizing harm.
3. To better understand their impacts, activities should be assessed by monitoring and evaluation strategies. These strategies should be discussed with rights-holders during the initiative design stage, and strategic components should have a mechanism for indicating how the project or program performed concerning rights protection and promotion.

Challenges to the implementation of RBAs

The challenges below apply to different RBAs, but our emphasis lies on those executed by institutional actors.

1. RBA principles included in international climate and conservation agreements tend to either fail to be adopted at the national level or to be poorly translated on the ground due to barriers including capacity gaps and political will. Not all international agreements are legally binding in national frameworks, nor do they have strong mechanisms to enforce or promote them.
2. When countries do ratify international agreements, IPs and LCs are challenged by treaties and laws being partially implemented in

practice, or not implemented at all. This gap may be explained by the discrepancy between RBAs and mainstream social, political, and economic dynamics at the national level.

This disparity must be addressed to promote tangible change and support rights-based transformations.

3. The status quo is reinforced by financial flows in the conservation and climate action sector that are focused on market-based mechanisms and are not designed or implemented with RBAs in mind; these investments pose multiple challenges for IPs and LCs.
4. Additional challenges include a lack of awareness by implementing actors at the local level of the theories behind RBAs and their implications, and of the capacities associated with transforming principles into practice.

Priorities for attention and concerted action

The following elements for concerted action stress the importance of continuing to support elements of RBAs and their application.

1. To achieve effective RBAs, conservation organizations and countries with biodiversity hotspots should shift their framing of IPs and LCs as mere beneficiaries of projects, programs, and policies to right-holders who possess worldviews, knowledge, practices, and solutions of their own.
2. Conservation actors should enforce social, cultural, and economic safeguards, from a reframed perspective that advances rights-responsive pathways and recognizes IPs and LCs' roles in forest conservation.
3. The rights of environmental defenders should be supported and protected through improved access to justice, effective investigation, and reparation mechanisms for rights violations.
4. Reparation mechanisms should be implemented to provide redress for rights violations suffered by IPs and LCs in the context of 'fortress conservation'. These reparations should be in the form of land

restitution or the granting of lands equal in size, quality, and legal status. If those options are unfeasible, affected IPs and LCs should receive commensurate payment.

5. The forums where conservation policies are discussed and adopted should be adapted or transformed to ensure that the demands of IPs and LCs are both communicated and heard.
6. Conservation and climate change funding should ensure that IPs and LCs have the necessary resources to defend their rights and work towards their own, self-determined agendas.

Recommendations for further research

1. Research should seek to systematically review RBAs across sectors to advance collective knowledge surrounding challenges and best practices. It is important to understand how RBA principles, such as participation and non-discrimination, have been and can be operationalized in different contexts.
2. Research should examine the differences between RBAs as programs rather than projects and the lessons that the implementation of one may provide to support work on the other.
3. Research should focus on the specific measures necessary to protect and promote rights, such as social safeguards or grievance mechanisms.
4. Research should explore monitoring mechanisms and indicators for RBAs, especially for initiatives in countries that are not signatory to the international agreements that recognize the rights of IPs and/or LCs.
5. Research should seek to understand how to deal with trade-offs while implementing RBAs. Research from the perspective of duty-bearers, including the private sector, can provide helpful insights for effective implementation.
6. Research should aim to provide evidence on how RBAs can be successfully introduced at an organizational level, as well as the adaptation and transformation mechanisms needed to achieve genuine change within the organizations that are funding and implementing potentially transformative pathways for IPs and LCs.

1 Introduction

Rights-Based Approaches (RBAs) purposefully reposition the recognition of, respect for, and access to individual and collective rights at the center of an initiative’s planning, design, implementation, monitoring, and outcomes. RBAs gained momentum in the development sector in the 1990s; by the early 2000s, most United Nations (UN) agencies had adopted RBAs, with the UN Development Program (UNDP), UN International Children’s Emergency Fund (UNICEF), and UN Human Rights Office (OHCHR) in the lead. Two decades later, RBAs have gained discursive importance within conservation and climate change spheres (Campese et al. 2009; Knox 2009), as illustrated by the Conservation Initiative on Human Rights (CIHR), composed of seven major international conservation organizations. This growing interest in RBAs represents a potential departure from conservation’s colonial history and mainstream practices that have led to numerous rights abuses, including forced displacement (RRI 2020).

Organizations that have adopted or promoted RBAs often emphasize their support for marginalized groups, including women, youth, and Indigenous Peoples and local communities (IPs and LCs). RBAs have been described as having the potential to address power inequalities, discriminatory practices, and exclusion (OHCHR 2006) while improving the outcomes of development, conservation, and climate action initiatives (European Commission 2021; Tauli-Corpuz et al. 2018); thus, they link equity and effectiveness concerns. RBAs propose a shift in the focus of initiatives from people’s *needs* to protecting and promoting their *rights* (Nelson and Dorsey 2018). Moving away from framing initiatives as having beneficiaries, IPs and LCs in this context are considered “right-holders,” while the governments and organizations implementing

the initiatives are deemed “duty-bearers” (UN 2003). This repositioning is the basis for how RBAs place accountability at their center (World Bank and OECD 2016).

The growing discursive interest in RBAs, and their inclusion in frameworks that will guide development, conservation, and climate projects over the next decade is laudable (e.g., the 2030 Agenda for Sustainable Development and the Post-2020 Biodiversity Framework). However, the gap in reviews of RBA experiences—in conceptualization and practice—must be addressed to advance discussions on the impact of these approaches and provide lessons to enable their potential to support transformative change (see Box 1). However, any evaluation of the impact of RBAs is challenging, as there are large variations in their conceptualization and framing, and their execution depends on implementing organizations and intervention contexts (Belda-Miquel et al. 2016).

We address the gap in reviews of RBA experience by presenting lessons learned from a review of the academic and gray literature on RBAs, combined with interviews from actors working with RBAs. Part 2 gives a brief overview of the methods used in the report, including the literature review supplemented with interviews. In Part 3, the concept of RBAs is presented and defined, and central principles are explained. Part 4 focuses on the global context that led to the emergence of RBAs, and on the international human rights norms that influenced the construction of these approaches. It also describes the different rationales that justify the adoption of RBAs, as well as those that criticize these frameworks. Part 5 presents the main differences among RBAs through an examination of different typologies. Part 6 turns to the implementation of RBAs by

sharing some examples of early implementation and discussing their successes and challenges. Part 7 discusses whether the adoption of RBAs has led to transformative changes and the factors

that have enabled these processes. Lastly, Part 8 briefly recaps the review's key insights and presents ideas for future research to address the gaps in the literature on RBAs.

Box 1. What is “transformational change”?

Our understanding of transformation builds on the definition developed by Atmadja et al. (2021). Their review of the literature on transformational change found four common characteristics within varying definitions.

Transformational change:

- Represents a movement away from the current state of affairs, business-as-usual regime or behaviors, and an opening of new pathways
- Should be sustained, either through institutionalization within systems, or changes in behavior, culture, beliefs, and power relations
- Focuses on root causes and relationships between dimensions of change (e.g., organizations, markets, technologies, power and social relations, and ideas)
- Includes knowledge as both a driver and indicator of change

Our understanding also draws from definitions more directly related to equality and justice, which furthers the point about root causes. For example, drawing from the concept of gender transformative approaches (GTAs), transformation seeks to “actively examine, challenge, and transform the underlying causes of (...) inequalities rooted in discriminatory social structures and institutions,” including unequal power relations, “discriminatory norms, attitudes, behaviours, and practices, [and] discriminatory laws and policies that create and perpetuate [inequalities]” (FAO et al. 2022)

2 Methods

We carried out a systematized search through Google Scholar and Web of Science for different combinations of the following terms: “right*-based approach”, “human right*”, “development”, “conservation”, “climate change” and “transformative”. A snowball strategy was applied to identify additional resources, including searches of gray literature on key organizational repositories such as the International Union for the Conservation of Nature (IUCN), the UN, the Rights and Resources Initiative (RRI), Conservation International (CI) and CIFOR-ICRAF. We reviewed papers written in English, French, and Spanish, and added no time limit to the search criterion. We screened 756 abstracts, selected and read 118 documents, and included 67 in this review. Our notes for each were coded on NVivo using codes predetermined through the objectives of the review (e.g., principles of RBAs), and inductive codes representing themes that emerged during the reading process (e.g., rationale for adopting an RBA).

We note four main caveats within our findings. First, the literature assessing the implementation and impacts of RBAs is limited, even more so when focusing on climate change and conservation. Much of the literature on the implementation of RBAs is written by organizations implementing activities that tend to provide little criticism of their practices. The authors faced a similar challenge in previous literature reviews – with wider scopes – on multi-stakeholder participatory processes (Sarmiento Barletti et al. 2020; Hewlett et al. 2021). Second, some of the scholarly

literature dealing with RBAs (at different levels and across different disciplines) may not have appeared in our original search due to the wording of their titles or the keywords that their authors used. Where relevant, we have included references to other texts and discussions for interested readers. Third, given the nature of the literature compiled from our search, the emphasis in this review is on global rather than national processes. However, we acknowledge the importance of the latter for the development of legal frameworks, political transitions, and social movements that support or challenge the implementation of RBAs. Our fourth caveat is that, while RBAs can be conceptualized and implemented in projects, programs, and policies, our present focus is on putting RBAs into practice through project and program management.

Our literature search was complemented by seven interviews with key actors involved in RBAs, including representatives from research, environmental, conservation, and IP and LC organizations. The semi-structured interviews were conducted through Zoom, in English and Spanish. The interviewees were presented with preliminary findings of the literature and asked to comment on them and share their experiences with RBAs. All interviews were recorded and transcribed. Any individuals and organizations noted here provided prior consent. Finally, we selected case studies from the literature search that were linked to our interviewees to illustrate our findings and present concrete examples of what we understand as transformative pathways through RBAs.

3 What are RBAs?

To understand the essence of Rights-Based Approaches (RBAs), we must start by defining the rights that are at their core. Rights are “norms and entitlements that create constraints and obligations between people and institutions” (Campese et al. 2002: 2), supporting the distinction between ‘rights-holders’ and ‘duty-bearers’. Human rights refer to a set of interrelated entitlements that are “inherent to all people by virtue of their being human” (Messer 1993; Suarez 2013: 240 in Witter et al. 2019). Notably, when considering IPs and LCs, we must note their recognized collective rights under international agreements (e.g., UNDRIP and ILO c169) that encompass a wide range of rights, ranging from freedom from discrimination to self-determination. In general, the rights considered under RBAs are often, although not always, enshrined in international and national law.

Different categories of rights can be distinguished. Substantive rights exist for their own sake, such as the right to life set out in Article 3 of the Universal Declaration of Human Rights. Procedural rights serve to ensure the protection of substantive rights; they include, for example, the right to information or access to justice (Corson et al., 2020). Furthermore, as global priorities shift, new rights can be acknowledged. For instance, in July 2022, the United Nations General Assembly passed a resolution recognizing the right to a clean environment. This achievement was the result of decades of work and demands from civil society organizations; this right is critical to life in the current climate crisis and the concomitant environmental threats often faced by marginalized groups (Godden and Tehen 2016).

Commonly, RBAs are defined, per the UN’s (2003) definition, as approaches that aim to “further the realization of human rights as laid down in the

Universal Declaration of Human Rights and other international human rights instruments” and contribute to “the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘right-holder’ to claim their rights.” This definition highlights the potential of RBAs to address the power inequalities, discriminatory practices, and exclusions that hinder development progress (OHCHR 2006). Organizations adopting RBAs often seek to emphasize their support towards marginalized groups including women, youth, and IPs and LCs. For instance, the Conservation Initiative on Human Rights recognizes the need to “make special efforts to avoid harm to those who are vulnerable to infringements of their rights and to support the protection and fulfillment of their rights within the scope of our conservation programs” (CIHR 2016).

However, there are notable differences in the elaboration and implementation of these approaches. Two important variables are the sector (e.g., development, conservation, climate actions) - although there is also variation within the same sector - and the organization designing or implementing an initiative that will deploy an RBA (Belda-Miquel et al. 2016). As Tsikata writes, “There is no one RBA” (2004: 130). For example, a study of twelve development NGOs found that more than half admitted that their definitions and use of RBAs were different from those of other organizations (Harris-Curtis 2003). While RBAs can be at the center of some organizations’ philosophies and core values, for others they are a methodology or practical guideline for project implementation and monitoring (Noh 2022). In the same vein, RBAs can also be differentiated by the norms they are based on, as some are inspired by international agreements while others rely on the policies of donor agencies or are framed around normative beliefs (Gauri and Gloppen 2012).

As RBAs gained momentum, additional distinctions appeared. RBAs were introduced largely due to rights abuses in development and conservation programs, as an acknowledgment that those initiatives could have negative and positive impacts on rights, and a regrounding of those projects in justice principles (Greiber 2009). For example, the Human Rights in Biodiversity working group (2022) highlighted that RBAs primarily mean that “biodiversity policies, governance and management do not violate human rights”; a minimum that has been discussed as ‘do no harm’ in the context of safeguards (Sarmiento Barletti et al. 2021). Others maintained that adopting RBAs can further the realization of certain rights (CIFOR and IUCN 2009), and could be understood as a potential to ‘do better’ (Lofts et al. 2021). The protection of certain rights is relevant in the context of conservation activities, ranging from protection against physical violence to the right to work and own property, which can be transgressed by projects that displace communities (Springer et al. 2011).

An additional distinction emerged more recently through the discourses and work of grassroots organizations and their supporters, and largely in rejection of extractive development (Blaser 2013). These discourses and political actions expand who is considered a rights-holder and go beyond human rights to consider the rights of nature or “other-than-human beings” (De la Cadena 2015). This allows us to envision alternatives to mainstream development pathways as well as respect Indigenous cosmologies (Krämer, 2020). The rights of nature have been included in the legislative frameworks of some countries including India, New Zealand, and Ecuador; in the latter’s Constitution there are references to the Pachamama, Quechua for Mother Earth (Sheber 2020).

3.1 Redefining roles

A common feature of RBA adoption relates to a redefined role of actors involved in the development, conservation, and climate action processes into two categories: rights-holders and duty-bearers (UN 2003). It is worth noting that an actor can be both a rights-holder and a duty-bearer (e.g., NGO actors implementing projects) depending on the context. This redefinition

establishes a strong accountability framework (World Bank and OECD 2016), building on the realization that there is no entitlement to rights if there is no matching obligation to guarantee those rights are respected (Broberg and Sano 2018).

The implementation of RBAs is a response to capacity gaps and a lack of will by governments to guarantee rights and respect international and national norms (World Bank and OECD 2016). For some analysts, non-state actors including private companies, NGOs, donors, and intergovernmental organizations also have a responsibility to contribute to the protection and advancement of rights (Cornwall and Nyamu-Musembi 2004; Hamm 2001). For example, the responsibilities of the private sector are established in the UN Guiding Principles on Business and Human Rights, which outline companies’ duties to ‘respect’ human rights (Tomlinson 2019). Similarly, conservation organizations can be considered as non-state duty-bearers that “are responsible for ensuring indigenous rights protections” (Witter and Satterfield 2019: 1091). Some of these non-state actors have developed specific codes of conduct as well as indicators to measure the impact of their work on human rights (Greiber 2009). Nonetheless, as the enforcement of rights is normally carried out through national legal systems, governments remain the principal duty-bearers (Broberg and Sano 2018). However, beyond legal obligations, there are arguments that anyone with the ability to help further human rights is a duty-bearer with the moral obligation to do so (Sen 2004); this idea has gained momentum among conservation practitioners (Campese 2009). For example, Sen argues for the critical role of civil society to further vulnerable groups’ rights as “some recognized human rights are not ideally legislated, but are better promoted through other means, including public discussions, appraisal and advocacy” (2004: 319–320).

In the context of RBAs, the actors that were previously conceived of as project ‘beneficiaries’—a passive connotation—became right-holders with priorities of their own (Belda-Miquel et al. 2016). Therefore, projects deploying RBAs are refocused from charitable acts to actions for the fulfillment of recognized rights (European Commission 2021; Hamm 2001). One implication of this shift is that right-holders are expected to be involved in initiative processes through dialogue and

collaboration (Borberg and Sano 2018). In the context of conservation and development, there is growing discursive attention (that is not reflected in mainstream implementation) on marginalized groups such as IPs and LCs given their historical experiences of dispossession, their recognized stewardship of areas of high biodiversity, and their vulnerability to the environmental effects of the climate crisis (D cary-Secours 2017; Dominguez and Luoma 2020; For et al. 2020). In these contexts, “Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth” are described as “key rights holders and partners in protecting and restoring nature” (Boyd and Keene 2021: 5). Whereas right-holders are usually associated with individuals (Human Rights in Biodiversity Working Group 2022), the application of RBAs highlights the importance of collective rights; these are paramount for access to customarily held land and resources. Further noting the multiplicity of potential positions in the context of RBA implementation, conservation sector actors can hold joint positions as duty-bearers and right-holders, as staff from conservation organizations have also been victims of human rights abuses related to their work (Campese et al. 2009).

3.2 Principles

In this section, we use the term “principle” due to its widespread usage in the RBA literature. The term facilitates inclusive discussions concerning various organizations that employ RBAs, irrespective of whether or not their approach is grounded in legal frameworks. Although there is often a lack of consensus on their nature and implementation method, most RBAs are guided by similar principles. The PANEL (Participation, Accountability, Non-discrimination, Empowerment, and Legality) principles are consistently mentioned in the academic and gray literature; they offer a common set of principles to lead the design of projects deploying RBAs (Noh 2022; Vandenhole and Gready 2014). We present them below.

Participation: This principle means that “every person and all peoples are entitled to active, free and meaningful participation in contribution to, and enjoyment of civil, economic, social, cultural and political development in which

human rights and fundamental freedoms can be realized” (UN 2003). Participation—especially of historically marginalized groups—is conceived of as both an end in itself and a means to empower citizens (European Commission 2021; Miller and Redhead 2019). One example is the demands of IPs to participate in decision-making regarding the forests they have historically managed (Sikor and Stahl 2011). To ensure that participation is not limited to passive forms, such as information processes or consultation mechanisms that do not include real opportunities to influence decisions, active engagement with marginalized communities is essential and should include power-sharing arrangements (Springer et al. 2011; Palacios Llaque and Sarmiento Barletti 2021). This means that participation should take place at every step of the project cycle, from its design to its monitoring and evaluation. Given how complex it may be to include every rights-holder in consultation processes, participation often relies on civil society organizations to act as intermediaries in facilitating bottom-up processes (Hamm 2001).

Accountability: Accountability relates to the role of duty-bearers, which “have obligations to observe human rights and are answerable for the observance of rights under their jurisdiction” (Campese et al. 2019: 3), and to the ability of rights-holders to hold them to account. This principle goes hand in hand with monitoring and evaluation mechanisms. Frameworks have been developed by various institutions to assess the impact of different programs on rights (IUCN 2009).

Non-discrimination: Under this principle, “all human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies” (UN 2003). Whereas development programs were designed to support ‘poor’ people, RBAs seek to reduce discrimination against vulnerable and marginalized groups (Kindornay et al. 2012; Miller and Redhead 2019) as this marginalization is one of the causes of their economic poverty (Broberg and Sano 2018). This represents an important shift in focus toward the structural causes of inequality rather than merely its symptoms. Furthermore, it includes attention to gender discrimination and

women's exclusion (European Commission 2021). Moreover, there is an increased acknowledgment of the intersectional nature of marginalization, which considers "how different aspects of a person's identity combine to create different modes of discrimination"; adopting such a focus requires an understanding of the root causes of these discriminations and how they affect the opportunities available to those groups (European Commission 2021: 7).

Empowerment: Empowerment implies "that each individual and (in case of collective rights) group acquires the ability to think and to act freely, to take decisions and to fulfill his or her own potential as a full and equal member of society" (Broberg and Sano 2018). This process materializes through an increase in political, social, and economic agency so people can "determine their path of development" (Hamm 2001). Empowerment of right-holders is a key process to ensure actors can claim and enjoy their rights and hold duty-bearers accountable (European Commission 2021; Pact and USAID 2018).

Legality: RBAs must recognize rights as legally enforceable entitlements and must be grounded in domestic and international legal frameworks. As such, the "full range of legally protected human rights must be respected, protected and fulfilled" in RBAs (SHRC 2018: 7).

Beyond PANEL, these additional principles are often mentioned as pillars of RBAs within the literature:

- Intentionality refers to the idea that activities that contribute to enhancing rights only qualify as RBAs if they do so on purpose and not accidentally (Miller and Redheard 2019).
- Interdependence, interrelatedness, and indivisibility of rights mean that rights cannot be hierarchized or separated, whether they are civil, political, economic, cultural, social or environmental (Carrillo Fuentes 2015), and that "the realisation of one right often depends, wholly or in part, upon the realisation of others" (Miller and Redheard 2019). For example, the right to health might depend on the realization of the right to education and information (UN 2003).
- Rights are universal, common to all human beings and are inalienable, under Article 1 of the Universal Declaration on Human Rights,

which states that "all human beings are born free and equal in dignity and rights" (UN 2003).

- Equality is often discussed in relation to gender equality, as women are often excluded from decision-making processes despite playing a key role in development and conservation mechanisms (Springer et al. 2011).

Two other principles are linked to the implementation of RBAs:

- Transparency relates to meaningful participation and accountability of underrepresented groups and promotes the right to freedom of information. Duty-bearers must make information on interventions and policies accessible and understandable to all stakeholders (European Commission 2021).
- Good governance, defined as "a state's [...] legitimacy based on the government's ability to fulfill general state functions such as the provision of public goods," is also critical to ensure that marginalized group voices are considered (Hamm 2001). Such a mechanism should be "transparent, accountable, legitimate, fair and inclusive" (Springer et al. 2019: 22).

Finally, some RBA principles are especially relevant in the context of conservation and climate projects:

- Inclusive decision-making is drawn from UNDRIP (Corson et al. 2020). It is particularly important in conservation contexts as it seeks to prevent actions that have and continue to exclude the men and women of forest-dependent communities from the decision-making processes on matters affecting their lives, including the management of their territories (Sikor and Stahl 2011; Springer et al. 2021). One of the demands of rights activists related to this principle is the decentralization of "forest management to elected local governments" (Sikor and Stahl 2011: 3), which suggests democratic decentralization as one way to increase citizens' rights over local resources. Another is "the recognition of customary authorities [...], particularly in Africa and Latin America" (Sikor and Stahl 2011: 3), although this is not without controversy in cases where customary leaders inherit their

leadership roles (Ribot 2004). Increasing the authority of local leaders could enable alternative approaches that are more culturally appropriate than applying global policies to local contexts without consultation and adaptation mechanisms (Campese et al. 2019).

- Participation is an important pathway to support inclusive decision-making and genuine participation, including the opportunity for communities to be involved in an activity or program before it is designed and implemented. Free, Prior, and Informed Consent (FPIC) is recognized as a right for Indigenous Peoples in several international agreements, including ILO c169. This right, however, is rarely extended to local communities at the national level, even in countries that have legislated FPIC (Rodr guez et al. 2021). This principle is critical to address the many instances where the consultation process only happens after a project begins (Espinoza Llanos and Feather 2011). But FPIC is not just a measure to promote equity as it also allows actors “to avoid potential conflict and reduce the risks of environmental and social harm” (Greiber 2009: 30). To ensure genuine FPIC, relevant stakeholders should ensure that there is no coercion, intimidation, fraud, or manipulation present and that the parties involved have meaningful and culturally appropriate access to information (Carrillo Fuentes 2015). Beyond these conditions, the implementation of meaningful FPIC requires substantial efforts such as working with staff members that have relevant field experience,

understand the participating communities’ historical contexts, and have the capacity to pause the consultation and organize conflict-resolution mechanisms when needed (Carrillo Fuentes 2015). Researchers have also argued that the design of FPIC mechanisms should be carried out in collaboration with the communities being consulted (Pham et al. 2015).

- An equitable share of benefits and burdens must be guaranteed in contexts where the implementation of conservation projects leads to the generation of value or infringes upon local lives and livelihoods (Secretariat of the CBD 2004; Pham et al. 2021)
- Collective rights to lands, territories, and resources are considered “one of the most prominent issues at the intersection of conservation and human rights” (Springer et al. 2011: 24; see also Larson and Springer 2016). Current data suggests that IPs and LCs hold customary rights to almost 50% of the world’s land but only have statutory rights to 18% (RRI 2023; Dooley et al. 2022). Tenure refers to a bundle of rights that includes access to land and resources, use, management, exclusion, and alienation (Schlager and Ostrom 1992). Tenure clarity for IPs and LCs has increasingly been recognized as an important condition to support climate and biodiversity goals thanks to community organizations and rights activists, as well as numerous studies demonstrating the vital role that IPs and LCs play as stewards of high biodiversity areas (FAO and FILAC 2021).

4 Emergence of RBAs

This section outlines the global context that led to the emergence of RBAs, as well as key events and agreements that expanded the set of rights included in such approaches. We note that this is not a comprehensive analysis of the contextual factors surrounding the development of RBAs, but rather of those that emerged based on the emphasis of our review (e.g., more global than national). Additional factors that contributed to the emergence and refining of RBAs include the work of social movements and legal and political transitions at the national level (Anaya and Grossman 2002; Anaya et al. 2022; Wily 2022).

4.1 In the development sector

Although RBAs gained momentum in the development sector in the 1990s, and later within conservation and climate change spheres, their key principles “have long been part of the struggles for self-definition and for social justice,” even before rights discourses gained wider international recognition during the post-World War II period (Cornwall and Nyamu-Musembi 2004: 1420). Demands for rights recognition were also defining features of liberation and anti-colonial movements in the Global South (Cornwall and Nyamu-Musembi 2004).

The rights discourse gained prominence among international organizations as a tool to achieve transformation and justice after the atrocities of World War II (Broberg and Sano 2018). However, although development assistance and human rights played major roles in the following decades, the two fields were rarely connected (Nelson and Dorsey 2018). Development strategies were designed by economists, while human rights issues were handled by activists and lawyers. The link between these two fields emerged in the 1960s and culminated in 1986 with the *Declaration on the Right to Development*. This declaration was

the result of decades of effort by actors in the Global South to politicize development and reject unfair trade rules and economic policies linked to loans and grants from multilateral organizations (Cornwall and Nyamu-Musembi 2004). By using rights discourses, advocates were able to emphasize the Global North’s responsibility to address global economic inequalities (Décary-Secours 2017).

Although there is no scholarly consensus regarding the exact inception date of RBAs, most researchers agree that it took place towards the end of the Cold War and throughout the 1990s (Kindornay et al. 2012; Miller 2017; Nelson and Dorsey 2018). Their emergence has been supported by several scholars. For example, Sen argued that rights are instrumental to policies aiming to support vulnerable and underrepresented groups and that their integration within program frameworks enhances positive development outcomes (1999: 148). By the early 2000s, most UN agencies—with UNDP, UNICEF, and the UN Human Rights Office (OHCHR) as precursors—had adopted RBAs. This was partly the result of Secretary-General Kofi Annan’s work, which posited that human rights must be incorporated into the organization’s entire work program (Oestreich 2020). The same trend was observed among international development NGOs such as Oxfam, and bilateral donors, starting with the United Kingdom (Miller 2017). From then onwards, human rights were considered “a frame of reference for development policy” (Hamm 2001: 1011–1013). The adoption of RBAs was also seen as an opportunity to deepen accountability in development practice “by anchoring development work in human rights principles and standards, rather than in ad hoc goals” (Nelson and Dorsey 2018: 98). The foremost example of recent progress in rights inclusion in global development agendas is the UN Sustainable Development Goals, which link rights and the attainment of well-being under different targets.

4.2 In conservation and climate actions

A decade later, RBAs had gone beyond the development sector and were adopted in different fields (Witter and Satterfield 2019) including conservation (Campese et al. 2009) and climate governance (Jodoin et al. 2021; Knox 2009). This made room for a new approach that aimed to break with rights abuses, including forced displacement, that accompanied the implementation of protected areas in mainstream ‘fortress conservation’ (RRI 2015; RRI 2020; Tauli-Corpuz et al. 2020). Framed around conservation, the creation of protected areas often forcibly removed IPs and LCs from their ancestral territories, justified by the argument that biodiversity protection is “best achieved by creating protected areas where ecosystems can function in isolation from human disturbance” (Plumwood 2012). In 2003, Geisler estimated that up to 136 million people had been displaced in the process of creating 8.5 million km² of protected areas.

Over the past decade, there has been a growing number of programs combining conservation and development objectives through people-centered approaches, such as community-based natural resource management (CBNRM), Indigenous Peoples and local community conserved areas (ICCAs), and co-managed protected areas (Springer et al. 2011; Palacios Llaque and Sarmiento Barletti 2021). A 2004 resolution passed at the IUCN World Conservation Congress on “Conserving Nature and Reducing Poverty by Linking Human Rights and the Environment,” directed the IUCN to “consider human rights aspects of poverty and the environment” and to focus on “human-rights tools that may be used by IUCN and its members in pursuit of the Mission” (IUCN 2005). The 2003 World Parks Congress in Durban represented a crucial milestone in the field, as it was the first time that a substantial number of Indigenous leaders participated (Kashwan 2013). As pioneers of conservation across the globe, Indigenous representatives highlighted their willingness to support conservation efforts in a way that protected their rights instead of violating them (Witter and Satterfield 2019). The inclusion of such representatives is critical, as “1.65 billion to

1.87 billion IPs and LCs and afro-descendants live in important biodiversity conservation areas, of which 363 million inhabit existing protected areas” (RRI 2021: 5).

Despite this progress, accusations of rights violations by international conservation NGOs in protected areas demonstrate that there is still much work to be done (Tauli-Corpuz et al. 2018). For example, the limitations placed on Indigenous self-determination through government and community co-managed protected areas highlight the need for capacity development and funding options that support Indigenous self-determination (Palacios Llaque and Sarmiento Barletti 2021; Sarmiento Barletti and Rolando in press 2024).

There has been similar progress in the climate governance sphere, although it too faces challenges. Notably, these challenges arise when actors in mitigation initiatives or carbon markets see human rights as distractions from the priority of emissions reductions. For example, the UNFCCC’s Cancun Agreements of 2010 included a set of social and environmental safeguards that sought to address early concerns by IPs and LCs regarding the potential impacts of REDD+ mechanisms on their territories and resources. This was the first text under the UNFCCC to make references to the rights of IPs and LCs (Sarmiento Barletti and Larson 2017). In a similar vein, the preamble of the 2015 Paris Agreement acknowledged that “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development” (UNFCCC 2015). One practical translation of this agreement is that climate finance institutions require governments to explicitly mention human rights when applying for mitigation and adaptation funding (Olawuyi 2016). However, the disparate ways in which the Cancun Safeguards for REDD+ have been interpreted in different national contexts, and the insistence on safeguards that *do no harm* under standards for REDD+ voluntary market transactions, provide little optimism for genuine support of IP and LC rights (Lofts et al. 2021; Sarmiento Barletti et al. 2021).

Table 1. RBAs: Timeline of key texts and events

Date	Commitments, publications, or events	Details
1945	UN Charter	Sets forth the “inherent dignity” and the “equal and inalienable rights of all members of the human family” without any “distinction as to race, sex, language, or religion”.
1948	Universal Declaration of Human Rights	Serves as the foundation for international, regional, and national human rights law.
1972	Stockholm Declaration	Elaborated during the UN Conference on the Human Environment, it marks the beginning of the recognition by international decision-makers of the links between human rights and environmental protection, and the acknowledgement of a right to the environment. Principle 1 asserts that “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”.
1986	Declaration on the Right to Development	Establishes that humans are the central subject of development and defines “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”
1989 (in force 1991)	International Labour Organization Convention 169 Concerning Indigenous and Tribal Peoples	Turning point. Recognizes IPs as subjects of rights and stresses that they have the right not to be subjected to discrimination in the exercise of their rights, in particular discrimination based on their origin or identity. It established the right to FPIC on topics that may affect their lives, as well as the need to include them in the planning, evaluation, and monitoring of development programs. Article 4 requires countries to take measures to protect the environment of IPs in collaboration with the Peoples who inhabit the territories.
1992	Convention on Biological Diversity	Adopted during the Rio de Janeiro Earth Summit. Sets measures regarding biodiversity conservation and highlights the need to equitably share the benefits from the use of genetic resources, especially with communities that have a traditional dependence on such resources.
1997	Launch of the UN Agenda Reform	The Secretary-General aimed to mainstream human rights-based approaches across the programs of the different UN agencies. The rationale for this includes the idea that development, security concerns and human rights are strongly intertwined.
2003	The Human Rights-Based Approach to Development Cooperation	Allowed UN bodies to unify their definition of RBAs and align their work programs to achieve common objectives. Reference for development practitioners implementing RBAs.
2007	UN Declaration on the Rights of Indigenous Peoples	Key international agreement for Indigenous rights. Establishes the right to self-determination, reaffirms the need for FPIC, and stresses the right of IPs to “own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or traditional occupation.” The declaration also calls on governments to “give legal recognition and protection to these lands, territories and resources,” emphasizing their role as duty-bearers. In the wake of the declaration, several conservation organizations formalized their commitments to respect human rights – especially IP’s rights (Witter and Satterfield 2019) – and the CIHR was created by seven major international conservation organizations seeking “to improve the practice of conservation by ensuring the participating organizations integrate human rights into their work” (Springer et al. 2010: 82).

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Table 1. continued

2015	Paris Agreement (UNFCCC COP21)	First multilateral climate change instrument that refers to human rights. Its Preamble emphasizes the role of governments in protecting and promoting human rights when taking action to mitigate or adapt to climate change.
2022	Post-2020 Global Biodiversity Framework	Adopted during CBD COP15, it sets the goals for biodiversity conservation for the next decade. The highlight of this new framework is the conservation of “30 percent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services” (target 3). Various Indigenous organizations and NGOs have criticized this target and its potential impact on communities living in biodiversity hotspots, and civil society coalitions noted that the draft of the framework did “not ensure a global biodiversity framework that is implement with a human rights-based approach” (Human Rights in Biodiversity working group 2022: 6). The final version adopted in December 2022 addressed some of these concerns by mentioning the need to respect the rights of IPs and LCs (targets 1 and 3) and by stressing their contribution to biodiversity conservation (Target 19). It was positively received but, since the approach is not mentioned in the targets, there are concerns that RBAs will not be included in target monitoring frameworks. There will be future opportunities to include RBAs in negotiations around monitoring frameworks and templates for national reporting.

Source: Developed by the authors.

4.3 Regional and national norms supporting RBAs

Although the main conferences and resulting agreements surrounding RBAs took place at an international level, some guiding principles can be found within regional human rights frameworks (Springer et al. 2011). In the European Union, human rights are considered “core values,” which guide the Union’s “relations with partner countries,” as stated in its Charter of Fundamental Rights (EU 2010). The Union adopted an RBA for development in 2014. Similarly, the African Charter on Human and Peoples’ Rights, adopted in 1981, states that “all peoples have the right to a general satisfactory environment favorable to their development”.

As most supra-national agreements are not legally binding, the translation of international and national measures into national law is often a critical step to ensure successful implementation and government accountability. Several countries, such as Australia, Canada, India, Mexico, and Peru have updated their conservation legislation to acknowledge IP and LC rights and contributions to biodiversity preservation (Tauli-Corpuz et al. 2020). However, such efforts have been largely described as insufficient by Indigenous organizations as well as NGOs supporting IPs and LCs (RRI 2020). In the case of Peru, a study from the RRI on the current and future state of

rights-based approaches in the Amazon found that the legal system on conservation regimes does not directly mention IPs (RRI and Gordon and Betty Moore Foundation 2022). This is despite the introduction of co-management regimes for Communal Reserves, where Indigenous communities participate in the management of protected lands in their territories with Peru’s Protected Areas Service (Palacios Llaque and Sarmiento Barletti 2021). Regimes like Communal Reserves are the exception rather than the rule, and globally, conservation strategies tend to favor State-managed protected areas as opposed to conservation regimes that include communities in their management (RRI 2020).

4.4 Instrumental and intrinsic rationales for adopting RBAs

One of the key variations among RBAs concerns the rationales behind RBA adoption. Two distinct arguments can be used to justify RBA adoption: instrumental value and intrinsic value.

The most widespread argument is the instrumental value of RBAs – RBAs should be adopted as they provide a variety of benefits. The six main advantages cited in the literature are that RBAs:

- Provide an internationally consensual framework (Hamm 2001). The concept “functions as a glue that keeps together a highly diverse set of demands, actors and

actions” (Sikor and Stahl 2011: 7). RBAs draw on various existing rights conventions, norms, and standards that have been ratified by a significant number of countries (Olawuyi 2015).

- Are workable approaches that allow for the translation of theory into practice (Broberg and Sano 2018). The transversality of RBAs means that frameworks and guidelines are available regarding implementation and monitoring, and that there are opportunities for learning across sectors (Roe et al. 2010).
- Facilitate the creation of partnerships as they involve multiple and different actors working towards a unified goal (World Bank and OECD 2016). RBAs have “allowed [IP and LC] advocates to draw legitimacy from the United Nations system (...) and to build transnational strategic alliances in ways they could not with participatory discourses” (Corson et al. 2020: 1130).
- Are flexible enough to fit almost any intervention and can be adapted to different contexts (Sikor and Stahl, 2011). For instance, in efforts promoting political or civil rights, RBAs allow for implicit strategies such as legal empowerment activities targeting right-holders (Pact and USAID 2018).
- Can help challenge existing power dynamics (Belda-Miquel et al. 2016; Carella and Ackerly 2017). Slim (2002) compared these approaches to Trojan horses that could allow NGOs to “take the real struggle for rights to the heart of politics and policy-making, corporations, and public opinion.”
- Improve program outcomes. Primarily, they may prevent harmful outcomes of interventions as they are founded on a ‘do no harm’ principle. The focus on capacity development rather than the direct provision of services ensures that results will be sustained in the medium and long term, even when the project has ended (European Commission 2021). Recognizing a community’s right to participate in a project’s planning and implementation may also increase a sense of ownership over the initiative and its resilience across time. Furthermore, in the context of environmental programs, and especially regarding sustainable land management and forest conservation, there is increasing evidence that recognizing participation, land, and resource rights is one of the most efficient and cost-effective strategies for improved climate, biodiversity, and

development outcomes (e.g., Ding et al. 2016; Espinoza Llanos and Feather 2012). IPs only represent 5% of the world’s population, but they manage 20% of the land, which contains 80% of the world’s terrestrial biodiversity (RRI 2015).

Such advantages have been questioned in the literature by authors that argue there is a lack of evidence regarding the instrumental value of RBAs for development interventions (Broberg and Sano 2018). Regarding conservation outcomes, IPs and LCs are often faced with extreme economic challenges, and using natural resources often allows them to generate revenue at a faster pace (Sayer et al. 2008). There is no guarantee that rights alone will ensure sustainability; rather, IPs and LCs need tenure security as well as support for governance and livelihoods, depending on the specific drivers of degradation in each context, which are often external to their communities (Larson 2010). Three of our interviewees expressed concerns regarding the instrumental value of RBAs. A representative from an NGO supporting Indigenous rights noted that RBAs should not be a way for organizations to improve their impact, but rather a method for changing narratives, as RBAs start from the view that local communities are a solution rather than a problem in conservation. For our interviewee, organizations should ask what IPs and LCs need to sustainably manage their lands, and work towards creating an environment that enables them to do so. Additionally, an environmental NGO representative argued that there is an overfocus on Indigenous land in terms of its climate mitigation potential, which runs the risk of shifting focus away from other areas with more substantial environmental impacts, specifically large-scale agricultural expansion (Dooley et al. 2022).

The second rationale for RBAs argues for **the intrinsic value of rights**. RBAs build on the protection and promotion of rights recognized under several international agreements, some of which are legally binding. Therefore, adopting such approaches is a means for governments to respect their obligations in line with the principle of *pacta sunt servanda*, ‘agreements must be kept’ (Hamm 2001; World Bank and OECD 2016). This perspective is also shared by rights advocacy organizations that use this legal basis to hold duty-bearers accountable (Belda-Miquel et al. 2016). Beyond this legal obligation, RBAs have been presented as moral and ethical imperatives.

In the development field, such thinking refers to the idea that “human rights are seen as constitutive of development” (World Bank and OECD 2016: xxii) and are the basis of development frameworks such as Sen and Nussbaum’s capabilities approach. In the context of conservation programs, this standpoint envisions RBAs as a means of reparation for past violations of IP and LC rights (Borrini-Feyerabend et al. 2004: 8).

In most cases, organizations, including the UN, combine the two rationales to justify their approach, as instrumental and intrinsic values can be complementary (Décary-Secours 2017). However, staunch supporters of the intrinsic rationale tend to reject the instrumental value argument, noting the risk of the continuous expansion of RBAs should they stop holding such value (Kashwan 2013).

4.5 Main challenges and criticism regarding the framing of RBAs

Despite the increasing engagement with RBAs, multiple organizations and scholars have stressed two central limitations of these approaches. The first is that RBAs are presented as universal, yet they are based on Euromerican worldviews (Guzman 2019) and often do not account for “the on-the-ground realities of diverse, more fluid ‘rights’ that may lack formal state recognition” (Godden and Tehan 2016: 107). For instance, while collective rights are acknowledged in several international conventions, several governments tend to understand ‘rights’ as individual, which is challenging for claims involving collective land titles (Springer et al. 2011). In fact, some analysts argue that the inherently colonial notion of individual private land ownership clashes with Indigenous collective land management (Dominguez and Luoma 2020). Furthermore, Euromerican worldviews tend to hold an

anthropocentric understanding of rights (Godden and Tehan 2016), failing to account for the relationship between humanity and other species that are central to many Indigenous cosmologies (Viaene 2017).

The second limitation is that RBAs are “a loose and ill-defined idea, which everyone can adopt as they can interpret it to their own interests” (Harris-Curtis et al. 2005: 39-40). The vague nature of these approaches has contributed to their growing attention, but it also means that there is little understanding of their practical implications (Olawuyi 2015: 118). In the context of conservation programs, this means that local implementers, “retaining disproportional and undemocratic power,” oversee the framing of RBAs and settle tradeoffs, potentially against the interests of IPs and LCs (Kashwan 2013). Such discrepancy and lack of consistency surrounding implementation have “generated skepticism about the value of rights-based approaches” (Nelson and Dorsey 2018: 97). This applies to both RBAs in general as well as other, specific principles. For instance, although there is consensus in the development sector to promote participation, it has several meanings, ranging from merely informing IPs and LCs to actively involving them in an intervention’s design, implementation, and monitoring process (Cornwall 2008).

This section reviewed the emergence of RBAs in the development, conservation, and climate action sectors. Additionally, it described the main arguments for adopting RBAs, as well as the criticisms that some actors have posed to these approaches. However, not all RBAs are equal, and some critiques are more valid for some approaches, depending on the circumstance. To distinguish between various RBAs, some authors have established typologies; we have selected the most common ones and present them in the next section.

5 Typologies of RBAs

RBAs vary depending on the organizations and institutions that frame and implement them. To grasp this diversity, we first present some key distinctions between RBAs and other approaches used in project design.

Fundamentally, RBAs are different from need-based frameworks that often serve as a basis for development activities. Whereas such approaches can support citizen empowerment and develop systemic solutions, they risk overlooking the roles of duty-bearers and the importance of promoting IP and LC agency (Pact and USAID 2018) since they prioritize “the overarching goal of alleviating poverty” (Sikor and Stahl 2012: 7), which frames marginalized groups as victims (Décary-Secours 2017). Taking the angle of resource management, Cornwall and Nyamu-Musembi (2004: 1432) explain, “a needs-based approach focuses on securing additional resources for delivery of services to particular groups”, whereas a rights-based approach “calls for existing resources to be shared more equally and for assisting the marginalized people to assert their rights to those resources.” To further note the differences between frameworks, Miller (2019) examined a set of NGOs that rejected RBAs while integrating two new human rights models into their work. The first model is based on a *rights-framed approach* that uses universal rights language to repackage the ideological assumptions of NGOs and motivate others, but only to benefit the organization in question (e.g., during a campaign). The second model is a *rights-reference approach*, which adopts a more nuanced and limited use of rights talk for strategic purposes, mainly to demobilize antagonists.

Various authors have proposed typologies to understand the nuances between RBAs. Due to the diversity of actors that use RBAs and the scales in which they work, several angles have been adopted to classify them. We found a critical distinction

between ‘bottom-up’ and ‘top-down’ approaches, illustrated in a set of criteria in Table 1 below. ‘Bottom-up’ approaches emerged from grassroots movements, sometimes supported by NGOs, and generally aim to go beyond a Euro-American vision of rights by using customary rights to supplement already codified law. Strategically, they are linked to advocacy, raising awareness about rights violations suffered by marginalized groups, and demanding change. There are two uses of the rights discourse within ‘bottom-up’ approaches; some actors use it to make duty-bearers accountable, while others prioritize marginalized peoples’ self-empowerment without seeking government support. From this perspective, RBAs are perceived as an opportunity to address the root causes of inequalities and discrimination, which can only happen through systemic change.

“Top-down” approaches are mainly elaborated in the headquarters of organizations in the Global North and applied uniformly in the Global South. They are grounded in the international human rights framework promoted by the UN. RBAs can have different kinds of impact in organizations, from guiding theories of change and implementation strategies to serving as mere project add-ons. The transformative potential of the ‘top-down’ approach has been scrutinized, as it rarely questions the status quo or the root causes of exclusion.

Another typology focuses on international agencies. Cornwall (2004) distinguishes between the organizations that use rights as a framework to assess their interventions and the ones that hold the protection and promotion of human rights at the core of their development interventions and organizational objectives. There are four categories within this spectrum (see Table 3). They all have weaknesses, which are not strictly separated in practice, and thus should be combined to streamline RBAs.

Table 2. RBA spectrum: from bottom-up to top-down approaches

	'Bottom-up'	'Top-down'
Source	Rights recognised within international and national frameworks; fit demands in local contexts; customary and collective rights; informal institutions.	International agreements; codified law.
Drive	Struggles and demands from marginalized groups and activists supporting them. The definition and use of RBAs are defined by local groups and their partner organizations.	A political and strategic decision is made (often in the Global North) to introduce RBAs at all levels; partners in the Global South are evaluated based on their capacity to integrate RBAs within their work.
Use	Advocacy to bring attention to issues faced by marginalized and vulnerable groups (e.g., consequences of climate change); lobby policymakers to improve the living conditions of relevant groups; mobilize funds from donors supporting RBAs.	Different degrees: redefine an organization's theory of change and strategy; act as a guiding framework for project design, implementation, and monitoring; as an add-on to projects
Rights discourse	Used to address issues of accountability of state and non-state duty-bearers. Seeks to enable marginalized groups "to empower themselves to overcome obstacles to the realisation of social and economic rights which may (...) involve opting-out of public services" (Cornwall 2004: 1429).	Mainly instrumental use to demonstrate the potential impact of RBAs.
Addresses structural change	Yes – aims to directly address unequal power relationships between marginalized groups and duty-bearers, including state actors, donors, and NGOs.	Relates to a universal set of rights and international frameworks which countries are required to respect, protect, and fulfill.
Transformative potential	Emphasizes the need for broader societal change and addressing the root causes of right violations.	Promotes incremental changes, rarely questions business-as-usual.

Source: Developed by the authors based on Adelman and Lewis 2018; Belda-Miquel et al. 2016; Broberg and Sano 2018; Cornwall and Nyamu-Musembi 2004; Décarry-Secours 2017; Guzman 2019; Kindornay et al. 2018; Mishra and Lahiff 2018.

Table 3. Four ways in which human rights are deployed in RBAs to development

Types of RBAs	Weaknesses
Normative principles to guide an intervention	Limited; only serves as a new way to repackage interventions; may be little more than good intentions.
Instruments to monitor projects	Reduces RBAs to a set of instruments or a checklist to be ticked off, thus risks becoming another 'layer' to be considered. Further risks establishing a 'comfort zone' within the bounds of well-established rights rather than allowing for a broader interpretation of human rights.
Component to be integrated into programming	Rights may become an add-on, with no intrinsic or organic influence on program operation.
Underlying justification for an intervention	May entirely focus on formal institutions which may be inaccessible to marginalized groups. Strengthening the capacities of marginalized group organizations may help them exercise their rights, but it may also have a limited impact in terms of societal transformation.

Source: Cornwall 2004

Table 4. Four types of rights-based actions

Approach	Description	Examples
Global compliance	Focuses on the ratification and enforcement of international human rights standards at the national level, through both legal and political accountability efforts	Shadow reporting by NGOs to UN human rights bodies
Policies and programming	Policies and programs endorsed by international agencies that aim to expand the capacities of duty bearers and or rights-holders, and use analysis informed by human rights standards and principles	Community-driven development projects Conditionality for development assistance on human rights performance
“Rights talk”	Rhetoric, advocacy, and educational work directed at marginalized groups to promote the formation of rights consciousness; aims to raise the expectations of citizens regarding what they are entitled to	The suppression of the slave trade and decolonization
Constitutionally based legal mobilization	Litigation before domestic courts to expand and strengthen the legal basis for claiming rights	The 2004 judgment regarding displaced people of Colombia’s Constitutional Court, which ordered the government to engage in a deliberative process with stakeholders to produce policies and plans attending to displaced citizens’ rights

Source: Gauri and Gloppen 2012

Finally, Gauri and Gloppen (2012) propose a classification of RBAs based on four types of action. While the two first types—global compliance approaches and policies, and programming approaches—can be related to ‘top-down’ RBAs, the rest—“rights talk” and constitutionally based legal mobilization—would likely be associated with ‘bottom-up’ strategies.

These typologies offer some analytical tools to understand the differences between the framing and potential impacts of RBAs. In this section, we presented the concept of RBAs, along with its key variations. The next section focuses on the RBA implementation process and discusses its ongoing successes and challenges.

6 The implementation of RBAs

While we found consensus regarding RBA principles, **there is no common framework or strategy for their implementation** (Broberg and Sano 2018; Kindornay et al. 2012). Different organizations, including donors (European Commission 2021; Pact and USAID 2018), have developed their own set of standards to implement initiatives using RBAs. Actors working within the same sector have formed coalitions to share good practices and maximize impact. In the conservation sector, the Conservation Initiative on Human Rights (CIHR) includes some of the most prominent organizations in the field, such as Conservation International, the International Union for Conservation of Nature and Natural Resources, and the World Wildlife Fund. The group seeks to “support members in implementing human rights principles and management practices, especially through shared learning among participating organizations” (Roe et al. 2010). Another platform to discuss the implementation of RBAs is the *UN inter-agency common learning package on Human Rights-Based Approach to Programming* (UNSDG 2017). Primarily targeted at UN country teams, it provides a series of tools and checklists to guide the design, implementation, and monitoring of programs using RBAs. Although the UN has no “definitive voice” on what RBAs should look like, such tools are pivotal “because of the [organization’s] overwhelming size and influence” (Miller and Redhead 2019: 705).

6.1 Critical factors to ensure effective implementation

Despite their diversity, we found that strategies across sectors share three essential steps that should be considered when preparing for, implementing, and closing initiatives using RBAs. These steps should ensure meaningful local participation.

Context analysis aimed at gaining “insights about institutional constraints and sensitivities” should precede project and program planning, as every context of intervention is different and highly complex (Broberg and Sano 2018: 676). This process should provide clarity on the current policies and legislation that apply to each intervention scenario (UNSDG 2017). This knowledge is critical, as organizations should not simply transfer one successful project to another context, even if the conditions appear similar at first glance (Pact and USAID 2018). Even if projects are located within the same borders and subject to the same laws, actors should acknowledge the rights that “are being enjoyed or exercised, what obligations are being fulfilled, the environmental conditions and the circumstances that affect the situation” in each unique location (Greiber 2009: 25). Similar problems in different areas may require different solutions, and if a same strategy is adopted across diverse locations, it is likely their outcomes will differ (Greiber 2009). Regarding climate mitigation and conservation initiatives, projects should be “firmly integrated with local economies and livelihoods” (Funder and Graveson 2022). An environmental NGO representative interviewed for this research agreed with these findings and noted that the specific characteristics of differing project locations were seldom accounted for, despite being essential considerations for achieving success. Our interviewee noted that, from the design to monitoring stages of projects, most organizations only consider the people living within targeted areas, discounting that projects can impact communities outside their immediate area of activities.

Context analysis should be complemented by a stakeholder analysis. This means that project designers should endeavor to understand an actor’s role and access to power (in its different guises) within the context of their work (UN 2003) and identify the right-holders and duty-

bearers (Kindornay et al. 2012). In conservation, it is important to anticipate which groups might be harmed by project implementation and initiate a preemptive dialogue to discuss potential alternatives or compensation mechanisms if a negative impact is unavoidable (Greiber 2009). This step is also essential to map competing rights claims from different groups over the same set of resources (Campese et al. 2019). Involving potentially impacted actors in the early stages of project discussion and planning has proven key in preventing conflict during implementation (Broberg and Sano 2018). The context and stakeholder analyses can also provide insights for activity designs that actively promote rights and mitigate harm.

These activities should be assessed and followed by initiatives' monitoring and evaluation strategies to understand their positive and negative impacts. This framework should be discussed with relevant actors during project design and should possess mechanisms that indicate how the project performed in relation to human rights protection and promotion (Schmitz 2012; World Bank 2010). The strategy should also include local perspectives on how and what should be monitored and evaluated, and what should remain flexible and adaptive as the project develops and contexts and interests evolve. For these strategies to work, projects should not be seen as linear but circular, meaning that future activities or initiatives should draw from lessons from ongoing or previous designs (Greiber 2009). Indeed, in addition to evaluating initial assumptions, project monitoring and evaluation should adapt to new developments as well as unintended consequences. An international NGO representative working on Indigenous rights that was interviewed for this research noted that, in some instances, projects are considered 'successful' if the situation has not degraded.

6.2 Implementing RBAs: challenges and limitations

In a general sense, the challenges and limitations discussed below apply to different RBAs. However, our primary emphasis lies on RBAs executed by institutional actors, rather than bottom-up approaches. The majority of evidence about RBA practice that we engaged with was situated within this particular context. We recognize this as a caveat of our recommendations and hope to explore the top-down approaches in future publications. More

research is also needed on the implementation of RBAs by actors who aim to have systemic and transformational impacts.

Despite there being different implementation strategies for RBAs, their translation into practice is often challenging, and there is limited evidence of the positive impact of RBAs on the ground (Nelson and Dorsey 2018). The first set of challenges occurs during the national-level implementation of international agreements. RBA principles in the context of climate mitigation and conservation projects included in international agreements are not, or are poorly, adopted at the national level and translated on the ground because of reasons including capacity gaps, lacking political willingness, and the fact that not all agreements are legally binding in national frameworks nor do they have strong mechanisms to enforce or promote them (Dominguez and Luoma 2020; Godden and Tehan 2016; Guzman 2019; Witter and Saterfield 2019). In general, national legislation regarding land management, especially in the Global South, continues to threaten IPs and LCs with the risk of expropriation without compensation (Tagliarino 2017) or fair compensation (Tauli-Corpuz et al. 2020). A 2015 study on conflicts between IPs and LCs and protected areas found that half of the countries assessed lacked legislation on the restitution of lands to IPs and LCs; when such laws existed, they were weakly enforced (RRI 2015). This lack of rights protection in national legislation and regulations partly explains that "most nation states have not implemented monitoring systems as proposed by CIHR or binding grievance and restitutions mechanisms and continue to suppress [the rights of IPs and LCs]" (Corson et al. 2020: 1142).

Even when treaties are ratified by governments and rights are entered into national law, IPs and LCs face hurdles; these treaties and laws often fail to be fully implemented in practice (Dominguez and Luoma 2020). Indeed, despite the positive shift in the framing of conservation policies, "fortress" conservation approaches are still part of mainstream conservation practices (Guzman 2019). There are still instances where protected areas are established without involving IPs and LCs in decision-making processes and without respecting FPIC mechanisms (Dominguez and Luoma 2020). In 2016, less than 5% of protected areas were managed by IPs and LCs (Tauli-Corpuz 2016). Of the six protected area classifications defined by the IUCN, four are

“strict,” which means they regulate access as well as community land and resource use (Dominguez and Luoma 2020). Such practices have been encouraged by large conservation NGOs who fund and support park administrations (Dowie 2011). Furthermore, an Indigenous rights organization representative interviewed for this research expressed concerns regarding the future of RBAs; their organization has observed a weakening of human rights in recent years, including more restrictions on civil society. Our interviewee suggested that this has caused a degradation of rights in several countries, especially among marginalized groups.

Some experts propose that this gap can be explained by the fact that RBAs are often at odds with mainstream social, political, and economic dynamics at national levels (Miller and Redhead 2019). This opposition must be addressed to enable change and support rights-based transformations. For instance, in conservation contexts, policies that seek to protect and promote different rights are likely to clash (e.g., the ‘right to a clean environment’ versus the ‘right to development’), and it is unclear what and whose rights should be prioritized (Sikor and Stahl 2011). In low and middle-income countries, where most biodiversity hotspots are located, conservation goals and the protection of IP and LC rights often conflict with economic development objectives (Krämer 2020) including large-scale mining and hydrocarbon projects, for example (Tauli-Corpuz et al. 2020). This partially explains the prevalent lack of political willingness (e.g., by governments and multilateral institutions promoting large-scale extractive projects) to ensure the adoption and implementation of RBAs, especially in the conservation and climate change mitigation fields (RRI 2020). Consequently, the protection of marginalized community rights tends to compete against other national priorities, namely economic ones (Kashwan 2013). Some analysts argue that key international agreements (e.g., UNDRIP) and RBAs initiatives (e.g., CIHR) may have detrimental effects on the uptake of Indigenous rights, as they represent “a bridge too far for those unwilling to prioritize indigenous rights to territory, self-determination and retribution” (Witter and Satterfield, 2019: 1092). This could, however, serve as an indication of the political resistance faced by the implementation of RBAs.

The breach between RBA theory and practice has also been linked to a lack of change within conservation institutions and infrastructure; the latter are commonly dominated by bureaucratic mechanisms and perpetuate vertical power

dynamics from Global North to Global South, challenging the genuine participation of IPs and LCs (Dominguez and Luoma 2020). This status quo is reinforced by financial flows in the conservation and climate action sector that focus on market-based mechanisms and are not designed nor implemented through RBAs (Tauli-Corpuz et al. 2020). These investments pose multiple challenges for IPs and LCs. Implementations of REDD+, a popular market-based mechanism in the climate sector, have resulted in transgressions to IP and LC rights, especially through a lack of respect for FPIC principles and land and resource tenure rights (Espinoza and Feather 2012; Godden and Tehan 2016). Transgressions occur even though REDD+ initiatives are framed by UNFCCC safeguards guidelines that include calls to respect community rights to land and participation, among others, including the wide scope of rights recognized under the UNDRIP. Moreover, since these projects are implemented in contexts with historically unequal power dynamics—e.g., regarding access to decision-making for women or to land and resources more generally, but also in terms of open violence and intimidation of local activists (Global Witness 2022)—they are a good example of how a lack of acknowledgment of such disparities can lead to their reinforcement, further highlighting the need for RBA approaches that focus on land rights (Sarmiento Barletti and Larson 2020).

An additional barrier to effectively implementing RBAs is the limited awareness of staff tasked with implementing them at a local level. Staff members often lack knowledge of the theory behind RBAs, their implications, and the capacity gaps associated with turning principles into realities (Kindornay et al. 2012). Organizations willing to implement RBAs are further challenged by the lack of enforcement mechanisms, cooperation of national authorities, and rights recognition in national legal frameworks. As one of the practitioners interviewed by Miller (2017: 71) noted, “There is no teeth at all... no enforceable mechanism throughout the whole of the UN system. I used to ask myself, what is the point? [RBAs] get to nowhere.” Based on the numerous difficulties encountered by practitioners to implement RBAs on the ground, Kindornay et al. formulated the hypothesis that “the implementation of rights-based approach will never genuinely occur,” which will likely cause “donors [to] begin to lose interest” (2012: 24). Based on these challenges, securing rights in national legislation is only a first step to ensure the effective implementation of RBAs. In the case of conservation, protecting rights does

not guarantee access to resources (Ribot and Peluso 2003) because “once rights are won on paper, the real work begins” (Larson 2010: 544).

6.3 Some examples of the implementation of RBAs

In this section, we share experiences on the implementation of RBAs and lessons from both their successes and failures. These examples are by no means representative of the different ways (and regions) in which RBAs are being implemented. We prioritized examples referenced in the literature and highlighted by our interviewees.

Bottom-up climate change mitigation proposals: Indigenous Amazonian REDD+ / REDD+ Indígena Amazónico, RIA (Climate Alliance 2015; Espinoza and Feather 2012)

Building on their concerns regarding the social impact and potential rights violations due to the implementation of REDD+ in their ancestral territories, Indigenous organizations in the Amazon under the umbrella of the Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica (COICA) proposed REDD+ Indígena Amazónico (RIA). Since 2011, RIA has been promoted as an alternative to REDD+ that respects both Indigenous rights and their relationship to nature. RIA recognizes the threat of emissions from deforestation, but the measurement and reporting of REDD+ activities is organized and conducted by IPs themselves. Such endeavors represent a shift in how climate mitigation activities are carried out, as RIA may achieve the same goals while respecting and promoting the rights of IPs. Its supporters explain that for RIA to achieve its potential, it needs to be backed by additional efforts, such as an alignment of national laws with international agreements regarding Indigenous rights. Peru included RIA as part of its mitigation actions towards its NDC, yet there has been little real political and market support for RIA.

Monitoring by and for Indigenous Peoples: The Indigenous Navigator (European Commission 2021; Indigenous Navigator 2022; Tauli-Corpuz et al. 2020)

Launched in 2017, the Indigenous Navigator is a framework and toolkit designed for and by IPs to monitor the level of recognition

and implementation of their rights through community-generated data. The Navigator monitors rights recognized under various international declarations and conventions, including UNDRIP and other human rights conventions. The information is collected using technologies such as drones to map and monitor community borders and is made available to right-holders and duty-bearers. This tool can serve various purposes, such as raising IP’s awareness about their rights, empowering them to support recognition processes, and providing an evidence-based mechanism to hold duty-bearers (especially governments) accountable for non-compliance with human rights obligations. An interviewee from one of the organizations involved in the Navigator explained that it is different from other reporting systems (e.g., the SDG implementation monitoring) that often use metrics that represent majorities and do not account for marginalized groups living in rural areas.

Co-management of Protected Areas: Thaidene Nënë National Park Reserve and Territorial Protected Area (Boyd and Keene 2021; Tauli-Corpuz et al. 2020)

Some countries have developed efforts to collaborate with IPs to protect biodiversity through initiatives that devolve different kinds of rights to IPs over their ancestral territories (e.g., ownership or participation in their management). As applied to conservation, these still uncommon approaches emphasize that human presence in a territory is essential and positive, as human beings are an integral part of nature, and IPs specifically have a track record of stewardship for areas of high biodiversity. A concrete example of such an endeavor is the agreement between the Canadian government and the Łutsël K’é Dene First Nation to establish and co-manage the Thaidene Nënë National Park Reserve and Territorial Protected Area, which is in the Łutsël K’é Dene’s ancestral territory. Łutsël K’é Dene people are involved in environmental monitoring, ecological mapping, and education activities for the park’s visitors. To fulfill these responsibilities, the Łutsël K’é Dene established the Ni Hat’Ni Dene Rangers, thereby creating new jobs for their community members, adding to the ones already generated by ecotourism. In addition to promoting Indigenous rights, such collaborations have been highly cost-effective; in this case, they generated US\$2.50 in economic, cultural, and environmental value for every dollar invested in them.

7 Have RBAs enabled transformative change?

What lessons can be learned from over two decades of discussions around RBAs and the multi-sector activities that have used these approaches? The overwhelmingly poor record of participatory approaches in conservation and development initiatives – which RBAs aim to address – provides useful insights into past initiatives, the barriers they faced, and how they either overcame or succumbed to these challenges (Sarmiento Barletti et al. 2020). In this section, we synthesize knowledge gained from both interviews and existing literature and offer recommendations regarding the design and implementation of projects adopting RBAs.

7.1 Lessons learned and priorities for attention and concerted action

Our interviewees underlined that RBAs have generally contributed to a positive change in discourse and mentality among conservation and climate action practitioners, especially at a high organizational level. They stressed that RBAs shifted the conversation emphasis from environmental objectives alone to a more holistic consideration, placing marginalized communities, especially IPs and LCs, at the center of biodiversity conservation and climate action

However, RBAs have yet to achieve their transformative potential (Jodoin et al. 2021; Nelson and Dorsey 2018). They have often only prompted rhetorical adjustments (Witter and Satterfield, 2019) and a repackaging of old practices (Noh 2022) without sufficiently challenging mainstream discourses (Kindornay et al. 2012). This reflects earlier warnings about “myth-making” around RBAs built around “high moral principles backed by selective evidence, a large army of convinced proponents, eloquent and elegant defences” (Tsikata 2004: 133). As an Indigenous leader interviewed for this research

explained, “What we see is that third parties increasingly acknowledge Indigenous systems in text. It is now politically incorrect to not speak about Indigenous knowledge, but what does it mean in reality? There is no change in practice.”

This may be at least partly because, despite some successes, “RBAs do not challenge the global political economy” (Correia 2018) as RBAs alone are not capable of producing such change (Corson et al. 2020; Miller 2017; Campese et al. 2009). Two additional efforts may prompt a paradigm shift through an RBA-led pathway. The first is improved engagement with the wider governance and political system, as “political motivation plays an important role” (Broberg and Sano 2018). This effort entails changing the infrastructures, institutions, and funding mechanisms involved in project design (Corson et al. 2020). If discriminatory laws regarding land tenure are in place in one country, it is highly unlikely that an RBA implemented by an NGO will counteract the results of the law on the ground (Campese et al. 2009). Such engagement can happen through policy change advocacy or a refusal to work in areas where rights violations are occurring (Campese et al. 2009). However, change also needs to take place within organization structures and the mindsets of staff. Through adaptation and transformation processes, which can be long and challenging, staff members working with RBAs must recognize the importance and relevance of IP and LC rights (Vandenhole and Gready 2014). To accomplish more than superficial adjustments, time and resources must be dedicated to answering fundamental questions about RBAs; e.g., “[how] will rights factor into project and program planning, fundraising, partnership arrangements, advocacy, monitoring and evaluation” (Campese et al. 2009: 24). The results of those answers should guide the reorganization of institutional strategies and work programs.

We synthesized seven priorities for attention and concerted action in RBAs that more closely apply to conservation and climate sectors. Following the reviewed evidence and our interviews, the following elements do not question the existence of RBAs as a paradigm but stress the importance of continuing to support elements of this framework and its application.

First, conservation actors should advance the recognition and enforcement of social, cultural, and economic safeguards, especially the ones included in the Post-2020 Biodiversity Framework (Funder and Gravesen 2022). Such safeguards should be “reframed to recognize Indigenous Peoples’ important contributions to climate change initiatives and roles in conserving forests, rather than as a tool to avoid negative impacts on passive beneficiaries” (Sarmiento Barletti and Larson 2017: 6; see also Lofts et al. 2021). The final version of the Global Biodiversity Framework goes further than avoiding negative impacts and contains references to the important contributions of IPs and LCs to reach global goals. It remains to be seen how this will impact the implementation of relevant activities at the country level.

Second, the rights of environmental defenders should be better supported and protected through improved “access to justice, effective and timely remedies in cases where [IPs and LCs] and other defenders face threats, criminalization and/or any form of violence,” and should provide effective investigation and reparation mechanisms once violations have occurred (Human Rights in Biodiversity working group 2022: 28; see also the three volumes of the IUCN’s Policy Matters 22).

Third, conservation organizations as well as the governments of countries that include biodiversity hotspots should shift their approach to working with IPs and LCs. The men and women of Indigenous and local communities should not be seen as beneficiaries of projects nor only as guardians of the land and resources – which only focuses on an instrumental framing of RBAs (Kashwan 2013) – but as rights-holders with worldviews, knowledge, practices, and solutions of their own (RRI 2022; RRI and Gordon and Betty Moore Foundation 2022). Some authors call for wider decolonization processes within conservation (e.g., Dominguez and Luoma 2020; Guzman 2019), as “the politics of implementation are

shaped by racialized and colonial relations of power and class” (Correia 2018). These processes of change should start by embracing non-Western worldviews in nature conservation and promoting forms of more inclusively-managed protected areas such as ICCAs (Tauli-Corpuz et al. 2020; ICCA 2021).

Fourth, reparation mechanisms should be implemented to redress the rights violations suffered by IPs and LCs in the context of ‘fortress conservation’ (RRI 2020). Compensations can take the form of restitution of lands; the granting of lands equal in size, quality, and legal status, or payment (Boyd and Keene 2021).

Fifth, the current structure and environment where conservation policies are discussed and adopted should be adapted or transformed to ensure that the demands of IPs and LCs are expressed as “representational spaces shape whose voices are heard” (Corson et al. 2020: 1143). An Indigenous leader interviewed for this research connected the lack of Indigenous representation to his perceived need for an “honest conversation” in which project cost, risks, and benefits are fully disclosed to all parties before any decision is made.

A sixth endeavor relates to government recognition and respect of land rights, as well as the right to self-determination and the use of traditional governance mechanisms and knowledge systems. Some organizations also recommend “mak[ing] tenure-secure community forestlands a central climate change mitigation strategy” (Ding et al. 2016: 10). This venture also requires that IPs and LCs have access to the relevant resources to seek rights protection, access conflict-resolution mechanisms, and appeal decisions by governments (Funder and Gravesen 2022).

Finally, conservation funding should be redirected to ensure IPs and LCs have the necessary resources to defend their rights and work toward their agendas (Tauli-Corpuz et al. 2020). However, Strelneck and Vilela (2017) found that only 11% of the budget dedicated by 43 funders to conservation in the Amazon from 2013-2015 had been invested in Indigenous land management. One of our interviewees (an NGO representative) argued that funding should be unrestricted and as flexible as possible, as rights are dynamic and challenges are highly context-specific. An interviewee from an organization that supports IP and LC rights stated

that funding for RBAs should be extended to other landscapes, such as pastoral land and mangrove forests that are often neglected by donors. The interviewee noted that, although funding is a central component of conservation efforts, discussions surrounding IP and LC involvement tend to only focus on this issue, rather than examining the root causes of the ongoing challenges the sector faces.

Building on these lessons and recommendations, Boxes 2 and 3 below summarize examples of what transformational approaches within the conservation and climate action sectors can look like in practice.

In this section, we sought to understand how transformative RBAs have been since their emergence in the development, conservation, and climate sectors. We found that despite some willingness to address the root causes of rights violations and the structural inequalities affecting historically marginalized groups, RBAs have not led to a tangible departure from the status quo. In most cases, changes have only happened in written documents and discourse rather than in the implementation of initiatives. After synthesizing some reasons for this lack of sustained change, we shared some recommendations that could enable RBAs to support transformations.

Box 2. The rights of nature

In his 1972 article ‘Should Trees Have Standing,’ Stone made a case for the legal standing of nature to bring lawsuits. Support for this proposition grew over the following decades, engaging with one of the key challenges faced by IPs and LCs in the conservation and development spheres. These spheres are built on ‘technical’ knowledge and the separation between nature and society that are at the center of Euro-American epistemologies, to the detriment of Indigenous epistemologies and cosmologies (Sarmiento Barletti 2012). As Boyd and Keen (2021: 4) explain, “implementing a truly transformative approach to conservation requires refuting this false notion and accepting that nature is not a commodity created for human exploitation.”

The acknowledgement of the intrinsic value of nature, aligned with the cosmologies of several Indigenous Peoples, is the foundation of the rights of nature approach (Sheber 2020). It consists of “making nature a subject of rights” and requires “a non-anthropocentric approach to law since it shifts the orthodox legal paradigm where only humans are entitled to be subjects of rights [and is a step towards the] decolonization of international law” (Guzman 2019: 62). These rights represent a powerful tool for IPs and LCs to oppose environmentally detrimental initiatives in countries where such rights are included in their legal frameworks. Legislative documents in countries such as India, New Zealand, and Ecuador have acknowledged nature’s rights, with mentions of the Pachamama (Mother Earth) even appearing in Ecuador’s Constitution (Sheber 2020). However, much like other applications of RBAs, the rights of nature have been more of a rhetorical conversation rather than an effective tool to protect nature and its defenders (Guzman 2019). Despite some favorable court decisions, there have been challenges with enforcement.

Furthermore, governments must consider the range of interests among different stakeholders. For instance, in Ecuador, the Constitution requires that the State both promote sustainable development and eradicate poverty; these requirements are likely to clash with the rights of nature, and there is no constitutional provision to address these clashes (Krämer 2020). Despite these challenges, some analysts remain optimistic that the argument for the rights of nature “has the potential to provide historical justice to historically oppressed indigenous groups.” (Guzman 2019: 83)

Box 3. A basic income for forest-dependent Peoples to achieve conservation goals

The basic income project designed by Cool Earth, a UK-based climate charity, in collaboration with Indigenous and local partners, aims to deliver regular and unconditional cash payments to people in rainforest communities in the Amazon and Congo basins, as well as in New Guinea – irrespective of age, gender, status and wealth – to fulfill their basic needs. Departing from mainstream Payment for Ecosystem Services (PES) programs, Cool Earth’s project has no conditions attached to payments and is based on the idea that forest degradation and the climate crisis cannot be addressed without putting human agency, dignity, freedom, rights, and economic security at the center of all interventions. For Cool Earth, this method deconstructs power dynamics by transferring program ownership from NGO headquarters in the Global North to marginalized communities in the Global South, recognizing that forest-dependent Peoples have been stewarding and shaping landscapes in ways that have protected biodiversity for generations and that they should have the agency to decide how to use the financial support they receive.

This approach may be a productive mechanism to democratize climate funding, as IPs and LCs receive less than 1% of all development funding to address climate change (Rainforest Foundation Norway 2021). The implementation of the project will be divided into several phases. The first phase will aim to implement three, two-year pilots, starting in the Amazon Basin. The main objective will be to assess whether such support addresses participants’ needs and priorities and, in relevant cases, what adjustments are necessary to make these interventions sustainable and ethical.

The following phases will involve independent research to test the model and replicate the strategy in other villages. In an interview, a representative from Cool Earth noted challenges to their approach. The first relates to how donors understand impact in a sector that still separates nature from people and often refuses to account for contextual nuances when communicating their impacts. Cool Earth’s basic income pilot aims to redesign monitoring and evaluation frameworks to follow ‘bottom-up’ approaches, positing that an intervention’s participants are its best evaluators. It may take decades to see change, an element that is often at odds with donor requirements, which tend to provide short-term funding and demand shorter-term results.

8 Conclusion

This review has discussed how RBAs have gained discursive prominence in development, conservation and climate-related debates. The growing importance of this new paradigm – which is far from becoming mainstream – is evidenced by the multiplication of agreements and programs that combine conservation and development objectives through people-centered approaches.

RBAs rely on a common set of principles anchored in international texts, but the importance placed on these principles by implementing and funding organizations varies. Researchers have found a significant gap between the discussion and design of RBAs and their effective implementation. Despite these challenges, RBAs should be promoted, especially for projects working with marginalized communities such as IPs and LCs. Without a discursive and practical shift that emphasizes rights, initiatives in IP and LC territories may, among other unintended impacts, risk threatening IP and LC control over ancestral lands and resources, exacerbating their experiences of vulnerability and exclusion.

This review is a preliminary assessment that seeks to contribute to the ongoing conversation on RBAs. Further research is needed to understand

how best to improve implementation. First, research should seek to systematically review experiences with RBAs across sectors to learn more about challenges and best practices. It will be critical to understand how RBA principles, such as participation and non-discrimination, have been and can be operationalized in different contexts. Research should also focus on the specific measures necessary to protect and promote rights, such as social safeguards and grievance mechanisms. Moreover, monitoring mechanisms and indicators for RBAs should be explored, especially for initiatives in countries that are not signatory to international agreements that recognize the rights of IPs and/or LCs. Research should seek to understand how to deal with the trade-offs that come with implementing RBAs. Research from the perspective of duty-bearers, including the private sector, can provide insights into these trade-offs and barriers to effective implementation. Finally, further research should aim to provide evidence on how RBAs can be successfully introduced at an organizational level and what changes can be made within the organizations that are funding and implementing potentially transformative pathways for IPs and LCs.

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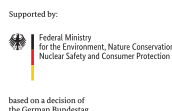
Rights-Based Approaches (RBAs) purposefully position the recognition of, respect for, and access to individual and collective rights as central to an initiative's planning, design, implementation, monitoring process, and outcomes. In mainstream climate change, conservation, and development programs and policies, this means refocusing the relationship between 'beneficiaries' and 'implementers' to one of right-holders and duty-bearers. RBAs hold growing discursive importance in relation to the rights of Indigenous Peoples and local communities (IPs and LCs) in conservation and climate change spheres and the agendas of international agencies.

The growing interest in RBAs, and their inclusion in frameworks that will guide development, conservation, and climate projects over the next decade is laudable. However, there is a shortage of analysis of RBA experiences, both their conceptualization and practice. Such analysis would advance discussions on the impact of these approaches and provide lessons to enable transformative change.

This review is a preliminary assessment that aims to advance the ongoing conversation on RBAs. Our primary interest is the conception and implementation of RBAs in forest-based initiatives, but we reviewed the wider scholarly and gray literature on RBAs in development, conservation, and climate action initiatives. The review was complemented by interviews with a multi-actor group of specialists and advocates.

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