

REVIEW

# Rights-based approaches and Indigenous peoples and local communities: Findings from a literature review

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## Abstract

This preliminary assessment of rights-based approaches (RBAs) seeks to contribute to the ongoing discussions of RBAs for Indigenous Peoples and local communities (IPs and LCs). RBAs purposefully position the recognition of, respect for, and access to individual and collective rights as central to an initiative's planning, design, implementation, process monitoring, and outcomes. In mainstream climate change, conservation, and development programs and policies, this means refocusing the relationship between "beneficiaries" and "implementers" to one of rights-holders and duty-bearers. RBAs hold growing discursive importance in relation to the rights of IPs and LCs in conservation and climate change spheres, including 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 are few reviews that seek to understand how RBAs emerged and how they have been conceptualized. Such analysis is a necessary basis from which to advance discussions on the impact of RBAs and provide lessons to support them. In this review, our primary interest is the conception, conceptualization, 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.

**Keywords:** rights-based approaches, Indigenous peoples and local communities, justice, equity, inclusion, conservation, climate change

## 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. 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, 2016), composed of seven major international conservation organizations. This growing interest in RBAs represents a potential departure from conservation's colonial history and practices that have led to rights abuses, including forced displacement (RRI, 2020).

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 'rights-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; WB and OECD, 2016). Organizations that have adopted or promoted RBAs often emphasize their support for marginalized groups, including Indigenous Peoples and local communities (IPs and LCs), shifting the focus from people's *needs* to protecting and promoting their *rights* (Nelson and Dorsey, 2018). Hence, IPs and LCs become the "rights-holders" rather than "beneficiaries", and the implementing governments and organizations are deemed "duty-bearers" (UNDG, 2003). This repositioning is the basis for how RBAs place accountability at their center (WB and OECD, 2016).

RBAs also link equity and effectiveness concerns, by improving the outcomes of development, conservation, and climate action

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initiatives (Tauli-Corpuz *et al.*, 2018; EC, 2021). The growing discursive interest in RBAs, and their inclusion in the frameworks that will guide action in these arenas over the next decade, is laudable (e.g., the 2030 Agenda for Sustainable Development and the Post-2020 Biodiversity Framework). Nevertheless, there are few comparative reviews of RBA experiences in conceptualization or practice. This article begins to fill this gap to advance discussions on the impact of RBAs and provide lessons to enable their potential to support transformative change.

## Review methodology

We carried out a systematized search in Google Scholar and Web of Science for different combinations of the following terms: “right\*-based approach” and “human right\*”, on the one hand, and “development”, “conservation”, “climate change” and “transformative”, on the other. A snowball strategy was applied to identify additional resources, including searches of gray literature on organizational repositories including 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 had no time limit for the search criterion. We screened 756 abstracts, selected and read 118 documents, and included 67 in this review based on their contribution to our review’s objectives. Our notes were coded on NVivo using codes predetermined through the objectives of the review (e.g., principles), and inductive codes representing themes that emerged during the process (e.g., rationale for adoption).

Our findings have three main caveats. First, the literature on the implementation and impacts of RBAs is limited, even more so when focusing on climate change and conservation; in addition, a number of articles are written by implementing organizations themselves, limiting their critical analysis. We faced a similar challenge in previous literature reviews – with wider scopes – on multi-stakeholder participatory processes (Sarmiento Barletti *et al.*, 2020). Second, some of the scholarly literature dealing with RBAs (at different levels and across disciplines) did not appear in our original search due to the wording of their titles or keywords. 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. Among other things, this means the review is biased toward named RBA initiatives or projects, with less representation of legal reforms or programmatic changes in rights, or the work of social movements, which are more likely to occur at the national level.

## The emergence of RBAs

This article focuses on the emergence of RBAs primarily at the global level because of the nature of the review is more global than national. Other important dynamics contributing 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; Wily, 2022), but these are not included here.

Historically, the key principles of RBAs “have long been part of the struggles for self-definition, social justice, liberation, and anti-colonial movements,” even before rights discourses gained wider international recognition after World War II (Cornwall and Nyamu-Musembi, 2004, p. 1420). In the post-war period both development assistance, designed by economists, and human rights, managed by activists and lawyers, played major roles; however, the two fields were rarely connected (Nelson and Dorsey, 2018). The links between them 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).

There is agreement in the literature that RBAs emerged toward the end of the Cold War and expanded throughout the 1990s (Kindornay *et al.*, 2012; Miller, 2017; Nelson and Dorsey, 2018). Scholars contributed to their rise (e.g., Sen, 1999), and by the early 2000s most UN agencies had adopted RBAs (Oestreich, 2020). The same trend was observed among international development NGOs and bilateral donors (Miller, 2017) as human rights became “a frame of reference for development policy” (Hamm, 2001, pp. 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, p. 98). The foremost recent example of rights inclusion in global development agendas is the UN Sustainable Development Goals, which link rights and the attainment of well-being under different targets.

RBAs moved beyond the development sector into a number of other fields (Witter and Satterfield, 2019), including conservation (Campese *et al.*, 2009) and climate governance (Knox, 2009; Jodoin *et al.*, 2021). Within the conservation sector, advocates fought 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). In recent decades, a growing number of programs have combined 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). Despite this progress, ongoing 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).

There has been similar progress in the climate governance sphere, although it also faces challenges when actors in mitigation initiatives or carbon markets see human rights as distractions from the priority of emissions reductions (Sarmiento Barletti and Larson, 2017). 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 (only) *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).

**Table 1.** RBAs: Timeline of key texts and event.

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	Marks the beginning of the recognition by international decision-makers of the links between human rights and environmental protection, and the acknowledgment of a right to the environment.
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 Indigenous and Tribal Peoples Convention	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. 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	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	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	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.” 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 IP’s rights (Witter and Satterfield, 2019).
2014	UN-REDD Guidelines on Free, Prior, and Informed Consent	Builds on mentions of the rights IPs in the Cancun safeguards for REDD+. UN-REDD developed this framework for partner countries to seek Free, Prior and Informed Consent (FPIC) from IPs when appropriate.
2015	Paris Agreement	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	Sets the goals for biodiversity conservation for the next decade, including the conservation of “30% of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services” (Target 3). IP organizations and their allies have criticized this target and its potential impact on communities living in biodiversity hotspots. The adopted version addressed some of these concerns by mentioning the need to respect the rights of IPs and LCs and by stressing their contribution to biodiversity conservation (IIFB, 2022).

Although the main agreements on RBAs were international, 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 EU 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.”

Nevertheless, as many supra-national agreements are not legally binding, the translation of these measures into national law is often a critical step to ensure successful implementation and government accountability. For example, several countries have updated their conservation legislation to acknowledge IP and LC rights and contributions to biodiversity preservation (Tauli-Corpuz

*et al.*, 2020). Such efforts have been described as insufficient by Indigenous organizations (RRI, 2020), as conservation strategies still tend to favor State-managed protected areas as opposed to conservation regimes that include communities (RRI, 2020).

## RBAs: Principles and rationales

A common feature of RBAs is the redefinition of the actors involved in development, conservation, and climate action into rights-holders and duty-bearers (UNDG, 2003). It is worth noting that a single 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 (WB and OECD, 2016), based on the argument that a rights entitlement requires a matching obligation to guarantee those

rights are respected (Broberg and Sano, 2018). In RBAs, then, the actors that were previously conceived of as project “beneficiaries” – a passive connotation – became rights-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 (Hamm, 2001; EC, 2021). One implication of this shift is that rights-holders are expected to be involved in initiatives through dialogue and collaboration (Broberg and Sano, 2018). In the context of conservation and development, there is growing discursive attention – that is not often 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 climate crisis (Décary-Secours, 2017; Domínguez and Luoma, 2020).

Non-state actors including private companies, NGOs, donors, and intergovernmental organizations also have a responsibility to contribute to the protection and advancement of rights (Hamm, 2001; Cornwall and Nyamu-Musembi, 2004). Nonetheless, as the enforcement of rights is normally carried out through national legal systems, governments remain the principal duty-bearers (Broberg and Sano, 2018). Some argue that beyond legal obligations, anyone with the ability to 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). Sen argues for the critical role of civil society in furthering the rights of vulnerable groups, as “some recognized human rights are not ideally legislated, but are better promoted through other means, including public discussions, appraisal and advocacy” (2004, pp. 319–320).

There are, however, notable differences between the elaboration and implementation of RBAs. Two important variables are the sector (e.g., development, conservation) – although there is also variation within the same sector – and the organization designing or implementing an initiative (Belda-Miquel *et al.*, 2016). 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 upon which they are based, 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 have gained momentum, additional distinctions have appeared. RBAs were introduced largely as an acknowledgment of rights abuses in development and conservation programs and a re-grounding 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”; this is a minimum standard 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 (Campese *et al.*, 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 through the discourses and work of grassroots organizations and their supporters, 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 for alternatives to mainstream development pathways that 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).

## RBAs: PRINCIPLES

Although there is a lack of consensus on their nature and implementation method, most RBAs are guided by similar principles. We use the term “principle” due to its widespread usage in the RBA literature; it facilitates inclusive discussions concerning multiple organizations that employ RBAs, irrespective of whether their approach is grounded in legal frameworks. The PANEL (Participation, Accountability, Non-discrimination, Empowerment, and Legality) and PANTHER (Participation, Accountability, Non-discrimination, Transparency, Human dignity, Empowerment, and Rule of law) principles are consistently mentioned in the academic and gray literature as a basis for the design of projects deploying RBAs (FAO, 2009; Vandenhole and Gready, 2014; Noh, 2022).

“Participation” 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” (UNDG, 2003). Participation – especially of historically marginalized groups – is conceived of as both an end in itself and a means to empower citizens (Miller and Redhead, 2019; EC, 2021). 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.

“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.*, 2009, p. 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).

Under “Non-discrimination,” “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 (EC, 2021). 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” (EC, 2021, p. 7).

“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 rights-holders is a key process to ensure actors can claim and enjoy their rights and hold duty-bearers accountable (Pact and USAID, 2018; EC, 2021).

As for “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, p. 7).

Beyond PANEL, there are other principles that 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 (Miller and Redhead, 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 Redhead, 2019). For example, the right to health might depend on the realization of the right to education and information (UN, 2003). In this context, “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). “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 (EC, 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).

Finally, another set of principles is relevant in the context of conservation and climate projects. “Inclusive decision-making” is drawn from UNDRIP (Corson *et al.*, 2020) and is important 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, 2012; Springer *et al.*, 2021). “Participation” also tends to be discussed in its link to Free, Prior, and Informed Consent (FPIC), which is recognized as a right for Indigenous Peoples in several international agreements, including International Labour Organization Indigenous and Tribal Peoples Convention C169 (ILO c169). This right, however, is rarely extended to non-indigenous communities, even in countries that have legislated FPIC (Rodriguez *et al.*, 2022). 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, p. 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). 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). Furthermore, an “equitable share of benefits and burdens” must be guaranteed in contexts where the implementation of projects leads to the generation of value or infringes upon local lives and livelihoods (Secretariat of the CBD, 2004; Pham *et al.*, 2021).

In addition, “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, p. 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% (Dooley *et al.*, 2022; RRI, 2023). 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).

## RBAs: RATIONALES

Two distinct rationales for adoption – instrumental value and intrinsic value – constitute one of the key variations among RBAs. The most widespread argument refers to their instrumental value; RBAs should be adopted because they provide a variety of benefits. There are six main advantages cited in the literature. First, RBAs provide an internationally consensual framework (Hamm, 2001) by drawing on existing rights conventions, norms, and standards that have been ratified by a significant number of countries (Olawuyi, 2015). Second, RBAs are 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 there are opportunities for learning across sectors (Roe *et al.*, 2010). Third, RBAs facilitate the creation of partnerships, as they involve multiple and different actors working toward a unified goal (WB and OECD, 2016; Corson *et al.*, 2020, p. 1130). Fourth, RBAs are flexible enough to fit almost any intervention and can be adapted to different contexts (Sikor and Stahl, 2012). For instance, in efforts promoting political or civil rights, RBAs allow for implicit strategies such as legal empowerment activities targeting rights-holders (Pact and USAID, 2018). Fifth, RBAs 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.” Finally, RBAs can also improve program outcomes by preventing harmful interventions, as they are founded on a “do no harm” principle.

Some authors argue that there is a lack of evidence regarding the instrumental value of RBAs (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).

The intrinsic value of RBAs builds on the protection and promotion of rights recognized under international agreements; adopting such approaches is a means for governments to respect their obligations (Hamm, 2001; WB 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, including the idea that “human rights are seen as constitutive of development” (WB and OECD, 2016, p. xxii) and are the basis of development frameworks. 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, p. 8). In most cases, organizations, including the UN, combine the instrumental and intrinsic rationales to justify their approach, as they can be complementary (Décary-Secours, 2017).

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 (Guzmán, 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, p. 107). For instance, while collective rights are acknowledged in several international conventions, some governments tend to understand “rights” as individual, which is challenging for claims involving collective land titles (Springer *et al.*, 2011). Euromerican worldviews also 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 vague. Although perhaps contributing to the growing interest in them, this also means that there is little understanding of their practical implications (Harris-Curtis *et al.*, 2005; Olawuyi, 2015). In 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 discrepancies and lack of consistency surrounding implementation have “generated skepticism about the value of rights-based approaches” (Nelson and Dorsey, 2018, p. 97). This applies to RBAs in general and other, specific principles. For instance, although there is consensus in the development sector to promote participation, this refers to anything from merely informing IPs and LCs to actively involving them in an intervention’s design, implementation, and monitoring (Cornwall, 2008).

Other analysts note that even when treaties are ratified by governments and rights are entered into national law, IPs and LCs face hurdles, often failing to be fully implemented (Domínguez and Luoma, 2020). Indeed, despite the positive shift in the framing of conservation policies, “fortress” conservation is still part of mainstream conservation practices (Guzmán, 2019). In 2016, less than 5% of protected areas were managed by IPs and LCs (Tauli-Corpuz, 2016). Furthermore, RBAs are often at odds with mainstream social, political, and economic dynamics at national levels (Miller and Redhead, 2019). 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, 2012). 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).

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, p. 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 a rights-based approach will never genuinely occur,” which will likely cause “donors [to] begin to lose interest” (2012, p. 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, p. 544).

## Typologies of RBAs

While there is consensus regarding RBA principles, there is no common framework or strategy for their implementation (Kindornay *et al.*, 2012; Broberg and Sano, 2018). Different organizations, including donors (Pact and USAID, 2018; EC, 2021), have developed their own set of implementation standards. Hence, RBAs vary depending on the organizations and institutions that frame and implement them.

Due to the diversity of actors that use RBAs and the scales in which they work, they can be classified in different ways. We found a critical distinction between “bottom-up” and “top-down” approaches (Table 2). “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 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 hold 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

**Table 2.** RBA spectrum: Bottom-up and top-down approaches.

	“Bottom-up”	“Top-down”
Source	Rights recognised within international binding treaties and national legal frameworks; fit demands in local contexts; customary and collective rights; informal institutions.	International binding treaties and non-binding standards; 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 policy-makers to improve the living conditions of relevant groups; mobilize funds from donors supporting RBAs.	Different degrees: redefine a donor or international organization’s strategy to create change; 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 and Nyamu-Musembi, 2004, p. 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 binding treaties and non-binding standards 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.”

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); Guzmán (2019); Kindornay *et al.* (2012); Mishra and Lahiff (2018).

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 and Nyamu-Musembi (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. 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 other two – “rights talk” and constitutionally based legal mobilization – would likely be associated with “bottom-up” strategies (Table 4).

These typologies offer some analytical tools to understand the differences between the framing and potential impacts of RBAs.

## Conclusion

This review is a preliminary assessment that seeks to contribute to the ongoing conversation on RBAs. We have discussed how RBAs have gained discursive prominence in conservation and climate-related debates, representing a paradigm change that aims to break with the historical record of rights abuses in conservation. 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.

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

**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 and Nyamu-Musembi (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 <i>rights consciousness</i> ; 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).

RBA. 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.

## CONFLICT OF INTEREST

The authors have no conflicts of interest to declare.

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## AUTHOR CONTRIBUTIONS

Juan Pablo Sarmiento Barletti, Léna Prouchet, and Anne M. Larson conceptualized the study; Juan Pablo Sarmiento Barletti and Léna Prouchet carried out methodology; Léna Prouchet conducted investigation and formal analysis; Juan Pablo Sarmiento Barletti and Anne M. Larson supervised the study; Anne M. Larson carried out funding acquisition and project administration; Juan Pablo Sarmiento Barletti and Léna Prouchet carried out writing – original draft; Juan Pablo Sarmiento Barletti, Léna Prouchet, and Anne M. Larson carried out writing – review & editing.

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