

The Rights of Sustainable Local Communities

Moving beyond Payments for Ecosystem Services and Biocultural Rights



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Human rights and the environment

- Human rights were born at a time when natural resources were not perceived as scarce as an instrument to be used to protect humans from the action of other humans
- They mostly refer to freedoms and goods which require natural resource use
- Nature was not factored in...

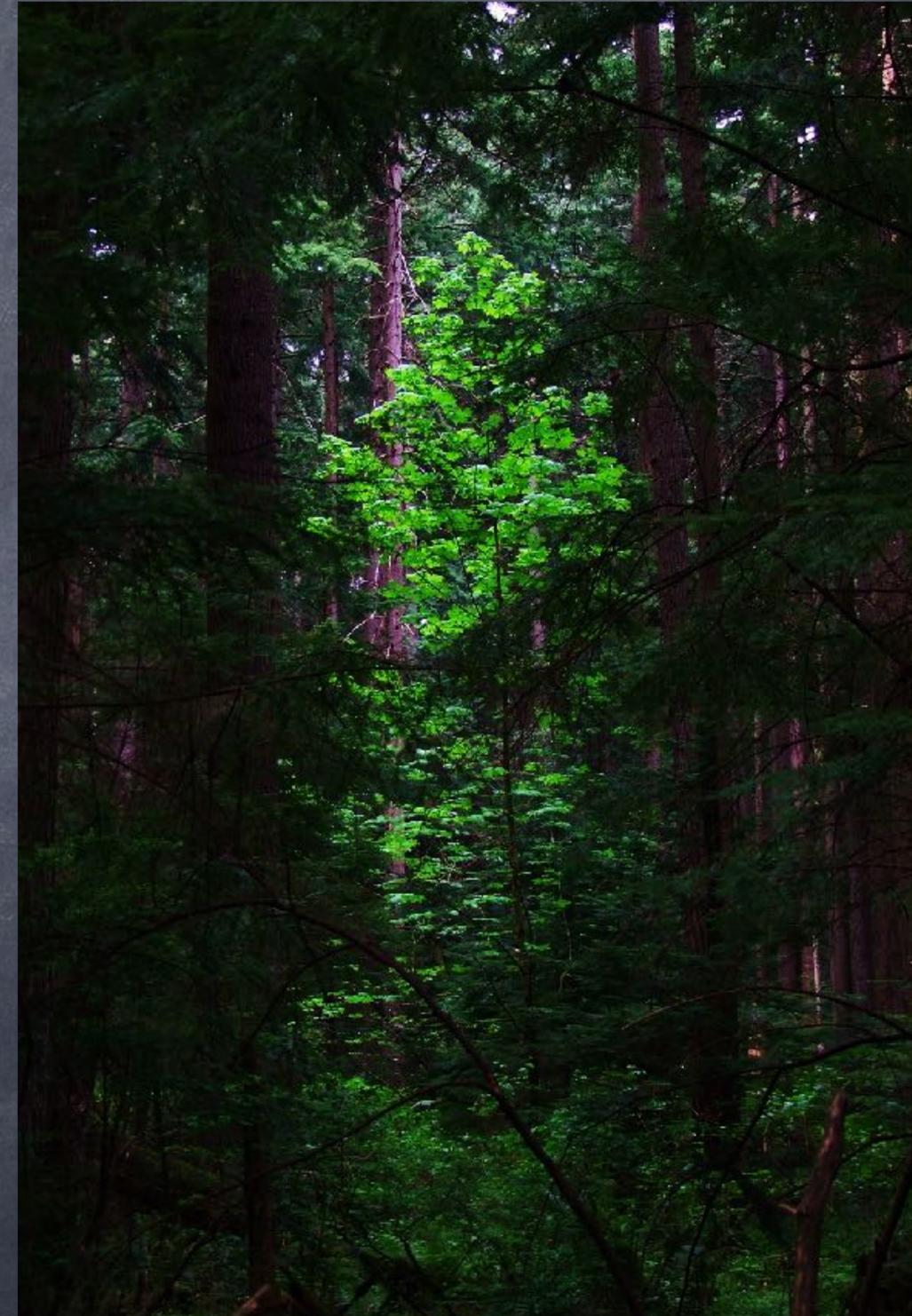
Human rights in the Anthropocene

- Changes have occurred but overall they maintain an anthropocentric approach
 - Nature is to be protected
 - because it is of use to humans (even if *use* is very widely conceived)
 - to the extent it benefits humans
 - subordinately to the interests of humans (its protection finds a limit in human interests)



Human rights in the Anthropocene

- Can human rights be framed as to incorporate the vulnerability of the Earth and the limits of natural resources?
- Biocultural rights - went in this direction ... merging together the indigenous peoples and local communities' rights and the rights-based conservation streams
- Emerging rights - *opinio de iure condendo*



Biocultural Rights

The basket of rights of indigenous peoples and local communities required to secure their stewardship role over their lands and waters

Some indigenous peoples and local communities have maintained ways of life relevant for the conservation of the environment



These ways of life can survive and flourish only if such peoples and communities are secured certain rights



the recognition of this set of rights can enable and enhance the conservation of ecosystems and their sustainable use

One foundation ...two foundations

Interest to act as stewards of the environment



interest to self-government
and cultural identity

(indigenous peoples intrinsic value)

interest to the conservation of the
environment

(interest of human kind/intrinsic value of nature)

The emergence of limits

- Biocultural rights
 - they promise harmony, win win solutions...
 - ... but unexpected limits arose.

Limits stemming from their same foundations,
from the interests they aim at protecting.

**Noble Savage
Trap**



The emergence of... *internal* limits

- One foundation limits the other, so that:
 - sustainability is a requirement to hold them
 - are always limited by the interest in the conservation of the environment
 - their implementation must *promote* the conservation of the environment/ the interests of indigenous peoples and local communities



The emergence of... *internal* limits

- A very politicised debate - indigenous peoples rights
- After a first moment of enthusiasm...
 - Sustainability cannot be new requirement for indigenous peoples!
 - Biocultural rights, a cheaper option for States
 - Biocultural rights, a threat against indigenous peoples rights...
- Their double foundation is a Trojan Horse...

Beyond Biocultural Rights

- Shift the focus on local communities, including non-traditional local communities;
- Concentrate on developed countries;
- Keep the double foundation!



Where to start from?

- Payments for Ecosystem Services
 - Ecosystem approach
 - Recognition of the contribution of local communities
 - Involvement of local communities in order to maintain their practices
 - Embedded in policies and law

Payments for Ecosystem Services

- Another win-win solution....
 - highlight the importance ecosystems have for people;
 - suggest a *simplified language* for politicians and the private investments world;
 - payments contribute to protect the environment AND alleviate poverty.

Payments for Ecosystem Services

- A highly criticised framework because:
 - markets that are generated are too thin and too polluted by non-market factors;
 - humans are not fully informed and rational beings;
 - interactions between humans and nature and between providers and users of services are downgraded/simplified to economic interactions (*commodity fetishism*)
 - they are based on the a solely anthropocentric approach;
 - assume that monetary incentives are useful/desired/effective;
 - unable to factor in other knowledge systems;
 - they replicate the development/Western paradigm with its biases, limits and harms.

Payments for Ecosystem Services

- They may exacerbate local equity issues (income, access to resources, and decision-making);
- the research of economic efficiency may shade important factors (vulnerability, free prior informed consent procedures, identity factors, reduced access to certain lands and resources);
- they may lead to the loss of non-monetary incentives to protect ecosystems.

Beyond Payments for Ecosystem Services

- IPBES called for a turn toward a rights-based approach capable of factoring in the cultural pluralism of local communities
- The new Nature's Contribution to People framework engages with diverse stakeholders and aims at incorporating cultural aspects of nature in more comprehensive ways.
- From these critiques and calls for change...PES may learn from BCRs...
- ...lets add the rights-based approach, more attention to FPIC, a wider understanding of cultural and social interactions, a more effectively participatory approach...

Rights for Ecosystem Services

- Not payments in return, but rights!
- In return for protecting local ecosystem services/for promoting conservation
- No need to determine their monetary value
- Framed on the practices, values and needs of local communities
- No need to find (and please) funders
- Landscape approach
- No focus on indigenous peoples

Rights for Ecosystem Services

- Double foundation:
 - special link with a certain natural place
 - *de facto* engaged in promoting its conservation/sustainable use/restoration etc
- Not conceived as human rights, but as special rights to be obtained only if certain conditions apply - *do ut des with the State*
- Only those rights relevant for the fulfilment of environmental responsibilities
- Rights that need to be implemented in ways that promote environmental conservation

Rights for Ecosystem Services

- A framework to embrace and better apply existing policies and laws/to promote the creation of new ones.
- Global environmental law is scattered and not equally developed. RES might help to look comprehensively at the large and small scale and draw a pattern of evolution on the ground of certain conceptions of justice...(which?)

Rights for Ecosystem Services

- Some of the issues:
 - just a cosmetic action?
 - still talking about *ecosystem services* - too anthropocentric?
 - what do local communities think about this approach?
 - where have we left indigenous peoples?

Objectives

Clarify RES content: What are interests protected by RES? Which are the rights and duties they should entail?

Identify principles to determine under which conditions local communities may be recognised as RES-holders. Who are the relevant claimants and duty-holders?

Identify the criteria to ensure a fair balance between local communities' rights and duties to avoid placing 'unfair' burdens on local communities through conservation standards.

Objectives

Assess the current level of protection of sustainable local communities in EU, with (probably) a specific focus on Scotland and Italy.

Which legal frameworks already exist? (*usi civici* for example)

Assess monitoring techniques for the implementation and enforcement of RES.

Develop policy suggestions to recognise RES in the EU, with focus on, probably, Scotland and Italy.

Thank you

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