

CONSERVATION AND DISPLACEMENT: INTERNATIONAL ORGANIZATIONS, ENVIRONMENTAL PROTECTION AND THE RIGHTS OF WOMEN

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SOMMARIO: 1. Introduction. – 2. The International Legal Framework. – 2.1. International Law. – 2.2. Policies of International Organizations. – 3. Critical Perspectives on Conservation. – 3.1. Conservation and Coloniality. – 3.2. Neoliberalism, Protected Areas and Corporate Interests. – 3.3 Conservation Refugees. – 4. Violence and Displacement Against Women in Environmental Conservation Projects. – 5. Way Forward: Accountability and Gender Dimension. – 6. Conclusion.

1. Introduction

In the current epoch of planetary crisis attributable to climate change, biodiversity loss, and environmental degradation, conservation initiatives are one of the main instruments to protect the environment and its natural resources against human exploitation and climate hazards, and to mitigate greenhouse gas emissions. International organizations and funds such as the World Bank (WB), the Global Environmental Facility, the United Nations Development Programme and the Green Climate Fund (GCF), as well as transnational Non Governmental Organizations (NGOs) such as the World Wildlife Fund (WWF), to mention a few, play a key role in locally implemented initiatives to foster biodiversity conservation, create carbon sinks for emissions

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trading, green development projects and so on. However, the implementation of such initiatives can jeopardise fundamental human rights, including the rights of Indigenous peoples, women, children, and marginalized communities that might be forcibly relocated in the process of creating Protected Areas (PAs), the installation of green development projects (such as solar and wind farms), and ecological zoning. For a growing number of critical legal and social science scholars, the causes at the heart of such problems lie in the colonial and imperialist origin of nature conservation, and in the corporate spill over into International Organizations (IOs) and Big International Non-Governmental Organizations (BINGOs). As a result, there is a dramatic increase in conservation refugees joining the ranks of “development refugees”.

This chapter looks at such issues from the perspective of gender impacts, specifically the negative impacts on women’s rights, in a review of some of the complaints brought before the accountability mechanisms of the IOs involved. This chapter intends to make a contribution to the literature around gender impacts of green development projects and biodiversity conservation, which is currently scarce in the accountability area of IOs. References to the gender aspect of biodiversity conservation concerns mainly the role of women in conservation, but sufficient attention is not being paid to the harmful practices connected to environmental protection, green development and their negative impacts on the rights of women¹. The obvious constraints related to the length of the chapter mean it is not possible to produce an all-encompassing examination of such complex and diversified issues and a thorough analysis of the gendered dimension of all existing Integrated Conservation and Development Projects (ICDPs). However, the chapter aims to contribute to the critical literature re-

¹ For example, see: H. ZWEIFEL, *The Gendered Nature of Biodiversity Conservation*, in *NWSA Journal*, 1997, n. 9, pp. 107-123; S. VANDANA, *Women’s Indigenous Knowledge and Biodiversity Conservation*, in *India International Centre Quarterly*, 1992, n. 19, pp. 205-14; N. BROECKHOVEN, *Biodiversity Loss and Climate Change: Gender Issues in International Law and Policy*, in *DiGeSt. Journal of Diversity and Gender Studies*, 2014, n. 1(2), pp. 23-38, P. DEDA, R. RUBIAN, *Women and biodiversity: the long journey from users to policy-makers*, in *Natural Resources Forum*, 2004, n. 28, pp. 201-204.

garding the rights of women and the accountability of IOs by putting forward a scholarly approach that can be further replicated in future research.

Implementation of biodiversity conservation and the institution of protected areas may lead to more or less regulated forms of displacement of communities living or relying on the designated areas. Development or conservation refugees are indeed likely to be relocated to other areas of the same country, or to major urban centers. Although internal displacement is often associated, in literature and policy, with armed conflicts and natural disasters, it is large-scale development projects that have produced the largest number of internal refugees². In particular, displacement related to development projects such as pipelines, dams, and mining, is estimated to be around 100 to 200 million people since the 1980s³. Conservation-related displacement, such as the institution of protected areas, because of its inherently geographical and spatial exclusionary nature, results in the internal displacement of millions of people⁴.

When such displacement occurs in IOs-led ICDPs projects, resulting in the violation of the rights of vulnerable people such as Indigenous persons, women, and children, we are clearly facing a problem of accountability of IOs with respect not only to standards imposed by international law, but also to their internal policies.⁵ However, because

² A. AGRAWAL, K. REDFORD, *Conservation and displacement: an overview*, in *Conservation and society*, 2009, n. 7, pp. 1-10.

³ *Ibid.* See also: M. CERNEA, *Risks, safeguards, and reconstruction: A model for population displacement and resettlement*, in M.M. CERNEA, C. MCDOWELL (eds.), *Risks and reconstruction: Experiences of resettlers and refugees*, Washington, 2000, pp. 11-55.

⁴ Some estimates refer to 10-20 million of conservation refugees, others range between 8.5-136 million people. See generally: C. GEISLER, *Your park, my poverty: Using impact assessment to counter the displacement effects of environmental Greenlining*, in S. BRECHIN, P. WEST (eds.), *Protected natural areas and the dispossessed*, 2003 Albany, UK; M. DOWIE, *Conservation refugees: the hundred-year conflict between global conservation and native peoples*, Cambridge, 2011.

⁵ There have been a number of attempts to the theorization of the meaning of accountability in this sense, however, these have remained focused on specific cases and what are the mechanisms that enable such accountability. Andonova has proposed a rethinking of such approaches, by arguing for the need of defining the scope of ac-

of the traditional legal immunity of IOs, such violations might not be taken into account because of the accountability gap that characterizes such organizations⁶. The accountability mechanisms of Grievance Redress Mechanisms (GRMs) might have a decisive role in addressing such gap, although with limitations, as explained in the final section of the chapter.

This contribution is divided into several sections. Section 2 addresses the legal framework concerning the international legal yardsticks against which the problem of evictions for conservation should be evaluated, resulting in a human rights-based approach to environmental conservation. The following section is a literature review of the critical approaches to conservation that have emerged in legal and political science literature in recent years regarding coloniality, neoliberalism and corporate interests in environmental policies and their influence in determining the current international environmental agenda, including a focus on “conservation refugees”. Such a critical framework is helpful if we are to understand how biodiversity conservation projects can be harmful to human rights and specifically the rights of women in a local context. Section 4 deals with three case studies that are representative of human rights violations in the context of ICDPs and which have triggered the investigation of accountability mechanisms or experts’ panels. Finally, the article concludes with a last section on the accountability of international organizations, arguing for the need of further interrogation and investigation, in academia and policy, on the gender impacts of ICDPs.

countability of international organizations by investigating the institutional and political factors likely to increase or limit the scope of international accountability. See generally L. ANDONOVA, *The Scope of Accountability of International Organizations. The Relevance Institutional Structure, Salience and Exercise of Power*, Paper presented at the Annual Meeting of the American Political Science Association, Montreal, 2022.

⁶ On this matter, please see S. JOHANSEN, *The Human Rights Accountability Mechanisms of International Organizations*, Cambridge, 2020.

2. *The international legal framework*

2.1. *International law*

Biodiversity conservation has been recognised as a key strategy to halt environmental degradation, protect flora and fauna from constant depletion and human development and, ultimately, as a key strategy for climate change mitigation⁷. These crucial strategies are reflected in the drafting and development of international law, both through hard law, soft law, international forums, regulation and policies of IOs. Some of these instruments, as we shall see in here, recognize the inter-linkage between women's rights and biodiversity conservation, and prescribe regulation for gender assessment and women's participation in environmental decision making. Other instruments aim to avoid the negative impacts of badly implemented environmental conservation policies; for example, the forced displacement without compensation of local communities who live in the conservation area. International environmental law, and the human rights component of biodiversity conservation, are enshrined in a highly fragmented legal background. Therefore, the aim here is to shed light on the main instruments we look at when we seek legal rationales for the protection of the rights of women against ICDPs-led displacement. Such instruments include – but are not limited to – the Convention on Biological Diversity (CBD) framework, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the UN Guiding Principles on Internal Displacement and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) framework.

The first relevant instrument that merits a mention in this section is, for obvious reasons, the CBD (1992) and the myriad of its different “components” that have built up the biodiversity conservation legal regime throughout the last decades⁸. The CBD in the Preamble recog-

⁷ E. MORGERA, *Far Away, So Close: A Legal Analysis of the Increasing Interactions between the between the Convention on Biological Diversity and climate change law*, in *Climate Law*, 2011, n. 2, pp. 85-115.

⁸ I refer to the protocols and the optional guidelines that are currently part of the international biodiversity regime under the CBD.

nises the role of women in relation to biodiversity conservation, which calls for women's participation in decision making. Following this provision, there has been a consistent development in gender-related initiatives in the context of the CBD regime⁹. The CBD also recognizes the gendered dimension of biodiversity, such as the different uses that men and women make of biological resources. The gendered approach of biodiversity conservation should also take into account the existing imbalances that contribute to gendered inequality and "proactively aim to overcome and remove those inequalities" in order to promote the enjoyment of women's human rights¹⁰.

Ultimately, at the Conference of the Parties (COP) 14, participants agreed that the process to develop the Post-2020 Global Biodiversity Framework needs to take into account gender-responsiveness, by systematically integrating a gender perspective and ensuring appropriate representation, particularly of women and girls, in the process¹¹. In the Post-2020 draft, in the section on Enabling Conditions, gender equality and empowerment of women and girls is considered a crucial condition for success on the implementation of the Post-2020 Global Biodiversity Framework. Among the other relevant decisions crucial for the implementation of the framework, it is worth considering the gender action plan for the post 2020 period, which is a key strategy to integrating gender considerations to implement the CBD¹².

Another relevant instrument of international law, which should be duly considered in relation to ICDPs-led displacement, is the UN Guiding Principles on Internal Displacement. The UN Principles make reference to an obligation imposed on States to refrain from ar-

⁹ See generally I. ALVAREZ, S. LOVERA, *New Times for Women and Gender Issues in Biodiversity Conservation and Climate Justice*, in *Development*, 2016, n. 56, pp. 263-265.

¹⁰ CBD, *Toward a Gender-Responsive Implementation of the Convention on Biological Diversity*, 1 November 2018, CBD/COP/14/INF/21.

¹¹ CBD, 14/34. *Comprehensive and participatory process for the preparation of the post-2020 global biodiversity framework*, 30 November 2018, decision CBD/COP/DEC/14/34.

¹² For an assessment of the implementation of the 2015-2020 Gender Plan of Action, refer to document of "Progress on the implementation of the 2015-2020 Gender Plan of Action", 16 April 2018, CBD/SBI/2/2/Add.3.

bitrary displacement connected to large-scale development projects (unless justified by overriding public interests)¹³. Principle 7 establishes that “the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimise displacement and its adverse effects”. The same principle also refers to the obligation to seek the prior and informed consent of those to be displaced. However, these principles have not yet crystallized in an international universal treaty, although they reflect international obligations imposed by international human rights and humanitarian law.

The main international law instrument specifically dedicated to the rights of women is the Convention on the Elimination of Discrimination Against Women (1979). While in the convention there is no specific reference to the rights of women in biodiversity conservation or to environmental human rights, such convention can be interpreted in the light of recent developments connected to Agenda 2030 and Sustainable Development Goals¹⁴.

Finally, relevant provisions of international law regarding regulation and remedies to displacement in a gender perspective are mutually reinforced by a joint interpretation of the UNDRIP and General Recommendation No. 39 (2022) on the rights of Indigenous Women and Girls of the Committee on the Elimination of Discrimination against Women (CEDAW). UNDRIP, in article 10, establishes that no Indigenous people shall be removed from their lands and territories. UNDRIP also establishes that if relocation is necessary, this shall be implemented only with their Free, Prior and Informed Consent (FPIC). If such relocation takes place, Indigenous peoples shall receive adequate compensation for their loss of lands and territories, as well as legal recognition on their acquired lands.

General Comment No. 39 recognizes the pattern of discrimination and abuse Indigenous women are subjected to. Gender-based violence

¹³ Principle 6.

¹⁴ B. RUDOLF, *Freedom from Violence, full access to resources, equal participation, and empowerment: the relevance of CEDAW for the Implementation of the SDGs*, in M. KALTENBORN, M. KRAJEWSKI, H. KUHN (eds.), *Sustainable Development Goals and Human Rights*, Cham, 2020, pp. 73-94.

includes psychological, physical, sexual, economic, spiritual, political and *environmental* violence. CEDAW interlinks such patterns with the absence of a true recognition of the right to self-determination of Indigenous women, which manifests itself in the dispossession of lands, territories and natural resources¹⁵. The right of Indigenous women to FPIC is strongly reiterated in the General Comment in relation to activities associated with investment, infrastructure, development, conservation, climate change adaptation and mitigation initiatives, tourism, mining, logging and extraction. In the section on the right to a healthy environment, CEDAW clarified that FPIC also applies to “any proposal to designate their lands as a *protected area for conservation* or climate change mitigation purposes or carbon sequestration and trading or to implement a green energy project on their lands” (emphasis added)¹⁶.

2.2. Policies of IOs

IOs and funds have adopted their own sets of policies, such as environmental and social standards, aimed at protecting local communities, Indigenous peoples, and the environment when implementing projects at the local level¹⁷. This section exemplifies some of the relevant policies in this sense adopted by the WB and the GCF, because they are IOs directly involved in a consistent number of ICDPs. Obviously, the great majority of IOs has adopted social and environmental policies inspired by the laws and principles of international law that are applicable in the context of project implementation. Such an analysis is helpful in understanding what the legal rules are and the principles IOs have chosen to abide with; and what are the standards against which it is possible to assert their accountability in light of the violation of the rights of women in ICDPs. The adoption of such policies is

¹⁵ CEDAW, General Comment no. 39, para. 11.

¹⁶ *Ibid.*, para. 61.

¹⁷ For example, I have analysed the process of the adoption of the Green Climate Fund's Indigenous peoples policy in the article G. GIACOMINI, *Free prior and informed consent in the Green Climate Fund: the implementation of a project in the Datém del Marañón*, in CUHSO, 2020, n. 30, pp. 102-125.

crucial for the implementation of projects at the country level, because they constitute standards that need to be met in the different phases of the project's pipelines, including project design.

For example, in the WB system, at present there are quite a number of different policies that are labelled under the identifier "Environmental and Social Safeguard Policies" (ESF)¹⁸. Because the WB operates in sectors relevant to biodiversity conservation and the institution of PAs, these policies should help in the protection of communities' rights to land, avoid gendered impacts of conservation, and ensure community participation in the project design¹⁹.

This set of policies was approved by the Board of Executive director of the WB in 2016²⁰. They consist of several Operational Policies (OP), which set out the obligations that apply to Borrowers of the WB funds: the country-level approach mentioned in the above paragraph. According to the WB website, these policies "place[s] an emphasis on strengthening national environmental and social management systems and institutions, and supporting Borrower capacity building." For the purposes of this article, it is important to note the obligations set in the standards no. 5, Land Acquisition, Restrictions on Land Use and Involuntary Resettlement. The objective of the standard is to avoid involuntary resettlement, avoid forced evictions, and mitigate social and economic impacts from land acquisition. The standard sets an obligation for the Borrower of WB funds to compensate the people displaced at replacement cost, or options for relocation for persons whose livelihoods are land-based to replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost in the project implementation. The standard also spells out community engagement rules through the

¹⁸ The policies can be accessed at <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>.

¹⁹ The WB has been operating, since the 1950s, thousands of projects worldwide. The project database is available at <https://maps.worldbank.org/projects/wb/pid/P099628?status=active>.

²⁰ Before this set of policies, the WB operational manual approved in 2005 was operative, which enshrined OP 4.10 on Indigenous peoples, see Section iv on the case study.

process of “stakeholder engagement”²¹. In such engagement regarding resettlement, women’s perspectives shall be obtained and taken into consideration, since their livelihoods might be affected differently compared to men’s because of the different use they make of natural resources²².

Another relevant example, a younger organization, is the GCF. The GCF has adopted several policies concerning environmental and social standards, Indigenous peoples, and gender policy. The Revised GCF Environment and Social Policy enshrines a set of principles, requirements, and responsibilities to be followed by the GCF and other stakeholders involved in project implementation²³. The Indigenous Peoples Policy sets out crucial standards concerning the full and effective participation and engagement of Indigenous peoples in the design, development and implementation of strategies and activities to be financed by GCF. For example, the policy recognizes the right to FPIC as well as many other important rights of Indigenous peoples, and recommends the disclosure of financing only when the FPIC standard is met. The Gender Policy operates both at the internal level of the GCF (the goal of the policy is to “Enhance gender equality within its governing structure and day-to-day operations”) and at the operational level (“Promote the goals of gender equality and women’s empowerment through its decisions on the allocation of funds, operations and overall impact”)²⁴. At the project level, the GCF, through this policy, is committed to integrating gender considerations in the reduction of inequalities, and resilience to climate-induced risks. This approach translates into a series of requirements to the Accredited Entities (the GCF partners for the implementation of projects) at the project preparation stage. For example, AEs are required to submit as part of the funding proposal “(i) a gender assessment, (ii) a project-level gender

²¹ As outlined in the standard n.10, “Stakeholder engagement and information disclosure”.

²² Standard n. 7, para. 18.

²³ GCF, Revised Environmental and Social Policy, 2021, at <https://www.greenclimate.fund/sites/default/files/document/revised-environmental-and-social-policy.pdf>.

²⁴ GCF Gender Policy, section III, at <https://www.greenclimate.fund/sites/default/files/document/gcf-gender-policy.pdf>.

action plan; and (c) an integrated analysis of context and sociocultural factors underlying climate change exacerbated gender inequality and optimize the potential contributions of women and men of all ages to build both individual and collective resilience to climate change”.

Ultimately, in 2021, the GCF adopted the Revised Policy on the Prevention and Protection from Sexual Exploitation, Sexual Abuse, and Sexual Harassment (SEAH)²⁵. The GCF has a zero-tolerance approach to SEAH in Fund related activities. The policy foresees the possibility of submitting a complaint to the Independent Integrity Unit, which investigates allegations of fraud, corruption and misconduct, and also to the Independent Redress Mechanism (IRM) for allegations of SEAH at the project level.

3. Critical perspectives on conservation

3.1. Conservation and coloniality

Notwithstanding the notable legal and policy development around the importance of respecting and fulfilling women’s rights in environmental protection and biodiversity conservation, several issues connected to forced evictions, violation of human rights, discrimination against women in relation to the implementation of development projects persist. I argue that critical literature on environmental conservation might help in understanding the structural problems inherent to conservation that are often overlooked by legal experts, IOs and policy development. Such critical perspectives offer a framework against which law and policies should be evaluated, and highlight systemic issues that Indigenous peoples, women, and vulnerable local communities have been vocal about.

The first of such critical perspectives relates to the idea that environmental conservation and the institution of protected areas is essen-

²⁵ GCF Revised Policy on the Prevention and Protection from Sexual Exploitation, Sexual Abuse, and Sexual Harassment, 2021, <https://www.greenclimate.fund/document/reviced-policy-prevention-and-protection-sexual-exploitation-sexual-abuse-and-sexual>.

tially rooted in a colonial conceptualization. Traditionally, natural parks and protected areas have been created through forced evictions of Indigenous peoples, killings and other gross violations against Indigenous women and children. The example of the creation of the first US parks is often cited in the literature to track down the interlinkage between conservation and colonialism. The most famous – and first ever created – national parks such as Yellowstone, Yosemite and Glacier, were conceived as nature-without-human-interference environmental reserves. The very idea of “wilderness” is a colonial construction, based on a dualist separation between humankind and nature²⁶. These symbols and practices of American wilderness became a worldwide model for environmental protection – and land taking from Native peoples – with the dramatic legacy we are still facing today in terms of violent practices tied to the institution of particular environmental protected areas or tourism reserves²⁷.

²⁶ M.D. SPENCE, *Dispossessing the wilderness: Indian removal and the making of the national parks*. Oxford, 1999; W. M. DENEVAN, *The pristine myth: the landscape of the Americas in 1492*, in *Annals of the Association of American Geographers*, 1992, n. 82(3), pp. 369-385.

²⁷ There is growing academic literature around environmental conservation and colonial practice, dispossession of Indigenous peoples' lands through evictions, and conservation refugees. See L. DOMÍNGUEZ, C. LUOMA, *Decolonising Conservation Policy: How Colonial Land and Conservation Ideologies Persist and Perpetuate Indigenous Injustices at the Expense of the Environment*, in *Land*, 2020 n. 9, pp. 1-22; W. B. ADAMS, M. MULLIGAN, *Decolonizing nature: strategies for conservation in a post-colonial era*, London, 2012; W. CRONON, *The trouble with wilderness: or getting back to the wrong nature*, in *Environmental history*, 1996, n. 1, pp. 7-28; R. GUHA, *The Authoritarian Biologist and the Arrogance of Anti-humanism*, in *The Ecologist*, 1997, n. 27, pp. 14-20; V. PLUMWOOD, *Decolonisation relationships with nature*, in *PAN: Philosophy Activism Nature*, 2002, n. 2, pp. 7-30; T. A. BENJAMINSEN, I. BRYCESON, *Conservation, green/blue grabbing and accumulation by dispossession in Tanzania*, in *Journal of Peasant Studies*, 2012, n. 39, pp. 335-355; S MOLLETT, T. KEEP, *Introduction: Land rights, biodiversity conservation and justice—rethinking parks and people*, in S.MOLLETT, T. KEPE (eds.), *Land Rights, Biodiversity Conservation and Justice*, London, 2018, pp. 1-13; J. WOLFLEY, *Reclaiming a presence in ancestral lands: The return of native peoples to the national parks*, in *Natural Resources Journal*, 2016, n. 56, pp. 55 -80.

3.2. Neoliberalism, protected areas and corporate interests

Another interesting point of view fostered by critical scholars working on conservation issues focuses on the interlinkage between the establishment of protected areas and neoliberal economies²⁸. The protection of the environment and the institution of protected areas are, in principle, solutions offered to protect nature from capitalist exploitation and destruction. However, authors concerned with the neoliberal contamination of environmental conservation argue that mutual recognition between transnational actors including BINGOs, IOs and companies have implications for local communities where ICDPs are implemented²⁹. In this view ICDPs are seen as an alternative to the colonial conservation discussed in the previous section, whereas the institution of protected areas and ecological zonings serves the purpose of protecting local biodiversity resources, also with the goal of promoting the development of local communities³⁰. However, the ICDPs approach has been heavily criticized because the simultaneous preservation of livelihoods and conservation, this last intended in Western standards, might be highly incompatible³¹.

Therefore, the world has been witnessing the emergence of highly hybridized forms of conservation, whereas international actors collaborate with private and public institutions in target countries in order to implement more or less bottom-up designed conservation projects with legitimized local authorities. The book *Nature™ Inc.: The New Frontiers of Environmental Conservation* offers an interesting point of

²⁸ One such group is referred to as “conservation contrarians”. In 2008, they organized a workshop on “Disobedient Knowledge” that later resulted in the 2009 special volume of *Current Conservation*, edited by Jim Igoe, Sian Sullivan, and Dan Brockington.

²⁹ See generally M.C. LEMOS, A. AGRAWAL. *Environmental governance* in *Annual Review of Environment and Resources*, 2006, n. 31, pp. 297-325.

³⁰ J.F. OATES, *Myth and reality in the rain forest: How conservation strategies are failing in West Africa*, Berkeley/Los Angeles/London, 1999.

³¹ T.O. MCSHANE, P.D. HIRSCH, T. CHI TRUNG, A.N. SONGORWA, A. KINZIG, B. MONTEFERRI, D. MUTEKANGA, *Hard Choices: Making Trade- Offs between Biodiversity Conservation and Human Well-Being*, in *Biological Conservation*, 2011, n. 144, pp. 966-972.

view concerning the role of neoliberal capitalism in reshaping conservation models. The author argues that this contamination is evident in the emergence of hybrid paradigms of conservation such as “ecosystems services”, “ecotourism” (perhaps a new interpretation of the recreation model for white Americans promoted with the institution of the first US parks³²), “species and wetlands banking”, and “carbon trade”³². The book’s introduction discusses a general framework of the entanglements between neoliberalism and conservation, highlighting three lines of critical analysis. The first analyses how commodification, competition, financialization, and market discipline articulate with earlier conservation strategies and rural livelihoods. The second focuses on discourses and representations of neoliberal conservation and how they promote new approaches to the relationship between humans and nonhuman natures. The third investigates the mechanisms that allow the circulation of “natural capital” throughout the global economy³³.

In sum, according to this strand of conservation critics, it appears that “conservation is proving instrumental to capitalism’s growth and reproduction”³⁴. This is evident in the way corporate interests and neoliberalism have progressively shaped the biodiversity conservation regime, for example in the way the CBD results in a utilitarian approach to genetic resources, which results in monetization and capitalization; or in the way the net-zero emissions business approach is based in the delocalization of emissions through the creation of protected areas in order to gain carbon credits. In order to realize environmental protection, it is essential to attract economic investment into it through grants, loans, and also private funds. In this way, “conservation has been increasingly creating new spaces and territories for capitalist governance and accumulation through processes of demarcation, enclosure, privatization, marketization, securitization and land grabbing for green and un-green purposes”³⁵. The consequences of such an ap-

³² W. DRESSLER, B. BÜSCHER, *Introduction - Nature™ Inc.: The New Frontiers of Environmental Conservation* in R. FLETCHER, W. DRESSLER, B. BÜSCHER (eds.), *Nature Inc. Environmental Conservation in the Neoliberal Age*, Tucson, 2014, pp. 3-21.

³³ *Ibid.*

³⁴ D. BROCKINGTON, R. DUFFY (eds.), *Capitalism and conservation*, Chichester, 2011, p. 472.

³⁵ E. APOSTOLOPOULOU, A. CHATZIMENTOR, S. MAESTRE-ANDRÉS, M. REQUENA-I-

proach, together with the idea of pristine “wilderness”, is the world-wide increment in “conservation refugees”.

3.3. *Conservation Refugees*

Other critical scholars have evidenced how the above-mentioned approach to conservation results in an escalation of violence and displacement. One of the most cited works on this research strand is the already cited book by Dowie, *Conservation Refugees* (2009)³⁶. Displacement following the creation of protected areas or environmental conservation projects has been gaining the attention of scholars and human rights NGOs, especially in the wake of the 30x30 biodiversity target, which aims to protect 30% of the Earth’s surface by 2030. This objective is enshrined in Target 3 of the Kunming-Montreal Global Biodiversity Framework. The Kunming-Montreal Global Biodiversity Framework is a non-binding agreement among 196 Nation states that are parties to the UN Convention on Biological Diversity. Indigenous peoples have been quite vocal about the need to respect their rights in the implementation of such targets in order to avoid land grabs, violence and harassment connected to the institution of protected areas.

Critical literature on conservation and displacement focuses on the patterns of violence and land grabs that characterize the implementation of certain conservation measures. Hoefle argues for the need to set a middle position between unjust bio-centric conservation and anti-environmentalism of extreme right “populism” using the concepts of conservation refugees and environmental dispossession. Ndoinyo focuses on the use of violence and militarization of protected areas in Tanzania, in the Ngorongoro District. Today, paramilitary units enforce conservation measures in the area, the so-called “conservation commissioners”. The militarization results in forced evictions, burning of homes, and shootings³⁷.

MORA, A. PIZARRO, D. BORMPOUDAKIS, *Reviewing 15 years of research on neoliberal conservation: Towards a decolonial, interdisciplinary, intersectional and community-engaged research agenda*, in *Geoforum*, 2021, n. 124, pp. 236-256.

³⁶ See ft 4. M. DOWIE, *Conservation Refugees*, cit.

³⁷ Y. NDOINYO, *Human rights violations in the name of conservation: Case of*

The creation of protected areas void of human interference resonates with the historical roots of the creation of the first parks discussed in the initial paragraph of this section. While there is a close connection between restrictive environmental policies and cases of human displacement in the name of biodiversity conservation, Agrawal and Redford argue that there is a lack of systematic data about what happens in particular categories of protected areas, including the magnitude of such events and their impacts on the rights of women³⁸. The following section makes a contribution to the knowledge on recent cases of violence, particularly against women, in the context of ICDPs sponsored by IOs.

4. Violence and displacement against women in environmental conservation projects

Because of the inherent issues in conservation described in the above sections, it is not surprising that cases of violence against women are also present in biodiversity conservation projects. This section discusses some of the recent complaints that have escalated to the accountability mechanism of IOs.

Violence against women in ICDPs, and generally in development projects, is a matter that is more and more brought to the attention of the accountability and redress mechanisms of international organizations and BINGOs. Redress mechanisms, or GRMs, are the formal systems through which individuals and communities can lodge any grievances that arise relating to the design, implementation or assessment of projects. GRMs also have several other functions not limited to receiving complaints, they: generate public awareness about the projects through outreach activities; provide project staff with practical suggestions that allows them to be more accountable, transparent, and responsive to beneficiaries; can have an advisory function to the

Ngorongoro district, in M. MENTON, P. LE BILLON (eds.), *Environmental Defenders*, London, 2021, pp. 30-36.

³⁸ A. AGRAWAL, K. REDFORD, *Conservation and displacement: an overview*, cit., pp. 1-10.

Board of Directors of IOs; start autonomous investigations at the project level; and contribute to assessing the effectiveness of internal organizational processes. GRMs have been established in all major international organizations and funds: the WB, International Finance Corporation, United Nations Development Programme, the GCF and so on.

In certain cases, the need for the institution of a GRM was triggered by the accusation – or the potential risk of accusation – of gross human rights violations at the project level. For example, the case against the WWF concerning violations in the name of conservation perpetrated at the project level in several countries was widely shared by the media. The violations included murder, rape, and torture committed by rangers and eco-guards acting under the authority of governments. Such accusations led to the creation of an Independent Panel of Experts to conduct an independent review into WWF's position with respect to alleged human rights abuses in and around protected areas supported by WWF in Cameroon, the Central African Republic, the Democratic Republic of Congo, the Republic of Congo, Nepal and India³⁹. The work of the WWF Panel focused on the allegation against the organization, and not on the individual responsibility of the personnel who allegedly committed the crimes. In particular, the Panel's mandate was to find out if the WWF knew about the allegations, and if they had taken any steps in order to prevent, respond and remedy the abuses. The Panel found “[n]o evidence that WWF staff directed, participated in, or encouraged any alleged abuses”, and therefore, the WWF was not responsible for the actions undertaken by government personnel⁴⁰. However, following the final recommendation from the Panel, WWF is presently in the process of instituting the office of Independent Ombudsperson to deal with future issues of accountability at the project level in a timely manner⁴¹.

³⁹ WWF, *Embedding Human Rights in Nature Conservation: from Intent To Action Report of the Independent Panel of Experts of the Independent Review of allegations raised in the media regarding human rights violations in the context of WWF's conservation work*, 17 November 2020, at https://wwf.panda.org/wwf_news/wwf_independent_review_/.

⁴⁰ *Idem*.

⁴¹ WWF Office of the Ombudsperson Opens Consultation Process, at

There are several other cases concerning the violation of human rights, and in particular women's rights, that have been brought officially to the attention of GRMs of IOs in the context of environmental conservation and protected areas projects⁴². The case of the Sengwer community and the women's experience of evictions constitute the case study of a report published by Forest People International, a UK-based NGO concerned about land rights, the environment and the rights of Indigenous peoples⁴³. The report states that Sengwer people have been evicted many times from their ancestral lands and territories since the 1960s by the Kenyan Forest Service (KFS)⁴⁴. Such forced evictions have been carried out with the pretext of environmental conservation, and they had considerable impacts on the rights of Sengwer women, both because of the violent means through by the evictions were carried out, and because of the long-term consequences of displacement. The report notes that such evictions were also carried out in the context of the WB project Natural Resource Management Project (NRMP), which ran from 2007 to 2013 at Embobut. The KFS was directly involved in the project, as one of the project components was

https://wwf.panda.org/wwf_news/wwf_independent_review_/?6965391/WWF-Office-of-the-Ombudsperson-Opens-Consultation-Process.

⁴² The database Accountability Console is a tool to track the nature, scope, and status of grievances brought against international organizations and development funds. For example, filters such as "displacement" and "conservation and environmental protection" can be applied in order to obtain a list of complaints within that scope. Access the database at https://accountabilityconsole.com/complaints/?issues=3&issues=22&issues=20&year_filed=&year_closed=&min_duration=&max_duration=§ors=6.

⁴³ Forest Peoples Programme, *Sengwer Women's Experiences of Evictions*, 2016 at <https://www.forestpeoples.org/sites/default/files/publication/2016/10/sengwerwomenreportweb.pdf>.

⁴⁴ The Republic of Kenya has a long history of evictions related to environmental protection, which has also been the subject of complaints brought before the African Commission on Human and People's Rights. See also L. CLARIDGE, *Litigation as a tool for community empowerment: the case of Kenya's Ogiek*, in *Erasmus Law Review*, 2018, n. 11, pp. 57-66; L. CLARIDGE, D. KOBEL, *Protected areas, Indigenous rights and land restitution: the Ogiek judgment of the African Court of Human and Peoples' Rights and community land protection in Kenya*, in *Oryx*, 2023, pp. 1-12.

to support activities to transform the Forest Department into an accountable and semi-autonomous (KFS)⁴⁵.

Because of the forced evictions and the violence against women and other members of the community, in 2013 the GRM of the WB, the Inspection Panel, received a Request for Inspection related to the project in Kenya. The Request was sent by individuals from Sengwer communities living in four areas of the Cherangany Hills in the western highlands of Kenya, namely the Kapolet Forest (in Trans-Nzoia District), Talau and Kaipos (in West Pokot District), and Empoput Forest (in Marakwet District). The plaintiffs argued that the evictions were carried out without their FPIC, as requested in the OP 4.10, and against OP 4.12 on Involuntary Resettlement⁴⁶. The Panel found that the WB Management did not adequately implement safeguard measures to protect Sengwer people. In particular, KFS's limited and specific mandate was not taken sufficiently into account in its relationship with the affected communities⁴⁷.

Another case, also concerning violations against women's rights, displacement, and the accountability of an IOs, is the complaint against the GCF project "Bio-CLIMA: Integrated climate action to reduce deforestation and strengthen resilience in BOSAWÁS and Rio San Juan Biospheres"⁴⁸. The accountability mechanism of the GCF, the IRM, received a complaint in June 2021. The complainants alleged that this project would harm Indigenous and afro-descendant communities because of the lack of compliance with GCF policies on consul-

⁴⁵ WB, Kenya - Natural Resource Management Project, at <https://projects.worldbank.org/en/projects-operations/project-detail/P095050>.

⁴⁶ OP 4.10 and 4.12 were operational before the more recent adoption of the safeguard policies discussed in Section II b.

⁴⁷ Remedies sought and follow up are available on the webpage of the Inspection Panel concerning this complaint, at <https://www.inspectionpanel.org/panel-cases/natural-resource-management-project>.

⁴⁸ The project aims to reduce emissions by addressing deforestation in the Caribbean Region of Nicaragua; a region that covers 54% of the national territory, contains 80% of Nicaragua's forests and is home to most of the country's indigenous populations. The project areas are important for the conservation of biodiversity and the livelihoods of Indigenous and afro-descendant peoples. Project details can be accessed at <https://www.greenclimate.fund/document/bio-clima-integrated-climate-action-reduce-deforestation-and-strengthen-resilience-bosaw-s>.

tation, participation, FPIC and the gender policy. Furthermore, the complainants denounced allegations of gross human rights violations and violence against women in the project area. In fact, in the areas of Bosawás and Río San Juan Biosphere Reserves, where the project will be implemented, there are ongoing violent conflicts and Indigenous land occupations by non-indigenous settlers. According to the complainants, the locations, severity, and nature of the violence in the region included massacres, forced displacement of Indigenous and afro-descendent peoples, injury of individuals, including gender-based violence⁴⁹.

After completing the compliance appraisal process, the IRM found that there was *prima facie* evidence of adverse impacts that are or might be cause for non-compliance of the obligations set out in the GCF policies⁵⁰. Therefore, the IRM decided to proceed further with this case through an investigation, with a view to present a compliance report to the Board of the GCF. The investigation assessed, inter alia, whether indigenous and afro-descendent communities suffered increased violence, including gender-based violence, from non-indigenous settlers because of non-compliance with the GCF social safeguards, and whether afro-descendent and Indigenous communities face increased risks of expropriation of lands and resources and reduced access to natural resources. Following the compliance appraisal report, the IRM carried out an investigation and prepared a draft report, which was circulated to all the parties including the complainant(s), the GCF Secretariat, the financial intermediary (CABEI) and the government of Nicaragua for comment. Comments received were

⁴⁹ IRM, Compliance Appraisal Report Case C-0006-Nicaragua, 2022, para 26. Accessible at <https://irm.greenclimate.fund/sites/default/files/case/compliance-appraisal-report-publication-c0006.pdf>.

⁵⁰ According to the IRM report, “*The prima facie evidence assessed above shows that these recurrent violent conflicts include (1) killings of dozens of indigenous and afro-descendent peoples, (2) forcible invasions and occupation of lands titled to indigenous peoples by non-indigenous settlers, (3) disappearances of and bodily injuries to indigenous and afro descendent peoples, (4) gender based violence, including sexual assaults on indigenous and afro-descendant women and girls, (5) exposure of indigenous children to the trauma of witnessing violence on their parents and (6) damage to property*”, supra note 49, para. 35.

taken into account by the IRM and a final report presented to the Board.

However, it appears that the GCF Board decided to share this final IRM report (with findings) with some of the parties to the case (GCF secretariat, CABEI and the Government of Nicaragua) seeking a second round of comments, without sharing the final report with the Indigenous complainant(s), as demonstrated in the Board document GCF/B.34/28 of 14 November 2022 (“The Board took note of limited distribution document GCF/B.34/15”)⁵¹. Unfortunately, the GCF Board denied access to the final report to the Indigenous communities who brought the complaint to the attention of the IRM. In a recent online article, which features an interview with the former Head of the IRM, it is shown how the non-disclosure of the report constitutes a violation of the right to participate in grievance redress proceedings and the right to due process⁵². According to the interviewee, by locking out Indigenous peoples from the process, the Board did not comply with international standards and GCF policies, especially the criteria of “predictability” and “transparency” and other effectiveness criteria for redress mechanisms laid down in the UN Guidelines on Business and Human Rights.

In addition, the decision process regarding the Nicaragua case is proceeding at a snail’s pace, as the Board deferred its decision on the IRM report on two occasions, deferring its decision to the following Board meeting. It is now expected to be discussed in the July Board meeting of 2023. This inordinate delay is despite the Board’s own guidelines set for itself for dealing with such matters, which state clearly that the Board will decide on IRM case reports “expeditiously”⁵³.

⁵¹ GCF/B.34/28: Decisions of the Board – thirty-fourth meeting of the Board, 17 - 20 October 2022, available at <https://www.greenclimate.fund/document/gcf-b34-28>.

⁵² Toby McIntosh Green Climate Fund Giving Unequal Access to Report on Controversial Project, 1 May 2023, at <https://eyeonglobaltransparency.net/2023/05/01/green-climate-fund-giving-unequal-access-to-report-on-controversial-project/>.

⁵³ Para 2.1(a) of the Decision of the Board on the guidelines to facilitate Board consideration of Independent Redress Mechanism reports on reconsideration requests, grievances or complaints, accessible at <https://irm.greenclimate.fund/sites/default/files/document/bbm-2021-16-decision->

5. Way forward: accountability and gender dimension

The chapter has demonstrated how, now and again, biodiversity conservation projects promoted by IOs can act in violation of international human rights norms and the internal policies adopted by the same IOs. The accountability gap in the operations of IOs is being addressed by setting up accountability mechanisms that should address such violations and propose remedies or ways to fix issues of participation of affected people in project design and implementation. Future research would necessarily need to focus on the actual power of such mechanisms and the effectiveness of their remedies. The last case discussed, concerning the GCF Nicaragua project, rightfully points in this direction. What is the actual power of an accountability mechanism if its findings are not disclosed to the victims of the violations? Who makes an international organization accountable for violating the participatory rights of the victims in the process? How is monitoring of the implementation of the remedies ensured, and what is the role of local stakeholders in the monitoring procedure?

While these problems are complex and would need an extensive empirical and case law-based research, this chapter has made both a contribution to the consideration of the gender dimension in ICDPs, and promoted a critical reflection on the impacts that especially women are facing when violence meets environmental conservation. IOs are progressively recognizing the importance of providing a gender assessment at the early stages of project design and implementation. Such gender assessment could be reinforced and based on an unbiased opinion of external experts visiting the communities and conducting in-depth research with local civil society's stakeholders. One of the core issues inherent to internationally funded projects rely on their very supra-national nature, and in the implementation of westernized standards into local realities, which often already suffer from problems of poverty, discrimination and gender-based violence. For IOs not to exacerbate such problems through the implementation of biodiversity conservation projects and biodiversity zonings, it would be appropri-

ate to produce a comprehensive due diligence report and a robust conflict analysis prior to the start of any activities.

To have such profound reform, IOs could perhaps engage in a process of self-reflection based on the assertions of conservation critics, and re-consider how protected areas and ecological zoning should be managed in order not to perpetrate a model that is tied to the colonial past and might impact on the rights of local communities, especially on the rights of women.

6. Conclusions

This chapter has argued for the need to integrate concerns of gendered impacts of environmental conservation into discourses on the accountability of IOs involved in climate governance, environmental protection and development. After having set the international legal framework applicable to cases of gender-related displacement, the chapter reviewed the critical literature around conservation, especially concerning the interlinkages between conservation and colonialism, neoliberalism and conservation, and the issue of conservation refugees. The chapter then substantiated these theoretical claims into the presentation of selected cases concerning violence against women in ICDPs. Such cases have triggered complaints and have activated investigations by the accountability mechanisms of IOs. Finally, the chapter has proposed a reflection on the importance of establishing an accountability framework for IOs, which enables a true, and effective process to remedy human rights violations and violence against women. However, IOs should incorporate a much more robust gender analysis for each of the projects they fund at the local level, as well as engaging with the systemic issues that characterize biodiversity conservation and its colonial legacy.

Abstract

Environmental conservation projects, such as protected areas, have led in many cases to forced evictions, destruction of homes, and militarization of ecological zoning. “Conservation refugees” have existed in large numbers since colonial times, when the first national parks were instituted. The impacts of such forced and violent relocations are particularly felt by affected women. The institution of protected areas has resulted in the loss of rights and prerogatives in the use of biological resources by local communities where the gendered impact is particularly felt. This paper presents a case law review of some of the complaints that have been brought before the Grievance Redress Mechanisms (GRMs) of International Organisations, with a view to foster a reflection on the accountability of such organizations for women’s rights violations within conservation and displacement.

KEYWORDS: Displacement – conservation – gender – international organizations – grievance redress

CONSERVAZIONE E TRASFERIMENTO FORZATO:
ORGANIZZAZIONI INTERNAZIONALI, TUTELA DELL’AMBIENTE
E DIRITTI DELLE DONNE

I progetti di tutela ambientale, come le aree protette, hanno portato in molti casi a sfratti forzati delle popolazioni locali, distruzione di abitazioni e militarizzazione delle aree di protezione ecologica. I “rifugiati della conservazione” sono esistiti in gran numero fin dai tempi coloniali, quando furono istituiti i primi parchi nazionali. L’impatto di tali delocalizzazioni forzate e violente è particolarmente sentito dalle donne. L’istituzione di aree protette può comportare la perdita di diritti e prerogative nell’uso delle risorse biologiche da parte delle comunità locali in cui l’impatto di genere è particolarmente sentito. Questo contributo presenta una revisione della giurisprudenza di alcune delle denunce che sono state portate dinanzi ai *Grievance Redress Mechanisms* (GRM) delle organizzazioni internazionali, al fine di promuovere una riflessione sulla responsabilità di tali organizzazioni per le violazioni dei diritti delle donne nell’ambito della tutela ambientale.

KEYWORDS: Dislocamento – tutela ambientale – studi di genere – organizzazioni internazionali – meccanismi per la risoluzione delle controversie