

The Growth of Local Recognition in Biodiversity Protection through Other Effective Area-Based Conservation Measures. A Special Emphasis on the Arctic¹

El aumento en el reconocimiento local a la protección de la biodiversidad a través de otras medidas de conservación eficaces basadas áreas. Especial énfasis en el Ártico.

Nikolas Sellheim

nikolas.sellheim@helsinki.fi

Ph.D. in Law (University of Lapland). Postdoctoral researcher at Helsinki Institute of Sustainability Science. Editor of Polar Record journal (University of Cambridge).

Abstract: At the 10th Conference of the Parties (CoP) of the Convention on Biological Diversity (CBD) in 2010, the so-called Aichi Biodiversity Targets were adopted. In Target 11, States are to use protected areas and ‘other effective area-based conservation measures’ (OECMs) to achieve quantitative goals of biodiversity protection. However, only at CoP14 in 2018 a definition of OECMs was put in place. This paper presents how despite the absence of a definition countries and organisations have made use of OECMs in their endeavours to protect biodiversity. Focusing particularly on Arctic countries, it is shown that OECMs constitute an important tool for indigenous and local recognition and how the discourse within the CBD has made increasing reference to indigenous and local communities. It is furthermore discussed how OECMs, despite challenges of application, can contribute to a redefinition of ‘conservation’ and to the reaching of biodiversity targets 2020 and beyond.

Keywords: Convention on Biological Diversity – Aichi Biodiversity Targets – Other Effective Area-based Conservation Measures – Arctic – Indigenous and local communities

Resumen: En la 10ª Conferencia de las Partes (CoP) de la Convención sobre la Diversidad Biológica (CBD) el 2010, se adoptaron los denominados Objetivos de Biodiversidad de Aichi. En el Objetivo 11, los Estados deben usar áreas protegidas y “otras medidas de conservación eficaces basadas en áreas” (OECMs) para alcanzar metas cuantitativas de protección de la biodiversidad. Sin embargo, solo en la CoP14, en el 2018, se estableció una definición de OECM. Este artículo muestra cómo a pesar de la

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ausencia de una definición, países y organizaciones han empleado las OECM en su esfuerzo por proteger la biodiversidad. Enfocándose en particular en los países árticos, se muestra que las OECM constituyen una importante herramienta para el reconocimiento de comunidades indígenas y locales, y cómo el discurso al interior de la CBD ha incrementado sus referencias a las comunidades indígenas y locales. Además se discute cómo las OECMs, sin perjuicio de los desafíos de su aplicación, pueden contribuir a la re-definición del término “conservación” y a alcanzar los objetivos de biodiversidad para el 2020 y más allá.

Palabras Clave: Convención sobre la Diversidad Biológica – objetivos de biodiversidad de Aichi – otras medidas de conservación eficaces basadas en áreas – Ártico – comunidades indígenas y locales

1. Introduction

When driving by car through the forested northern European country of Finland, one cannot help but notice the vast amounts of forest that comprise the floral environment. 78% of the total land area of 303 919 km², meaning 237 056 km², are forests, amounting to 20-22 million hectares of forest land (Metla, 2013). Along the roads that span throughout the entire country up to its farthest northern point, where the forest gets very thin and speckled due to the sub-Arctic climatic conditions, one also notices an uncountable numbers of signs that read ‘Valtion Metsää’ – state forest. In other words, large areas of the Finnish forest are state lands, administered through the Finnish forest government agency *Metsähallitus* with all associated rights of the individual — enshrined in the so-called ‘Everyman’s Right’ to enter and use private and public lands under certain conditions — as well as with all associated issues stemming from conflicting interests pertaining to land use (Pape & Löffler, 2012). In order to protect the environment from disturbance, Section 10 of the Nature Conservation Act (Luonnonsuojelulaki) makes three distinctions of protected areas all of which can only be put into place on state-owned land: national parks; strict nature reserves; and other nature reserves. Without having to delve into the differences between these categories, it is noteworthy that the degree of utilisation is under the control of the Finnish government. All in all these three categories put almost 2 million hectares of land area under protection. Additionally, based on Section 3 of the Wilderness Act (Erämaalaki) of 1991, an additional 1,5 million hectares are protected as 12 ‘wilderness areas’, which aim to protect the ‘wilderness’ state of these areas, including the indigenous Sámi culture and livelihoods. Also these areas are managed by *Metsähallitus*. Figure 1 shows the locations of national parks and strict nature reserves in Finland.

While government-controlled protection areas are vast in Finland, there is are slightly more than 10,000 areas of privately protected areas (PPAs), amounting to 329 325 ha of protected lands. Additionally, undocumented areas that display *de facto* protection despite not officially being recognised as protected areas can be found in Finland. These areas can be those of local importance or lands that are privately owned without a clear management scheme or conservation objective. Also sacred sites of the indigenous Sámi, which are referred to as *sieidi*, fall under this category. Even though their number is uncertain (Äikiäs, 2011) and also their legal status subject to uncertainties, they have nevertheless played an important role in Sámi history and some are to this day important sites for contemporary Sámi culture and ethnic identity. These sites can be found all over northern Finland. Figure 2 shows that they, however, are by no means located within nature protection areas.

A particular telling example in this regard is the island of Äijih/Ukonsaari which is located in Lake Inari in northern Finland. The island is just outside the Vätsärin Wilderness area and within the Inarijärvi Natura 2000 site. These sites were established by the governments of the European Union in 1992 and comprise a network of protected areas throughout the European Union. This initiative is based on the 1979 Bird Directive and the 1992 Habitats Directive, which require EU Member States to implement protection measures for specific areas. Linked together, a EU-wide network was established – Natura 2000. While this is the case, Natura 2000 sites are not nature reserves that exclude human activity. Instead, biodiversity conservation and utilisation of resources follows stringent guidelines. In order to avoid conflicts between conservation and utilisation, much of the land comprising Natura 2000 sites is privately owned (Sundseth, 2008).

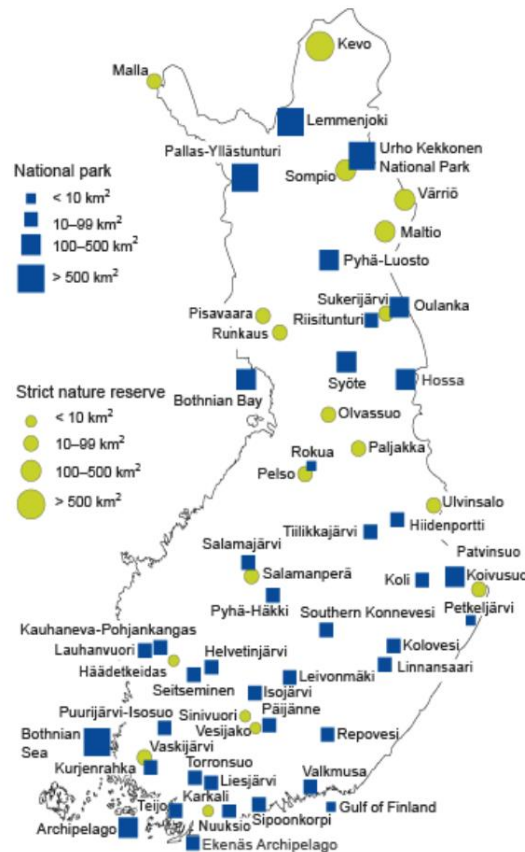


Figure 1: National parks and strict nature reserves on 1 January 2018. © Metsähallitus & National Land Survey of Finland, 2018.

Inarijärvi does not have a management plan and thus no concrete conservation objective, which reflects onto the integrity of some sites. In the past, Äijih was a *siidi* and also today still constitutes an important site of worship for the local Sámi people. However, the area has also attracted many tourists in recent years due to its stunning natural beauty. Also Äihji was thus discovered as a tourist attraction which has led to soil erosion and new, unnatural paths created by tourists. In order to prevent the island from further damage, *Metsähallitus* built piers and stairs, which, in turn, negatively impacted the status of a sacred site for the Sámi. Even though well-intended, the local Sámi, the Sámi Museum *Siida* as well as *Metsähallitus* discussed the possibility of removing the stairs and the pier. However, this would infringe upon the right of free access provided by Finnish law. After all, the island in question is public land (Ojanlatva & Neumann, 2018). The plans were therefore not implemented.

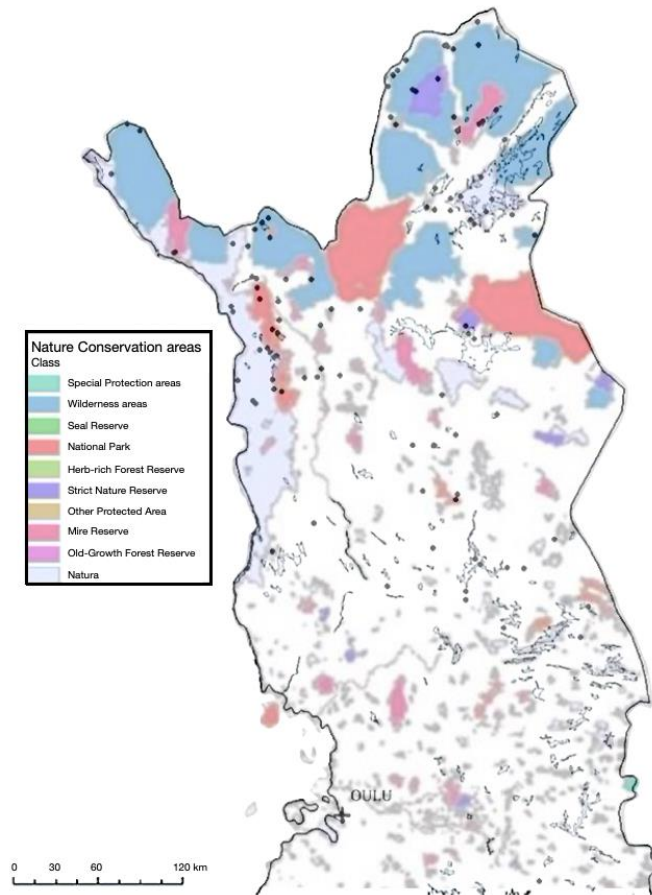


Figure 2: Nature Conservation areas and Sámi Sacred Sites. Maps from Äikäs (2011, p. 17) and Fitzgerald (2013, p. 10) merged and edited by author.

The dilemma of protecting the interests of the Sámi and the interests of the Finnish people as manifested in law rise to the fore here. Moreover, the designation of Äijih as a site shielded from human activity would possibly also negatively impact the local community since it heavily benefits from tourist activities in the region. The question thus arises, which path is the safest to trod in order to safeguard the interests of all rights holders involved. This article discusses other means of biodiversity protection that go beyond those implemented by the nation state: conserved areas which, in the context of the 1992 Convention on Biological Diversity (CBD), are referred to as 'other effective area-based conservation measures' (OECMs).

2. Applying 'other effective area-based conservation measures'

2.1. The History of the Concept

In 1999 the intergovernmental Arctic Council (AC), consisting of the eight Arctic states – Canada, Denmark/Greenland, United States, Russian Federation, Finland, Sweden, Norway and Iceland – as well as six indigenous organisations called the Permanent Participants – Aleut International Association); Arctic Athabaskan Council; Gwich'in Council International; Inuit Circumpolar Council; Russian Association of Indigenous Peoples of the North (RAIPON); and Saami Council – met in Yellowknife, Canada, to discuss the protection of the Arctic biodiversity as part of the regular meetings of AC's Conservation of Arctic Flora and Fauna (CAFF) Working Group (see also Keskitalo, 2004). At that meeting it was decided to support a proposal brought forward by RAIPON to carry out a project on the status of indigenous sacred sites in Arctic Russia, namely in Yamal-Nenets Autonomous Okrug and in Koryak Autonomous Okrug. The report was released in 2004, highlighting that for the sake of conservation of biodiversity, also indigenous sacred sites should experience a higher degree of protection given the intimate relationship of indigenous peoples to their sacred sites, translating into high resiliency and a high degree of biodiversity conservation outcomes (CAFF, 2004).

The link between indigenous sacred sites and high levels of biodiversity conservation have been established frequently. Jonas et al. note that even though not all areas of importance to indigenous and local peoples display a high level of biodiversity protection, it is nevertheless “a sufficiently widespread phenomenon to merit consideration” (Jonas et al., 2014, 114). The international community has not been shielded from these findings and throughout the first decade of the 2000s, a discourse on biodiversity protection beyond the confines of state-controlled protected areas has emerged. After all, as is the case with the sacred sites in Arctic Russia, there are large areas of land which show *de facto* biodiversity protection, but which are not registered anywhere as being areas relevant for biodiversity conservation.

The normative recognition of these areas went hand in hand with the development of the Strategic Plan for Biodiversity for 2011—2020, concluded at the 10th Conference of the Parties (CoP) of the Convention on Biological Diversity (CBD) in Nagoya, Japan, in 2010, which included the so-called Aichi Biodiversity Targets (CBD, 2010). The Aichi Biodiversity Targets are a set of 20 targets, subdivided into five Strategic Goals: Strategic goal A. Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society; Strategic goal B. Reduce the direct pressures on biodiversity and promote sustainable use; Strategic goal C. Improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity; Strategic goal D. Enhance the benefits to all from biodiversity and ecosystem services; Strategic goal E. Enhance implementation through participatory planning, knowledge management and

capacity building. Under Strategic Goal C, Target 11 is located, which directly addresses the issue above. The target reads in full:

By 2020, at least 17 per cent of terrestrial and inland water areas, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and **other effective area-based conservation measures**, and integrated into the wider landscapes and seascapes. (own emphasis)

Target 11 thus makes clear that protected areas are not the only means to achieve terrestrial and aquatic biodiversity protection. Indeed, it is ‘other effective area-based conservation measures’ (OECMs) which can contribute their part on equal footing with protected areas to reach this target. However, since the CBD in Article 2 (‘Use to Terms’) merely defines ‘protected areas’ as well as ‘ex-situ’ and ‘in-situ’ conservation and also the IUCN had up to the point of the inclusion of OECMs not defined this concept, it was unclear what OECMs meant in practice (e.g. Laffoley et al., 2017).

2.2. A Practice of Indigenous and Local Recognition in the Convention on Biological Diversity

Even though up until CoP14 in 2018 the CBD had not defined OECMs, the great contribution of indigenous and local interests within the context of biodiversity, has been part and parcel of the discourse at CBD CoPs since the very beginning. Using the *Atlas.ti*® document analysis software, the occurrence of the terms ‘indigenous and local communities’; ‘article 8 (j)’ and ‘article 10 (c)’, both of which protect the practices and knowledge of indigenous and local communities within the CBD; ‘sacred sites’, ‘traditional knowledge’; ‘traditional practices’; ‘other effective area-based conservation measure’, and ‘protected area’ were coded in the available reports from all CoPs on the website of the CBD. Since, at the time of writing, the report of CoP14 is merely in its draft stage, it was not included in the analysis. Not surprisingly, the term ‘other effective area-based conservation measure’ appears for the first time in the report from CoP10, one more time in CoP11, not at all in CoP12, but 19 times in the report from CoP13 in 2016. In 2014, Jonas et al. wrote that “despite four years having passed since COP10, the continuing effort invested in developing guidance for protected areas [...] has not been matched by a similar focus on OECMs [...]” (Jonas et al, 2014, 111). The low occurrence of OECMs within the documented CoP discourse *vis-à-vis* the prominence of the term ‘protected area’, which occurred 531 times in the same reports further solidifies this claim. Conceptually, therefore, OECMs have merely started to emerge on the CBD’s agenda since CoP13. Indeed, at CoP14 in 2018, which the author attended, a definition of OECM was finally adopted as per Decision 14/8 on *Protected areas and other effective area-based conservation measures* (CBD, 2018a), which we will deal in more detail with below.

However, this does not mean that the parties have effectively shunned out any consideration of indigenous and local practices. To the contrary, as Figure 3 documents. We must note that, for the sake of convenience, the coding of ‘traditional knowledge’ and ‘traditional practices’ was merged into the acronym ‘TKTP’. ‘Indigenous and local communities’ are represented by the acronym IPLC. Using the two most prominent codes for ‘IPLC’ and ‘TKTP’ we can see that the discourse on indigenous and local communities has been steadily increasing throughout the CoPs despite the fluctuations of the terms within the reports. The sharp drop in the report following CoP7 is explainable since the available report on the website of the CBD does not include the decisions that were taken at the meeting.

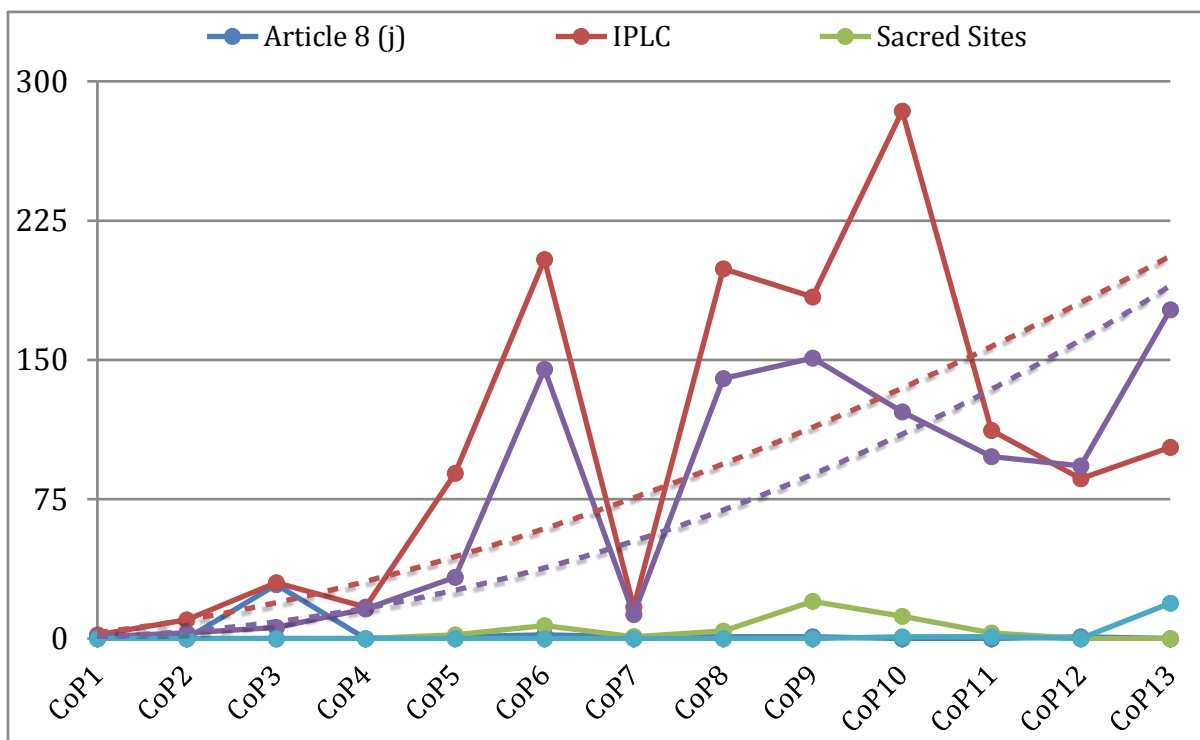


Figure 3: Occurrence of terms in CBD CoP Reports.

Generally, the terms ‘indigenous and local communities’, ‘traditional knowledge’ and ‘traditional practices’ have numerically steadily increased since CoP1. We must bear in mind, however, that reporting techniques and technologies may have changed over time and with changing reporting personnel. This is best reflected in the lengths of the reports, which have shown significant fluctuations since CoP1, as Figure 4 demonstrates.

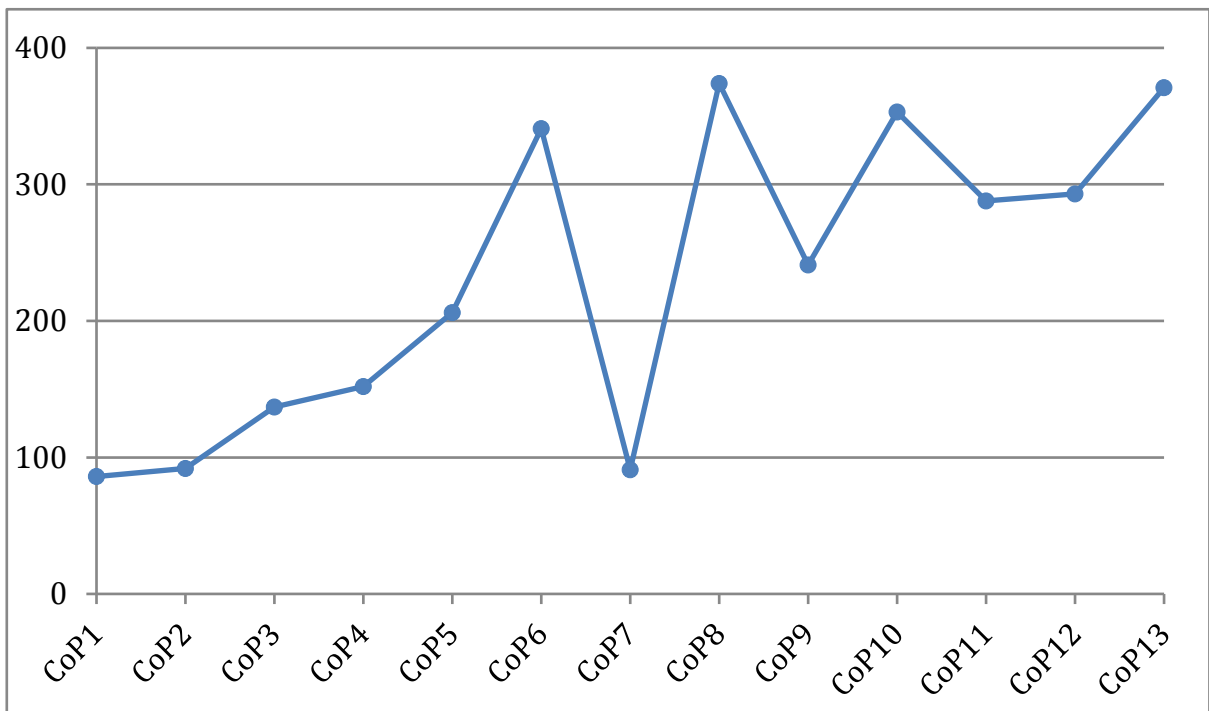


Figure 4: Length of CBD CoP Reports

In order to determine in how far some terms have been used within the reports that are closely associated with indigenous and local communities — in this case ‘indigenous’, ‘local’ and ‘traditional’ — it was determined what the percentage of the terms within the reports was and whether a discernible trend as regards their percentile occurrence can be noted. Figure 5 shows that even though there are fluctuations, their occurrence has increased irrespective of the length of the respective reports. However, once again a drop in the report of CoP7 can be noted for the reason mentioned above.

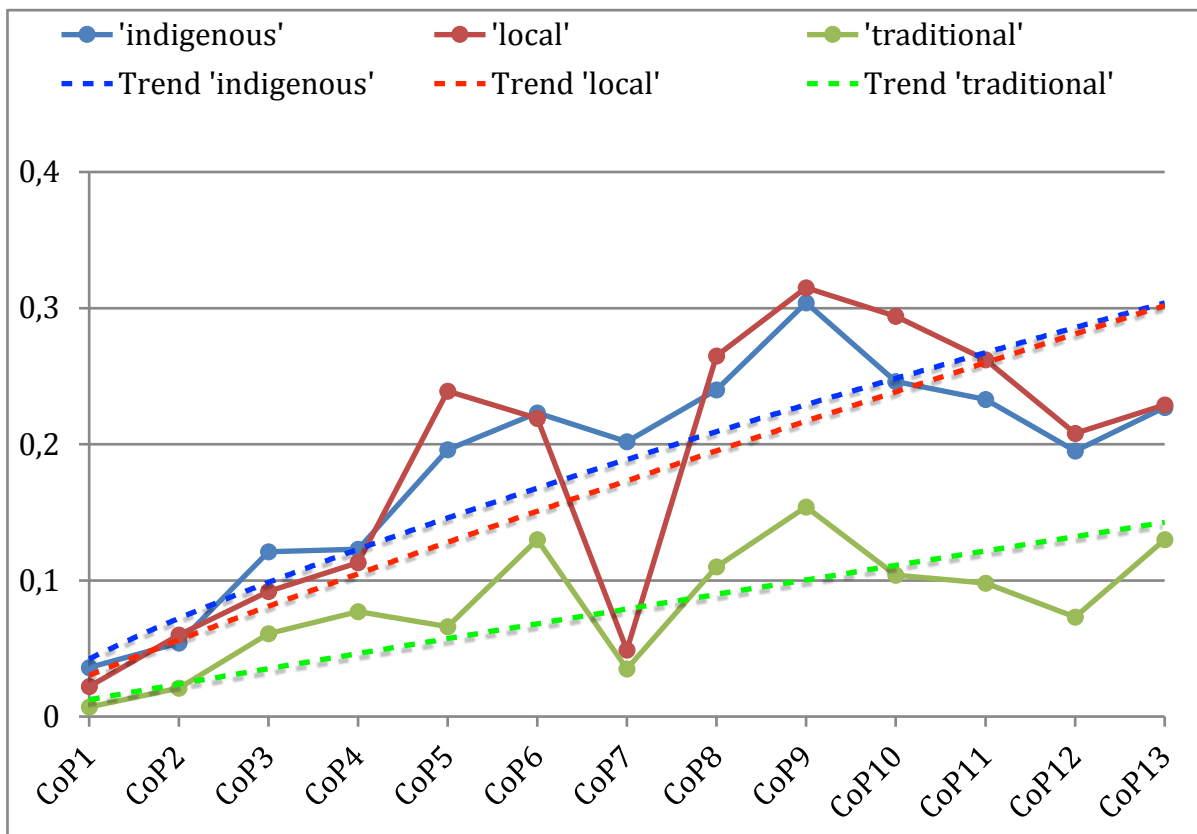


Figure 5: Percentage of terms in CBD CoP Reports.

An official definition of OECMs was decided upon at CoP14 in November 2018 while at CoP13 for the first time ‘other effective area-based conservation measures’ played a rather important role, as can be gathered from the meeting's report. Even though at the time of writing the report of CoP14 is still in its draft stage, the author noted at the meeting that OECMs were a rather prominent topic. This is probably best reflected in the number of side events that directly dealt with OECMs, which amounted to 5 out of 245 side events. While this does not appear much, it must be borne in mind that CoP14 was also the 9th Meeting of the Parties (MoP) of the Cartagena Protocol and the 3 MoP of the Nagoya Protocol. 245 side events over a course of two weeks thus dealt with a plethora of issues relevant for the CBD and its protocols. 5 side events on OECMs and an additional one on privately protected areas are thus a good sign for OECMs having entered the overall discourse at the CBD from theoretical understanding to practical application of this

concept. A list of side events at CoP14 can be accessed at <https://www.cbd.int/side-events/>. Unfortunately it is not possible to access the list of side events at CoP13 in order to determine whether OECCM-related events have increased since then.

2.3. Arctic recognition of 'other effective area-based conservation measures'

It is noteworthy that in the Arctic, particularly within the Protection of the Arctic Marine Environment (PAME) Working Group under the Arctic Council, it is recognised that protected areas and 'other area-based conservation measures' do not exclude, but complement one another. This means that for PAME "Arctic MPA [marine protected area] networks are comprised of both MPAs and 'other area-based conservation measures' [...] that contribute to network vision and goals" (PAME, 2017, 3). This vision for a network of marine protected areas was expressed in 2015:

An ecologically connected, representative and effectively-managed network of protected and specially managed areas that protects and promotes the resilience of the biological diversity, ecological processes and cultural heritage of the Arctic marine environment, and the social and economic benefits they provide to present and future generations (PAME, 2015, 6).

Even though PAME acknowledges that the concept of 'other area-based conservation measures' is still under development, for the purposes of an MPA network in the Arctic, the term refers to "place-based / spatial conservation measures that have some protection under national or subnational law or policy, or regional management regime, but do not meet the IUCN definition of an MPA" (Ibid., 12). Although a working definition, it is nevertheless fully integrated into the *modus operandi* of MPA-network development. PAME's work, therefore, does not wait for the international community to develop a definition of OECCMs, but rather takes the concept and adjusts it in order to fulfil its own vision. As Figure 6 shows, OECCMs — or in the PAME-context rather OECMs — are fully integrated into the working structure of the working group. However, since at CoP14 a definition for OECCM was adopted, PAME may have to revisit its approach in the future.

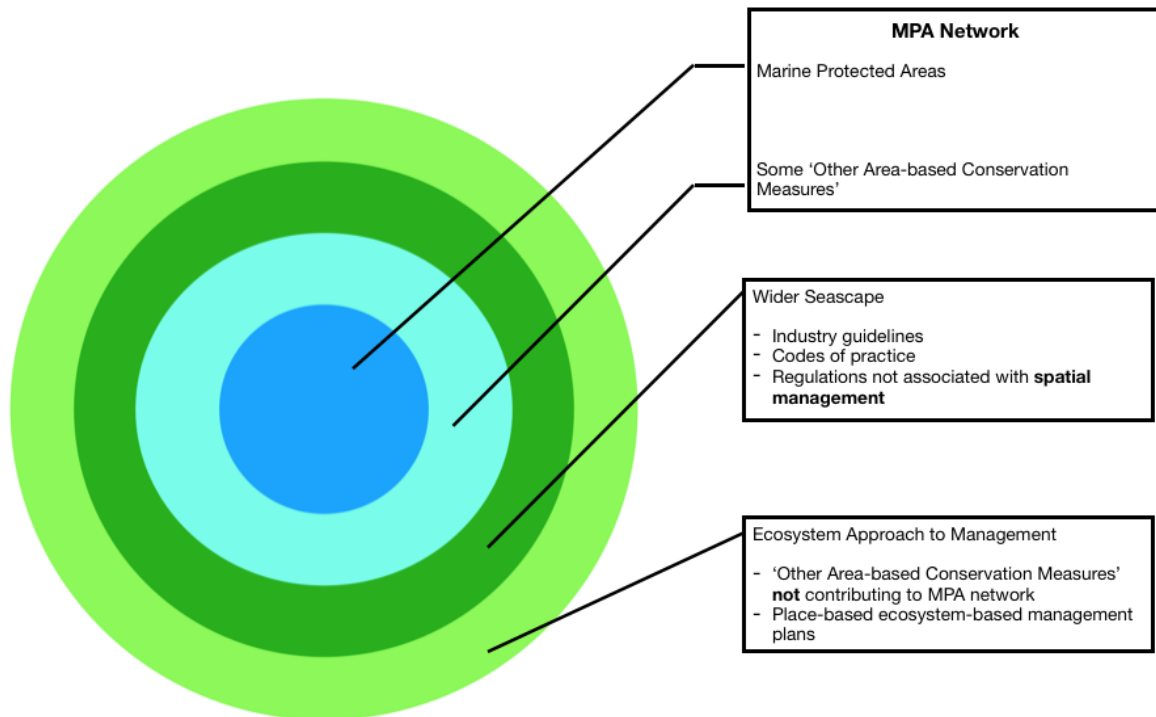


Figure 6: Relationship between MPAs, “other area- based conservation measures,” wider seascape and an ecosystem approach to management. Adapted from PAME (2015, 12).

Also for terrestrial areas the call for the recognition of areas that are not designated as protected areas in order to reach Aichi Target 11 is emphasised. As we have seen above, for example concerning the abundance of Sámi sacred sites in Finland, the potential for wider areas to be considered areas with successful biodiversity outcomes is great. However, the politics of recognition of Sámi rights within Finland are controversial (Banks & Koivurova, 2013), making the recognition and ultimately protection of Sámi sacred sites — or the recognition of Sámi stewardship systems of these sites — of currently unrecognised sites rather unlikely. This being said, in the Barents Region — a region spanning from northwestern Russia via northern Norway, northern Finland to northern Sweden along the shores of the Barents Sea — experts are now calling for the inclusion of high conservation value forests (HCVF) into the Barents Protected Area Network (BPAN) (Kuhmonen et al, 2017). This, in essence, follows the trend set by PAME, mentioned above. Even though Sámi sacred sites are not explicitly mentioned, OECCMs are (Ibid., 4). Consequently, also unrecognised Sámi sacred sites that, for whatsoever reason, have shown positive conservation results should

potentially be included in the BPAN. In Finland this would mean that the principles by which protected areas are managed would have to be updated. After all, the current principles do not recognise OECMs as a category (Metsähallitus, 2016).

Looking at the Arctic, at the time of writing merely Norway and Denmark have ratified the ILO Convention while all but Russia now support the UNDRIP. In November 2018, all Arctic states abstained from the vote on the Declaration on the Rights of Peasants in the Third Committee of the UN General Assembly while Sweden even opposed it. It cannot be ascertained at this point why the countries have shown this voting behaviour, which appears particularly surprising given the large peasant populations in the Arctic countries — particularly in the Nordic countries. However, with this in mind, also as regards the reluctance of Arctic states to ratify the ILO Convention, a formal recognition of ICCAs as a conservation tool would lead to somewhat contradictory legal situations: on the one hand, indigenous and local people(s) are recognised as usufructs of particular lands and are thus stakeholders in biodiversity protection; on the other, they are not fully recognised as rights holders under the three aforementioned agreements. In how far this issue is resolvable remains to be seen. It is possible, however, that the Arctic Council and its working groups further pick up on this issue and integrate OECMs and associated rights of their stewards into their working structures.

Leaving aside legal issues related to indigenous and local populations, the IUCN provides a more general idea of how OECMs can contribute to reaching Target 11:

OECMs can contribute to the achievement of Target 11 in many ways, e.g., conserving important ecosystems, habitats and wildlife corridors, supporting the recovery of threatened species, maintaining ecosystem functions and securing ecosystem services, enhancing resilience against threats, and retaining and connecting remnants of fragmented ecosystems in developed areas. OECMs can also contribute to ecologically representative and well-connected conservation systems, integrated within wider landscapes and seascapes (IUCN, 2018, 11).

In 2015, Canada adopted its *2020 Biodiversity Goals and Targets for Canada* in which OECMs are explicitly mentioned in Target 1 (Canada, 2015a). In the *Operational Guidance Identifying 'Other Effective Area-Based Conservation Measures' in Canada's Marine Environment* the criteria these OECMs have to fulfil are identified: they must 1. have a clearly defined geographic location; 2. have conservation or stock management objectives; 3. have a presence of ecological components of interest; 4. Have long-term duration of implementation; and 5. its ecological components of interest are effectively conserved. Contrary to Canada's Marine Protected Areas, which are fully barred from human activity, OECMs in the Canadian context enable human activity as long as it does not jeopardise its conservation objective. In order to accommodate the interests of different stake- and rights holders, indigenous and local communities play a vital role in the determination of Canadian OECMs. Any future long-term management approach is adaptive to include different interests. If these

interests and associated activities cannot be reconciled with the purpose of the OECM, it will be removed from the list.

In order to recognise those areas and not leave it to individual countries and organisations to define and apply the concept, a new category was consequently necessary on the international level. The addition of OECMs to the Aichi Biodiversity Targets thus results in two developments under the CBD, which are worth mentioning: first, while protected areas still constitute the mainstay of contemporary biodiversity protection initiatives, CBD parties fall short in reaching Target 11. OECMs consequently enable CBD parties to get several large steps closer to reaching the target. Second, the insertion of OECMs is also a means to further implement Articles 8 (j) and 10 (c) of the CBD. These two articles constitute core articles for the recognition and consideration of indigenous and local communities. Article 8 (j) requires states to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity [...]”. At the same time, Article 10 (c) requires parties to “[p]rotect and encourage customary use of biological resources in accordance with traditional cultural practices [...]”. In other words, already at the point of the conclusion of the CBD, the relevance of indigenous and local practices for the purposes of biodiversity conservation had been recognised even though the drafters failed to conceptually include this in the text of the convention.

3. CoP14: Definition and Application of 'other effective area-based conservation measures'

The above demonstrates that the discourse on biodiversity conservation has increasingly taken into account indigenous and local populations. While it goes beyond the scope of this paper to determine the exact nature of this discourse, the inclusion of ‘other effective area-based conservation measures’ into Aichi Target 11 — albeit the inertia to move forward on this issue in the years after 2010 — indicates that on a normative level those areas that are regulated for purposes other than conservation and by entities other than the nation state can play an important role in reaching the objective of the CBD. In order to understand this new concept better, it is now imperative to look into OECMs themselves a bit closer.

As per Decision 14/8 on *Protected areas and other effective area-based conservation measures*, ‘other area-based conservation measures’ are defined as

a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity,

with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values (CBD, 2018a, para 2).

From this definition we are able to see the diversity of potential areas the concept brings about. The IUCN World Commission on Protected Areas (WCPA) differentiates between several different types of OECMs, ranging from ancillary intention to protect biodiversity, via secondary to primary intention to protect biodiversity (IUCN, 2018, 15). The first category encompasses sacred sites, war graves or any other ‘no-disturbance’ area on public lands other than protected areas. Secondary areas are areas regulating low-impact use, watershed protection areas or ecosystem service-related wetlands. Lastly, ICCAs or privately governed areas that are not recognised as a protected area but which serve primary conservation objectives are also considered OECMs.

Even though in its annexes the 2018 Decision does provide for some guidance on how to define and apply OECMs, some core challenges remain, which we will explore further below. Yet, particularly problematic in the composition of the term itself is the notion of ‘effectiveness’. Annex III provides for criteria that determine the effectiveness of OECMs:

The area achieves, or is expected to achieve, positive and sustained outcomes for the *in situ* conservation of biodiversity; Threats, existing or reasonably anticipated ones are addressed effectively by preventing, significantly reducing or eliminating them, and by restoring degraded ecosystems; Mechanisms, such as policy frameworks and regulations, are in place to recognize and respond to new threats; To the extent relevant and possible, management inside and outside the other effective area-based conservation measure is integrated (CBD, 2018, 12).

While *prima facie* providing for some guidance, this does not enable the application of concrete indicators to measure effectiveness. The ‘management effectiveness tracking tool’ (METT) or the Rapid Assessment and Prioritization of Protected Area Management Methodology (RAPPAM), for instance, are means to determine the effectiveness of protected areas by focusing on management strategies and specific inputs to determine biodiversity outcomes. In light of the recent definition and associated characteristics of OECMs, indicators for their effectiveness must inevitably be different ones. Two reasons stand out that justify a different set of indicators and different approaches towards measuring OECM effectiveness: first, the areas in question are managed not to achieve biodiversity conservation, but for other reasons. Therefore, the management should not be under scrutiny, but rather the outcome. Second, in the context of ICCA’s ‘management’ analysis does not necessarily correspond to the traditional ways of interacting with the environment given that other factors such as religious or socio-cultural ones are at play. In other words, when assessing the effectiveness of OECMs, social issues must play an important role in the assessment tools. METT and RAPPAM, however, merely consider social issues on a superficial level (Franks & Small, 2016, 19). Although at CoP13 Decision XIII/28 explicitly deals with *Indicators for the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity*

Targets (CBD, 2016), specific indicators for OECMs are absent from this decision. This shortcoming is ever more important in light of the fact that also reporting of the effectiveness of protected areas does not follow a global system and states have applied different methodologies to measure and assess their effectiveness (Borrini-Feyerabend et al, 2016; see also Schreckenberget al., 2016). To this end, the development of tools to measure effectiveness of OECMs is, at the time of writing, still underdeveloped. At CoP14, the issue was taken up, however. Even though there is still no comprehensive mechanism for effectiveness assessment or reporting of OECMs, Decision 14/16 on *Methodological Guidance Concerning the Contributions of Indigenous Peoples and Local Communities* (CBD, 2018b) provides a hint towards what sort of indicators the assessment is to take into account. While not exclusively referring to OECMs, the Annex in paragraphs (n) and (o) refers to ‘area-based assessments’ that therefore also related to OECMs. Paragraph (p) calls for the development of indicators while paragraph (q) refers to the “conditions of *successful outcomes*” (own emphasis). Paragraphs (n) to (p) speak for themselves and are thus worth citing in full:

(n) Consider area-based assessments that focus on the lands and resources owned, occupied or used by indigenous peoples and local communities, and on specific components of biodiversity, such as species occurring across habitats and which are subject to collective action;

(o) Consider, taking into account national technical and sustainability capacities, the use of various forms of geospatial analysis for area-based assessments, in a way that combines technological tools with traditional knowledge, and seek to make them accessible to the communities, with their direct involvement;

(p) Advance the development of robust sets of indicators and metrics systems for the assessment of collective action, combining indicators of different types – quantitative and qualitative, process and outcome, single and aggregate, etc. — and integrating culture-based indicators that reflect the value systems of the communities and the particularities of the contexts, also noting that use of consistent indicators over time will enable comparisons at temporal scales and that establishing a baseline allows for a greater assessment of changes or trends;

From the above we therefore see how the consideration of effectiveness of area-based conservation does not merely have management implications, but is rooted in a deeper human-environment relationship of indigenous and local peoples. Consequently, indicators should not neither be anthropocentric nor biocentric in order to truly reflect the diverse effectiveness of OECMs. In this sense, a link between environmental indicators and human development indicators must be established in order to fully capture the nature of the socio-ecological systems within ICCAs or in other areas populated by indigenous or local peoples with positive conservation outcomes.

4. The Contribution of 'other effective area-based conservation measures' to the Aichi Targets: Challenges and Benefits

Aichi Target 11 sets the ambitious goal of protecting at least 17% of terrestrial and 10% of coastal and marine areas by 2020 in order to halt biodiversity loss. In light of the inert advancement of a definition of OECMs, the primary focus to achieve this target was put on protected areas, which, according to the latest data, amount to 245,449 protected areas, corresponding to 14,9% of the land surface and 7,47% of marine areas. The latter comprises two separated datasets: on the one hand, 17,3% of areas in national waters are protected while merely 1,2% of areas beyond national jurisdiction (ABNJ) are protected (UNEP et al., 2018, 6). Target 11 is consequently difficult to attain with protected areas alone and OECMs can play a crucial role in contributing to goal attainment.

Beyond the quantitative targets, OECMs moreover contribute to a qualified dimension of Aichi Target 11 because they can contribute to a more equitable representation of conserved areas as regards their ecological representation and their management approach. Along with this come contributions to the implementation of articles 8 (j) and 10 (c) of the convention, which strengthen the rights of indigenous and local communities in biodiversity conservation. Additionally, OECMs enable the embedment of protected areas into a wider and more ecosystem-based approach to land- and seascapes. This, in turn, modernises the overall approach to protected areas and may positively contribute to reconciliation processes in areas where protected areas have caused hardships for local communities (e.g. Andrade & Rhodes, 2012).

A significant challenge in the definition and application of OECMs lies in the details of this new concept. One such example refers to areas on private lands. Since private lands are not managed by state authorities, one might quickly jump to the conclusion that protected areas on private lands also constitute OECMs. As Mitchell et al. make clear, this is not the case since once a privately protected area has been put in place with a concrete conservation objective, it no longer classifies as an OECM. The differentiation does not appear of utmost importance at first sight, but since the discussions surrounding post-2020 targets have been on the way in which protected areas and OECMs will be treated differently, a differentiation is of necessity (Mitchell et al., 2018). In order to make a normative differentiation between these concepts, Mitchell et al. note that a privately *protected* area (PPA) is indeed a protected area and should be handled accordingly, while a privately *conserved* area (PCA) is an OECM. The distinction cannot be made easily and more work is necessary to develop a toolbox for determining the category to which areas that display biodiversity conservation on private lands belong. Based on case studies from Australia and South Africa, Mitchell et al. conclude:

Common features of PPAs in the two countries include a high level of legal protection and a primary purpose of biodiversity conservation. OECMs may have one of these but not both (i.e. they may have a high level of protection but biodiversity conservation is ancillary, or biodiversity may be the primary focus but the legal protection mechanism used is weaker and lacks a long-term duration) (Ibid., 57).

Most problematic in the recognition of OECMs on a national level are, however, funds to (1) enable recognition in the first place; (2) to assess and monitor them; and (3) to ensure their longevity. Additionally, and in particular as regards ICCAs and other areas of indigenous and local importance, is the legal framework under which they are being considered. This, in other words, requires that the state provides the legal framework for the rights of indigenous and local people(s). Three international agreements stand out in this regard. First, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; the UN Declaration on the Rights of Indigenous Peoples (UNDRIP); and the Draft Declaration on the Rights of Peasants and Other People Working in Rural Areas, which was recently approved by the Third Committee of the UN General Assembly and which will be presented for adoption to the General Assembly in its meeting in 2019. All three agreements serve to empower indigenous and local people(s) and thus to strengthen their proprietary and usufruct rights to land. Moreover, states are furthermore required to ensure access to an unspoilt environment for the rights holders under these agreements. Even though merely one — ILO Convention 169 — is legally binding, the declarations nevertheless encompass rights that can also be found in other agreements that are legally binding, such as the 1966 Covenants.

Looking at OECMs in this context, OECMs provide for significant opportunity to link indigenous/local rights to land, culture and livelihoods *and* ensure biodiversity conservation. As Dudley et al. note, this link redefines the overall tenet of ‘conservation’ (Dudley et al., 2018). The underlying assumption is, naturally, that human activity is sustainable and does not undermine the past, present and future conservation-potential of the OECM. This possibility provides OECMs with a great advantage *vis-à-vis* protected areas since they, generally speaking, pay more regard to the interests of the local populations than protected areas. Fisheries management, for example, can contribute to the reaching of Aichi Target 11 when it is established as a long-term means that protects both the marine ecosystem in a specific as well as regulates fishing activities therein. In order to achieve this, however, it must be made sure that nutritional, economic and other needs of the local communities dependent on fisheries in the area are met. In other words, fisheries management in an OECM is not just to reduce harm by limiting the utilisation of a target species, but rather by increasing benefit for both fishers and the environment. By declaring a fisheries management area an OECM, the underlying approach must therefore be to make this area an opportunity for both fishers as well as biodiversity and to strengthen the sustainable use / biodiversity nexus. The objectives for fisheries within an OECM must therefore be realistic and not contrary to the interests of the fishers. This implies that management agencies as well as rights- and stakeholders to a potential OECM are adequately consulted and integrated.

The benefits arising from OECMs are manifold. For the marine environment, successful OECMs contribute to species abundance and increase in the biomass of the ecosystem in case species have been depleted in the past. Successful OECMs furthermore contribute to safeguarding and maintaining healthy species and populations which in the end benefit resource users. This in turn contributes greatly to the overall health of the marine ecosystem and allows for the reduction of fishing pressure and accompanying recovery of previously degraded ecosystems. When part of an OECM, fishers may also benefit on a larger scale on the market for fish products. After all, OECMs are a ‘green’ management tool that takes into account humans and the environment, following human rights standards and international environmental law.

In order to achieve Target 11, OECMs are a means that is both backward- and forward-looking, constituting a progressive approach that can be considered potentially more efficient than protected areas — at least those protected areas that have a history of indigenous or local interaction with it. After all, OECMs are comprehensive and link human and environmental interests. Declaring an OECM is therefore not a means to just ‘boost’ a state’s standing *vis-à-vis* Aichi Target 11, but rather constitutes a long-term effort to secure biodiversity protection and sustainable use of biodiversity — in other words to reach the objective of the CBD.

The challenges encountered when determining an OECM are multifaceted. As regards governance, OECMs require a high degree of capacity-building for effective management and high-level protection. To ensure this, also threats and pressures from outside the OECM need to be determined and mitigated, which may result in overlapping jurisdictions and competing governmental and societal interests. A key challenge that needs to be tackled is therefore a high level of communication on ecosystem services and cultural importance of an OECM — both inside and outside the area in question. Given the diverse nature of OECM, nation states must consequently develop means and ways of reporting their success. At the same time it must find ways that adapt the management scheme to changing socio-environmental conditions.

5. Finland and ‘other effective area-based conservation measures’

With this in mind, let us now return to Finland. When driving through the country, the signs of state forests are visible on a regular basis. Large stretches of land are therefore administered by the Finnish state. On these lands, one often finds signs indicating that particular areas are a ‘Luonnonsuojelualue’ (nature protection area) or even a ‘Kansallispuisto’ (national park) — visible beacons of Finland’s determination to protect the environment and with these to ensure that at least 17% of Finland’s lands will be protected by 2020. But we find more signs along the roads and in the forests, such as ‘Yksityinen alue’ (private area). As we have seen above, when standing in front of such sign, it is possible that one looks at a *de facto* protected

area that might qualify as an OECM, but that is nowhere registered or documented as a means to reach Target 11.

The latest available information on protected areas in Finland does not yet include the definition and/or practical application of OECMs in the country. Merely the strictly defined different types of ‘protected areas’ are considered, leaving out important sites that could be designated as OECMs (Metsähallitus, 2016). This also encompasses sites that have played an important role for the indigenous Sámi or other local communities and that have *de facto* remained rather undisturbed in the sense as they still display high degrees of biodiversity despite human activity on them. As we have seen in Figure 2 above, sacred sites of the Sámi are by no means located in designated nature conservation areas. Even though a site like Äijih is located within a Natura 2000 site, this does not mean that the area displays positive conservation outcomes. However, since protective regulations for Natura 2000 sites extend beyond their set boundaries (Ibid., 126), sites that could qualify as OECMs gain ever more importance to establish a coherent network of protected and conserved areas, potentially enabling Finland to reach its biodiversity targets by 2020.

6. Conclusion

Even though ‘other effective area-based conservation measures’ have officially been defined only at CoP14 of the CBD in 2018, they have been on the conservation agenda significantly longer. While they were conceptually introduced in 2010 as part of Aichi Target 11, their role in biodiversity protection has been recognised at least since the 1990s when the Arctic Council initiated its Sacred Sites project through its CAFF Working Group.

Throughout this paper it was shown that the recognition of OECMs is one result from the increasing recognition of indigenous and local interests within the context of the Convention on Biological Diversity. It was even argued that OECMs provide yet another tool for the adequate implementation of articles 8 (j) and 10 (c) of the convention since ICCAs and other sites of importance now have the possibility to be formally recognised by the parties to the CBD. This, in turn, leads to difficulties concerning the legal status of these areas and the rights and duties of their stewards. This is particularly the case in the Arctic countries which show deficits in the ratification and support for important international agreements strengthening indigenous and local rights.

This being said, this article has also demonstrated that the normative recognition of OECMs has taken place despite associated challenges and inertia of recognition. The Arctic Council’s working groups, and in particular CAFF and PAME served as examples for the inclusion of OECMs into working procedures, following working definitions that can be adjusted based on international definitions. Also Canada has

demonstrated that it is able to move forward in the utilisation of OECMs despite the concept's blurriness on the international level.

Even though the concept of OECMs is a laudable effort to link biodiversity conservation and human rights — thus ultimately re-defining the notion of 'conservation' — it does not come without challenges. These lie particularly in the designation of specific OECMs and the linking with other protected and conserved areas.

As is the concept of OECMs, research on these areas is still in its infancy. More research is needed on their legal status in domestic and international law; the rights and duties of its stewards; and their effectiveness compared to that of protected areas. Only then it is possible to decipher in how far Äijih or other traditional Sámi areas of particular importance have a stable and sustainable legal status, and can effectively contribute to biodiversity conservation.

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