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## Indigenous Co-Stewardship and the “Rashomon Effect”

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### INTRODUCTION

Situations are observed and interpreted through a lens influenced by the observers’ knowledge and experience framed by their traditions, culture, and worldview. It is not uncommon nor unexpected for different individuals or communities to interpret shared data, information, and outcomes in different and perhaps conflicting ways. In such circumstances where effective and equitable decision-making relies on meaningful, transparent, and robust consultation among the parties involved, particularly with regard to co-stewardship of protected areas involving Indigenous governments and federal management agencies, some strategy should be adopted that offers the opportunity to understand, ensure, and document that consultation achieves these goals. Acknowledging that narrative storytelling may be both a bridge across cultures and an effective way to offer perceptions of what each party believes to have occurred in these critical interactions, it is suggested that perhaps some structured, intentional process of sharing these perspectives may deepen understanding of how meaningful these consultations were perceived to be, and perhaps more importantly, *why* they were perceived in this way. Clearly, effective co-stewardship arrangements can be best achieved if these stories are told and shared, and all parties involved are committed to actively seeking this deeper understanding of such collaborations.

We are likely to perceive the situations we encounter and the outcomes of our interactions differently. This was demonstrated quite clearly in “Rashomon,” a classic 1950 film directed by Akira Kurosawa, which presented stories told by various observers of the same event. Acknowledging that each story was the “truth” as perceived by the observers, the film offered an insight into this phenomenon that has since been characterized as the “Rashomon Effect.” Various authors (Heider 1988; Levin et al. 2021) have suggested that understanding these narrative interpretations of interactions can have considerable value in application to conflicts in conservation science and management. In addition, Relva and Jung (2021) offer that using narratives to deepen understanding of complex problems and embrace multiple knowledge systems, as recommended here, has the potential to encompass and illuminate “the co-existence of multiple ways of knowing and being and use self-reflection as key for critical engagement with the situation and to surface and acknowledge one’s own internal narratives.” Perhaps, if we engage in this purposeful storytelling to more deeply understand the implications of these consultations, with time, we will begin to know each other just a bit better and make these engagements more meaningful.

### THE “RASHOMON EFFECT”

“Rashomon” presents the story of a trial conducted

in 12th-century Japan focused on the mysterious circumstances surrounding the murder of a samurai. The film presents the testimony of four witnesses to the murder, each recounting their version of events that led to the death of the samurai. All four stories of the witnesses are presented as believable, but provide conflicting and inconsistent details of what happened. Each witness told their “truth” as they perceived and experienced it, with the clear implication that none of the witnesses were lying, providing knowingly false testimony. However, the notable element of the plot of the film was that the actual story of the murder was never revealed. The audience was left to interpret what may have been the objective truth, to acknowledge that such events are observed and experienced by the people involved through their individual lens of perception, and to question whether there even was an objective truth, in the sense of an accurate account of what happened that day. While Kurosawa was simply telling a story, he was illuminating a profound insight into the nature of perception and reality.

The term “Rashomon Effect,” originally introduced by Heider (1988) in discussing the potential value of disagreements in ethnographic interpretations, has been broadly articulated as the acknowledgment that every situation is likely to be perceived and interpreted in different ways by those who experience it, and something

important can be learned from not only the consistent details revealed in these accounts, but also in how they are inconsistent.

Levin et al. (2021) proposed relevant application of the Rashomon Effect to conflicts in conservation science and management. The authors pose three key questions, as regards the potential significance of the Rashomon effect:

- Is it possible that subjectivity in observation and perception generate substantially different but still plausible interpretations of the same state of nature?
- Does the Rashomon Effect contribute to conflict in natural resource management?
- And if so, how can we integrate the existence of subjectivity into conflict resolution?

They observe that such “conflicts are embedded in social and cultural history and arise when individuals or groups lack agency or have contrary environmental values.” “Perceptual diversity”—which the authors note is “key driver of environmental conflict”—“is rooted in social and cultural differences in information capturing and processing, as well as life experience.” (Levin et al. 2021: 64). Their conclusion is that the Rashomon Effect is very much evident in conservation and management decision-making and represents both a challenge and an opportunity.

### CO-STEWARDSHIP AND CO-MANAGEMENT

With calls for greater acknowledgement and recognition of Indigenous sovereignty and self-determination, and for Indigenous Peoples to regain some measure of control and influence in how their traditional lands and waters are managed and protected, collaborative mechanisms of governance, such as “co-management” and “co-stewardship” are being developed by the US government in consultation with Indigenous communities. The adoption of Secretarial Order (SO) 3403, “Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters” (DOI/USDA 2021), issued by the secretaries of the Departments of Interior (DOI) and Agriculture, and more recently joined by the secretary of Commerce, has established a mandate for federal land and sea management agencies to address this longstanding demand by Indigenous Peoples for meaningful engagement. As articulated in a report developed by the DOI Office of the Solicitor identifying and evaluating co-stewardship opportunities, the standing of Indigenous Peoples for meaningful engagement in the management and protection of their traditional lands and waters is clearly acknowledged:

Previously owned and stewarded by Tribes from time immemorial, these lands and waters remain home to

cultural and natural resources of great significance to Tribes and their citizens. These include sacred religious sites, burial sites, and wildlife, as well as sources of indigenous foods and medicines, many of which lie within areas in which Tribes hold reserved rights to hunt, fish, gather, and pray under treaties and agreements with the United States (DOI 2022).

While there are other directives from the Biden and some past administrations for greater and more meaningful engagement, SO 3403 arises from the Biden administration’s “Tribal Homeland Initiative” (White House 2021) and is focused on defining “co-stewardship” and providing guidance on how these mechanisms for greater collaboration are to be established.

With regard to the frameworks for collaboration that agencies might pursue to achieve this more meaningful Indigenous engagement, co-stewardship has emerged as the recommended approach. The SO provides a somewhat lengthy definition:

Co-stewardship broadly refers to collaborative or cooperative arrangements between Bureaus and Tribes and Native Hawaiian Organizations related to shared interests in managing, conserving, and preserving Federal lands and waters. Collaborative and cooperative arrangements can take a wide variety of forms. These may include, for example, sharing technical expertise; combining the capabilities of Bureaus and Tribes and Native Hawaiian Organizations to improve resource management and advance the responsibilities and interests of each; making Tribal knowledge, experience, and perspectives integral to the public’s experience of Federal lands; cooperative agreements; and annual funding agreements under the Tribal Self-Governance Act (25 U.S.C. § 5361 et seq.) where applicable.

The SO also offers a definition of “co-management”:

Co-management narrowly refers to collaborative or cooperative stewardship arrangements that are undertaken pursuant to Federal authority that requires the delegation of some aspect of Federal decision-making or that make co-management otherwise legally necessary, such as management of the salmon harvest in the Pacific Northwest, where co-management has been established by law.

It is important to note here the key difference between these two approaches. Under co-stewardship, the federal agency retains ultimate decision-making authority, whereas co-management represents an equitable sharing of power to make decisions.

There are a number of relevant factors that contribute to co-stewardship being the recommended model for such collaborations, but what seems to be a very important element of this recommendation is the limitation on shared decision-making imposed in the US Constitution related to “sub-delegation.” As expressly detailed in DOI 2022, the doctrine of “sub-delegation”

... limits a federal agency’s ability to sub-delegate the authority that Congress provides it to entities outside the agency. Sub-delegations of agency authority to outside parties may blur the lines of governmental and political accountability and could allow a sub-delegee to pursue goals inconsistent with an agency’s own. The sub-delegation doctrine is intended to avoid such results by barring an agency from sub-delegating its final decision-making authority to parties outside the agency absent affirmative evidence that Congress intended the agency to be able to do so.

Embodied in the language of the Constitution (Article 1, Section 1) related to the stipulation that “the legislative powers be vested in a Congress of the United States” and “grounded in the principle of separation of powers, the non-delegation doctrine bars Congress from delegating to federal agencies powers that are strictly and exclusively legislative, unless Congress also provides an intelligible principle to guide and limit the agency’s use of such discretion (DOI 2022).

Again, given that the DOI (2022) evaluation of authorities to implement co-stewardship arrangements with Indigenous communities cites a number of other limitations on shared decision-making that are established in the Constitution, federal law, and policies, it is reasonably clear that the appropriate path forward for enhancing meaningful engagement in the management and protection of lands and waters within the traditional homelands of Indigenous peoples is co-stewardship as articulated in SO 3403. While Indigenous co-management is being established and implemented in other countries around the world, these constitutional and legal issues specific to the United States constrain shared decision-making to only those instances where Congress explicitly empowers it in law.

It is often said that “what gets measured gets done.” In co-management, the deliberative process of such arrangements would be the place where the co-equal parties evaluate the question, debate possible alternative management actions, and arrive at a consensus on what that decision should be. Therefore, getting a sense of the effectiveness of implementation would be relatively straightforward, as agreement of the parties on decisions that need to be made is either achieved or it is

not. However, as regards co-stewardship, determining the success of implementing such an arrangement is somewhat less binary. Given that the decision is ultimately made by the agency, measures of successful and effective implementation of such an arrangement would be more nuanced and subjective, based on the perception of the Tribe or Indigenous community that they have been given timely and appropriate opportunity to provide their perspective, that what they had to contribute was heard and influenced the agency decision to their satisfaction, and the outcome was amenable ... or at least something they could accept as fair and reasonable. If “meaningful engagement” is the ultimate goal of co-stewardship, agency decisions must be subjected to some sort of appropriate and mutually acceptable evaluation process to ensure that all parties are satisfied that this ultimate goal has been achieved.

### TOWARD MEANINGFUL CO-STEWARDSHIP

SO 3403 commits the federal agencies to meaningful engagement in co-stewardship arrangements with Indigenous communities. The SO frames “meaningful engagement” as follows:

The Departments will collaborate with Indian Tribes to ensure that Tribal governments play an integral role in decision making related to the management of Federal lands and waters through consultation, capacity building, and other means consistent with applicable authority. (Section 3b)

The Departments will engage affected Indian Tribes in meaningful consultation at the earliest phases of planning and decision-making relating to the management of Federal lands to ensure that Tribes can shape the direction of management. This will include agencies giving due consideration to Tribal recommendations on public lands management. (Section 3c)

Beyond this commitment, the SO does not offer any guidance on *how* this intended “meaningful” role in decision-making will be evaluated. It does further stipulate that co-stewardship agreements “will incorporate dispute resolution procedures appropriate to the subject of the agreement” (Section 3g), and presumably whatever process is employed to resolve disputes will also be considered by the parties as “meaningful.”

But, what is “meaningful”? The Oxford English Dictionary defines “meaningful” as “having a serious, important, or recognizable quality or purpose” (<https://www.oed.com/search/dictionary/?scope=Entries&q=meaningful>). While this is helpful,

the definition itself has words—“serious,” “important,” “recognizable”—that are largely subjective perceptions of the persons who are considering whether what is being considered is meaningful to them or not. In terms of the Rashomon story, we need to ask “What is their truth.”

With regard to meaningful engagement, as alluded to above, a deliberation could be considered “meaningful” if “the Tribe or Indigenous community has been given timely and appropriate opportunity to provide their perspective, that what they had to contribute was heard and influenced the agency decision to their satisfaction, and the outcome was amenable ... or at least something they could accept as fair and reasonable.” Or, in terms of the SO, if Tribal governments have an “integral role” in agency decision-making, are consulted “at the earliest phases of planning and decision-making” to “ensure that Tribes can shape the direction of management.” Clearly, however, the Tribal government or Indigenous community would be the ones who must determine whether this standard was met in the deliberation, based on their experience in playing their role in the process.

Similarly, there is another lens through which this story can be told that is perhaps equally important. The agency that is vested with the final decision under co-stewardship must also perceive the interaction to be “meaningful.” The agency is responsible for effective management of the resources, employing “best available science” to support management decisions, and, more broadly, to ensure that decisions are consistent with the laws and policies that define its management authority. As well, because lands and waters subject to federal authority are involved, the views and perspectives of the wider public, beyond simply the affected Indigenous community, must also be given due consideration. Given this specific context for decision-making, the agency’s perception of “meaningful engagement” is another “truth” that is equally valid and “believable,” like the different perspectives of the same incident presented in Rashomon.

If one accepts the definition of “meaningful” articulated here, and that there are indeed various lenses through which the perceptions of the parties involved in co-stewardship decision-making can be projected and understood, it follows that each of these “truthful” versions of the story deserve to be told. While decisions will need to be made, the process of how they are made must also be documented, and perceptions of whether these processes are considered “meaningful” to both parties articulated. Again, as in the story of Rashomon, the testimony of the witnesses is presented as “truths” expressed through the perceptual reality of the each

participant, without regard to the pursuing the objective truth, which is left to the “viewer” to interpret.

The idea of providing the opportunity to offer diverging, or perhaps mutually supporting, opinions about the outcome of decision-making is not uncommon. Some courts of law hear cases *en banc* (or as a panel of judges). Appellate courts convene as a panel to hear cases when the subject is especially complex or important. The Supreme Court of the US similarly adjudicates matters before it offering a decision that reflects the majority opinion, but also providing the opportunity for judges who have heard the testimony and may hold different perspectives from the majority, based on their interpretation of legal precedents, to offer their dissent or support. Often, these dissenting opinions can be important in how the court’s decision is subsequently interpreted moving forward, as another lens through which the “facts of the case” can be viewed.

As regards co-stewardship arrangements, when the agency reaches a decision on the outcome of a management action that has been deliberated, and each party is provided the opportunity to offer their perspective on how that decision was made and the reasons why, or why not, then it becomes possible that they will perceive that decision to be “meaningful” to them. This would offer a way to evaluate the effectiveness of co-stewardship more systematically. Given a purposeful, structured framework in which everyone could “tell their story,” parties could articulate how they perceive the situation being deliberated; how they interpreted the “facts of the case”; the cultural knowledge, values, and experience that contributed to their interpretation; and, particularly, any points of disagreement that were not resolved to their satisfaction. Such an approach would not only provide ongoing evaluation of the perceptions of the parties as regards whether the co-stewardship process as they experience it is “meaningful,” but perhaps more importantly, offers insights and knowledge that would build and strengthen the relationship of the agency and the Indigenous community through this enhanced transparency and sharing. It is this relationship of trust and respect that will ultimately empower effective co-stewardship, carrying forward in the face of inevitable disagreement with the confidence of all parties that all voices are heard, listened to, and clearly understood.

Acknowledging that co-stewardship is not “co-management,” but rather an institutional process that provides a framework for enhanced, effective, and ongoing—and, yes, “meaningful”—consultation with Tribal governments and Indigenous communities, what



is proposed here is simply a way to “complete the circle” of significant, individual consultations. Such closure of consultations is already a requirement of the processes as articulated in Executive Order 13175 on “government-to-government” consultations, and those mandated under Section 106 of the National Historic Preservation Act. Beyond this requirement, ongoing evaluation of any collaborative process, and accountability for successful implementation, is simply good governance practice ... “if something is worth doing, it’s worth doing well.”

## CONCLUSION

Levin et al. (2021), in their insightful discussion of the implications of the Rashomon Effect in resource conservation decision-making, offer “three integrative principles that ... generate clarity at the science–policy boundary to better manage conservation conflict.” These include:

- **Acknowledging the plurality of reality.** Our perceptions of reality are largely different, based on individual experience, knowledge, and cultural context. With co-stewardship, the parties involved have in most cases very divergent worldviews and often values that are prioritized somewhat differently. Like the allegory of the “blind men and the elephant,” each may touch the animal and “see” something entirely different.
- **Embracing epistemic pluralism: Not seeking one model.** There are many useful and appropriate “ways of knowing” that have value in understanding the world. “Braiding” these knowledge systems together, models such as “seeing with two eyes” (Bartlett et al. 2012; Reid et al. 2021) promote “learning to see with the strengths of each knowledge system with one eye never subsuming the other” (Martin 2012). Such an integrative approach offers the potential to more deeply understand and thereby more effectively manage places of shared stewardship.
- **Prioritizing the process over the products.** It is pretty much universally observed that in resource management and planning, the process is as (or more) important than the product. The process provides the time required to come to a mutual understanding of the situation being deliberated, to have everyone involved “speak their piece” and arrive at a workable consensus. With regard to co-stewardship arrangements, even well-developed processes can result in less-than-meaningful outcomes when parties are not deeply committed to, and take the necessary time to, making them meaningful.

Achieving meaningful co-stewardship would benefit greatly from embracing these recommendations, as each is relevant and potentially useful guidance. It seems intuitively sensible and well-considered that acknowledging multiple realities and different knowledge systems that frame these realities, prioritizing the

importance of process over product, and embracing and respecting diverse viewpoints and perspectives can lead to more successful and effective collaboration.

What is being recommended here may be both necessary and appropriate to ensuring that co-stewardship arrangements are fully successful in achieving meaningful outcomes as intended. The notion of using narratives to deepen understanding of complex problems and embrace multiple knowledge systems, as discussed by Relva and Jung (2021), has significant potential:

The narrative lens ... is suitable under multiple simultaneous disciplinary homes including Indigenous methodologies and systems thinking. They share the key features of having a holistic and relational approach that recognizes the co-existence of multiple ways of knowing and being and use self-reflection as key for critical engagement with the situation and to surface and acknowledge one’s own internal narratives.

To one degree or another, we are all storytellers, and it could be reasonably asserted that storytellers can be considered the most effective communicators. All cultures rely on stories to preserve their history and traditions, to provide important moral and ethical lessons, and to project their perceptions of the world to others. Finding the best path toward effective co-stewardship can likely benefit from offering people the opportunity to use their innate storytelling skills to purpose.

As regards one of the most skilled storytellers in cinema, Levin et al. (2021) observe that “the Rashomon effect aptly describes a dilemma that arises in conservation when urgent action is needed, knowledge is uncertain, and perceptual differences among conservation actors persist”:

The brilliance of Kurosawa’s *Rashomon* is not in revealing the prevalence of perceptual differences, but rather in forcing the viewer to question their ability to come to terms with such differences.... The same holds true for stakeholders, policymakers, and scientists engaged in conservation science and management. But unlike the fictional world of *Rashomon*, our world does not give us a choice; overcoming the Rashomon effect is a prerequisite for conservation success.

What we might learn from each other in sharing our stories could be most revealing.

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