

# **Submission by Forest Peoples Programme and Natural Justice**

**15 April 2019**

## **The post-2020 global biodiversity framework and rights-based approaches, including the right to a to a healthy environment, for a thriving Earth**

This submission by Forest Peoples Programme and Natural Justice is in response to SCBD Notification No. 2019-008 concerning views for the content of the post-2020 global biodiversity framework.

While these organisations will contribute content on various aspects of the post-2020 global biodiversity framework during 2019-2020, this submission focuses on the issue of aligning the post-2020 global biodiversity framework with the sustainable development goals and human rights.

This has come as a result of an effort to discuss how to weave the three objectives of the CBD, rights-based approaches and SDGs into the post-2020 global biodiversity framework. It has generated two complementary strategies to inform the post-2020 global biodiversity framework: a) rights-based approaches incorporated/mainstreamed across the post-2020 global biodiversity framework and b) the right to a healthy environment as a stand-alone target.<sup>1</sup>

This has also been informed by the work of the UN Special Rapporteur on Human Rights and the Environment. In 2017, Prof. John Knox, the UN Special Rapporteur at that time, highlighted the positive synergies between biodiversity and human rights. The realisation of key human rights (to life, food, water, culture etc) depends on healthy biodiversity and ecosystem services, while at the same time, the respect and realisation of human rights (both procedural and substantive, particularly the right to a healthy environment) helps to protect and sustainably use biodiversity.<sup>2</sup> The current Special Rapporteur, Prof. David Boyd, is expected to continue to develop that work.

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<sup>1</sup> This collective effort, open to Parties and other groups to engage, includes organizations and individuals participating in the Machakos peer to peer dialogue, see more at Ituarte-Lima, C., and Kibugi, R., (2018) [Co-chairs' Summary Report of the Peer-to-peer Dialogue on the human right to a healthy environment and SDGs: weaving SDG 16 and human rights law with the post-2020 global biodiversity framework](#), SwedBio/Stockholm Resilience Centre, International Development Law Organization, Office of the United Nations High Commissioner for Human Rights (OHCHR) – Special Procedures, UN Environment and Natural Justice and the associated handbook by the same organizations co-edited by Ituarte-Lima, C. and Schultz, M. on Human right to a healthy environment for a thriving Earth. This collective initiative also builds on the outcomes of side-events including organized at CBD-SBSTTA21-22, CBD-SBI-2, High Level Political Forum, United Nations Environment Assembly -4 as well as a back to back workshop at UNEA-4.

<sup>2</sup> For background on synergies between biodiversity and human rights, including the human right to a healthy environment, see UN Human Rights Council Resolution [A/HRC/RES/34/20](#) adopted in 2017 by consensus explicitly referring to “the Cancun Declaration on mainstreaming the conservation and sustainable use of biodiversity for well-being, adopted at the high-level segment of the thirteenth meeting of the Conference of the Parties to the Convention on Biological Diversity, held in Cancun, Mexico on 2 and 3 December 2016, and looking forward to the fourteenth meeting, to be held in Egypt”. This resolution builds on the Report of the Special Rapporteur on Human Right and Environment, John Knox on the human rights obligations relating to the conservation and sustainable use of biological diversity, ([A/HRC/34/49](#)) . See also report by the Special

Two complementary and mutually reinforcing strategies are proposed for the post-2020 global biodiversity framework:

**a. Towards a rights-based approach incorporated across the post-2020 global biodiversity framework, including in relevant goals and targets**

The principles of the human rights-based approach, also embedded in SDG 16 and across the 2030 Agenda for Sustainable Development can serve to inform crosscutting dimensions for all targets while building on already related elements of the Aichi Biodiversity Targets and identifying gaps in other targets. Some issues that have emerged in various fora concerning these cross-cutting dimensions include:

- Awareness of the interdependency between biodiversity and human rights, where a full enjoyment of human rights can only be attained when biodiversity is safeguarded and thriving, and ensuring that everybody has the right to a healthy environment can significantly increase progress towards achieving the objectives of the CBD.
- Integration of the right to a healthy environment in targets addressing specific thematic issues (e.g. sustainable fisheries, forestry, agriculture, protected areas, etc.).
- Recognition and protection of tenure rights of indigenous peoples and local communities (IPLCs) both as an incentive for them to continue to sustainably manage and protect most of the remaining biodiversity on the planet and to safeguard their rights to lands, territories and waters while undertaking conservation policies as well as economic activities (such as extractives).
- Harmonisation of international conventions and national laws in order to respect, protect and fulfill the rights of environmental human rights defenders including IPLCs, women, youth and children.
- Adoption of review and compliance mechanisms to monitor and ensure progress towards commitments concerning mainstreaming biodiversity and human rights.

Appropriate language on human rights could therefore be developed to feed into:

- The mission of the post-2020 global biodiversity framework;
- The COP-15 decision that will adopt the post-2020 global biodiversity framework;
- Suitable goals and targets;
- Indicators;
- Means of implementation, including: compliance, accountability, transparency, participation and collaboration, redress.

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Rapporteur on Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment presented at the seventy-third session of the UN General Assembly in 2018 ([A/73/188](#)).

## **b. Towards the right to a healthy environment stand-alone target**

**By 2030, ensure the respect, protection and fulfilment of the (human) right to healthy, clean, safe and sustainable environment and its ecosystems for present and future generations, through effective laws, policies and institutions implementing the three CBD objectives, including full and meaningful participation in decision-making and access to information and justice, in compliance with international human rights law and standards.**

For both options a) and b), particular attention needs to be paid to the importance and role of collective (i.e. not just individual) rights of IPLCs as well as responsibilities (often crucial not only in many indigenous worldviews but also for duty-bearers such as states and enterprises). It is the collective nature of the rights to territories, lands and waters of IPLCs that can secure sustainable use and conservation of biodiversity in much of the remaining biodiversity-rich areas of the world. Likewise, in many cases, environmental human rights defenders stand up to the forces destroying biodiversity as part of community action to protect the environment and IPLCs' relationship with nature.

### **Supporting rationale**

The interdependence among biodiversity, sustainable development goals and human rights is already present in the CBD and the SDGs, but it needs to be better articulated and illustrated in the post-2020 global biodiversity framework and concrete targets and actions need to be identified. Some of the background rationale and material is collected here below:

- Affirming the importance of biodiversity in cross-sectoral plans, programmes and policies (CBD, Article 6d) and national decision-making (Article 10a), and the Cancun Declaration on Mainstreaming the Conservation and Sustainable Use of Biodiversity for Well-Being,<sup>3</sup> State Parties to the CBD commit to work at all levels of government, and across all sectors to mainstream biodiversity, by establishing effective institutional, legislative and regulatory frameworks incorporating full respect for nature and human rights.
- Acknowledging the cross-sectoral nature of human rights, and that human rights principles are embedded in the CBD such as participation and inclusion (CBD Article 14(1)) and that “human rights treaties” are explicitly mentioned in CBD guidelines and CBD COP Decisions such as CBD voluntary guidelines for safeguards in biodiversity financing mechanisms, (COP Decision XII/3 Annex III), the Gender Plan of Action (2015 – 2020) and COP-7 Decision VII/28 on protected areas.
- Recognising that Agenda 2030 “is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is

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<sup>3</sup> UNEP/CBD/COP/XIII/24 - 6, December 2016. The Cancun Declaration on Mainstreaming the Conservation and Sustainable Use of Biodiversity for Well-Being

grounded in the Universal Declaration of Human Rights, international human rights treaties...” (parr 10), and that and that in bringing rights issues into the CBD, the international human rights standards should be the basis of this cross-fertilization in line with the principle of non-regression of human rights.

- Considering that “The interlinkages and integrated nature of the Sustainable Development Goals are of crucial importance in ensuring that the purpose of the new Agenda is realized” and that SDGs “seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls”.
- Considering that COP-14 in Decision 14/34 calls for the post-2020 global biodiversity framework to align to and contribute to the achievement of the 2030 Agenda for Sustainable Development.
- Noting that the Human Rights Council Resolution (34/20) drafted and adopted by States has explicit references to biodiversity “recalling the provisions of the Cancun Declaration [...] sustainable development requires healthy ecosystems [...] recognizing that sustainable development and the protection of ... ecosystems contribute ... to the enjoyment of human rights [...] encourages States to strengthen their efforts to protect biodiversity ... the achievement of the Strategic Plan for Biodiversity 2011-2020 and its associated Aichi Biodiversity Targets”.
- Noting the work of the UN Special Rapporteur on Human Rights and the Environment, it is important for the CBD to recognise their efforts and develop closer collaboration with the UN Human Rights Council<sup>4</sup> and relevant UN Special rapporteurs to mainstream synergies between biodiversity, sustainable development and human rights. This would support better synergies with the 2030 Agenda for Sustainable Development, which is anchored on the fulfilment of human rights.
- Lessons can also be learned from the adoption in March 2018 of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters for Latin America and the Caribbean (also known as Escazu’ Agreement) as a positive example or action at the regional level.<sup>5</sup>
- Addressing these linkages would provide a much needed holistic and integrated approach to the implementation of the CBD that would imply participation and commitments by all relevant sectors of society.
- These would also help ensure safety and security for indigenous peoples and local communities who are at the frontline in defending their lands, territories,

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<sup>4</sup> The Human Rights Council has already adopted resolutions directly relevant to the CBD, e.g. Human Rights Council Resolution (34/20) drafted and adopted by States with explicit references to biodiversity “recalling the provisions of the Cancun Declaration [...] sustainable development requires healthy ecosystems [...] recognizing that sustainable development and the protection of ... ecosystems contribute ... to the enjoyment of human rights [...] encourages States to strengthen their efforts to protect biodiversity ... the achievement of the Strategic Plan for Biodiversity 2011-2020 and its associated Aichi Biodiversity Targets.”

<sup>5</sup> See <https://www.cepal.org/en/escazuagreement>

resources, culture and traditional knowledge relevant to achieve the objectives of the Convention. Violence against environmental and human rights defenders has increased dramatically over the past years and they are one of the most at-risk groups of defenders.<sup>6</sup> Noting the adoption of initiatives to address this growing challenge, including by the UN Environment Programme, by the UN Special Rapporteur on the Situation of Human Rights Defenders and the UN Special Rapporteur on Human Rights and the Environment, there is a need for the post-2020 global biodiversity framework to fully address and remedy the situation and provide strong support safeguards for environmental and human rights defenders. The post-2020 framework should also recognise that indigenous defenders more frequently work collectively rather than individually, and the framework should provide safeguards which reflects this.

### **Potential questions for further elaboration**

In submissions concerning the post-2020 global biodiversity framework, we encourage Parties and relevant organisations to address the following questions:

What are the possible synergies between human rights, biodiversity and SDGs? How can rights based approaches be integrated in the post-2020 global biodiversity framework? How can the international community and various actors support environmental human rights defenders and the collective actions of IPLCs contributing to the achievement of the CBD objectives? How can the post-2020 global biodiversity framework secure a healthy environment for future generations?

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<sup>6</sup> See latest Global Witness report: <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-annual-report/>