



# HUMAN RIGHTS AND BIODIVERSITY

Key Messages

## KEY MESSAGES ON HUMAN RIGHTS AND BIODIVERSITY

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The planet is currently undergoing what scientists are calling the sixth mass extinction. This tragic loss of biodiversity is largely caused by human activity through, amongst others, land use change, climate change, pollution, overexploitation and invasive alien species. States have sought to take action on this issue through implementing the Convention on Biological Diversity (CBD), its protocols and targets, as well as other multilateral environmental agreements. Many have also undertaken a number of conservation efforts, including the establishment of parks, reserves, and protected areas and the mandating of environmental impact assessments. However, biodiversity loss continues, and it has become clear that the objectives of the CBD can only be met by instituting transformative economic, social, environmental, legislative, political and technological changes in a whole-of-society approach, one that protects and serves those who are most affected. Meeting these objectives and protecting and restoring biodiversity are key to achieving the Sustainable Development Goals, preventing future pandemics, and building better in response to and recovery from COVID-19. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has found that the fulfilment of a broad range of human rights depends on thriving biodiversity and healthy habitats and ecosystems. These rights include not only the right to a safe, clean and healthy environment, but also the rights to food, clean air and water, health, culture, and even the right to life. Conversely, biodiversity and habitat loss can result in violations of these and other human rights. Biodiversity loss may disproportionately harm the human rights of indigenous peoples, local communities, women and girls, children and youth, the poor, and persons, groups and peoples in vulnerable situations. States, businesses, international organizations, and other actors have procedural and substantive obligations and responsibilities under both international environmental law and international human rights law to address biodiversity and habitat loss, to prevent its negative impacts on human rights, and to ensure that actions to address biodiversity loss are equitable, non-retrogressive, non-discriminatory and sustainable. This document highlights the key human rights obligations and responsibilities with respect to biodiversity-related agreements, policies, strategies and actions.

# 01

## Address biodiversity and habitat loss and prevent their negative impacts on human rights

The human right to a safe, clean, healthy and sustainable environment is elaborated in the national laws and policies of more than 100 States and a number of regional agreements. Beyond this, a broad array of human rights directly depend on thriving biodiversity and healthy habitats, including the right to life, as enshrined in the International Covenant on Civil and Political Rights (ICCPR), and the rights to food, water and sanitation, health, and culture, as contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR). States have the obligation to respect, protect and fulfil human rights for all without discrimination, and failure to take action to prevent biodiversity and habitat loss breaches this obligation. As more habitats are degraded or lost and species become extinct, human rights impacts increase significantly. States therefore have the duty to take meaningful, effective and urgent action to transform humanity's relationship with nature and address the direct drivers of biodiversity loss. Such actions include ending deforestation, protection and conservation of lands and oceans, moving to sustainable patterns of production and consumption, combatting climate change and all kinds of pollution, preventing the introduction of invasive alien species and recognizing and protecting land tenure and resource use of indigenous peoples, local communities and women and girls, including through clear and non-discriminatory land titling and recognition of diverse types of tenure.

# 02

## **Guarantee equality and non-discrimination**

Many indigenous peoples are among the most affected by biodiversity loss and other environmental harm because of their close relationship with and reliance on nature. At the same time, they are often best situated to protect against biodiversity loss through traditional knowledge, customary laws, sustainable use of natural resources, and collective land ownership and management practices. Traditional indigenous territories encompass around 22 per cent of the world's land surface and they coincide with areas that hold over 80 per cent of the planet's biodiversity. Studies have demonstrated that the territories of indigenous peoples who have been given land rights have been significantly better conserved than adjacent lands. Nevertheless, only a small percentage of protected areas worldwide are governed by indigenous peoples.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) makes specific reference to conservation in article 29, affirming that indigenous peoples have the right to the conservation and protection of the environment and their lands, territories and resources. The loss of biodiversity not only poses a grave threat to indigenous peoples' natural resources and livelihoods, but also to their cultural identity and survival.

States should ensure that all action on biodiversity is in line with UNDRIP, including by ensuring that no action with potential impact on indigenous peoples' rights is taken without consultation and obtaining the free, prior and informed consent of legitimate representatives of indigenous peoples, and should support indigenous peoples' and other affected communities' participation in the management and ownership of efforts to combat biodiversity loss.

The human rights harms associated with biodiversity loss disproportionately fall on those who depend directly on nature, and those who are already in vulnerable situations due to poverty, marginalization, disability or other circumstances and characteristics, and thus biodiversity loss can contribute to widening inequality.

Biodiversity loss affects women, men, girls, boys, and non-binary persons differently, and has severe intergenerational repercussions for children and for future generations, who will inherit the irreversible results of environmental degradation.

Actions to address biodiversity and habitat loss, including establishment of protected areas, must respect and protect human rights, should not exacerbate existing inequalities, and should take into account possible gender- and age-related impacts and intergenerational equity.

# 03

## **Protect the rights of indigenous peoples**

# 04

## **Protect environmental human rights defenders**

Around the world, many individuals and communities have taken action to protect biodiversity, wildlife, habitats, and the human rights and livelihoods that are dependent on a connection to nature. These individuals and communities play an essential role in seeking to safeguard the environment and human rights. However, they face unprecedented risks and are far too often the targets of killings, violence, threats, criminalization and retaliation as a result of their legitimate activities. While the exact number of killings of human rights defenders, journalists and trade unionists is unknown, 357 such killings were recorded by the UN in 2019. Of those, one in two victims had been working with communities around issues of land, environment, impacts of business activities, poverty and rights of indigenous peoples, afro-descendants and other minorities. Environmental human rights defenders who face multiple and intersecting forms of discrimination, including indigenous peoples, racial and ethnic minorities, LGBTI individuals and women and girls, may face particular risks and threats of vulnerability. For example, indigenous defenders are often charged with criminal offences and prosecuted without fair trial guarantees for seeking to defend their lands and environment against business projects, initiated without their free, prior and informed consent. As required by the ICCPR, the UN Declaration on Human Rights Defenders, and other international instruments, States must respect, protect and fulfill the rights of environmental human rights defenders to participation, access to information, freedom of expression, assembly, and association, take action against threats to their lives or wellbeing, and provide access to justice and effective remedy when their rights are violated. States must also conduct timely investigations and prosecute those responsible for violence and intimidation.

Often those most affected by biodiversity loss are those who have contributed the least to it. In particular, children, youth and future generations, who have played little or no part in the human action that drives biodiversity and habitat loss, will have no choice but to live with its consequences. Equitable action to address this issue must take into account the needs of future generations. It should also uphold the right to self-determination of peoples, while recognizing the economic and social needs of developing countries and the principle of “common but differentiated responsibilities.” Conversely, as emphasized by the Nagoya Protocol to the CBD, the benefits of biodiversity, including genetic resources and derivatives, as well as associated traditional knowledge, should be shared in a manner that is equitable, transparent, and accountable, taking into account the equal rights and differing needs of indigenous peoples and local communities, women, men, girls, boys and non-binary persons. States should ensure that the use of wild species is ecologically, economically and socially/culturally sustainable and contributes to human well-being and fulfilment of rights, including enhanced nutrition, food security and livelihoods, especially for the most marginalized.

# 05

## **Ensure equity in actions to address biodiversity loss and in the use of the benefits of biodiversity**

# 06

## **Ensure meaningful and informed participation including in land and resource governance**

The right to free, active, meaningful and informed participation in public affairs is guaranteed by the ICCPR as well as other international conventions and instruments, notably the UN Declaration on the Right to Development, multilateral environmental agreements, and national laws and policies.

States should provide public information about biodiversity, including environmental, social, cultural, or human rights impact assessments, where applicable, in an accessible language and format, and should carry out all policy-making in relation to biodiversity and habitat loss in a manner that is transparent and accountable. States should also provide for and facilitate public participation in all biodiversity-related decisions, bearing in mind the barriers to public participation faced by indigenous peoples, local communities, children, persons with disabilities and others who may be in more marginalized situations.

The Conference of Parties to the CBD has made it clear that protected areas and management regimes must be consensual and participatory if indigenous peoples' rights are to be respected, and participation by indigenous peoples and other affected communities can make important contributions to effectively protecting biodiversity.

As recognized in the UDHR, the ICCPR, and other human rights instruments, including the UN Guiding Principles on Business and Human Rights (UNGPs), States must guarantee access to justice and effective remedies when human rights violations or abuses occur, including by business enterprises. Meanwhile, regional agreements including the Aarhus Convention and the Escazú Agreement specifically address access to justice in environmental matters.

Although many States have in place legislation and policies to address biodiversity harms and hold violators accountable, they have often not been well implemented. Effective, accessible and gender-responsive accountability mechanisms should be established and implemented at the national level to ensure access to justice and remedy for biodiversity loss and associated human rights harms.

Such mechanisms should be complemented at the global level through inclusion of environment-related human rights harms in UN Treaty Body reviews, the Universal Periodic Review process, the Special Procedures, and rights-based review of State compliance with the CBD and related agreements.

# 07

## **Ensure accountability and effective remedy for human rights harms caused by biodiversity and habitat loss**

# 08

## Protect against business-related human rights harms from biodiversity loss

As reflected in the UNGPs, all business enterprises have the responsibility to respect human rights, meaning they should avoid infringing on the human rights of others, including by causing biodiversity loss, and should address adverse human rights impacts with which they are involved.

To meet their responsibility to respect human rights, businesses are expected (i) to adopt a policy commitment to respect human rights; (ii) to conduct human rights due diligence in order to identify, prevent, mitigate and account for how they address human rights harms resulting from biodiversity loss, including by engaging with affected communities; and (iii) to have processes in place to enable the remediation of those harms they cause or to which they contribute. These efforts should be gender-responsive, as reflected in the Working Group on Business and Human Rights' Gender Guidance on the UNGPs.

States are obligated under international law to protect against human rights abuses by businesses. They should require assessment of all social, environmental and human rights impacts of proposed projects that may affect biodiversity. When business-related human rights abuses occur (including abuses resulting from biodiversity and habitat loss), States must hold businesses accountable and ensure that those affected have access to effective remedy.

Many ecosystems where biodiversity is declining, on land and in water, transcend national borders. The threats to biodiversity, including pollution, habitat destruction and overexploitation, and the benefits nature provides, like food and medicinal resources, also have transboundary, regional or global dimensions. The effective protection of biodiversity, therefore, requires international cooperation and solidarity in all forms.

The CBD recognizes that the extent to which developing countries can effectively implement their biodiversity commitments depends on international cooperation for sharing of resources and technology transfers from developed countries. The UN Charter, the ICESCR, the ICCPR, the UNDRIP and other human

# 09

## Ensure regional and international cooperation

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