



The Right to Land and Tenure Rights must be central to the Post 2020 Global Biodiversity Framework

2 March 2022

To the Parties to the Convention on Biological Diversity:

We write on behalf of ESCR-Net - International Network for Economic, Social and Cultural Rights.[1] While there are many important human rights issues in relation to the draft post-2020 global biodiversity framework, this letter focuses on certain core human rights recommendations in relation to land in solidarity with the demands of the International Indigenous Forum on Biodiversity (IIFB).

The scale of the biodiversity and climate crises demands urgent and immediate action. We recognise and respect the roles of Indigenous Peoples, peasants and other local communities in addressing these twin crises and stand with them in demanding that Governments recognise and respect their contributions and act to protect and promote the right to land [2] as well as the tenure rights[3] on which they depend. We recognise the challenges faced by Indigenous Peoples and local communities defending their homes, forests and rivers, fighting against destructive industries and elite interests which fuel the climate and biodiversity crises. We pay our respects to women as holders of knowledge and practitioners of traditional livelihoods and resource management who play vital roles in the cultivation and transmission of knowledge to younger generations.

Biodiversity negotiations in relation to the Post 2020 Global Biodiversity Framework – long delayed by the pandemic – will begin again this month and will seek to find consensus on which urgent measures Governments and others should take to stem the urgent loss of biodiversity we face. The importance of the right to land and tenure rights in this context cannot be overstated.[4] Millions of people and species in the world depend directly on the land, and this interdependence means that many Indigenous Peoples, peasants and other local communities must protect it to ensure their livelihoods, social inclusion and cultural and spiritual survival. This protection of land by those whose very existence is entwined with it also indirectly sustains all life on the planet. We insist that the overarching right to self-determination,[5] including free, prior and informed consent,[6] the right to land,[7] and tenure rights are recognised, respected, protected, and promoted in the post-2020 global biodiversity framework.

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At a minimum, this requires the following steps to be taken:

1. The global biodiversity framework should adopt a human rights-based approach overall[8] and actively commit to the expansion of the right to land as well as tenure rights as key strategies for advancing conservation and biodiversity outcomes. The framework should also explicitly provide strong and effective protections for land rights defenders, particularly women human rights defenders. In addition, the framework must ensure full respect and protection of human rights in the context of 'nature-based solutions' which can carry serious human rights risks for Indigenous Peoples, peasants and other local communities.[9]

We call on governments to support reference to appropriate recognition and support for the rights of Indigenous Peoples and local communities over collective lands, territories, waters and resources in line with the International Indigenous Forum on Biodiversity (IIFB) recommended textual amendments.[10].

2. Any agreement to expand protected and conserved areas must be done in partnership with Indigenous Peoples, complying with their right to self-determination, and only with their free, prior, and informed consent, as well as in full conformity with the right to land as well as tenure rights.

We call on governments to include 'free, prior and informed consent' as a fundamental precondition to expansion of protected and conserved areas in Target 3.[11] It is further essential that any conserved area is equitably governed and managed [12] in accordance with the right to self-determination.

3. With area-based targets included in the negotiations – which aim to change the status of land and which will impact land rights – it is essential that the global biodiversity framework measures its impact on land tenure and the right to land.

We call on governments to adopt a 'land tenure indicator' which will measure changes in tenure and in the recognition or alienation of the right to land and/or tenure rights as a result of the implementation of the global biodiversity framework.

Thank you for your consideration of these recommendations.

Yours Sincerely,



Chris Grove
Executive Director



1. This submission is from ESCR-Net members. ESCR-Net is a global network consisting of over 280 organizations and advocates across 75 countries, devoted to achieving economic, social, cultural and environmental justice through human rights. Numerous network members and allies contributed to the strategy, research, drafting, and/or reviewing of this open letter with special thanks to: African Indigenous Foundation for Energy and Sustainable Development (AIFES), Asia Indigenous Peoples Pact, Comité Ambiental en Defensa de la Vida, Confederación Campesina del Perú, Consejo de Pueblos Wuxhtaj, FIAN International, Forest Peoples Programme, Indigenous Peoples Rights International, Minority Rights Group International, Movement for the Survival of the Ogoni Peoples, Nia Tero, Ogiek Peoples' Development Programme, Pakistan Fisherfolk Forum and Tebtebba.
2. In line inter alia with the UN Declaration on the Rights of Indigenous Peoples, 2007, ILO C169 - Indigenous and Tribal Peoples Convention, 1989, and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018.
3. See e.g., Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2014, Principle 5; United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, art. 17; United Nations Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991), para. 8 (a).
4. See e.g., Reconciling Conservation and Global Biodiversity Goals with Community Land Rights in Asia, 7 Feb 2022, <https://rightsandresources.org/publication/asia-conservation-report/>; Furthermore the Intergovernmental Panel on Climate Change (IPCC) and Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) have recognized the critical importance of secure land tenure for Indigenous Peoples and local communities as a solution to address climate change and biodiversity loss. See, IPCC, Climate Change and Land-Summary for Policymakers, revised 2020, available at: https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf; IPBES, The Global Assessment Report on Biodiversity and Ecosystem Services-Summary for Policymakers, 2019, p.18, available at: https://ipbes.net/sites/default/files/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf.
5. All peoples, particularly Indigenous Peoples, have a fundamental right to self-determination, including the right to autonomy and governance, the right to effective participation in decision-making and the right to define and pursue their own development priorities on their land. The right to self-determination is enshrined under Article 1 of the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights and is an overarching principle of international law. Secure land rights are an essential element of the right to self-determination of Indigenous Peoples, to determine their political status and freely pursue their economic, social and cultural development. See for example: Indigenous Peoples Release Rio +20 Declaration, 19 June 2012, para. 3, available at: <https://www.forestpeoples.org/en/topics/sustainable-livelihoods/publication/2012/indigenous-peoples-release-rio-20-declaration>
6. The concept of consent should be in accordance with the elements of FPIC as outlined by the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). Consent must be continuous - with information provided at every stage of any project for subsequent consent. See, UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), Free, prior and informed consent: a human rights-based approach, 10 August 2018, available at: <https://undocs.org/A/HRC/39/62>
7. Supra n. 2.
8. While the first draft mentions taking a rights-based approach and recognizing the principle of intergenerational equity, we recommend using the full phrase 'human rights-based approach' which is already well established within the UN system. For more on applying a human rights-based approach, please see: Applying a human rights -based approach- Guidance on the application of a human rights-based approach in the post-2020 Global Biodiversity Framework, September 2021, <https://bit.ly/3HrTlau>. Further the framework should also reference inter and intragenerational equity, keeping in mind present and future generations.
9. For context, please see, Helen Tugendhat, Rethinking Nature-based solutions: seeking transformative change through culture and rights, Forest Peoples Programme, <https://cutt.ly/FPIIYFH>
10. IIFB textual amendment recommendations in red and italics: Target 1: Ensure that all land, sea and *freshwater* areas globally are under integrated biodiversity-inclusive spatial planning addressing land- and sea-use change, retaining existing intact and wilderness areas, and *recognising the rights of indigenous peoples and local communities over lands, territories, waters and resources*; Target 3. Ensure that at least 30 per cent globally of land areas and of sea areas, especially areas of particular importance for biodiversity and its contributions to people, are conserved through effectively and equitably *governed and* managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures, *with the free, prior and informed consent of indigenous peoples and local communities, including through appropriate recognition and support for their collective lands, territories and resources*, and integrated into the wider landscapes and seascapes. <https://www.cbd.int/doc/c/290f/07dd/9722c1f98031ffed0756c136/iifb-01-en.pdf>
11. Target 3 (in the current draft of the post 2020 global biodiversity framework) of the first draft of the post 2020 global biodiversity framework currently reads as follows: Ensure that at least 30 per cent globally of land areas and of sea areas, especially areas of particular importance for biodiversity and its contributions to people, 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. <https://www.cbd.int/doc/c/abb5/591f/2e46096d3f0330b08ce87a45/wg2020-03-03-en.pdf>
12. Also, in line with IIFB's textual recommendations for Target 3. Supra n. 10