



German Institute
for Human Rights

Analysis

Biodiversity, Conservation and Human Rights

A Review

Leslie-Anne Duvic-Paoli



The Institute

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Preface

The loss of biodiversity has increased at an unprecedented rate. As numerous animal and plant species become extinct, questions arise regarding how these events affect human rights: The destruction of ecosystems and resources often has negative impacts on peoples and communities. Yet, measures to conserve biodiversity may also negatively affect rights-holders worldwide. This handbook sheds light on these interrelations. It builds on existing case law and demonstrates why the loss of biodiversity, indeed, constitutes a human rights issue. Examples show that a broad range of human rights are at risk. In most contexts, already disadvantaged or marginalised groups are especially vulnerable to having their human rights infringed upon or even violated. Indigenous Peoples in the Global South are a good case in point.

Against this background, the handbook analyses the state of international law relating to the relationship between human rights and biodiversity. It provides a synthesis of substantive and procedural elements of human rights obligations that protect biodiversity while differentiating between State and non-State obligations. There are only few mentions of human rights obligations in international treaties on the protection of biodiversity. In particular, treaty bodies, as well as Special Rapporteurs, have contributed to a rich compendium of interpretations of human rights obligations with regard to biodiversity. This handbook also sets out potential options for redress.

Human rights are more explicitly incorporated in the recent Kunming-Montréal Global Biodiversity Framework. This handbook describes and analyses the provisions related to human rights, particularly focusing on protected areas that may come into conflict with human rights. In this context and beyond, the right to free, prior and informed consent in environmental matters is critical for Indigenous Peoples. For this reason, the handbook illuminates the operation and scope of this right in the context of biodiversity protection and explores whether local communities may also benefit from it.

The text thus provides an in-depth analysis and synthesis of a newly emerging connection between two formerly separated areas of law: biodiversity law and human rights law. The findings provide valuable guidance for navigating this evolving topic. In light of the above, this analysis is thus useful to National Human Rights Institutions and civil society organisations working on biodiversity-related policies, advising governments and companies on how to adopt a human rights-based approach to biodiversity protection. It is, however, a working paper and does not aim to be a definitive analysis of the subject. The text was last updated in November 2024.

Michael Windfuhr

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Contents

1	Introduction	9
<hr/>		
2	The Relationship Between Biodiversity and Human Rights	10
<hr/>		
2.1	Impacts of Biodiversity Degradation and Loss on the Enjoyment of Human Rights	10
2.2	Impacts of Conservation Measures on the Enjoyment of Human Rights	12
3	Human Rights and Biodiversity Protection: State of International Law	14
<hr/>		
3.1	International Biodiversity Law	14
3.2	Human Rights Law	16
4	The Global Biodiversity Framework and the Human Rights-Based Approach	21
<hr/>		
5	Main Emerging Obligations: Synthesis	24
<hr/>		
5.1	Obligations of States	24
5.2	Obligations of non-State actors	26
5.3	Redress	27

6	The Right to Free, Prior and Informed Consent	30
<hr/>		
6.1	Definition	30
6.2	Sources	30
6.3	Application of FPIC	32
6.4	Extension to local communities	33
7	Conclusion	35
<hr/>		
8	Glossary	36
<hr/>		
9	Bibliography	37
<hr/>		

1 Introduction

Biodiversity loss is accelerating at an unprecedented rate, with one million animal and plant species currently threatened with extinction, many within the next decade.¹ “A major species extinction event, compromising planetary integrity and Earth’s capacity to meet human needs, is unfolding”, warned the sixth Global Environment Outlook.² Five primary drivers contribute to this alarming trend: changes in land and sea use, direct exploitation of organisms, climate change, pollution, and the introduction of invasive alien species.³

Nature and humans have traditionally been seen as two separate entities,⁴ but the relationship between human rights and biodiversity is receiving increasing attention worldwide. Biodiversity is defined as “the variability among living organisms” and refers to diversity within species, between species, and of ecosystems.⁵ The mutual dependency between biodiversity and human rights manifests itself in multiple interconnections:

- The loss of biodiversity threatens the enjoyment of human rights because the destruction of resources and ecosystem services has significant impacts on peoples and communities.
- Conversely, biodiversity and healthy ecosystems can support the enjoyment of a wide range of human rights.

- In addition, integrating human rights into biodiversity planning is essential for biodiversity conservation and management that benefits both people and the planet, as certain approaches to conservation can have negative impacts on human rights.
- Failure to protect human rights can trigger environmental degradation, because ignoring the needs and voices of individuals and communities who can contribute to conservation will result in a less protected environment.⁶

This publication explores the critical relationship between biodiversity and human rights, providing a comprehensive foundation for deeper engagement with a rapidly evolving international law topic. This Handbook offers background information on current legal frameworks and developments in this field. Section 2 delves into the interconnections between biodiversity and human rights, while Section 3 maps key legal sources acknowledging the nexus. Section 4 focuses on the Kunming-Montreal Global Biodiversity Framework (GBF) that crystallises a human rights-based approach to biodiversity. Section 5 synthesises the main international obligations. Section 6 spotlights the essential right of Indigenous Peoples to Free, Prior, and Informed Consent (FPIC). Section 7 concludes.

1 IPBES (2019).

2 UN Environment (2019).

3 Ibid.

4 Ma et al. (2021).

5 CBD (1992), Art 2.

6 Summarised and adapted from Greiber et al. (2009), p. 5.

2 The Relationship Between Biodiversity and Human Rights

This section examines the nexus between biodiversity and human rights by presenting: i) the impacts of biodiversity degradation and loss on the enjoyment of human rights, and ii) the impacts of conservation measures on the enjoyment of human rights.

2.1 Impacts of Biodiversity Degradation and Loss on the Enjoyment of Human Rights

Biodiversity loss can have significant consequences for the enjoyment of human rights. The fifth Global Biodiversity Outlook warned that biodiversity loss “will affect all people”, including those most reliant on biodiversity, such as Indigenous Peoples.⁷ Multiple human rights can be affected by biodiversity degradation and loss, including:

The right to life: Biodiversity degradation can negatively affect millions of persons. One example is how deforestation increases the frequency and severity of floods and is thus responsible for causing a large number of deaths.⁸ Individuals and communities attempting to protect their lands and natural resources from expropriation and exploitation often face significant challenges in defending their rights and resisting harmful activities. The number of environmental defenders who have lost their lives in recent years is on the rise.⁹

The right to self-determination: Biodiversity is critical to human survival, and its loss can impact the right of humans to self-determination and their ability to freely choose their own economic, cultural, and social development. In particular, the right to self-determination of Indigenous Peoples has been described as “crucial to the issue of land conservation efforts” because it contributes to protecting land rights and participatory rights.¹⁰

The right to health: Biological diversity is fundamental to the functioning of ecosystems and the provision of goods and services essential to human health and well-being. It supplies, for instance, ingredients for medicinal drugs, enhances microbial diversity that strengthens immune responses, and supports mental health and well-being.¹¹ Interaction with nature may contribute to treatments for depression, anxiety, and behavioural problems.¹² In addition, biodiversity loss facilitates the transmission of zoonotic diseases: human-caused changes in ecosystems increase infectious disease transmission risks – deforestation contributed to the Ebola outbreak in West Africa, for instance.¹³ The Committee on Economic, Social and Cultural Rights (CESCR) considers that a healthy environment, as well as access to food and water, are prerequisites to realising the highest attainable standard of health.¹⁴

The right to food: Natural resources support a variety of livelihood activities such as hunting, fishing, gathering, and small-scale agriculture.

7 Secretariat of the CBD (2020), p. 12.

8 Bradshaw (2007).

9 More than half of activists killed in 2021 were environmental defenders. See also Special Rapporteur on the situation of human rights defenders (2016).

10 Special Rapporteur on the rights of indigenous peoples (2016), Para. 22.

11 See WHO and Secretariat of the Convention on Biological Diversity (2015).

12 Hammoud et al. (2024).

13 Olivera (2017).

14 UN, CECSR (2000), Para. 4.

Biodiversity and healthy ecosystems safeguard the right to food by supporting the productivity and resilience of agricultural systems. According to the United Nations Environment Programme (UNEP), the natural environment comprises “the entire basis for food production through water, nutrients, soils, climate, weather and insects for pollination and controlling infestations”.¹⁵ However, land use change and agriculture are dominant causes of ecosystem destruction and biodiversity loss¹⁶ and, in turn, land degradation and other environmental effects reduce land yield.¹⁷ The loss of diversity in agro-ecosystems is increasing the vulnerability of production systems and the use of pesticides has severe consequences for wildlife. An estimated 3.2 billion people have their right to food affected by land degradation.¹⁸

The right to land: land rights define how land and its natural resources are managed and used. Land-grabbing, industrial resource extraction or the creation of protected areas all bring risks of violations of rights, especially for vulnerable communities.¹⁹ As a result of both biodiversity loss and increased competition for land, communities may find their traditional livelihoods disrupted, and the cultural and ecological value they attach to their land threatened.

The right to culture: Biodiversity is often central to cultures and traditions. Diverse worldviews, values, ethics, and spiritual beliefs guide human relationships with nature and the Earth. Many religions call on human beings to be stewards of the natural world. Species, habitats, ecosystems, and landscapes influence music, language, art, literature and dance. They form essential elements of food production systems, culinary traditions, traditional medicine, rituals, worldviews, attachments to place and community, and social systems.

Case-Law 1: Community Mayagna (Sumo) Awas Tingni v. Nicaragua (2001)

The case concerned the protection of a community’s communal land and the state’s decision to grant a timber concession within Indigenous territory. It highlighted the importance of the right to property, land and culture in relation to biodiversity. The Inter-American Court of Human Rights (IACtHR) recognised that Article 21 of the American Convention on Human Rights protects private property and covers the rights of Indigenous communities within a framework of communal property.²⁰ It thus sets an important precedent by confirming that Indigenous communal land rights arise by virtue of traditional occupation regardless of official legal title. It also acknowledged the spiritual contribution of biodiversity to Indigenous communities, noting that “relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations”.²¹

The rights of vulnerable communities: Biodiversity loss disproportionately impacts Indigenous Peoples, women, and children. **Indigenous Peoples and local communities** (IPLC) have a close and traditional dependence on biological resources.²² Indigenous Peoples represent approximately 5 per cent of the global population and own, manage, use or occupy about a quarter of the world’s land.²³ Nature they manage declines less rapidly than elsewhere, despite being under increasing pressure. Indigenous communities have a special relationship with the land on which they live, which is central for their cultural and spiritual wellbeing. But their proximity to nature is also a source of vulnerability, and biodiversity loss is a worrying threat

15 Nellemann et al. (2009), p. 5.

16 Ramankutty et al. (2018): UN, CESC (2022), Para. 2(d).

17 Nellemann et al. (2009), p. 6.

18 IPBES (2018), Para. A1.

19 Expert Mechanism on the Rights of Indigenous Peoples (2020); UN, CESC (2022).

20 Inter-American Court of Human Rights (2021), Para. 148.

21 Ibid., Para. 149.

22 CBD, Preamble.

23 IPBES (2019).

to Indigenous Peoples, adding to the difficulties faced by communities that are often marginalised. Conservation initiatives were found to have violated the rights of IPLCs: for instance, the African Court on Human and Peoples' Rights ruled that the displacement of Ogiek Peoples from the Mau Forest in Kenya was a violation of their right to life, property, natural resources, development, religion, and culture.²⁴

Women and men often play distinct roles in the conservation and use of biodiversity, due to different cultural values and societal responsibilities. Women's contributions to biodiversity conservation and also to agriculture, fisheries, and forestry is often undervalued or hidden.²⁵ The Committee on Economic, Social and Cultural Rights, in its General Comment on Land,²⁶ emphasised the discrimination that women might face with "regard to security of land tenure, access to, use of and control over land, marital property, inheritance and exclusion from decision-making processes".²⁷

Finally, biodiversity loss can prevent **children** from enjoying their rights "today and in the future, as their lifelong health outcomes, well-being and development are compromised".²⁸ The Committee on the Rights of the Child (CRC) has warned that the collapse of biodiversity is "an urgent and systemic threat to children's rights globally".²⁹ It identified multiple children's rights threatened by biodiversity loss, including the right to life,³⁰ the right to freedom from all forms of violence,³¹ the right to the highest attainable standard of health,³² the rights of Indigenous children and

children belonging to minority groups,³³ and the right to rest, play, leisure and recreation.³⁴

2.2 Impacts of Conservation Measures on the Enjoyment of Human Rights

Conservation measures to protect biodiversity can significantly improve the lives of those who rely on resources and the environment for their livelihoods and well-being, and thus contribute to the better enjoyment of their human rights. However, measures taken in the name of conservation and biodiversity protection can also undermine human rights.³⁵ In these circumstances, the right to a healthy environment can come into conflict with, and infringe upon, other fundamental rights.³⁶ The lack of local community involvement in the design of conservation measures regularly amounts to violations of their procedural rights to participation, with significant implications for rights holders. In particular, the designation of national parks and other protected areas is known for its negative impact on local communities. UN Special Rapporteurs have regularly warned against their potential violations of human rights.³⁷ Documented examples include human rights violations due to conservation measures in the Salonga National Park in the Democratic Republic of the Congo, the Similipal Tiger Reserve in India and the Manu National Park in Peru.³⁸ The Special Rapporteur on the rights of Indigenous Peoples has identified examples of forced displacement from protected areas, whose consequences have included "marginalization, poverty, loss of livelihoods, food insecurity,

24 African Court on Human and Peoples' Rights (2017).

25 See Armitage et al. (2020); Special Rapporteur on the right to food (2019), Para. 41.

26 UN, CESCR (2022).

27 Ibid., Para. 13.

28 UN High Commissioner for Human Rights (2020), Para. 2.

29 UN, CRC (2023), Para. 1.

30 Ibid., Para. 20.

31 Ibid., Para. 35.

32 Ibid., Para. 39.

33 Ibid., Para. 58.

34 Ibid., Para. 59.

35 IUCN (2008), Preamble.

36 Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2014), Para. 63.

37 Special Rapporteur on the rights of indigenous peoples (2016); Special Rapporteur on the rights of indigenous peoples (2022). Acknowledged in CBD (2018), Para. 5.

38 See Special Rapporteur on human rights and the environment Policy Brief (2021), pp. 8-10.

extrajudicial killings, and disrupted links with spiritual sites and denial of access to justice and remedy.³⁹

Case-Law 2: Kaliña and Lokono Peoples v. Suriname (2015)

In *Kaliña and Lokono Peoples v. Suriname*, the IACtHR ruled on the compatibility between protected areas and the rights of Indigenous Peoples. Noting that a protected area does not only consist of “its biological dimension, but also of its socio-cultural dimension”, it explained that Indigenous communities can play an important role in nature conservation. Thus, protecting their rights can have positive results for conservation.⁴⁰ As such, States should have adequate mechanisms in place to ensure the compatibility of conservation measures and protection of Indigenous rights, including the right to a dignified life and to cultural identity. These include ensuring effective participation, access to and use of their traditional territories, and the possibility of receiving benefits from conservation.⁴¹

³⁹ Special Rapporteur on the rights of indigenous peoples (2016), Para. 51.

⁴⁰ Inter-American Court of Human Rights (2015), Para. 173.

⁴¹ *Ibid.*, Para. 181.

3 Human Rights and Biodiversity Protection: State of International Law

This section maps legal sources pertaining to the relationship between human rights and biodiversity. It starts by presenting how international biodiversity law incorporates human rights considerations. It then turns to how international human rights law responds to biodiversity loss and ecosystem degradation.

3.1 International Biodiversity Law

Science-policy interface

The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) highlights the intrinsic link between biodiversity and human well-being, a relationship first described by the Millennium Ecosystem Assessment in 2005. The assessment identified biodiversity as the “foundation of ecosystem services to which human well-being is intimately linked”.⁴² Building on this principle, the IPBES operates on a conceptual framework that revolves around the concept of “nature’s benefits to people”,⁴³ later refined to “nature’s contributions to people”.⁴⁴ The framework emphasises a pluralistic understanding of how biodiversity and ecological processes directly impact people’s lives, livelihoods, and quality of life, and acknowledges the diverse perspectives and worldviews that shape human-nature relations.⁴⁵

Convention on Biological Diversity

The field of international biodiversity law is dense and fragmented, and the analysis below focuses only on the Convention on Biological Diversity (CBD)⁴⁶ and its associated protocols, as the central

framework of international biodiversity law. The CBD does not explicitly reference human rights. In fact, historically, recognising the connection between human rights and biodiversity has been politically sensitive within the CBD context. This sensitivity arises partly from the reluctance of some parties to formally acknowledge the rights of Indigenous Peoples, as doing so could reinforce the legal standing of the UN Declaration on the Rights of Indigenous Peoples, which was adopted as a UN General Assembly (UNGA) resolution.

However, the CBD includes provisions that carry implicit human rights implications. Notably, **Article 8(j)** on Indigenous and local communities provides that each party should “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities”. However, it is also heavily qualified – by making the duty subject to the party’s national legislation – thereby granting States considerable flexibility in how they choose to implement it. In addition, **Article 10(c)** acknowledges traditional knowledge and cultural rights by urging parties to “protect and encourage the customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements”.

Moreover, the Conference of the Parties (COP) has adopted two main sets of guidelines of direct relevance to human rights. First, the Akwé: Kon Voluntary Guidelines offer concrete guidance on how to conduct impact assessments incorporating cultural, environmental, and social considerations of Indigenous and local communities.⁴⁷ Second, the

⁴² Millennium Ecosystem Assessment (2005), p. 18.

⁴³ IPBES (2013).

⁴⁴ IPBES, Multidisciplinary Expert Panel (n.d.).

⁴⁵ Ibid.

⁴⁶ CBD (1992).

⁴⁷ CBD (2004b).

Mo'otz Kuxtal Voluntary Guidelines offer guidelines on the development of mechanisms for the consent and involvement of IPLCs.⁴⁸

Despite the absence of an explicit reference to human rights in the CBD text and associated protocols, the relationship between human rights and biodiversity has been strengthened over the years through the COPs. Notably, an explicit reference to human rights is included in the **2016 Cancun Declaration**, where Parties committed “to work at all levels ... incorporating an inclusive economic, social, and cultural approach with full respect for nature and human rights”.⁴⁹ They also pledged to respect the rights of IPLCs when implementing the Convention.⁵⁰

Case-law 2 ctd. Kalina & Lokono Peoples (2015)

In Kalina & Lokono Peoples, the IACtHR cited the Special Rapporteur on the rights of Indigenous Peoples who acknowledged the connection between the CBD and human rights: “International environmental law and international human rights law should not be considered separate, but rather as **interrelated and complementary bodies of law**. Indeed, the States Parties to the Convention on Biological Diversity (CBD) have incorporated respect for the related international rights and obligations into their decisions on protected areas in relation to indigenous peoples. [...] The CBD, and its authorised interpretation by the Conference of the Parties, defends fully the rights of indigenous peoples in relation to protected areas and requires that these are established and managed in full compliance with the State’s international obligations. This permits the application of the whole range of the State’s human rights obligations [...]”⁵¹

In addition, provisions on **public participation** also offer a point of entry to human rights considerations. This includes references to the “need for the full participation” of women in biodiversity conservation,⁵² as well as measures for education and public awareness.⁵³ Article 14 provides that EIA procedures should allow for public participation, “where appropriate”.⁵⁴ The implementation of the article, however, is hindered by the lack of defined circumstances under which it would apply. Moreover, there is limited knowledge on how to effectively leverage local expertise in biodiversity to foster public participation in environmental impact assessments.⁵⁵

COP decisions have further developed participation rights, including participatory mechanisms for IPLCs.⁵⁶ The 2022 Kunming-Montreal Global Biodiversity Framework (GBF) addresses participation requirements in terms of general public participation as a “whole of society approach”⁵⁷ and more specific requirements for participation in relation to biodiversity policies⁵⁸ and specific rights holders.⁵⁹

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilisation

The Nagoya Protocol creates a legal framework for the fair and equitable sharing of benefits arising from the use of genetic resources and traditional knowledge. It integrates human rights considerations by mandating the “prior informed consent or approval and involvement of indigenous and local communities” before accessing traditional knowledge linked to genetic resources.⁶⁰ It further requires parties to ensure that benefits arising from the use of genetic resources and traditional knowledge are shared fairly and equitably with the

48 COP (2016b), p. ii.

49 CBD (2016a), p. 2.

50 Ibid., Para. 16.

51 IACtHR, Para. 174.

52 CBD, Preamble.

53 CBD, Art. 13.

54 CBD, Art. 14(1)(a).

55 Ibid., p. 472.

56 CBD (2012b).

57 CBD (2022a), section C, 7(c) and (n).

58 Ibid., target 1, 12, 21.

59 Ibid., target 22, 23.

60 Nagoya Protocol, Art. 7.

communities concerned. Article 12(2) urges parties to establish mechanisms to inform potential users of traditional knowledge of their obligations, ensuring the “effective participation” of IPLCs in these processes.

Cartagena Protocol on Biosafety

The Cartagena Protocol on Biosafety aims to ensure the safe handling, transport, and use of living modified organisms (LMOs) resulting from biotechnology, to protect biodiversity and human health. It makes provisions for public participation, including access to information. Article 23(1) is specifically devoted to public awareness and education on LMOs. In addition, parties are required to consult the public in the decision-making process regarding LMOs “in accordance with their respective laws and regulations”⁶¹ and should also “endeavour to inform” public access through its Biosafety Clearing-House, its information exchange mechanism.⁶² A pocket guide, co-authored with the Secretariat of the Aarhus Convention on public participation, offers guidance on how to implement Article 23, with the aim to strengthen parties’ capacities in participatory decision-making processes.⁶³

3.2 Human Rights Law

Treaty bodies are increasingly paying attention to the impacts of environmental degradation on human rights. Climate change tends to feature more prominently than biodiversity. Explicit references to biodiversity loss or conservation are infrequent. However, considerations of environmental harm, including pollution, and references to the sustainable use of natural resources, all carry implications for biodiversity protection. The mapping that follows does not aim to offer a comprehensive overview of all references to environmental harm.

Instead, it focuses on mentions of biodiversity or other related references relevant to biodiversity protection. It covers UN treaty bodies, UN Special Rapporteurs, the Human Rights Council, the UNGA resolution on the right to a healthy environment, and instruments related to IPLCs.

UN treaty bodies

The Human Rights Committee (HRC), in its General Comment No. 36 on the right to life, acknowledges the threat posed by environmental degradation to the enjoyment of the right to life, from which it derives an obligation to “ensure sustainable use of natural resources”.⁶⁴ It notes that the obligations of parties under international environmental law – thus including under the CBD – should “inform” the duties of States on the right to life, and in turn, human rights duties should “inform” environmental duties.⁶⁵

The CESCR, in its General Comment on the environmental dimension of sustainable development, focuses on the three planetary crises – climate change, biodiversity and pollution.⁶⁶ It makes multiple explicit references to biodiversity loss to interpret the Covenant’s rights and clarify the obligations of States.⁶⁷

The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), in its General Recommendation 39 on Indigenous women and girls, acknowledges the “inextricable link” between Indigenous women and girls and their lands, territories and natural resources.⁶⁸ It calls upon parties to “take into consideration the environmental threats, including biodiversity loss”, that impact the human rights of Indigenous women and girls.⁶⁹

The Committee on the Rights of the Child (CRC) also made relevant pronouncements in its General Comment No. 26 on children’s rights and the envi-

61 Cartagena Protocol, Art. 23(2).

62 Ibid., Art. 23(3).

63 CBD / Aarhus Convention (2024).

64 UN, HRC (2019), Para. 62.

65 Ibid.

66 UN, CESCR (2024).

67 Ibid., Paras. 4, 17, 21, 27, 47, 62 and 64.

68 UN, CEDAW (2022), Para. 3.

69 Ibid., Para. 7.

ronment.⁷⁰ While the General Comment is primarily concerned with the climate emergency, it acknowledges the consequences of the “triple planetary crisis, including biodiversity loss,” for children’s rights.⁷¹ In addition to the Convention’s explicit references to environmental issues, the General Comment provides that the environmental crisis requires a dynamic interpretation of the Convention.⁷² The Comment acknowledges that biodiversity loss threatens the right to life,⁷³ the right to freedom from all forms of violence⁷⁴ and the right to health.⁷⁵ It affirms that children have a right to a clean, healthy, and sustainable environment, stating that this right is implicit in the Convention.⁷⁶ Consequently, the Comment clarifies that States are obliged to “conserve, protect, and restore biodiversity”.⁷⁷

The human rights impact of biodiversity and ecosystems damage are infrequently addressed in Concluding Observations. The adverse impacts of deforestation on human rights have occasionally been emphasised, for instance, by the CEDAW,⁷⁸ the CRC,⁷⁹ the CESCR,⁸⁰ and the Committee on the Elimination of Racial Discrimination (CERD).⁸¹

UN Special Rapporteurs

The Special Rapporteur on human rights and the environment has called upon States to recognise “the profound importance of implementing a rights-based approach to both the climate and biodiversi-

ty crises”.⁸² Two reports have offered a deep dive into the relationship between biodiversity and human rights. The first report published in 2017 offered an authoritative evaluation of the dependence of human rights on biodiversity, stating that CBD obligations need to be fulfilled as a matter of human rights law, and, in turn, clarifying human rights obligations relating to the conservation and sustainable use of biodiversity.⁸³ The second report, set to inform the negotiations of the post-2020 GBF, highlighted good practices in conserving, protecting and sustainably using biodiversity.⁸⁴

The Framework principles on Human Rights and the Environment presented by the Special Rapporteur in 2018 are particularly relevant.⁸⁵ They apply to any type of environmental harm, including those relating to biodiversity. In addition, the principles and their commentary make the following explicit references to biodiversity:

- Principle 5 reads “States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment”. The commentary explains that, as a result, States have a duty to “take effective steps to ensure the conservation and sustainable use of the ecosystems and biological diversity on which the full enjoyment of human rights depends”.⁸⁶

⁷⁰ UN, CRC (2023).

⁷¹ *Ibid.*, Para. 1.

⁷² *Ibid.*, Para. 9.

⁷³ *Ibid.*, Paras. 20-1.

⁷⁴ *Ibid.*, Para. 35.

⁷⁵ *Ibid.*, Para. 39 (making a specific reference to “microbial diversity, which is critical to the development of children’s immune systems, and the increasing prevalence of autoimmune diseases, with long-term effects”).

⁷⁶ *Ibid.*, Para. 63.

⁷⁷ *Ibid.*, Para. 63.

⁷⁸ UN, CEDAW (2018); UN, CEDAW (2019).

⁷⁹ UN, CRC (2016); UN, CRC (2019); UN, CRC (2016b); UN, CRC (2014).

⁸⁰ UN, CECSR (2011); UN, CECSR (2009); UN, CECSR (2017).

⁸¹ UN, CERD (2016). See also UN, CERD (2015) on EIA in the ancestral territories of Indigenous Peoples.

⁸² Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021b).

⁸³ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017).

⁸⁴ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2020).

⁸⁵ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018).

⁸⁶ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018), Para. 5.

- Principle 11, on the duty of States to establish and maintain substantive environmental standards, includes, according to the commentary, taking measures on protected areas, conservation, and biological diversity.⁸⁷
- Principle 13 identifies an obligation to cooperate internationally to prevent, reduce, and remedy environmental harm that interferes with the full enjoyment of human rights, including in relation to biodiversity protection.⁸⁸
- Finally, principle 15 addresses the duty of States to Indigenous Peoples and traditional communities, including the respect of traditional knowledge and practices as regards the conservation and sustainable use of their lands, territories and resources.⁸⁹
- The Special Rapporteur in the field of cultural rights acknowledged the close interconnection between culture and ecosystems⁹³ and called on States and other stakeholders to “advocate for conservation and prevention that enables humanity to reimagine the culture of our relationship with nature, inspired by holistic approaches in diverse cultures”.⁹⁴
- The Special Rapporteur on the right to food emphasised the importance of agricultural biodiversity in contributing to food security⁹⁵ and suggested that agroecological practices have the dual advantage of increasing productivity while mitigating species loss and genetic erosion.⁹⁶
- Finally, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes lamented the negative impacts of extractive industries on human rights,⁹⁷ and warned of the chemical contamination of traditional food sources⁹⁸ and marine and terrestrial ecosystems.⁹⁹

Four other UN Special Rapporteurs have also touched upon the relationship between human rights and biodiversity in their thematic reports:

- The Special Rapporteur on the rights of indigenous peoples called for the full recognition of Indigenous Peoples’ rights in all activities related to the conservation and sustainable use of biodiversity, in particular actions to protect forests and establish new protected areas within their territories.⁹⁰ He warned that the rights of Indigenous Peoples continue to be violated in protected areas,⁹¹ as well as in the nomination of World Heritage sites,⁹² as they suffer from forced evictions and violence.

Human Rights Council

Damage to biodiversity and ecosystems is slowly receiving attention in the Human Rights Council’s Universal Periodic Review (UPR). The first UPR recommendation with respect to biodiversity protection was made in 2017; and until September 2024, only 12 recommendations made to States contain the keyword ‘biodiversity’.¹⁰⁰ For instance, the United Arab Emirates was urged to “protect biodiversity and stop disastrous environmental impacts, such

⁸⁷ Ibid., Para. 31.

⁸⁸ Ibid., Para. 36.

⁸⁹ Ibid., principle 15(c), commentary Para. 52.

⁹⁰ Special Rapporteur on the rights of indigenous peoples (2016).

⁹¹ Special Rapporteur on the rights of indigenous peoples (2022), Para. 18.

⁹² Ibid., Para. 39.

⁹³ Special Rapporteur in the field of cultural rights (2020), Para. 18, and also Para. 50.

⁹⁴ Ibid.

⁹⁵ Special Rapporteur on the right to food (2010), Para. 9.

⁹⁶ Ibid., Para. 10.

⁹⁷ Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2012a).

⁹⁸ Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2018), Para. 82.

⁹⁹ Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2012b), Para. 64(c).

¹⁰⁰ Databank query at uhri.ohchr.org; with search string: mechanism [UPR] text [biodiversity].

as threats to the security of migrant birds, the destruction of live coral cover, the change of natural water flow and the destruction of natural seabed when constructing man-made islands”.¹⁰¹

Human Right to a Healthy Environment

The human right to a healthy environment, in its domestic, regional, and international dimensions, aims to protect “the components of the environment, such as forests, rivers and seas”¹⁰² and is thus relevant in the context of biodiversity protection. The UNGA resolution on the right to a healthy environment adopted in July 2022 identified biodiversity loss as one of “the most pressing and serious threats to the ability of present and future generations to effectively enjoy all human rights”.¹⁰³ The resolution is referenced in the GBF,¹⁰⁴ and is also included as an indicator in its monitoring framework.¹⁰⁵

The right to a healthy environment is widely acknowledged by States in their constitutions, legislation, or regional treaties to which they are parties.¹⁰⁶ References are generally made to the ‘environment’, and not ‘biodiversity’ as such, but the phrase would cover, albeit implicitly, biological resources and their variability. Domestic courts have deemed conservation measures as necessary to fulfil the right to a healthy environment.¹⁰⁷ For instance, the Supreme Court of Justice of Colombia deemed that the right to a healthy environment obliges States to adopt regular and effective

measures that contribute to the proper functioning, maintenance, and conservation of the fauna and flora that make up the ecosystem.¹⁰⁸

The international recognition of the right to a healthy environment largely reinforces a right already established in domestic legal frameworks. While it does not necessarily create new duties, the symbolic weight of its international endorsement elevates the right to the same status as other human rights. However, the challenge lies in the fact that its recognition in a UNGA resolution – a non-legally binding document – is unlikely to affect significant change in countries (such as the United States, United Kingdom, and Australia) where the right is not legally acknowledged. Moreover, outside of national frameworks, the right provides limited guidance on the extent of protection that States are obliged to provide individuals.¹⁰⁹

Case-Law 3: People v. Arctic Oil (2020)

The international recognition of the right to a healthy environment could expand legal standing. Indeed, the Norwegian Supreme Court determined that while Article 112 of the Norwegian Constitution enshrines the right to a healthy environment as a duty of the State, it does not confer a corresponding fundamental right for plaintiffs to invoke. This limitation is partly due to the lack of an internationally recognised human right to a healthy environment.¹¹⁰

101 Human Rights Council (2018b).

102 IACTHR (2017), Para. 62.

103 UN General Assembly (2022).

104 CBD (2022a), Para. 7(g).

105 CBD (2022c), p. 10.

106 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2019), noting that 156 out of 193 States legally recognise the right to a healthy environment.

107 See Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021), Para. 36.

108 Supreme Court of Justice, Colombia (2020).

109 Ibid.

110 Supreme Court of Norway (2020), Para. 92.

Rights of Indigenous Peoples and Local Communities

A final category of legal sources that are essential in the human rights–biodiversity nexus relates to the rights of Indigenous Peoples and local communities. Article 29(1) of The **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**¹¹¹ makes an explicit reference to conservation, giving Indigenous Peoples “the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources”. Article 24(1) acknowledges the right of Indigenous Peoples to their traditional medicines, “including the conservation of their vital medicinal plants, animals, and minerals”. Article 31 is also relevant in relation to natural resources because it recognises Indigenous Peoples’ right to “the full ownership, control, and protection of their cultural and intellectual property”. Notably, the Expert Mechanism on the Rights of Indigenous People (EM-RIP), which assists Member States in achieving UNDRIP’s goals, published a report on free, prior, and informed consent¹¹² and one on the right to land.¹¹³

Moreover, the **UN Permanent Forum on Indigenous Issues (UNPFII)**, an advisory body to the Economic and Social Council, has published studies examining the intersections of conservation and human rights. It emphasised the “urgent need to develop a universally recognized set of standards” for conservation efforts on Indigenous lands

and waters.¹¹⁴ It also underscored the significant contributions of traditional knowledge to biodiversity protection, ecological restoration, and the optimisation of agricultural production systems.¹¹⁵

Beyond Indigenous communities, peasants and rural workers – such as small-scale farmers, fishers, hunters, and pastoralists – play a vital role in conservation. The **UN Declaration on the Rights of Peasants and Other People Working in Rural Areas** acknowledges their contribution to “conserving and improving biodiversity, which constitute the basis of food and agricultural production throughout the world” as well as their role in ensuring the right to adequate food and food security.¹¹⁶ This recognition is reinforced in Article 18(1), which grants peasants and rural workers the “right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage”. Article 20(1) further establishes related obligations, requiring States to “take appropriate measures, in accordance with their relevant international obligations, to prevent the depletion and ensure the conservation and sustainable use of biodiversity in order to promote and protect the full enjoyment of the rights of peasants and other people working in rural areas”. The phrase “in accordance with their relevant international obligations”, delineates the scope, avoiding the creation of new additional environmental obligations.

111 UN General Assembly (2007).

112 Expert Mechanism on the Rights of Indigenous People (2018).

113 Expert Mechanism on the Rights of Indigenous People (2020).

114 UN Permanent Forum on Indigenous Issues Secretariat (2018), Para. 15.

115 UN Permanent Forum on Indigenous Issues Secretariat (2021), Para. 37.

116 UN General Assembly (2018), Preamble.

4 The Global Biodiversity Framework and the Human Rights-Based Approach

This section examines the latest developments within the CBD, focusing on how human rights considerations have been incorporated more explicitly than in the past.

In December 2022, after four years of negotiations, the Conference of the Parties to the CBD reached a new global biodiversity agreement, known as the Kunming-Montreal Global Biodiversity Framework (GBF). The agreement serves as a major milestone in global efforts to combat rising biodiversity loss. The GBF has grown, through the involvement of human-rights focused groups, to strengthen its emphasis on the intersection between biodiversity and human rights, taking important steps to recognise the rights of IPLCs, women and youth. It is considered to mark a significant step forward in integrating human rights into environmental policy.

The 2050 Vision of the GBF is a world of “living in harmony with nature” by ensuring that biodiversity is used sustainably to meet the population’s needs. The framework is heavily **people-centered**, as it aims to protect biodiversity to “deliver benefits essential for all people”.¹¹⁷ The GBF is composed of four long-term goals for 2050. Goal B in particular concerns “nature’s contributions to people” that should be recognised and maintained. It is also made of 23 targets setting specific actions to be fulfilled by 2030. Targets 9-13 are focused on “meeting people’s needs through sustainable use and benefit-sharing” in a number of

areas, such as agriculture, air and water quality, and genetic resources.¹¹⁸

The agreement’s introductory text reads as follows:

“The implementation of the framework should follow a human rights-based approach respecting, protecting, promoting, and fulfilling human rights. The framework acknowledges the human right to a clean, healthy and sustainable environment.”¹¹⁹

A human rights-based approach (HRBA) is a conceptual framework encouraged by the UN in the context of human development that “is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.”¹²⁰ A HRBA requires human rights to guide UN development cooperation in order to redress “discriminatory practices and unjust distributions of power”, with the view to emphasising the obligation of duty bearers to fulfil their human rights obligations and corresponding rights of rights holders.¹²¹ In the context of biodiversity, an HRBA helps promote accountability of duty bearers while empowering rights holders.¹²² Important components of an HRBA include Indigenous and local communities’ rights, gender equality, as well as intergenerational equity.

Other **explicit mentions of human rights** are as follows:

117 CBD (2022a), Para. 10.

118 Ibid., targets 9-13.

119 Ibid., Para. 7(g).

120 UN Sustainable Development Group (2022).

121 UN Sustainable Development Group (2022).

122 UN Office of the High Commissioner for Human Rights (2022), p. 9.

- A reference to the right to a healthy environment¹²³ acknowledging its existence without endorsing it.
 - A recognition of the contributions and rights of IPLCs.¹²⁴ It is placed at the start of the framework as the first point of consideration for the implementation of the Framework. This is important because it signals its applicability as a driving principle of the entire framework, and not simply as one standalone target. In addition, several targets mention the rights of IPLCs.¹²⁵
 - A reference to the right to development as a consideration for the implementation of the Framework.¹²⁶ It highlights the combination of development and conservation priorities.
- specting their cultures and their rights over lands, territories, resources”), and other vulnerable groups, as well as the protection of environmental human rights defenders.¹²⁹
- A standalone target on gender equality is included.¹³⁰ It recognises the rights of certain vulnerable groups to participate in decision-making. The concurrent adoption of a Gender Plan of Action to support gender mainstreaming in the GBF complements the target.¹³¹ It acknowledges the need to apply a HRBA to advance gender equality in biodiversity conservation and use,¹³² and makes an explicit reference to the CEDAW and its committee as a guidance mechanism on the matter.¹³³

In addition, the Framework includes **provisions that carry implications for human rights**, even if these are not explicitly mentioned:

- The statement that the Framework “should be guided by the principle of intergenerational equity”,¹²⁷ creates a long-term perspective to biodiversity governance.
- The Framework is presented to be consistent with existing international law and “needs to be implemented in accordance with relevant international obligations”.¹²⁸ As a result, the GBF ought to be implemented in compliance with applicable international human rights law.
- A standalone target on the full and effective participation in decision making of IPLCs (“re-

Spotlight on Protected Areas

Target 3 of the GBF, also known as the “30x30 target”, is especially relevant from a human rights law perspective. It aims to protect 30 percent of the Earth’s surface by 2030. The CBD defines a protected area as “a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives”.¹³⁴ In 2004, the COP adopted a programme of work on protected areas, highlighting the need for “full and effective participation of, and full respect for the rights of, indigenous and local communities”. However, the commitment was tempered by the stipulation that it aligns with “national law and applicable international obligations”.¹³⁵

The global network of areas did not successfully respond to biodiversity loss. Aichi Target 11 sought to conserve 17 per cent of land and inland waters and 10 per cent of coastal and marine are-

¹²³ CBD (2022a), Para. 7(g).

¹²⁴ Ibid., Para. 7(a).

¹²⁵ Ibid., targets 1, 3, 5, 9, 21, 22.

¹²⁶ Ibid., Para. 7(f).

¹²⁷ Ibid., Para. 7(n).

¹²⁸ Ibid., Para. 7(j).

¹²⁹ Ibid., target 22.

¹³⁰ Ibid., target 23.

¹³¹ COP (2022b).

¹³² Ibid., Para 2(c).

¹³³ Ibid., Para 2(c).

¹³⁴ CBD, Art. 2.

¹³⁵ CBD (2004), Para. 22.

as by 2020.¹³⁶ Yet, there is broad consensus that it fell short of meaningful biodiversity conservation. One key issue was that countries often prioritised meeting these numerical goals over assessing their actual impact on biodiversity conservation and protection.¹³⁷

Target 3 of the GBF now aims to protect at least 30 per cent of biodiversity by 2030 through a system of protected areas and other area-based conservation measures. Crucially, its implementation needs to respect the rights of IPLCs. However, a history of exclusion and violence towards these communities has led to concerns that this target could result in further restrictions on their rights.¹³⁸ Indeed, scientists have warned about the social impacts of expanding protected areas. For instance, research by Schleicher et al. on the Half Earth proposals – which advocate dedicating half of the planet to nature¹³⁹ – revealed that such proposals could affect at least one billion people, raising significant questions about acceptability and justice. Similarly, Filder et al. recommend that, in order to reduce

social impacts, the network of protected areas should include a range of strategies, including protected areas that prohibit extractive activities and multiuse areas that “allow for nonindustrial resource extraction”.¹⁴⁰ The GBF includes safeguards within Target 3’s wording to mitigate these social impacts, with references to the equitable governance of protected areas, and acknowledgement of IPLCs and their traditional territories.

Monitoring framework

The monitoring framework is an essential part of the GBF that enables national progress towards the goals to be tracked. States are expected to submit reports on how they are working to achieve the targets. The framework is under development. Human rights indicators have been included, inter alia, in relation to the protection of cultural rights,¹⁴¹ the implementation of the right to a healthy environment,¹⁴² monitoring of gender equality,¹⁴³ and of land rights.¹⁴⁴ Some are arguably still missing: for instance, in relation to respect for human rights in protected areas or traditional knowledge.¹⁴⁵

136 CBD (2011).

137 Visconti et al. (2019).

138 Special Rapporteur on human rights and the environment (2021), p. 4; Special Rapporteur on the rights of indigenous peoples (2016), Paras. 32-3; Amnesty International (2022), p. 1.

139 Schleicher et al. (2019).

140 Filder et al. (2022).

141 CBD (2022c), goal B.

142 Ibid., goal B.

143 Ibid., target 16 and 21.

144 Ibid., targets 22 and 23.

145 Amnesty International (2024).

5 Main Emerging Obligations: Synthesis

This section synthesises the sources presented above to discuss the human rights obligations of States and other international actors to conserve biodiversity. It ends with options for redress in case of breach.

5.1 Obligations of States

The evolving body of international law addressing the link between human rights and biodiversity raises an essential question: does it establish specific human rights obligations to conserve biodiversity? The foundation for these obligations remains fragile for two main reasons:

- First, the recognition of obligations concerning biodiversity conservation often stems from broader obligations to mitigate environmental harm or address climate change impacts. The obligations of States to protect the enjoyment of human rights from environmental harm, and thus to protect against environmental harm, have been well documented.¹⁴⁶ By extension, these obligations have been applied in relation to climate change; and a similar reasoning could apply in relation to biodiversity loss. Such a syllogism carries limitations due to the specific nature of the biodiversity problem and the potential lack of state practice.
- Second, the sources are often soft in nature, most often displaying some political acceptance but not necessarily creating legal constraints. For instance, the guidance from the

UN Environment Programme and the Office of the United Nations High Commissioner for Human Rights identifies, without presenting a legal basis, a duty to “take meaningful, effective and urgent action to transform humanity’s relationship with nature and address the direct drivers of biodiversity loss”, including by protecting lands, forests and oceans.¹⁴⁷ Moreover, efforts to define human rights obligations related to biodiversity conservation rely significantly on the work of the UN Special Rapporteur on the right to a healthy environment, whose contributions are instrumental in highlighting emerging state practices. However, this work is also geared toward the progressive development of international law, rather than reflecting a widely established consensus.

Against this background, the main emerging obligations are presented below.

Duty to protect biodiversity and ecosystems

States have an obligation to protect against environmental harm that interferes with the enjoyment of human rights.¹⁴⁸ Given that biodiversity loss threatens human rights, a duty to safeguard biodiversity in order to protect these rights has been suggested.¹⁴⁹ To fulfil this duty, States are under an obligation of due diligence to take appropriate measures to prevent environment harm, including that created by private actors. This includes adopting adequate legal and institutional frameworks, undertaking environmental and social impact assessments,¹⁵⁰ and cooperating internationally.¹⁵¹

¹⁴⁶ Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2013).

¹⁴⁷ UN Environment (2021), message 1.

¹⁴⁸ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018).

¹⁴⁹ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017), Para. 33; UN Environment (2021), message 1.

¹⁵⁰ UN, HRC (2018), Para. 65.

¹⁵¹ Duvic-Paoli (2018).

A duty to protect biodiversity under international human rights law is not absolute and does not require that “ecosystems remain untouched by human hands”.¹⁵² Rather, States have discretion to “strike a balance between environmental protection and other legitimate societal goals”.¹⁵³ In other words, biodiversity protection needs to be taken into account alongside objectives of economic development and resource exploitation.¹⁵⁴ In deciding whether a fair balance has been found between environmental protection and other interests, factors will include whether the decision has been made following an environmental impact assessment, whether it respects internationally accepted standards, and whether it is non-retrogressive.¹⁵⁵

Duty to provide for public participation

International human rights law imposes procedural obligations on States in relation to the environment, including as they relate to i) making environmental information public; ii) facilitating public participation in environmental decision-making; and iii) providing access to remedies for harm.¹⁵⁶ These obligations have their initial bases in civil and political rights, and have been clarified and extended in relation to environmental harm.¹⁵⁷ By extension, each of these obligations applies in the context of biodiversity and conservation measures.

Duty to cooperate internationally

While in human rights law, international cooperation is only a secondary tool, it plays an important

role in the context of environmental harm. Indeed, the threats to and benefits from biodiversity have transboundary and global dimensions. As such, its effective protection is only possible with international cooperation. Biodiversity loss may thus trigger a duty of international cooperation and assistance under international human rights law.¹⁵⁸

The duty is informed by the commitment to cooperate under the CBD,¹⁵⁹ to facilitate the exchange of information relevant to conservation,¹⁶⁰ to promote scientific and technical cooperation,¹⁶¹ and to notify, exchange information, and consult on activities which might have transboundary impacts on biodiversity.¹⁶² This can include a duty to provide technical and financial assistance, pursuant to the commitment of developed countries to provide “new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs”.¹⁶³

Duties towards vulnerable communities

States have heightened duties with respect to those who are particularly vulnerable to environmental harm.¹⁶⁴ Like other environmental harms, the loss of biodiversity has disproportionate effects on persons and communities in vulnerable situations, including women, children and Indigenous Peoples. In this context, duties to prevent and remediate biodiversity loss and ecosystem degradation emerge from the right to non-discrimination.¹⁶⁵

152 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017), Para. 34.

153 Ibid.

154 See African Commission on Human and Peoples’ Rights (2001) as well as the case law of the ECtHR on the discretion given to states to strike a balance between environmental objectives and other issues.

155 Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2013), Paras. 53-56.

156 Ibid., Paras. 29-43.

157 Rio Declaration, Principle 10; UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

158 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017), Para. 36; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021), Para. 74.

159 CBD, Art. 5.

160 CBD, Art. 17.

161 CBD, Art. 18.

162 CBD, Art. 14(1).

163 CBD, Art. 20(2).

164 Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2013), Paras. 69-78.

165 UN, CEDAW (2022), Para. 60; UN, CESR (2022), Para. 12; Inter-American Court of Human Rights (2017), Para. 67.

Extraterritorial obligations

Many of the components of biodiversity, the threats to biodiversity and the benefits biodiversity provides, have transboundary or global dimensions. For instance, food and medicine that depends on biological diversity can be harvested in one part of the world and benefit people elsewhere. Similarly, zoonotic diseases emerging as a result of biodiversity loss may affect humanity as a whole.

This situation raises the question of whether States have an obligation to protect people in *other* States from the harmful impacts of biodiversity degradation. The State practice recognising the rights of individuals who reside outside its territory but who may suffer environmental harm from actions arising within its territory is embryonic, and mostly qualified as “good practice”.¹⁶⁶ The argument that States have an extraterritorial preventive obligation under human rights law was notably presented to the International Court of Justice in the context of the *Aerial Herbicide Spraying* dispute, eventually settled without a court judgement.

Case-Law 4: Aerial Herbicide Spraying (Ecuador v. Colombia) (2008)

It was argued that in addition to its obligation to prevent environmental harm towards the State of Ecuador, Colombia has an obligation of prevention towards the Ecuadorian populations. Ecuador claimed that Colombia was bound to prevent harm towards its populations whose health, crops and livestock had suffered on the basis that both countries shared a “common legal framework” that could not allow for loopholes in the protection of human rights.¹⁶⁷ The case was settled before a pronouncement could be made on this issue.

The IACtHR was in a position to offer clearer guidance in its advisory opinion on human rights and the environment. It affirmed the extra-territorial reach of the duty to prevent environmental harm, noting that, in cases of transboundary harm, “a person is subject to the jurisdiction of the State of origin if there is a causal connection between the incident that took place on its territory and the violation of the human rights of persons outside its territory”.¹⁶⁸

The question of the extra-territorial reach of human rights obligations in the context of biodiversity remains underexplored. Some guidance can be found in relation to environmental harm in general and climate change.¹⁶⁹ However, the question is arguably more pertinent in the context of climate change, where the impacts of greenhouse gas emissions in one country result in a general increase in global temperatures and can thus be felt throughout the globe, which is not necessarily the case in relation to biodiversity. Nevertheless, it has been noted that domestic policies in relation to trade, investment or development can interfere with the enjoyment of human rights abroad.¹⁷⁰ As a result, the CESCR has affirmed the duty of States to respect, protect, and fulfil human rights, “including when national policies affect those outside their territories” in the context of environmental degradation,¹⁷¹ and also the duty to ensure that business entities “do not impair the enjoyment of rights under the Covenant” in other countries.¹⁷²

5.2 Obligations of non-State actors

States are the primary duty bearers under international human rights law. However, non-State actors play an essential role in biodiversity governance. As such, whether they hold duties under international law is an important question. The GBF emphasises that the framework is “for all”, including

¹⁶⁶ Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2015), Para. 85.

¹⁶⁷ International Court of Justice (2011), Para. 7.28.

¹⁶⁸ Inter-American Court of Human Rights (2017).

¹⁶⁹ See Duvic-Paoli (2018), pp. 235-239.

¹⁷⁰ UN, CESCR (2024), Para. 34.

¹⁷¹ *Ibid.*, Para. 33.

¹⁷² UN, CESCR (2022), Para. 42; UN, CESCR (2024), Para. 37.

States but also “the whole of society”.¹⁷³ The UNEP report identified a duty to address biodiversity and habitat loss under international human rights law to apply to “States, businesses, international organizations, and other actors”, although no legal basis was given to support the statement.¹⁷⁴

The business and finance sector are playing an increasing role in driving and responding to biodiversity loss. The CBD explicitly encourages Parties to enable cooperation between government authorities and the private sector with regard to the sustainable use of biodiversity components.¹⁷⁵ Since 2005, the CBD regime has been designing tools to facilitate the engagement of the private sector in biodiversity-related issues.¹⁷⁶ The main objective has been to elaborate standards and guidelines for corporate environmental accountability and responsibility.

In addition, the UN Guiding Principles on Business and Human Rights,¹⁷⁷ that set out responsibilities for business enterprises, are explicitly referenced in the UNGA resolution on the right to a healthy environment. They should i) avoid causing or contributing to human rights impacts in their activities; ii) prevent or mitigate human rights impacts linked to their products, operations and services; iii) remedy impacts. This includes undertaking human rights due diligence by identifying, assessing, and addressing impacts in their activities or value chains.

Whether this creates duties on businesses to protect biodiversity is unsettled. The Special Rapporteur on human rights and the environment responds in the positive: businesses must comply

with the UNGP “as they apply to activities carried out by the business, its subsidiaries or its supply chain that could damage or degrade the biosphere”.¹⁷⁸ The duty of businesses to protect biodiversity requires, *inter alia*, protecting the rights of Indigenous Peoples,¹⁷⁹ including by seeking their free, prior and informed consent.¹⁸⁰ Conservation organisations should also align their activities with the UNGP.¹⁸¹

However, it should be noted that all direct references to the environment, including to the right to a healthy environment, have been deleted in the updated third draft (July 2023) of the Legally Binding Instrument to Regulate in International Human Rights Law the Activities of Transnational Corporations and other Business Enterprises.¹⁸² In addition, target 15 of the GBF on the impacts of businesses and financial institutions does not regulate these entities, but merely encourages voluntary risk assessment and disclosure.

5.3 Redress

Litigation, both international and domestic, on biodiversity loss, *stricto sensu*, is rare, if defined as relative to a legal dispute on “conservation of, sustainable use of and access to and benefit-sharing of genetic resources, species, ecosystems and their relations”.¹⁸³ A breach of a biodiversity-related human right obligation would require i) the presence of direct actions or omissions of the State in relation to a potentially harmful activity on the environment; and ii) an impairment of specific human rights of individuals or groups.

173 CBD (2022a), section C, Para. c.

174 UN Environment (2021).

175 CBD, Art. 10(e).

176 See, eg. CBD (2012a).

177 Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises (2011).

178 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021), Para. 76.

179 Special Rapporteur on the rights of indigenous people (2013); Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021), Para. 76.

180 *Ibid.*, Para. 55. See section 6.

181 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017), Para. 79.

182 Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (2023).

183 Futhazar et al. (2022), p. 15.

Biodiversity litigation does not have a distinct legal identity, comparable to that of climate litigation. There is no comprehensive global database on biodiversity cases. A ground-breaking *Urgenda*-like case that successfully and systematically articulates biodiversity loss in terms of rights violations has yet to be adjudicated. The case brought by the German NGO BUND to the German Constitutional Court, claiming that the failure to enact a law protecting biodiversity more comprehensively violates basic rights, could act as a pioneering case.¹⁸⁴

However, biodiversity litigation can, to a vast extent, be assimilated with older trends of environmental litigation, related, *inter alia*, to the pollution of natural habitats, the depletion of over-exploited species, or the disruption of Indigenous Peoples' reliance on nature for their livelihood. After all, the Philippines' Supreme Court famous *Oposa* case, which recognised the principle of inter-generational equity, was challenging a public body to grant timber licenses to corporations, despite the rapid rate of deforestation of the country's tropical rainforests. Similarly, internationally, the case brought to the HRC in *Comunidad Indígena de Campo Agua, del pueblo Ava Guaraní v. Paraguay* regarding the harms suffered by an Indigenous community – including harm to their territory's biodiversity – as a result of commercial operations' toxic pollution through pesticide fumigation, can be framed as a 'biodiversity' case.¹⁸⁵

International and regional redress mechanisms are available and have been used by individuals and communities mostly affected by natural resource exploitation and poorly designed conservation initiatives, including universal and regional

human rights mechanisms. Nevertheless, it is evident that vulnerable communities, including Indigenous Peoples, face important challenges to accessing justice. The Permanent Forum on Indigenous Issues synthesised the difficulties faced:

“Owing to racism, lack of political will, or failure to recognize the rights of indigenous peoples, State-based redress mechanisms are often unsympathetic to the plight of indigenous communities that are negatively affected by conservation initiatives. At the same time, owing to a lack of financial support or unfamiliarity with procedures, indigenous peoples are often unable to access United Nations mechanisms and regional human rights mechanisms and, when those mechanisms issue decisions that are favourable to indigenous peoples, it is difficult to ensure that the decisions are actually implemented at the local level.”¹⁸⁶

At the domestic level, rights-based lawsuits that aim to protect biodiversity are projected to increase.¹⁸⁷ They take different forms, including challenging failure of States to take adequate action to protect healthy ecosystems, and biodiversity can violate the right to a healthy environment.¹⁸⁸

Case-Law 5: Parque Isla Salamanca (2020)

The Supreme Court of Colombia ruled that the right to a healthy environment obliges States to adopt regular and effective measures that contribute to the proper functioning, maintenance and conservation of fauna and flora that make up ecosystems.¹⁸⁹

Other cases have framed the protection of species and ecosystems in terms of the protection of civil,

¹⁸⁴ BUND (2024).

¹⁸⁵ UN, HRC (2021).

¹⁸⁶ UN Permanent Forum on Indigenous Issues Secretariat (2018), Para. 12.

¹⁸⁷ Rodríguez-Garavito & Boyd (2023).

¹⁸⁸ See e.g., Supreme Court of Justice of Costa Rica (2008) (challenged a government resolution permitting the exploitation and commercialization of a certain type of almond tree in a conservation area, which reduced the habitat of the green macaw and violated the constitutional right to a healthy and ecologically balanced environment); Supreme Court of Mexico (2018) (violation of the right to a healthy environment by the government's approval of a major tourism development in Tamaulipas that presents risk of damage to a coastal wetland environment).

¹⁸⁹ Supreme Court of Justice of Colombia (2020).

political, and socioeconomic rights, from the right to life to the right to health.¹⁹⁰

Case-Law 6: Future Generations v. Ministry of the Environment Colombia (2018)

The Supreme Court of Colombia concluded that the government's failure to comply with its commitment to reduce deforestation in the Amazon to net zero by 2020 was a violation of the youth petitioners' fundamental rights, including the rights to life, food, water, health, and a healthy environment.¹⁹¹ It granted the plaintiffs' petition and ordered the Presidency and the Ministries of Environment and Agriculture to create an "inter-generational pact for the life of the Colombian Amazon" with stakeholders to reduce deforestation and mitigate climate change.

Cases involving the rights of Indigenous Peoples as well as those centred on the rights of nature are also projected to become more common.¹⁹² Overall, the added value of a human-rights based movement of litigation on biodiversity is the following: it offers better options for dispute resolution and more monitoring and accountability mechanisms than the international biodiversity regime, which suffers from weak implementation and enforcement.¹⁹³

¹⁹⁰ See e.g., Constitutional Court of Colombia (2016) (alleging that the harm done to the Atrato River and its ecosystems by intensive mining and illegal logging violates fundamental rights to life, health, water, food security, a healthy environment, culture and territory); Federal District Court of Curitiba (2020) (pending, arguing that Brazil's failure to control deforestation in the Amazon violates, *inter alia*, human rights).

¹⁹¹ Supreme Court of Colombia (2018).

¹⁹² Rodríguez-Garavito & Boyd (2023).

¹⁹³ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021), Para. 67.

6 The Right to Free, Prior and Informed Consent

This final section highlights the right to Free, Prior, and Informed Consent (FPIC), a crucial human right for Indigenous Peoples worldwide.

6.1 Definition

FPIC requires that Indigenous communities be informed about, freely consulted on, and give consent to any development or project affecting their lands, cultures, and lives. It is not a stand-alone right, but rather consists of three interrelated and cumulative rights of Indigenous Peoples: i) the right to be consulted; ii) the right to participate; and iii) the right to their lands, territories and resources.¹⁹⁴ FPIC operates as a safeguard for the collective rights of Indigenous Peoples, which means it cannot be individualised.

6.2 Sources

The right for Indigenous Peoples to participate in environmental decision-making is set out in **ILO Convention No 169 (1989)** which establishes a duty to consult Indigenous Peoples through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly.¹⁹⁵

The 2007 UNDRIP consolidated and furthered the right to FPIC significantly. Under article 5, Indigenous Peoples have the right to participate fully in

the political life of the State and under article 18 the right to participate in decision-making “in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures”. The Declaration creates an obligation on States to consult and cooperate in good faith with Indigenous Peoples in obtaining their FPIC before adopting legislative and administrative measures affecting them¹⁹⁶ and “prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”.¹⁹⁷ Without FPIC, States cannot lawfully remove Indigenous Peoples from their lands and territories,¹⁹⁸ and cannot store or dispose of hazardous materials on their lands and territories.¹⁹⁹

The right to FPIC is protected under the operational guidelines of a number of **international institutions**, although they all use different wordings with varied legal implications. The International Finance Corporation Performance Standard 7 on Indigenous Peoples makes private sector funding dependent on obtaining and documenting consent in particular circumstances;²⁰⁰ the World Bank’s Environment and Social Standard 7 calls for borrowers to carry out consultations with Indigenous Peoples’ representative bodies and organisations;²⁰¹ and the Equator Principles, a risk management framework adopted by 80 financial institutions, expressly requires that projects with adverse impacts on Indigenous Peoples will require their free, prior and informed consent.²⁰² The Operational Guidelines

¹⁹⁴ Expert Mechanism on the Rights of Indigenous Peoples (2018).

¹⁹⁵ ILO (1989), Art. 6.

¹⁹⁶ UNDRIP, Art. 19.

¹⁹⁷ *Ibid.*, Art. 32(2).

¹⁹⁸ *Ibid.*, Art. 10.

¹⁹⁹ *Ibid.*, Art. 29(2).

²⁰⁰ International Finance Corporation (2012), Paras. 10-17.

²⁰¹ World Bank (2017), Paras. 24-33.

²⁰² Equator Principles Financial Institutions (2020), Principle 5.

for the Implementation of the World Heritage Convention specify that parties shall obtain the FPIC of Indigenous Peoples before including the sites on their tentative list of sites for nomination to the World Heritage List when the site affects the lands, territories or resources of indigenous peoples.²⁰³

Human rights treaty bodies have consistently affirmed the principle of FPIC:

- The **HRC** affirmed in *Poma Poma* that “participation in the decision-making process must be effective, which requires not mere consultation but the free, prior and informed consent of the members of the community”.²⁰⁴
- The **CECSR** interpreted the right to take part in cultural life as creating a duty for States to obtain the FPIC of Indigenous communities when their culture is at risk.²⁰⁵ It also considered that the right to land requires Indigenous Peoples to be able to “actively influence” the outcomes of a consultation, with consent being the objective.²⁰⁶
- The **CERD**, in its General Recommendation No. 23, provided that States parties should “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent”.²⁰⁷ In numerous Concluding Observations on States’ reports, CERD also stressed that States should obtain the consent of Indigenous Peoples before a project can take place on their lands.²⁰⁸

- The **CEDAW**, in its General Recommendation No. 39 (2022) on the rights of Indigenous women and girls,²⁰⁹ noted that conservation projects and natural resources activities should only be carried out with the “effective participation of Indigenous women, including full respect for their right to free, prior and informed consent”.²¹⁰ It also specifically mentioned the need to obtain FPIC in proposals to establish protected areas.

Regionally, the right is well-established in the Inter-American system of human rights. In *Maya Indigenous Community of the Toledo District v Belize* (2004), the Commission held that the State violated the right to property by “granting logging and oil concessions to third parties to utilize the property and resources that could fall within the lands which must be delimited, demarcated and titled or otherwise clarified or protected, without effective consultations with and the informed consent of the Maya people and with resulting environmental damage”.²¹¹ The duty of the State to obtain FPIC was confirmed by the Court in the 2007 *Saramaka People v. Suriname* case,²¹² and has been upheld regularly since, including in *Kichwa Indigenous People of Sarayaku v Ecuador*,²¹³ *Kaliña and Lokono Peoples v. Suriname*,²¹⁴ and *Indigenous Communities of Lhaka Honhat Association v. Argentina*.²¹⁵

As for the African Commission on Human and Peoples’ Rights, it affirmed the right in the *Centre for Minority Rights Development (Kenya) v. Kenya* case.²¹⁶ It also called, in a resolution on a human rights-based approach to resource governance, upon Parties to “ensure participation, including the free, prior and informed consent of communities,

203 World Heritage Committee (2023), Para. 123.

204 UN, HRC (2006), Para. 7.6.

205 UN, CECSCR (2009b), Paras. 36–7. See also country recommendations urging states to “consult and seek the consent” of Indigenous Peoples: UN, CECSCR (2001), Para. 33; UN, CECSCR (2009), Para. 37; UN, CECSCR (2004), Para. 35; UN, CECSCR (2006), Para. 28.

206 UN, CECSCR (2022), Para. 21.

207 UN, CERD (1997), Para. 4(d).

208 Eg., UN, CERD (2009), Para. 22; UN, CERD (2010), Para. 11; UN, CERD (2003) Para. 16.

209 UN, CECSCR (2022).

210 UN, CEDAW (2022), Para. 46(f).

211 IACtHR (2004), Para. 153.

212 Ibid., Paras. 134–7.

213 IACtHR (2012), Para. 166.

214 IACtHR (2015), Paras. 210–212.

215 IACtHR (2020), Para. 184.

216 African Commission on Human and Peoples’ Rights (2003), Para. 291.

in decision making related to natural resources governance”.²¹⁷

FPIC in the CBD

FPIC encounters varied degrees of recognition among States, which is also apparent in the context of the CBD regime. Although some CBD documents such as the *Akwé: Kon Guidelines* refer to “prior informed consent”, others refer to “prior informed consent or approval and involvement”, reflecting the reluctance by some CBD Parties to fully endorse the standards of the UNDRIP.²¹⁸

FPIC is recognised in the GBF as a central consideration for the implementation of the Framework. It acknowledges that the rights of IPLCs should be “respected, and documented and preserved with their free, prior and informed consent, including through their full and effective participation in decision-making”.²¹⁹ Target 2.1 also references FPIC for any use or development of traditional knowledge. References to FPIC are also included in the Gender Plan of Action in relation to consultation with women and girls from IPLCs.²²⁰

6.3 Application of FPIC

Material scope: Free, prior and informed consent may be required for the adoption and implementation of legislative or administrative measures and any project affecting Indigenous Peoples’ lands, territories, and other resources. The right to FPIC applies regarding decisions and projects that might “affect” Indigenous Peoples. Assessment of the impact requires consideration of the nature, scale, duration and long-term impact of the action, such as damage to community lands or harm to the community’s cultural integrity.

Temporal scope: Prior implies seeking consent or approval “sufficiently in advance of any authorization to access traditional knowledge respecting the customary decision-making processes in accordance with national legislation and time requirements of indigenous peoples”.²²¹ In *Saramaka People v. Suriname*, the IACtHR used the terms “early stage” and “early notice”.²²² Consultation and consent may have to occur at the various stages of an activity, from exploration to production to project closure.

Content: Informed implies that the information provided covers all relevant aspects, including purpose, duration, scope, and assessment of risks.²²³

Representation: A defining characteristic of Indigenous Peoples is the existence of their own institutions of representation and decision-making, through which consultations need to take place. According to Article 18 of the UNDRIP, Indigenous Peoples need to be engaged through their own representative institutions and those representatives chosen by the Peoples themselves in accordance with their own procedures. The Indigenous Peoples determine who is to be consulted based on their own customs, values, and norms for decision-making and must communicate their decision with the government and developers. At times, identifying the legitimate representatives of a community may be difficult and thus requires “additional time and effort from all sides”.²²⁴

Objective: According to the UNDRIP, consultations with Indigenous Peoples are to be carried out in “good faith ... in order to obtain their free, prior and informed consent”.²²⁵ This does not necessarily give Indigenous Peoples a “veto power” over decisions that may affect them, although this is sometimes how the FPIC principle is framed. Conversely, Indigenous Peoples do not have a

²¹⁷ African Commission on Human and Peoples’ Rights (2012), preamble.

²¹⁸ Morgera (2018).

²¹⁹ CBD (2022a), Para. 7(a).

²²⁰ CBD (2022b), Para. 3.

²²¹ CBD (2016b), Para. 7(b).

²²² IACtHR (2007).

²²³ CBD (2016b), Para. 7(c).

²²⁴ Working Group on the issue of human rights and transnational corporations and other business enterprises (2013).

²²⁵ UNDRIP (2007), Art. 19.

mere right to be involved in decision-making processes or a right to have their views heard.²²⁶ Rather, consent is the objective of consultations with Indigenous Peoples,²²⁷ and Indigenous Peoples have the right to influence the outcome of decision-making processes affecting them.

Level of agreement required: this depends on the foreseen level of disruption.²²⁸ A significant, direct impact on Indigenous Peoples' lives or territories establishes a strong presumption that the proposed measure should not go forward without their consent. In certain contexts, this hardens into a prohibition of the measure or project in the absence of Indigenous consent. The UNDRIP recognises two situations in which the State is under an obligation to obtain the consent of the Indigenous Peoples concerned, beyond the general obligation to have consent as the objective of consultations: i) when the project will result in the relocation of a group from its traditional lands, and ii) in cases involving the storage or disposal of toxic waste within Indigenous lands.²²⁹ In *Saramaka*, the IACtHR held that the level of consultation needed is dependent on the nature and content of the rights of the community, and that in cases where a major development is projected to have a "profound impact on the property rights" of the community, consent is needed.²³⁰

In addition, some stakeholders have a policy according to which plans will not proceed if Indigenous Peoples withhold their consent. For instance, the UN Global Compact recommends that its members refrain from advancing a project in such circumstances.²³¹ According to the Expert Mechanism on the Rights of Indigenous Peoples, should a State or stakeholder proceed after consent is withheld by

Indigenous Peoples, it then "moves into a legal grey area" and might be exposed to litigation.²³²

It is, however, possible for States to impose limitations on the exercise of certain human rights, such as the rights to property and to freedom of religion and expression. The limitations must comply with certain standards of necessity and proportionality to establish a valid public purpose.

6.4 Extension to local communities

The principle of FPIC is a right of Indigenous Peoples. However, it is grounded in international human rights standards aimed at all peoples who hold a right to self-determination and a right to freely pursue their economic, social, and cultural development. As such, the right to FPIC has, under certain circumstances, been extended to other groups that hold collective rights.

The argument that other local communities, such as traditional farmers and small-scale fishing communities, would benefit from the right to FPIC relies on their **shared characteristics** with Indigenous communities.²³³ This includes a direct dependence on nature for their material needs and cultural life, comparable vulnerabilities due to their close relationship with territories, as well as a recognised connection between these communities' knowledge and their natural resources.²³⁴ This intrinsic connection means that certain activities could interfere significantly with their livelihoods and hence affect their collective human rights.

Communities that might be granted a right to FPIC have, so far, been acknowledged to be the following:

226 Expert Mechanism on the Rights of Indigenous Peoples (2018), Para. 15.

227 Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (2009), Paras. 46-9.

228 UN, HRC (2006), Para. 7.6.

229 UNDRIP (2007), Arts. 10 and 29.

230 IACtHR (2007), Paras. 134, 137.

231 UN Global Compact (2013).

232 Expert Mechanism on the Rights of Indigenous Peoples (2018), Para. 28.

233 Working Group on the issue of human rights and transnational corporations and other business enterprises (2016), Para. 69; UN, CESCR (2022), Para. 17.

234 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017), Para. 52.

- **Nomadic herdsmen** whose economic, social, and cultural rights might be affected;²³⁵
- **Minority groups** whose cultural rights might be impacted,²³⁶ especially as it relates to the use of land and traditional activities such as hunting and fishing;
- **Small-scale, artisanal and indigenous fishers** whose right to food might be affected;²³⁷
- **Sub-Saharan African** Historically Underserved Traditional Local Communities;²³⁸
- **Local communities** impacted by extractive and mining activities;²³⁹
- **Forest dependent communities:** FPIC is not needed for all forest-dependent communities. Rather, a case-by-case analysis of their circumstances is necessary.²⁴⁰ The CERD extended the right to FPIC in relation to forestry laws that might affect the way of living, livelihood, and culture of ethnic groups dependent on forests.²⁴¹

Evaluation of the extension of FPIC: Practice is sporadic and varies depending on the institution considering the right. Given the already debated status of FPIC in relation to Indigenous communities, the extension of the right to other communities remains fragile. However, it is best practice to offer enhanced levels of protection to potentially affected local communities heavily reliant on natural resources and biodiversity for their livelihood. By extending the right to public participation, which is often fulfilled pro forma, FPIC gives an enhanced social license to a project or activity and offers an opportunity to reach better environmental outcomes. Extending FPIC also overcomes the lack of agreement over what constitutes an Indigenous community, which can be often controversial. The shortcomings of this extension largely rest with the general weaknesses of the right, concerning the determination of who is able to speak for the community and the extent to which the consulting entity needs to take into account the absence of consent. In addition, the possible extension of PIC to other communities must not undermine the existing rights of Indigenous Peoples.²⁴²

235 UN, CECSR (2014), Para. 31.

236 UN, CECSR (2009), Para. 55(e).

237 Special Rapporteur on the right to food (2012), Para. 39.

238 World Bank (2017), Paras. 24-8.

239 UN, CECSR (2012), Para. 8; ECOWAS (2009), Art. 16(3).

240 UN-REDD Programme (2013) pp. 11-12.

241 UN, CERD (2012), Para. 16.

242 CBD (2022a), Para. 7(a).

7 Conclusion

In conclusion, the integration of human rights and biodiversity protection within international law remains in its formative stages, though significant progress has been made. The Kunming-Montreal Global Biodiversity Framework represents a pivotal moment, setting out a human rights-based approach to biodiversity conservation, while the consolidation of the right to Free, Prior and Informed Consent offers some legal protection to biodiversity stewards. As global recognition grows for biodiversity loss as a human rights issue, this approach underscores the critical need for States to design conservation strategies that take human rights into consideration.

However, challenges remain. The legal basis for biodiversity-related human rights obligations is still evolving and often rests on extensions from exist-

ing environmental and climate obligations. While UN treaty bodies and Special Rapporteurs have contributed to clarifying these obligations, State practice remains in its early stages of development. Moving forward, a robust commitment from States to implement and enforce these standards is essential. Strengthening biodiversity protection through human rights law not only supports planetary sustainability but also empowers those most affected by environmental degradation, fostering a more resilient and equitable approach to preserving our planet's biological diversity.

8 Glossary

Biological diversity: “the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems” (CBD, Art. 2)

Biological resources: “genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity” (CBD, Art. 2)

Biosphere: “the sum of all the ecosystems of the world. It is both the collection of organisms living on the Earth and the space that they occupy on part of the Earth’s crust (the lithosphere), in the oceans (the hydrosphere) and in the atmosphere. The biosphere is all the planet’s ecosystems” (IPBES, 2019)

Customary sustainable use: “the uses of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements” (CBD, 2018, Annex)

Conservation: usually interpreted as maintenance and protection. The term is not defined in the CBD, and, as a result, the extent to which it included ‘use’ or is a strictly preservationist policy is disputed (Rayfuse, 371)

Ecosystem: “a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit” (CBD, Art. 2)

Ecosystem approach: “a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. ... It recognizes that humans, with their cultural diversity, are an integral component of many ecosystems” (CBD, 2000, Para. A(1))

Ecosystem services: “the benefits people obtain from ecosystems” (IPBES, 2019)

Habitat: “the place or type of site where an organism or population naturally occurs” (CBD, Art. 2)

Nature’s contributions to people: “all the contributions, both positive and negative, of living nature (i.e. diversity of organisms, ecosystems, and their associated ecological and evolutionary processes) to the quality of life of people” (IPBES, 2024)

Nature-based solutions: “actions to protect, conserve, restore, sustainably use and manage natural or modified terrestrial, freshwater, coastal and marine ecosystems, which address social, economic and environmental challenges effectively and adaptively, while simultaneously providing human well-being, ecosystem services and resilience and biodiversity benefits” (UN Environment Assembly 2022, Para. 1)

Preservation: “a durable guarantee against the loss of or damage to the object to be preserved by defending it against external threats” (van Hiejnsbergen, 1997)

Protected area: “a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives” (CBD, Art. 2)

Protection: the oldest, most commonly used and most neutral term describing biodiversity management (Rayfuse, 370)

Restoration: “any intentional activities that initiates or accelerates the recovery of an ecosystem from a degraded state” (IPBES, 2019)

Sustainable use: “the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations” (CBD, Art. 2)

9 Bibliography

African Commission on Human and Peoples' Rights (2001): Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria

African Commission on Human and Peoples' Rights (2003): Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, 276/2003

African Commission on Human and Peoples' Rights (2012): 224 Resolution on a Human Rights-Based Approach to Natural Resources Governance – ACHPR/Res.224(LI)2012

African Court on Human and Peoples' Rights (2017): The African Commission on Human and Peoples' Rights vs Republic of Kenya – Application 006/2012

Amnesty International (2024): Recommendations on the monitoring of the Kunming-Montreal Global Biodiversity Framework. IOR 40/8039/2024

Armitage, D./Mbatha, P./Muhl, E.-K. et al. (2020): Governance Principles for Community-centered Conservation in the Post-2020 Global Biodiversity Framework. In: Conservation Science and Practice, 2 (2): e160

Bernstein, A. (2014): Biological Diversity and Public Health. In: Annual Review of Public Health, 35 (1): 153–167

Bille Larsen, P./Le Billon, P./Menton, M. et al. (2021): Understanding and Responding to the Environmental Human Rights Defenders Crisis: The Case for Conservation Action. In: Conservation Letters, 14(3): e12777

BUND (2024): Submission to the German Constitutional Court. Retrieved from: https://www.bund.net/fileadmin/user_upload_bund/publikationen/lebensraeume/Klageschrift-Naturschutzklage-BUND.pdf (Last accessed 28.10.2024)

Bradshaw, C. et al. (2007): Global Evidence that Deforestation Amplifies Flood Risk and Severity in the Developing World. In: Global Change Biology, 13(11): 2379–2395

Campese, J./Guignier, A. (2007): Conservation and Human Rights. In: Policy Matters, 15: 10–26

Campese, J./Center for International Forestry Research/International Union for Conservation of Nature (Eds.) (2009): Rights-based Approaches: Exploring Issues and Opportunities for Conservation. Bogor, Indonesia: Center for International Forestry Research

Cartagena Protocol on Biosafety to the Convention on Biological Diversity (2000), United Nations, Treaty Series, vol. 2226, p. 208

Convention on Biological Diversity (=CBD) (1992), United Nations, Treaty Series, vol. 1760, p. 79

CBD (2000): COP decision V/6 Ecosystem Approach

CBD (2004a): COP decision VII/28 Protected Areas

CBD (2004b): COP decision VII/16 – Akwé kon: Voluntary Guidelines for the conduct of cultural, environmental, and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities

CBD (2011): Strategic Plan for Biodiversity 2011–2020 and the Aichi Targets

- CBD** (2012a): COP decision XI/7 Business and Biodiversity
- CBD** (2012b): COP decision XI/14 Article 8(j) and related provisions
- CBD** (2016a): Cancun Declaration on Mainstreaming the Conservation and Sustainable Use of Biodiversity for Well-being
- CBD** (2016b): COP decision XIII/18 Mo’Ootz Kuxtal Voluntary Guidelines
- CBD** (2018): COP decision 14/13. Glossary of relevant key terms and concepts within the context of Article 8(j) and related provisions
- CBD** (2022a): COP decision 15/4 Kunming-Montreal Global Biodiversity Framework
- CBD** (2022b): COP decision 15/11 Gender Plan of Action
- CBD** (2022c): COP decision 15/5 Monitoring framework for the Kunming-Montreal Global Biodiversity Framework
- CBD / Aarhus Convention** (2024): Pocket guide: Promoting Effective Access to Information and Public Participation regarding Living Modified Organisms/Genetically Modified Organisms
- CBD Open-Ended Working Group** (2022a): Draft Elements of a Possible Decision Operationalizing the Post-2020 Global Biodiversity Framework -- CBD/WG2020/4/2
- CBD Open-Ended Working Group** (2022b): Glossary for the First Draft of the Post-2020 Global Biodiversity Framework – CBD/WG2020/4/2
- CBD Open-Ended Working Group** (2022c): Recommendation adopted by the Working Group on the Post-2020 Global Diversity Framework – CBD/WG2020/REC/4/1
- CBD SBSTTA** (2020): Post-2020 Global Biodiversity Framework: Scientific and Technical Information to Support the Review of the Updated Goals and Targets, and Related Indicators and Baselines – CBD/SBSTTA/24/3
- Cohen-Shacham, E./Walters, G./Janzen, C. et al. (Eds.)** (2016): Nature-based Solutions to Address Global Societal Challenges. IUCN International Union for Conservation of Nature
- Conservation International** (2013): Guidelines for Applying Free, Prior and Informed Consent: A Manual for Conservation International
- Constitutional Court of Colombia** (2016): Center for Social Justice Studies et al. v. Presidency of the Republic et al. Judgment T-622/16
- Duffy, R./Massé, F./Smidt, E. et al.** (2019): Why we Must Question the Militarisation of Conservation. In: *Biological Conservation*, 232: 66–73
- Duvic-Paoli, L.-A.** (2018): The Prevention Principle in International Environmental Law. Cambridge University Press
- ECOWAS** (2009): C/DIR.3/05/09 on the Harmonization of Guiding Principles and Policies in the Mining Sector
- Equator Principles Financial Institutions** (2020): Equator Principles
- Expert Mechanism on the Rights of Indigenous Peoples** (2018): Free, Prior and Informed Consent: A Human Rights-based Approach – A/HRC/39/62
- Expert Mechanism on the Rights of Indigenous Peoples** (2020): The Right to Land under the UN Declaration on the Rights of Indigenous Peoples: Study – A/HRC/45/38
- Federal District Court of Curitiba** (2020): Institute of Amazonian Studies v. Brazil - Ação Civil Pública N° 504895 1-39.2020.4.04.7000. <https://climatecasechart.com/non-us-case/institute-of-amazonian-studies-v-brazil/> (Last accessed 28.10.2024)
- Fidler, R. et al.** (2022): Participation, Not Penalties: Community Involvement and Equitable Governance Contribute to More Effective Multiuse Protected Areas. In: *Science Advances*, 8(18)
- Futhazar, G./Maljean-Dubois, S./Razzaque, J. (eds)** (2022): Biodiversity Litigation. Oxford University Press

- Greiber, T./Janki, M./Orellana, M. et al. (2009):** Conservation with Justice: A Rights-based Approach. IUCN
- Hammoud, R. et al. (2024):** Smartphone-based Ecological Momentary Assessment Reveals an Incremental Association between Natural Diversity and Mental Wellbeing. *Scientific Reports*, 14, 7051
- Human Rights Council (2018b):** Report of the Working Group on the Universal Periodic Review - UAE - A/HRC/38/14
- Human Rights Council (2021):** Resolution 46/7 Human Rights and the Environment
- Human Rights in Biodiversity Working Group (2023):** Unpacking the Kunming-Montreal Biodiversity Agreement: Identifying Key Advances and Making Them Work. <https://www.forestpeoples.org/en/2023/unpacking-kunming-montreal-biodiversity-agreement> (Last accessed 28.10.2024)
- ILO (1989) C169 - Indigenous and Tribal Peoples Convention**
- Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2013):** Mapping report - A/HRC/25/53
- Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2014):** Report on the mission to Costa Rica - A/HRC/25/53/Add.1
- Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2015):** Compilation of good practices - A/HRC/28/61
- Inter-American Commission of Human Rights (2004):** Maya indigenous community of the Toledo District v. Belize, Case 12.053
- Inter-American Court of Human Rights (2001):** Mayagna (Sumo) Awas Tingni Community v. Nicaragua
- Inter-American Court of Human Rights (2005):** Yakye Axa Indigenous Community v. Paraguay
- Inter-American Court of Human Rights (2007):** Saramaka People v. Suriname
- Inter-American Court of Human Rights (2012):** The Kichwa Indigenous People of Sarayaku v. Ecuador
- Inter-American Court of Human Rights (2015):** Kaliña and Lokono Peoples v. Suriname
- International Court of Justice (2011):** Case Concerning Aerial Herbicide Spraying (Ecuador v. Colombia) - Reply of Ecuador
- International Finance Corporation (2012):** Performance Standard 7 Indigenous Peoples
- IPBES (2013):** Decision 2/4
- IPBES (2018):** Assessment Report on Land Degradation and Restoration
- IPBES (2019):** Global Assessment Report on Biodiversity and Ecosystem Services
- IPBES (2024):** Glossary. <https://www.ipbes.net/glossary> (Last accessed 02.11.2024)
- IPBES, Multidisciplinary Expert Panel (nd):** Information note on applying "nature's contributions to people"
- IUCN (2008):** Resolution 4.056 - Rights-based Approaches to Conservation
- Millennium Ecosystem Assessment (2005):** Ecosystems and Human Well-being: Biodiversity Synthesis. <https://www.millenniumassessment.org/documents/document.354.aspx.pdf> (Last accessed 18.09.2024.
- Morgera, E. (2018):** Dawn of a New Day?: The Evolving Relationship Between the Convention on Biological Diversity and International Human Rights Law. In: *Wake Forest Law Review*, 54: 101

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (2010), United Nations, Treaty Series, vol. 3008, p. 3

Nellemann, C. et al. (2009): *The Environmental Food Crisis: the Environment's Role in Averting Future Food Crises: a UNEP Rapid Response Assessment*. Arendal, Norway: UNEP

Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (2023): *Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises: Updated Third Draft, 9th session*

Rayfuse, R. (2008): *Biological Resources*. In: *The Oxford Handbook of International Environmental Law*. Oxford University Press. pp. 362–393

Rodríguez-Garavito, C. and Boyd D. (2023): *A Rights Turn in Biodiversity Litigation?* In: *Transnational Environmental Law*, 12(3): 498–536

Schleicher, J./Zaehring, J./Fastré, C. et al. (2019): *Protecting Half of the Planet could Directly Affect over One Billion People*. In: *Nature Sustainability*, 2 (12): 1094–1096

Special Rapporteur in the field of cultural rights (2020): *Climate Change, Culture and Cultural Rights* – A/75/298

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2012a): *Extractive Industries* – A/HRC/21/48

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2012b): *Mission to the Marshall Islands (27–30 March 2012) and the United States of America (24–27 April 2012)* – A/HRC/21/48/Add.1

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (2018): *Report on the mission to Denmark and Greenland* – A/HRC/39/48/Add.2

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2017): *Report* – A/HRC/34/49

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2018): *Framework Principles* – A/HRC/37/59

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2019): *Right to a Healthy Environment: Good Practices* – A/HRC/43/53

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021a): *Healthy Biosphere* – A/75/161

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2021b): *Letter from the Special Rapporteur on human rights and the environment - Adopting a rights-based approach to the global climate and biodiversity crises*. <https://www.ohchr.org/sites/default/files/Geneva-Climate-Nature-en.pdf> (Last accessed 19.10.2024)

- Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment** (2021c): Policy Brief 1: Human rights-based approaches to conserving biodiversity: equitable, effective and imperative. <https://www.ohchr.org/sites/default/files/Documents/Issues/Environment/SREnvironment/policy-briefing-1.pdf> (Last accessed 18.09.2024)
- Special Rapporteur on the right to food** (2010): Report on Agriculture – A/HRC/16/49
- Special Rapporteur on the right to food** (2012): Interim Report – A/67/268
- Special Rapporteur on the right to food** (2019): Report – A/HRC/16/49
- Special Rapporteur on the rights of indigenous people** (2013): Extractive Industries and Indigenous Peoples – A/HRC/24/41
- Special Rapporteur on the rights of indigenous peoples** (2016): Report – A/71/229
- Special Rapporteur on the rights of indigenous peoples** (2022): Protected Areas and Indigenous Peoples' Rights: the Obligations of States and International Organizations – A/77/238
- Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people** (2009): Report – A/HRC/12/34
- Special Representative of the Secretary General on the issue of human rights and transnational/corporations and other business enterprises** (2011): Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework – A/HRC/17/31
- Supreme Court of Colombia** (2018): Future Generations v. Ministry of the Environment and Others. STC4360-2018. <https://climatecasechart.com/non-us-case/future-generation-v-ministry-environment-others/> (Last accessed 19.10.2024)
- Supreme Court of Justice of Costa Rica** (2008): Costa Rican Association of Natural Reserves v. Ministry of Environment and Energy, No. 07-012530-0007-CO
- Supreme Court of Mexico** (2018): Cutting of the Mangrove of the "Laguna del Carpintero" for Construction of Ecological Park–Amparo en Revisión 307/2016
- Supreme Court of Norway** (2020): Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v Arctic Oil). HR-2020-2472-P, (case no. 20-05 1052SIV-HRET). <https://climatecasechart.com/non-us-case/greenpeace-nordic-assn-and-nature-youth-v-norway-ministry-of-petroleum-and-energy/> (Last accessed 19.10.2024)
- Tugendhat, H./Maurizio FF.** (2023): Unpacking the Kunming-Montreal Biodiversity Agreement: Identifying Key Advances and Making Them Work. <https://www.forestpeoples.org/en/2023/unpacking-kunming-montreal-biodiversity-agreement> (Last accessed 19.10.2024)
- UK Government** (2022): Explanation of Vote on Resolution on the Right to a Clean, Healthy and Sustainable Environment. <https://www.gov.uk/government/speeches/explanation-of-vote-on-resolution-on-the-right-to-a-clean-healthy-and-sustainable-environment#:~:text=And%20third%2C%20our%20understanding%20is,standard%20of%20physical%20and%20mental> (Last accessed 18.09.2024)
- UN Environment** (2019): Global Environment Outlook 6. <https://www.unep.org/resources/global-environment-outlook-6> (Last accessed 27.10.2024)
- UN Environment** (2021): Human Rights and Biodiversity: Key Messages. <https://www.unep.org/resources/report/human-rights-and-biodiversity-key-messages#:~:text=The%20fulfilment%20of%20a%20broad,even%20the%20right%20to%20life>

UN Environment (2022): Human Rights, the Environment and Gender Equality: Key Messages. https://www.ohchr.org/sites/default/files/2022-03/Final_HumanRightsEnvironmentGenderEqualityKM.pdf

UN Environment Assembly (2022): Decision 5/5. Nature-based solutions for supporting sustainable development

UN Global Compact (2013): The Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples. <https://unglobalcompact.org/library/541>

UN Permanent Forum on Indigenous Issues (2018): Study to examine conservation and indigenous peoples' human rights: Note by the Secretariat – E/C.19/2018/9

UN, CEDAW (=Committee on the Elimination of the Discrimination against Women) (2018): Fourth periodic report submitted by Côte d'Ivoire under article 18 of the Convention, due in 2015 – CEDAW/C/CIV/4

UN, CEDAW (2019): Concluding observations on the ninth periodic report of Guyana – CEDAW/C/GUY/CO/9

UN, CEDAW (2022), General Recommendation 39 on the rights of Indigenous women and Girls – CEDAW/C/GC/39

UN, CERD (=Committee on the Elimination of Racial Discrimination) (1997): General Recommendation No. 23: Indigenous Peoples

UN, CERD (2003): Concluding observations of the Committee on the Elimination of Racial Discrimination - Ecuador – CERD/C/62/CO/2

UN, CERD (2009): Concluding observations of the Committee on the Elimination of Racial Discrimination - Chile – CERD/C/CHL/CO/15-18

UN, CERD (2010): Concluding observations of the Committee on the Elimination of Racial Discrimination - Guatemala – CERD/C/GTM/CO/12-13

UN, CERD (2012): Concluding observations on the first to third periodic reports of Thailand, adopted by the Committee at its eighty first session (6–31 August 2012) – CERD/C/THA/CO/1-3

UN, CERD (2015): Concluding observations on the combined thirteenth to fifteenth periodic reports of Suriname – CERD/C/SUR/CO/13-15

UN, CERD (2016): Concluding observations on the combined fourth to sixth periodic reports of Paraguay – CERD/C/PRY/CO/4-6

UN, CESCR (=Committee on Economic, Social and Cultural Rights) (2000): General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant). Contained in E/C.12/2000/4

UN, CESCR (2001): Concluding observations Colombia – E/C.12/1/Add.74

UN, CESCR (2004): Concluding observations Ecuador – E/C.12/1/Add.1007

UN, CESCR (2006): Concluding observations Mexico – E/C.12/MEX/CO/4

UN, CESCR (2009a): Consideration of Reports Submitted by States Parties Under Article 16 and 17 of the Covenant - Brazil – E/C.12/BRA/CO/2

UN, CESCR (2009b): General comment No. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights) – E/C.12/GC/21

UN, CESCR (2011): Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant - Argentina – E/C.12/ARG/CO/3

UN, CESCR (2012): Concluding observations Mauritania – E/C.12/MRT/CO/1

UN, CESCR (2017): Concluding observations on the sixth periodic report of Colombia – E/C.12/COL/CO/6*

- UN, CESCR** (2022): General Comment No. 26 on land and economic, social and cultural rights – E/C.12/GC/26
- UN, CESCR** (2024): General Comment on Economic, Social and Cultural Rights and the Environmental Dimension of Sustainable Development – Draft prepared by the Committee. <https://www.ohchr.org/en/calls-for-input/2025/cescr-calls-written-contributions-draft-general-comment-economic-social-and> (Last accessed 28.10.2024)
- UN, CRC (=Committee on the Rights of the Child)** (2012): Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Seychelles – CRC/C/SYC/CO/2-4
- UN, CRC** (2014): Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation – CRC/C/RUS/CO/4-5
- UN, CRC** (2016a): Concluding observations on the combined second and third periodic reports of Haiti – CRC/C/HTI/CO/2-3
- UN, CRC** (2016b): Concluding observations on the second periodic report of Gabon – CRC/C/GAB/CO/2
- UN, CRC** (2018): Concluding observations on the combined third to sixth periodic reports of the Lao People's Democratic Republic – CRC/C/LAO/CO/3-6
- UN, CRC** (2019): Concluding observations on the combined third to sixth periodic reports of Guinea – CRC/C/GIN/CO/3-6
- UN, CRC** (2023): General comment No. 26 on children's rights and the environment with a special focus on climate change – CRC/C/GC/26.
- UN, HRC (=Human Rights Committee)** (2006): Poma Poma – CCPR/C/95/D/1457/2006
- UN, HRC** (2019): General comment No. 36 Article 6: right to life – CCPR/C/GC/36
- UN, HRC** (2021): Comunidad Indígena de Campo Agua, del pueblo Ava Guaraní v. Paraguay – CCPR/C/132/D/2552/2015
- UNGA** (2007): Resolution 61/295 United Nations Declaration on the Rights of Indigenous Peoples. A/RES/61/295
- UNGA** (2018): Resolution 73/165 United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas. A/RES/73/165
- UNGA** (2022): Resolution 76/300 Human Right to a Clean, Healthy and Sustainable Environment. A/RES/76/300
- UN-REDD Programme** (2013): Guidelines on Free, Prior and Informed Consent. <https://www.un-redd.org/document-library/guidelines-free-prior-and-informed-consent> (Last accessed 28.10.2024)
- Visconti, P./Butchart, S./Brooks, T. et al.** (2019): Protected Area Targets Post-2020. In: *Science*, 364 (6437): 239–241
- Wilson, E.** (2016): *Half-Earth: Our Planet's Fight for Life*. Reprint edition. New York London: Liveright
- World Bank** (2017): Environmental and Social Framework. <http://documents.worldbank.org/curated/en/383011492423734099/The-World-Bank-Environmental-and-Social-Framework> (Last accessed 18.09.2024)
- World Health Organisation and Convention on Biological Diversity** (2015): Connecting Global Priorities: Biodiversity and Human Health: a State of Knowledge Review. <https://www.who.int/publications/i/item/9789241508537> (Last accessed 18.09.2024)
- World Heritage Committee** (2023): Operational Guidelines for the Implementation of the World Heritage Convention – WHC.23/01

Imprint

PUBLISHER

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www.institut-fuer-menschenrechte.de

Analysis I January 2025

ISBN 978-3-949459-70-2 (PDF)

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