



RIGHTS-BASED APPROACH (RBA) IN THE THE POST-2020 GLOBAL BIODIVERSITY FRAMEWORK

WWF believes that the integration of a Rights-Based Approach (RBA) is critical for a transformative, comprehensive and measurable post-2020 global biodiversity framework (GBF) and the realization of a nature-positive world by 2030 for the benefit of all people and the planet. Key RBA principles and building blocks that need to be covered by the GBF goals and targets include:

1. The right to a safe, clean, healthy and sustainable environment
2. The rights of Indigenous Peoples and Local Communities (IPLC) to land and resources, customary sustainable use and traditional knowledge and Free and Prior Informed Consent (FPIC)
3. Intergenerational equity; gender equity and equality
4. The full and effective participation of Indigenous People and local communities, women and girls and youth
5. Support and protect environmental human rights defenders.

INTRODUCTION

Human rights and a healthy environment are mutually dependent. To have a safe, clean, healthy and sustainable environment we have to respect, protect and fulfil human rights. To realize our human rights, we must heal, protect and sustainably live on our planet¹.

The current crises of biodiversity loss and land degradation undermine progress towards the Sustainable Development Goals (SDGs) by impacting directly on the right to food, water and health, and the ability of Indigenous Peoples, and local and rural communities, men and women, and those most dependent on nature, to continue to sustain their livelihoods.

¹ Some governments (Indonesia, Madagascar, Malaysia and Solomon Islands) that have asserted that protecting rainforests is essential to realizing economic, social and cultural rights.

The Post-2020 Global Biodiversity Framework², section C, Theory of Change, acknowledges the need for, “*appropriate recognition of gender equality, women’s empowerment, youth, gender-responsive approaches and the full and effective participation of indigenous peoples and local communities in the implementation of this framework (...)*”, and states that, **it will be implemented taking a rights-based approach (RBA) and recognizing the principle of intergenerational equity.**” This is aligned with the recommendation of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd that respect of human rights and a rights-based approach are key to “*achieving rapid and ambitious progress in the protection, conservation and sustainable use of biodiversity.*”³ In similar vein, the Special Rapporteur on the rights of Indigenous Peoples affirms that the respect for human rights must be placed at the core of all conservation and sustainable use of biological and cultural diversity.

A rights-based approach is a framework for addressing underlying causes of poverty, inequality and environmental degradation by analyzing power imbalances and asymmetric relationships, in line with Member States obligations under international law. The aim is to improve positions rather than just conditions for sustainable change and thus secure, amongst others, intergenerational equity. Fundamental rights include substantive and procedural rights. Every right has corresponding duty.

The current draft of the GBF lacks clarity and ambition on how a rights-based approach can be effectively integrated in the goals and targets, and subsequently implemented. Human rights are a cross-cutting issue that needs to be reflected across all elements of the framework with direct and relevant language, and associated indicators. Moreover, it needs to be monitored and reported. There are ongoing efforts especially by civil society to suggest language to strengthen RBA in GBF⁴.

Critical Building Blocks

What follows are essential principles, clustered into five critical building blocks, to ensure that the language of the GBF appropriately addresses human rights, and that the GBF will be effectively implemented taking a rights-based approach.

1. **The right to a safe, clean, healthy, and sustainable environment.** This has momentum and fundamental support by the HRC in its last session (March 2021). It could be regarded as a constitutive right to the Convention. **The right to a healthy environment could be embedded in the text of GBF and referred to in one of the goals.**
2. **The rights of IPLC to land and resources, customary sustainable use and traditional knowledge and the right to Free, Prior and Informed Consent (FPIC).** Almost 80% of the remaining significant areas of high biodiversity and natural value on earth are inhabited by Indigenous Peoples. The majority of these areas and territories are in good ecological condition. This is clear evidence of the value and efficacy of indigenous conservation knowledge, governance and resource management systems, and proves their crucial contribution to conserving global biodiversity. For this reason, **the need to recognize and secure IPLC land and water rights should be included in a specific target, and FPIC** in this and additional targets. **Customary sustainable use** is the product of a set of values and knowledges, but equally the product of institutions, regulations and governing

² Updated zero draft <https://www.cbd.int/meetings/SBSTTA-24>

³ A/75/161 Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

⁴ See e.g.: [Human Rights in the post-2020 Global Biodiversity Framework. Options for integrating human rights based approach to achieve the Convention on Biological Diversity objectives.](#) The document will be made available soon for discussion. This compilation is prepared by a group of participants from the Thematic workshop on Human Rights in the post-2020 Global Biodiversity Framework (18-20 Feb 2020), representing Forest Peoples Programme, Asia Indigenous Peoples Pact, CBD Alliance, Global Biodiversity Youth Network, Fundación Ambiente y Recursos Naturales, Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, ICCA Consortium, Natural Justice, SwedBio at Stockholm Resilience Centre, Tebtebba Foundation, WWF Indonesia and Women4Biodiversity.

mechanisms that enable the use to be sustainable. It is critical to recognize and safeguard the knowledge, its keepers, users and their institutions, to ensure that customary sustainable use remains vital and a strategy to achieve the goals of the convention. Reference to Article 10c⁵ of the convention could be further strengthened in the framework.

3. **Equity, intergenerational equity, gender equity and equality.** Equity could be more explicitly integrated in the language of the **vision, goals and targets**.

Intergenerational equity. The application of rights-based approach in the GBF is a critical condition to ensure that future generations can also enjoy the right to nature and its benefits for human well-being. It is important to create space for young people to participate in shaping the decisions that will affect their future. **The principle of intergenerational equity could be embedded in the vision and/or goals**, and not only mentioned as an enabling condition.

Improving the diversity, quality and vitality of governance of protected and conserved areas, and **enhancing equitable management**, are integral part of making area-based conservation work for nature, ecosystem functions and bio-cultural diversity.

The CBD committed to the principle of gender equity and equality in the process for the development of GBF. *“Issues of **gender equality, empowerment of women and gender-sensitive approaches** need to be formally and structurally integrated for the implementation of the framework, taking into account the need to develop supporting indicators that will link these issues to all the relevant targets”⁶.* The economic and ecological agency of Indigenous and rural women, farmers, fishers, producers and many other women is often not recognized in decision-making. While women play an important role as managers, leaders and defenders of natural resources and agents of change in safeguarding the environment, women face limitations in accessing financial and other resources, or have ownership of land and other resources. Efforts to protect biodiversity need to ensure the empowerment, leadership, decision-making and meaningful participation of women and girls. These could be reflected across several targets and indicators and strengthened with the **implementation, monitoring and reporting of the Gender Plan of Action**.

4. The **full and effective participation of Indigenous People and local communities, women and girls and youth** is a necessary condition for the implementation of the GBF and the achievement of the objectives of the convention. The participation of ‘rights holders’ sanctions a process that is inclusive. Full and effective participation of IPLC, women and youth need to be supported and strengthened with adequate resources and mechanisms to help rebalance power inequalities and ensure that rights-holders, notably IPLC, are enabled to fully participate and have their voice heard on the implementation of the framework. Full and effective participation is also a principle in the whole-of-society approach and in setting up, representative and inclusive multi-stakeholder and multi-sectoral mechanisms.
5. **Support and protect human environmental rights defenders.** Provide a safe and enabling environment and strengthen practical measures to support and protect human rights defenders in environmental matters, including effective and timely remedies in cases where Indigenous Peoples and local communities and other defenders face threats, criminalization and/or any form of violence.

Why Rights-Based Approach (RBA) in GBF

A rights-based approach to conservation and sustainable use of biodiversity is broadly regarded, both in legal instruments and best practices, as a necessary condition for stopping biodiversity loss and degradation. A

⁵ Article 10. Sustainable Use of Components of Biological Diversity (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

⁶ CBD/WG2020/REC/2/1; 29 February 2020.

rights-based approach is an essential enabling condition for the resilience of systems of life, good health, and the use, management, restoration and conservation of natural resources. It ensures that all conservation actors are recognized and supported in their effective contributions to biodiversity conservation, sustainable use and restoration, and it helps establish more peaceful, inclusive and conducive circumstances by avoiding conflicts and the economic and social costs related with such conflicts.

It is well established and accepted in international law that all humans deserve to enjoy basic human rights, whether or not these rights are enshrined in national legal systems and/or applied. Nowadays, there is also a broad consensus that the protection of the environment is a vital part of contemporary human rights doctrine.

For example, the Human Rights Council adopted a resolution during its 46th session⁷ (23 March 2021) that recognizes that: *“sustainable development and the protection of the environment, including ecosystems, contribute to human well-being and to the enjoyment of human rights.”* Moreover, the links between human rights and environmental concerns are acknowledged in the resolution, including that the *“degradation and loss of biodiversity often result from and reinforce existing patterns of discrimination, and that environmental harm can have disastrous and at times geographically dispersed consequences for the quality of life of indigenous peoples, local communities, peasants and others who rely directly on the products of forests, rivers, lakes, wetlands and oceans for their food, fuel and medicine, resulting in further inequality and marginalization.”*

The current Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd recently stated⁸ that the right to a healthy, clean, safe and sustainable environment is based on:

- *“Everyone’s ability to enjoy human rights to life, health, food and water depends on healthy ecosystems and their benefits to people, including the rights of children, women, Indigenous Peoples and local communities;*
- *States’ international obligations on biodiversity and human rights that are both procedural and substantive;*
- *Protection of the rights of environmental defenders.”*

The recognition of the linkages between human rights and the health of the environment is essential for human life and dignity. This includes rights to access to environmental information, environmental justice and the right to participation in environmental decision-making sanctioned in recent agreements such as the Escazu Agreement which will come into force on 22 April 2021. In both the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), it is acknowledged that Indigenous Peoples, peasants and other people living in rural areas have the right to *“the conservation and protection of the environment and the productive capacity of their lands”*⁹. In the context of the process for the development of the GBF, a European Parliament resolution¹⁰ similarly stresses that, *“climate emergency and the consequences of mass biodiversity loss constitute a grave threat to human rights; recalls that fundamental human rights to life, health, food and safe water are at risk without a healthy environment.”*



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CH-550.0.128.920-7

⁷ A/HRC/46/L.6/Rev.1

⁸ Seventy-fifth session Item 72 (b) of the preliminary list. Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment 15 July 2020

⁹ UNDRIP Article 29 and UNDROP Article 18

¹⁰ European Parliament resolution of 16 January 2020 on the 15th meeting of the Conference of Parties (COP15) to the Convention on Biological Diversity (2019/2824(RSP))