
**INTEGRATING HUMAN RIGHTS IN NATIONAL
BIODIVERSITY STRATEGIES AND ACTION PLANS**

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Acknowledgements

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LIST OF ABBREVIATIONS

CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
COP	Conference of the Parties
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
HRBA	Human Rights-Based Approach
HRC	Human Rights Council
NBSAP	National Biodiversity Strategy and Action Plan
OHCHR	Office of the United Nations High Commissioner for Human Rights
SCBD	Secretariat to the Convention on Biological Diversity
SDGs	Sustainable Development Goals
UNECE	United Nations Economic Commission for Europe

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EXECUTIVE SUMMARY

Biodiversity is necessary for the enjoyment of a wide range of human rights and the loss of biodiversity threatens the enjoyment of those rights. The realization of human rights is beneficial for the conservation and sustainable use of biodiversity and ecosystems. Integrating human rights in biodiversity planning is essential for biodiversity conservation and management that benefits both people and the planet, as well as for ensuring compliance with human rights obligations. National biodiversity strategies and action plans (NBSAPs) are the principal planning tool for Parties to the Convention on Biological Diversity (CBD). This report by the United Nations Office of the High Commissioner for Human Rights (OHCHR) on *'Integrating Human Rights in National Biodiversity Strategies and Action Plans'* recognizes the central role played by NBSAPs and their potential for advancing a human rights-based approach (HRBA) to biodiversity planning.

The report explains to States and other pertinent stakeholders why an HRBA is important for the conservation and sustainable use of biodiversity, and provides guidance on how human rights considerations can be incorporated in biodiversity planning. The report begins by describing the outlook of global biodiversity in its introductory section. It highlights that biodiversity is threatened now more than ever before, with disastrous consequences for life and well-being on this planet. The report then analyses the nexus between human rights and biodiversity. It illustrates how the loss of biodiversity undermines the enjoyment of different human rights and demonstrates the urgent need to protect biodiversity. The second chapter outlines the importance of an HRBA to biodiversity, whereby human rights considerations are incorporated in biodiversity planning through NBSAPs. The chapter demonstrates how, in accordance with the modalities of an HRBA, this incorporation is best done in explicit terms and in the language of rights and corresponding obligations, as established by international human rights law.

Following this introduction, the third chapter of the report provides an analysis of how Parties to the CBD have integrated human rights in their NBSAPs. It provides an analysis of human rights integration in the NBSAPs of 186 State Parties to the CBD and focuses on the extent to which human rights have been factored into these NBSAPs in addition to specific consideration of groups and persons who may be in vulnerable situations such as older persons, persons with disabilities, children, youth, indigenous peoples and local communities and women and girls. The analysis of NBSAPs reveals that few States make explicit or direct reference to human rights in their NBSAPs. The majority of the NBSAPs instead factor in human rights related issues through indirect references. As a whole, NBSAPs fail to adequately integrate human rights in biodiversity policy-making and planning.

The report concludes by offering guidance to CBD Parties on how to use an HRBA in biodiversity planning. It elaborates how human rights should be integrated in the NBSAP development process, in the NBSAP text and content, and in implementation of the NBSAP. The fourth chapter emphasizes the need to ensure NBSAPs expressly articulate in human rights language the entitlements of rights holders and the obligations of duty bearers. It specifically makes recommendations for States as primary duty bearers to incorporate their human rights obligations in NBSAPs by, amongst others, facilitating public participation, access to information and access to justice. The recommendations include an articulation of the human rights responsibilities of businesses, which should also be reflected in NBSAPs. These responsibilities include instituting processes for ensuring corporate accountability for human rights harms associated with biodiversity loss as well as processes for human rights due diligence in all business activities. As duty bearers, businesses are also called upon to monitor human rights abuses and ensure they have in place human rights policies that are non-discriminatory and gender-responsive.

The report thus emphasizes the importance of an HRBA for the conservation and sustainable use of biodiversity and the fair and equitable sharing of genetic resources, which will be key to delivering tangible benefits for both people and planet under the post-2020 global biodiversity framework.

1. INTRODUCTION

Biodiversity loss is affecting every part of the globe. Through its 2019 global assessment report on biodiversity and ecosystem services, the Intergovernmental Science-Policy Platform on Ecosystems and Biodiversity (IPBES) highlights that wildlife populations have plummeted an average of 60 per cent since 1970, with a rate of extinction that is hundreds of times higher than the average over the past 10 million years and still accelerating.¹ One million species are at risk, nearly three quarters of the Earth's land surface has been altered significantly, and two thirds of ocean ecosystems are at risk, including from acidification, deoxygenation, and the loss of sea ice. In addition, more than half of the world's accessible freshwater flows have been appropriated, more than 85 per cent of the planet's wetlands have been destroyed and 420 million hectares of forest have been lost.

The direct drivers of change in nature with the largest global impact are changes in land and sea use, direct exploitation of organisms, climate change, pollution, and the invasion of alien species.² These five direct drivers result from an array of underlying causes (indirect drivers) that are all linked to human activity and underpinned by societal structures, values and behaviours, including unequal and unsustainable production and consumption patterns, human population dynamics and trends, trade, technological innovations, and governance systems. In a world of high consumption, deep inequalities, rising populations, and rapid trade and technological changes, addressing biodiversity loss and maintaining healthy ecosystems is paramount.

Biodiversity and healthy ecosystems are integral for the enjoyment of a broad range of human rights and in turn, the realization of human rights is beneficial for the conservation and sustainable use of biodiversity and ecosystems.³ According to the Special Rapporteur on human rights and the environment, the fulfilment of a broad range of human rights, including the right to a safe, clean and healthy environment, the rights to food, water, health, culture, and even the right to life, depend on thriving biodiversity and healthy habitats and ecosystems.⁴ Biodiversity loss, in turn, can result in human rights violations and exacerbate existing inequalities for persons and groups in vulnerable situations, such as indigenous peoples, women and children. In certain cases, biodiversity action may

¹ IPBES, *Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services*. (IPBES, 2019)

² Ibid.

³ Swedish International Development Cooperation Agency (SIDA), *Human Rights, Biodiversity and Ecosystems*, (SIDA, 2017). Available at : <https://publikationer.sida.se/contentassets/d03c42ac8dd24988bc43b404b46aca62/22339.pdf>

⁴ [A/HRC/34/49](https://www.unhcr.org/refugees/article/2017/04/15/A/HRC/34/49).

also result in human rights violations or risks, when it is undertaken without adequate safeguards or participation of affected communities.

A human rights-based approach (HRBA) to biodiversity, which is an approach that addresses the respect, protection, promotion, and fulfilment of the full range of human rights and emphasizes the obligation of duty bearers to fulfil their human rights obligations, is important. It enables human rights-based action to enhance the conservation and sustainable use of biodiversity, allowing the protection of human rights for the benefit of both people and planet. An HRBA also allows the synergies between biodiversity and human rights to be understood, enhanced, and assisted to play a key role in the transformations required for attaining the Sustainable Development Goals (SDGs).⁵

According to Article 6 of the Convention on Biological Diversity (CBD), contracting Parties are committed to developing a National Biodiversity Strategy and Action Plan (NBSAP), and to integrating the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies. NBSAPs must be an entry point for incorporating human rights into biodiversity action. As essential policy and strategy documents to support governments in their efforts to achieve the objectives of the CBD and other biodiversity-related multilateral agreements, processes, and instruments, the incorporation of human rights in NBSAPs is vital for the attainment of biodiversity-related goals and objectives. An HRBA to NBSAPs specifically ensures biodiversity is protected in a non-discriminatory, inclusive, and participatory manner.

Where human rights are not incorporated in the development and implementation of such key biodiversity policy instruments, duty bearers are less likely to meet their procedural and substantive obligations to address biodiversity and habitat loss, to prevent its negative impacts on human rights, and to ensure that actions to address biodiversity loss are equitable. In turn, rights holders are not protected as required under international human rights law. Biodiversity loss may continue largely unabated with rights-holders are unable to effectively enjoy their human rights such as those to life, health, adequate food and safe drinking water, amongst others.

This report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) explains why an HRBA to biodiversity matters, highlights good practices of countries in incorporating human rights in their NBSAPs, and provides guidance for how countries can increasingly incorporate human

⁵ Swedish International Development Cooperation Agency (SIDA), *Human Rights, Biodiversity and Ecosystems*, (SIDA, 2017). Available at : <https://publikationer.sida.se/contentassets/d03c42ac8dd24988bc43b404b46aca62/223339.pdf>

rights in their NBSAP planning, content, and implementation. The aim is to support a human rights-based approach to national actions for biodiversity including in the context of ongoing negotiations of the post-2020 global biodiversity framework.

2. PROTECTING BIODIVERSITY THROUGH A HUMAN RIGHTS-BASED APPROACH

2.1 Conceptualizing a human rights-based approach to biodiversity

The HRBA is a conceptual framework based on international human rights standards and aimed at promoting and protecting human rights.⁶ Under the HRBA, plans, policies and processes are anchored in a system of rights and corresponding obligations, established under international law. An HRBA also requires the human rights principles of universality, indivisibility, equality and non-discrimination, participation and accountability to guide any action.

An HRBA identifies who has rights (rights holders) and what freedoms and entitlements they have under international human rights law, as well as the obligations of those responsible for making sure rights holders are enjoying their rights (duty bearers). It then focuses on developing the capacities of both 'duty bearers' to meet their obligations, and 'rights holders' to claim their rights. An HRBA recognizes inequalities and aims to redress historic, systemic, and structural discrimination as well as discriminatory practices that affect certain segments of the population.

What is an HRBA to biodiversity?

An HRBA to biodiversity is a tool that is normatively based on international human rights law and standards and operationally directed to promoting and protecting human rights.

It seeks to analyse inequalities which lie at the heart of biodiversity loss and redress discriminatory practices and unjust power relations that impede improvements for biodiversity.

Under an HRBA, biodiversity plans, policies and processes including NBSAPs are anchored in a system of rights and corresponding obligations established by international law.

All persons are empowered to claim their human rights as rights holders and the capacity of duty bearers is reinforced to ensure they meet their obligations to respect, promote, protect, and fulfil human rights.

An HRBA helps to promote the sustainability of biodiversity conservation work, empowering people, especially the most marginalized, to participate in policy formulation and hold accountable those who have a duty to act.

⁶ United Nations, *Human Rights-Based Approach*. Available at <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>.

The link between human rights and biodiversity is well established. The Human Rights Council (HRC) and independent UN human rights experts (the Special Procedures mandate holders) have highlighted the importance of a human rights-based approach to biodiversity through various reports, decisions, and resolutions. Under HRC resolution 28/11, the Council established the mandate of the Special Rapporteur on human rights and the environment, replacing the previous mandate of the Independent Expert, and called for the mandate to study, analyse and report on human rights obligations related to the environment in consultation with Governments, human rights mechanisms, civil society organizations and others.

The Special Rapporteur submitted a report on human rights and biodiversity to the 34th session of the Human Rights Council.⁷ The report examined the human rights obligations relating to the conservation and sustainable use of biological diversity and described the importance of ecosystem services and biodiversity for the full enjoyment of human rights. It also outlined the application of human rights obligations to biodiversity-related actions. In its resolution 34/20, the Council took note of the Special Rapporteur's report on the human rights obligations relating to the conservation and sustainable use of biological diversity, recognizing that:

“Sustainable development and the protection of the environment, including ecosystems, contribute to human well-being and to the enjoyment of human rights, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to safe drinking water and sanitation and to housing, and cultural rights. Conversely, ... the resulting loss of biodiversity and the decline in services provided by ecosystems may interfere with the enjoyment of a safe, clean, healthy and sustainable environment, and that environmental damage can have negative implications, both direct and indirect, for the effective enjoyment of all human rights.”⁸

In a subsequent report in 2020, intended to inform the negotiations of the post-2020 global biodiversity framework, the Special Rapporteur again emphasized that human rights depend on a healthy biosphere.⁹ The report discussed the need for urgent action to conserve, protect and restore the biosphere, illustrating the devastating effects of coronavirus disease (COVID-19) and the global nature emergency on the enjoyment of human rights. It also highlighted the crucial role of human rights in catalysing action to safeguard nature. Further, the Special Rapporteur clarified the obligations

⁷ [A/HRC/34/49](#).

⁸ [A/HRC/RES/34/20](#).

⁹ [A/75/161](#).

of States and the responsibilities of businesses and civil society organizations, and made practical recommendations to conserve, protect, and restore healthy ecosystems and biodiversity.

In March 2021, the HRC adopted a resolution reinforcing the link between human rights and the environment, specifically calling on States to take a human rights-based approach to biodiversity use and management.¹⁰ This resolution recognizes that the effects of biodiversity loss on the enjoyment of a wide range of rights triggers the duties of States to take immediate actions to prevent those harms. These obligations are legally enforceable and reflect existing commitments under international human rights law.¹¹ As such, States should apply a rights-based approach to all aspects of conserving, protecting, restoring, managing, using, and benefitting from healthy ecosystems and biodiversity. Applying a rights-based approach is beneficial as it clarifies the obligations of States and businesses; catalyses ambitious action; highlights the plight of the poorest and those in the most vulnerable situations; and empowers people to become involved in designing and implementing solutions.¹²

In the context of biodiversity, States, the main human rights duty bearers, have the obligations to respect, protect, promote, and fulfil human rights. They must uphold the rights to participation, access to information, and access to justice as well as the substantive rights owed to indigenous peoples and local communities, rural communities, women, youth, and others whose lives and livelihoods are often closely connected with nature. States are also required to implement laws and mechanisms that prevent violations of rights, including those related to biodiversity and ecosystems, by State and non-State actors. They are also obliged to take progressive measures for the realisation of rights, which are closely related to continued access to biodiversity, for food and medicinal uses by communities heavily reliant on nature for their rights to life, health, livelihood, education, and culture, among others.¹³ In addition to this, businesses must be accountable for their responsibilities under the UN Guiding Principles on Business and Human Rights.¹⁴

An HRBA also requires action to address the disproportionate effects of biodiversity loss on different segments of the world's populations. These disproportionate effects are recognized by the HRC which highlights that, "while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations."¹⁵ Disproportionate impacts of biodiversity loss

¹⁰ [A/HRC/46/7](#).

¹¹ [A/75/161](#).

¹² [A/75/161](#).

¹³ Swedish International Development Cooperation Agency (SIDA), *Human Rights, Biodiversity and Ecosystems*, (SIDA, 2017). Available at : <https://publikationer.sida.se/contentassets/d03c42ac8dd24988bc43b404b46aca62/22339.pdf>

¹⁴ United Nations, *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (UN, 2011).

¹⁵ [A/HRC/RES/34/20](#).

on the quality of life of indigenous peoples, local communities, peasants and others who are often heavily reliant on nature for survival must not be allowed to perpetuate inequality and marginalization.¹⁶

Importantly, an HRBA also recognizes rights holders as active agents of change, not passive victims, or recipients of assistance. For example, women, children, indigenous peoples and local communities, though sometimes living in vulnerable situations, are recognized as having agency and the right and capacity to push for and support change to address challenges, for example, through their knowledge and their actions such as instituting litigation, and forming political movements.¹⁷ The approach further recognizes that rights holders should be empowered to claim their rights and facilitates their role as agents of change.

One of the first steps in applying the HRBA to biodiversity action is identifying the rights implicated. Biodiversity directly supports the full enjoyment of numerous human rights, all indivisible and interdependent. Some of these rights are set out below:

Key human rights related to biodiversity	
Right to life <i>(Article 6 of the International Covenant on Civil and Political Rights, 1966)</i>	Biodiversity-dependent ecosystem services provide access to basic materials for a healthy life such as food, water, and disease management, without which lives would be endangered and there would be a decrease in the quality of life.
Right to health <i>(Article 12 of the International Covenant on Economic, Social and Cultural Rights, 1966)</i>	Biodiversity is related to health in various ways. For example, medicinal drugs are often derived from natural products, exposure to nature improves mental health and biodiversity loss increases exposure to some zoonotic diseases. As referenced above, protecting biodiversity is also key to a number of the underlying determinants of health, including nutrition, sanitation, and a healthy environment.
Right to adequate food <i>(Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966)</i>	Adequate food is reliant on biodiversity, with access to a diverse variety of local plants and genetic diversity within species associated with greater agricultural productivity and nutritional value.
Right to safe drinking water <i>(Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966 and General Comment 15 of the Committee on Economic, Social and Cultural Rights, 2003)</i>	Biodiversity helps to support the right to access clean and safe drinking water in various ways, for example through reducing runoff, providing greater water storage and in water purification.

¹⁶ [A/HRC/RES/34/20](#).

¹⁷ Claudia Ituarte-Lima, *Why Rights and Biodiversity Are Interdependent*, Raoul Wallenberg Institute, October 22, 2020. At <https://rwi.lu.se/blog/rights-and-biodiversity/>

<p>Right to a healthy environment (<i>Human Rights Council resolution 48/13, 2021</i>)</p>	<p>Biodiversity and healthy ecosystems are integral elements of the right to a clean, healthy, and sustainable environment. Biodiversity conservation and sustainable use ensure the continued provision of biodiversity-dependent ecosystem services and the effective enjoyment of a wide range of related human rights.</p>
<p>Cultural rights (<i>Article 15 of the International Covenant of Economic, Social and Cultural Rights, 1966</i>)</p>	<p>Biodiversity is intrinsically related to some peoples' way of life - such as indigenous peoples - including their use of land resources, religious practices, and pursuit of traditional activities, such as hunting and fishing.</p>
<p>Right to adequate housing (<i>Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966</i>)</p>	<p>Materials derived from biodiversity contribute to the construction of housing and the surrounding environment has direct implications for its long-term adequacy including habitability and resilience.</p>
<p>Right to an adequate standard of living (<i>Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966</i>)</p>	<p>Biodiversity resources support a wide array of livelihood activities including hunting, fishing, gathering, resource harvesting, pastoralism, and small-scale subsistence agriculture.</p>
<p>Right to self-determination (<i>Common Article 1, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights as well as Article 3 of the UN Declaration on the Rights of Indigenous Peoples</i>)</p>	<p>Biodiversity is critical for survival and enables a people to determine their own destiny by freely choosing their own economic, cultural, and social development.</p>

In addition to identifying the human rights to be protected, an HRBA identifies the duty bearers with obligations related to those rights. States have obligations to protect against environmental harm that interferes with the enjoyment of human rights. These obligations apply to the protection of biodiversity and ecosystems which are an integral part of the right to a clean, healthy and sustainable environment. The HRBA empowers rights holders to claim their rights, while also focusing on increasing the capacity of duty bearers to respect, promote, protect, and fulfil those rights.¹⁸ The State is the main duty bearer with procedural obligations, substantive obligations, and obligations in relation to people in vulnerable situations.

Procedural obligations

¹⁸ Swedish International Development Cooperation Agency (SIDA), *Human Rights, Biodiversity and Ecosystems*, (SIDA, 2017). Available at : <https://publikationer.sida.se/contentassets/d03c42ac8dd24988bc43b404b46aca62/22339.pdf>

International human rights instruments include provisions on procedural rights. For instance, the Universal Declaration on Human Rights entitles every person to an effective remedy for violations of rights.¹⁹ It also guarantees the right to access information.²⁰ Similarly the International Covenant on Civil and Political Rights requires States to guarantee equality before courts and tribunals and the rights to access information and to participate in public affairs to all persons.²¹ States' procedural human rights obligations are affirmed in the Rio Declaration on Environment and Development, which declares:

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”²²

This provision, known as Rio Principle 10, sets out three key obligations which are also protected in regional instruments such as the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)²³ and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).²⁴

The Special Rapporteur on human rights and the environment summarizes the procedural obligations of States relating to the conservation and sustainable use of biodiversity as follows:²⁵

- assess impacts and make environmental information public;
- facilitate public participation in environmental decision-making, including by protecting the rights of expression and association; and

¹⁹Article 8, Universal Declaration of Human Rights, 1945

²⁰Article 19, Universal Declaration of Human Rights, 1945.

²¹ Articles 14(1), 19(2) & 25(1), International Covenant on Civil and Political Rights, 1966.

²² Rio Declaration, Principle 10.

²³ UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

²⁴ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

²⁵ [A/HRC/34/49](#).

- provide access to remedies for harm.

States should respect and protect the rights to freedom of expression, association, and peaceful assembly in relation to biodiversity matters, and provide for environmental education, public awareness, and public access to environmental information. States are also obliged to require the prior assessment of the possible environmental and human rights impacts of proposed projects and policies, ensure public participation in decision-making related to biodiversity and provide for access to effective remedies for violations of human rights and domestic laws relating to biodiversity.

Substantive obligations

Biodiversity loss and ecosystem degradation threaten a broad spectrum of substantive rights, including the rights to life, health, food, water, a healthy environment, culture and non-discrimination. States therefore have a general obligation to safeguard biodiversity to protect the effective enjoyment of those rights.²⁶ As such, States are obliged to, *inter alia*:²⁷

- adopt legal and institutional frameworks that effectively protect against environmental harm that interferes with the enjoyment of human rights;
- fully implement their laws protecting human rights related to the environment;
- cooperate with other States (international cooperation) to protect biodiversity and ecosystem services; and
- protect against environmental harm from private actors, and businesses.

Obligations in relation to people in vulnerable situations

The loss of biodiversity has disproportionate effects on persons or groups in vulnerable situations, due to factors such as gender, age, disability, poverty, or minority status. Accordingly, while their human rights obligations are the same towards everyone, States have an obligation to give special consideration to persons who may be in vulnerable situations such as women, children, the elderly, persons with disabilities, as well as indigenous peoples and local communities whose way of life directly depends on ecosystems. Specific obligations towards affected populations include ensuring consultation, participation, access to information, justice, and remedy, in a manner that seeks to overcome any structural barriers that might exist to access these rights. This will help facilitate States' to leave no one behind. Protecting the rights of those whose lives are intrinsically linked to nature is not only a requirement under human rights law, it is also one of the best ways to ensure the protection of biodiversity.²⁸

²⁶ [A/HRC/34/49.](#)

²⁷ [A/HRC/34/49.](#)

²⁸ [A/HRC/34/49.](#)

States' obligations in relation to environmental harm in general and the loss of ecosystem services in particular, include to:²⁹

- ensure that ecosystem-based actions, whether carried out by Governments or private actors, do not prevent the enjoyment of the human rights of groups or persons in vulnerable situations, including their rights to life, health, food, water, housing and culture.
- preserve, protect and respect the knowledge, innovations and practices of the people who live in close connection with nature as their knowledge is vital to the conservation and sustainable use of biodiversity.

2.2 Linkages between biodiversity and human rights: International and national frameworks

The relationship between human rights and biodiversity is reflected in the incorporation of the environment in international human rights frameworks, and vice versa, with human rights incorporated in biodiversity frameworks at the international level.

Human rights in biodiversity instruments

The CBD does not explicitly reference human rights, however, several of its provisions implicitly invoke human rights. For example, Article 8j of the Convention commits to respect, preserve and maintain the contributions of indigenous peoples and local communities and their knowledge, innovations, and practices to the conservation and sustainable use of biodiversity. Human rights are further implicitly incorporated in the Convention, and its protocols such as the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization*, in relation to access, fair and equitable sharing of the benefits of genetic resources held by indigenous peoples and local communities.

A number of decisions of the Conference of the Parties (COP) of the CBD have also referenced the relationship between the Convention and international human rights law. For example, at the 9th COP, a decision on access and benefit sharing, requested the Executive Secretary to commission studies with relation to access to justice and to compliance in conformity with, inter alia, human rights law.³⁰ The decision at COP5 on biodiversity for poverty eradication and sustainable development encouraged Parties: “to support indigenous and community conserved areas and territories, community-based management, customary sustainable use and community governance of biodiversity, and ensure the full and effective participation of indigenous and local communities in decision-making processes,

²⁹ [A/HRC/34/49](#).

³⁰ [UNEP/CBD/COP/DEC/IX/12](#), para 13.

taking into account international instruments and law related to human rights in accordance with national legislation.”³¹ Further, a decision at COP14 on conservation and protected areas called on States to take into account relevant recommendations of Special Procedures mandate holders.³²

The environment in human rights instruments

Article 24(2)(c) of the Convention on the Rights of the Child mandates State Parties to combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution. This provision links the rights of the child to environmental harms caused by pollution. Under Article 29 (1) (e) of the Convention on the Rights of the Child, State Parties agree that the education of the child shall be directed to *inter alia*, the development of respect for the natural environment. This includes education on respect for biodiversity.

The Committee on Economic, Social and Cultural Rights has also identified a healthy environment as one of the underlying determinants of the right to health protected by Article 12 of the International Covenant on Economic, Social and Cultural Rights.³³ Similarly, the Human Rights Committee has affirmed that environmental degradation is one of the most pressing threats to the enjoyment of the right to life under Article 6 of the International Covenant on Civil and Political Rights, and that States therefore have an obligation to ensure sustainable use of natural resources.³⁴ Most recently, the Human Rights Council, in its resolution 48/13, recognized that a clean, healthy and sustainable environment is a human right.

The interconnectedness between human rights and biodiversity needs to be reflected not just at the international level but also in domestic and local biodiversity frameworks. This requires the incorporation of human rights in biodiversity plans, policies, and processes at both the national and sub-national level. One way this linkage between biodiversity and human rights can be actualized is through NBSAPs. NBSAPs are the principal policy instruments through which Parties implement the Convention on Biological Diversity (CBD) at all levels. They facilitate planning for the conservation of biodiversity and healthy ecosystems while ensuring sustainable use of related resources and equitable sharing of the benefits derived therefrom.³⁵ NBSAPs are nationally determined and their development

³¹ [UNEP/CBD/COP/DEC/12/5](#), para. 11.

³² [UNEP/CBD/COP/DEC/14/8](#), para. 5.

³³ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000), para. 4.

³⁴ Human Rights Committee, General Comment No. 36 (2019), para. 62.

³⁵ United Nations Environment Programme, *Law and National Biodiversity Strategies and Action Plan* (UNEP, 2018).

involves the identification of imminent threats to biodiversity and ecosystems, and strategies and actions to address those threats.³⁶

They are a requirement under the CBD, which was adopted in 1992.³⁷ The Convention defines biological diversity (“biodiversity”) as “*the variability among living organisms from all sources ... and this includes diversity within species, between species and of ecosystems.*”³⁸ This definition encompasses the variation of, and interaction among, all life on Earth.³⁹ The objectives of the Convention are to ensure the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising from the utilization of genetic resources.⁴⁰ Article 6 of the CBD sets out NBSAPs as the key policy mechanism for national action to further these objectives, providing that each Party shall, in accordance with its conditions and capabilities, develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity as required under the Convention.

The role of NBSAPs is further reinforced by various decisions of the Conference of the Parties (COPs) including at COP 10 in 2010, which adopted decision X/2, urging Parties to review and, as appropriate, update and revise their NBSAPs in line with the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets.⁴¹ Aichi Biodiversity Target 17 provided that by 2015, each Party should develop, adopt as a policy instrument, and commence implementing an effective, participatory and updated NBSAP.⁴² In the near future, Parties will likely be called upon to revise their NBSAPs to align them with the post-2020 global biodiversity framework.⁴³

In accordance with Article 6 of the Convention, 192 of 196 (98%) Parties have developed *at least one* NBSAP.

The NBSAPs are available here: <https://www.cbd.int/nbsap/>

³⁶ Ibid.

³⁷ Convention on Biological Diversity, 1992.

³⁸ Convention on Biological Diversity, article 2.

³⁹ IISD, *Why Biodiversity Matters: Mapping the Linkages between Biodiversity and the SDGs*, 16 July 2019. Available at <https://sdg.iisd.org/commentary/policy-briefs/why-biodiversity-matters-mapping-the-linkages-between-biodiversity-and-the-sdgs/>. Accessed 2. 12. 2020

⁴⁰ Convention on Biological Diversity, article 1.

⁴¹ Secretariat of the Convention on Biodiversity, 2010. Decision Adopted by The Conference of the Parties to The Convention on Biological Diversity at its Tenth Meeting X/2, Nagoya, Japan, 18-29 October 2010: The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets. Available at : [Decisions \(cbd.int\)](https://www.cbd.int/decisions/)

⁴² CBD Secretariat 2010. *The Strategic Plan for Biodiversity and Aichi Biodiversity Targets*. UNEP/CBD/COP/DEC/X/2. Secretariat of the Convention on Biological Diversity, Nagoya, Japan. Available at: [Aichi Biodiversity Targets \(cbd.int\)](https://www.cbd.int/aichi/)

⁴³ For example as recommended in the Convention on Biological Diversity (CBD) (2019), *Synthesis of the Views of the Parties and Observers on the Scope and Content of the Post-2020 Global Biodiversity Framework*, CBD, Montreal, by 2022, all Parties are to update and revise their NBSAPs in line with the post-2020 global biodiversity framework.

2.3 A Human Rights Based Approach to NBSAPs

Due to their primary purpose and cross-cutting application to various sectors, NBSAPs play an important role in ensuring that national actions, plans, strategies, policies, and programmes incorporate measures to accomplish the goals of the CBD. Given their prominence in and relevance to biodiversity planning, the incorporation of human rights in NBSAPs can affect all levels of biodiversity action. Adopting an HRBA can assist policymakers to better harmonize preservation of nature with development, as biodiversity underpins human well-being and livelihoods, and is vital to the achievement of most Sustainable Development Goals (SDGs). This includes not only Goals 14 and 15 (life below water and life on land) but also Goal 1 (ending poverty), Goal 2 (zero hunger), Goal 3 (good health and well-being), Goal 5 (gender equality), Goal 6 (clean water and sanitation), Goal 7 (affordable and clean energy), Goal 8 (decent work and economic growth), Goal 9 (industry, innovation and infrastructure), Goal 11 (sustainable cities and communities), Goal 12 (responsible consumption and production) and Goal 13 (climate action).⁴⁴ In short, the action plans, objectives and strategies contained in NBSAPs have the potential to propel attainment of all the SDGs: not just those related to conservation and sustainable use of biodiversity, but also those that address issues such as food and water security, gender equality, climate change, and poverty reduction.⁴⁵

When NBSAPs are based in and fully incorporate human rights, they are better positioned to play an important role in accelerating the realization of the SDGs, including by enhancing a participatory approach to their implementation.⁴⁶ An HRBA to biodiversity is also important as it clarifies how the loss of biodiversity harms the full enjoyment of human rights, emphasizes the need to protect biodiversity as a priority, and promotes policy coherence in ensuring sustainable use and conservation of biodiversity.⁴⁷ While it is mandatory to develop an NBSAP or an equivalent instrument for ensuring conservation of biodiversity and the sustainable use of related resources,⁴⁸ the Convention does not set out a rigid form or manner by which Parties should develop their NBSAPs. This results in Parties using a diversity of forms and methodologies according to their national circumstances.⁴⁹ Although they may vary in form, all NBSAPs are required to be developed through an in-country consultative

⁴⁴ IISD, *Why Biodiversity Matters: Mapping the Linkages between Biodiversity and the SDGs*, 16 July 2019. Available at <https://sdg.iisd.org/commentary/policy-briefs/why-biodiversity-matters-mapping-the-linkages-between-biodiversity-and-the-sdgs/>. Accessed 2. 12. 2020

⁴⁵ Ibid.

⁴⁶ United Nations Development Programme (UNDP), *National Biodiversity Strategies and Action Plans: Natural Catalysts for Accelerating Action on Sustainable Development Goals. Interim Report* (UNDP, 2016).

⁴⁷ [A/HRC/34/49](#).

⁴⁸ Convention on Biological Diversity, article 6.

⁴⁹ Carter, E. *Pacific Regional Review of National Biodiversity Strategies and Action Plans*. (SPREP/ COMSEC, 2007).

process,⁵⁰ and contain the vision, mission, principles, objectives, action areas, priorities, policies and projects of the Party geared towards fulfilment of the Convention's objectives.

In developing their NBSAPs, Parties may rely on recommendations and guidelines issued to support countries in the development of NBSAPs.⁵¹ These recommendations do not provide a uniform template on the form of NBSAPs but rather provide guidance on NBSAP content. For example, the Secretariat of the CBD has provided training on integration of sustainable use and conservation of biodiversity resources in national policy frameworks and articulation of objectives and steps to be undertaken by States in achievement of the Convention's goals.⁵² Conference of the Parties decisions have reiterated the importance of stakeholder engagement and input in the development and implementation of NBSAPs.⁵³

An HRBA must be responsive to the governance systems in which it operates, as well as historical, political, socio-economic and cultural contexts.⁵⁴ This includes current negotiations of the post-2020 global biodiversity framework. The Co-chairs of the Open Ended Working Group on the development of the post-2020 Framework have developed a first draft for consideration by Parties, which proposes *inter alia*, the adoption of a rights-based approach to the framework's implementation.⁵⁵ The framework is based on a theory of change that emphasizes the urgent need for policy transformation so as to curtail biodiversity loss by 2030 while allowing recovery of natural ecosystems, and ultimately to achieve the 2050 Vision of "living in harmony with nature".⁵⁶ Gender equality, intergenerational equity, empowerment of women and youth and effective inclusion of indigenous peoples and local communities are at the core of its implementation.⁵⁷ During these negotiations, it is critical to reflect on how the respect, protection and fulfilment of human rights has been and can be better actualized in biodiversity planning including through NBSAPs, and how including the human rights-based approach in the outcomes of these negotiations and future NBSAPs can potentially reshape biodiversity planning and policies.

⁵⁰ Barbara Clabots and Molly Gilligan, *Gender and biodiversity: Analysis of women and gender equality considerations in National Biodiversity Strategies and Action Plans (NBSAPs)*, (IUCN, 2017).

⁵¹ United Nations Environment Programme, *Law and National Biodiversity Strategies and Action Plans*, (UNEP, 2018).

⁵² Secretariat of the Convention on Biological Diversity (2011) NBSAP training modules version 2.2 – Module 2. Using the Biodiversity Planning Process to Prepare or Update a National Biodiversity Strategy and Action Plans. Montreal, June 2011.

⁵³ Ibid.

⁵⁴ Jessica Campese, Terry Sunderland, Thomas Greiber and Gonzalo Oviedo (eds), *Rights-based approaches Exploring issues and opportunities for conservation*, (CIFOR & IUCN, 2009).

⁵⁵ CBD, First Draft of the Post-2020 Global Biodiversity Framework. July, 2021. Available at <https://www.cbd.int/doc/c/abb5/591f/2e46096d3f0330b08ce87a45/wg2020-03-03-en.pdf>

⁵⁶ Ibid.

⁵⁷ Ibid.

3. HUMAN RIGHTS IN NATIONAL BIODIVERSITY STRATEGIES AND ACTION PLANS

3.1 Background

OHCHR has undertaken an in-depth study on the extent to which NBSAPs prepared by Parties to the CBD incorporate human rights.

The first-generation NBSAPs prepared between 1996 and 2003 largely failed to incorporate human rights in their preparation and design, contributing to poor implementation.⁵⁸ These NBSAPs were seldom prepared through a consultative process, participation, involvement or engagement of important stakeholders such as affected individuals and groups, local authorities, indigenous peoples and local communities, women and the private sector.⁵⁹ While over time NBSAPs have increasingly incorporated human rights elements, these references have not always been robust or consistent, with studies showing that in many instances the extent to which an NBSAP incorporates these elements is influenced by ongoing trends. For example, “since 1993, attention to women and gender considerations in NBSAPs has fluctuated, sometimes aligning with or reflecting key gender equality language included in CBD Parties’ decisions, with Gender Plans of Action or with other global influences, such as the forging of the Millennium Development Goals.”⁶⁰

The following analysis of current NBSAPs is intended to support the more effective integration of human rights in biodiversity planning and policies by identifying gaps and good practices in incorporating human rights in NBSAPs.

Methodology

To date, 192 of 196 Parties (98 per cent) have developed at least one NBSAP, pursuant to Article 6 of the CBD, which requires NBSAPs to be developed in accordance with each Contracting Party’s particular conditions and capabilities, for the conservation and sustainable use of biological diversity.⁶¹ OHCHR conducted a desk review of the integration of human rights in 186 NBSAPs,⁶² the latest submitted by the Parties

⁵⁸ Sonia Peña Moreno and Maximilian Mueller, *Societal participatory processes in the revision of National Biodiversity Strategies and Action Plans (NBSAPs)* (IUCN, 2015).

⁵⁹ Ibid.

⁶⁰ IUCN, *Inclusion and characterization of women and gender equality considerations in National Biodiversity Strategies and Action Plans (NBSAPs)* (IUCN & CBD, 2016).

⁶¹ National Biodiversity Strategies and Action Plans (NBSAPs), at <https://www.cbd.int/nbsap/>. Accessed 12 January 2021.

⁶² At the time of the analysis in 2020, three NBSAPs were not clear when translated and seven were unavailable on the CBD portal.

The methodology employed was a key word search of the 186 NBSAPs accessed from the CBD NBSAP search portal (<https://www.cbd.int/nbsap/search/>). Once keywords⁶³ were identified in an NBSAP, they were analysed for context and categorized as either direct references to human rights, or indirect references to related principles and concepts.

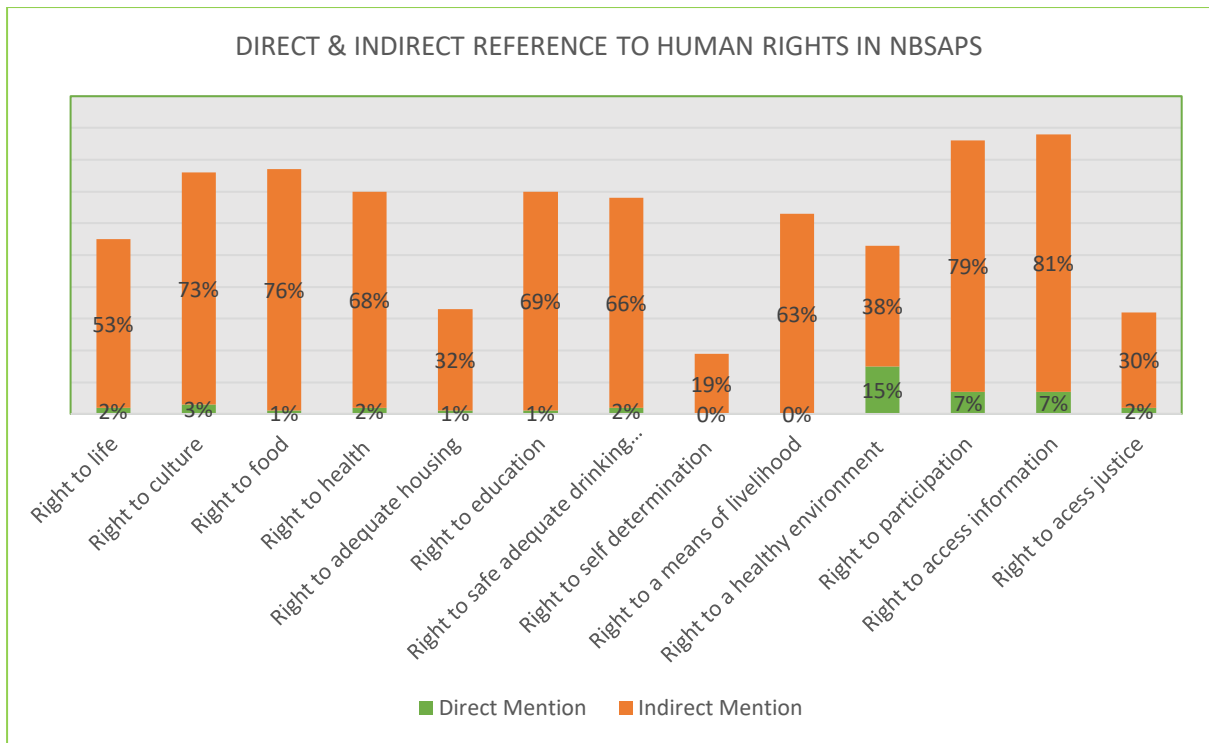
The review included both English and Non-English language NBSAPs. Out of the 186 NBSAPs analysed, 46 of them, prior to the review, were translated using Google Translate from other languages to English. Once all NBSAPs had been reviewed, the results were quantified. The findings of the results were analysed taking into consideration existing literature on human rights and NBSAPs, to attempt to explain the findings and buttress the report's reflections on the status of incorporation of human rights considerations in NBSAPs.

Results

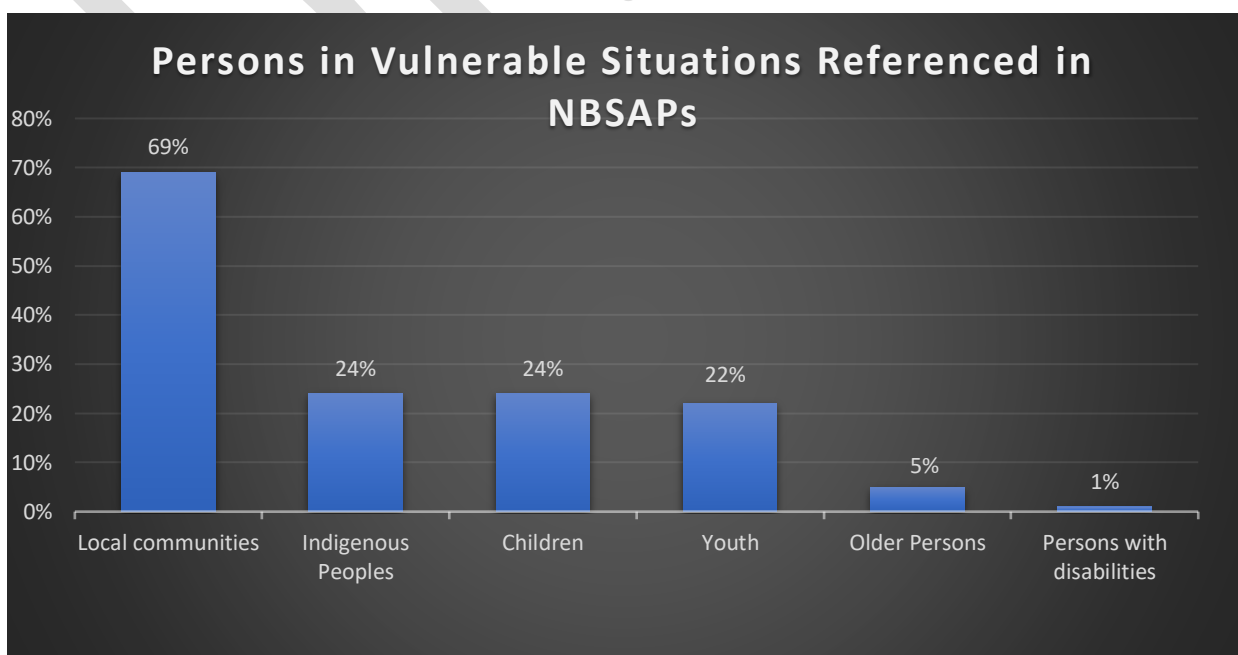
NBSAPs reflect human rights considerations to varying degrees. While 44 per cent of the NBSAPs directly refer to at least one human right,⁶⁴ the human rights expressly incorporated in NBSAPs vary from country to country, and some human rights are more commonly referenced than others. In many cases, however, NBSAPs reflect human rights considerations implicitly rather than explicitly, using language that indirectly references related principles and concepts.

⁶³ The list of keywords used in the review is attached as an annex to this report.

⁶⁴ 82 NBSAPs out of the 186 NBSAPs expressly recognize a human right.



In addition, the majority of NBSAPs (83 per cent) have taken into consideration persons, groups and peoples in vulnerable situations, but the level of emphasis on particular persons and groups varies from country to country. Generally, incorporation of provisions for the protection of all persons and groups in vulnerable situations in NBSAPs is relatively low. On average, NBSAPs reference local communities most frequently (69 per cent), whilst persons with disabilities are least frequently mentioned (1 per cent).



3.2 The Incorporation of human rights in NBSAPs

3.2.1 Substantive rights

Substantive human rights reviewed include the right to life, right to a healthy environment, right to culture, right to adequate food, right to health, right to adequate housing, right to self-determination, right to safe drinking water and the right to an adequate standard of living. Substantive rights in the NBSAPs are seldom incorporated using explicit human rights language, and no NBSAP expressly incorporates all the substantive rights reviewed.

a. The right to a healthy environment

The right to a healthy environment is the right most frequently referenced in the NBSAPs reviewed, appearing in 15 per cent of them. The majority of these NBSAPs reference the national constitutions of the States concerned, which expressly articulate that every person is entitled to a healthy environment. This right is therefore among the few rights explicitly referenced as a human right in the NBSAPs reviewed, though its incorporation is largely through cross-reference. An additional 28 per cent of the NBSAPs reviewed include indirect references to the right to a healthy environment. This includes Tuvalu's 2012-2016 NBSAP which sets out in its vision statement that, "By the year 2020, Tuvalu would have a clean and healthy environment, full of biological resources where the present and future generations of Tuvalu will continue to enjoy the equitable sharing of benefits of Tuvalu's abundant biological diversity."

Selected NBSAPs and references to the Constitutional right to a healthy environment

Liberia

National Biodiversity Strategy and Action Plan 2017-2025 provides that, 'The national legal and policy imperative for writing of the revised NBSAP is Article 7, Chapter II of the 1986 Constitution and the three environmental frameworks legislations (policy, Agency Act, Management & Protection law) of November, 2003. These instruments guarantee the right to have a clean and healthy environment and sustainable management of natural resources including biodiversity.'

Mongolia

The Mongolian National Biodiversity Program 2015-2025 expressly incorporates the right to a healthy environment in the NBSAP vision statement by guaranteeing all citizens a "right to a healthy and safe environment and against environmental pollution and ecological imbalance," as defined by the Constitution of Mongolia.

Nicaragua

The Nicaraguan National Biodiversity Strategy and Action Plan 2015-2020 references Article 60 of Nicaragua's Constitution which which establishes the right to live in a healthy environment and mandates the State to ensure that the environment and natural resources are preserved, rehabilitated and conserved.

Norway

Norway's national biodiversity action plan 2015-2016 refers to Article 112 of the Norwegian Constitution that gives every person "a right to a healthy environment whose productivity and diversity are maintained and to information to enable them to safeguard this right".

South Africa

South Africa's 2nd National Biodiversity Strategy and Action Plan 2015 – 2025 states "Environmental governance in South Africa is established in South Africa's Constitution (Act 108 of 1996) which: Protects the "right to an environment that is not harmful to health and wellbeing".

South Sudan

South Sudan's National Biodiversity Strategy and Action Plan (2018-2027) references the fact that under Article 14 of the Transitional Constitution part (1), "every person or community shall have the right to a clean and healthy environment."

Turkey

Turkey's National Biodiversity Action Plan 2018-2028 refers to Article 56 of its Constitution, which provides that, "Everyone shall have the right to live in a healthy and balanced environment. Developing the environment, protecting the environmental health and preventing the pollution in environment is the task of State and the citizens."

The majority of States have now recognized some form of the human right to a healthy environment in their national constitutions, policies, or legislation,⁶⁵ and in turn, this recognition is now being reflected in NBSAPs. While these references are important, it would lead to deeper human rights-based implementation of NBSAPs, if NBSAPs elaborated on the application of the referenced rights. Similarly, analysis of the integration of gender in NBSAPs has found that they often quote gender-related goals and targets, but do not include a deeper discussion of gender equality and women's empowerment, for example, by sharing good practices, lessons learned or focusing on further elaboration of the specific needs or challenges for women.⁶⁶ The incorporation of the right to a healthy environment in NBSAPs is a good step, but would be further strengthened by an in-depth elaboration in the NBSAP on what the right means for the country in the context of biodiversity, and how it can be attained.

Efforts to realize of the right to a healthy environment, including through NBSAPs, require further farther reflection on the importance of the right, how this right applies in the context of biodiversity, and the barriers and opportunities that a country faces in incorporating this right in its biodiversity planning.

⁶⁵ David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment*, (UBC Press, W. Wesley Pue general ed., 2012).

⁶⁶ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, *Gender Based Review of the Key National Biodiversity Related Strategies and Reports in South-East Europe*, (GIZ,2018).

b. Other substantive rights analyzed

In comparison to the right to a healthy environment, other substantive rights analyzed were almost never directly incorporated in NBSAPs. These include: the rights to culture (3 per cent), health (2 per cent), life (2 per cent), water (2 per cent), food (1 per cent), housing (1 per cent), and education (1 per cent). The right to an adequate standard of living and the right to self-determination were not directly referenced in any of the NBSAPs reviewed.

Some NBSAPs did explicitly highlight a certain human right, such as Guatemala's NBSAP, which directly affirms the State's commitment to guaranteeing the right to life,⁶⁷ or Switzerland's which provides that it is important to protect biodiversity as it guarantees certain rights such as those to clean air and water.⁶⁸ Others referenced rights in the context of their domestic laws and policies or domestic court decisions.

For example, the Indonesian and Russian NBSAPs reference the right to culture through cross-referencing their domestic laws that contain elements guaranteeing the right to culture.⁶⁹ In the case of the right to adequate housing, the 2015-2020 NBSAP for Sao Tome and Principe references the country's Constitution which, "foresees that everyone has the right to housing and to a human living environment and the duty to defend it."⁷⁰ In the case of the right to education, India's NBSAP, the only one to directly reference the right, did so through references to its domestic law providing for various action plans to be implemented in the education sector, such as "Compulsory education for all children in the age of six to fourteen years under the Right of Children to Free and Compulsory Education Act, 2009."⁷¹

Other NBSAPs reference national policy, such as South Sudan's NBSAP, which mentions its Water Policy that provides that "access to sufficient water of an acceptable quality and quantity to meet basic human needs is a human right."⁷² The express incorporation of a particular human right in an NBSAP may also follow its enunciation in the Party's domestic court decisions. For example, Pakistan's

⁶⁷ Estrategia Nacional De Diversidad Biológica Y Su Plan De Acción 2012-2022.

⁶⁸ Swiss Biodiversity Strategy, 2012.

⁶⁹ Indonesia for example references Section 3(1) of its Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which recognizes the "community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity", while The Russian Federation references its Yamalo-Nenets Autonomous Okrug Law, stating that Russian indigenous people are entitled to "the right exercise social control over the state of the sacred places in accordance with their customs".

⁷⁰ National Biodiversity Strategy and Action Plan 2015-2020 (NBSAP II).

⁷¹ National Strategy for the Conservation of Biodiversity Addendum 2014 to NBAP 2008.

⁷² Republic of South Sudan National Biodiversity Strategy and Action Plan (2018-2027).

NBSAP incorporates the right to life through reference to judicial interpretation, which has held that the right to life includes the environment and all its dimensions.⁷³ As exemplified in this case, judicial recognition of the linkages between the right to life and the environment may increase the likelihood of a State's inclusion of this right in its biodiversity planning. While it is positive to see some cross-referencing of human rights laws, policies and court decisions in NBSAPs, a genuine HRBA requires a more complete enunciation of the entitlements and obligations arising from human rights, and its application in the country's biodiversity context.

Looking beyond explicit references to human rights, additional NBSAPs refer indirectly to key human rights elements indirectly. This indirect incorporation takes various forms. For example, in the case of the right to culture, by providing the creation of a national data and register pertaining to traditional knowledge,⁷⁴ as well as the inclusion of entities such as government ministries working on culture as key actors in the implementation of NBSAPs.⁷⁵ This institutional linkage has similarly been seen in the case of the right to housing where some NBSAPs recognize a role for the Ministry for Housing in either the development or implementation of the NBSAP.⁷⁶ In the case of the right to education, this incorporation has been done by setting out the need to integrate biodiversity studies in school curricula in NBSAP action plans and targets. In the case of the right to health, the incorporation is demonstrated by containing wording that acknowledges the links between conservation of biodiversity and human health.⁷⁷

Although not all NBSAPs explicitly refer to substantive human rights, all of them do refer, to a varying extent, to issues related to substantive human rights, such as through mentions of food, life, sanitation, education, culture, and health, amongst others. Overall, the NBSAPs largely recognize that biodiversity is important for providing different ecosystem services that have human rights significance. However, they largely fail to directly incorporate substantive human rights, which is important for delineating the intimate and indivisible relationship between human rights and biodiversity. Where substantive human rights are incorporated explicitly in rights terminology, this incorporation is an important step towards taking a rights-based approach to protecting biodiversity as opposed to merely raising human rights dimensions in the NBSAP. Explicit incorporation of

⁷³ Pakistan National Biodiversity Strategy and Action Plan 2017 – 2030.

⁷⁴ Kingdom of Tonga National Biodiversity Strategy & Action Plan, 2006.

⁷⁵ The Republic of Moldova for example, tasks its Ministry of Culture with the responsibility of ensuring that by the year 2020, provisions on biodiversity conservation are incorporated in the country's sector policy documents.

⁷⁶ For instance, Swaziland's second National Biodiversity Strategy and Action Plan 2016 provides that the Ministry of Housing and Urban Development is to be involved in having biodiversity and ecosystem values integrated into decision making and national planning processes.

⁷⁷ See for example the National biodiversity strategy 2011-2020 for France, which provides that pressures threatening biodiversity include pollution, which in the end disrupt a number of ecosystems and putting human health at risk.

substantive human rights not only helps to ensure that the NBSAP acknowledges the reliance of humans on healthy ecosystems for life, well-being and dignity, and can help push duty bearers to respect, protect, and fulfil the rights set out. Rights holders who are more aware of human rights and their connection to biodiversity can also more effectively hold duty bearers accountable in case of inaction or if human rights violations occur.

3.2.2 Procedural rights

As with substantive rights, the majority of the NBSAPs make indirect rather than direct reference to procedural rights such as those to access information, participation access to legal remedies as set out below:

HUMAN RIGHT	NBSAPs DIRECTLY INCORPORATING THE RIGHT	NBSAPs INDIRECTLY REFERENCING THE RIGHT
Right to access to information	7%	81%
Right to participation	7%	79%
Right to access legal remedies	2%	30%

a. Right to access information

Issues related to the right to access information were referenced in 81 per cent of the NBSAPs reviewed. This includes by setting out commitments and initiatives for action plans that involve raising public awareness of the importance of biodiversity protection and making biodiversity-related information available to the public. However, few invoke access to information as a human right. Exceptions include the NBSAP for Guinea Bissau, which provides that all stakeholders have right to access to information, and information and awareness should reach all of society: communities, the general public, the private sector and political decision-makers. Other countries incorporate the right by highlighting how inadequate access to information threatens biodiversity. This includes Liberia's 2017-2025 NBSAP, which lists indirect threats to biodiversity including the inadequate recognition of the rights of rural communities to *inter alia*, information.

The other NBSAPs that explicitly incorporate the right to access information do so by referencing domestic laws. These include Montenegro's NBSAP, which references the provision in the national Constitution that everyone shall have the right to receive timely and full information about the status of the environment and Croatia's NBSAP which calls for activities regarding the collection, processing, verification and publication of data on nature to be continually implemented to respect the right of the public to access information and the provisions of the National Spatial Data Infrastructure Act. Access to information is also invoked as an international principle as in the case of Albania's NBSAP which provides that international principles such as the right to public information should apply to

sectors related to biodiversity, including agriculture, forestry, fishing, industry, urban planning, transportation and tourism.

b. Right to participation

As in the case of the right to access information, general references to participation are included in the majority of NBSAPs (79%). In these cases, the NBSAPs contain language related to participation, but no assertion of participation as a human right. For example, involvement of local communities and key stakeholders in development and implementation of NBSAPs is highlighted in most strategies as paramount to achieving the targets set out. Where it is explicitly asserted as a right, this is typically through references to domestic laws and regional conventions the countries are party to, such as:

- **Montenegro's** 2016-2020 NBSAP, which references its Constitution, setting out that “the Constitution of Montenegro, based on the rule of law (Article 1), establishes that “everyone shall have the right to... influence the decision-making regarding the issues of importance for the environment”.
- **Norway's** NBSAP which states that the country has enacted the Environmental Information Act (Act of 9 May 2003 No. 31) which relates to the right to environmental information and public participation in decision-making processes relating to the environment.
- **Brazil's** NBSAP which highlights Law nº 13.123/2015 that guarantees indigenous peoples, traditional communities, and traditional rural producers the protection of their knowledge, and the right to participate in decision-making at the national level on matters related to conservation.
- **The Czech Republic's** NBSAP (2016–2025) which refers to the country's accession to the Aarhus Convention which guarantees the right to up-to-date information about the environment, as well as the right to participate in decisions about its condition.

Other countries directly incorporate the right to participation without referencing a particular domestic law or regional or international convention. These include: South Sudan, where the 2018-2027 NBSAP articulates “the right to participate in the environmental decision-making process and to have that participation taken into account in the decision-making process as a guiding principle”; Belgium, where guiding principles include v“access to environmental information and the right to participate in the environmental decision-making process and to have that participation taken into account in the decision-making process”; and Paraguay’s 2015-2020 NBSAP, which emphasizes the

FREE PRIOR AND INFORMED CONSENT

The right of indigenous peoples to free prior and informed consent (FPIC) with relation to actions and policies that affect them is a key element of the United Nations Declaration on the Rights of Indigenous Peoples. The Parties to the CBD have agreed to an understanding of FPIC that includes: a lack of pressure, intimidation, manipulation, or coercion in decision-making; consent or approval being sought in advance or authorization; information provided that covers relevant aspects; and the right not to grant consent or approval. Although many elements of the right to participation are incorporated in the NBSAPs reviewed, only a limited number of NBSAPs refer to FPIC. These include Principle 8 of Cameroon’s NBSAP, which provides that traditional knowledge and practices of indigenous and local communities should be respected, preserved, maintained, and used with the prior informed consent of the holders of such knowledge and practice. Suriname similarly provides that local communities (particularly of Indigenous people and Maroons) should be involved in development plans and policy formulation that influences their rights, culture, way of living and/or territory, in accordance with the principle of FPIC. Vanuatu’s NBSAP set out in its action plan the need for review and defining of procedures and rules for access to traditional knowledge, to protect the rights of indigenous and local communities and to ensure equitable sharing of benefits such as Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT), and Cambodia states that the basis of the updated NBSAP includes “consideration of the right to free, prior and informed consent as reflected in the United Nations Declaration on the Rights of Indigenous Peoples.”

importance of ensuring transparency through the the right to participate. The right to participation has also been incorporated by highlighting the threat that non-participatory processes pose to biodiversity.⁷⁸

⁷⁸In the case of Liberia, the 2017-2025 NBSAP identifies indirect threats to biodiversity to include the lack of recognition of rights of rural communities to participation (interactive).

Participatory decision-making processes have also been reflected in the NBSAP development of some of the countries reviewed. 27 per cent of the Parties make express mention of how a participatory approach has been employed in the development of their NBSAP and 39 per cent of countries reflect on the importance of participation in NBSAP implementation. One example is the approach described by Namibia of the development of its Second National Biodiversity Strategy and Action Plan (NBSAP2) (2013 – 2022). Namibia included as a key target group in its second NBSAP those institutions and stakeholders not typically directly responsible for biodiversity management, but who have important planning functions or undertake activities that impact heavily on the environment. These included the Traditional Authorities in Namibia, important for the promotion of biodiversity conservation on communal lands and for regulating access to traditional knowledge.

c. Right to access legal remedies

The right to access legal remedies is directly referenced in three (less than 2 per cent) of the NBSAPs reviewed. Liberia's NBSAP references the lack of recognition of rights of rural communities to recourse to justice as a threat to biodiversity. South Sudan's NBSAP makes reference to the Environmental Protection Bill, 2013 which is still before the legislature, but if passed will grant a right to enforce an action for violation of the right to a decent environment. Spain's NBSAP references its domestic law (Law 27/2006, of July 18) that regulates the rights of access to the information, public participation, and access to justice in environmental matters.

30 per cent of the NBSAPs reviewed indirectly reference issues related to access to remedies. This is the case with the Philippines NBSAP, which references the country's enactment of the Rules of Procedure for Environmental Cases, highlighting that it is a landmark instrument representing a significant reform in environmental litigation and protection. Other countries such as the Russian Federation mention in their NBSAPs plans to ratify the Aarhus Convention.

3.2.3 Persons and groups in vulnerable situations

Most countries (83 per cent) made reference to at least one group of persons that may experience vulnerable situations, particularly local communities (69 per cent), indigenous peoples (24 per cent) and women (47 per cent).

NBSAPs and indigenous peoples and local communities

Ethiopia's NBSAP sets the target to by 2018 have "existing knowledge, innovations and practices of local communities relevant to biodiversity and ecosystem services reviewed, documented and communicated." The NBSAPs of Tajikistan and Serbia stipulate actions for ensuring benefit sharing for local communities out of biodiversity resources.

Australia's NBSAP and Indigenous Peoples

Australia's Biodiversity Conservation Strategy 2010–2030 recognizes that indigenous peoples and local communities play a significant role in biodiversity conservation in Australia. It notes that increasing engagement through employment, partnership and participation and through a two-way transfer of knowledge will not only lead to improved opportunities for indigenous peoples but also to improved outcomes for biodiversity. The NBSAP presents a long-term view of a future in which all Australians including indigenous peoples, farmers, land managers, industry, governments and community groups are working together to conserve biodiversity. Further, amongst the principles underpinning the strategy is that efforts to conserve biodiversity must acknowledge and respect the culture, values, innovations, practices and knowledge of indigenous peoples. The priorities for action to help stop the decline in Australia's biodiversity include engaging all Australians in biodiversity conservation through increasing the engagement of indigenous peoples including through: an increase in the employment and participation of indigenous peoples in biodiversity conservation activities; an increase in the use of indigenous peoples' knowledge with their free, prior and informed consent in biodiversity conservation decision making; and an increase in the extent of land managed by indigenous peoples for biodiversity conservation resource management. One of the ten national targets of Australia's NBSAP was to achieve by 2015 a 25% increase in employment and participation of indigenous peoples in biodiversity conservation.

Nigeria's NBSAP and Gender Mainstreaming

Nigeria's NBSAP extensively considers gender issues in the implementation process. It sets out that to bridge the gender gaps in NBSAP implementation, coordinators shall adopt the following measures:

- Gender analysis of biodiversity programmes and projects;
- Gender-responsive planning and policies for integrating women in resource management decision making;
- Development of a comprehensive plan for integrating gender issues for women and youth empowerment through measures of positive discrimination; and
- Organizing workshops/conferences on gender issues and compiling comprehensive gender statistics.

Provisions on youth and children are also reflected in the NBSAPs of many countries, at 22 per cent and 24 per cent respectively. The Bahamas' NBSAP, for example, identifies youth involvement as one of the many issues in biodiversity education that ought to be addressed. Azerbaijan's NBSAP enumerates planned actions including supporting environmental education centres in order to increase knowledge and education of schoolchildren on ecology. The NBSAP for Bosnia and Herzegovina sets out a communication plan which includes measures aimed at the education of children in primary and secondary schools and identifies youth as a target group for the implementation of the communication plan.

Persons with disabilities and older persons are much less frequently referenced in NBSAPs, at less than 1 per cent and 5 per cent respectively. In Malawi, the Ministry of Gender and Disability is identified as a key institution for NBSAP implementation. The NBSAP of Bosnia and Herzegovina simply acknowledges that in many rural parts of the country the population is dominated by older persons. Cambodia's NBSAP broadly attempts to consider all persons in vulnerable situations, by emphasizing that the needs of women, local communities, indigenous ethnic minorities, older persons, children, the poor and vulnerable are to be considered in the implementation of the strategy.

3.2.4 Summing up: whether and how human rights are incorporated in NBSAPs

Overall, the integration of human rights and related principles and concepts in NBSAPs, including the rights of groups and persons in vulnerable situations, is limited.

Simply having ratified a human rights convention or having domestic human rights laws does not guarantee an HRBA to biodiversity. This could be for a variety of reasons. In an IUCN-CBD study on integrating gender considerations in NBSAPs, analysis revealed that each of the countries under review (Mexico, Uganda and Brazil) had relatively strong frameworks for integration of gender considerations in policies related to natural resource management and in national development plans.⁷⁹ However, the study highlighted that a lack of awareness of the NBSAP process (and the CBD) amongst women's groups and related stakeholders reduced their ability to provide inputs on NBSAP development and revision, or to take advantage of synergies to support NBSAP implementation in a gender-responsive manner.⁸⁰

Similarly, States may fail to reflect human rights in their NBSAPs due to a lack of relevant expertise and development processes that do not facilitate the mainstreaming of human rights. There is a need for greater policy coherence, communication and collaboration between Governments officials and other stakeholders working on environmental issues and those seeking to advance human rights. Solutions to existing barriers and challenges that limit human rights from being advanced by NBSAPs are required. The following chapter sets out key guidance for States and other stakeholders seeking to integrate human rights in the development, substance and implementation of NBSAPs.

4 CONCLUSION AND RECOMMENDATIONS

Biodiversity around the world is rapidly being degraded and destroyed with grave and far-reaching implications for human well-being. The IPBES reports that transformations towards sustainability are more likely when efforts are directed at key leverage points, one of which is ensuring inclusive

⁷⁹ IUCN and CBD, *Integrating Gender Considerations in National Biodiversity Strategies and Action Plans: Pilot Project Process and Initial Considerations*, (IUCN/CBD, 2016) at 4.

⁸⁰ *Ibid*, at 6.

decision-making and the fair and equitable sharing of benefits arising from the use of and adherence to human rights in decisions about biodiversity.⁸¹ In addition, the Human Rights Council and Special Procedures mandate holders such as the Special Rapporteur on human rights and the environment have highlighted the important linkages between the effective enjoyment of human rights and the protection of biodiversity. Biodiversity is necessary for the enjoyment of a wide range of human rights, and the loss of biodiversity threatens the enjoyment of those rights.⁸²

This work has bolstered calls for a human rights based approach to biodiversity, which has been echoed by many stakeholders in their proposals for the post-2020 global biodiversity framework.⁸³ Recognizing the link between human rights and the environment, some States have called for intensification of efforts in the implementation of the CBD and enhancement of NBSAPs as a means of ensuring protection of human rights.⁸⁴ Despite the recognition of these interlinkages between human rights and biodiversity, NBSAPs, a critical State mechanism for prioritizing and setting out the modalities for implementing the CBD at the national level, do not always reflect human rights.

First generation NBSAPs were not fully consultative, and important stakeholders such as local authorities, indigenous peoples and local communities, women, and the private sector were in many cases excluded from their development.⁸⁵ Other studies have shown that while numerous second generation NBSAPs incorporate elements of broader cross-sectoral policies and plans related to poverty alleviation and development, few NBSAPs address sectors with potential high impacts on human rights such as the extractive industries, the energy sector and infrastructure development.⁸⁶ Further, in most NBSAPs, issues of a cross-cutting nature beyond the direct drivers of biodiversity loss receive limited attention.⁸⁷

⁸¹ IPBES, *Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services*. IPBES, 2019).

⁸² See Human Rights Council resolution A/HRC/RES/34/20; Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/34/49); and Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/75/161).

⁸³ Report of the Thematic Workshop on Human Rights as enabling condition in the post-2020 Global Biodiversity Framework 18 – 20 February 2020, Chiang Mai, Thailand. Available: https://naturaljustice.org/wp-content/uploads/2020/02/WS_HR_in_CBD_post2020_GBF_Report_FIN_200223.pdf; Ituarte-Lima, C., and Schultz, M., (eds.) 2018. Human right to a healthy environment for a thriving Earth: Handbook for weaving human rights, SDGs, and the post-2020 global biodiversity framework, SwedBio/Stockholm Resilience Centre, International Development Law Organization, Office of the High Commission of Human Rights-Special Procedures, UN Environment and Natural Justice.

⁸⁴ [A/HRC/46/7](#).

⁸⁵ Prip, C; Gross, T; Johnston, S; Vierros, M (2010). *Biodiversity Planning: an assessment of national biodiversity strategies and action plans*. United Nations University Institute of Advanced Studies, Yokohama, Japan.

⁸⁶ UNEP (2018). *Assessment of post-2010 National Biodiversity Strategies and Action Plans*, Nairobi, Kenya.

⁸⁷ Pisupati, B. & Prip, C. (2015) *Interim Assessment of Revised National Biodiversity Strategies and Action Plans (NBSAPs)* UNEPWCMC, Cambridge, UK and Fridtjof Nansen institute, Lysaker, Norway.

These findings from previous studies on the gaps in NBSAPs align with the findings of the analysis of NBSAPs in this report, which highlights that there is minimal incorporation of human rights in NBSAPs in explicit human rights terms. While most NBSAPs refer to multiple issues related to human rights, they do not frame these provisions in rights language, thus failing to effectively invoke legally binding obligations to respect, protect and fulfil human rights. Where human rights are explicitly referenced, it is often done by cross-referencing domestic laws and policies, court decisions or international and regional human rights conventions that the State has ratified. In many cases, the NBSAP does not further elaborate on the right.

NBSAPs should be developed and implemented to fulfil human rights through an approach that identifies rights holders and their entitlements as well as the corresponding duty bearers and their obligations. They should work towards strengthening the capacities of rights holders to make their claims and of duty bearers to meet their obligations.

An HRBA is essential to the NBSAP development and implementation process, to ensure that rights and obligations are fully recognized and addressed. Measures, plans and policies that fully acknowledge the needs, rights and perspectives of those who interact with biodiversity are more likely to ensure biodiversity conservation.⁸⁸ In addition, failure to protect the rights of people closely interacting with biodiversity often adversely affects persons, groups, and peoples in vulnerable situations. The conservation and sustainable use of biodiversity in a manner that respects human rights and responds to human needs is critical in upholding human dignity.⁸⁹ Simply put, human rights obligations should be reflected in NBSAP development, content and implementation:⁹⁰

4.1 NBSAP Development

NBSAP design and development processes that adopt a participatory, bottom-up, consensus building approach to obtain broad commitment to and ownership of the subsequent implementation are more effective.⁹¹ Meaningful and informed stakeholder participation is also required under international human rights law. To reflect human obligations, NBSAP development processes should explicitly incorporate the right to free, active, meaningful and informed participation. The right to access information in a manner and language that is easily comprehensible must be fulfilled to enable

⁸⁸ United Nations Office of the High Commissioner for Human Rights and United Nations Environment Programme, *Human Rights and Biodiversity Key Messages*. (OHCHR & UNEP, 2021). Available at : [KMBiodiversity26febLight \(ohchr.org\)](https://www.ohchr.org/en/press-releases/2021/02/key-messages-human-rights-and-biodiversity)

⁸⁹ Ibid.

⁹⁰ Adapted from the United Nations Office of the High Commissioner for Human Rights (OHCHR) and United Nations Environment Programme (UNEP), *Draft Key Messages on Human Rights and Biodiversity* (OHCHR & UNEP, 2021).

⁹¹ Moreno, S. P. and Mueller, M., *Societal participatory processes in the revision of National Biodiversity Strategies and Action Plans (NBSAPs)* (2015). Available from https://www.iucn.org/sites/dev/files/import/downloads/iucn_participatory_processes_report_final.pdf.

informed decision-making. NBSAP development requires informed engagement by all stakeholders including governments, the private sector, civil society organizations (CSOs), non-governmental organizations (NGOs), politicians, the general public, indigenous peoples, local communities, media and academia.

Ensuring meaningful and informed participation requires proactive measures to guarantee the participation and inclusion of all relevant stakeholders, including people in vulnerable situations. People must be recognized as agents of change and empowered to contribute to the biodiversity planning process. For indigenous peoples and local communities enhanced support for capacity-building and participation is needed to enable their effective contributions to NBSAP development.

The development of subnational plans and strategies to ensure biodiversity management approaches that are tailor-made to suit local priorities should also be encouraged. Subnational plans have been identified as effective tools in the implementation of NBSAPs,⁹² as they expound on broader issues covered in the NBSAPs to give more specificity and prioritization to local concerns.⁹³ Furthermore, they play a key role in ensuring wide stakeholder participation and engagement in the development of updated NBSAPs and action plans. The development of subnational plans has taken different approaches in different countries, depending on how power is allocated between national and subnational entities under State law. Some Parties have adopted a bottom-up approach where local jurisdictions first develop subnational plans, which are then consolidated in the NBSAP.⁹⁴ Other Parties have taken the top-down approach, where they first develop the NBSAP and then encourage local authorities to develop subnational plans.⁹⁵

Whichever the approach, joint efforts between the national government, subnational governments and/or local authorities in the development and implementation of NBSAPs is necessary for the successful achievement of the CBD's objectives. Based on the importance and far-reaching impacts of NBSAPs, which influence action at both the national and subnational level, the process of their development must be sound and in accordance with international human rights standards, ensuring access to information and public participation.

⁹² Balakrishna Pisupati, *Effective Implementation of NBSAPs: Using a decentralized approach*, (UNU-IAS, 2007).

⁹³ Ibid.

⁹⁴ Secretariat of the Convention on Biological Diversity (2017). *Guidelines for an Integrated Approach in the Development and Implementation of National, Subnational and Local Biodiversity Strategies and Action Plans*.

⁹⁵ Ibid.

4.2 NBSAP Content

Although there are no fixed requirements for what an NBSAP should contain, Article 6 of the Convention on Biological Diversity is clear that NBSAPs are to reflect how a country intends to fulfil the objectives of the Convention.⁹⁶ NBSAPs need to ensure that the objectives of the Convention are met in a manner that protects human rights. The NBSAP should:

- Explicitly reference relevant international human rights obligations and domestic human rights laws to promote accountability of Government agencies and officials, businesses and other duty bearers to act on human rights as they relate to biodiversity.
- Identify and support rights holders and protect their rights, including by explicitly incorporating rights such as those to access to information, public participation, access to justice, life, a healthy environment, culture, food, health, housing, self-determination, safe drinking water and an adequate standard of living.
- Mainstream a rights-based approach to biodiversity in all sectoral plans including those for agriculture, fishing, forestry, infrastructure, energy and extractives.
- Clearly describe efforts to respect, protect and fulfil the human right to a clean, healthy and sustainable environment.
- Set out the human rights obligations of States as a duty bearer explicitly in the body of the NBSAP, putting in place policies that will:
 - Mobilize and allocate adequate resources to prevent human rights harms caused by biodiversity loss.
 - Ensure equity, transparency and accountability in actions to address biodiversity loss and in the use of the benefits of biodiversity, taking into account the equal rights, knowledge, and differing needs and interests of indigenous peoples, local communities, women, men, girls, boys and persons with diverse gender identities.
 - Respect and protect the rights of indigenous peoples and ensure their active participation, including their free prior and informed consent when undertaking biodiversity action.
 - Respect the contribution of indigenous peoples and local communities' traditional knowledge and sustainable use of biodiversity in addressing biodiversity and habitat loss, and ensure the fair and equitable sharing of benefits arising from utilization of genetic and biological resources, ecosystem services and associated traditional knowledge based on FPIC.

⁹⁶ Convention on Biological Diversity, article 6.

- Respect, protect and fulfill the rights of all people and in particular environmental human rights defenders to participation, access to information, freedom of expression, assembly, and association, and access to justice and effective remedy.
- Guarantee the right of all people to an education with respect for nature at its core.
- Hold businesses accountable for causing or failing to prevent biodiversity and habitat loss and for any associated human rights harms, including through regulation, oversight and effective and accessible mechanisms for accountability and remedy.
- Co-operate with other Parties and put in place mechanisms and resources to adequately address transboundary causes and impacts of biodiversity and habitat loss, including bilateral and regional programmes to combat such losses as well as human rights-based project finance in this area.
- Set out the responsibilities of businesses as duty bearers accountable for business-related human rights harms from biodiversity loss under the United Nations Guiding Principles on Business and Human Rights. NBSAPs should encourage businesses to:
 - Institute comprehensive human rights due diligence in all business activities, to prevent biodiversity loss and accompanying human rights harms.
 - Promulgate and follow human rights policies that are non-discriminatory and gender-responsive, effective and accessible.
 - Engage with communities including around conservation of biodiversity and habitats.
 - Monitor for human rights violations related to environmental impacts, including along supply chains.
 - Provide access to justice and remedy for human rights harms associated with biodiversity loss.

4.3 NBSAP implementation

Aichi Biodiversity Target 17 clearly states that NBSAPs should be adopted and implemented as a policy instrument.⁹⁷ This requires the incorporation and integration of NBSAPs into national government planning instruments, so that they are implemented alongside other national policies and priorities. At this stage, procedural and substantive elements of human rights need to be observed, incorporating all key human rights obligations and responsibilities of States and other duty bearers, including businesses. NBSAPs should incorporate effective human rights monitoring, reporting, and accountability mechanisms, which should be implemented and maintained throughout the life of the policies.

⁹⁷ UNEP/CBD/COP/DEC/10/2. Strategic Plan for Biodiversity 2011-2020 and the Aichi Targets.

As NBSAPs are not ends in themselves but rather the beginning of a long-term process of participatory biodiversity planning and action, they should benefit from a process of continuous dialogue with rights holders⁹⁸ In NBSAP implementation, actions to address biodiversity and habitat loss, including the establishment of protected areas that can cause displacement of indigenous peoples and others, should not exacerbate existing inequalities. Instead, such action should always seek to enhance the protection of the rights of all people living in vulnerable situations, and, where possible, to remedy historic or structural discrimination. Infringements of human rights through the implementation of NBSAPs should be avoided. Measures should be in place to guarantee the right to access justice and effective remedies when they do occur.

As Parties to the CBD and the global community seek, through the Post-2020 global biodiversity framework, to stop biodiversity loss, it is key to recognize the interdependence of humans and our environment, and the importance of realizing the right to a clean, healthy and sustainable environment for all. Rights-based biodiversity action is necessary to effectively protect people and the planet. Integrating human rights in the development, content and implementation of NBSAPs is a crucial policy tool for meeting this need.

⁹⁸ Pisupati B., *Effective Implementation of NBSAPs: Using a decentralized approach Guidelines for Developing Sub-National Biodiversity Action Plans*, (UNU-IAS, 2007).

ANNEX I: KEY WORD SEARCH IN RELATION TO NBSAPS AND HUMAN RIGHTS

Key words searched in State Party NBSAPs

A. General terms related to human rights framework: *right*

B. Terms related to specific substantive human rights:

- Right to life: *life, human security, survival, survive*
- Right to a healthy environment: *healthy environment, environmental security*
- Right to culture: *culture; tradition*
- Rights to adequate food: *food, hunger*
- Right to health: *health, ill, illness, disease, sanitation, hygiene*
- Right to adequate housing: *house, housing, shelter, home*
- Right to self-determination: *survival, survive*
- Right to safe drinking water: *water, water security, water availability, drinking water*
- Right to an adequate standard of living: *subsistence, livelihood, revenue*
- Right to education: *schools, curriculum, education, training programs*

C. Terms related to procedural rights in environmental decision-making:

- Right to access to information (dissemination of information to the general public as well as guarantee of access to information or dissemination of information to persons, groups and peoples in vulnerable situations is considered): *access to information, free prior informed consent, creation of awareness, dissemination*
- Right to participation in decision-making (participation in NBSAP development process and implementation is included): *participation, consultation, involvement, engagement, inclusion*
- Right to access to legal remedies: *remedy, remedies, environmental justice, access to justice*

D. Terms related to persons, groups, and peoples in vulnerable situations:

Indigenous, traditional, native, local communities, gender, women, children, disabled, disabilities, elderly, persons with disability, old, equal-, discrimination, minority, vulnerable group, vulnerable population, vulnerable community, all persons, all groups, all peoples.