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The present document, entitled Guidance on integrating human rights in National Biodiversity Strategy and Action Plans (NBSAPs), is an updated version of Guidance that was submitted for the information of the 15th meeting of the Conference of the Parties to the Convention on Biological Diversity. Member States are invited to consider this guidance when developing their national NBSAPs for the implementation of the post-2020 Kunming-Montreal Global Biodiversity Framework. The guidance has been developed through extensive consultations among relevant United Nations system entities in the context of the Issue Management Group on Human Rights and the Environment, established by the United Nations Environment Management Group (EMG), of which the secretariat of the Convention on Biological Diversity is a member.

**Guidance on integrating human rights in National Biodiversity Strategy and Action
Plans (NBSAPs)**

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1. Introduction and Aim of Guidance

The purpose of this Guidance is to support UN Country Teams, States, policymakers and stakeholders in integrating human rights into their NBSAPs under the Convention on Biological Diversity (CBD, or Convention). The application of this Guidance will depend on the specific domestic context within which it is applied. It is intended for use alongside training and specific capacity-building/peer support.

1.1 Interlinkages between the CBD and Human Rights frameworks

The objectives of the CBD 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.¹ The UN General Assembly and Human Rights Council have adopted resolutions recognizing the right to a clean, healthy, and sustainable environment as a human right, noting that this includes healthy biodiversity and ecosystems.² More than 150 United Nations Member States legally recognize the right to a clean, healthy and sustainable environment.³ A healthy environment is a necessary precondition for the effective enjoyment of a broad range of other human rights, including the rights to life, health, culture, development, non-discrimination, adequate food, and water.^{4,5} Biodiversity loss can increase the risks of groups such as Indigenous Peoples, local communities, women and children experiencing human rights violations. It can also have particular implications for livelihoods, and the promotion and protection of social and economic rights and related international labour standards.

According to the IPBES values report, rights-based approaches to biodiversity will lead to better outcomes for people and planet and a more just and sustainable future.⁶ While the CBD does not explicitly reference human rights, several of its provisions implicitly invoke them. For example, Article 8(j) of the Convention commits Parties to respect, preserve, and maintain the contributions of Indigenous Peoples, and local communities and their knowledge, innovations, and practices relating to the conservation and sustainable use of biodiversity. Human rights relating to the access as well as fair and equitable sharing of the benefits of genetic resources held by Indigenous Peoples, and local communities are further implicitly incorporated in the Convention and its protocols, including the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. Several decisions of the CBD Conference of the Parties (COP) also reference the relationship between the Convention and international human rights law. This has included commissioning studies in relation to access to justice and the full and effective participation of Indigenous Peoples, and local communities, as well as calling upon Parties to take into account the relevant recommendations of Special Procedures mandate holders.⁷ In addition, the Kunming-Montreal Global Biodiversity Framework (GBF) was agreed at the 15th meeting of the COP in 2022. Section C, entitled 'Considerations for the implementation of the framework' sets out that a human rights-based approach, which respects, protects, promotes and fulfils human rights, should be followed. It also acknowledges the human right to a clean, healthy and sustainable environment, rights of Indigenous Peoples and gender equality.⁸ In addition, Section C notes the importance of enhanced

¹ The CBD defines biological diversity ("biodiversity") as "the variability among living organisms from all sources ... and this includes diversity within species, between species and of ecosystems".

² UN General Assembly Resolution 76/300; Human Rights Council Resolution 48/13.

³ UNEP, "Right to a healthy environment: good practices", 29 May 2020.

⁴ UNEP, "Human Rights and Biodiversity: Key Messages", 19 July 2021.

⁵ A/75/161; A/HRC/34/49.

⁶ IPBES, "The assessment report on the diverse values and valuation of nature", 9 July 2022.

⁷ See UNEP/CBD/COP/DEC/IX/12, para 13; UNEP/CBD/COP/DEC/12/5, para. 11; UNEP/CBD/COP/DEC/14/8, para. 5.

⁸ See Paragraphs 14, 8 and 15 of Section C

collaboration between the CBD Secretariat, other relevant multilateral agreements and international organisations and processes for the implementation of the GBF.⁹

1.2 What is an NBSAP?

Article 6 of the CBD commits parties to developing, implementing and reporting on National Biodiversity Strategy and Action Plans (NBSAPs) and to integrating the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes, and policies. NBSAPs are the principal policy instruments through which Parties implement the CBD at all levels/ scales. NBSAPs facilitate planning for the conservation of biodiversity and healthy ecosystems, while ensuring the sustainable use of related resources, and the equitable sharing of the benefits of genetic diversity. NBSAPs reflect national strategies, plans, or programs for the conservation and sustainable use of biodiversity as aligned with measures set out in the Convention. NBSAPs should also guide the mainstreaming of biodiversity and its sustainable use principles into relevant sectoral or cross-sectoral plans, programs, and policies. NBSAPs are nationally determined, and their development involves key stakeholders working together across sectors to identify threats to biodiversity and ecosystems, alongside strategies and actions to address those threats. To date 193 out of 196 (99%) parties have developed at least one NBSAP. Parties are expected to align the national targets within their NBSAPs with those proposed in the CBD's post-2020 Global Biodiversity Framework.

1.3 Why is it important to integrate human rights into NBSAPs?

The Global Biodiversity Framework sets the expectation for the application of a human rights-based approach to biodiversity planning and NBSAPs, integrating a conceptual framework based on international human rights standards.^{10,11} A human rights-based approach identifies rights holders under human rights law, alongside 'duty bearers' that have obligations to ensure that rights holders are able to safely exercise and enjoy their human rights. It then works to build the capacity of both rights holders and duty bearers to claim their rights and fulfil their obligations respectively. In the context of biodiversity, States have the main duty to protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. Business enterprises have a duty to respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. All people are rights-holders but some people may be disproportionately affected by biodiversity loss, including Indigenous Peoples, local communities, peasants and rural populations, women, youth and those who closely depend on biodiversity.

A human rights-based approach to biodiversity planning aims to address inequality and discrimination, including at systemic and structural levels. As such, it empowers individuals and communities, especially the most marginalised, to exercise their rights to participate in decision-making, access information, and access justice in order to protect and sustainably use biodiversity. It promotes accountable, transparent action and responsibilities. Adopting a human rights-based approach during NBSAP development and implementation can assist policy-makers to better harmonize goals pertaining to nature and development, which is key to the achievement of the goals and vision of the 2030 Agenda for Sustainable Development. This includes the UN Sustainable Development Goals (SDGs) related to the conservation and sustainable use of biodiversity, but also those that address issues such as food and water security, gender equality,

⁹ See Paragraph 24 of Section C

¹⁰ OHCHR, "Integrating Human Rights in National Biodiversity Strategies and Action Plans", March 2022, p. 9.

¹¹ UN Sustainable Development Group, "Human Rights-Based Approach".

climate change, disaster risk reduction and poverty reduction.¹² The GBF notes the mutually beneficial relationship between its provisions and the SDGs.¹³

Moreover, the poorest people in rural areas are often dependent on ecosystems for their livelihoods, meaning that biodiversity loss has major implications for their rights. Land use and habitat changes can potentially undermine entire ecosystems. Land degradation and failure to recognize and respect the land tenure of rural workers can compel people to enter the agricultural labour force under sub-standard conditions and with inadequate remuneration. Rights of rural workers are directly relevant for overcoming threats to biodiversity and ecosystems, including the right to organize, free choice of employment (for instance, not being forced to urbanize) and the right to form cooperatives to maintain local rural identity and collectively address biodiversity, which are addressed by international labour standards.¹⁴ Despite the possibilities for doing so, recent analysis finds that, as a whole, NBSAPs do not adequately integrate human rights in biodiversity policy-making and planning and that references to human rights in NBSAPs are generally indirect.¹⁵ Without direct references to human rights in biodiversity policy, duty bearers are less likely to meet their shared substantive commitments under the CBD, GBF and international human rights law to address biodiversity and habitat loss, prevent its negative impacts on human rights, and ensure that actions to address biodiversity loss are equitable. There is a need for greater policy coherence, communication, and collaboration between government officials and other stakeholders working on environmental issues and those seeking to advance human rights. This guidance note aims to support UN Country Teams with this task, by clarifying in broad terms how human rights can be integrated into NBSAPs, alongside capacity building and peer support.

2. Development and elaboration of NBSAPs

CBD Parties have committed to developing, adopting, and periodically updating NBSAPs as a policy implementation instrument, and to implementing them in an effective and participatory manner.¹⁶ NBSAPs are to be developed, elaborated and revised through an in-country consultative and inclusive process. Related strategies and actions should also be developed in a participatory manner and incorporated into national government planning instruments to facilitate the implementation of nature-focused policy targets in national policies and priorities on nature, development and climate, among others.

First-generation NBSAPs (1996-2003) largely failed to incorporate human rights in their preparation and design, contributing to poor implementation.¹⁷ The formulation of early NBSAPs rarely employed a consultative process that engaged key stakeholders such as affected communities or local authorities.¹⁸ While most NBSAPs after this period relied on broad stakeholder consultations to enhance the incorporation of cross-sectoral policies and plans related to poverty alleviation and development, few addressed sectors with potential high impacts on human rights, such as the extractive industries, the energy sector, or infrastructure development.¹⁹

¹² These include SDGs 1,2,3, 5,6, 10, 13, 14 & 15, amongst others.

¹³ See Paragraph 26, Section D of the GBF.

¹⁴ See Employment Policy Convention, 1964 (No. 122); Employment Policy Recommendation, 1964 (No. 122); Tenants and Share-croppers Recommendation, 1968 (No. 132); Rural Workers' Organisations Convention, 1975 (No. 141); Promotion of Cooperatives Recommendation, 2002 (No. 193).

¹⁵ OHCHR, "Integrating Human Rights in National Biodiversity Strategies and Action Plans", March 2022, p. 9.

¹⁶ CBD, "What is an NBSAP", 15 November 2022. Available at: <https://www.cbd.int/nbsap/introduction.shtml>.

¹⁷ OHCHR, "Integrating Human Rights in National Biodiversity Strategies and Action Plans", March 2022, p. 8.

¹⁸ *Ibid.*, p. 28.

¹⁹ *Ibid.*, p. 28-29.

Revisions to NBSAPs in line with the post-2020 GBF should:

- Integrate rights-based approaches, as a matter of legal obligation, and to improve outcomes of the national biodiversity planning processes undertaken during NBSAP revision.
- Explicitly incorporate the human rights to access information, and free, active, meaningful, and informed participation by all stakeholders (see Section 4).
- Integrate sub-national plans developed at the local level in accordance with human rights.

3. General guidance for integrating human rights in NBSAPs

- Explicitly reference relevant international human rights obligations and domestic human rights laws, as well as institutional frameworks promoting the accountability of government agencies and officials, businesses and other duty bearers relating to human rights and biodiversity.²⁰
- Reflect the duty of the State to regulate effectively all public and private actors under its jurisdiction to prevent threats to human rights in the context of biodiversity loss and/or action to protect biodiversity.
- Describe how the specific human rights obligations of the State as a duty bearer will be fulfilled through the development and implementation of the NBSAP, while identifying and supporting rights holders to exercise their human rights.
- Include efforts to respect, protect and fulfil the human right to a clean, healthy and sustainable environment, including with respect to biodiversity.
- Reference other national and international laws and policies related to biodiversity and human rights including customary, indigenous, environmental, and labour law.

Recognize the diverse values of nature, including for those countries that recognise them, rights of nature and rights of Mother Earth, as well as the relationship between biological and human cultural and linguistic diversity.²¹

- Protect access to biodiversity by communities heavily reliant on nature for their rights to life, food, health, livelihood, education, and culture, among others.
- Promote an ecologically, economically and socially sustainable approach to the use of wild species that contributes to human well-being and fulfilment of rights.

²⁰ For example, Montenegro's NBSAP 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. Albania's NBSAP 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. Liberia's 2017-2025 NBSAP lists indirect threats to biodiversity including the inadequate recognition of the rights of rural communities to *inter alia*, information and access to justice.

²¹ See Paragraph 9, Section C of the GBF

- Advance a rights-based approach to actions to prevent biodiversity loss such as ending deforestation, protection and conservation of lands and oceans, moving to sustainable patterns of production and consumption, combating climate change, chemical and plastic pollution and preventing the introduction of alien invasive species.
- Mainstream a human rights-based approach to biodiversity in all sectoral plans including those with potential high impacts on human rights such as agriculture, fishing, forestry, infrastructure, energy and extractives.
- Advance enabling conditions for sustainable and inclusive biodiversity action such as poverty alleviation, the effective enjoyment of all human rights, including the right to development, and just transition to an environmentally sustainable economy, including through the promotion of decent work and sustainable enterprise development.
- Integrate the duty to cooperate and mobilize resources that are adequate, predictable and easily accessible, while addressing subsidies harmful to biodiversity in accordance with the GBF.²²
- Integrate the right to benefit from science and its applications in line with human rights obligations and relevant principles and provisions of the CBD and GBF, such as the importance of traditional knowledge and practices.²³
- Identify mechanisms and resources to adequately address the transboundary and extraterritorial causes and impacts of biodiversity and habitat loss, close protection gaps and promote the full realisation of human rights including bilateral, regional and global programmes and policies.
- Commit to a human rights-based approach to biodiversity finance delivered or received and describe how this is being carried out, including tracking and monitoring mechanisms.
- Identify applicable environmental and social safeguards to ensure financial and technical resources are allocated to human rights-compliant biodiversity action.
- Ensure policies relating to biodiversity are non-discriminatory and gender-responsive, effective and accessible.

4. NBSAPs and Environmental Governance

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. For example, the most recent Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) report notes that the values held and expressed by Indigenous Peoples and local communities can inspire environmental governance at different scales and administrative levels.²⁴ NBSAP development requires informed engagement by all stakeholders, particularly those whose lifeways and livelihoods are directly connected with biodiversity. The

²² See paragraph 23, Section C of the GBF, as well as Targets 18 & 19

²³ See paragraph 19, Section C, GBF

²⁴ IPBES, “Values Assessment - Decisions Based on Narrow Set of Market Values of Nature Underpin the Global Biodiversity Crisis”, Media Release, 11 July 2022.

implementation of relevant regional agreements should also be incorporated along with the principles of the Rio Declaration on Environment and Development as referred to in the GBF, including Principle 10 which sets out key procedural rights.²⁵ Key aspects of the procedural obligations of States in relation to NBSAPs are set out below.

4.1 Guidance for integrating the rights to environmental information and education

- Guarantee the right to access information in the context of biodiversity, its sustainable use and the equitable sharing of the benefits of genetic diversity.²⁶
- Ensure the right of public access to information concerning biodiversity-related projects, policies and decision-making processes is satisfied in a timely, accessible and effective manner.
- Explain how information relating to biodiversity is being collected and made accessible to the public, in line with Goal B of the Global Biodiversity Framework which calls for nature's contributions to people to be valued.²⁷
- Require the prior assessment of the possible social, environmental, and human rights impacts of proposed projects and policies that may affect biodiversity, including those put forward by businesses and make the assessments public.
- Ensure environmental education, public awareness, and public access to environmental information that is comprehensible and accessible to all people including indigenous and minority communities, children and youth, older persons and persons with disabilities.
- Ensure the right of all people to an education with respect for nature and diverse cultural perspectives. The implementation provisions of the GBF set out the need for transformative, innovative and transdisciplinary education, formal and informal, at all levels.²⁸

4.2 Guidance for integrating the right to free, meaningful and active public participation

- Protect the rights to public participation in environmental decision-making, freedom of expression, association and peaceful assembly.
- Respect, protect and fulfil the rights of Indigenous Peoples including with respect to participation in decision-making and obligations related to their free, prior and informed consent, in line with international standards.
- Take measures to guarantee the participation and inclusion of all relevant stakeholders, including people in vulnerable situations, peasants, Indigenous Peoples, local communities, trade unions, employers' organizations and environmental and human rights defenders.²⁹
- Recognize people as agents of change and empower them to contribute to the biodiversity planning process.

²⁵ See paragraph 18, Section C, GBF

²⁶ Ibid.

²⁷ See also 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.

²⁸ See Section C, Para 22 of GBF

²⁹ This could include mapping the specific groups and constituencies most impacted by the measures proposed in the NBSAP.

- Provide for timely and adequate notice to the public of opportunities to participate in processes related to NSBAPs and reasonable timeframes for participation.
- Notify the public in a transparent and effective manner of the outcomes of participatory processes related to the development, monitoring and implementation of the NBSAP.

4.3 Guidance for integrating the right to access justice

- Identify and/or establish effective, accessible and appropriate complaints mechanisms and remedies at the national level, including legal remedies, for those who: a) experience biodiversity loss and related human rights harms; and/or b) those whose human rights are negatively affected by the NBSAP or measures taken under it.
- Guarantee access to justice and effective remedy for persons, groups and peoples in vulnerable situations.
- Ensure accountability and effective remedy for biodiversity-related human rights harms including those caused by business enterprises

5. Other Key Human Rights relevant to Biodiversity

A number of other human rights are relevant to the protection of biodiversity. The following table describes some of these rights.³⁰ Measures to respect, protect and fulfil these and other rights, as necessary, should be reflected in NBSAPS.

<p>Right to life <i>Article 6 of the International Covenant on Civil and Political Rights (1966)</i></p>	<p>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.</p>
<p>Right to health <i>Article 12 of the International Covenant on Economic, Social and Cultural Rights (1966)</i></p>	<p>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.</p>
<p>Right to adequate food <i>Article 11 of the International Covenant on Economic, Social and Cultural Rights</i></p>	<p>Adequate food is reliant on biodiversity, with access to a diverse variety of local and healthy plants and genetic diversity within species associated with greater agricultural productivity and nutritional value. Building biodiversity resilience and supporting ecosystem integrity contributes to the realization of the right to adequate food.</p>
<p>Right to safe drinking water <i>Article 11 of the International Covenant on Economic, Social and Cultural Rights</i> <i>General Comment 15 of the Committee on Economic, Social and Cultural Rights (2003)</i></p>	<p>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.</p>
<p>Right to a clean, healthy and sustainable environment <i>Human Rights Council resolution 48/13 (2021)</i> <i>General Assembly resolution 76/300 (2022)</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</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 Right,</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>

³⁰ Table taken from OHCHR, "Integrating Human Rights in National Biodiversity Strategies and Action Plans", March 2022, p. 12-13.

<p>Right to an adequate standard of living <i>Article 11 of the International Covenant on Economic, Social and Cultural Rights</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</i> <i>Article 1 of the UN Declaration on the Right to Development (1986)</i> <i>Article 3 of the UN Declaration on the Rights of Indigenous Peoples (2007)</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>
<p>Right to development <i>UN Declaration on the Right to Development</i> <i>Article 3 of the Rio Declaration on Environment and Development (1992)</i></p>	<p>The principles of the right to development including inter- and intra-generational equity, international solidarity and cooperation, and individual and collective rights are integral to a holistic, whole-earth approach to stemming biodiversity loss. The Right to Development is inextricably linked to international legal concepts and principles relevant to biodiversity, such as the common heritage of humankind; permanent sovereignty over natural resources; and the right to a decent standard of living. The GBF highlights responsible and sustainable socioeconomic development that simultaneously contributes to the conservation and sustainable use of biodiversity.³¹</p>

6. NBSAPs and the rights of people in vulnerable situations

Biodiversity loss has disproportionate impacts on persons, groups and peoples in vulnerable situations. Generally, the incorporation of provisions for the protection of persons, groups and peoples in vulnerable situations in NBSAPs is low.³² In Our Common Agenda, the UN Secretary General highlights the need for new approaches to support the participation in public affairs of often marginalised groups, including Indigenous Peoples. Target 22 of the GBF emphasises the importance of securing access to information, participation and access to justice of Indigenous Peoples and local communities, women and girls, children and youth and persons with disabilities. NBSAPS should:

- Focus on Indigenous Peoples, local communities, rural communities, women, children, youth, and others whose lives and livelihoods are often closely connected with and dependent on nature.

³¹ See Paragraph 13, Section C of the GBF

³² Eighty-three percent of current NBSAPs reviewed by OHCHR had taken into consideration persons, groups and peoples in vulnerable situations, but the level and scope of emphasis varied substantially from country to country (OHCHR, “Integrating Human Rights in National Biodiversity Strategies and Action Plans”, March 2022, p. 10).

- Recognise that Indigenous Peoples, local communities, rural communities, women, children and youth, though sometimes living in vulnerable situations, have agency and the right and capacity to push for and support effective and equitable biodiversity action, for example, through their scientific and technical knowledge and actions such as instituting litigation and forming political movements.
- Promote action to address biodiversity and habitat loss that does not exacerbate existing inequalities and takes into account gender and age-related impacts as well as intergenerational equity, as set out in the GBF.³³
- Advance biodiversity action that enhances the protection of the rights of people living in vulnerable situations, and addresses historic or structural discrimination.
- Prioritise action to protect biodiversity that also creates co-benefits for people in vulnerable situations such as more secure land tenure for women and Indigenous Peoples, and better food security or employment opportunities for rural youth.
- Recognise and protect the tenure and resource use of Indigenous Peoples, local communities and women and girls, including through clear and non-discriminatory land titling and recognition of diverse types of tenure.

6.1 NBSAPS and the rights of Indigenous Peoples

The CBD COP emphasises that participation by Indigenous Peoples and other affected communities is an important contribution to effectively protecting biodiversity. The establishment of protected areas, and their management and governance regimes should be based on the participation of the affected Indigenous Peoples and, as required by human rights norms, standards and principles, also their free, prior and informed consent. Indigenous Peoples have the right to participate in the management of protected areas established within their traditional lands and territories. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization includes the obligation to seek prior informed consent, and share benefits related to traditional knowledge associated with genetic resources and access to genetic resources held by Indigenous Peoples based on mutually agreed terms, where the rights of these communities have been recognized by a Party. The CBD Parties have agreed to an understanding of Free Prior and Informed Consent (FPIC) of Indigenous Peoples in the context of access and use of indigenous knowledge, innovations and practices. This includes, inter alia: a) lack of pressure, intimidation, manipulation, or coercion in decision-making; consent or approval being sought in advance or authorization; b) the provision of relevant information and c) the right not to grant consent or approval.³⁴ However, only a limited number of NBSAPs refer to consultation, and seeking FPIC. The UN Common Approach to Biodiversity highlights that Indigenous Peoples must have their rights upheld and must not be discriminated against.³⁵

Implementation of the GBF must ensure that the rights and knowledge of Indigenous Peoples, and local communities, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices are respected, protected and preserved with their FPIC. This includes through the full and effective participation of Indigenous Peoples in decision-making, in

³³ See Paragraph 21 section C

³⁴ See CBD/COP/DEC/XIII/18.

³⁵ CEB, "UN Common Approach to Biodiversity". Available at: unsceb.org/un-common-approach-biodiversity.

accordance with relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law.³⁶

Guidance for integrating the rights of Indigenous Peoples into the development and implementation of NBSAPs:

- Take measures to ensure the meaningful and effective participation of Indigenous Peoples throughout the development, implementation and monitoring of NBSAPs.
- Respect, protect and fulfil the rights of Indigenous Peoples when taking biodiversity action, including in the course of spatial planning and management processes, in line with Target 1 of the GBF.
- Recognise the contribution of Indigenous Peoples' scientific and technical knowledge to the conservation and sustainable use of biodiversity as well as their efforts to address biodiversity and habitat loss. Respect the rights of Indigenous Peoples over such knowledge in accordance with Target 21 of the GBF, including FPIC in accordance with the CBD, Nagoya Protocol and other relevant international instruments.
- Guarantee the rights of Indigenous Peoples to their lands, resources and territories, including with respect to the '30 by 30' provisions in Target 3 of the GBF.
- Promote inclusive decision-making and the fair and equitable sharing of benefits arising from the use of genetic and biological resources, as well as associated scientific and technical knowledge, in line with GBF Goal C on access and benefit sharing, as well as Target 9 on sustainable use and benefit-sharing.
- Prohibit conservation measures that forcibly displace Indigenous Peoples.

6.2 NBSAPs and gender equality

Gender equality is a human right. The CBD recognizes the vital role of women in biodiversity action and calls for their full and effective participation in its implementation. The UN Secretary General's Call to Action for Human Rights highlights the need for the application of a gender lens to all UN activities and gender-balanced decision making. A Gender Action Plan was adopted at CBD COP 15 and Target 23 of the GBF refers to ensuring gender equality in its implementation, including by recognizing women's equal rights and access to land and natural resources.³⁷ This effort should include NBSAPs which often quote gender-related goals and targets, but rarely share good practices, lessons learned or elaborate on the specific needs or challenges for women.³⁸

Guidance for integrating gender equality into the development and implementation of NBSAPs:

- Ensure the meaningful and effective participation of women, girls and gender-diverse persons during the NBSAP development process, and throughout the implementation and reporting phases, including through providing leadership opportunities.
- Identify barriers to the participation and engagement of women, girls and gender-diverse persons including social, political, cultural and legal limitations, as well as strategies to address them.

³⁶ See Paragraph 8, Section C of the GBF

³⁷ See paragraph 15, section C of considerations for implementation of the GBF, Target 23 and the gender action plan: <https://www.cbd.int/doc/c/f64f/e1b9/e8da56802bc2c458a56fcefa/cop-15-l-24-en.pdf>

³⁸ UNDP, "Gender and Mining Governance (2022): 6NR Technical Guidance: Stakeholder Engagement", e-learning module. Available at: www.learningfornature.org/en/courses/gender-and-mining-governance-2022.

- Implement the gender plan of action in synergy with gender plans or strategies developed under other relevant multilateral environmental agreements or related multilateral processes.
- Develop and track gender-sensitive indicators in line with the CBD post-2020 Global Biodiversity Framework and Gender Plan of Action.³⁹
- Undertake gender analysis and share information on gender-differentiated biodiversity practices.
- Promote strategies and actions that support the diversification of all people's biodiversity-based income generating activities and livelihood strategies.
- Mobilize adequate resources for the implementation of gender-responsive actions during the implementation of the NBSAP.
- Identify linkages between their NBSAP and national institutions, gender action plans, programs and policies.⁴⁰

6.3 NBSAPs and the rights of children and youth

Children and youth have clearly defined rights under the Convention on the Rights of the Child (CRC) that apply in the context of the implementation of the CBD. For example, Article 13 of the CBD requires that biodiversity action include efforts to strengthen environmental education, as recognized by Articles 28 and 29 of the CRC. The UN's Common Approach seeks to advance human rights, including the rights of children, youth and future generations to enjoy a healthy environment. The Call to Action and Our Common Agenda include recommendations for more meaningful youth engagement, including through better political representation and transforming education to promote intergenerational cohesion and more inclusive societies. Provisions on children and youth are reflected in the NBSAPs of roughly a quarter of parties to the CBD.⁴¹

Guidance for integrating the rights of children and youth into the development and implementation of NBSAPs:

- Ensure the rights of children and youth in relation to biodiversity.
- Promote opportunities for children and youth to communicate, empower and mobilize themselves and take action for societal and environmental transformation, including through training, online platforms and youth-led groups, organizations and networks.

³⁹ As an example Nigeria's NBSAP sets out that to bridge the gender gaps in NBSAP implementation, coordinators shall carry out 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.

⁴⁰ In Malawi, the Ministry of Gender and Disability is identified as a key institution for NBSAP implementation.

⁴¹ 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.

- Guarantee the rights of children and youth to meaningful and effective participation in biodiversity action and education with respect for nature.
- Develop mechanisms to represent the best interests of children in the development, monitoring and implementation of NBSAPs.

6.4 NBSAPs and the rights of Environmental Human Rights Defenders (EHRDs)

People around the world are working to prevent harm to natural systems and uphold the human right to a clean, healthy and sustainable environment. Human rights defenders working in environmental matters, including those exercising or defending the right to a clean, healthy and sustainable environment, are known as environmental human rights defenders.⁴² In carrying out their work, environmental defenders face enormous personal risk. According to Global Witness, there have been 1,700 killings of environmental defenders in the last decade.⁴³ In 2021, the number of reported killings of EHRDs was 200.⁴⁴ A report by Frontline Defenders has found that 69% of human rights defenders killed overall were engaged in struggles to defend land, Indigenous Peoples' rights, and environmental rights. The UN Secretary General's Call to Action underscores the need for UN support to member States for the development of protection mechanisms for human rights defenders and environmental activists, particularly young people, women and girls.⁴⁵ In addition, the Common Approach notes that protecting environmental human rights defenders and activists contributes to fulfilling the right to a healthy environment, while also emphasising the role of justice and accountability measures in protecting against threats to them. Target 22 of the GBF requires the full protection of EHRDs and National biodiversity commitments must guarantee a safe and enabling environment for them.

Guidance for integrating the rights of EHRDs into the development and implementation of NBSAPs:

- Respect, protect and fulfil the rights of EHRDs to participation, access to information, freedom of expression, assembly and association including in the development, monitoring and implementation of NBSAPs.
- Ensure action against threats to the life or wellbeing of EHRDs and access to justice and effective remedy when violations occur.
- Provide for effective investigations and prosecute those responsible for violence and intimidation against EHRDs, including business actors.
- Establish and/or provide information related to mechanisms in place to guarantee the effective protection of EHRDs.

7. NBSAPs, business and human rights

All businesses impact and depend upon biodiversity. This leads to costs and benefits for a business and also for wider society. Recognising the value of impacts and dependencies on biodiversity provides a clear business case for the protection of and investment in biodiversity around the world. Businesses have a responsibility to respect human rights in the context of the protection, sustainable use and equitable sharing of the benefits of biodiversity.⁴⁶ This includes being guided by the United Nations Guiding Principles on Business and Human Rights (UNGPs)

⁴² A/HRC/RES/40/11.

⁴³ Global Witness, "Decade of defiance", 29 September 2022. Available at: www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance.

⁴⁴ Ibid.

⁴⁵ UNEP and OHCHR are leading the development of this tool in collaboration with Resident Coordinators.

⁴⁶ See A/HRC/34/49, sect. IV, para. 72; A/73/567 sect. A, para. 31.

and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) in all actions that may affect biodiversity and ecosystems.⁴⁷

Guidance for integrating the responsibility of businesses in the development and implementation of NBSAPs:

- Identify and promote accountability for the duties of businesses to prevent business-related human rights harms from biodiversity loss under the UNGPs.
- Call for businesses to undertake comprehensive human rights due diligence, including in relation to the right to a clean, healthy and sustainable environment, in all business activities in order to prevent biodiversity loss and accompanying human rights harms.
- Identify and/or establish mechanisms to monitor environmental and human rights violations by businesses, including along supply chains.
- Identify and/or establish mechanisms for holding businesses accountable for causing or failing to prevent biodiversity and habitat loss and for any associated human rights harms, for example, through regulation and effective mechanisms for accountability and remedy.

8. Implementation and Monitoring of NBSAPs

NBSAPs are not ends in themselves but rather the beginning of a long-term process of participatory biodiversity planning and action. As such, they should benefit from a process of continuous dialogue relating to their interrelationship with human rights. While the monitoring and evaluation framework for the GBF was not finalised at CBD COP 15, a process has been agreed for its finalisation by COP 16, with support from an ad hoc technical expert group.

The human rights obligations of States should be reflected in and inform the implementation and monitoring of NBSAPs. Effective public participation and the involvement of National Human Rights Institutions are crucial to achieving this objective. The process of monitoring and reporting on the implementation of the NBSAP should actively involve all rights-holders including Indigenous Peoples, local communities, peasants and rural communities, women, children and youth. This requires effective measures to collect and make relevant biodiversity, spatial and planning data accessible to all including through the provision of funding and technical support where needed.

⁴⁷ https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf;
<https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>