

Policy Brief No.1

Human Rights-Based Approaches to Conserving Biodiversity: Equitable, Effective and Imperative

A Policy Brief from the UN Special Rapporteur on
Human Rights and the Environment, August 2021

Executive Summary

By David R. Boyd and Stephanie Keene



Human rights approaches to conserving biodiversity

The world faces an unprecedented biodiversity crisis, threatening human well-being, human rights and the future of life on Earth. Sobered by the world's failure to achieve any of the global goals to protect, conserve and restore nature by 2020,¹ 190 governments will gather in October, in Kunming, China to finalize the UN Post-2020 Global Biodiversity Framework (the "Framework"). The draft Framework released in July aims to establish a "world living in harmony with nature" by 2050, in part by protecting at least 30 percent of the planet and placing at least 20 percent under restoration by 2030. However, in light of past failures, the achievement of the Framework's conservation goals demands a dramatic departure from "conservation as usual." Accelerated efforts to expand protected areas have proven insufficient to stop or even slow the tidal wave of environmental destruction sweeping the planet, with humans now causing the sixth mass extinction in the history of life on Earth.

Failures of the draft Framework

Ending the current biodiversity crisis will require a transformative approach to what "conservation" entails, who qualifies as a "conservationist", and how conservation efforts are designed and implemented. Problematically, the current draft Framework is ill-positioned to catalyze such a transformation because human rights-based approaches and the specific rights and contributions of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth (collectively referred to as "Indigenous Peoples and other rural rightsholders" within this brief), which have the greatest potential for effectively and equitably protecting biodiversity, are not adequately prioritized.

The draft Framework fails to acknowledge Indigenous Peoples and other rural rightsholders who successfully steward vast portions of the world's biodiversity as vital conservation partners whose human, land, and resource rights must be recognized and respected if biodiversity loss is to be stopped and reversed. Despite modest improvements compared to earlier drafts, the Framework fails to mention "human rights", fails to require human rights due diligence in conservation planning and finance, fails to call for the recognition of Indigenous Peoples' and other rural rightsholders' rights to nature, and fails to include any measurable targets to track the mainstreaming of rights-based approaches (e.g., within National Biodiversity Strategies and Action Plans).

The Framework further overlooks the fundamental fact that all human rights ultimately depend on a healthy biosphere. Nature is the source of countless irreplaceable contributions to human well-being, including clean air and water, carbon storage, pollination, medicines and buffers against disease. Therefore, it is imperative that the Framework acknowledges that everyone, everywhere, has the right to live in a safe, clean, healthy and sustainable environment, a right which includes healthy ecosystems and biodiversity.

Respecting and protecting human rights, especially the rights of Indigenous Peoples and other rural rightsholders, is an obligation under international law and an effective, equitable and cost-efficient conservation strategy that should be applied to all efforts to safeguard nature. The strong, direct dependence of Indigenous Peoples and other rural rightsholders on nature renders them disproportionately vulnerable to the negative effects of biodiversity loss, climate change, and human rights abuses that result from "fortress conservation", meaning exclusionary practices intended to protect biodiversity.

¹ For references, please see the full version of the policy brief, available at: <https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/policy-briefing-1.pdf>

Fortress conservation—which dominated conservation efforts led by governments and conservation organizations prior to the late 20th century—is motivated by the mistaken belief that successful conservation outcomes require “pristine wilderness” free from human inhabitants. Even today, many national parks and other protected areas, including some created in recent decades, displace Indigenous Peoples and other rural rightsholders. Strict conservation measures may produce meager conservation gains at the cost of evicting rural communities from their homes and ancestral lands, criminalizing their traditional livelihoods, and violating their human rights to life, health, water, food, an adequate standard of living, non-discrimination and their cultural rights. Estimates of the global number of conservation-displaced persons stretch well into the millions; a 2017 analysis estimated that over 250,000 individuals across 15 countries were evicted from protected areas between 1990 and 2014.

In addition to being morally and legally required, human rights-based conservation is the most effective, efficient, and equitable path forward to safeguarding the planet. Mounting evidence confirms that Indigenous Peoples and other rural rightsholders possess the knowledge and ability necessary to successfully conserve and manage biodiverse ecosystems more effectively than governments and at a fraction of the cost, particularly where their rights (including the specific rights of Indigenous and rural women) are recognized, respected and supported. Indigenous Peoples and other rural rightsholders steward and claim collective rights to over half the global land area, employing customary tenure systems anchored in both traditional and contemporary knowledge to successfully manage and conserve vast ecosystems. When these communities’ impressive conservation capacities are considered alongside the extensive contributions of other marginalized rural rightsholders, such as smallholder peasant farmers whose agro-ecological knowledge and practices provide a viable and inspiring alternative to the industrial food system responsible for the bulk of global biodiversity loss, the potential power of rights-based solutions to combat the global biodiversity crisis is clear.

Because the draft post-2020 Framework fails to prioritize human rights, the Framework’s target of protecting at least 30 percent of the world’s land and waters by 2030 risks contributing to further human rights violations against Indigenous Peoples and other rural rightsholders, while jeopardizing the 2030 and 2050 conservation targets. This failure reflects a dangerous yet persistent misconception: namely, that humans, and by extension, human rights, are separate and independent from nature. Implementing a truly transformative approach to conservation requires refuting this false notion and accepting that nature is not a commodity created for human exploitation, but an extraordinarily diverse community to which we all belong. This perspective is widely embraced by the world’s Indigenous Peoples and local communities, a growing body of literature recognizing the interdependence of cultural and biological diversity, and scientific evidence that humans share DNA with all other forms of life on Earth. When considered in this light, the failure to place human rights at the heart of the post-2020 Framework and to require rights-based approaches in all biodiversity conservation and restoration actions undermines the likelihood of successfully preserving and restoring the diversity of life on Earth.

This Policy Brief builds upon the 2020 report to the General Assembly titled ‘Human Rights Depend on a Healthy Biosphere’ by David Boyd, UN Special Rapporteur on Human Rights and Environment. We advocate for a more inclusive, just and sustainable approach to safeguarding and restoring biodiversity, and outline the human rights costs and limited efficacy of exclusionary conservation. We make the case for a human rights-based paradigm shift within conservation, beginning with essential improvements to the draft Post-2020 Global Biodiversity Framework to ensure that:

- (1) Rights-based approaches are obligatory in all actions to conserve, restore, and share the benefits of biodiversity, including conservation financing;*
- (2) Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth are acknowledged as key rightsholders and partners in protecting and restoring nature, whose human, land and tenure rights, knowledge, and conservation contributions must be recognized, respected, and supported; and*
- (3) Everyone’s right to live in a safe, clean, healthy and sustainable environment is acknowledged, and is accompanied by measurable targets towards the recognition and implementation of this right.*

Recommendations for the Post-2020 Global Biodiversity Framework and Beyond

A. Recommendations Specific to the Post-2020 Global Biodiversity Framework

The Post-2020 Global Biodiversity Framework should:

1. Explicitly acknowledge everyone's right to a safe, clean, healthy and sustainable environment, which includes healthy biodiversity and ecosystems, and include measurable targets towards the recognition and implementation of this right (e.g., inclusion in constitutions, legislation, and National Biodiversity Strategies and Action Plans).
2. Prioritize the empowerment and substantive participation of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth, along with the legal recognition and implementation of their human, land and tenure rights, as the central strategy driving the rights-based Framework.
3. Emphasize rights-based actions that equitably partner with and support the conservation leadership of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth, build their capacity, rely on their traditional knowledge and nature management practices, and achieve multiple human rights and sustainable development benefits (e.g., biodiversity conservation initiatives that reduce poverty, promote gender equality, improve food security, and address climate change).
4. Be revised so that the 2050 Vision statement reads: "The vision of the framework is a world of living in harmony with nature where: By 2050, biodiversity is valued, conserved, restored and wisely used, maintaining **nature's contributions to people and the interdependent biological and cultural diversity that enable them**, sustaining a healthy planet and **ensuring recognition and respect for human, land, and tenure rights of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, rural youth and other rural rightsholders, thereby** delivering ecosystem benefits essential for all people and **future generations.**"
5. Be revised so that the 2030 Mission statement reads: "To take urgent action across society **and in partnership with Indigenous Peoples and other rural rightsholders—including local communities, Afro-descendants, peasants, rural women, and rural youth—to design and implement rights-based approaches that** conserve and sustainably use biodiversity and ensure the fair and equitable sharing of benefits from the use of **biological** resources, **thereby putting** biodiversity on a path to recovery by 2030 for the **mutual** benefit of the planet, **all** people, **and all future generations.**"
6. Include an additional 2030 Goal whereby all Indigenous Peoples', Afro-descendants', and local communities' rights to the community lands, waters, carbon, sub-surface resources, and territories they traditionally own and/or govern are legally recognized, respected and implemented, with particular attention to the rights of Indigenous, Afro-descendant, and local community women.
7. Include a subsection within the 2030 Action Targets dedicated to support for Indigenous Peoples'

and other marginalized rural groups' human, land, and tenure rights—including all rights enshrined in the UN Declaration on the Rights of Indigenous Peoples (2007), the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018), the International Labour Organization Indigenous and Tribal Peoples Convention No. 169 (1989), the Convention on the Elimination of All Forms of Discrimination Against Women (1981), and the UN Convention on the Rights of the Child (1989). The sub-section should include:

- a. Two 2030 Action Targets that replace the text of Target 21 in the current draft, and that read:
 - i. “By 2030, ensure Indigenous Peoples, Afro-descendants, local communities, and peasants’ (including rural women and rural youth within these groups) full consultation and equitable and effective participation—including rights of free, prior and informed consent (FPIC)—in all decision-making related to biodiversity. Support their decision-making capacity, and ensure that their participation, priorities, traditional knowledge, innovations, and nature stewardship practices guide conservation decision-making at all levels.
 - ii. By 2030, ensure the legal recognition and security of Indigenous Peoples, Afro-descendants, local communities, and peasants’ tenure rights over all lands, waters, and other natural resources that they customarily or otherwise own, manage, or use, with particular attention to the tenure rights of women and youth within these groups.”
- b. Measurable 2030 Action Targets specific to the traditional knowledge of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth, and to their receipt of fair and equitable conservation benefits (as reflected in current Targets 9, 13, and 20).

8. Require human rights-based, gender-sensitive conservation approaches to be incorporated within the development, content, and implementation of all National Biodiversity Strategies and Action Plans (NBSAPs) and other planning and monitoring mechanisms. Relatedly, require NBSAPs and other planning and monitoring mechanisms to:

- a. Guarantee all people's access to information, participation in decision-making, and access to justice in biodiversity conservation matters.
- b. Include gender and youth inclusion strategies.
- c. Require States to regularly monitor adherence to human rights standards and respect for the human, land, and tenure rights of Indigenous Peoples and other rural rightsholders in all conservation measures.

9. Increase the 2030 Action Target to assist low-income states so that at least \$100 billion in annual grants from high-income states is devoted to assist low-income states in conserving, protecting, restoring and ensuring the sustainable use of nature (matching international climate finance commitments).

10. Include a 2030 Action target for zero murders of environmental human rights defenders working on biodiversity and conservation-related issues, highlighting the duty of all conservation actors to protect them, apply a zero-tolerance approach to their abuse, and take effective actions to ensure their freedom from harassment, intimidation, violence, criminalization and other forms of abuse.

B. Recommendations applicable to all conservation measures

To protect human rights, the rights of Indigenous Peoples and other rural rightsholders, and ensure healthy ecosystems and biodiversity, States should urgently undertake the following actions:

11. Prioritize and accelerate the legal recognition of the land, forest, freshwater, and other tenure rights, associated titles, and other rights held by Indigenous Peoples, Afro-descendants, local communities, peasants, and rural women and youth within these groups, thereby empowering those who depend directly on nature for their livelihoods and cultural identities to engage in long-term, sustainable biodiversity conservation and use practices based on traditional knowledge, customary laws, and the implementation of local stewardship systems.
12. Place Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural youth—along with their traditional knowledge and sustainable nature governance practices—at the forefront of efforts to identify, designate, and manage new and existing areas important for cultural and biological diversity, including Indigenous protected and conserved areas, Indigenous and Community Conserved Areas, territories of life, sacred sites, and other effective area-based conservation measures, including through adequate legal, financial and other resources.
13. Ensure Indigenous Peoples' and other rural rightsholders' access to and use of land, water, wildlife, plants, and sacred sites for survival, subsistence and small-scale commercial livelihoods, medicinal, cultural, and spiritual purposes, with specific arrangements established through inclusive, gender-sensitive consultation processes that are in accordance with the right of free, prior, and informed consent (FPIC). Reform conservation and protected area legislation as necessary to ensure these protections for all Indigenous Peoples and other rural rightsholders whose livelihoods and cultures depend on areas designated for conservation protection.
14. Provide swift, just, fair, and equitable investigation and redress for past conservation-driven violations of the rights of Indigenous Peoples, Afro-descendants, local communities, peasants, and women and youth within these groups related to the creation and/or management of protected areas, including through restitution of rural rightsholders' lands, territories, and associated resource rights. When this is not possible, provide just, fair, culturally acceptable, and equitable compensation. Unless otherwise freely agreed upon by the Indigenous Peoples or other rural rightsholders concerned, compensation should take the form of lands, territories, and resources equal in quality, size and legal status, or of monetary compensation or other appropriate redress.
15. Redirect financial flows for conservation to Indigenous Peoples, Afro-descendants, local communities, and peasants, including initiatives led by rural women and rural youth, for protecting and sustainably using biodiversity.
16. States and other institutions should only fund conservation initiatives that: (a) respect and protect the title, tenure, access, and nature governance rights of Indigenous Peoples, Afro-descendants, local communities, and peasants—including women and youth within these groups—to their lands and territories, including the right of free, prior, and informed consent to any actions that affect them; (b) when directed at law enforcement, require and ensure that eco-guards and rangers are trained to international human rights standards and subject to effective oversight and accountability; (c) provide local residents with access to independent grievance and redress mechanisms that can receive complaints of, and provide remedies for, human rights violations; and (d) require regular transparent reporting by funding recipients on how they are meeting human rights norms.

17. Work across government ministries and processes related to biodiversity conservation, restoration and sustainable development to create opportunities for Indigenous and other rural youth to contribute to decision-making processes at all levels. Genuinely listen to young people's priorities, concerns, and perspectives, and ensure that their demands have substantive impact on the development of all policies and the implementation of all activities to safeguard nature.

18. Require urgent action to protect and respect the rights of environmental human rights defenders, prevent their abuse, and provide swift, fair and effective investigation, redress and reparations for existing violations against them. Specifically, strengthen practical measures to support environmental human rights defenders, including: effective and timely remedies in cases where Indigenous Peoples, Afro-descendants, local communities, peasants, and other defenders face threats, criminalization and/or any form of violence; and revoke illegally issued land concessions, water, agricultural or other development permits on lands customarily owned, used, or occupied by Indigenous Peoples, Afro-descendants, local communities, or peasants.

19. Pass and enforce laws requiring businesses and their subsidiaries in all sectors to: prevent, identify and adequately respond to adverse impacts on human rights, ecosystems, biodiversity, Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, rural youth, and environmental human rights defenders at the project level and throughout supply chains in accordance with the UN Guiding Principles on Business and Human Rights. Such laws should include substantial penalties for non-compliance, and should require that all businesses and their subsidiaries: conduct pre-investment due diligence on the potential human rights and environmental risks associated with their contemplated operations and supply chains; withdraw from any contemplated initiatives that do not satisfy human rights and environmental standards commensurate with both national and international law; take actions to appropriately respond to any possible human rights and environmental violations; develop and implement gender-sensitive policies specific to respecting the rights of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural children; respect Indigenous Peoples' and other marginalized rural groups' FPIC rights, and guarantee all rural rightsholders' substantive participation in decision-making processes for projects that could affect them; establish accessible grievance mechanisms and access to remedy for affected persons; and transparently share compliance actions, failures, and lessons learned with the public.

20. Pass and enforce laws requiring large conservation organizations to take actions to prevent, identify and adequately respond to human rights abuses, specifically requiring all large conservation organizations to: conduct due diligence on the potential human rights risks associated with their contemplated operations; withdraw from any contemplated operations that do not satisfy human rights standards; take actions to appropriately respond to any potential human rights violations that occur in relation to their conservation initiatives; develop and implement gender-sensitive policies specific to respecting the rights of Indigenous Peoples, Afro-descendants, local communities, peasants, rural women, and rural children; respect Indigenous Peoples' and other marginalized rural groups' FPIC rights, guaranteeing all rural rightsholders' substantive participation in decision-making processes that could affect their rights; provide Indigenous peoples and other rural rightsholders with an equitable share of project benefits; develop and implement specific policies concerning the hiring, training, support, and required conduct of eco-guards and others responsible for securing protected areas or other areas designated for conservation; provide accessible grievance mechanisms and access to remedy for affected persons, and transparently share compliance actions, failures, and lessons learned with the public. These requirements are consistent with the UN Guiding Principles on Business and Human Rights.



Dr. David R. Boyd is an international lawyer, professor and author. He is the UN Special Rapporteur on Human Rights and the Environment, teaches at the University of British Columbia, and is the author of ten books, including *The Environmental Rights Revolution*, *The Rights of Nature*, and *The Optimistic Environmentalist*. He lives on the west coast of Canada.



Stephanie Keene is an independent consultant and international human rights lawyer whose work focuses on rural land and natural resource tenure, gender justice, environmental and social compliance, and access to justice, particularly in Sub-Saharan Africa. She has over ten years of international human rights and development experience, and is a graduate of Yale Law School and Princeton University.



[ohchr.org](https://www.ohchr.org)



[@srenvironment](https://twitter.com/srenvironment)