Human Rights and Nature: Priorities at COP 16

The adoption of the Kunming-Montreal Global Biodiversity Framework (KMGBF) under the Convention on Biological Diversity (CBD) in 2022 marked a significant advance in integrating human rights into environmental policy and actions. Parties have agreed that the "implementation of the Framework should follow a human rights-based approach, respecting, protecting, promoting and fulfilling human rights" (KMGBF, Section C). Centering human rights in the implementation of the KMGBF has enormous potential to facilitate transformative changes and halt biodiversity loss.[1]

This brief, prepared by the Human Rights and Biodiversity working group, offers key recommendations for Parties and other actors, across key agenda items of COP 16, to further embed a human rights-based approach (HRBA) in the implementation and monitoring of the KMGBF, and in biodiversity governance more broadly.

[1] From Agreements to Actions: A guide to applying a human rights-based approach to the Kunming-Montreal Global Biodiversity Framework, Human Rights and Biodiversity Working Group: Paper 4 (2024)

Key asks

- **Ensure accountability on Section C:** Biodiversity loss, climate change and human rights are interconnected, and biodiversity and climate action can have adverse human rights impacts. Therefore, the KMGBF's implementation must respect, protect, promote and fulfil human rights, as enshrined in international human rights law.

- **Ensure the full and effective participation of Indigenous Peoples, local communities, women, youth, and other rights holders** in the ongoing revision of national biodiversity strategies and action plans (NBSAPs) and in the update of national targets, actions and indicators, to address their contributions, needs and value systems.

- **Support improved dissemination of existing tools and guidance on human rights-based approaches** and the development and use of new tools and guidance where needed, to strengthen the implementation of the KMGBF.

- **Confirm the establishment of a permanent subsidiary body on Article 8(j) and Related Provisions** as recommended by the International Indigenous Forum on Biodiversity, and many other actors.

- **Maintain and incorporate provisions of work on human rights-based approaches** and prioritise tasks for the development of guidance on human rights-based approaches, and the protection of environmental human rights defenders in the new Programme of Work on Article 8(j).

- **Ensure direct, effective and equitable financial support for diverse rights-holder groups related to biodiversity,** including Indigenous Peoples, local communities, women, youth, and Afro-descendant communities, as priority in the financial mechanism for implementing the KMGBF.

- **Biodiversity finance and compliance mechanisms need to ensure social, human rights and gender safeguards** are in place and should

actively involve key rights holders in decision-making and implementation.

- **Adopt the monitoring framework annex at COP 16** including the AHTEG suggestions on indicators presented at SBSTTA 26 that relate to monitoring and reporting on human rights, gender responsiveness, youth and intergenerational equity, and actively support the participation of rights-holders in monitoring, reporting and review mechanisms. Adopt the proposed headline indicator for Target 22 tracking land tenure and land use change.

- **Outline a clear process for addressing gaps in the monitoring framework** between COP16 and COP17 particularly regarding the monitoring of Section C, Target 3, and Target 22.

- **Ensure that equity, gender equality and the human rights-based approach remain a main strategic issue** to be addressed at each COP meeting between 2024-2030.

- **The implementation of the KMGBF requires collaboration** particularly at the national and sub-national levels, between all actors, in line with the "whole of society approach" in Section C. We support the pro-active creation of partnerships between relevant international organisations and bodies established under other Conventions. In particular, UNFCCC, OHCHR and Indigenous Peoples and local communities' knowledge platforms.

- **Ensure the implementation of the KMGBF in the context of marine, coastal, and island biodiversity is consistent with international human rights law and instruments**, such as the United Nations Declaration on the Rights of Indigenous Peoples, FAO SSF Guidelines, and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas and ensure the participation of Indigenous Peoples and local communities' small-scale fishers, recognizing their traditional knowledge and safeguarding their Free, Prior, and Informed Consent (FPIC).

Proposals across key agenda items at COP 16

Decisions from COP 15 need to be followed up and mainstreamed in COP 16 decisions. Therefore, we hereby introduce the **most critical points and text suggestion in COP 16 Agenda Items in which Human Rights related to biodiversity need special attention in the text decisions**:

Agenda item 8: Progress on the preparation of targets and updating of NBSAPs by Parties in line with the Kunming-Montreal Global Biodiversity Framework

- Noting a number of NBSAPs remain out of date, we urge Parties and other actors to actively promote and support the full, equitable, inclusive, effective and gender responsive participation of rights-holders in the implementation, review and monitoring mechanisms of NBSAPs, in line with the 'whole of society approach' Parties have committed to ensure effective and inclusive delivery of the KMGBF.

Agenda item 10: Mechanisms for planning, monitoring, reporting and review

- Retain bracketed text under **Monitoring framework for the Kunming-Montreal Global Biodiversity Framework,** in particular all text related to: inviting Parties to make use of the guidance from the AHTEG on Indicators; taking section C of the Framework into consideration when implementing the monitoring framework; addressing the gaps remaining in the monitoring framework; disaggregating the headline indicators by Indigenous Peoples and local communities, sex, age, persons with disabilities and other relevant groups; using indicators relevant to section C and traditional knowledge indicators; and supporting the strengthening community-based monitoring systems (**retain particularly OP2, OP4, OP14 and Annex III).**

In order to ensure a HRBA to monitoring the KMGBF, we specifically call on parties to:

- Adopt indicator 22.1, "land-use change and land tenure in the traditional territories of Indigenous Peoples and local communities," as a headline indicator for target 22, which is ready for use;
- Adopt the indicator on national implementation of the Gender Plan of Action (2023–2030) as a component indicator to Target 23, which is ready for use; as it is crucial for assessing how well gender considerations are being integrated and implemented. Binary indicators for Target 23 as proposed, albeit important, do not give a full picture of the extent to which a gender-responsive approach is effectively implemented.
- Support the **disaggregation of Target 3** indicator 3.1 by governance type, which is crucial to address equitable governance and respect for tenure rights of Indigenous Peoples and local communities in area-based conservation; and disaggregation by effectiveness, with appropriate methods for further disaggregation by equitable governance;
- Operationalise and effectively integrate the **traditional knowledge indicators**, which all play a key role in tracking contributions to achievements of the KMGBF, as well as rights of Indigenous Peoples and local communities, into the monitoring framework.

- Retain SDG Indicator 16.10.1 on the number of verified cases of killings and other attacks against environmental human rights defenders, as a component indicator for Target 22;
- We also **call on Parties to use human rights-related indicators**, in line with Section C of the KMGBF, to guide their NBSAPs and data collection efforts, as well as to report on their use and progress in their national reports.
- Parties are urged to commit to **addressing major gaps** in the monitoring framework and indicators for elements related to human rights-based approach, youth and intergenerational equity, and participation of rights-holders, as highlighted by the gap analyses from the AHTEG (INF/14) and in Annex III of SBSTTA/REC/26/1, before COP17. There are particularly gaps regarding the monitoring of Section C, Target 3, and Target 22. For example, indicators to measure Indigenous Peoples and local communities' participation in decision-making about establishment, governance, and management of PAs and OECMs and in area-based conservation systems in target 3 are lacking.

- Ensure the **mechanisms for monitoring, reporting and review** are inclusive and support a whole-of-society approach. This needs to be reflected in the reporting templates and mechanisms, which should recognize, count, and facilitate the reporting of the commitments and contributions of all rightsholder groups. This should also be reflected in the process of the global review, which must ensure that rightsholder groups and civil society meaningfully participate throughout the process and are represented in the relevant advisory bodies
- Parties should also recognise and support (including financial support) the role of community-based monitoring and information systems (e.g. the Indigenous Navigator, community mapping, community biodiversity surveys and other tools) in monitoring the implementation of the K-M GBF, including through their contributions to national reporting.
- Parties are also urged to use a human rights-based approach to data in monitoring, reporting and review processes, including data disaggregation and respect for Free, Prior and Informed consent (FPIC).

Agenda item 11: Resource mobilisation and financial mechanism

- **Retain the language** on gender equality, human rights, and the rights of Indigenous Peoples and local communities in the different pertinent sections all throughout the Resource mobilisation and Financial mechanisms proposed decisions.
- Close the financial gap to implement the KMGBF but enforce social and environmental safeguards, legally binding regulations and apply a human rights-based approach in developing or scaling up biodiversity and finance instruments, in particular for so called "innovative schemes".
- Implement and monitor human rights-based safeguards/protocols for conservation financing. See e.g dec/14/15
- Support and enable resource mobilisation, ensuring direct access to flexible and predictable funds to women, youth, Indigenous Peoples, local communities, and people of African descent on the ground, without intermediaries to support conservation, restoration, and sustainable use of biodiversity.
- Recognize and support non-market based approaches:
    - Direct access to funding
    - Adaptive payment for performance systems
    - Development assistance and philanthropic programming
    - Insetting, contribution claims and 'bvcm - beyond value chain mitigation'
    - Debt cancellation, reparations and restitution
    - Debt for nature deals

- Call for approaches that prioritise community-led conservation and emphasise the importance of safeguarding Indigenous Peoples' and local communities' autonomy over their lands and resources.
- We propose the exploration of inclusive, equitable financing models that genuinely support biodiversity conservation while respecting the rights and agency of the communities involved.

Agenda item 12: Capacity-building and development, technical and scientific cooperation, clearing-house mechanism and knowledge management

- Support and enable the establishment of a workstream on equity and human rights, to the implementation of KMGBF through the development and dissemination of guidance, along with direct financing, monitoring, and reporting.
- Enable appropriate recognition, respect and support for governance diversity in area-based conservation, including governance by and with Indigenous Peoples and local communities (self-governance and shared governance). Acknowledge and support further development and sharing of related experience and guidance, including guidance related to mapping, self-identification/declaration, and recognition of areas that are conserved, including in situations of overlap.

Agenda item 13: Cooperation with international organisations and bodies established under other conventions

- **Retain OP5:** (on fostering stronger synergies in the planning and implementation of national climate, biodiversity and land restoration plans); **OP14** (on establishing effective coordination processes to support close collaboration between national focal points of conventions); **OP18b** (on strengthen collaboration with the secretariats of the UNFCCC and UNCCD); and **OP18g** (on further supporting the participation of representatives of Indigenous Peoples and local communities, women and youth)
- **Retain OP6** on the collaboration of the Food and Agriculture Organization of the United Nations with relevant partners to the implementation of the KMGBF. **Ensure these efforts** foster a more integrated approach to agriculture, fisheries, aquaculture, forestry, and biodiversity conservation, aligning local and global initiatives with best practices that benefit food security and biodiversity conservation.
- **Retain OP17** on cooperation between the Office of the United Nations High Commissioner for Human Rights and the Secretariat of the Convention on Biological Diversity to develop tools and guidance on a human rights-based approach.

Agenda item 14: Implementation of Article 8(j) and related provisions

- **Support the establishment of a new permanent subsidiary body on Article 8(j) and Other Provisions**, ending the mandate of the ad hoc working group on Article 8(j) and related provisions. Support the position of the International Indigenous Forum on Biodiversity (IIFB) on the new, permanent body on Article 8(j), in full, as the key spokesperson for these concerns.
- **Support the incorporation of the human rights based approach in the new Programme of Work on Article 8(j) related to indigenous peoples and local communities to 2030** ,

and ensure task 7.1 and 7.2 on development on guidance on human rights based approaches, and the protection of environmental human rights defenders are retained among prioritised tasks up to 2030, **as advised in the outcomes of the TRUA World Summit on Traditional Knowledge.**

Agenda item 16: Scientific and technical needs to support the implementation of the Kunming-Montreal Global Biodiversity Framework, including implications for the programmes of work of the Convention

- In order to support the implementation of the KM GBF, tools and guidance on a human rights-based, gender-responsive approach focusing on the conservation, restoration, sustainable use of biodiversity and fair and equitable sharing of its benefits are needed. This need has been identified by the CBD Secretariat's analysis, which found that 'while there is substantial guidance developed on the issues of human rights under the relevant bodies of the United Nations, there is little specific guidance on how this relates to biodiversity and the Convention.' Further work under the Convention in this area will bridge these gaps.

  We therefore urge parties to **reintroduce the point 2 d) of "Scientific and technical needs to support the implementation of the Kunming-Montreal Global Biodiversity Framework":** Agrees to advance work in the following areas: **2 d) A human rights-based, gender-responsive approach to the conservation of biodiversity, the sustainable use of its components and the fair and equitable sharing of its benefits.**

- Addressing the current biodiversity crisis requires transformative change that reimagines the relationship between humans and nature. Biodiversity action needs to address biodiversity loss without exacerbating existing inequalities or structural causes that put people and their rights at risk. Despite its transformative potential, a human rights-based, gender-responsive approach to conservation remains an inadequately addressed area.

  Under "**Matters related to the work programme of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services"**, parties are urged, in the requests for fast track IPBES assessments, to include **a human rights-based, gender-responsive approach** in the articulation of all proposed assessment topics. An IPBES fast-track assessment on this topic – be it standalone or in combination with another topic – could help to close this key knowledge gap and advance transformative change for people and the planet.

Agenda item 20: Marine and coastal biodiversity, and island biodiversity

- Recognise the importance of FAO Voluntary Guidelines for Securing Sustainable Small Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) and its Plan of Action for the implementation of the KMGBF in the context of marine, coastal, and island biodiversity, including tools developed such as the SSF Call to Action.
- Clearly separate, differentiate, and state the need for stakeholders and primary rights holders' (Indigenous peoples and local communities) participation in decision-making schemes.
- Ensure the participation of Indigenous Peoples, local communities, women, and youth and recognise their traditional and local knowledge, for equitable marine spatial planning and the implementation of Target 3.

- Secure that financial mechanisms and conditions for the implementation of marine, coastal, and island biodiversity conservation actions reach Indigenous peoples and local communities' small-scale fishers' coastal and marine territories, in line with Section C of the KMGBF.

Under **"further work on ecologically or biologically significant marine areas"**:

- We call for the criteria for Ecologically or Biologically Significant Areas (EBSAs) to be taken into consideration and cross-cut in the recommendations more clearly a human rights-based approach. While it is acknowledged and appreciated the recognition and safeguards of Free, Prior, and Informed Consent (FPIC), as well as the need for the consultation of Indigenous Peoples and local communities, women, and youth in decision-making processes regarding the various actions related to describing, modifying, and proposing EBSAs.
- Retain paragraph 13 under annex III **on consultation with Indigenous Peoples and local communities conducted with their free, prior**, **and informed consent**, in accordance with human rights framework, international instruments, national legislation, and, where appropriate Mo' otz Kuxtal Voluntary Guidelines.

On the **Conservation and sustainable use of marine and coastal biodiversity and of island biodiversity** draft decision. It is strongly advised:

- Retain PP7 on the use of Traditional Knowledge of Indigenous Peoples and local communities with their free, prior, and informed consent in accordance with relevant national legislation, **international** human rights law, and international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples.
- Retain PP13 paragraph 5 as it is essential for advancing and facilitating the development of tools and guidances for a human rights-based approach to marine, coastal and island biodiversity.
- Include in paragraph 14(a) **Section C 7(g) wording on human rights-based approach** in order to guarantee the continued facilitation of capacity-building activities to support the implementation and monitoring of the KMGBF, with regard to marine, coastal and island biodiversity, are in line with Section C.
- Retain paragraph 14(c) on its reference to human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples.

On Annex **Gaps and areas in need of additional focus under the Convention on Biological Diversity to support the implementation of the Kunming-Montreal Global Biodiversity Framework with regard to marine and coastal biodiversity and to island biodiversity**, it is recommended additions:

- Add an item in paragraph 1 in order to ensure the protection of environmental human rights defenders, and that the implementation of the Framework is consistent with human rights law in the context of marine and coastal biodiversity. In this regard, **it is proposed the following new text: To ensure that the implementation of the Framework, its Section C, and Monitoring framework in the context of marine and coastal biodiversity follows a human rights-based approach.**
- Add to paragraph 2 a proposal text with a new item(s) **To ensure the full protection of environmental human rights defenders active in the context of marine and coastal island biodiversity (most relevant to Target 22).**

Agenda item 22: Biodiversity and health

- **Amend OP3** (c) To ensure the full and effective participation of children and youth in decision-making and action on biodiversity and health, including by considering the designation of a national youth focal point on biodiversity and public health, who will, inter alia, report on the contributions and needs of children and youth in relation to environmental stewardship, health and intergenerational equity;
- We urge parties to retain critical references to the Right to a clean, healthy and sustainable environment and references to the interdependent crises of biodiversity loss and climate change and its detrimental impacts to health, underscoring the health of the young and future generations.

Agenda item 25: Biodiversity and climate change

- **Retain** the recognition of biodiversity loss and climate change as interdependent crises that need to be addressed in a coherent and balanced manner (PP7, PP8, PP15, PP16)
- **Retain PP4 on the right to a clean, healthy and sustainable environment** (removing 'safe' to align with the international recognition of the right)
- **Retain OP3**, including **point (a)** To ensure a human rights-based approach and the full and effective participation of rights holders, including indigenous peoples and local communities, women and girls, children and youth, and persons with disabilities; and **point (e)** To take into account the diversity of values and knowledge systems, as well as the intersectional approaches to ensure contextually relevant actions for enhancing human rights, empowerment, agency and intergenerational equity;
- **Retain OP4 on the full and effective participation** of Indigenous Peoples and local communities, women and youth in projects and policy making
- **Add to OP11** Ensure that exploring opportunities for addressing the ocean-climate-biodiversity nexus in an integrated manner follows a human rights-based approach.
- **Add to OP12 Ensure that** compilations of existing information on carbon and biodiversity credits and offsets and other market-based approaches and their effects on biodiversity, **are provided in well-balanced manner, reflecting diversity of views, experiences and knowledges, consistent with human rights, and not shifting away from the imperative of phasing out fossil fuels.**
- **Add to OP13 Ensure that providing guidance for the design and effective implementation of nature-based solutions and/or ecosystem-based approaches to climate change mitigation are consistent with human rights.**

Agenda item 28: Multi-year programme of work of the Conference of the parties

- **Retain** in the Annex, as a strategic issue for COP 17, (g) Tools and guidance to support the implementation of the Framework: **(iv): Equity, gender equality and the human rights-based approach relating to the conservation and sustainable use of biodiversity.**

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This brief was produced in alignment with and consultation on the demands from the CBD Women's Caucus, Global Youth Biodiversity Network (GYBN) and International and Indigenous Forum on Biodiversity (IIFB).

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