

Rights of Nature in the Post-2020 Global Biodiversity Framework

On July 12, 2021, the UN Convention on Biological Diversity (CBD) Secretariat released the first official draft of the post-2020 global biodiversity framework with a view to realizing the 2050 vision of a world living in harmony with Nature. In doing so, this draft removed the enabling condition to “[c]onsider and recognize, where appropriate, the rights of nature” previously included in the zero draft. The recognition of the Rights of Nature would pave the way to transforming society’s relationship with the environment, allowing the natural world to exist and flourish. This framework would have been the first international treaty to recognize Nature’s rights.¹ Consequently, this removal hinders the framework’s capacity to regress the rampant loss of biodiversity. Our recommendation below details how we suggest re-incorporating the Rights of Nature into the post-2020 framework. The undersigned support the recommendation below:

Recommendation

- 1) We support the presence of “rights-based approaches” in the theory of change and enabling conditions, however also urge the necessary clarification by including the below changes to the theory of change and addition of “Target 22” for implementation (additions in **red** and deletions in **strikethrough**).**

D. Theory of change...

7. The theory of change for the framework acknowledges the need for appropriate recognition of gender equality, women’s empowerment, youth, gender-responsive approaches and the full and effective participation of **Indigenous** ~~indigenous~~ peoples and local communities in the implementation of this framework. Further, it is built upon the recognition that its implementation will be done in partnership among organizations at the global, national and local levels to leverage ways to build a momentum for success. ~~The framework will be implemented taking a rights-based approach, and recognizing the principle of intergenerational equity.~~

8. The framework’s theory of change recognizes that current anthropocentric approaches to conserve Nature have been inadequate in restoring and preventing further decline in biodiversity. It acknowledges the need for a unifying and relation-based framework that will strengthen humankind's responsibility to protect and sustain biodiversity. Further, a just and fair legal system that protects both the rights of humans and of Nature is particularly essential to help solve the

¹ Towards the adoption of a rights-based approach - incorporating the Rights of Nature in the Post 2020 global biodiversity framework of the CBD
https://2d350104-a104-42f3-9376-3197e7089409.filesusr.com/ugd/23bc2d_71f3fe57211547a5b4f4c831034320ab.pdf

biodiversity crisis. Therefore, the framework will be implemented taking a rights-based approach², and recognizing the principle of intergenerational equity.

We recommend the following footnote be added after ‘rights-based approach’ (RBA) to clarify its meaning, e.g.:

[2] RBA is an approach to conservation that respects, and seeks to protect and promote, recognized human rights standards, as well as the human right to a healthy environment, Indigenous rights, the rights of Nature, the rights of future generations of all species, biocultural rights, and others. Conservation with justice means that all State and non-State actors planning or engaged in policies, projects, programmes, and activities with potential impact on Nature conservation shall secure to all potentially affected persons (including natural communities, ecosystems and nonhuman beings) the substantive and procedural rights that are guaranteed by national and international law.

3. Tools and solutions for implementation and mainstreaming

...

Target 22. Ensure the full realization and integration of the relationships, rights, roles, obligations and responsibilities of key stakeholders with biodiversity, including Nature herself, through intervention points (e.g. procedures for employing rights-based regimes, such as participation and respect for Indigenous peoples and their rights) in which rights regimes are clear, stable, implementable, enforceable and equitable.

- 2) **At a minimum, we recommend defining “rights-based approaches” in both the theory of change and enabling conditions to be inclusive of non-human rights, namely, “rights-based approaches, including the rights of Nature.”**

Rationale:

First, it is important for the theory of change to identify the assumptions and preconditions to better understand and implement the activities necessary to reach the ultimate goal of living in harmony with Nature. We agree with the IUCN’s position on the first draft of the framework (Version 28.7.21) recommending the theory of change “integrate a rights-based

² Recommended footnote defining Rights-based approaches.

approach” while specifying “that a rights-based approach is needed to effect change.”³ However, the inclusion of a “rights-based approach” in the theory of change and as an enabling condition is not enough. Left undefined, it could lead to an impactless provision, despite its underlying potential to bring about true ‘transformative change’ and to inspire a shift from ‘business-as-usual’ scenarios. The UN defines rights-based approaches through a human-centered perspective, its guidelines being outlined as the “human rights-based approach.”⁴ Key elements of this human-centered definition include recognizing human rights as the ultimate goal to development and guiding the formulation of targets through human rights standards. These guidelines thus exclude consideration of non-human rights and an Earth-centered perspective to conservation.

The IUCN similarly characterizes a rights-based approach as “an approach to conservation that respects, and seeks to protect and promote, recognized human rights standards”, defining it from a human-centered perspective. The IUCN has, however, also included rights-based approaches’ language in the *IUCN Programme 2017-2020, the Global Programme on Governance and Rights (GPGR)*, and *IUCN’s Rights-Based Approach: A Systemization of the Union’s Policy Instruments, Standards and Guidelines*: “to enhance nature conservation and human wellbeing through effective and equitable governance and a more systematic adoption of rights-based approaches, including to support SDG implementation.”⁵ Importantly, the IUCN included the Rights of Nature as a rights-based approach in its Action Programme: “IUCN aims to secure the rights of nature and the vulnerable parts of society through strengthening governance and the rights-based approach to conservation.”⁶ The interdependence of humanity and Nature is reflected in the acceptance that “[r]ights-based approaches (RBAs) are one of the tools for making human rights and conservation mutually reinforcing. RBAs ensure the effective integration of rights considerations within all the work of the Union; i.e. any conservation policy, project, programme, or initiative.”⁷ The IUCN’s definition of rights-based approaches and acknowledgement of the Rights of Nature support our recommendation for the CBD to do the same, defining rights-based approaches for the most effective implementation. The (re-) incorporation of the Rights of Nature would clarify its ambiguous meaning and lead to transformative change in society’s relationship with Nature.

³ “IUCN’s Key Messages First Draft of the Post-2020 Global Biodiversity Framework.” IUCN, 2021. https://www.google.com/url?q=https://www.iucn.org/sites/dev/files/iucn_key_messages_and_detailed_views_first_draft_post-2020_gbf.pdf&sa=D&source=editors&ust=1627613846473000&usg=AOvVaw0gcmv-lth7Ypw19gKgDz2, pg. 1.

⁴ “The Human Rights-Based Approach.” United Nations Population Fund, June 10, 2021. <https://www.unfpa.org/human-rights-based-approach>.

⁵ IUCN. “Our Work.” IUCN, August 22, 2019. <https://www.iucn.org/ur/node/247>.

⁶ IUCN, World Conservation Congress. “IUCN Programme 2017-2020 : Approved by the IUCN World Conservation Congress, September 2016.” *World Conservation Congress, 6th, Hawaii, US, 1-10 September 2016*, 2016. <https://doi.org/IUCN-WCC-6th-001>, pg. 15.

⁷ IUCN, World Conservation Congress. “IUCN Programme 2017-2020 : Approved by the IUCN World Conservation Congress, September 2016.” *World Conservation Congress, 6th, Hawaii, US, 1-10 September 2016*, 2016. <https://doi.org/IUCN-WCC-6th-001>, pg. 29.

Finally, since (1) the framework is to be implemented taking “rights-based approaches”, and (2) the success of the framework is itself said to be dependent on “employing rights-based approaches,” we have also proposed the inclusion/creation of “Target 22.” This target will ensure that procedures and processes to incorporate rights-based approaches, including the Rights of Nature, are created and that the approaches are effectively implemented. This recommendation is also in line with the IUCN’s position (Version 28.7.21), recommending the integration of “a rights-based approach (RBA) more consistently and comprehensively across the Framework. This requires integrating rights issues at relevant points within the language of goals, milestones and targets to ensure cross-cutting integration and to guide effective implementation of a RBA.”



Earth Law Center, International
Rights of Nature Sweden, Sweden
Rights of Mother Earth, International
Earth Advocacy Youth, International