

## AMNESTY INTERNATIONAL ADVOCACY SUBMISSION

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# COP16: TOWARDS A HUMAN RIGHTS COMPLIANT BIODIVERSITY PLAN

## RECOMMENDATIONS TO PARTIES OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Ahead of the 16<sup>th</sup> Conference of Parties to the Convention on Biological Diversity (COP16), which runs from 21 October to 1 November in Cali, Colombia, Amnesty International is making a set of recommendations to the parties to the Convention.<sup>1</sup> At COP15 held in Montreal, Canada in 2022, states adopted the Kunming-Montreal Global Biodiversity Framework (KM-GBF), a set of ambitious targets to strengthen the protection and promotion of biodiversity globally by 2030. That was a ground-breaking first step towards tackling the biodiversity crisis that has brought about the total or near extinction of countless species and threatens everyone's human right to a clean, healthy and sustainable environment.

The Global Biodiversity Framework includes many human rights safeguards, but it will only prove effective if supported by a set of policies and institutional arrangements which are to be agreed at COP16. States parties must ensure that the decisions they take in Cali contribute to the maximum level of human rights protection in the realisation of objectives of the Convention. This means, in particular, agreeing on a monitoring framework for the KM-GBF that comprehensively tracks all of these human rights safeguards – which in its current draft form, it does not do<sup>2</sup> – holding states accountable for failing to respect them, and being informed by submissions from Indigenous Peoples, peasant and Afro-descendant organizations, and other land-dependent local communities. One of the key mechanisms for providing data for the monitoring framework are states' National Biodiversity Strategies and Action Plans (NBSAPs).

Also to be discussed at COP 16 are the proposal for the establishment of a permanent body on Article 8(j) of the Convention (which addresses the rights of Indigenous Peoples, as well as those of Afro-descendants, racialized communities, peasants and other land-dependent local communities), the current failure to take firm action, through programmes, policy and law, to protect land and environment defenders, who continue to experience shocking levels of threats, criminalization and killings<sup>3</sup>, and the mobilization of financial resources from higher income countries for the realisation of the objectives of the KM-GBF.

There is a significant gap in fulfilling the commitments to funding of biodiversity actions in Target 19. In accordance with Article 20 of the CBD, it is higher income states that bear the largest share of responsibility for meeting these targets. In addition, states have committed to channelling at least 20% of biodiversity funding directly to Indigenous Peoples and local communities. However, the Global Biodiversity Framework Fund, set up by donors to manage governments' contributions to realise the objectives of the KM-GBF, has accredited only 18 organisations to receive and manage funding, none of which represent Indigenous Peoples or local communities. A study of the projects approved so far by the fund revealed significant concerns over the process of obtaining the free, prior and informed consent of Indigenous Peoples in the project areas.<sup>4</sup>

Another mechanism for generating funding for the realization of the KM-GBF, to be discussed in Cali, is biodiversity markets.<sup>5</sup> A key concern here is that these will function primarily through the mechanism of offsets. This follows the same principle as carbon offsetting, a mechanism which has been beset by a series of revelations of flawed accounting demonstrating in some cases a complete failure to contribute to carbon reduction.<sup>6</sup> The principle of offsetting biodiversity harm in one location by an alleged gain in another location possibly tens of thousands of miles away, raises significant human rights concerns, given that biodiversity is an essential element of the human rights to culture and to a clean, healthy and sustainable environment, of people living in both locations. Furthermore, biodiversity offsets are likely to be even more susceptible to accounting flaws than carbon markets; biodiversity is

<sup>1</sup> These recommendations draw, inter alia, on those made by the Climate Action Network, Human Rights and Biodiversity Working Group, and the International Indigenous Forum on Biodiversity; however Amnesty International assumes full responsibility for the final content of this briefing.

<sup>2</sup> Amnesty International, Recommendations on the monitoring of the Kunming-Montreal Global Biodiversity Framework, IOR 40/8039/2024, May 2024.

<sup>3</sup> Global Witness, Missing Voices, <https://www.globalwitness.org/en/campaigns/environmental-activists/missing-voices/>, 2024.

<sup>4</sup> Survival International: Grievous Biodiversity Failure Fund: How the new GBF Fund is failing to protect Indigenous people or to uphold the Global Biodiversity Framework, 7 October 2024.

<sup>5</sup> World Economic Forum: Implementing the Global Biodiversity Framework: Here's what's at stake at COP16, Oct 15, 2024.

<sup>6</sup> The Guardian, Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows, January 2023.

inherently difficult (in fact arguably impossible) to quantify, given the millions of existing (and unknown) species and the extraordinarily complex networks in which they interact, and have raised concerns that they will constitute a distraction, allowing states and companies to postpone concrete action to reduce biodiversity destruction.<sup>7</sup>

In summary it is vital that states take the decisions needed in Cali to fully support biodiversity conservation that is led by Indigenous Peoples, Afro-descendant, racialized and peasant communities, and other land-dependent local communities, on their own lands, including through mechanisms to support this work financially, and to recognise and fully protect human rights including land rights.

## RECOMMENDATIONS

Amnesty International makes the following recommendations to parties to the Convention:

### MOBILISATION OF FINANCIAL RESOURCES

- States, in particular higher income states, in accordance with the principle of Common but Differentiated Responsibilities, and Art. 20 of the CBD, must urgently increase financial commitments in order to reach the commitments set in Target 19 of the KM-GBF, particularly prioritizing the collective actions in Target 19(f).
- Ensure direct access to flexible and predictable funds to Indigenous Peoples, Afro-descendant, racialized and peasant communities, other land-dependent local communities, women, youth, people with disabilities and older persons, without intermediaries, to support conservation, restoration, sustainable use of biodiversity, legal processes and advocacy to secure land title/tenure, and work to monitor the implementation of the KM-GBF.
- Such funding should support conservation projects presented by Indigenous Peoples on their own lands, and those of Afro-descendant, racialized and peasant communities, and other land-dependent local communities, where necessary providing resources to secure land rights/tenure.
- Guarantee that any projects affecting Indigenous Peoples, Afro-descendant, racialized and peasant communities, and other land-dependent local communities, including biodiversity market mechanisms, and those funded through the Global Biodiversity Framework Fund, will be fully compliant with human rights, including the right to participate in decision-making, and the right of Indigenous Peoples to self-determination and to free, prior and informed consent.
- States must ensure that biodiversity market mechanisms are regulated and monitored through participatory processes, and do not lead to environmental degradation nor infringe upon the rights of access to information, public participation, clean, sustainable and healthy environment and effective remedies. States should ensure that such markets function through mechanisms which support net biodiversity gain, such as payments for ecosystem services, and condition the issuance of biodiversity credits on robust environmental, social and human rights impact assessments, regulate the activities of non-state actors including companies participating in such markets and create reporting, verification and grievance mechanisms accessible to impacted groups.
- States should exclude offsetting from biodiversity market mechanisms (in line with the precautionary principle) due to the unquantifiable nature of biodiversity, the high risk that it will facilitate significant human rights harms and net biodiversity destruction, and because it will postpone urgently needed concrete measures to tackle the root causes of biodiversity loss.

### NATIONAL BIODIVERSITY STRATEGIES AND ACTION PLANS

- Ensure the full and effective participation of Indigenous Peoples, peasants, Afro-descendant communities, racialized communities and other land-dependent local communities, women, youth, older people and people with disabilities in the drafting and revision of NBSAPs including national targets, actions and indicators.
- Ensure that submissions from these constituencies can also be fed directly into the monitoring framework, through third party reporting.<sup>8</sup>

### MONITORING MECHANISM OF THE KM-GBF

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<sup>7</sup> World Rainforest Movement, Civil society statement on biodiversity offsets and credits, 2 October 2024.

<sup>8</sup> An example of this is Local Biodiversity Outlooks, <https://localbiodiversityoutlooks.net/>

- 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.
- Strengthen the protection of the rights of Indigenous Peoples, and those of Afro-descendant, racialized and peasant communities, and other land-dependent local communities, by operationalizing and effectively integrating the four agreed traditional knowledge indicators into the monitoring framework.<sup>9</sup>
- Include a component-level indicator for Target 3 to track the participation of Indigenous Peoples, Afro-descendant, racialized and peasant communities, and other land-dependent local communities in decision-making about the establishment, governance, and management of conservation areas (adapted from the Target 22 indicator).
- Support the disaggregation of Target 3 indicator 3.1 by governance type, which is crucial to address equitable governance and respect for the rights of Indigenous Peoples, Afro-descendant, racialized and peasant communities, and other land-dependent local communities in area-based conservation; and disaggregation by conservation effectiveness, with appropriate methods for further disaggregation by equitable governance;
- Ensure that this disaggregation captures Indigenous and traditional territories, as recognized in Target 3, as a separate pathway to conservation from state-managed protected areas and other area-based conservation measures;
- Under Target 22, track the number of verified cases of killings and other attacks against environment/land human rights defenders, using Indicator 16.10.1 of the Sustainable Development Goals; and require reporting on laws, policies, and programmes providing protections for environment/land defenders.
- Outline a clear process for addressing gaps in the monitoring framework between COP16 and COP17 particularly regarding the human rights commitments in Section C, youth and intergenerational equity, participation of rights-holders, and the monitoring of Targets 3 and 22.<sup>10</sup>

#### **ESTABLISHMENT OF SUBSIDIARY BODY ON ARTICLE 8(J)**

- Support the establishment of a new permanent subsidiary body on Article 8(j) and Other Provisions of the Convention on Biological Diversity. This body should ensure the full and effective participation of the International Indigenous Forum on Biodiversity (IIFB).

#### **ALIGNMENT OF CLIMATE ADAPTATION AND BIODIVERSITY ACTIONS**

- States should include headline and appropriate indicators for Target 8 to ensure that climate actions do not negatively impact biodiversity (i.e., large-scale land-based carbon dioxide removal, and the use of bioenergy resulting in forest degradation), and capture the contribution of biodiversity action to ecological integrity and climate mitigation and adaptation.

In 2022, when finalizing the Global Biodiversity Framework, states committed to it being “a framework for all - for the whole of government and the whole of society. Its success requires political will and recognition at the highest level of government and relies on action and cooperation by all levels of government and by all actors of society”.<sup>11</sup> This “whole of society” vision can only be realised through comprehensive measures to ensure human rights compliance across the framework. COP 16 is an opportunity to realise this commitment.

Amnesty International is happy to respond to any questions states parties may have on the above recommendations.

<sup>9</sup> These are: Status and trends of linguistic diversity and numbers of speakers of indigenous languages; Status and trends in the practice of traditional occupations; Status and trends in land-use change and land tenure in the traditional territories of indigenous and local communities; Trends in which traditional knowledge and practices are respected through their full integration, safeguards and the full and effective participation of indigenous and local communities in the national implementation of the Strategic Plan. These have been adopted over several conferences of the CBD, notably the 7th to the 13th Conferences of Parties, but are still insufficiently incorporated across the monitoring framework (Human Rights and Biodiversity Working Group, “From Agreements to Actions: A guide to applying a human rights-based approach to the Kunming-Montreal Global Biodiversity Framework”, 2024, p. 49).

<sup>10</sup> Including those highlighted by the gap analyses from the Ad Hoc Technical Expert Group (INF/14) and in Annex III of SBSTTA/REC/26/1.

<sup>11</sup> Convention on Biological Diversity, Kunming-Montreal Global Biodiversity Framework, CBD/COP/DEC/15/4, 19 December 2022, p 5.