

Template for submitting comments on the draft guidance for Integrating Human Rights in NBSAPs (OHCHR)

Please submit comments by **26 May 2023** to the following email address: benjamin.schachter@un.org (cc: secretariat@cbd.int)

In submitting comments, you may wish to consider the following questions:

- Does the guidance capture the main human rights issues which should be reflected in NBSAPs?
- Does the guidance capture the main issues related to the rights of people in vulnerable situations? Are there gaps in terms of how their rights should be reflected in NBSAPs?
- Do you have any other comments on how to improve this guidance and its uptake and accessibility?

Contact information	
Surname:	Kumpel
Given Name:	Noelle
Government (if applicable):	n/a
Organization:	BirdLife International
Address:	David Attenborough Building, Pembroke Street
City:	Cambridge
Country:	UK
Postal Code:	CB2 3QZ
Phone Number (including country code):	+44 (0)1223 747535
E-mail:	noelle.kumpel@birdlife.org
Please provide general comments on the draft guidance below.	
<p>Thank you for developing this important guidance, which will be invaluable to Parties and civil society actors of different kinds. You have captured well key human rights issues relating to NBSAP development/revision, implementation, reporting and monitoring, but we provide here some suggestions for your consideration which we believe would strengthen the usefulness and impact of the document. Specifically, more explicit links to human rights references in relevant targets as well as Section C could be made, and clearer, more specific guidance on the concrete steps that Parties can make on integrating human rights into NBSAPs in terms of recognition, implementation and reporting (including indicators) would be useful. We also feel there is a need for a specific sub-section providing guidance on the right to a clean, healthy and sustainable environment in section 4, given it is specifically referenced in Section C and as yet poorly understood in practice by biodiversity experts. We provide more detailed comments on these points and other issues in relation to particular sections or missing elements below.</p>	
Please provide other comments indicating the section below.	

Section	Comments
1.1 (first para)	Besides biodiversity loss negatively impacting local people, it should also be noted that conservation action can also adversely affect local people if a human rights-based approach is not applied - could edit to say 'Biodiversity loss and conservation actions...'
1.1 (second para)	Line 8: Remove comma or add another after communities Line 16: Add '(COP15)' after COP and suggest add at end after 2022 'with a mission to halt and reverse the loss of biodiversity by 2030.'
Footnote 8	These are now renumbered as subsections of para 7 in the published decision - 7 g, a and h
1.1 (end)	Should also add reference to those rights mentioned in specific targets as well. This section is key to listing exactly what the GBF commits Parties to - both in broad terms (a HRBA) and regarding specific rights (e.g. FPIC, rights to access to information and justice, participation). It would be useful to draw these out in a bulleted list or table as otherwise these are easily missed/hidden or not fully understood as rights by CBD focal points and others less familiar with rights issues. It would be clearer as well to have this in a specific GBF section, separate to this more general CBD-HRs section.
1.2	193/199 Parties = 97% not 99% Suggest end final sentence as follows: '...by COP16, and update their entire NBSAPs accordingly as soon as possible.'
1.3 (first para)	Line 3: Put 'rights holders', as for 'duty bearers'? Line 7: States are also obliged to ensure the right to a healthy environment etc by conserving biodiversity etc. - so not just safeguarding against abuse but protecting and enabling these human rights?
Footnote 9	Now para 7 q
Footnote 10 and all other relevant footnotes with references	It would be useful to add links to these docs here so the reader can access quickly and ensure they're reading the right thing
1.3 (last sentence)	Think this needs editing as in intro says it is designed 'to support UN Country Teams, States, policymakers and stakeholders'
1.1, 1.3, 6	It is useful to highlight disproportionate impacts of biodiversity loss as well as the measures (i.e. conservation planning and actions) to different social groups and individuals, including a range of multidimensional factors (e.g. class, race, caste, ethnicity, gender, culture, religion, language, age and spatiality) influencing their vulnerability (that may differ based on specific social-political and cultural contexts) right from the beginning of the guidance (e.g. Sections 1.1 and 1.3). While the document has highlighted indigenous peoples; gender; youth and children; and environmental defenders as key vulnerable groups (Section 6), it would be useful to expand further on how vulnerability is produced, reproduced

	and exacerbated through environmental decision-making if due considerations are not taken seriously.
Footnote 13	Now para 8
Footnote 15	Again, good to provide a link here (and ensure this is easy to read online, rather than currently as an automatic download so hard to provide the link for)
2 (first line page 4)	Suggest to add after NBSAPs: 'and setting of national targets' - as these should ideally contain some targets which enable the tracking of rights aspects. As 'post-2020' is not explained above (?), suggest to remove this qualifier - but have suggested a few words above to explain that the GBF has a mission to 2030.
2 (second bullet)	Also access to justice? This is another specific right mentioned in Target 22
3 (fourth bullet)	'respect, protect, promote and fulfil' according to section C of the GBF
3 (seventh bullet)	'Protect access to and sustainable use of biodiversity' - imperative that this is sustainable in order to support their rights long-term (covered in next bullet but need to be addressed together)
Footnotes 21, 22, 25, 28, 31, 33, 36, 37	Update para numbers
After section 3 or section 4, or in section 8?	Would be good to provide clearer guidance on the concrete steps that Parties can make on integrating HRs into NBSAPs and then linking this to national reporting – e.g. laying out a timed plan for how they will implement the various elements from national recognition of a right (is this in place/planned to be?), to preparing/sharing national guidance on this with rights-holders and duty-bearers, to implementing and recording progress in some way (e.g. training given, change in awareness, proportion of different groups engaged in conservation activities, grievances logged/dealt with – e.g. via National HRs Institutions). This could also be elaborated in section 8 on implementation and monitoring of NBSAPs.
4	Recommend a sub-section as for those above (rather than just covering in the catch-all table 5) with guidance on recognising and implementing the right to a clean, healthy and sustainable environment through NBSAPs. This is particularly important given that while awareness of the existence of the right is increasing, it is poorly understood especially by many focused on the CBD rather than human rights.
2, 4 (first para), 4.2,	While the guidance mentions the need to have an inclusive and participatory NBSAP process (procedural justice) in several places, it does not provide sufficient details on how to achieve 'full and effective' or 'equitable and inclusive' participation. In that respect, it may be useful to incorporate or point to useful resources such as BirdLife's participation assessment tool that focuses on three key aspects of participation: (i) Who participates (including the need to have a detailed stakeholder mapping)? (ii) When do they participate (ensuring that participation is not one-off but continues throughout the NBSAPs process, right from the agenda setting to its development, implementation, reporting and monitoring)? (iii) How do they participate? (i.e. focusing on quality of

	<p>participation with an effort to have a collaborative and empowering experience for the participants).</p> <p>It is also important to stress the severity of participation deficits and disconnects, particularly for vulnerable groups (including barriers for them to jump scales – from local to national) and how their representation and engagement in the NBSAP process may be curtailed in certain countries. It would be useful to provide some guidance on how to address these gaps.</p>
Footnote 26	This is also - arguably more concretely - an element of Target 21 which should be flagged.
Footnote 27	This doesn't quite match the point made in the text? Worth making a link to Target 1 on spatial planning and the need to 'Ensure that all areas are under participatory, integrated and biodiversity inclusive spatial planning and/or effective management processes, ...while respecting the rights of indigenous peoples and local communities'
Footnote 29	This is explicitly mentioned in Target 22 ('Ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making' as well as Target 21 ('participatory management of biodiversity'), and Target 1 (see text above), and should be highlighted here specifically.
4.3 (first bullet)	While the document provides some useful guidance on how to incorporate human rights considerations in the NBSAP process, it does not sufficiently provide details on grievance mechanism, complaints handling and access to justice. There should be a dedicated mechanism laid out in and implemented through the NBSAP – potentially through engagement with the national human rights institution(s) - to deal with such issues as public interest litigation and court mechanisms, which are overburdened, expensive, bureaucratic and slow in many countries.
4.3 (second bullet)	Target 22 should be explicitly mentioned here and the requirement to deliver it ('access to justice and information related to biodiversity by indigenous peoples and local communities')
5 (first para)	'respect, protect, promote and fulfil' as per Section C
5 (table, last row)	But worth flagging that all development must be sustainable , in line with the 2030 Agenda on Sustainable Development and SDGs, and that this depends on the achievement of the goals of the CBD and GBF (conservation and sustainable use of biodiversity and equitable sharing of its genetic benefits).
5 (table), 6.1	The section on Indigenous Peoples could perhaps be strengthened with further references and details of relevant provisions as outlined in ILO-169 and UNDRIP, including the requirements for FPIC.
6 (first bullet)	Would add those in poverty/the poor to this list (recognising substantial overlap in categories)
6.1 (first para)	Line 3: Add after protected areas 'and conserved areas (OECMs)'

6.1 (second para)	Last line: Reference where this is outlined in Target 22 here or in footnote 36
6.1 (second bullet)	Reference where this is outlined in Target 1 here or in footnote
6.1 (third bullet)	Reference where this is outlined in Target 21 here or in footnote
6.1 (fourth bullet)	Reference where this is outlined in Target 3 here or in footnote
6.1 (fifth bullet)	Reference where this is outlined in Target 9 here or in footnote, and also mention Target 13 on benefit sharing
6.2 (first para)	Last line: This is a very good point, and one that should follow for other sections here - not just reflecting things in goals and targets, but having a clear plan for implementation alongside reporting on progress.
6.2 (fourth bullet)	Again, this is the sort of concrete action (develop and track gender-sensitive indicators in line with the GBF) we need for all sections
6.3 (first para)	Should also refer here to the section on Intergenerational equity in Section C (para n), which says the GBF must 'ensure meaningful participation of younger generations in decision-making processes at all levels'
8	In terms of implementation, as mentioned above, it would be good to include clearer, more specific guidance on the concrete steps that Parties can make on integrating HRs into NBSAPs in terms of both implementation and reporting. On the latter, while recognising that the M&E framework for the GBF has still to be finalised, including through the work of the AHTEG on indicators, section 8 could also more clearly show how this integration can be used to report progress, by providing a list of suggested metrics that Parties could report in both NBSAPs and national reports that could be compiled to provide indicators tracking progress against various HRs elements of the GBF targets as well as simple binary (yes-no) indicators on wider HRs aspects as per the guidance in GBF section C.