

Template for submitting comments on the draft guidance for Integrating Human Rights in NBSAPs (OHCHR)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

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Please provide general comments on the draft guidance below.	
<p>IDLO welcomes this important contribution to the drafting and implementation of NBSAPs, and in particular the strong focus on access to justice and the rights of women and girls, children and youth, and Indigenous Peoples. The draft guidance provides many clear action points to enhance the integration of human rights in NBSAPs and creates a solid platform to build on. Provided below are some specific comments on individual sections of the paper.</p> <p>We would be glad to support any follow-up as required on the further development of this guidance. Through its Strategic Plan 2021-24, IDLO seeks to improve the governance of land and natural resources through the rule of law, by focusing both on promoting environmental rights and supporting the legal empowerment of individuals and communities, as well as strengthening regulatory frameworks and institutional capacity for climate and environmental action and sustainable development.</p> <p>IDLO has implemented programmes through its country offices to directly contribute to climate justice and promote the sustainable use of natural resources. In Burkina Faso and the Philippines,</p>	

IDLO is currently implementing a project to strengthen the ability of women and girls to promote and protect their environmental rights and shape climate action through the rule of law. One of the central tenets of this project is a legal analysis of climate and environmental legislation in both countries – including domestic laws on biodiversity – in order to ascertain the extent to which they directly or indirectly discriminate against women and girls and prevent them from realizing their environmental rights. This project is being carried out as part of IDLO’s commitments to the Generation Equality Action Coalition on Feminist Action for Climate Justice – a multistakeholder coalition where IDLO is one of the lead commitment-makers.

In Kenya, IDLO has worked for over a decade to provide support to institutional and civil society partners on the implementation and enforcement of domestic laws in relation to Kenya’s constitutionally-recognized right to a healthy environment. This has resulted in the adoption of the Forestry Conservation and Management Act 2016 and the Climate Change Act 2016. In addition, IDLO has enhanced access to justice by training lawyers on international and national environmental law, developing tools for practitioners to enhance climate justice, and providing continuous judicial education on land and environmental matters for judges and magistrates of the Environment and Land Court with a view to strengthening the protection of environmental rights.

In promoting a human rights-based approach to climate change and environmental degradation, IDLO has also worked with customary and informal justice actors to increase access to justice for all. This has included work with alternative dispute resolution centers in Somaliland, and building the capacity of the Abunzi, Cell Land Committees and other relevant dispute resolution actors in Rwanda to enhance their capacity to adjudicate on land-related disputes.

IDLO has also conducted extensive research on climate justice and the sustainable use of natural resources. Its policy brief on “Climate Justice: A Rule of Law Approach to Transformative Climate Action” outlines a wide range of legal and policy approaches to climate change through the rule of law. Building upon one of the recommendations, IDLO later developed a subsequent policy brief on “Climate Justice for Women and Girls: A Rule of Law Approach to Feminist Climate Action”, which advocates for an explicitly feminist approach to climate change based on the rule of law to ensure women’s inclusion in decision-making processes related to climate and environmental governance, equal access to justice, resolution of conflict over natural resources, and the enactment of inclusive and effective climate laws and policies.

IDLO has also developed research at the intersection of climate, security and justice, through an issue brief on “Rule of Law Responses to Climate Insecurity”. The paper includes case studies from several of IDLO’s programmes in Burundi, Indonesia, Rwanda and Somalia, and features several key insights centering the rule of law, justice and inclusion in conflict prevention measures and exploring the legal empowerment of marginalized groups in order to reduce competition over scarce land and natural resources in areas that are highly susceptible to biodiversity loss and desertification.

IDLO is also actively engaged in climate justice in global policy fora, including participating in processes under the UNFCCC and the UNCBD. IDLO is also a partner to the Fifth Montevideo Programme for the Development and Periodic Review of Environmental Law.

In terms of biodiversity, IDLO has partnered with the CBD Secretariat in 2015 to launch a capacity building programme to assist Parties with the development of national legal frameworks to support the implementation of the Nagoya Protocol. IDLO has also conducted an extensive [review of post-2010 NBSAPs](#), with a focus on legal preparedness for biodiversity mainstreaming.

Please provide other comments indicating the section below.

Section	Comments
Page 4, section 2, “Development and elaboration of NBSAPs”	Suggested bullet point: “Strengthen the rule of law and promote inclusive, transparent governance arrangements at all levels to enable the implementation of ambitious rights-based action”
Page 7, section 4.3, “Guidance for integrating the right to access justice”	Suggested bullet point: “Promote legal education and rights awareness, increase provision of legal aid, expand legal and paralegal services, and protect civic space for civil society advocacy”
Page 7, section 4.3, “Guidance for integrating the right to access justice”	Suggested bullet point: “Enhance engagement with customary, informal and indigenous justice systems and promote complementarity and synergies with formal justice institutions to enable inclusive, cost-efficient and effective access to justice for all”
Page 10, section 6, “NBSAPs and the rights of people in vulnerable situations”	Suggested bullet point: “Acknowledge the concept of intersectionality and the different impacts of biodiversity loss on the rights of different groups of Indigenous Peoples, local communities, rural communities, women, children, youth, and others, depending on – among others – their age, sex, gender, identity, race, ethnicity, disability, and socio-economic status”
Page 11, section 6.2, “NBSAPs and gender equality”	Suggested addition: “Identify barriers to the participation and engagement of women, girls and gender-diverse persons including social, political, cultural, economic and legal limitations, as well as strategies to address them”
Page 12, section 6.2, “NBSAPs and gender equality”	Suggested bullet point: “Strengthen women’s rights to land and natural resources, including through better tenure security, elimination of discriminatory laws, and greater gender-responsiveness of customary and informal justice institutions”
Page 12, section 6.3, “NBSAPs and the rights of children and youth”	Suggested addition: “Ensure the rights of children and youth in relation to biodiversity <u>and integrate principles of intergenerational equity</u> ”