

PROTECTING THE HUMAN RIGHTS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES TO HALT BIODIVERSITY LOSS

POLICY BRIEF

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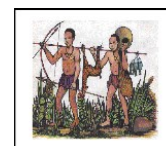
“Your conservation areas are a warzone to us.”

Maasai woman leader during EU lobby tour in 2023

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Cover photo: Maasai community meeting in northern Tanzania to address land conflict.
Credit: Ujamaa Community Resource Team (UCRT)

1. INTRODUCTION: EXPANDING GLOBAL BIODIVERSITY PROTECTION

Ecosystems – the vital systems on which all life depends – are being degraded across the globe due to the overexploitation of natural resources, overconsumption, land-use changes and environmental pollution.¹ The resulting extinction of species is happening faster than at any other period in human history.²

“We are tearing apart our common home. (It) is being pillaged, laid waste and harmed with impunity.”³

Pope Francis

The *Kunming-Montreal Global Biodiversity Framework* (GBF), adopted in 2022, is a significant step towards addressing this challenge, aiming to halt global biodiversity loss and reverse nature’s decline.⁴ The centrepiece of this agreement is Target 3, which seeks to ensure that 30 per cent of all land and water are protected by 2030.⁵ As part of this, wealthy nations have committed to contributing a total of \$20 billion per year for biodiversity restoration in low and middle-income countries by 2025, and \$30 billion per year by 2030.

The European Union (EU) plays an important role in financing this push for biodiversity conservation and sustainable land use. Multiple funding instruments are being used to pursue this goal, with the overall budget set to constitute almost 10 per cent of the EU’s Multi-Financial Framework for 2021–27. Several EU-funded projects to protect biodiversity are set to get underway in low- and middle-income countries across Africa.⁶

In 2021 during her State of the Union speech, President von der Leyen committed to double EU external expenditure for biodiversity in 2021–27 compared to 2014–20, with a particular focus on the most vulnerable countries.⁷ This figure is set to rise further by 2030, subject to negotiations of budgetary targets in the next EU multi-annual budget for 2028–35.

2. RECOGNISING THE ROLE OF INDIGENOUS PEOPLES’ AND LOCAL COMMUNITIES’ KNOWLEDGE IN PRESERVING BIODIVERSITY

Indigenous Peoples play a crucial role in protecting and restoring biodiversity.⁸ Their knowledge, beliefs and traditional practices (including caring for plants, connected land use, rotational grazing of animals, and regarding rivers and mountains as home to spirits with whom they are interconnected) contribute to sustainable land and resource use.⁹ As such, Indigenous Peoples’ lands globally are in good ecological condition, with their ecosystems and species less degraded than in other territories.¹⁰ Indigenous Peoples help protect the commons thanks to their integral perspective on human and non-human existence, and a holistic worldview that industrial societies have largely lost.¹¹

Batwa in DR Congo

The Congo Basin is home to approximately one million Indigenous Peoples and local communities who have made – and continue to make – significant contributions towards protecting forests. The Batwa of the Kahuzi-Biega National Park have taken two approaches to recover their rights to their ancestral lands, which became a national park: the “dialogue” approach led to a protocol (*cahier des charges*), but the Congolese Government has not kept its promises to the Batwa. Through the courts, the Batwa have exhausted all domestic remedies, but the Supreme Court has never ruled on the Batwa’s complaint against the Government since 2008. Out of impatience, some Batwa returned in 2018 to their ancestral lands in the Kahuzi-Biega National Park, which has been a World Heritage Site since 1980. This triggered violence and human rights violations on a large scale, committed by park authorities and the Congolese army. Park leadership has been accused of keeping the Batwa out by force, intimidation and terror, with the complicity of conservation organisations, international funders and the World Heritage Committee.¹²



Delegation of Batwa claimants for the second instance hearing at the Bukavu courthouse after the Kavumu first instance judgment. Credit: ENRD.

Local communities, including peasants, pastoralists, fishers and forestry people (as defined by the *UN Declaration on the Rights of Peasants, UNDROP*)¹³ play an equally important role. They protect biodiversity through agroecology, agroforestry, pastoralism and other sustainable land-use management methods (e.g. cultivating various crop types, breeding adapted livestock and managing healthy and resilient landscapes).¹⁴ Pastoralists, for example, actively contribute to biodiversity conservation in rangelands, provided they are not hindered in their mobility.¹⁵ Grazing animals eat dead grass and other biomass at the dry season's end, paving the way for new growth in the rains and preventing the spread of unpalatable grasses and shrubs. Removing people and livestock for exclusionary conservation or "rewilding" measures, in turn, can trigger ecologically damaging wildfires, invasion by alien plant species and reduced carbon storage potential.¹⁶

Regrettably, Indigenous, peasant, pastoralist and local communities' traditional knowledge is rapidly disappearing as governments, international organisations, conservation organisations and private investors promote industrial agriculture, intensive animal farming and technological fixes, and prioritise top-down and "expert" approaches to biodiversity conservation and adaptation to climate change.

Yet, Article 8.j of the *Convention on Biological Diversity* (CBD) calls on all parties to respect, preserve and maintain the knowledge, innovations and practices of Indigenous Peoples and local communities.¹⁷ The *Kunming-Montreal Global Biodiversity Framework* (GBF) also includes community-based monitoring systems to leverage peoples' knowledge, expertise and data.

“It is essential to show special care for indigenous communities and their cultural traditions. They are not merely one minority among others, but should be the principal dialogue partners, especially when large projects affecting their land are proposed.”

Pope Francis, *Laudato Si'* (146)

3. SECURING INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' RIGHT TO LAND

Eighty per cent of today's remaining biodiversity in the world is estimated to be located on Indigenous Peoples' customary lands.¹⁸ Respecting and protecting the right of Indigenous Peoples and other local communities to stay on the land and giving them control over key decisions impacting their land is therefore the most urgent and effective measure to halt biodiversity loss.¹⁹ Yet, the lands of Indigenous Peoples and local communities are aggressively targeted in response to global environmental or climate-change concerns, a phenomenon known as “green grabbing”.²⁰ Concerns over climate change and environmental degradation are driving and facilitating “green” land grabbing for biocarbon sequestration, biofuels, renewable energy regeneration²¹, ecosystem services, carbon offsets, ecotourism and the extraction of minerals critical for the “green transition”. More than half of the energy-transition minerals and metals, such as lithium and cobalt, are located on or near the lands of Indigenous and peasant peoples.²²

The designation of areas of ecological importance as protected areas, justified as a means to address biodiversity loss, adds to these existing pressures on the land. When new area-based protection sites (e.g. national parks or wildlife reserves) are established, the human rights and livelihoods of Indigenous Peoples, peasants, pastoralists and other local communities are often undermined.²³ This is because “fortress” approaches to conservation rely on the colonial idea of separating humans from nature and often lead to the eviction of people from their land. New market-based approaches to conservation seeking to privatise nature to protect it aggravate these trends still further.

“Fortress conservation violates human rights and fails to protect nature.”

David R. Boyd, UN Special Rapporteur on Human Rights and the Environment

Target 3 of the GBF (30x30) may well lead to the proliferation and justification of such exclusionary conservation measures. Its implementation may force millions of people from their collectively held lands or undermine their right to land including customary rights and governance institutions.²⁴ Target 3 of the GBF does not explicitly ensure Free, Prior and Informed Consent (FPIC) of Indigenous Peoples and local communities, nor does it secure tenure rights on lands and territories under their collective ownership or governance.²⁵ Pastoralists are particularly vulnerable to conservation measures that enclose and exclude because their extensive and sustainable livestock-keeping system requires mobility.

There is a real risk that EU-funded conservation efforts lead to additional land grabbing and human rights violations on a large scale. The European Parliament has committed itself to protecting and implementing Indigenous Peoples' right to land including use, ownership, access and control.²⁶ In 2022, the European Investment Bank also updated its environmental and social standards framework to include provisions for the respect of Indigenous Peoples' rights and FPIC.²⁷ These are important steps forward. However, more must be done to avoid harm.

Maasai in Tanzania

In recent years, the Tanzanian Government has been systematically targeting Maasai communities, using conservation as a pretext to evict them from their lands. Millions of dollars provided by international donors have been poured into Northern Tanzania to create “protected areas” within pastoralist territories and to expand national parks, wildlife corridors and game reserves (for trophy hunting). Far from protecting nature, these interventions have promoted hunting and large-scale tourism and violated the rights of Indigenous Peoples. Maasai in the Ngorongoro Conservation Area, a World Heritage Site since 1979, have reported arrests, torture, confiscation of their cattle, government removal of local health and social services as well as restrictions on access to grazing areas. These measures have been backed by UNESCO and the World Heritage Site Committee with a view to drive the Maasai out of their land.²⁸



Maasai pastoralists looking after livestock and living with wildlife, Ngorongoro, Tanzania. Credit: UCRT.

4. MAKING BIODIVERSITY FINANCE WORK FOR INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

Despite their crucial role in halting biodiversity loss, Indigenous Peoples and local communities struggle to access existing biodiversity funding streams.²⁹ For example, at the 2021 United Nations Climate Change Conference (COP26) in Glasgow, donors launched the 1.7 billion US dollar pledge, acknowledging the crucial role of Indigenous Peoples in protecting forests.³⁰ However, a 2023 study found that only 7 per cent of the funding from the pledge during the 2021–22 period went directly to Indigenous and community organisations.³¹ Other constraints include the fact that funding for climate, conservation and rights is not managed and shaped by Indigenous leadership and community organisations, and that funds lack flexibility and cannot be easily adapted to meet community needs or imminent threats. Additionally, funding is hard to access in a timely manner, and women continue to be excluded from land and forest governance.³²

When it comes to farming, agroecology has emerged as a key tool to radically and effectively increase biodiversity, in large part because it delivers not only ecological but also social, economic and cultural benefits. Yet, public money channelled towards agroecology is completely insufficient to promote a transition to resilient and sustainable food systems.³³ Boosting support for agroecology would mainstream biodiversity protection across the agricultural sector and directly support the rights of Indigenous Peoples, peasants, pastoralists and other local communities.³⁴

The growing international interest in biodiversity offsetting, crediting and related trading schemes is another source of pressing concern. These mechanisms are intended to bridge the funding gap for biodiversity protection, but are modelled after ineffective carbon markets and build on an outdated, top-down “fortress” conservation model.³⁵ Instead of redirecting harmful financial flows (e.g. government subsidies to raw material extraction, fossil fuels and industrial agriculture), new tradable assets are created for the financial sectors – effectively commodifying nature and contributing to further land grabbing and greenwashing. This cannot be the right answer to protecting biodiversity.³⁶

5. THE WAY FORWARD

CIDSE and its partner organisations have supported several communities across the African continent affected by forced displacement and degraded livelihoods in the context of biodiversity conservation. In these contexts, government agencies, conservation groups and private-sector stakeholders used international donor funding to take “effective area-based conservation measures” without ensuring the consent of Indigenous Peoples and local communities, effectively pushing them out under the pretence of protecting nature. Conservation “experts”, militarised park authorities, heavily armed rangers and international visitors have since replaced the original custodians of the land.

To ensure that the EU and its member states protect the human rights of Indigenous Peoples and local communities, including peasants, pastoralists, fishers and forest people, and allow them to continue preserving biodiversity, **CIDSE and its partner and allied organisations make the following recommendations:**

Peoples’ Knowledge

1. **End “fortress” and market-based conservation approaches and projects, and promote biodiversity conservation models based on human rights, co-management and local conservation methods.** Indigenous biodiversity conservation models must be recognised, strengthened and legally protected.
2. **Indigenous Peoples and local communities must be seen as central actors and guardians empowered with the responsibility to protect biodiversity.** Their traditional and local ecological knowledge should be respected, protected and systematically integrated into the EU’s biodiversity conservation and restoration strategies.

Right to Land

3. **Ensure the right to land is respected and protected, as recognised in international human rights law for both Indigenous Peoples and local communities. UNDRIP and UNDROP state explicitly that the right to land includes the right to use, own, access and control land and natural resources.** As a first step, map and stop alienating the land and natural resources owned and managed by Indigenous Peoples and local communities. Where appropriate, reform legal and policy frameworks to ensure they protect the human rights of Indigenous Peoples and local communities.
4. **Ensure the Free, Prior and Informed Consent (FPIC) of Indigenous Peoples and their leadership in all decisions impacting their lands, lives and livelihoods.** As the EU is mainstreaming biodiversity and explicitly referring to combining it with climate measures, FPIC must be obtained in **all EU-funded projects**, in accordance with the *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) and the African Union’s *Land Governance Strategy*. This must be mandatory even in the absence of specific regulations or gaps in national legislation – including where Indigenous Peoples self-identify as such but are not recognised in national law. FPIC also applies to transnational corporate actors based in the EU.
5. **Ensure the free, active and meaningful participation of pastoralists, peasants, fishers, forestry people and other local communities and their representative organisations in all decisions impacting their lands, lives and livelihoods, especially in the case of EU-funded projects**, in line with the *UN Declaration on the Rights of Peasants* (UNDROP). This includes explicitly recognising pastoralists as custodians of rangeland biodiversity and taking dedicated steps to protect their right to land and grazing areas.
6. **Respect communities’ Right to Say No³⁷ to any evictions and prevent all forms of displacement in the name of biodiversity protection, climate adaptation and mitigation or tourism.** Indigenous Peoples and local communities should never be forced from their lands, as they depend on the land for their survival and identity. So-called “voluntary resettlement” often fails to ensure FPIC; individuals and communities are coerced or bribed into agreeing, which is a form of slow violence.

7. **End all ongoing support to EU-funded biodiversity projects that are detrimental to the human rights of Indigenous Peoples and local communities.** This includes ending any support for conservation efforts and tourism development in Northern Tanzania as well as support for large investments by public development banks into conventional agriculture, for example, in DRC.³⁸ Where social and/or environmental harm has occurred, measures must be taken to provide effective and accessible legal remedies for affected communities.

Biodiversity Finance

8. **Use EU biodiversity finance to prioritise direct funding support for agroecology,** including agroforestry, pastoralism, small-scale farming practices and other forms of sustainable land use at the grassroots level. **Mainstream biodiversity protection across the agricultural sector** and match the call for a tenfold increase in investment in agroecological approaches to support the global transformation of food systems towards agroecology.³⁹
9. **Simplify access to existing biodiversity finance for Indigenous Peoples and local communities.** At CBD COP16, for example, the EU should support a revised Target 3 that allows for direct financing of customary rights-holders, land titling and robust legal platforms, in line with the GBF Target 19f, which highlights collective actions, including by Indigenous Peoples and local communities, Mother Earth-centric actions and non-market-based approaches.
10. **Put in place robust monitoring and accountability mechanisms** to ensure EU and international biodiversity finance can be tracked transparently and does not lead to human rights abuses. This will help ensure biodiversity funding is not misdirected towards approaches incompatible with ecological integrity and food sovereignty. **Indigenous Peoples and local communities should be the main recipients and directly benefit from biodiversity funding. Biodiversity finance must be shaped by local priorities, managed and fully controlled by Indigenous leadership and local community organisations.** It must be gender transformative and flexible to address community needs and imminent threats.
11. **Stop the promotion, development and use of biodiversity offsetting and crediting schemes.** Biodiversity offset should not be a substitute for halting biodiversity loss.

Root Causes/Drivers

12. **Prioritise addressing the primary drivers of biodiversity loss, including by reducing excessive extraction of natural resources, reliance on industrial agriculture, overconsumption within European economies, and the ongoing supply and use of fossil fuels.** Over ninety per cent of global water stress and land-related biodiversity loss is due to extractive activities such as oil exploration and mining.⁴⁰ Many of the same harmful corporate interests that fuel the climate crisis are responsible for the biodiversity crisis. Global biodiversity targets cannot be met without revisiting how we relate to nature and reducing our ever-increasing demand for metals, minerals, fossil fuels and renewable-energy sources.

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