

Policy Paper

Human Rights and the Conservation and Sustainable Use of Biological Diversity

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HUMAN RIGHTS AND THE ENVIRONMENT
IN THE EU // TOWARDS AN INCLUSIVE DEBATE

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Human Rights and the environment in the EU. Towards an inclusive debate

Human Rights and the Conservation and Sustainable Use of Biological Diversity – Policy Paper 2

This event, moderated by Elsa Tsioumani, University of Trento, Italy, addressed the relationship between biodiversity and the realization of human rights, illustrating how biodiversity conservation and sustainable use contribute to the promotion and fulfilment of human rights, particularly for those in vulnerable situations. It further focused on the involvement of Indigenous Peoples in international negotiations and how the respective frameworks protect their rights and knowledge.



Figure 1. Seminar's poster.

Georgina Catacora-Vargas, Bolivian Catholic University, Bolivia, presented the links between biodiversity use and the realization of human rights, explaining how biological and cultural systems interact via a process of mutual feedback. She underscored that the more diversity exists in a biological system in a specific area, the more cultural systems will be developed, particularly recognized in the diversity of Indigenous Peoples and communities around the world. These interrelated spheres of biodiversity that are described as biocultural diversity, reflect the interlinkages and interdependencies between ecosystems and human livelihoods.

Stressing that, in this intrinsic relationship, human rights are directly linked with biodiversity and ecosystem functions and services, she highlighted the rights to life, food, housing, health, identity, cultural life, cultural expression, justice to environmental matters, and the recently recognized right to a clean, healthy and sustainable environment.

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Catacora-Vargas addressed sustainable use in addition to biodiversity conservation. She noted that in the interdependence between biodiversity and livelihoods, sustainable use refers to approaches that respect and care for the processes and time biodiversity needs to restore itself and enhance its own functions. She portrayed the link between security of land and environmental sustainability, sharing an example from a 2021 report of the Food and Agriculture Organization (FAO) titled "Forest governance by Indigenous and tribal peoples: An opportunity for climate action in Latin America and the Caribbean," which revealed that Indigenous territories with secured land rights presented significantly reduced deforestation rates compared to areas managed by Indigenous peoples with no secure land rights. She added that other studies revealed that secure land schemes motivated Indigenous Peoples to apply agroecological approaches, further contributing to forest conservation and the preservation of ecosystem functions as well as of cultural identity.



Figure 2. Georgina Catacora-Vargas addressing her speech online.

She stressed that focusing strictly on conservation may lead to increased potential for human rights violations. Drawing from reports of the Special Rapporteurs on the Rights of Indigenous Peoples and on the Human Rights and the Environment, she drew attention to land-use change activities, extractive industries, illegal logging, large-scale infrastructure development over Indigenous and other rights holders' territories. These usually lead to expropriation of land, displacement, restriction of self-governance and challenges to access to justice, reflecting on numerous human rights.

Catacora-Vargas summarized two key messages noting that the relationship between biodiversity and human wellbeing is direct, therefore they are interdependent; and that recognizing that biological diversity relates to cultural diversity, sustainable use has a key role to play in conservation and in the implementation of the human rights approach.

Nicole Schabus, Thompson Rivers University, in Secwepemc'ulecw the territory of the Secwepemc People, in the Interior of what is now known as British Columbia, Canada, focused on the rights of Indigenous Peoples and the timeline of their development along the human rights framework.

Schabus introduced the struggles of Indigenous Peoples, using the Canadian historical context as an example, including on recognition of land rights. She emphasized

that the thousands of Indigenous children found in unmarked graves across Canada show that the Canadian Indian Residential Schools system is a genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). She highlighted this forceful removal of children along language-related prohibitions as the residential school system tried to forcefully assimilate Indigenous children into the dominant Canadian culture.

Schabus pointed to the 1972 UN Conference on the Human Environment held in Stockholm as an important starting point for the development of modern international environmental law and of the linkages with human rights instruments, which were already evolving. She underscored Indigenous Peoples' participation and initial efforts to establish a pan-indigenous international organization. She noted that the term "fourth world" was coined to distinguish Indigenous struggles from anti-colonial movements falling under the term third world.



Figure 3. Nicole Schabus addressing her speech online.

She addressed the establishment of the World Council of Indigenous Peoples and discussed the term "Indigenous Peoples" as opposed to "indigenous populations" used at early stages of the discussion. She emphasized that the term Indigenous Peoples goes hand in hand with the right to self-determination and made the link to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social, and Cultural Rights (ICESCR). She highlighted Article 1, which is shared by both Covenants, and refers to the right to self-determination with people being free to determine their political status and pursue their economic, social and cultural development.

Schabus discussed the colonial roots of the debate on whether Indigenous Peoples enjoy the right to self-determination under international law, expressing relief that the discussion "has been laid to rest" with the adoption of the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) by the UN General Assembly in 2007. She highlighted that UNDRIP's most controversial provision was Article 3, the right of Indigenous Peoples to self-determination. In that respect, she noted the last-minute addition of Article 46, which notes that nothing in UNDRIP may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the UN or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of

sovereign and independent States. During the vote for the 2007 adoption and despite the provision that ensured the rights of States vis-à-vis the rights of Indigenous Peoples, the US, Canada, Australia, and New Zealand voted against the adoption. They have, since then, reversed their position.

Schabus noted that the first generations of civil and political rights often involved a Western conceptualization of rights and relevant legal theories around individual rights. She noted that, with ICESCR, a third generation of rights enabled Indigenous Peoples to use them as tools towards implementation of their own rights. She added that Indigenous laws, legal traditions, knowledge, and philosophies are much better at conceptualizing collective rights because they are based in collective traditions and have a much stronger conceptualization of consent. She added that Indigenous traditions, including legal ones, are more linked with the land, which led to the discussion on the rights of nature. She concluded that, in order to achieve conservation of biological diversity, Indigenous knowledge and laws are key to ensure a broader conceptualization of sustainable development towards a sustainable future.

In the ensuing discussion, participants addressed the links between procedural rights to land and resource rights and the state of biodiversity, including workers' rights as an understudied area. They focused on the policy framework, including developments under the Convention on Biological Diversity and the Global Biodiversity Framework as well as under the International Treaty on Plant Genetic Resources for Food and Agriculture. They further discussed justice-related policy questions as well as peasant rights, potentially linking the rights discourse to broader population groups.





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