

October 14, 2016

John H. Knox
UN Special Rapporteur on Human Rights and the Environment
Thematic Engagement, Special Procedures and Right to Development Division
UNOG-OHCHR
CH-1211 Geneva 10, Switzerland
cc: srenvironment@ohchr.org

Dear Professor Knox,

Thank you for including The Nature Conservancy in your survey of conservation organizations on policies and practices related to human rights and the environment. We also appreciated the opportunity to attend the experts' consultation on September 20-21 in Geneva. The following is the Conservancy's response to the questionnaire in your email of July 29, 2016. We hope our responses are helpful as you develop your thematic report to the UN Human Rights Council on human rights obligations pertaining to biodiversity and ecosystems.

1. Please provide good practices in the adoption of biodiversity-related legislation, policies and programmes that incorporate human rights obligations.

a. Policies, Guidelines and Practices

The Nature Conservancy has adopted and continues to develop policies, guidelines and operational tools to assure consistent incorporation of human rights obligations in our work with all people. We strive to continuously improve, learn and share best practices with other conservation organizations, governments and the business sector. The Conservancy's steps in this regard include a focus on assuring our work respects international conventions related to the rights of indigenous peoples and local communities with traditional ties to a geography or natural resources, as well as on human rights as they relate to conservation work with vulnerable communities in cities and elsewhere.

i. Indigenous Peoples and Local Communities Defined

We use the term "indigenous peoples and local communities" to refer to peoples and communities that possess a profound relationship with their natural landscapes and depend on them for their economic, cultural, spiritual and physical well-being. The Conservancy recognizes the collective rights of indigenous peoples as described under international law. In our work, we also apply the same international standards to communities that are not recognized as indigenous despite their relationship to natural landscapes, for example, the local peoples and communities of Micronesia.

ii. Urban Vulnerable Communities Defined

Your human rights mapping report noted that climate change and natural disasters may threaten rights. In our work in cities, we focus on nature-based solutions to address environmental issues such as air pollution, heat and stormwater, and other conservation practices that can aid city mitigation and adaptation to climate change. In these urban contexts, we find that economically, culturally and racially marginalized communities or neighborhoods tend to be unequally vulnerable to such environmental threats.

iii. Free Prior and Informed Consent

The Nature Conservancy fully supports the principle of Free, Prior and Informed Consent (FPIC) and committed to FPIC as part of the process of establishing our membership in the Conservation Initiative for Human Rights (CIHR). We strongly advocated for FPIC in the International Hydropower Association Sustainability Protocol and its updated versions. The Conservancy is a founding member of the Climate, Community and Biodiversity Alliance, which developed a set of environmental and social standards and safeguards for REDD+ projects (Reducing Emissions from Deforestation and Forest Degradation) intended to explicitly support indigenous peoples' land rights and claims, including application of FPIC.

iv. Equity in Urban Conservation

In accord with your observations about the procedural obligations of states to assure access to assessments and participation in environmental decision-making, we encourage government actors to respect the needs of urban community members for access to information and participation in planning and decision-making. When we are involved in direct community engagement for conservation projects, we work with and through a wide range of local stakeholders for planning, design and decision-making. This involves stakeholders such as community members, other local community NGOs, community leaders and local schools.

We also work to further environmental equity and avoid regressive impacts by striving to support:

- equitable access to natural resources, environmental investments and benefits, and nature-based solutions to climate change, including across economically diverse urban communities within a city to help avoid community dislocation due to gentrification; and
- equitable distribution of mitigation for environmental risks and hazards.

v. Core Scientific Method: Conservation by Design 2.0

The Nature Conservancy's scientific method for conservation work, Conservation by Design (CBD), is based on the Open Standards for the Practice of Conservation and has been refreshed several times since its inception in the late 1990s. Conservation by Design 2.0 was completed in 2015. It more clearly prioritizes conservation solutions that benefit both people and nature. It recognizes that strengthening positive relationships between nature and people is an important component of our work. Equity, human well-being and human rights, including those of indigenous peoples and local communities, women and children, and other vulnerable actors are explicitly included when assessing impacts

during project design. We are engaged in organizational learning now as we begin implementing the updated guidance. See:

<http://www.conservationgateway.org/ConservationPlanning/cbd/Pages/default.aspx>

vi. The Conservation Initiative on Human Rights

The Nature Conservancy is a founding member of the Conservation Initiative on Human Rights (CIHR) and works alongside seven other international conservation organizations to better integrate human rights into conservation policy and practice. Through our collaboration as a consortium, our participation in key international events and through joint publications, the members of CIHR are working to strengthen our understanding of these issues, learn from our peers and contribute insight from our experiences. See CIHR's recently refreshed website at <http://www.thecihr.org>.

vii. Further Development of Organization-Wide Principles and Standards

Coordinating the organization-wide adoption and implementation of policies, guidelines and good practices related to human rights rests with our Chief Diversity and Inclusion Officer, Heather Wishik. Her team is developing a practical operational toolkit based on the Conservancy's 2015 guidelines, "Conservation and the Rights of Indigenous Peoples" and the CBD 2.0 guidance. The toolkit will be piloted in 2017 and will integrate two other existing guidance documents: an internal summary of good practices for engaging with communities impacted by commercial development projects; and a guide for practitioners on "Strengthening the Social Impacts of Sustainable Landscapes Programs." See

<http://www.conservationgateway.org/ConservationPractices/PeopleConservation/SocialScience/Pages/strengthening-social-impacts.aspx#sthash.UgMIDxud.dpuf>. Wishik and her team will also develop social safeguards guidance and an operational toolkit for assuring human rights standards in our work with vulnerable urban communities.

viii. The Nature Conservancy's Global Strategy for Partnerships with Indigenous Peoples and Local Communities

Building on decades of partnerships with indigenous peoples and local communities, the Conservancy is launching a Global Strategy for Conservation in Partnership with Indigenous Peoples and Local Communities, led by Erin Myers Madeira. Together with a network of centralized and field staff, this global program works to further the Conservancy's goal to help transform the way land and waters decisions are made by strengthening the voice, choice and action of indigenous peoples and local communities to shape and manage natural territory in ways that improve lives and drive conservation.

A stronger **voice** leads to the inclusion of traditional knowledge and local priorities and values in plans and solutions; the ability to exercise and influence **choice** builds leadership and engagement; **action** means communities have the opportunity to initiate and participate in the programs and management of resources that impact their well-being both now and in the future. To achieve this goal, the Conservancy collaborates with indigenous peoples, local communities and other organizations to pursue four

interdependent strategies: 1) securing access to resources; 2) strengthening leadership; 3) supporting effective multi-stakeholder platforms, and 4) developing opportunities for wealth creation.

b. Promoting Policies with Governments and Other Organizations that Incorporate Human Rights Obligations

In most places where we work, we engage with governments at local, state, provincial, and/or national levels. All country-level business units include government relations staff. The Conservancy is known globally for its ability to forge effective partnerships with governments, private corporations and other organizations as a skilled policy and science resource.

In our work with indigenous peoples and local communities, we believe that recognized, clearly delineated rights to inhabit, use and manage traditional lands, waterways and marine areas ultimately benefit both nature and people. Thus we work in context-appropriate ways to secure such rights. Specific examples of this work in Latin America, North America, Africa and the Asia Pacific regions are available upon request. In our work with cities, we collaborate with local governments to appropriately engage vulnerable communities and further equity.

2. Please provide specific examples of good practices in the implementation of human rights obligations in biodiversity-related matters. For instance, such examples may include practices related to: guaranteeing procedural rights (e.g., rights to information, participation and remedy); monitoring human rights affected by biodiversity-related legislation, programmes and projects (e.g., rights to life, food, housing, health, water and sanitation, cultural rights, etc.); protecting the human rights of individuals and groups from adverse impacts related to biodiversity; promoting the enjoyment of human rights (e.g., rights to life, food, housing, health, water and sanitation, cultural rights, etc.); guiding business activities in accordance with the UN Guiding Principles on Business and Human Rights; and seeking remedies for victims.

a. Best Practices and Enabling Conditions

We recognize a number of best practices and enabling conditions for governments to meet their human rights obligations.

i. Organized Calls for Rights and Effective Local Alliances

When urban communities, indigenous peoples and local communities are organized and able to call for recognition of their rights to participation or to land and natural resources, or when they already have recognized procedural and participatory rights or rights to resources and territory, governments are more likely to respect or clarify and enforce those rights.

For example in Northern Kenya, The Nature Conservancy supported the creation of the Northern Rangelands Trust, a network of community conservancies that is improving lives and livelihoods of local and indigenous peoples through enhanced land management, wildlife conservation and sustainable livestock practices. These efforts

secure land tenure recognition vis-à-vis government, while providing economic development and wildlife management. This work not only yields conservation outcomes, but builds peace and security among groups with a history of inter-group conflict and violence.

ii. Government Transparency and Role Clarity

Transparent governments that are equipped with the awareness, capacity and political will to respect or clarify procedural rights of urban communities and indigenous peoples and local communities' rights to natural resources are more likely to recognize and enforce these rights. For example, the Conservancy has an agreement and ongoing collaborative relationship with the Brazilian government to support indigenous-led land management.

iii. Capacity Building Programs with Long-term Funding Commitments

Government programs are needed to provide long-term support to urban communities and indigenous peoples and local communities to build capacity in governance and natural resource management. Sustained funding commitments for this type of capacity building can improve governance and authority; constant changes to funding programs and short-term competitive grant programs can be burdensome.

Much of The Nature Conservancy's work directly and through partners with urban communities and with indigenous peoples and local communities is based on capacity building – both in technical capacity, such as nature-based solutions, land management and monitoring, and in strengthening individual, community and institutional capacity for enhanced self-governance and engagement with governments and private stakeholders. We recognize the importance of strengthening our collaborative skills to develop relationships based on trust, respect and true partnership.

3. Please specify, where relevant, specific examples of challenges and obstacles to the integration and protection of human rights in biodiversity-related matters.

a. Challenges with Governments

While much progress has been made by governments in honoring human rights, many challenges remain, including:

- Entrenched power imbalances at local, national and global scales, inhibiting historically marginalized urban community members, indigenous peoples and local communities from transforming their visions for conservation and healthy communities into reality.
- The perception held by some sectors of government that honoring human rights, including indigenous rights, hinders national development.
- Lack of government capacity to engage in developing new laws and policies and implementing existing ones that protect and promote human rights.
- Lack of alignment among levels of government regarding engagement with vulnerable urban communities and indigenous peoples and local communities.
- Market pressures that do not align with conservation or cultural values and have negative impacts on policies affecting indigenous and community lands.

- Persistent bias and discrimination, including against indigenous peoples.
- Fluctuating policy between or within administrations that leads to instability.
- Lack of bi-partisan agreement on human rights-enhancing policy.
- Laws that deny the rights of indigenous peoples and local communities to fully access or control all natural resources, such as subsurface resources.

b. Challenges for The Nature Conservancy

i. Building Broader Understanding and Urgency

One of the challenges the Conservancy faces is to build on our local and regional experience to systematize and strengthen recognition of the role that indigenous peoples and local communities play in conservation and mitigation of climate change. We believe that measuring these impacts and presenting a clear articulation of them in appropriate policy and governmental fora could help catalyze broader government and private sector respect for the rights of indigenous peoples and local communities. For example, we estimate that 18% of the world's land, 20% of global forest carbon, and much of global biodiversity is harbored in indigenous peoples and local communities' territories. If the rights of indigenous peoples and local communities were fully respected, enabling them to sustainably manage all these resources, the impacts on climate change and the environment would be tremendous.

ii. Funding and Culturally-Aligned Economic Development

The lack of culturally and conservation-aligned sustainable economic development activities is a persistent and difficult challenge, and is experienced in our partnerships with urban populations and with indigenous peoples and local communities all over the world. We have facilitated several exchanges among Conservancy staff and partners in different regions to learn how to cultivate sustainable finance mechanisms for urban initiatives and indigenous- and community-led conservation networks. Moving forward, developing opportunities for poverty reduction and sustainable employment in cities in conjunction with conservation initiatives is one challenge. Developing opportunities for wealth creation is also one of four global strategies for supporting indigenous and local community voice, choice and action, and it is one of three initiatives in the Global Strategy for Conservation in Partnership with Indigenous Peoples and Local Communities.

4. Please give examples of how the rights of those who may be particularly vulnerable to the loss of biodiversity, including but not limited to indigenous peoples, are (or are not) provided with heightened protection.

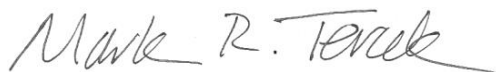
Policies regarding gender equity and the rights of other historically marginalized groups can contribute to the ability of urban communities and indigenous peoples and local communities to have access to and control over their environments, lands and natural resources. In Mexico, the Conservancy worked closely with the International Union for Conservation of Nature (IUCN) to analyze 29 of Mexico's laws and policies and to identify gender gaps in REDD+ activities. Because of these efforts, Mexico's Special Climate Change Program now features gender considerations, and the National REDD+ Strategy includes a Gender Action Plan and a focus on capacity building and technical assistance for gender integration.

5. Please give examples of good practices in the protection of environmental human rights defenders working on biodiversity and conservation issues, including any efforts by Governments or others to create a safe and enabling environment for them to freely exercise their rights without fear.

The Nature Conservancy unequivocally condemns the use of violence, any forcible removal of indigenous peoples, relocation or dispossession from their lands or territories. We are committed to a rights-based approach to conservation that advances sustainable livelihoods and fully respects the rights and well-being of all peoples. Additionally, the Conservancy is committed to upholding the best practices and standards outlined in the UN Declaration on the Rights of Indigenous Peoples.

We thank you again for including us in your survey and we look forward to your report in March 2017.

Sincerely yours,

A handwritten signature in black ink that reads "Mark R. Tercek". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark R. Tercek, President and CEO

Heather Wishik, Chief Diversity and Inclusion Officer

Erin Myers Madeira, Lead, Conservation in Partnership with Indigenous Peoples and Local Communities Program