Transnational Environmental Law

Mind the Compliance Gap: How Insights from International Human Rights Mechanisms Can Help to Implement the Convention on Biological Diversity

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**Supplementary Material (for online publication only)**

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<CAPTION>**Box S1**<en space>Semi-structured Interview Guide with Biodiversity Experts at CBD COP-14

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| 1. What is your understanding of safeguards within the context of the CBD?
2. How do you think the use of ‘safeguards’ in the CBD has changed over time?
3. Do you know of any examples of safeguards being used in response to biodiversity conservation policies? What about in the context of innovative financing mechanisms?
4. Have you been involved in a biodiversity conservation or sustainable use project that has used safeguards? What was your role?
5. How did the use of safeguards influence the project’s impacts on protecting biodiversity or people’s livelihoods? Was there any improvement on the outcomes?
6. What challenges were faced in implementing these safeguards?
7. What would you suggest as next steps for improving the use of safeguards?
8. Is there anything else you think the CBD discussions should focus on, besides safeguarding conventional conservation tools?
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<CAPTION>**Table S1**<en space> Excerpts from Obstacles in Implementing the Aichi Targets

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| **Obstacle** | **Excerpts from Parties’ National Reports to the CBD** |
| Lack of institutional capacity | * **Brazil**<en space>Insufficient legal framework and institutional arrangement; low compliance with legislation regulating environmental standards; low coordination of government agencies.
* **Egypt**<en space>Implementation of the NBSAP should not be the sole responsibility of the Ministry of Environment but of all governmental institutions; inability to retain trained staff and under-funding for conservation.
* **Ethiopia**<en space>Lack of adequate capacity, commitment, organizational set-up and incentives to implement land use policy properly.
* **Fiji**<en space>Insufficient implementation of environmental regulations; unregulated developments.
* **Kenya**<en space>Deforestation problems linked to poor policy implementation; weak institutional frameworks and poor resource governance.
* **Lao PDR**<en space>Need to improve enforcement of laws for protected areas and habitat management; poor enforcement of laws for project developers in the energy and mining sector; need to monitor environmental impacts of investments and enforce the polluter pays principle.
* **Madagascar**<en space>Undertaking a decentralization of forest management to local communities, but limited capacity and funds for actors to implement decentralization.
* **Malaysia**<en space>Needs effective and strategic coordination across all level of governments to implement revised NBSAP; previous biodiversity policy had no implementation timeline and did not delegate implementation duties to relevant agencies, resulting in lack of ownership and accountability.
* **Mongolia**<en space>Lack of implementation of law on illegal fishing.
* **Montenegro**<en space>Insufficient coverage of monitoring programmes as a result of financial restrictions and insufficient human resources; lack of capacity for sustainable planning and forest management; stronger coordination at the national level is needed; various institutions were not involved in reporting progress on implementation measures.
* **South Africa**<en space>Limited capacity and financial resources to revise biodiversity strategies.
* **South Sudan**<en space>Inadequate financial resources, legal and regulatory frameworks;weak coordination between state and national governments (for example, the State Director General of Agriculture, who is responsible for forestry services, reports only to the State Minister of Agriculture without including the South Sudan Director General of Forestry).
* **Sri Lanka**<en space>Limited capacity, both financial and human, to implement biodiversity conservation legislation and policies.
* **Sweden**<en space>Challenge in disseminating knowledge to all agencies, companies and persons involved in the implementation of CBD; insufficient knowledge about appropriate management practices; shortage of agency manpower to reduce the rate of habitat loss.
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| Poor ecological monitoring with insufficient data  | * **Brazil**<en space>Previous national report lacked adequate indicators and monitoring system for the biodiversity targets; lack of systematic biodiversity data for monitoring.
* **Egypt**<en space>Poor documentation on the performance of protected areas in maintaining populations of their key species;lack of assessment on the status of the existing protected areas.
* **Ethiopia**<en space>Lack of data and systematic monitoring to track outcomes of participatory forest management activities, despite observable differences in reduced illegal timber cutting; lack of monitoring of the implementation strategy on the status and trends of invasive species.
* **Mongolia**<en space>Lack of an integrated monitoring database for habitats and species.
* **Montenegro**<en space>Key problems in planning and executing annual monitoring programmes include lack of baseline data for certain areas, habitats and species.
* **Norway**<en space>Current monitoring system is not comprehensive for species or geographical coverage.
* **Seychelles**<en space>Poor information sharing of biodiversity data between agencies.
* **South Africa**<en space>Challenge to develop indicators with GEF to measure the impact of funding provided for mainstreaming work.
* **Sri Lanka**<en space>The Biodiversity Conservation Action Plan (BCAP) developed in 1998 does not prescribe specific targets or a timeline by which certain objectives are to be met; lack of cohesive and comprehensive monitoring mechanisms has led to challenges in measuring actual progress in conservation areas.
* **Sweden**<en space>Data on the valuable areas and structures of lakes, watercourses, coastal areas and corresponding landscape analyses are not available to the same degree; habitat loss and degradation caused by unclear criteria for the achievement of sustainable use at the ecosystem level.
* **Malaysia**<en space>Lack of cohesive monitoring mechanisms and indicators for measuring progress.
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| Difficulty in integrating environmental policies into sectors | * **Egypt**<en space>Lack of effective institutional mechanisms for integrating biodiversity issues in broader national development policies to ensure coordination, cross-sectoral policy integration and budgetary allocations.
* **Norway**<en space>Little coordination of environmental considerations into economic instruments for a better joint management of biodiversity; cross-cutting measures are needed in priority policy areas related to biodiversity; the public administration needs to integrate biodiversity concerns into activities in various sectors of society.
* **South Africa**<en space>Mainstreaming biodiversity across sectors requires institutional changes of 7 to 10 years, which is often beyond the lifetime of typical projects or funding lifecycle; measuring outcomes of mainstreaming is difficult, particularly if the intended outcome is avoided loss of biodiversity; avoided loss is not as easy to measure as protection or restoration.
* **Sri Lanka**<en space>Biodiversity concerns are not adequately integrated into the plans, policies and programmes of the agencies of the development sector (i.e., urban, harbour, tourism, mining, energy, road, and telecommunication networks).
* **Sweden**<en space>The targeting of environmental performance in sectors, without adding administrative burden or losing flexibility for enterprises to find individual smart solutions, is a challenge.
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*Source*<en space>Fifth (or most recent) national reports of parties to the CBD.