



**Joint NGO open letter to the TNFD, with feedback on their draft framework**

To: David Craig, TNFD Co-Chairs  
 Elizabeth Maruma Mrema, TNFD Co-Chair  
 CC: Tony Goldner, TNFD, Executive Director  
 Malika Bhandarkar, TNFD Lead, Stakeholder Engagement & Mandates

May 25th, 2022

Re: Deep Concern over TNFD Draft Framework

Dear TNFD Co-Chairs,

We welcome the opportunity to comment on the Taskforce on Nature-related Financial Disclosure (TNFD) *Beta v0.1 Nature-Related Risks and Opportunity Management and Disclosure Framework*.

Developing a global framework for reporting on nature-related risks and impacts can create much needed transparency, if done well. However, we are deeply concerned about the failure to integrate human rights into the framework, and thereby overlooking the fundamental reality that nature destruction is strongly linked to human rights violations. We are also very concerned about the lack of mandatory reporting on all nature-related impacts caused by companies. Likewise, the framework lacks requirements to disclose key information, and requirements on reporting on promises. Lastly, we recommend it to scope out appropriate safeguards to ensure it will not reinforce inequalities. To ensure meaningful consultation, we also recommend the TNFD to hire specialized staff and to urgently develop a number of case studies to pilot test the framework.

**We write this letter with the caveat that many of our organizations have not engaged as directly with TNFD and its documents as we would have liked.** This is not because we are indifferent to the need to redirect the trillions of dollars that are flowing from companies and financial institutions into activities that are driving the nature crisis and the human rights crisis that underpins it. It is because, to date, TNFD's consultation process has not been designed to be truly accessible to rights holders, grassroots organizations or broader civil society groups. We want to understand what TNFD is proposing, to test its recommendations against real-world case studies of corporate-led harms to nature and people, and to trust that our expertise and recommendations will be valued and considered. Below we outline some key recommendations for the next draft of the TNFD framework:

1. **The TNFD needs to ensure that its reporting requirements do not exclude human rights, as outcomes for nature and people are intertwined. It is critical that TNFD fully integrates reporting requirements already outlined under international human rights standards.** The need to address environmental, economic and social concerns in a combined manner to ensure sustainable business practices is a core principle established since the Rio Earth Summit in 1992. This integrated approach is fully enshrined in the Sustainable Development Goals (SDGs), with which the TNFD seeks to align. While the creation of TNFD outlined the aspiration to align with the international human rights framework,<sup>1</sup> the TNFD's Beta framework does not once mention human rights. **Clear examples of why a one-sided focus on nature is problematic** include the following:
  - a. **Inaccurate and incomplete:** As stressed by the recent IPCC report,<sup>2</sup> it is difficult to identify a case of serious business-led adverse risks or impacts to nature that does not have a human rights dimension. The view that people are outside nature, somehow separate to its impacts and to efforts to preserve it, is an artificial abstraction. TNFD itself arises from recognition that our economic system is not separate from our ecology, and our social world is similarly interconnected with our physical one. To think that business can meet its responsibilities to nature while evicting Indigenous Peoples, inciting violence against land and environmental defenders or cutting communities off from local water sources goes against the expertise and lessons learned, over many

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<sup>1</sup> As referenced in TNFD (2021) *TNFD: Proposed Technical Scope. Recommendations for the TNFD* <https://tnfd.global/wp-content/uploads/2021/07/TNFD-%E2%80%93-Technical-Scope-3.pdf>

<sup>2</sup> [https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_SummaryForPolicymakers.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf) ; [https://report.ipcc.ch/ar6wg2/pdf/IPCC\\_AR6\\_WGII\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_FinalDraft_FullReport.pdf)

years, of what leads to successful outcomes for nature and people.<sup>3</sup> Crucially, a healthy, clean and sustainable environment is a recognized human right in itself,<sup>4</sup> so activities that pollute, destroy or degrade the environment can amount to, not only lead to, a violation of human rights.

On the other hand, lack of respect for human rights can contribute to negative outcomes for nature. In particular, it is widely recognized that the violation of the collective customary tenure rights of forest peoples and communities, i.e. the lack of land tenure security, and the lack of self-determination rights for communities to decide on how to use their land, is an underlying driver of deforestation and forest degradation.<sup>5</sup> This is because forests and other ecosystems managed and customarily owned by Indigenous peoples and other communities with customary tenure systems are generally in better health than those under any other type of management, and tenure security is an important condition that enables communities to sustainably manage their land and challenge external interruptions and threats.<sup>6</sup>

- b. Building on headway made to date: Those on the frontlines of the nature crisis have been extremely vocal in emphasizing that human rights are critical. For example, this can be seen in collectively developed statements such as the [The Land Rights Standard](#), [The Geneva Declaration](#), the [Global Pact to Protect 80% of the Amazon by 2025](#), the [Global Alliance of Territorial Communities](#) five key asks, [A Call to Action from the Global Women’s Assembly for Climate Justice](#) and recommendations for how to [integrate Indigenous rights reporting](#) into TCFD-style frameworks. Disrespecting and ignoring this work will not help TNFD establish credibility and trust in its process.
- c. Existing responsibilities and frameworks: Established over a decade ago, the UN Guiding Principles on Business and Human Rights (UNGPR) clearly articulate that **companies and financial institutions have responsibilities to respect human rights** – and they are expected to do so by carrying out human rights due diligence processes to “identify, prevent, mitigate and account for how they address their impacts on human rights”.<sup>7</sup> These expectations are also contained in the [OECD Guidelines for Multinational Enterprises](#), and their related [guidance](#). The [Kunming Declaration](#) also includes commitments “to respect, protect and promote human rights

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<sup>3</sup> <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/> ; <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>

<sup>4</sup> Office of the High Commissioner for Human Rights, ‘Right to Healthy Environment, 12 April 2022, <https://www.ohchr.org/en/statements-and-speeches/2022/04/right-healthy-environment>

<sup>5</sup> Forest Peoples Programme (2018) Closing the gap: Rights-based solutions for tackling deforestation. Moreton-in-Marsh, England.

[https://www.forestpeoples.org/sites/default/files/documents/Closing%20The%20Gap\\_0.pdf](https://www.forestpeoples.org/sites/default/files/documents/Closing%20The%20Gap_0.pdf) and Forest Peoples Programme, Pusaka and Pokker SHK (2014) Securing Forests, Securing rights: Report of the International Workshop on Deforestation and the Rights of Forest Peoples. <https://www.forestpeoples.org/en/topics/rights-land-natural-resources/publication/2014/securing-forests-securing-rights-report-intern>

<sup>6</sup> Veit, P (2021) 9 facts about community land and climate mitigation. World Resources Institute. <https://files.wri.org/d8/s3fs-public/2021-10/9-facts-about-community-land-and-climate-mitigation.pdf> ; World Resources Institute (WRI) (2016) Climate Benefits, Tenure Costs. [https://files.wri.org/d8/s3fs-public/Climate\\_Benefits\\_Tenure\\_Costs.pdf](https://files.wri.org/d8/s3fs-public/Climate_Benefits_Tenure_Costs.pdf) ; Intergovernmental Panel on Climate Change (IPCC) (2019) Special Report on Climate Change and Land. <https://www.ipcc.ch/srccl/>

<sup>7</sup> UNGPR para 15(b)

obligations when taking actions to protect biodiversity”.<sup>8</sup> Models already exist, such as the Universal Standards of the [Global Reporting Initiative](#), that align with the style of framework proposed under the TNFD and which see reporting on nature and human rights as integrated. The [Glasgow Leaders’ Declaration on Forests and Land Use](#) also recognises the rights of Indigenous Peoples, as well as local communities in accordance with national legislation and international instruments. This makes it hard to understand why TNFD would actively choose to exclude human rights, or suggest that sound outcomes for nature can be achieved without addressing rights violations.

Human rights, such as requirements to refrain from activities where Indigenous Peoples and local communities have not given their free, prior and informed consent, have also been acknowledged in at least a dozen initiatives for high-risk industries. These are as diverse as the [Aluminium Stewardship Initiative](#), the [Accountability Framework initiative](#), the [IFC Performance Standards](#), [The Equator Principles](#), the [Roundtable on Sustainable Palm Oil](#), the Universal Standards of the [Global Reporting Initiative](#) and many others. This recognition required a great deal of awareness raising, time and energy to achieve. While these initiatives are far from perfect, TNFD will undermine the headway made on human rights and lessons learned over many years if it ignores them.

- d. **Financial materiality: Adverse human rights impacts negatively affect financial sustainability.** Evidence shows that social opposition against developments and projects on the ground constitutes a significant financial risk to companies and investors in agricultural, energy and extractive sectors, especially when these cause serious violations of human rights, such as eviction, resettlement and disruption of local livelihoods.<sup>9</sup> Often, such opposition leads to long disruption of project operations, and sometimes to permanent shut-down, for example through physical blockades on the ground or via legal complaints and court cases. In addition to directly affecting financial bottom-lines, cases of social conflicts could be the source of serious reputational risks for the upstream companies, downstream buyers and their financiers.<sup>10</sup>
2. **Require companies and financial institutions to report on impacts on, and adverse risks to, nature and human rights - removing the loophole that only requires impacts to be reported if there is a significant financial impact on business.** If TNFD is to create an evidence-led reporting framework, it needs to explicitly require businesses to provide meaningful data of what its risks and impacts on nature and human rights are. This is also important to allow business’ claims and reports to be independently scrutinized against on-the-ground realities. It is also vital that TNFD requires positive and negative impacts to be

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<sup>8</sup> <https://www.cbd.int/doc/c/c2db/972a/fb32e0a277bf1ccfff742be5/cop-15-05-add1-en.pdf>

<sup>9</sup> Alforte, A, et al (2014) Communities as Counterparties: Preliminary Review of Concessions and Conflict in Emerging and Frontier Market Concessions. [https://rightsandresources.org/wp-content/uploads/Communities-as-Counterparties-FINAL\\_Oct-21.pdf](https://rightsandresources.org/wp-content/uploads/Communities-as-Counterparties-FINAL_Oct-21.pdf)

and The Munden Project (2012) *The financial risk of insecure land tenure: An investment view* <https://rightsandresources.org/wp-content/exported-pdf/rritenureriskreportfinaldec2012.pdf>

<sup>10</sup> Joint letter, 2021. Response to Call for Public Input on Climate Change Disclosures from Commissioner Allison Herren Lee. <https://www.sec.gov/comments/climate-disclosure/cll12-9061308-246408.pdf>

reported separately, and not rolled into 'net' reporting. Reporting must also incorporate information on existing actions by businesses to address (e.g. prevent, mitigate and remedy) risks and impacts that they have identified. **However, this is not what TNFD is proposing.** Under its Beta Framework, TNFD requires a business to identify how it interacts with nature - including its *dependencies* on nature or natural systems, arising *opportunities*, *risks* and positive or negative *impacts* on nature. But while a business needs to assess these factors - it does not have to report on them. It only explicitly has to report on those that may financially impact its business in the short, medium or long term. TNFD is focused only on getting business to report on significant financial risks or benefits that arise from its relationship to nature. This assessment is likely highly subjective. An 'ethical' firm may consider that all nature-related harms will impact their business. A company currently complicit in environmental and human rights abuses is less likely to think this way.

3. **Adopt forms of transparency that support the rights of communities and workers to know which companies or financial institutions are backing activities, companies or supply chains operating in their local area.**

A business' environmental and human rights policies are often put forward as key to its due diligence and risk management through its operations, supply chains or financing. However, these commitments mean little if those whose environment or human rights are at risk of being violated have no way of knowing which company or financier is involved. Too often, undue secrecy prevents local people trying to stop harms to nature from raising concerns with business before they reach crisis point.

Many environmental issues, such as reducing office energy consumption or reducing water use don't necessarily require local-to-global data. But the most serious threats to nature do. If TNFD focuses mostly on high-level metrics - even at biome level - this cannot be independently scrutinized against practices on the ground. TNFD should explore how it can integrate finance and supply chain traceability and transparency - including by drawing from existing standards and tools developed for high-risk industries. Businesses that do not know what they're buying or financing cannot show if those products were produced legally or show what impacts on nature they had.

4. **Require businesses to report meaningfully on their nature-related promises, claims and connection to severe impacts.**

Too often, greater stock is put into a business' policies, plans and promises about what it will do in future - than how it is responding, in concrete ways, to concerns put before it today. This can present a misleading picture of a business' real-world actions and priorities. An example of reporting measures that assist greater accuracy include requiring all businesses to:

- a. Publish grievance lists - that is outstanding allegations, litigation or complaints against it. This is important to provide information about third-party claims that may contradict a business' stated policies or reports, and ensure that businesses feel external accountability to support remedy and redress for people or biomes harmed;
- b. Publish a list of all Indigenous, tribal, and other local communities impacted by proposed and existing projects and operations;
- c. Report [lobbying efforts](#) - including the activities of industry groups to which it is a member. Lobbying to retain subsidies or benefits for unsustainable and environmentally harmful practices is necessary information to understand a business'

- real-world nature strategies. This must also extend to reporting on actions to seek exemptions from or challenge environmental regulations;
- d. Publish exit or exclusion lists - which name firms or projects a company or financial institution will not do business with on the basis of environmental or social concerns.
5. **Undertake scoping to examine TNFD’s proposal in the context of its impacts on equality, equity and just transition.** This will ensure it does not reinforce inequalities and adopts appropriate safeguards. [Third World Network](#) has expressed concern that a nature-related risk approach will lead to a revaluation of credit ratings, and countries who face escalating risks to nature will have their credit ratings downgraded, leading to higher costs of capital. TNFD has yet to grapple with discussions of a just transition and how to ensure that monetarily poor countries ravaged by climate change and heavily indebted after the COVID-19 pandemic do not face more expensive loan repayments as a result of TNFD. We recommend the TNFD directly work with Third World Network to discuss and address this concern. Similarly, TNFD has not yet considered how issues such as land inequality contribute to the nature crisis. It must set requirements on business to cap and reduce its land footprint, and transition out of land-intensive industries. This must be done in an equitable way that targets businesses that have the largest adverse impact on land inequality. While TNFD has limited its purview to reporting, it should also seek to understand how its efforts can complement, or reinforce, calls for accountability, remedy and redress.
  6. **Urgently recruit and resource staff who have the specialist skills in how to work effectively with marginalized groups, rights holders and grassroots organizations, and to publicly outline its engagement plan for working with these groups.** Indigenous peoples, Afro-descendant communities, local communities, land and environmental defenders and grassroots organizations, including women and youth within these groups, have been at the forefront of the defense of nature, and are demanding respect for our living world. These voices are critical to ensure the integrity of TNFD’s outcomes.
  7. **Publicly test TNFD’s recommendations against real-world cases of nature-related harms.**

To date, TNFD has put emphasis on business pilot testing its framework. But it is also critical that TNFD work with rights holders and civil society organizations to develop and test its proposals against real-world case studies. Understanding what TNFD’s proposed approach means in practical cases is the best measure of evaluating its strengths and weaknesses, and whether measures would capture corporate-led nature and human rights harms.

The IPCC’s sixth assessment report on climate change, focused on impacts, adaptation, and vulnerability, emphasizing the interconnectedness between climate crisis, biodiversity crisis and social inequalities.<sup>11</sup> The science is clear: to sustain life on earth, we need to address the interdependence between the climate, ecosystems, biodiversity and human societies. Lasting planetary health is indivisible from social justice. The current multiple crises cannot be tackled separately. In order to protect critical forests and ecosystems (including their biodiversity), social inequities will need to be addressed. The rights of people who live in the forest and from the forest need to be recognized as a core human right.

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<sup>11</sup> [https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_SummaryForPolicymakers.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf) ; [https://report.ipcc.ch/ar6wg2/pdf/IPCC\\_AR6\\_WGII\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_FinalDraft_FullReport.pdf)

We call on the TNFD to address the concerns raised in this letter and to consult broadly with rights holders and civil society organizations to address additional concerns with the current TNFD draft.

Signed by:

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Wolfgang Kuhlmann , Director, **ARA** (Working Group on Rainforests and Biodiversity)  
Lawrence Connell, Environment Director, **Bank Information Center**  
Johan Frijns, Director, **BankTrack**  
Alexey Zimenko, Director General, **Biodiversity Conservation Center**  
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Veronica Oakeshott, Head of Forests Policy and Advocacy, **Global Witness**  
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