

# Biodiversity: One way to help countries stick to their commitments to restore nature

December 21 2022, by Niak Sian Koh and Claudia Ituarte-Lima

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The critically endangered hooded grebe lives on lakes in remote Patagonia.  
Credit: [Juan María Raggio/Wikipedia](#), [CC BY-SA](#)

When a [hydropower dam in Argentina](#) threatened to wipe out the [hooded grebe](#), a bird found nowhere else on Earth, a local fishing community

turned to the law for help.

The dam contravened Argentina's commitment to halt [species extinctions](#) under the convention on [biological diversity](#) (CBD), an [international treaty](#) that obliges nations to address the loss of nature. But the people didn't choose this legal route. Instead, they sought the UN Human Rights Council, specifically its [universal periodic review](#) which enlists countries to [assess](#) each other's compliance with human rights obligations.

The reason why people invest more faith in human rights law to prevent the extinction of another species is simple. The [CBD](#) has lacked a mechanism for reviewing each country's progress since its adoption by [all nations](#) (except the US and Vatican City) in 1992. As a result, failure to meet commitments under the treaty are unchallenged, and opportunities for improvement are missed.

The COP15 UN biodiversity [summit](#) in Montreal, Canada, recently saw more than 190 countries adopt [new targets](#) for conserving and sustainably using nature over the next eight years. Yet it stopped short of creating a mechanism which would independently review each country's compliance with their pledges.

[Our research](#) suggests that review mechanisms in international human rights law, which have been developed and tested for more than a decade, could be adapted to enforce international laws on biodiversity.

[None](#) of the CBD's targets for tackling biodiversity loss and ecosystem degradation were met over the last decade. Over [the last 50 years](#), the variety of life on Earth—including animals, plants, fungus, bacteria and other microbes, everything from entire ecosystems down to individual genes—has diminished at a faster rate than during any other period of human history.

Human rights review mechanisms have helped release [political prisoners in Myanmar](#), supported Senegal's efforts to investigate [cases of gender discrimination](#) and nudged oil-exporter Norway to prohibit [further exploration for fossil fuel](#).

These [mechanisms](#) also allow individuals to pile pressure on states. The UN's Human Rights Committee [ruled in favor](#) of a group of Torres Strait Islanders in their case against Australia. Their claim held that Canberra was guilty of [human rights violations](#) for failing to reduce the country's emissions and help the indigenous community on the islands off the continent's north coast adapt to the anticipated effects of climate change, such as sea-level rise.

Australia was asked to compensate and consult with the Islanders and take all measures necessary—including speeding up decarbonization—to secure their existence. These decisions energize movements and can encourage more legal action at the national level. We argue that the same could apply for biodiversity law.

## **Damming development**

Invoking Argentina's human rights obligations drew international attention to the dam. The country's national judiciary ordered a public hearing to scrutinize its [environmental impact](#) and to pause construction. Despite the ongoing lawsuit, work on the dam [continues](#). Environmentalists are monitoring the site and seeking other legal avenues to fight the dam's construction.

[A voluntary review mechanism](#) for the CBD has been debated since 2016. This would involve biodiversity experts taking into consideration local people's concerns on their land and ecosystems.

In recent pilot reviews, experts have recommended [Uganda](#) assemble

researchers and civil society figures to investigate threats to biodiversity in the country's farming sector. [Montenegro](#) was urged to finance measures which would ameliorate the effect of dams on their last free-flowing rivers.

For Argentina, a review would allow local environmentalists to share information about the threats to endemic bird species with international observers who could, drawing from their own expertise, make recommendations to the government.

## **Greater safety for environmental defenders**

Opening these cases to greater scrutiny from abroad could prove vital in [protecting the rights](#) of people who defend the environment. Despite [earlier CBD negotiations](#) recognizing the role of women and girls, young and indigenous peoples in stewarding biodiversity, close to [2,000 environmental defenders](#) have been killed in 57 countries since 2002.

The Montreal summit missed an opportunity to adopt an independent committee for assessing each country's compliance with global targets and their adherence to the rule of law. This committee could have helped support the work of campaigners on the ground by connecting their struggle with the commitments of each nation in the new Kunming-Montreal global biodiversity framework, including on target 22 which explicitly refers to environmental human rights defenders and target 23 on gender equality.

The success or failure of this plan for halting [biodiversity](#) loss will depend on whether countries can be made more accountable to their commitments. Adopting a new framework is just the first step. Ensuring that these targets are implemented with a human rights based approach will be vital in the journey towards achieving harmony with nature by 2050.

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