



Green Financing, a just transition to protect Indigenous Peoples' rights?

IPACC's inputs to the Report of the UN Special Rapporteur on the Rights of Indigenous Peoples to be presented to the Human Rights Council in September 2023.

Introduction.

IPACC is a network of 135 indigenous peoples' organizations in 21 African countries. Its core mandate includes Indigenous Peoples Human Rights and Gender Equity, Environment and Climate Justice and sustain a network of indigenous peoples organizations. As part of its mandate, IPACC provides these inputs to report of the Special Rapporteur on the Rights of Indigenous Peoples to be presented to the Human Rights Council in September 2023.

IPACC's inputs attempts to objectively provide an African Indigenous Peoples perspective to the questions raised by the office of Special Rapporteur as follows: -

- 1. Are DFI's complying with their safeguard policies? For example, are these institutions or organizations conducting or ensuring the conduct of independent, transparent, and participatory environment, social and human rights impact assessments and obtaining free prior and informed consent when Indigenous Peoples are impacted by a DFI funded project?**

Development Finance Institutions (DFIs) such as the World Bank, IFC and the Africa Development Bank among others, have their own safeguard policies that outline their commitment to mitigating environmental and social risks associated with the projects they finance. The policies are meant to ensure that the projects they fund align with the international human rights standards including the rights of indigenous peoples, labor rights, environmental protection, and other relevant areas. It's important to note that in Africa, DFIs work in diverse contexts with varying levels of governance, regulatory frameworks, and capacity. For example, addressing indigenous peoples rights in the context of the DFIs safeguard policies is easier in countries in Africa that already recognize the rights of indigenous peoples than in those countries that don't recognize indigenous peoples. Capacity challenges may be on the side of the DFI for example, understanding indigenous peoples rights in the African context or the responsible State agencies or even among indigenous peoples themselves. Thus, the effectiveness of safeguard policies can vary depending on the specific project and country context.

Many DFIs also have mechanisms in place to monitor compliance with their safeguard policies. These mechanisms include independent oversight, regular reviews, and evaluations. The major challenge in Africa is the monitoring, reviews and evaluations is often done by non-indigenous experts who often lack the deeper understanding of the indigenous peoples rights and realities. The problem is compounded by the fact that indigenous peoples themselves lack the necessary expertise to monitor compliance of the safeguard policies.



Some DFIs have faced criticism in the past for not adequately addressing environmental and social risks associated with their investments. Some have also faced allegations of not adequately consulting with and obtaining the free, prior, and informed consent of Indigenous Peoples who may be affected by their projects. The criticisms is often raised by indigenous peoples NGOs or CBOs but more regularly by human rights NGOs from developed countries. IPACC notes the important role that such criticism play in ensuring compliance with safeguard policies. IPACC further notes though safeguard policies may contain the right language to recognize, protect and fulfil indigenous peoples rights, sometimes there are serious capacity gaps in terms of implementation and not necessarily from a lack of will or commitment to implement.

To ensure compliance with their safeguard policies and international standards, DFIs should continue to engage in independent, transparent, and participatory environmental and social impact assessments, and consultation processes, including free, prior, and informed consent for Indigenous Peoples. In doing so, IPACC recommends DFIs to work with or through indigenous peoples organizations and experts and invest in building their oversight capacities.

2. Are there opportunities for Indigenous Peoples to participate in the development and implementation of DFI-funded projects related to conservation, clean energy transition and carbon markets?

Yes, there are opportunities for Indigenous Peoples to participate in the development and implementation of DFI-funded projects related to conservation, clean energy transition, and carbon markets. In recent years, there has been an increasing recognition of the importance of engaging Indigenous Peoples in the planning and implementation of development projects that affect their territories and communities.

DFIs have developed policies and procedures to ensure that the rights and interests of Indigenous Peoples are respected, and that their participation in decision-making processes is encouraged. For example, the International Finance Corporation (IFC) has a Performance Standard on Indigenous Peoples that outlines the requirements for engaging with Indigenous Peoples, including the need for free, prior, and informed consent (FPIC) before undertaking any project activities that may affect their rights or interests.

DFIs also recognize the important role that Indigenous Peoples can play in supporting conservation, clean energy, and carbon market projects. For example, Indigenous Peoples have traditional knowledge and practices that can contribute to the sustainable management of natural resources, such as forests and waterways. They may also have expertise in renewable energy systems or be able to provide access to land for the development of renewable energy projects.

However, IPACC is of the view that safeguards, consultations and FPIC are not the only needs of indigenous peoples. IPACC would like DFIs to invest me on the capacities of indigenous peoples and their organizations to develop and implement projects related to conservation, clean energy transition and carbon markets in their own territories. Such a



approach would not only reduce the time needed to operationalize such projects, but would also secure indigenous peoples rights and interest including their land rights.

But overall, DFIs are committed to engaging with Indigenous Peoples in a meaningful and respectful way, and there are opportunities for Indigenous Peoples to participate in the development and implementation of DFI-funded projects related to conservation, clean energy transition, and carbon markets.

3. What role do DFIs play in shaping policy, beyond the financial investment itself? How are DFI's ensuring that Indigenous Peoples are represented in the development of global institutional strategies, particularly the creation and implementation of policies affecting Indigenous Peoples?

Development Finance Institutions (DFIs) play an important role in shaping policy beyond their financial investments. As institutions that provide long-term financing and technical assistance to support private sector development in emerging economies, DFIs often work closely with governments, civil society, and other stakeholders to promote sustainable and inclusive economic growth.

In terms of policy influence, DFIs can use their leverage as investors to encourage governments and companies to adopt social and environmental policies and practices that align with the DFI's objectives. For example, DFIs may require companies to implement environmental and social safeguards to mitigate the risks associated with their projects, such as biodiversity loss or human rights violations.

Regarding Indigenous Peoples, DFIs have recognized the importance of engaging and consulting with them in the development and implementation of projects that may affect their communities. To this end, many DFIs have developed policies and procedures to ensure the meaningful participation of Indigenous Peoples in project planning, design, implementation, and evaluation.

One such policy is the International Finance Corporation's (IFC) Performance Standard 7 on Indigenous Peoples, which requires clients to obtain the free, prior, and informed consent (FPIC) of Indigenous Peoples for projects that may affect their rights and interests. The IFC also provides guidance on how to implement this standard, including how to engage with Indigenous Peoples in a culturally appropriate and respectful manner.

Similarly, the European Investment Bank (EIB) has developed a safeguard policy on Indigenous Peoples that aims to ensure that projects financed by the EIB do not adversely affect Indigenous Peoples' rights and interests. The policy requires that clients identify and engage with Indigenous Peoples, obtain their FPIC, and develop a plan to address any adverse impacts on their rights and interests.

The African Development Bank (AfDB) has an Integrated Safeguards System¹ that the Bank requires borrowers/ clients that include governments and companies to comply with during project preparation and implementation. This includes Operation safeguard 1 on

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Environmental and Social Assessment that governs the process of determining a project's environmental and social category and the resulting environmental and social assessment requirements: the scope of application; categorization; use of a SESA and ESIA, where appropriate; Environmental and Social Management Plans; climate change vulnerability assessment; public consultation; community impacts; appraisal and treatment of vulnerable groups; and grievance procedures. Operational Safeguard 2 on Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation recognizes common property which is central to indigenous peoples land rights. Operational Safeguard 3 on Biodiversity and Ecosystems emphasizes the need to “respect, conserve and maintain [the] knowledge, innovations, and practices of indigenous and local communities... [and] to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. The Bank also has an Independent Review Mechanism (IRM)² that provides people adversely affected by a project financed by the Bank with an independent mechanism through which they can request the AfDB to comply with its own policies and procedures. The IRM intervenes when people or communities affected submit a complaint.

DFIs have therefore ensured the representation of Indigenous Peoples in the development of global institutional strategies, particularly the creation and implementation of policies affecting Indigenous Peoples. Examples include inclusion of Indigenous Peoples in the design of REDD+ policies and projects by the World Bank³ and UNREDD program.⁴

The DFIs requirements have contributed to strengthening indigenous voices in Africa. For example, *The Network of Indigenous and Local Populations for the Sustainable Management of Forest Ecosystems in Central Africa (REPALEAC)* was supported by the World Bank and the GIZ Regional Support Project for the Commission des Forêts d’Afrique Centrale (COMIFAC)⁵ to engage in multilevel policy process and fundraising.⁶

In summary, DFIs play a critical role in shaping policy beyond their financial investments. They are taking steps to ensure that Indigenous Peoples are consulted and meaningfully participate in the development and implementation of projects that may affect their rights and interests. By doing so, DFIs are contributing to the promotion of sustainable and inclusive economic growth that benefits all stakeholders, including Indigenous Peoples.

² Afdb Independent Review Mechanism at <https://www.afdb.org/en/about-us/organisational-structure/independent-review-mechanism-irm>

³ World Bank: Indigenous Peoples at <https://www.worldbank.org/en/topic/indigenouspeoples#:~:text=The%20World%20Bank%20works%20with,an d%20aspirations%20of%20Indigenous%20Peoples.>

⁴ UNREDD at <https://www.un-redd.org/work-areas>

⁵ Commission des Forêts d’Afrique Centrale at <https://www.comifac.org>

⁶ REPALEAC sub-regional planning and developing of climate fund-raising activities for 2022 at <https://pfb-cbfp.org/news-partner/REPALEAC-planning.html#:~:text=Established%20in%202003%2C%20REPALEAC%20is,organizations%20active%20in%2008%20countries.>



- 4. Please describe your experience with DFI grievance mechanisms and inspection panels at the institutional or national level. Are these mechanisms effective in providing remedies for human rights violations? For example, are there structural issues with how these mechanisms operate in terms of the actors they focus on, timeframes within which they operate, remedies available etc. How can these mechanisms be improved?**

I⁷ did follow a World Bank Inspection Panel Review of Western Kenya Community Driven Development and Flood Mitigation Project⁸ which was initiated by the Sengwer community, and the Kenya Electricity Expansion Project initiated by Maasai community claiming harm as a result of resettlement of four villages.⁹ In both cases, the Inspection Panel found that some of the most vulnerable people experienced harms during the projects, observed impoverishment among them as a result of the project activities and noncompliance with Bank policies related to indigenous peoples and involuntary resettlement and inadequate supervision by the Bank.

However, post the inspection panel activities have not positively impacted on the rights of the indigenous communities concerned. In the case of the Western Kenya, it seems to have created difficulties for any positive engagement with Sengwer community generally and World Bank FCPF activities in Kenya. Attempts were made to address Maasai rights and a mediation process between the community and the geothermal generating company were undertaken. However, there no evident positive results from the mediation process.

- 5. How is Indigenous Peoples' ownership and control rights over their lands, territories and resources protected in the regulation of carbon and biodiversity offset markets?**

Indigenous Peoples' ownership and control rights over their lands, territories, and resources are protected in the regulation of carbon and biodiversity offset markets through several mechanisms.

Firstly, the UNFCCC REDD+ safeguards also known as the Cancun Safeguards¹⁰ provide for the respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples; The full and effective participation of indigenous peoples and local communities, in the actions referred climate action that include Carbon and Biodiversity offsets markets.

Further, the United Nations Declaration on the Rights of Indigenous Peoples recognizes Indigenous Peoples' rights to their lands, territories, and resources. This includes the right to free, prior, and informed consent (FPIC) regarding any activities that may affect their lands or resources. FPIC ensures that Indigenous Peoples have a say in the decision-making

⁷ Personal opinion of the IPACC Director

⁸ Western Kenya Community Driven Development and Flood Mitigation Project at

⁹ World Bank Board Approves Mediation to Resolve Issues in Kenya Inspection Panel Case at <https://www.worldbank.org/en/news/press-release/2015/10/23/world-bank-board-approves-mediation-to-resolve-issues-in-kenya-inspection-panel-case>

¹⁰ UNFCCC, Safeguards at <https://redd.unfccc.int/fact-sheets/safeguards.html>



process and can control their lands and resources, including any carbon or biodiversity offset projects that may be proposed.

Additionally, many carbon and biodiversity offset standards require that Indigenous Peoples are involved in the design and implementation of offset projects. For example, the Verified Carbon Standard (VCS)¹¹ requires that projects engage with and obtain the consent of Indigenous Peoples and local communities, and that the benefits of the project are shared with them.

Furthermore, some offset standards, such as the Climate, Community and Biodiversity Standards (CCB Standards)¹², have specific requirements for Indigenous Peoples' participation in offset projects. These include requirements for meaningful consultation, participation in project design and implementation, and benefit-sharing.

Some offset markets, such as the California Compliance Offset Program, have specific requirements for Indigenous Peoples' involvement in offset projects. These include requirements for FPIC, participation in the development of offset protocols, and the creation of benefit-sharing agreements.

Finally, the Integrity Council of the Voluntary Carbon Markets (ICVCM)¹³ an independent governance body for the voluntary carbon market, has indigenous peoples representatives in its Board.¹⁴ Its Core Carbon Principles¹⁵ which includes good governance and sustainable development are designed to positively impact on the rights of indigenous peoples. The Council also regularly consults with indigenous peoples.

Overall, the regulation of carbon and biodiversity offset markets strive to ensure that Indigenous Peoples' ownership and control rights over their lands, territories, and resources are respected and protected. Through the use of standards and regulations that require Indigenous Peoples' participation and benefit-sharing, these markets aim to support Indigenous Peoples' efforts to protect and conserve their lands and resources while providing opportunities for carbon sequestration and biodiversity conservation.

Some challenges in implementation include capacity gaps both on the side of governments, investors and communities, low awareness by communities of the regulations, non-objective reporting by parties completely opposed to carbon projects and resource constraints to fully implement the regulations.

6. What is the role of States in regulating the activities of private conservation organizations?

¹¹ Verified Carbon Standard (VCS) at <https://verra.org/programs/verified-carbon-standard/>

¹² Climate, Community and Biodiversity Standards (CCB Standards) at <https://www.climate-standards.org/ccb-standards/>

¹³ The Integrity Council of the Voluntary Carbon Markets - <https://icvcm.org/indigenous-peoples-and-local-communities/>

¹⁴ ICVCM Board at <https://icvcm.org/who-we-are-all/>

¹⁵ Core Carbon Principles at <https://icvcm.org/the-core-carbon-principles/>



Under the UN Guiding Principles on Business and Human Rights,¹⁶ States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish, and redress such abuse through effective policies, legislation, regulations and adjudication. Private conservation organizations fall with the definition of third parties. They have often been accused of various human rights violations against indigenous peoples through fortress conservation and militarization among others. Countries like Kenya have developed National Action Plan on Business and Human Rights (NAP)¹⁷ to guide implementation of the UNGPs and ensure that businesses, whether private or public, operating in the country respect human rights.

The role of States in regulating the activities of private conservation organizations can vary depending on the jurisdiction and legal framework in which these organizations operate. Generally, States have the responsibility to ensure that private conservation organizations comply with relevant laws and regulations, particularly those related to environmental protection and conservation.

In many countries, private conservation organizations are required to obtain legal registration or certification from the government in order to operate. This process typically involves submitting documentation that outlines the organization's objectives, activities, and governance structure, as well as any legal requirements that must be met. Once registered, the organization may be subject to regular reporting and monitoring requirements to ensure compliance with relevant laws and regulations.

States may also establish laws and regulations governing the activities of private conservation organizations, particularly in areas such as wildlife conservation, land use, and protected areas management. These regulations may include requirements for permits, licenses, or other forms of authorization before undertaking certain activities.

In addition to regulatory oversight, States may also provide funding or other support to private conservation organizations that are working towards environmental protection and conservation goals. This can include providing grants, tax incentives, or other financial incentives to support conservation efforts.

Overall, the role of States in regulating private conservation organizations is to ensure that these organizations operate within the legal framework of environmental protection and conservation. This involves providing legal oversight, establishing regulations and requirements, and providing support and incentives for organizations that are working towards conservation objectives.

¹⁶ UN Guiding Principles on Business and Human Rights at https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹⁷ Kenya National Action Plan on Business and Human Rights at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/NationalPlans/2019_FINAL_BHR_NAP.PDF



7. Please describe how green financing has either benefited Indigenous Peoples and served to strengthen their rights, or alternatively has failed to adequately respect their rights and contributed to human rights violations.

Green financing refers to the financing of projects or initiatives that promote environmental sustainability and climate action. IPACC has visited a number of carbon projects in Kenya and Tanzania and notes that much debate, reports and writing has tended to focus on the negative impacts of such projects on indigenous people's rights. Some of the negative impacts include evictions for power plants¹⁸ or forest conservation,¹⁹ harassments, arrests and even murder of activists among others. Reports also indicate that green financing also disrupts cultural and livelihood of indigenous peoples. For example, in March 2023, Survival International released a report titled "*Blood Carbon: how a carbon offset scheme makes millions from Indigenous land in Northern Kenya*".²⁰ Though serious objectivity issues concerning the report have been raised by a larger section of the carbon communities in Kenya, it raises serious issues that need to be addressed to ensure carbon projects do not disrupt livelihoods and cultures.

However, through its visits to the carbon projects in Kenya and Tanzania, IPACC has observed that green financing is not all negative. IPACC therefore wishes to highlight a few positive examples of green financing in Africa.

1. Strengthening indigenous peoples' recognition and self-determination by promoting their traditional knowledge and inclusion in decision making processes:

In Africa, Green financing is playing a major role in spearheading indigenous rights in countries where states were opposed to the concept.

Green Financing puts emphasis on Indigenous Peoples participation in decision-making by providing resources and capacity-building support to enable them to participate effectively in environmental decision-making processes. This helps to ensure that their perspectives, needs, and priorities are reflected in the design and implementation of green financing initiatives.

Carbon projects specific requirement of FPIC is strengthening indigenous peoples self-determination in Africa. In the Northern Kenya Rangelands Soil Carbon project,²¹ participating conservancies are required to undertake membership wide meetings and annual general meetings to decide on livestock grazing patterns and how to spend carbon money. IPACC made similar observations in the Yaeda – Eyasi Landscape Carbon project.²²

¹⁸ Kenya: Indigenous maasai evicted for power plants - <https://matshellmark.com/2014/11/27/kenya-indigenous-maasai-evicted-for-power-plants/>

¹⁹ Kenya's Indigenous Complain of Forceful Eviction From Forests - https://www.voanews.com/a/africa_kenyas-indigenous-complain-forceful-eviction-forests/6193309.html#:~:text=The%20Ogiek%20and%20Sengwer%20ethnic,of%20the%20COVID%2D19%20pandemic.

²⁰ Blood Carbon: how a carbon offset scheme makes millions from Indigenous land in Northern Kenya – the report alleges <https://www.survivalinternational.org/articles/carbon-offset-scheme-makes-millions-from-Indigenous-land-Northern-Kenya>

²¹ <https://www.nrt-kenya.org/carbon-project>

²² <https://www.carbontanzania.com/our-projects/yaeda-valley/>



2. **Strengthening indigenous land rights:** Green financing can also advance Indigenous Peoples' rights by financing projects that promote the recognition and protection of their rights, including their right land, and resources. This can include projects that promote legal recognition of Indigenous Peoples' territories, the recognition of their customary rights, and the implementation of Free, Prior, and Informed Consent (FPIC) processes. In the Kenya and Tanzania carbon projects, IPACC found no evidence of land taken from communities for carbon.
3. **Supporting Indigenous Peoples' sustainable livelihoods:** Green financing can support Indigenous Peoples' sustainable livelihoods by financing projects that promote sustainable agriculture, forest management, renewable energy, and eco-tourism. In Northern Kenya carbon project, all participating conservancies are reinvesting carbon money in ecotourism,²³ livestock improvement and commercial shopping complex.²⁴ These projects can generate income and employment opportunities for Indigenous Peoples while also protecting their traditional territories and cultural practices.
4. **Recognizing Indigenous Peoples' role in conservation:** Green financing is also recognizing Indigenous Peoples' role in conservation by financing projects that recognize and support their traditional knowledge and practices. This can include projects that promote community-led conservation, protected area management, and the restoration of degraded ecosystems.²⁵

Since 2020, IPACC in partnership with Repaleac has been engaged in a WWF funded project in Central African Republic, Cameroon and DR Congo Titled , *Human Rights Due Diligence in the Congo Basin: Strengthening the rights of Indigenous Peoples and Local Communities (IPLC) in and around protected areas*, the long term project goal is based on a vision of “inclusive conservation”; where the divide between nature and culture is bridged, and they are protected as one.

The aim was to adopt a novel method of conservation that transforms the economic, social and political lives of indigenous peoples, including their youth and women, in a positive and productive way.

Ensuring an approach that utilizes, acknowledges and respects their knowledge as guardians of their own ecosystems is taken

Such an approach will not only foster and strengthen climate resilience, it will contribute towards maintaining healthy and sustainable ecosystems for future generations and the planet.

5. **Promoting sustainable development:** Finally, green financing has promoted sustainable development by financing projects that contribute to the achievement of the Sustainable Development Goals (SDGs). This includes projects that address

²³ Earning carbon credits in unspoilt Lekurruki - <https://www.standardmedia.co.ke/evewoman/lifestyle/article/2001461850/earning-carbon-credits-in-unspoilt-lekurruki>

²⁴ Kalama Conservancy

²⁵ <https://www.carbontanzania.com/makame-savannah/>



climate change for example forest restoration²⁶ and removal of invasive alien species,²⁷ promoting education through schools' construction and bursaries,²⁸ promoting health,²⁹ promote biodiversity conservation, and support sustainable energy and infrastructure development.

Overall, green financing can benefit Indigenous Peoples and serve to strengthen their rights by promoting sustainable development, recognizing their role in conservation, supporting their sustainable livelihoods, strengthening their participation in decision-making, and advancing their rights. However, it is essential to ensure that green financing initiatives are designed and implemented in a manner that respects Indigenous Peoples' rights, including their right to self-determination and Free, Prior, and Informed Consent (FPIC).

While green financing has the potential to benefit Indigenous Peoples and respect their rights, IPACC has noted the following challenges:

- **Inadequate and non-inclusive consultation:** In communities that inhabit vast landscapes with lack of communications, full and effective consultations. Issues of lack of effective consultations are common in most green financing projects. IPACC also notes that actualizing the right to self-determination and Free, Prior, and Informed Consent (FPIC) remains a challenge in Africa. This can result in projects that are not aligned with Indigenous Peoples' priorities, values, and aspirations, and that may cause harm to their communities and territories.
- **Often un-understood and safeguards:** Through green financing initiatives have designed adequate safeguards to prevent or mitigate negative social and environmental impacts on Indigenous Peoples, the communities are often not aware or understand them. For example, projects that involve large-scale infrastructure development, such as hydroelectric dams or wind farms, may have significant impacts on Indigenous Peoples' lands, territories, and resources, leading to displacement, loss of livelihoods, and cultural disruption but the communities are rarely sensitized of the safeguards designed to mitigate this impacts.
- **Displacement and land grabbing** is common in renewable energy projects such as dams.: Some green financing initiatives have been associated with land grabbing and displacement of Indigenous Peoples from their lands and territories. This can occur when outside investors or companies obtain access to land or resources that are traditionally owned or used by Indigenous Peoples, without their consent or compensation, for the purpose of implementing green projects.

In summary, it is essential to ensure that green financing initiatives are designed and implemented in a manner that respects Indigenous Peoples' rights, including their right to

²⁶ Distribution of Seedlings to Farmers - <https://blog.wildlifeworks.com/2017/12/19/highlights-mai-ndombe-redd-project-democratic-republic-congo/>

²⁷ Can Carbon Credits and Communities Help Save the Planet? - <https://blog.wildlifeworks.com/2017/05/01/carbon-credits-communities/>

²⁸ <https://www.youtube.com/watch?v=i17k5h8zLzQ>

²⁹ Commissioning of Mobile Medical Clinics - <https://blog.wildlifeworks.com/2017/12/19/highlights-mai-ndombe-redd-project-democratic-republic-congo/>



self-determination, land, and resources, and to ensure that they are meaningfully involved in decision-making processes related to these initiatives.

8. How have Indigenous Peoples been involved in developing carbon markets, if at all? If Indigenous Peoples are participating in carbon markets, how is their free, prior and informed consent sought or obtained by companies who wish to use their lands, territories or natural resources for offsets?

The involvement of Indigenous Peoples in developing carbon markets in Africa has been limited, and their participation has often been restricted or even excluded. However, there have been some efforts to engage Indigenous Peoples in the development of carbon markets in Africa, particularly in the context of jurisdictional approaches, which aim to incentivize emissions reductions at the sub-national level.

In some cases, Indigenous Peoples have been invited to participate in consultations or workshops aimed at developing jurisdictional approaches or other carbon market initiatives. However, the quality and extent of their participation have varied widely, and their input has not always been fully reflected in the final design of these initiatives.

Regarding the issue of free, prior and informed consent (FPIC), it is essential that companies and other actors seeking to use Indigenous Peoples' lands, territories, or natural resources for offsets obtain their consent in a manner that is consistent with international human rights standards, including the UNDRIP. This means that companies must engage with Indigenous Peoples in a meaningful and transparent manner, provide them with accurate and complete information about the potential impacts of carbon projects on their rights and livelihoods, and allow them to freely decide whether or not to participate in these projects.

Companies must also ensure that Indigenous Peoples have the capacity and resources to make informed decisions about carbon projects and that they are not subject to coercion, manipulation, or other forms of pressure that could undermine their ability to give or withhold their consent.

In practice, obtaining FPIC from Indigenous Peoples can be challenging, particularly in contexts where they may lack legal recognition or where their rights are not adequately protected. To address these challenges, it is essential to build trust with Indigenous Peoples through ongoing dialogue and engagement, and to provide them with the support and resources they need to participate effectively in carbon market initiatives.

In summary, while there have been some efforts to involve Indigenous Peoples in the development of carbon markets in Africa, their participation has been limited, and their rights have not always been fully respected. To ensure that Indigenous Peoples' rights are respected in the context of carbon markets, it is essential to obtain their free, prior, and informed consent in a manner that is consistent with international human rights standards and to provide them with the support and resources they need to participate effectively in these initiatives.



9. How can the carbon market be regulated to ensure that all actors, regardless of the nature or scale of the initiative (voluntary carbon market or jurisdictional approaches), are required to respect Indigenous Peoples' rights, including their right to give or withhold consent to carbon projects related to their lands, territories and resources?

Regulating the carbon market to respect Indigenous Peoples' rights, including their right to give or withhold consent to carbon projects related to their lands, territories and resources, requires a comprehensive approach that involves multiple stakeholders, including Indigenous Peoples themselves. Some key considerations include:

- **Developing strong international and domestic legal frameworks:** International and domestic laws should clearly recognize and protect Indigenous Peoples' rights to land, territory, and resources, as well as their right to free, prior, and informed consent (FPIC). These legal frameworks should also establish mechanisms to ensure that carbon projects do not infringe on these rights and that Indigenous Peoples have the ability to participate in decision-making processes related to carbon projects.
- **Establishing transparent and accountable governance mechanisms:** Governance mechanisms should be established that are transparent and accountable, and that include Indigenous Peoples in the decision-making process. This can include establishing mechanisms for community consultation, establishing community-led governance structures, and ensuring that there is a clear process for resolving disputes.
- **Monitoring and enforcing compliance:** A robust monitoring and compliance system is necessary to ensure that all actors, regardless of the nature or scale of the initiative, are required to respect Indigenous Peoples' rights. This can include establishing independent oversight mechanisms, ensuring that reporting is transparent and accurate, and instituting penalties for non-compliance.
- **Developing robust grievance mechanisms:** Effective grievance mechanisms should be established to address any complaints or grievances that Indigenous Peoples may have related to carbon projects. These mechanisms should be transparent, accessible, and independent and should allow for the participation of Indigenous Peoples and other affected communities.
- **Strengthening the capacity of Indigenous Peoples and their representative organizations:** Indigenous Peoples and their representative organizations should be given the necessary resources and support to effectively participate in decision-making processes related to carbon projects. This includes providing access to information, technical assistance, and capacity-building support.
- **Encourage the participation of Indigenous Peoples in the carbon market:** Indigenous Peoples should be encouraged to participate in the carbon market as project developers or partners. This can help ensure that Indigenous Peoples' rights are respected, and that carbon projects are aligned with their priorities, values, and aspirations.



In summary, regulating the carbon market to respect Indigenous Peoples' rights requires a multifaceted approach that includes legal frameworks, transparent and accountable governance mechanisms, monitoring and enforcement, capacity building, and Indigenous Peoples' participation in the carbon market. By taking these steps, the carbon market can help promote sustainable development and respect the rights of Indigenous Peoples.

10. How can Indigenous Peoples access funding, directly or indirectly, to further implementation of the Paris Agreement and the Convention on Biological Diversity Global Biodiversity Framework including 30x30 (Target 3)? What are the main obstacles that Indigenous Peoples face in accessing funding and how can these be overcome? For example, how does the imposition of restrictive conditions affect their ability to access funding?

Indigenous Peoples can access funding to support the implementation of the Paris Agreement, the Convention on Biological Diversity Global Biodiversity Framework, and the 30x30 Target in several ways.

- a) through direct funding from international organizations, such as the Green Climate Fund, the Global Environment Facility, or the Adaptation Fund, which are designed to support climate change adaptation and mitigation projects, biodiversity conservation, and sustainable development.
- b) Indigenous Peoples can also access funding indirectly by partnering with non-governmental organizations, civil society organizations, or local governments that have access to funding. This can help them to leverage additional resources and expertise to implement their projects and initiatives.

However, Indigenous Peoples face several obstacles in accessing funding.

- One major challenge is that funding opportunities are often designed and implemented without meaningful consultation or engagement with Indigenous Peoples. This can lead to projects that are not aligned with Indigenous Peoples' priorities, values, and aspirations, and that may even cause harm to their communities and territories.
- Another challenge is that funding opportunities may be subject to restrictive conditions or requirements, such as complex application procedures, onerous reporting and compliance requirements, or the need to demonstrate "bankability" or commercial viability. These conditions can exclude Indigenous Peoples who may lack the technical or financial capacity to meet these requirements or who may not fit the conventional models of development.

To overcome these obstacles, it is essential to involve Indigenous Peoples in the design and implementation of funding opportunities from the outset. This can ensure that funding is



responsive to their needs, priorities, and aspirations and that it aligns with their vision of sustainable development.

It is critically important to

- simplify application procedures and reporting requirements,
- provide capacity-building support,
- and offer flexible financing mechanisms that consider the diverse needs and circumstances of Indigenous Peoples.
- A funding mechanism for indigenous peoples should be established to ensure funds flow directly to indigenous peoples and not through intermediary organizations.
- Finally, it is crucial to ensure that funding is based on the principles of free, prior, and informed consent and that it respects Indigenous Peoples' rights, including their right to self-determination, land, and resources.