

# Process to assess Principles, Standards and Mechanisms to support Indigenous Peoples' Tenure Rights and Forest Guardianship

## Indigenous Peoples' Tenure Rights and Forest Guardianship

Indigenous peoples constitute distinct cultures, social structures and identities, and are the keepers of traditional knowledge that is received from ancestors and passed on from elders to the next generations. In spite of historical processes of colonisation, discrimination and domination that have undermined indigenous peoples' self-determination and governance systems, their continued existence bears evidence of their strength and resilience as peoples, as well as their aspiration and commitment to pass on their distinct identities, knowledge systems and practices to future generations.

As enshrined in international human rights law, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the ILO Convention No. 169, indigenous peoples are collective rights holders, with the rights to self-determination and to the lands, territories and resources that they traditionally own, occupy or otherwise use. Likewise, they have the right to be consulted and give or withhold their free, prior and informed consent to any initiatives that are likely to affect their rights, and to maintain and further develop their own governance systems, customary law authorities, and representative institutions.

Through history, indigenous peoples have developed a broad range of organisational expressions shaped by both the limitations and the opportunities found in their local, national and regional contexts. In most communities, different types of organisations co-exist, such as traditional councils, hereditary leadership positions, territorial governments, village councils, municipalities, autonomous regions, associations, networks, alliances, as well as organisations representing, for example, women, youth or other segments of the indigenous population. At the sub-national, national and regional levels, indigenous peoples are organised in networks and umbrella organisations, some with formal constitution and operational institutional capacity while others are more informal alliances or providing political leadership without having a project implementing branch. Moreover, some indigenous leaders and experts have established civil society organisations that undertake research, facilitate participation and implement projects, among others.

Indigenous peoples manage 25 percent of the world's land, and care for 80% of Earth's biodiversity, primarily under customary tenure arrangements, which in many countries are not legally recognised. Moreover, indigenous peoples are the custodians of a significant percentage of the world's forests and are thus indispensable for reaching internationally agreed goals regarding forest and biodiversity conservation, as well as climate change. The crucial role of indigenous peoples in sustainable development, forest and biodiversity conservation as well as climate change mitigation and adaptation has gained increasing recognition. This is also reflected in an increasing number of initiatives and mechanisms, aimed at supporting the legal recognition of indigenous peoples' land and resource rights, to stop deforestation, unsustainable land conversion, biodiversity loss etc. However, a recent study documents that indigenous communities and organisations receive less than one percent of the

global climate funding meant to reduce deforestation, which is in stark contradiction with the documented role of indigenous peoples in the protection of the world's forests.<sup>1</sup>

## **Scope of the Pledge to support Indigenous Peoples' and Local Communities' Tenure Rights and Forest Guardianship**

At the 2021 UN Climate Change Conference (COP 26), a group of bilateral donors and philanthropic funders pledged to contribute 1.7 billion USD to support the advancement of indigenous peoples' and local communities' forest tenure rights and greater recognition and rewards for their role as guardians of forests and nature.

The financing under the Indigenous Peoples' and Local Communities' Tenure Rights and Forest Guardianship Pledge<sup>2</sup> will be directed at:

- Channeling support to Indigenous Peoples and local communities, including through capacity building and financial support for group activities, collective governance structures and management systems, and sustainable livelihoods;
- Activities to secure, strengthen and protect Indigenous Peoples' and local communities' land and resource rights, including, but not limited to, support to community-level tenure rights mapping and registration work, support to national land and forest tenure reform processes and their implementation, and support to conflict resolution mechanisms.

In terms of beneficiaries, the Pledge comprises support to both indigenous peoples and local communities. ILO Convention No. 169 provides criteria for identifying those who constitute "indigenous and tribal peoples" in a given context, including the crucial criteria of self-identification. Groups such as Janajatis in Nepal, Adat communities in Indonesia, pueblos indígenas y originarios and comunidades afro-descendientes in Latin America, Twa and Betwa in Central Africa all fall within these criteria. In contrast, there are no criteria in international law to identify "local communities". There is no doubt that a variety of local communities play an important role in forest conservation and are in need of support. Consequently, they are also considered within the Pledge. However, identifying and establishing a consultative process with these communities is beyond the scope of the process described in this information note, which focuses on indigenous peoples as rights-holders in the context of international law.

Geographically, the Tenure Rights and Forest Guardianship Pledge follows the same core criteria used for the Global Forest Finance Pledge, i.e. that the Pledge should only include support for forest-related climate action in tropical forest and subtropical countries eligible for receiving Official Development Assistance (ODA). However, within this geographical focus, all forest types facing similar threats, for example mangrove forests, are eligible for support.

In summary, the scope of the current process is indigenous and tribal peoples as covered under ILO Convention No. 169 with customary land rights within tropical or subtropical forests in ODA eligible countries across the globe.

---

<sup>1</sup> Rainforest Foundation Norway (2021): *Falling short: Donor funding for Indigenous Peoples and local communities to secure tenure rights and manage forests in tropical countries (2011–2020)*

<sup>2</sup> More information about the Pledge and a list of signatories can be found here: <https://ukcop26.org/cop26-iplc-forest-tenure-joint-donor-statement/>

## Learning from Experience and Finding the Ways Forward

Indigenous peoples have expressed the need to ensure that the funding committed under the Pledge is channeled to them in ways that ensure alignment with UNDRIP and other human rights instruments, and enhance governance, ownership, empowerment, cost effectiveness and results. Consequently, the Pledge donors and funders have committed *“to promote the effective participation and inclusion of Indigenous Peoples and Local Communities in decision-making and to include and consult them in the design and implementation of relevant programmes and finance instruments, recognising the specific interests of women and girls, youth, people with disabilities, and others often marginalised from decision-making”*.

Experience shows that indigenous peoples have often not been involved in the governance of funding mechanisms set up to support them. This may limit the possibility of such initiatives to truly support their efforts in forest conservation and management, and may even have a divisive effect on indigenous societies, if initiatives are not fully aligned with indigenous peoples’ own aspirations, needs and sustainable practices. Moreover, funding is often tied to conditions, rules, requirements or regulations that are unilaterally defined by the donors, with a main objective of ensuring accountability vis-a-vis the constituents on the donor side. Hence, many indigenous institutions and organisations have difficulties complying with these donor requirements, which can have implications such as:

- Creating dependency on intermediary/facilitating organisations rather than strengthening the capacity of indigenous institutions for self-governance and management;
- Diverting the focus of indigenous leaders/institutions towards compliance with donor requirements while weakening accountability vis-a-vis their indigenous constituents;
- Contributing to conflicts and weakened leadership, if indigenous institutions fail to comply with requirements.

On the positive side, an increasing number of donors and mechanisms are committed to providing support in a way that is fully aligned with indigenous peoples’ rights and ensures respect of their values, relationships and systems, including by ensuring that indigenous institutions are involved in the governance, management, implementation, and monitoring of initiatives.

With the USD 1.7 billion Pledge increasing the funding available for supporting indigenous peoples in tropical and sub-tropical forests, there is a need to facilitate an inclusive process with indigenous peoples, donors, support organisations, and other relevant stakeholders to identify and assess principles, standards and mechanisms to support indigenous peoples’ tenure rights and forest guardianship in accordance with the international legal framework for indigenous peoples’ rights. Consequently, based on initial discussions with indigenous experts, a group of funders to the Pledge<sup>3</sup> decided to initiate and support such a process. The funders have contracted a team of independent technical consultants to facilitate the process<sup>4</sup>.

### The process

The aim is to undertake a broad, inclusive, transparent and participatory process with representatives of indigenous peoples, donors and relevant support organisations, which will result in the following outputs:

---

<sup>3</sup> Initiated by the Christensen Fund, the Ford Foundation and the Packard Foundation

<sup>4</sup> Charapa Consult has been contracted to facilitate the process (see: [www.charapa.dk](http://www.charapa.dk))

- An **overview of existing implementation mechanisms and funding modalities** to advance indigenous peoples' forest tenure rights and greater recognition and rewards for their role as guardians of forests and nature.
- A **review of experiences and lessons learned** related to diverse funding modalities for indigenous organisations and communities
- A set of **principles and standards**, based on the UNDRIP, for the governance and management of projects and funds, which meet the requirements for accountability and transparency of both donors as well as indigenous peoples' institutions at all levels.
- An **assessment of how these principles and standards can be operationalised** in a range of mechanisms and modalities (existing and emerging) to ensure direct support to indigenous peoples' tenure rights and forest guardianship.

The outputs of the process must be reflective of indigenous peoples' experiences and aspirations and reflect broad ownership and agreement. It is therefore essential that the process facilitates input and participation from indigenous organisations and leaders from tropical and subtropical countries in Africa, Asia, and Latin America. Likewise, it needs to incorporate the perspectives and lessons learned of the donors and funders, as well as other support organisations and allies of indigenous peoples.

A mix of methods and approaches will be applied to reach as many relevant indigenous organisations, donors, and support organisations as possible:

- Broad distribution (through list-serves, networks etc) of a simple questionnaire that will allow all interested organisations to share experiences, lessons learned and materials;
- On-line consultations with individual organisations and groups of organisations (focus group discussions) including both indigenous organisations, donors and funders;
- Face-to-face meetings as possible, convening key indigenous organisations at regional level (Africa, Asia, Latin America), donors and support organisations. Where possible, such gatherings will be organised in the margins of other events (e.g. the African Protected Area Congress in Rwanda), to maximise outreach and reduce costs;
- Consultations in the margin of global gatherings of indigenous organisations, e.g. Stockholm+50, EMRIP session in Geneva etc.
- Broad distribution of all outcomes in draft versions for comments and further input.

In order to ensure meaningful consultations, all outputs will be elaborated and communicated in clear and concise language that is immediately understood by a wide range of constituents. Where relevant, descriptions will be supported by infographics etc. Consultations will be undertaken in three languages (EN, SP, FR), and all relevant materials and drafts will be translated into these three languages. Where necessary, additional translation services will be offered (e.g. indigenous languages, Bahasa, Portuguese).

## Reference Group

To support and orient the process, a Reference Group will be established, comprising indigenous representatives from Africa, Asia, and Latin America, and donors to the Pledge. A specific Terms of Reference for the Reference Group will be developed, but the overall role is to oversee and provide input to the consultants regarding methodology and outreach, assist and participate in focus group meetings in their respective regions, and provide comments on draft materials and outputs. The Reference Group will include a group of donors (5-6) and a group of indigenous representatives (10-12) from the three regions (Africa, Asia and Latin America). The members should represent a

diversity of indigenous organisations (regional and national organisations and networks with experience from bilateral cooperation, regranting schemes, direct grants etc)..

Both indigenous and donor representatives will be appointed based on self-selection among their constituents. Reference Group members will assist in ensuring a broader outreach within their regions/constituencies.

## Timeline and milestones

The process comprises the following main elements:

When	What	Who
May 2022	Establishment of Reference Group and TORs	Self-selection processes among donors and indigenous organisations
	Elaboration of inception report, specifying methodology, timeline, key institutions and resource persons to be consulted, concept notes for online and regional consultations, questionnaires for data collection, materials for desk review, among others.	Consultants and Reference Group
June-July	Regional consultation process: dissemination of questionnaires for data collection among indigenous organisations in Africa, Asia and Latin America	Consultants Support: Reference Group
	Interviews with key resource persons, including indigenous leaders (global, regional, national, local), donors, foundations	Consultants
	Focus group discussions (on-line) with representatives of representatives of key indigenous organisations and leaders from forest communities in Africa, Asia and Latin America	Consultants Support: Reference Group
	Regional face-to-face meetings with key indigenous organisations (Africa, Asia, Latin America), preferably in the margin of other events to ensure broad participation	Consultants Support: Reference Group
	Consultations in the margin of global gatherings of indigenous organisations, donors, foundations and support organisations (Stockholm+50, EMRIP etc)	Consultants
August	Broad dissemination of draft outputs for comments:	Consultants Support: Reference Group

	<ul style="list-style-type: none"> <li>● Overview of existing implementation mechanisms and modalities</li> <li>● Review of experiences and lessons learned</li> <li>● Principles and standards, based on the UNDRIP</li> <li>● Assessment of how these principles and standards can be operationalised in mechanisms and modalities (existing and emerging) to ensure direct support to indigenous peoples' tenure rights and forest guardianship.</li> </ul>	
September	Finalisation of all outputs, approval by Reference Group and dissemination to all stakeholders	Consultants

## Engagement and contact

The process will be coordinated by Charapa Consult, and undertaken by a core team of three technical consultants with ample experience in working with indigenous peoples' organisations and donors in forest areas in Africa, Asia and Latin America. The core team is comprised of:

- Ms. Birgitte Feiring (team leader, focus on Asia)
- Dr. Albert Kwokwo Barume (focus on Africa)
- Ms. Misha Wolsgaard-Iversen (focus on Latin America)

5

The core team will be accompanied by a group of regional/thematic consultants who will provide expertise to support the regional consultation processes, design infographics and databases etc. Moreover, key indigenous organisations in Africa, Asia and Latin America will be engaged in the organisation of regional meetings and stakeholder dialogues.

Information about the process and documents will be made publicly accessible at the following website [www.charapa.dk](http://www.charapa.dk).

If you have questions, comments or want to contribute to the process, please contact [IPForestPledge@outlook.com](mailto:IPForestPledge@outlook.com)

---

<sup>5</sup> CVs of the core team can be found at Charapa Consult website [www.charapa.dk/xxx](http://www.charapa.dk/xxx)