

Directing Funds to Rights

Principles, standards and modalities for supporting indigenous peoples' tenure rights and forest guardianship

SUMMARY

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Indigenous peoples are partners and rights-holders

Indigenous peoples play a crucial role in the protection of tropical and subtropical forests in the context of catastrophic climate change, biodiversity loss and environmental degradation. They manage around 80% of forest biodiversity, but only receive an estimated 0.13% of climate development aid. Moreover, funding to indigenous peoples often comes as small-scale short-term grants, channelled through intermediaries, which does not adequately underpin their long-term visions for self-determined development.

The Pledge to support the tenure rights and forest guardianship of indigenous peoples and local communities with 1.7 billion USD can potentially have a decisive and transformational impact on the funding situation of indigenous peoples in tropical and subtropical forests. However, it requires establishing a new type of partnership, based on the recognition of indigenous peoples as rights-holders and of the enormous contribution they make to protect the forests and the planet.

Defining priorities for funding

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) constitutes the common framework and the minimum standards for the survival, dignity and wellbeing of the indigenous peoples of the world (article 43). However, given the diversity of country and regional situations, including the restrictions put in place by authoritarian governments, there can be no uniform way of supporting or channelling funds to indigenous peoples.

The Pledge responds to some of the key priorities of indigenous peoples (collective governance and management systems, sustainable livelihoods, land and resources, national reform processes and conflict resolution) but many indigenous organisations have experienced that their own priorities clash with those of donors or intermediaries. This happens when funding is prioritised for certain countries, ecosystems or themes, which do not correspond with indigenous peoples' holistic long-term visions for development, or the way they have structured their institutions and networks. Indigenous peoples have rich experiences with participatory identification of priorities, following a bottom-up approach and including necessary risk assessments and flexibility to realign funding in case of push back from authoritarian governments, disasters or other changes in the contexts. They recommend to:

- ➔ **Consider the Pledge a forerunner for more comprehensive support to indigenous peoples in all ecosystems and regions of the world**
- ➔ **Provide long-term strategic investments in indigenous peoples' territories and institutions at different levels in a flexible manner, taking into account relations with other ecosystems and the need to realign to the needs of communities as contexts change.**

Consultation, participation and free, prior and informed consent

Indigenous peoples' rights to be consulted, to participate in decision-making and to give or withhold free, prior and informed consent (FPIC) on matters that affect them are core elements of the UNDRIP and essential for upholding the right to self-determination within larger societies. In a funding context, these rights are means to ensure relevance, adequacy, legitimacy and transparency of support, as well as shared responsibility and mutual accountability in the implementation.

There has been a tendency to delink the requirement for FPIC from consultation and participation in decision-making. This is problematic, as it reduces the requirement for FPIC to a single event or a reaction to externally defined projects. In a funding context, a narrow interpretation of FPIC may presuppose that funding is not directed at indigenous peoples' self-determined priorities. In the context of collaboration between partners, the requirement for consent should be part of a process of constructive collaborative decision-making that is accomplished by working with indigenous peoples' representative institutions in a continuous and coordinated manner. At the global level, indigenous peoples recommend to:

- ➔ **Establish a mechanism for continuous dialogue between indigenous peoples and the Funders Group throughout the lifespan of the Pledge, including to discuss how to strengthen the operationalisation of the rights to consultation, participation and FPIC in the context of the overall Pledge as well as for individual donor commitments and initiatives.**

Enhancing transparency, monitoring and accountability

So far, little information about the overall Pledge has reached indigenous peoples, and most donors have not disclosed information about their individual contributions. There is no participatory mechanism for monitoring of the Pledge, and no tracking of disbursements to intermediaries and to indigenous peoples at international, regional, national and local levels. This makes it difficult to assess whether the Pledge is reaching the expected impact, and to discuss and exchange experiences, lessons learned and good practices.

The Funders Group recognises the need to ensuring accountability in the delivery of Pledge commitments and has stated its intent to report regularly on collective spend, highlighting achievements and challenges in support to indigenous peoples as well as recommendations for the future. It is expected that the Funders Group will publish a first report at COP27 in 2022¹⁾.

Indigenous peoples highlight two dimensions of the monitoring challenge: 1) the need to strengthen their own monitoring mechanisms, including their capacity to monitor the level of funding reaching their organisations and communities, and 2) the need to enhance transparency and monitoring of commitments under the overall Pledge, to enhance accountability and partnerships and enable a meaningful dialogue on the design and implementation of relevant programmes and finance instruments. It is recommended to:

- ➔ **Enhance transparency, monitoring and accountability by disclosing information about contributions to the Pledge, establishing a participatory monitoring mechanism and supporting indigenous peoples' own monitoring efforts**
- ➔ **Ensure comprehensive and long-term sustainability in monitoring, by institutionalising the tagging and tracking of funds that target or are disbursed to indigenous peoples' organisations in main development aid tracking systems, such as the OECD-DAC classification and reporting system, and the International Aid Transparency Initiative.**

1) [Funders Group Information Note, March 2022](#)

Involving representative institutions and strengthening institutional capacities

Indigenous peoples' representative institutions are the decision-making bodies of peoples with a collective right to self-determination. What distinguishes representative institutions from NGOs (regardless of whether these are established by indigenous persons or not) is that they have been given a mandate to represent certain indigenous communities or peoples - through a process carried out by these communities or peoples themselves. This also implies that an indigenous institution cannot claim representativity without being able to clearly identify the constituents it represents as well as clarifying its accountability mechanisms towards these constituents. The realization of the fundamental rights to consultation, participation and FPIC hinges upon the identification of the right representative institutions.

Such institutions exist at the local, national, regional and international levels, and the subject, scope and impact of a given proposal will determine which representative institutions it is appropriate to involve. In many indigenous societies, there is a diversity of institutions that represent different groups and sometimes representation is contested. In these cases, there is a need to take an inclusive approach, allowing for participation of various institutions.

Indigenous peoples' representative institutions are governance authorities but will not necessarily also be the implementors of a given project or process. What is important is that the relevant representative institutions are consulted, participate in decision-making and give consent to the involvement of technical/implementing organisations within their jurisdiction. Failure to identify and involve the relevant representative institutions is unfortunately quite common, and implies that a given decision or project loses legitimacy and adherence to fundamental rights of indigenous peoples. Moreover, it may undermine the expected development outcomes.

The processes of involving representative institutions need to be underpinned by sufficient resources. Although this may be seen as an added costs for donors, it is essential for ensuring relevance, legitimacy, transparency, accountability and sustainability of results.

Such processes need to be inclusive of all sectors of indigenous societies , including women, youth, persons with disabilities etc. Ensuring an inclusive approach is a requirement under international human rights instruments, but also of relevance for sustaining indigenous peoples' forest guardianship. In many societies, traditional knowledge and practices are maintained, further developed and passed on through particular groups, defined by gender, age or special abilities. Ensuring participation of women and inter-generational dialogue, for example, is essential for sustainable management of forests and biodiversity.

Indigenous peoples' representative institutions have been undermined through historical processes and are often challenged when having to assume complex governance responsibilities in the face of multiple threats, without adequate financial, technical and legal support. Many indigenous institutions and support organisations struggle to strengthen their expertise and institutional capacities, while ensuring two-ways accountability towards donors and their own constituents. Some do not have legal registration by governments, which limits their possibility to receive external funding.

Raising external funding, managing funds and reporting in accordance with complex donor requirements is a specialized discipline that pose major challenges for most indigenous organisations. Streamlining of operational requirements and clarification of related capacity needs from the donor side, would make it easier for indigenous institutions to work towards compliance.

Trust between donors and indigenous institutions is a key issue. Indigenous peoples are determined to strengthen their institutional capacities and the credibility of their organizations through transparency and accountability to avoid that lack of capacity is used as an excuse to not channel funds directly. A related issue is the capacity of donors to work with indigenous peoples. Some donors have limited understanding of indigenous peoples' realities on the ground, and limited knowledge of international law, as it pertains to indigenous peoples. It is recommended to:

- ➔ **Request indigenous peoples to identify the relevant representative institutions in each context and make sure these are involved in inclusive decision-making processes, underpinned by sufficient resources.**
- ➔ **Mainstream the consideration for the diversity within indigenous societies in consultative and decision-making processes, and adopt special measures, as needed, to ensure meaningful participation of all groups.**
- ➔ **Provide institutional support and capacity-building of indigenous institutions and networks, including support to those that want to pursue legal registration, as a core component of any support to indigenous peoples' tenure rights and forest guardianship.**
- ➔ **Clarify minimum requirements for direct access to funds, support the strengthening of capacities to meet these requirements and follow-up with close dialogue and specific plans to address capacity gaps, including mutual capacity-building of donors and indigenous leaders to enhance capacities for collaboration.**

Maximising donor impact and effectiveness

The donor group to the Pledge comprises 5 bilateral (public) donors and 17 philanthropic (private) funders. The mix provides an unprecedented opportunity for building on the comparative advantages and pursuing synergies between the different institutions. In general, philanthropic funders are considered more flexible and less bureaucratic in their requirements and, to some extent, give grants directly to indigenous organisations. Philanthropic funders can play a key role in channelling funds to indigenous peoples in countries with weak recognition of indigenous peoples' rights, restricted space for civil society and weak institutional capacities of indigenous peoples. Bilateral donors can scale up direct funding directly, but also combine financial and political support to indigenous peoples across their portfolios, through

bilateral and international policy dialogue, support to legal and policy reforms, strengthening government institutions, and earmarked support to indigenous peoples within multilateral agencies. In parallel, donors must refrain from certain initiatives that could undermine indigenous peoples' rights

By building on the comparative advantages of each institution and having a comprehensive and coherent approach to supporting indigenous peoples' rights, the donor group can maximise the positive impact beyond the money it contributes. Key elements include:

- ➔ **Building on the comparative advantages and complementarity between public and private funders as a strategic and innovative feature of the Pledge**
- ➔ **Adopting comprehensive institutional strategies for support to indigenous peoples, using both financial and political instruments, based on international commitments relating to human rights, environmental protection, climate change and biodiversity**
- ➔ **Mainstreaming the support for indigenous peoples' rights in policies, strategies and programmes, including application at the national and local levels.**
- ➔ **Applying a safeguard approach, to screen policies, strategies and programmes for negative impact on indigenous peoples' rights**

Harmonisation and operational requirements

Complex, bureaucratic and inflexible requirements of certain donors and intermediaries are seen by many indigenous organisations as the biggest obstacle for accessing funds. Many indigenous organisations spend significant time and resources trying to raise funds but cannot compete with non-indigenous organisations. Constantly changing application and reporting formats, as well as the lack of harmonization of requirements among donors add to the challenge. Earmarked donor allocations and specific funding mechanisms for indigenous peoples can help facilitate access. Likewise, unified minimum requirements of donors/intermediaries and harmonisation of support to individual organisations, e.g. acceptance of joint reporting, can help alleviate the administrative burden. It is recommended to:

- ➔ **Increase flexibility and simplification of operational requirements as a critical step to enhance indigenous peoples' access to funds and provide core funding for indigenous peoples' organisations.**
- ➔ **Map the main flow of funds from donors through intermediaries to indigenous peoples' organisations to identify the strategic gateways where harmonization of operational requirements would make a significant impact**
- ➔ **Develop model requirements and guidelines in collaboration with indigenous peoples that could voluntarily be adopted by intermediaries, including as a vantage point and competition parameter.**

Modalities for channelling funds

Estimates of funding flows to indigenous peoples from 2011-20²⁾ conclude that relatively few donors prioritize indigenous peoples' tenure and forest management and that the disbursements to indigenous peoples own organisations may be as low as 0.13% of international climate aid. Data provided by 75 major indigenous organisations, networks and funding mechanisms in Africa, Asia and Latin America indicates that only 6 of these have a budget above 1 million USD/year, and only five have received a grant by a donor that is bigger than 1 million USD/year.

Relatively few funds are channelled directly from donors to indigenous peoples, while the bigger share goes through intermediaries and, in particular, multilateral institutions, such as the World Bank³⁾. Data from indigenous peoples confirms the reliance on intermediaries and, in particular, international NGOs. Donors to the Pledge have made it clear that:

- The Pledge is not a new fund or pooled donor funding, meaning that individual donors will decide how they allocate and spend their contributions to the Pledge.
- Support under the Pledge will include 1) direct funding for indigenous people and local communities, and 2) programmes or financial instruments where a substantial share of funding is either transferred to indigenous peoples and local communities and/or to support organisations that build the capacity of indigenous people and local communities
- Delivering on the donor pledge commitments will take time, as it is not easy to shift donor funding modalities quickly⁴⁾.

2) See: Rainforest Foundation Norway, April 2021: *Falling short - Donor funding for Indigenous Peoples and local communities to secure tenure rights and manage forests in tropical countries (2011–2020)*

3) Ibid

4) Funders Group Information Note, March 2022

The request is that donors operate with due diligence and establish mechanisms for direct consultation and participation, to enable indigenous peoples to influence decisions regarding the choice of funding modalities. Following a human rights due diligence approach, the role and responsibilities of donors will vary according to the funding modality:

Funding modality	Donor human rights due diligence
Bilateral collaboration	Ascertain that recipient governments respect and realise indigenous peoples' rights in legislative and policy processes as well as programmes and projects funded by donors.
Support to indigenous peoples through intermediaries	Ascertain that intermediaries have policies and safeguards in place to uphold indigenous peoples' rights to consultation, participation and consent in planning, design, implementation, monitoring and evaluation of the intervention, as well as grievance mechanisms to address alleged cases of violation of these rights.
Direct support to indigenous peoples	Ensure consultation with the representative institutions of the concerned indigenous peoples to ascertain that support is in line with their self-determined priorities; facilitate inclusive participation in decision-making and reach agreement on the modality and implementation of support. Ensure continuous dialogue and participation in decision-making as well as access to grievance mechanism to address alleged cases of violation of these rights.

It is recommended to:

- ➔ **Replace the current pattern of multiple small grants of short duration, and significantly scale up long-term predictable funding directly to indigenous peoples' institutions, organisations and networks.**
- ➔ **Undertake a comprehensive review and assessment, in collaboration with indigenous peoples, of the comparative strengths and weaknesses of the different funding modalities, and operate with human rights due diligence when making strategic choices about allocations**
- ➔ **Consider the range of existing funding mechanisms available, including those that underpin the purpose of the Pledge by supporting advocacy and self-determined development of indigenous peoples in a broader sense.**

The role of intermediaries

Many indigenous leaders express concerns about the central role of intermediaries in donor strategies, as dialogue and decision-making often exclude indigenous peoples' representative institutions, and they experience a lack of transparency with regards to the selection criteria and the transaction costs implied. Benchmarking the desirable attributes of a good intermediary and identifying mechanisms for measuring those attributes would make it easier for donors and indigenous peoples to make the right choices in a transparent manner. Based on the UNDRIP, some of the key questions that could be used by donors and indigenous peoples to assess intermediaries include:

KEY QUESTIONS TO INTERMEDIARIES

Does the intermediary have a policy on support to indigenous peoples, aligned with UNDRIP? Are indigenous peoples recognised as a specific target group in eligibility criteria and operational requirements?

Is the intermediary positioned as the most direct bridge between donor and indigenous peoples, or will funds flow through a chain of intermediaries? Can the intermediary quantify the proportion of funding it will pass on to indigenous peoples?

Is the support based on the identified needs, priorities and strategies of indigenous peoples and aligned with their aspirations for self-determined development? Can the intermediary specify its added value in terms of capacity, knowledge and skills that it will pass on to indigenous peoples?

Has the intermediary established mechanisms for consultation with the representative institutions of indigenous peoples, including special measures (if necessary) to ensure consultations with women, youth, persons with disabilities and other potentially marginalized groups?

Do indigenous peoples' representative institutions participate in decision-making regarding the design, application, approval, implementation, monitoring and evaluation of support?

Does the intermediary ensure that the impacted indigenous peoples/communities give their FPIC to the proposed interventions? Is there any written or other form of agreement with indigenous peoples in language they understand?

Has the intermediary established mechanisms for resolution of conflicts and disputes, including with the involvement of indigenous peoples' customary law institutions?

Has the intermediary agreed with the indigenous peoples/communities on a plan for capacity-building, including benchmarks and gradual transfer of responsibilities and funds?


Is the timeframe and predictability of funds aligned with the needs and plans for self-determined development of the indigenous peoples/communities?

Are requirements for monitoring and reporting manageable for the involved indigenous organisations?

Does monitoring and reporting include participatory mechanisms and provide accountability towards representative institutions and communities?

Are requirements for co-funding, budget & financial management and audit manageable for indigenous organisations? Is there an agreed plan for strengthening the capacities of the involved indigenous organisations with regards to budget & financial management and audit?

It is recommended to:

 **Define assessment criteria and benchmarks to assess the relevance, efficiency and cost-effectiveness of intermediaries, in collaboration with indigenous peoples**

Indigenous-led funding mechanisms

There are positive examples of direct funding from donors to indigenous peoples' organisations and networks with capacity to manage or further transfer funds to communities. Likewise, several indigenous-led funding mechanisms already exist that pool funds from various donors and regrant to indigenous organisations and communities at a level manageable for them.

Moreover, indigenous peoples in various countries and regions are currently in the process of establishing supplementary funding mechanisms that can handle large-scale funds. These mechanisms will be established and operate in accordance with regional and national characteristics and applicable legislation, but there is a high degree of consensus among indigenous peoples about the key characteristics of such mechanisms:

Indigenous-led mechanisms must respond to indigenous peoples' needs and priorities, enhance accountability to communities, and reduce transaction costs. The long-term vision is to establish indigenous-led funding mechanisms at various levels that can subsequently be interlinked, to establish an ecosystem of mechanisms that can cascade funding from the global to the regional, national and local levels, eventually reaching all indigenous peoples in all regions. Disbursements through the mechanisms will be progressively linked to capacity development. The mechanisms must be articulated with the representative organizations of indigenous peoples as decision-making authorities at the global, national, regional and local levels, and have technical secretariats with dedicated financial teams to ease access, monitoring and evaluation.

- ➔ **Support the establishment, consolidation and expansion of indigenous-led funding mechanisms at different levels,**
- ➔ **Support the documentation and exchange of experiences, to analyse challenges, good practices and lessons learned related to indigenous-led funding mechanisms**
- ➔ **Scale up funding for these mechanisms, with funds that are sufficiently large and long-term to match the magnitude of the needs on the ground.**

This summary builds on a longer technical report that is based on data, input and recommendations from more than 200 indigenous organisations who participated in outreach events and workshops in June- August 2022. Access the full report and find the more detailed reports from individual events and workshops here: www.charapa.dk



<https://charapa.dk>