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LESSONS LEARNED

Free, Prior and Informed Consent: Applying the principle to on-the-ground action

Learnings from the Indigenous Peoples' Livelihoods and Climate Resilience Programme



Investing in rural people

KEY MESSAGES:

- IPCC Synthesis Report: Climate Change 2023 states that drawing on diverse knowledges and cultural values, meaningful participation and inclusive engagement processes — including Indigenous Knowledge, local knowledge, and scientific knowledge — facilitates climate resilient development, builds capacity and allows locally appropriate and socially acceptable solutions.
- At IFAD we are actively engaging with Indigenous Peoples seeking ways to increase participation, expand the space for Indigenous Peoples' knowledge and perspectives and more effectively affirm the right to free, prior and informed consent. We are learning to better practice co-design as a way to identify the challenges Indigenous Peoples face and identifying solutions responsive to their aspirations, governance systems, ancestral knowledge and practices.
- Local Indigenous experts can play a key role. They bring a deeper understanding of the context, Indigenous Peoples' knowledge and perspectives and ensure attention to elements that sometimes are not immediately evident. They can help navigate the local context, facilitate greater levels of dialogue and participation resulting in more relevant inputs and better designed interventions.

What is free, prior and informed consent?

As a principle, free, prior and informed consent (FPIC) refers to an internationally recognized right of Indigenous Peoples. Fundamentally it is the exercise of the right to self-determination^[1] and it references the right of Indigenous Peoples to determine who they are and who they will become. FPIC is not about Indigenous Peoples simply saying yes or no to a proposed action and it is not a mere safeguard to protect them from any adverse impacts (direct or indirect) of plans, policies and projects. In fact, while it seeks to safeguard, more broadly, FPIC as the exercise of the right to self-determination is about working along with Indigenous Peoples in identifying, co-designing, and pursuing development pathways that respond to their priorities and aspirations.

Article 23 of the United Nations Declaration on the Rights of Indigenous Peoples states that "Indigenous Peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous Peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions."



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IFAD AND FREE, PRIOR, AND INFORMED CONSENT

IFAD was the first international financial institution to adopt FPIC as an operational principle in its policy documents. Its Social Environmental and Climate Assessment Procedures (SECAP) specifies that IFAD-funded projects must “Conduct meaningful consultations leading to FPIC with a continual process throughout all phases of the project cycle”[1] and provides a set of guidelines and subprinciples for doing so. Likewise, the IFAD Policy on Engagement with Indigenous Peoples establishes FPIC as one of the principles of engagement. The Fund is also very committed to learning and finding ways to most effectively seek FPIC. It has established an Indigenous People’s Forum that serves as a platform for dialogue with Indigenous representatives on their concerns and priorities, to review and inform IFAD’s policies and plans, and to develop strong partnerships. IFAD has also produced and published a “How to do note: Seeking, free, prior and informed consent in IFAD investment projects”[2] and organized forums to share its learning and discuss best practices.

In adopting FPIC as an operational principle, IFAD recognizes certain conditions that must be met : (i) the concerned Indigenous Peoples must be informed of a proposed action in a timely basis in order for them to deliberate on and consider the proposed action; (ii) they must be informed in a way that enables them to fully understand the action and its implications to and seek advice when necessary; (iii) they must have the opportunity to make their decision about the proposed action free of any coercion, intimidation or bribery; and (iv) the process must be well planned and documented with the concerned Indigenous Peoples.

[1] “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” (Article 1. International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights; Article 3. United Nations Declaration on the Rights of Indigenous Peoples)

[2] https://www.ifad.org/documents/38714170/43977762/FPIC_HTDN_Final+EN.pdf/d6d4123e-6b9e-5c08-6b40-89f512ef0b8d?t=1634568016406



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IFAD's SECAP guidelines: key requirements

- Engagement with Indigenous Peoples to be undertaken in good faith, in a culturally appropriate manner and with full regard to their institutions, governance systems, customs and methods of decision making;
- Preparation of an Indigenous Peoples Plan (IPP)[3] for projects in areas home to Indigenous Peoples;
- Ensuring that Indigenous Peoples have an equitable share of benefits derived from any commercial development of their lands, territories or resources, or from the valuation of their cultural heritage; and that provisions are made in project design and implementation to support the legal recognition of customary and traditional land tenure and management systems, and the collective rights of project-affected Indigenous Peoples;
- Avoiding involuntary resettlement of Indigenous Peoples from their lands or territories – no IFAD supported project should result in involuntary resettlement nor should a project result in adverse impacts on Indigenous peoples living in voluntary isolation;
- Establishing a culturally appropriate grievance mechanism for each IFAD-supported project and ensure that it is easily accessible to affected Indigenous Peoples in local languages.

Indigenous Peoples' Livelihoods and Climate Resilience Programme

As part of its commitment to FPIC and Indigenous Peoples' participation in climate action, IFAD is actively engaged with the Indigenous Peoples' Livelihoods and Climate Resilience Programme. Through funds from the Swedish International Development Cooperation Agency and co-financing from the Global Environment Facility (GEF), Green Climate Fund (GCF), Adaptation for Smallholder Agriculture Programme and IFAD-funded projects with strong focus on climate and Indigenous Peoples, has been supporting projects to increase Indigenous Peoples participation. Specifically, the initiative hired Indigenous Peoples' experts[4] to support project design, facilitate the FPIC process and develop IPPSs and/or Indigenous Peoples Planning Frameworks (IPPF) to comply with the following requirements: GCF Operational Guidelines: Indigenous Peoples Policy; GEF Principles and Guidelines for Engagement with Indigenous Peoples, and IFAD's SECAP and Policy of engagement with Indigenous Peoples.

[3] The IPP is a plan that provides an overview of the project, reports on the consultation process, identifies risks and mitigating measures and lays out the parameters and plans for implementing and monitoring the project. It includes: (i) a sociocultural and land tenure assessment; (ii) the specific characteristics of each Indigenous People; (iii) strategy for working with Indigenous Peoples; and (iv) documentation of the FPIC process. When screening indicates that Indigenous peoples are likely to be present in project areas, but specific project activities or locations have not been fully defined, the borrower/ recipient/partner will need to prepare an Indigenous Peoples planning framework.

[4] The consultants are selected according to the following criteria: knowledge of the cultural context; language skills; ethnicity; gender; experience in consultation and participatory processes; technical knowledge of the proposed project; and knowledge of IFAD-GEF-GCF policies and FPIC requirements. The majority of consultants engaged were Indigenous themselves.

In its first call for interest, the initiative supported the following six projects:

Rural Resilient Belize (Be- Resilient), Belize. The project was designed to introduce climate-resilient agricultural practices that enable smallholder farmers and Indigenous Peoples to have a sustainable production process and improved market access for their produce, even under the stress of climate change and extreme climatic events, thereby increasing their economic, social, and environmental resilience. The Indigenous project consultant provided training to the project management unit, facilitated FPIC processes in three communities and developed corresponding FPIC agreements and IPPs.

Reducing climate vulnerability and emissions through sustainable livelihoods (BALSAS), Mexico. The project is to be financed through IFAD and GCF funding. Its project aim will be to increase the climate resilience of the most vulnerable communities and ecosystems and reduce emissions from production systems in the Basin. This will be achieved by: (i) operationalizing the use of climate change criteria in current institutional modalities for rural development support in the Balsas Basin using a community-centric bottom-up approach; (ii) investing in the climate-sensitive management of ecosystems, and climate-resilient productive systems and value chains for adaptation and mitigation benefits; and (iii) developing a climate information and risk management system, and the systematic management of knowledge and lessons learned. During project design, two Indigenous consultants worked together to facilitate consultations in the design phase, develop an IPP and provide input to the project concept note and funding proposal.



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Participatory Agriculture and Climate Transformation Programme (PACT), Ethiopia. The programme's goal is to "contribute to poverty reduction and improved resilience in selected landscapes/woredas". It aims to enable 150,000 rural households in selected kebeles to sustainably improve their incomes and food and nutrition security, and to build resilience to climate shocks. The primary target group will include pastoralists and agro-pastoralists engaged in less diversified traditional livelihood systems. Two Indigenous consultants joined the design mission and held consultations, supported the development of an FPIC plan and had their visions incorporated into the project design.

Reduced Emissions through Climate-smart Agroforestry (RECAF), Viet Nam. The project is located at the nexus of forestry and agriculture and seeks to address the major drivers of land use change in selected provinces. The project directly targets women, Indigenous Peoples and youth who are seeking decent income opportunities in forestry and agriculture sectors. It will support the development (and certification) of deforestation-free supply chains for major agricultural commodities (e.g. coffee, rubber). The consultant participated in the design mission and developed a brief report focusing on the concerns of ethnic minority communities, and in the broader SECAP safeguards focusing on approaches for enhancing inclusion of ethnic minorities and addressing their concerns throughout the project.

African Rural Climate Adaptation Finance Mechanism (ARCAFIM), multi-country. ARCAFIM is part of IFAD's Private Sector Financing Mechanism launched in 2020. It is an innovative and large-scale climate finance mechanism to be rolled out in eight Eastern and Southern Africa (Angola, Kenya, Lesotho, Malawi, Rwanda, Tanzania, Uganda and Zambia). It aims to mobilize USD 270 million in climate change adaptation investments to support rural producers and rural micro, small and medium enterprises involved in the food systems, including hunter-gatherers and pastoralists and agro-pastoral communities who self-identify as Indigenous Peoples. In this project, an Indigenous consultant developed a thematic paper on the barriers that Indigenous Peoples face in accessing capital and measures to facilitate their inclusion in the project.

Eldoret-Iten Water Fund for Tropical Water Tower Conservation (Eldoret), Kenya. The project, co-financed by the GEF, involves: the establishment of public-private partnership platforms and enabling policies for sustainable management of the targeted water towers (catchments); restoration of degraded catchment and wetland ecosystems and improved production practices and food value chains in the water fund areas; and capacity development and knowledge management in a shift toward integrated natural resource management in important water towers. In this project, an Indigenous consultant supported the FPIC process and developed an IPP.

Lessons learned from the programme

The concept and practice of co-design. IFAD is committed to the concept of co-designing with Indigenous Peoples throughout the lifecycle of a project: design, implementation, and evaluation. The tendency is to think about FPIC as something that happens at implementation once the overall project has been designed. However, the framing of the context, issues, assumptions, and overall project strategy which set the scope and parameters of implementation are established much earlier. Therefore, FPIC only at the implementation stage can limit the extent to which Indigenous Peoples can shape the nature of the project. At the design stage, it is not consent that is being sought, but rather the input of Indigenous perspectives about the nature of the problem, the context, existing solutions in place at community level, strategies, risks, and opportunities.

Consultations with representatives of targeted communities at this phase can generate important insights and add valuable perspectives to interventions.

Involvement of Indigenous experts. The involvement of Indigenous Peoples' experts is an important innovation that brings value to the process. Indigenous experts bring an Indigenous perspective of the issues being addressed and put

on the table the challenges, aspirations, and actions of Indigenous Peoples, as well as an Indigenous perspective to planning.

Local Indigenous experts bring local knowledge and allow for a deeper understanding of the Indigenous context and attention to elements that sometimes are not immediately evident. They can help navigate the Indigenous context, facilitating greater levels of dialogue, provision of relevant inputs, and participation of local Indigenous communities.

At the project design stage, they can make unique and valuable contributions and increase the possibility of its success and impact. In the pilot phase of the programme, the development of the IPPs and facilitation of Indigenous Peoples' consultations led by Indigenous experts generated important contributions for project design.

Integrating Indigenous experts in project development and missions enables them to see themselves and be seen as an integral part of the project development team. For this to happen, it is important to help Indigenous experts understand IFAD's project cycle processes, roles and practices as well as provide them with timely information, keeping them in the loop and seeking their input. The rest of the design team and government counterparts need to understand the role of the Indigenous experts as well.

It is also important that Indigenous experts are given sufficient time to discuss their terms of reference with the team, agree on their role, and adequately plan for their presence. The terms of reference must clearly reflect their role in project planning and design, in facilitation of consultation processes and integration of inputs.



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Finally, the involvement of Indigenous experts offers them the opportunity to build their capacities and understanding of the work of IFAD including IFAD's project design processes, and the operationalization of its Policy on Engagement with Indigenous Peoples. On the one hand, this allows Indigenous experts to develop capacities that can be used in other planning contexts in the service of Indigenous Peoples. On the other, they can contribute to improving IFAD policies and practices.

Working with government partners. It is crucial to develop robust collaborative relationships with national counterparts early in the process, factoring in the national capacities and experiences around FPIC, as well as any existing regulatory frameworks. Where there are no national policies, IFAD can contribute to such policy development through its country programmes. Where policies and experiences exist, IFAD can contribute to their further development through its project experiences on the ground. The upholding of Indigenous Peoples' rights and Indigenous planning is often mediated by local implementation teams that may not have the disposition, knowledge, or experience. Building their capacities and providing support is often an essential step.

Working with communities. Although FPIC exists as an international standard, local communities are not always aware of their right to it. Given a history being neglected and bypassed, and their experience of "clientelism", communities can feel that the FPIC process is an obstacle to prompt project implementation. When this is combined with a lack of disposition, knowledge or experience of FPIC among implementers this can undermine the FPIC process. This highlights the importance of capacity building and support for communities around the FPIC process.

It is important to keep in mind that communities are not uniform, static, or free of conflict. There are both intracommunity and inter-community differences, and attention to these differences is necessary. While there can be conflicts at both intra and inter-community levels, such conflicts should not be used to disqualify communities from participation; space and support for resolving conflicts where possible should be promoted. In this regard, conflict management capacities among project designers and implementers needs to be considered.

Risk analysis. When projects include Indigenous Peoples among their primary beneficiaries, there are risks relating to the potential impacts on social relations and the institutions that sustain community life – governance systems, collective land tenure, and community values such as reciprocity, solidarity, spirituality among others. Some examples of risks include:

- Creating or exacerbating internal community conflict over who is eligible to participate in projects.
- Increasing existing internal conflicts over the use of communal resources and distribution of benefits. Where resources are held in common, individuals have right of use with an emphasis on subsistence use, rather than commodity production. Cultural norms and practices generally regulate the quantities of resources used/extracted and ensure sustainable and fair use. As communities are drawn into commodity production, a need for new norms and practices emerges that will serve the aspirations of the community.



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- Undermining of communal law and Indigenous Peoples' governance authority. Project interventions may result in some sectors of the community achieving increased power and wealth. Indigenous communities are caught in a situation where the ways they have traditionally related to the land and each other are in tension with those required by mainstream development and the general political economy. Projects can increase tension and conflict around these issues, or they can provide an opportunity for communities to deliberate and determine their way forward. It is critical to pay attention to the collective aspirations of the community and provide a space and support for communities to articulate projects that respond to their aspirations.

Adequate consideration of timeframes and budgets. The FPIC process requires time and resources that facilitates communities full understanding of what projects involve, deliberate, discuss, seek advice and make their decisions.

Communities have their own calendars that may not correspond with the project calendar. Community meetings, consultations, and guidance often involve costs to the community that need to be supported. Facilitators and translators may be needed, which also incur costs, as does the implementation of IPP activities. Project planning needs to carefully consider these factors.

IFAD was the first international financial institution to adopt FPIC as an operating principle and remains committed to learning, continually improving practice, and sharing its experiences. The Indigenous Peoples' Livelihoods and Climate Resilience Programme is proving to be an important initiative to achieve this commitment.



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