

# About Indigenous Peoples and their right to Free, Prior, and Informed Consent (FPIC)

PHOTO: HARAKMBUT IN THE STRUGGLE FOR THE  
RECOGNITION OF THEIR COLLECTIVE TRADITIONAL  
TERRITORY, CLAUS KJÆRBY



# Definitions

## Indigenous and Tribal Peoples

Despite the thorough attention given to collective human rights by the United Nations, civil society organizations, bilateral and multilateral development agencies, and international financing institutions, as well as by the peoples themselves, there is no single universal definition of Indigenous and Tribal Peoples. However, there is a universal understanding of the most typical and dominant characteristics:

- Collective Self-identification (and collective self-control)
- Irrespective of their legal status they retain their own social, economic, political and cultural institutions.
- They preserve, develop and transmit to future generations their traditional territories and ethnic identity.
- Their territorial-political boundaries are independent and often different to public administrative borders.
- They practice collective ownership to land and resources, sometimes with segregated and inherited use rights.
- They are distinct and non-dominant sectors of society.

Most important is the right to self-identification combined with each people's own capacity to accept and exclude individuals from their collective. Indigenous Peoples are sometimes distinguished from Tribal Peoples as being descendants from populations who have inhabited the country or geographical region at the time of conquest or colonization.

At CISU, however, we make no distinction, as we promote free, prior and informed consultation processes leading to consent (FPIC), in any case, and henceforth we refer in the following to both as Indigenous Peoples.

Indigenous Peoples can call themselves whatever they prefer, often a word meaning simply "people" in their own language. This is usually unrelated to how they are labelled in national legal terms\*.

*\*Examples: Indigenous/Original/Aboriginal/Autochthonous/ Native/First/Ethnic/Hill/Scheduled/Cultural/Isolated/Alien/ Minority/Hunter-gatherer – Peoples/Nations/Nationalities/ Groups/Communities/Tribes/Minorities or "Indians".*

## Free, Prior, and Informed Consent (FPIC)

According to UN declarations, conventions, and guidelines, Free, Prior, and Informed Consent (FPIC) is a collective human right belonging to Indigenous Peoples. FPIC is a consultation process that needs to be carried out to obtain consent when any legal or development process, project or programme could potentially affect their community, territory, or people. As the concept indicates, the consultation process must be:

### Free

Conducted without any kind of pressure, intimidation or manipulation. With the possibility of enjoying legal and technical advisory assistance or experiences from other peoples. The process should take place at a location of their choosing and with respect to their traditional decision-making structures.

### Prior

The criterion of consent starts before (prior to) any significant strategic decision is made, including before applying for financing and continues throughout the entire process/ project/programme cycle (implementation, monitoring and evaluations), as preferred.

### Informed

All relevant information needs to be presented at the preferred level of detail using culturally appropriate means of communication, considering real purpose/scope/duration of intervention, preliminary impact assessment, language barriers, weighed use of the verbal/written communication and agreed upon methods.

Furthermore, it is important to note that an FPIC process must be conducted in good faith; otherwise, it is invalid, even if a previous expression of consent exists. Each Indigenous people also have the right to define specific FPIC procedures for different kinds of interventions within the above-mentioned principles.

Further inspirational reading: [The UNDP FPIC FAQs guidelines](#) and the [IWGIA FPIC Manual](#) (REDD+ /Southeast Asia reference).

## Who to consult?

When conducting FPIC, it is important to identify the traditional authorities that represent the collective human rights holders who often lack legal or formal state recognition, rather than any Indigenous Peoples Organisation (IPO) with state recognition. Relevant FPIC organizational structures are rooted at the community level while often acting collectively at a larger territorial level and not at the individual or family level.

Presence and identification of Indigenous peoples and their traditional territories can in many cases be done by using the following sources:

- [by region/by people \(Wikipedia\)](#)
- [by territory \(Landmark\)](#)
- [by country \(IWGIA\)](#)
- [by country \(Minority Rights Group\)](#)

Many indigenous peoples' representations exist at a higher organisational level (e.g. entire indigenous peoples, country organisations, regional and global) but these, just like thematic and professional IPOs (with which Danish CSOs typically collaborate) only hold an FPIC mandate when specifically granted by the communities. They represent, however, another source of information for identifying the indigenous territories and the appropriate authorities to deal with.

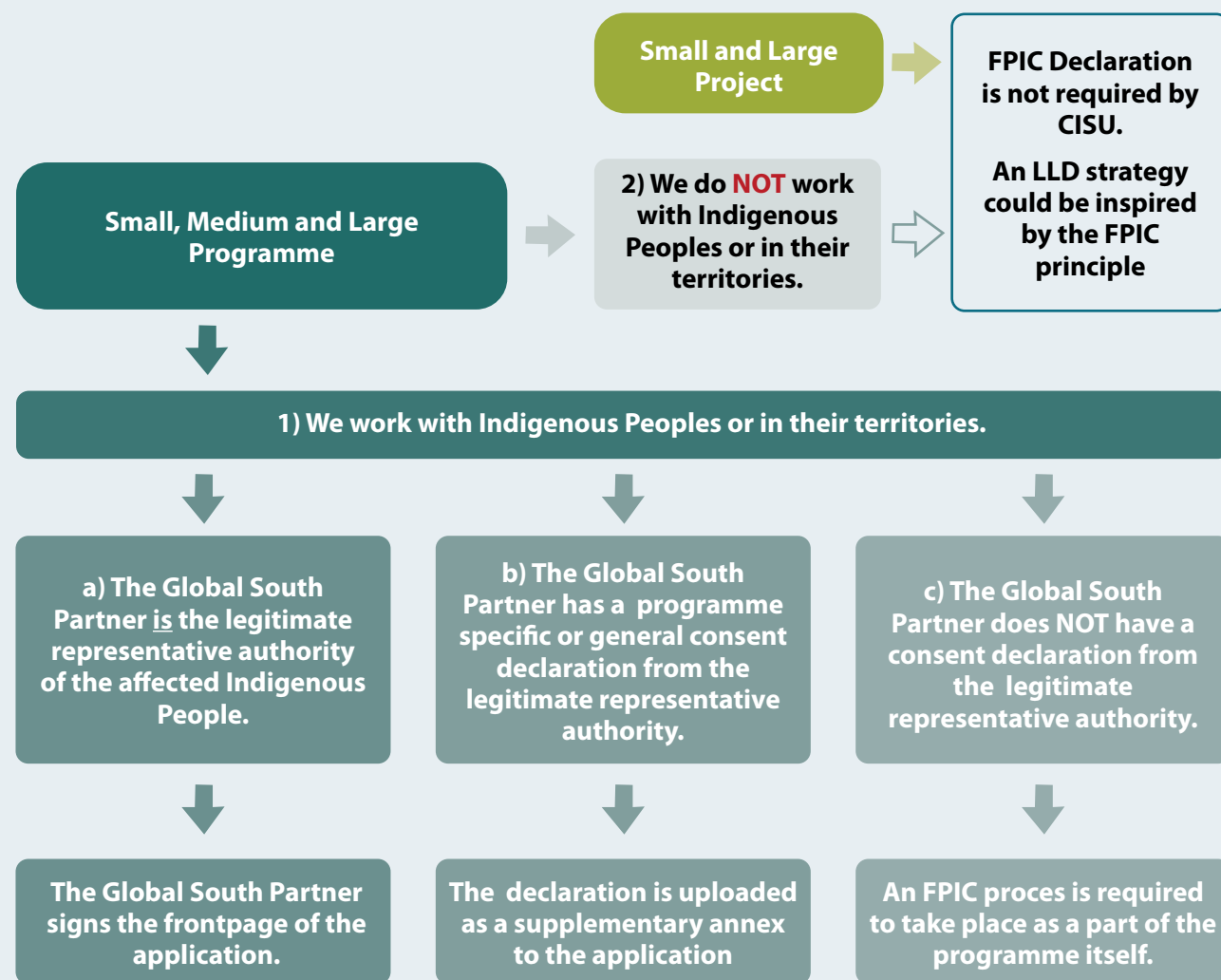
# Free, Prior, and Informed Consent (FPIC) in the Civil Society Fund (CSF)

The CSF principle on human rights implies that Free, Prior, and Informed Consent (FPIC) is required when an intervention is likely to affect populations that collectively identify themselves as Indigenous Peoples, or their communities and territories, regardless of whether they constitute the intended target group, and regardless

of the ethnic or legal character of the Global South partners. At CISU, we consider FPIC a good development practice in any case, but we particularly wish to promote and guarantee its application in an indigenous peoples' context because, in this case, it concerns a human right.

	Small & Large Projects	Small, Medium and Large Programmes
<b>When an intervention is likely to affect Indigenous communities, territories or Peoples</b>	<p>The partnership informs about it in the application when it is the case according to their own assessment and best judgement.</p> <p>The application clarifies how the Indigenous Peoples are affected and how they are involved in the project /programme cycle (design-implementation, M&amp;E) bearing the FPIC principle in mind.</p> <p>The application will be accessed accordingly based on the standard application questions and scoring criteria.</p>	
<b>Declaration of Consent</b>	Not Required by CISU	<p>Required by CISU, regardless of the Indigenous Peoples' involvement as partner organisation or target group.</p> <p>Consent declaration is presented with the application. Observe options in the following FPIC flow chart.</p> <p>However, a programme proposal can be approved without an initial FPIC declaration, in which case the programme application itself must include an FPIC process, describing a) FPIC steps already taken, b) Budgeted FPIC activities and c) the best possible description of the Indigenous Peoples' decision-making structures.</p>
<b>Related options and recommendations</b>	The main outcome of a Project can be a general FPIC procedure for specific indigenous communities, territories or peoples.	It is strongly recommended that Free, Prior, and Informed Consent (FPIC) be obtained, or at least an FPIC process be in place before introducing programme proposals, and even at the stage of expression of interest (EOI) in the case of Medium and Large Programmes. Otherwise, significant resources could be wasted designing a proposal that could later be rejected by the Indigenous Peoples.

# Flow chart: Free, Prior and Informed Consent (FPIC) with Indigenous Peoples in the Civil Society Fund



## Documentation of FPIC Consent from Indigenous Peoples (options)

- a. If the legitimate representative authority of the affected indigenous communities is either Global South administrative or implementing partner, then:

The representative organisation signs the standard application front page according to normal procedure.

- b. If the Danish-Global South programme partnership applies for a programme based on a general agreement of collaboration with the affected indigenous communities, or if the partnership has facilitated the programme design which has led to an initial consent declaration for the specific programme, then:

*The agreement or declaration of consent is uploaded in Our CISU as supplementary documentation to the application, whatever its format.*

- c. If the initial FPIC consent process will be conducted as a part of the programme itself, then:

*An assessment of the FPIC process becomes a natural subject of attention during status reporting/conversation and reviews.*

[Click here to download an example of a simplified initial Declaration of Consent](#)