

**COMMENTS, CONCERNS AND RECOMMENDATIONS:**  
**“RIGHTS-BASED PRINCIPLES FOR ETHICAL ENGAGEMENT OF CONSERVATION FUNDERS<sup>1</sup> AND INTERMEDIARIES WITH INDIGENOUS PEOPLES”<sup>2</sup>**

**Submitted by the International Indian Treaty Council (IITC)<sup>3</sup>, Center for Indigenous Peoples’ Research and Development<sup>4</sup> (CIPRED), Africa Indigenous Livelihood Enhancement Partners (ILEPA<sup>5</sup>) Conservation Initiative, Jamii Asilia Centre<sup>6</sup> and First Peoples Worldwide (FPW)<sup>7</sup>, August 4, 2024**

*“Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,” - Preamble, United Nations Declaration on the Rights of Indigenous Peoples<sup>8</sup>*

*“Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.” – Article 32, Paragraph 1, United Nations Declaration on the Rights of Indigenous Peoples<sup>9</sup>*

**I. Introduction:** Indigenous Peoples fully recognize, and are drastically impacted by, the compounding triple crisis of biodiversity loss, climate change, and continued appropriation of our traditional lands and territories, threatening our survival and ways of life. As of 2021, global investments in “natural assets” were valued at an estimated \$125 trillion annually, providing a formidable financial incentive for investors.<sup>10</sup> We therefore concur with the urgent need to develop human rights-based principles for “Conservation Funders” and intermediaries in their actions impacting Indigenous Peoples. This document intends to contribute to this important process by responding to the “Core Human Rights Principles for Conservation Actors [4 June 2024 - revised draft]” document presented by the UN Environmental Programme and others for our review.

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<sup>1</sup> Conservation Funders can include foundations, states, investors, regional and international finance institutions, UN agencies and bodies, NGOs, the private sector, philanthropists, individual donors and others.

<sup>2</sup> Our recommended alternative title uses “Conservation Funders and Intermediaries” to be specific about the intended audience. “Conservation Actors”, in our opinion, is too broad and could include Indigenous Peoples, as well as many individuals and groups engaged in all levels and types of efforts for Conservation.

<sup>3</sup> IITC, founded in 1974, is an organization of Indigenous Peoples from North, Central and South America, the Caribbean, Arctic and Pacific in General Consultative Status with the UN Economic and Social Council.

<sup>4</sup> CIPRED is an Indigenous Peoples organization based in Nepal, carrying out research on the impacts of Conservation projects with Indigenous Peoples in Nepal, India, Pakistan, Philippines, Cambodia, Thailand, Vietnam and Bangladesh.

<sup>5</sup> ILEPA works primarily with Indigenous Peoples in Kenya with strong links to African and global Indigenous networks.

<sup>6</sup> Jamii Asilia Centre is an Indigenous youth-led organization dedicated to working for the rights of Indigenous Peoples in Kenya.

<sup>7</sup> FPW has carried out research and advocacy applying Indigenous values, rights and design principles to the investment industry including in the area of Conservation investments.

<sup>8</sup> [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> <https://www.businesswire.com/news/home/20210914005283/en/NYSE-and-Intrinsic-Exchange-Group-Partner-to-Launch-a-New-Asset-Class-to-Power-a-Sustainable-Future>

Indigenous Peoples around the world continue to present the range of human rights violations they are suffering as a direct result of projects carried out in the name of Conservation, 30X30, climate mitigation, “Green Energy”, wetlands protection, wildlife preservation and the creation of World Heritage Sites. A 2022 study by the UN Special Rapporteur on the Rights of Indigenous Peoples, “Protected areas and Indigenous Peoples’ rights: the obligations of States and international organizations [A/77/238]”, documented these violations including militarization, various forms of violence and criminalization, forced relocation, destruction of homes, and restrictions on access to food and water sources and sacred places.<sup>11</sup> The report confirmed the need for effective participation of Indigenous Peoples in the design of rights-based policies including support for legal demarcation of lands and territories to protect them from encroachment and land-grabbing in the name of Conservation.<sup>12</sup>

To seek information directly from Indigenous Peoples regarding direct impacts and outcomes of “Conservation Funding” and resulting projects, and to obtain their recommendations for ethical rights-based engagement by these funders and their intermediaries, IITC circulated a questionnaire. It was distributed globally beginning on July 20<sup>th</sup>, 2024 and called for responses by July 30<sup>th</sup>. Despite this very tight time frame, **IITC received 73 responses from Indigenous Peoples, leaders and organizations from all 7 regions, representing a reported 8.3 million Indigenous persons.** We can now document with confidence that impacted Indigenous Peoples are most often not informed about the sources of funding for Conservation projects.<sup>13</sup>

The Special Rapporteur on the Rights of Indigenous Peoples’ 2023 report on “Green Financing – a Just Transition to Protect the Rights of Indigenous Peoples”, [A/HRC/54/31], also addressed the impacts of projects funded by private and public funding sources, investors and international finance institutions.<sup>14</sup> He confirmed that such financing is critical to achieving agreements under the UNFCCC and the Kunming-Montreal Global Biodiversity Framework, which in many cases result in large-scale land loss for Indigenous Peoples.<sup>15</sup> He further noted the role of so-called “intermediaries”, the often well-known large environmental and Conservation NGO’s which implement these projects on the ground.<sup>16</sup> Importantly, Chapter V of his report addressed the importance of direct financing for Indigenous Peoples’ own initiatives in this regard. Paragraph 63 states that “[t]he Special Rapporteur believes that direct funding to Indigenous Peoples is critical to ensuring a just transition to a green economy that supports Indigenous Peoples’ self-determined climate and biodiversity actions”.<sup>17</sup>

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<sup>11</sup> <https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F238&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>12</sup> Ibid.

<sup>13</sup> 76% of the questionnaire respondents reported that they either were definitely not informed of the sources of funding, or they did not know whether their People/Indigenous community had been informed.

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<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F54%2F31&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

Indigenous Peoples are increasingly calling for transparency and accountability regarding the sources and intent of funding supporting “Conservation” projects impacting them. On March 3, 2022, at the 48<sup>th</sup> Anniversary Conference of the International Indian Treaty Council in Panajachel Guatemala, delegates representing 61 distinct Indigenous Peoples from North, Central and South America, the Arctic, Pacific and Caribbean adopted by consensus a resolution on “Protected Areas”. It contained the following:

*“Finally, we insist on full and transparent disclosure of all private, public, UN and NGO funding and financial transactions involved in the establishment, implementation and maintenance of Protected and Conservation Areas including World Heritage Sites and National Parks, and that this information be made available upon the request of the impacted Indigenous Peoples without delay.”*

This call was reiterated on June 24<sup>th</sup>, 2024 at IITC’s 50<sup>th</sup> Anniversary Conference on the Standing Rock Reservation, South Dakota, USA where it was again adopted by consensus of the Indigenous delegates representing over 300 Indigenous Peoples and Nations from 6 regions.

It is therefore our position that Indigenous Peoples must be integral and direct participants at all stages of planning and implementation of Conservation and climate mitigation projects that may impact their lands, rights, or ways of life. Indigenous Peoples are rights holders, not “beneficiaries”, recipients or stakeholders. Their inherent rights to the legal recognition, demarcation and protection of the lands, territories and resources, as well as their rights to self-determination and Free Prior and Informed Consent (FPIC), are fundamental in this regard. Importantly, Indigenous Peoples do not seek the protection of their lands, territories and resources solely for their own survival. Instead, they seek these protections and the continuation of their spiritual responsibilities in this regard, along with their millennial relationships to the totality of the natural biodiversity they contain, in order “to uphold their responsibilities to future generations (Article 25)”.<sup>18</sup>

**II. The International Framework for effective Rights-based Principles for Ethical Engagement of Conservation Funders and Intermediaries with Indigenous Peoples:** The United Nations Declaration on the Rights of Indigenous Peoples (the “UN Declaration”) and the International Labor Organization’s Convention No. 169 are international standards specifically focused on the rights of Indigenous Peoples. Both affirm in various articles the right of Indigenous Peoples to determine priorities for the development of their lands, territories and resources as well as their right to FPIC regarding projects carried out on their lands. These two standards should be considered in combination as mutually reaffirming, reflecting the progressive evolution of international human rights norms.

Of particular importance as the basis for these Principles is the UN Declaration’s recognition of State’s obligations to legally demarcate and recognize Indigenous Peoples’ traditionally owned, occupied, used or otherwise acquired lands, territories and resources “with due respect to the

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<sup>18</sup> [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

customs, traditions and land tenure systems of the indigenous peoples concerned.”<sup>19</sup> For many Indigenous Peoples, this is a required prerequisite for the implementation of Conservation Projects that will truly respect their rights and self-determination. An additional key element for the implementation of just, ethical, rights-based principles is the recognition of the rights of Indigenous Peoples to determine their own priorities for development as affirmed in the UN Declaration’s Articles 3, 23, and 32, Para. 1.<sup>20</sup> These and other articles affirm a different approach from the status quo involving projects and priorities developed by outside entities and then presented to Indigenous Peoples.

Article 39 of the UN Declaration affirms that “Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration”,<sup>21</sup> including for implementation of the articles listed above, based on the inherent right to Self-Determination.

The rights to FPIC and full participation in decision-making affirmed in Articles 10, 18, 19 and 32 of the UN Declaration are other key elements to include in these Principles, as are the rights to subsistence, environmental conservation, and access to sacred sites contained in Articles 12, 20 and 29.<sup>22</sup> Together, these Articles ensure protection of essential rights for Indigenous Peoples whose lands and territories have been or will be affected by Conservation projects.

Other international standards are also directly relevant for the development of these principles. These include the International Human Rights Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, including Article 1 in Common as well as other provisions.<sup>23 24</sup> General recommendations adopted by the UN Treaty Bodies are also directly relevant. Two notable examples specifically addressing the rights of Indigenous Peoples are General Recommendation 29 of the Committee on the Elimination of Racial Discrimination (CERD)<sup>25</sup>, which addressed land rights and FPIC, and General Recommendation 39 of the Committee on the Elimination of Discrimination Against Women, which addresses in paragraph 61 (d) the rights of Indigenous women in regards to Conservation, climate mitigation and green energy projects carried out on their lands.<sup>26</sup> Additionally, Article 12 of the Guiding Principles on

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<sup>19</sup> UN Declaration Article 26, para. 3. [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>20</sup> Article 3, “Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.”; Article 23, “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.”; Article 32, Para. 1, “Indigenous peoples have the right to determine priorities and strategies for the development or use of their lands or territories and other resources.” - [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> <https://www.ohchr.org/sites/default/files/ccpr.pdf>

<sup>24</sup> <https://www.ohchr.org/sites/default/files/cescr.pdf>

<sup>25</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=6&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=6&DocTypeID=11)

<sup>26</sup> <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no39-2022-rights-indigenous>

Business and Human Rights affirmed that it is the responsibility of businesses to respect human rights based on “internationally recognized human rights”.<sup>27</sup> Article 17 of the Guiding Principles also addressed the responsibility of businesses to ensure that their activities do not harm human rights and that they also take measures to mitigate the violation of human rights.<sup>28</sup> We note that this would naturally apply to profit making corporations as well as non-profit entities, non-governmental organizations, foundations, etc.

**III. Comments and Recommendations for the Core Principles:** While we commend the efforts of UNEP and others to draft the Core Principles presented in the document titled “Core Human Rights Principles for Conservation Actors [4 June 2024 - revised draft],” we reserve our endorsement for the final text based on the resolution of the concerns we express in this document. We recognize the good intentions of the authors, and their appreciable efforts to foster respect for human rights in Conservation practice. However, in our view, the Core Principles presented in the June 4th draft document include some overly vague language and terminology that could allow unscrupulous funders and intermediaries, as well as investors, to ignore, undermine or violate the rights of Indigenous Peoples as affirmed in the UN Declaration.

In addition, and with respect for the tremendous amount of work that has been done to date, it is our view that in particular, the section currently titled “Normative and Practical Guidance in Applying the Core Human Rights Principles for Conservation Actors” is too long and in some cases, convoluted and therefore confusing, to be useful for its intended purpose and audience. These explanatory points could be shortened into bullet points and included as justifications, guidance for implementation and/or explanations under each of the principles in the core document itself to minimize length and avoid repetitions. In our view, the final document will be most useful if it does not exceed 15 pages at the most. In addition, a 2 page “Executive Summary” with a short introduction, a list of the finally decided Principles, and a link to the full document would be most helpful and useful to all parties concerned, including the Conservation funders and intermediaries.

Below we have included, in the spirit of engaging in a participatory transparent process to achieve the best possible outcome, our concerns, responses and recommendations, including in some cases, proposed revised texts. Our responses are directly based on the 10 Principles presented in the June 4<sup>th</sup>, 2024 draft document, as follows.

**Principles 1 and 2** should be combined to one principle affirming and underscoring the fact that the UN Declaration sets the minimum standard for the rights of Indigenous Peoples.

**New Proposed text for combined Principle 1 and 2: The Core Principles must be based on and adhere to, and cannot fall below, the minimum standards affirmed in the UN Declaration.**<sup>29</sup>

Importantly, the language adopted by the Kunming-Montreal Global Biodiversity Framework

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<sup>27</sup> [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf)

<sup>28</sup> Ibid.

<sup>29</sup> “The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the World.” – [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

affirms that “[i]n this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future.”<sup>30</sup> It is of utmost importance that the Core Principles not only uphold the minimum standards affirmed by the UN Declaration, but also ensure that they do not weaken or undermine the implementation and recognition of current or future human rights standards developed to protect the rights of Indigenous Peoples.

**Regarding paragraph 2.1 in the section “Normative and Practical Guidance in Applying the Core Human Rights Principles for Conservation Actors” of the June 4th document, under Principle 2 as currently drafted, our firm position is that this point be deleted. Indigenous Peoples have always opposed presenting a definition of Indigenous Peoples including during the 30 years of work to develop and adopt the UN Declaration on the Rights of Indigenous Peoples. In fact, it was (and continues to be) largely a call by the states least supportive of the rights of Indigenous Peoples to “define” Indigenous Peoples.**

**Regarding the proposal for “self-definition” as a “fundamental criterion” for who is an Indigenous person, in our view, this paragraph does not present an accurate interpretation of Article 33 of the UN Declaration, which it references. We do agree that Recognition by States is also not a determining criterion.**

During the decades of work on the UN Declaration, beginning in the UN Working Group on Indigenous Populations in 1982, Indigenous Peoples, as well as the UN experts engaged in this process, agreed to use the definition put forward by the Martinez-Cobo report as a “working definition” of Indigenous Peoples when one was needed. This working definition continues to be the reference used by Indigenous Peoples in a range of UN bodies to this day. The criteria, in addition to others, very importantly includes the objective criteria of a tie to *a pre-colonial, pre-invasion society that developed on their land base*. The entire paragraph reads as follows:

*“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system”.*<sup>31</sup>

We recall when the Boers, the Dutch colonizers of what is now South Africa, came to the UN Working Group on Indigenous Populations in 1995. After the fall of apartheid, they presented themselves as a self-identified “Indigenous People” based on the theory of “Terra Nullius”. They were absolutely challenged and asked to leave by Chairwoman Madame Erika Diaz (and all the

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<sup>30</sup> <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>

<sup>31</sup> [https://www.un.org/esa/socdev/unpfii/documents/SOWIP/en/SOWIP\\_introduction.pdf](https://www.un.org/esa/socdev/unpfii/documents/SOWIP/en/SOWIP_introduction.pdf)

Indigenous Peoples present), using the clear objective criteria presented in the Cobo-Martinez working definition. We need to be very careful regarding this point.

**Principle 3** must also be rewritten, as it perpetuates the conflation of Indigenous Peoples and “local communities” as currently written. Indigenous Peoples are distinct from non-Indigenous persons and communities and enjoy specific collective rights that “communities” do not have. These include the right to Free Prior and Informed Consent (which was cited erroneously in the Normative and Practical Guidance section under this principle). Also of direct concern in this principle as currently written, is the reference to “traditional lands, territories and resources” of non-Indigenous communities. The appearance of promoting or accepting this conflation, especially in light of ongoing government and corporate-supported encroachments on Indigenous Peoples traditional lands and territories by non-Indigenous persons and “communities”, must be avoided at all costs in this document.

**New Proposed text for Principle 3: Respect the Rights of Non-Indigenous Persons and Communities. Every Conservation Funder and intermediary should ensure that it respects the rights of non-Indigenous persons in accordance with international human rights standards.**

**Principles 4 and 5 should also be combined.** The inter-related references to “due diligence” and “good faith consultations” on their own lack a specific and precise framework and criteria for their implementation. These processes can only be understood and implemented in the context of the core minimum standard right of Free Prior and Informed Consent as contained in various articles of the UN Declaration, ILO 169 and General Recommendation 23 of the CERD. Implementation of FPIC must therefore be the Core Principle in this regard, with processes of “due diligence” and “good faith consultation” defined and in that context.

Paragraph 8 of the UN Permanent Forum’s Report on the twenty-first session (25 April-26 May, 2022; E/2022/43) affirms that “[b]usinesses, in their human rights due diligence processes, should meaningfully engage with indigenous peoples as rights holders in business decisions and outcomes affecting them. In that regard, free, prior and informed consent should be understood as their right to give or withhold consent.”<sup>32</sup>

Conversely, Paragraph 57(e) of the International Expert Group Meeting on the theme “Indigenous peoples, business, autonomy and the human rights principles of due diligence, including free, prior and informed consent (E/C.19/2022/6)” recommended that “[b]usinesses, in their human rights due diligence processes, should meaningfully engage with indigenous peoples to obtain their free, prior and informed consent in business decisions and outcomes affecting them. Indigenous peoples should be considered not only as stakeholders, but also as rights-bearers, and free, prior and informed consent should be understood as their right to give or withhold consent.”<sup>33</sup>

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<sup>32</sup> <https://undocs.org/Home/Mobile?FinalSymbol=E%2F2022%2F43&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>33</sup> [International expert group meeting on the theme Indigenous peoples, business, autonomy and the human rights principles of due diligence, including free, prior and informed consent 2022.pdf](#)

**New Proposed text for Combined Principles 4 and 5: Fully Implement and uphold the Right of Free Prior and Informed Consent for Indigenous Peoples, including in implementation of Due Diligence and Good Faith Consultation procedures.**

**Principle 6:** If this principle regarding prevention of human rights violations refers to Conservation Funders and Intermediaries, it is in our view already covered in the new combined Principles 1 and 2, taken together with Principle 3 and the new combined Principles 4 and 5 and can therefore be eliminated.

If Principle 6 instead addresses specifically the human rights violation of **others** with whom they are associated, including governments and government agencies, UN bodies including UNESCO, national and international financial institutions, investors, NGO's or others with whom they are involved, the principle could be restated as follows:

**Conservation Funders and Intermediaries should exercise any leverage they have to prevent or mitigate adverse impacts caused by others with whom they are directly linked or have influence over. If a recipient or partner fails to effectively address such abuses, the Conservation Funder should immediately terminate its support.**

**Principle 7:** This principle addressing Access to Remedy is an important Principle to include, although prevention and aversion must always be the goal, rather than remedy after damage has been done.

The implementation of Access to Remedy must adhere to the minimum standards of redress set by the UN Declaration, in accordance with Articles 27, 28 and 40. Article 27 of the UN Declaration affirms that states shall work with Indigenous Peoples to establish mechanisms that recognize and adjudicate their rights to their "lands, territories and resources".<sup>34</sup> Article 28 of the UN Declaration further affirms that Indigenous Peoples have the right to redress through restitution and when this is not possible, "fair and equitable compensation" shall be issued for the "lands, territories and resources" taken without FPIC.<sup>35</sup> Indigenous Peoples also have the right "to effective remedies for all infringements of their individual and collective rights", affirmed by Article 40 of the UN Declaration.<sup>36</sup>

General Provision 23 of CERD affirms that Indigenous Peoples have a right to redress when they "have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent".<sup>37</sup> Forms of redress include the return of the lands and territories taken and when this is not possible, the substitute should be "just, fair and prompt compensation."<sup>38</sup>

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<sup>34</sup> [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

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[https://www.eods.eu/library/UN\\_International%20Convention%20on%20the%20Elimination%20of%20Racial%20Discrimination\\_General%20recommendation%2023\\_1997\\_EN.pdf](https://www.eods.eu/library/UN_International%20Convention%20on%20the%20Elimination%20of%20Racial%20Discrimination_General%20recommendation%2023_1997_EN.pdf)

<sup>38</sup> Ibid.



**Principle 8: The Principle of oversight and reporting regarding human rights abuses is important to include.** However, Principle 8 as currently written implies that funders and intermediaries will self-report on their activities and potential harms to the lands, territories, resources, rights and ways of life of the impacted Indigenous Peoples. A safe and equitable process for independent reporting with information submitted by all parties, partners and impacted Peoples concerned must be established in order to ensure that accurate reporting takes place. Legally binding, independent oversight and decision-making must be implemented given the danger of reprisals against independent reporters. Indigenous Peoples must be included in the design and implementation of this reporting process.

**Principle 9:** This Principle regarding Conservation Funders duty to ensure protection against Human Rights violations and abuses in their own Partnerships, including with governments, intermediaries and other funders, is also important. The current text proposed for Principle 9 is acceptable in its the original form, only changing “Conservation “Actors” to “Funders”.

Based on this Principle, Conservation Funders will vet potential intermediaries and other proposed project partners to verify that legal, human rights and investment criteria are in place to ensure that the provisions of UN Declaration, including FPIC, are integrated throughout the entire financial delivery system.

**Principle 10:** This Principle protecting against Human Rights Violations by Law Enforcement in the implementation of Conservation activities and climate mitigation projects is a key Principle that must be included. It should however include specific references to private and public militia and military forces, “eco-guards” and militarization of Indigenous Peoples lands and territories in relation to Conservation activities.

We note a study carried out in 2023 by the Expert Mechanism on the Rights of Indigenous Peoples on “Impact of militarization on the rights of Indigenous Peoples” [A/HRC/EMRIP/2023/2] identified “Conservation projects” associated with the CBD’s 30x30 Initiative as primary drivers of increased militarization in Indigenous Peoples lands and territories in several counties.<sup>39</sup>

In addition, no law enforcement activities of any kind, including under the justification of “poaching prevention”, should be permitted which interferes in Indigenous Peoples’ traditional subsistence or food production/gathering activities (fishing, farming, gathering, water and wood collecting, herding, pastoralism, etc.) (per Article 20, Para. 1 of the UN Declaration), or their access in private to their sacred sites and ceremonial Areas (Article 12, Para. 1).<sup>40</sup>

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<sup>40</sup> Article 20, Para. 1, “Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.”; Article 12, Para. 1 “Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in

We reiterate that if Indigenous Peoples' rights to the legal demarcation of their lands and territories is fully implemented by States in accordance with Article 26 paragraph 1 of the UN Declaration, rights violations carried out by law enforcement, military and paramilitary and eco-guards will be prohibited and prevented.<sup>41</sup>

**We therefore recommend the following new text for Principle 10: Prohibit human rights violations by law enforcement, private and public militia and armed forces, and non-state actors related to Conservation activities carried out in the lands and territories of Indigenous Peoples.**

**IV. Conclusion: The following are a summary of the key Rights-based Principles and Commitments for Conservation Funders and Intermediaries:**

- 1) Prioritize support for the demarcation and legal recognition of Indigenous Peoples' lands as a prerequisite for proposing projects that may impact Indigenous Peoples' lands, territories, resources, and ways of life.
- 2) Prioritize direct funding to Indigenous Peoples for the development, implementation and self-management of their own Conservation and climate mitigation initiatives, based on their time-tested practices, knowledge, cultures, sciences and relationships with Nature in their territories.
- 3) Ensure that FPIC is fully upheld and practiced in the planning, implementing, and monitoring of projects presented by funders, UN bodies (such as UNESCO), States, and intermediaries in accordance with the decision-making processes of the Indigenous Peoples concerned.
- 4) Agree that FPIC includes full disclosure and transparency regarding sources of funding, including any previous human rights complaints involving the funders involved. In the case of investors, this includes the expected amount and source of return on their investment.
- 5) The FPIC process will also include full disclosure about the intended role of intermediaries, their human rights records, the source and amount of funding they are expecting to receive from the current project, and why direct funding to the Indigenous Peoples concerned is not an option.
- 6) Design and implement an effective grievance procedure for Conservation, Green Energy, Climate Mitigation and related projects that includes an early warning procedure that can be activated in the planning stage before the project is implemented.
- 7) Ensure that no funding from any source will be provided to projects that may result in relocation, land loss, militarization of homelands, lack of full access to food and water sources, sacred sites and ceremonial areas, destruction of homesites or other human rights violations from the perspective of the Indigenous Peoples concerned.

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privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains." [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>41</sup> Article 31, Para 1, "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions." Ibid.