

# INDIGENOUS RIGHTS AND FINANCIAL INSTITUTIONS:

Free, Prior and Informed Consent,  
Just Transition and Emerging Practice

***Shift***

FINANCIAL INSTITUTIONS  
PRACTITIONERS CIRCLE

JULY 2023



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*In December 2022, Shift held a peer-learning session of its **Financial Institutions Practitioners Circle** (FIs Circle) on the topic of Indigenous Peoples rights. The circle benefited from two expert contributors, **Lloyd Lipsett** and **Mark Podlasly**, who shared their insights from decades of experience working with Indigenous Peoples interfacing with development on their lands. Shift and our experts fielded some of the burning questions financial institutions are grappling with as they finance clients with projects or value chains connected to indigenous territories. This resource captures some of the takeaways from that session and draws on Shift's experience working bilaterally with our partners.*



Image: After the blessing of a water spring, a mother with a child returns home. Guangaje, Ecuador.  
Photo by Azzedine Rouichi via Unsplash.

# WHY A FOCUS ON INDIGENOUS PEOPLES RIGHTS FOR THE FINANCE SECTOR?

There has been growing attention to Indigenous Peoples rights by companies, civil society and the finance sector. Consideration of Indigenous Peoples rights – and the need for their expertise – is critical in the context of our most pressing global agenda items: climate change and biodiversity loss, not least because much of the world's biodiversity, and many of the natural resources needed for the energy transition, are located on indigenous territories ([see more below](#)). As such, Indigenous Peoples rights are increasingly given prominence in the finance sector and ESG agenda.<sup>1</sup>

However, recent events, from the Dakota Access Pipeline protests to the Juukan Gorge disaster, demonstrate that prevailing approaches to identifying and managing the impacts of business on Indigenous Peoples are falling short. That is, businesses are failing to meet their responsibility to respect Indigenous rights under international standards.<sup>2</sup>

Financial institutions (FIs) are critical players in the value chains that are associated with impacts – both positive and negative – on Indigenous Peoples. With the rapid scale-up of financing for transition minerals and growing awareness of the need for nature-based solutions, **FIs need to ensure that both they and their clients understand and respect Indigenous Peoples rights**. This includes ensuring that clients obtain “free, prior and informed consent” (FPIC) when developing projects on Indigenous lands. Without FPIC, project owners and their financiers face the prospect of conflict, reputational damage, lengthy delays and project cancellations<sup>3</sup> as well as a failure to meet standards.<sup>4</sup> Whilst FIs may be grappling with a range of human rights impacts on Indigenous People, this paper focuses primarily on the responsibility to obtain and maintain FPIC. This reflects the importance of FPIC as a process to safeguard Indigenous Peoples rights to self-determination, to participation, and to their lands, territories and resources.<sup>5</sup>

Even financial sector actors who have made robust commitments to FPIC face some fundamental challenges to operationalizing these; the below contains a snapshot of some of these with commentary on how FIs can overcome them.



## 1

## A FUNDAMENTAL CHALLENGE: DIFFERING VIEWS ON WHETHER THE COMMUNITY IS “INDIGENOUS”

### WHAT KNOWLEDGE OF INDIGENOUS PEOPLE SHOULD FIs BRING TO BROADEN A CONVERSATION WITH A CLIENT?

*There is no universally accepted definition of “Indigenous Peoples.” Indigenous Peoples may be referred to in different countries by such terms as “indigenous ethnic minorities,” “adivasis,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” “first nations,” “hunter gatherers” or “tribal groups.” At times, some of these terms might be imposed on Indigenous People – at others they may be embraced by them. In some countries, including on the African continent, it can be politically sensitive to refer to certain communities as “indigenous” on the basis that “all Africans are indigenous” and/or out of a desire to downplay ethnic or tribal differences that can potentially lead to conflict. In others, the fight for recognition as an indigenous group is a source of longstanding tension between Indigenous Peoples and the government.*

*International human rights standards and development banks define Indigenous Peoples in slightly different ways. This situation can be particularly challenging for FIs seeking to ensure that Indigenous Peoples rights are respected, when there is a lack of consensus on who is indigenous, and which standard should be used to define a community.*

Where Indigenous rights are contentious in a geography associated with a client or transaction, it is important to go beyond accepting a client's assurances, whether citing government pronouncements or otherwise. **Seeking to better understand the perspectives of the community itself is crucial**, as self-identification (rather than formal, legal recognition by the state) is a key criterion in the international human rights standards for determining who is indigenous.<sup>6</sup>

Whilst there is no singular definition of "Indigenous Peoples," there are commonalities in the international standards.

Does the group have historical continuity with the occupation and use of a specific territory?<sup>7</sup> Does the group have distinct political, economic and cultural institutions and collective attachment to their territory? "Indigenous peoples" don't necessarily have to be the "first inhabitants" or "pre-colonial inhabitants" of a particular area. For instance, the Saramaka people of Suriname are African descendants, but meet the criteria to access protections for indigenous and tribal peoples under the relevant Conventions.<sup>8</sup>

Where there is a lack of consensus on whether a group should be defined as indigenous or not, FIs and their clients should seek the support of experts to help define this through ethnographic studies.<sup>9</sup> Sometimes, a focus on vulnerable ethnic groups who have distinctive and traditional lifestyles can be a more productive way of framing the discussion about Indigenous Peoples,<sup>10</sup> provided this is what the community desires. And where the term "indigenous" may be politically sensitive, financial institutions and their clients can use the collective names that the communities give themselves – such as the Maasai, Karen, or Vedda – as they explore and respect their views on developments on their lands.

## 2

**DETERMINING WHAT 'GOOD' FPIC IS****THE CLIENT SAYS THEY HAVE “DONE” FPIC;  
BUT HOW DO WE KNOW IT’S ENOUGH?**

*Free, Prior and Informed Consent is fundamental to protecting Indigenous Peoples’ rights to self-determination and to their lands, territories and resources.<sup>11</sup> The tenets of FPIC are articulated in international human rights standards<sup>12</sup> and in the IFC Performance Standards, which are widely used by banks and their clients. These standards stipulate that in certain situations, including prior to the approval of projects affecting Indigenous Peoples’ lands or territories and other resources, Indigenous Peoples must give their free, prior and informed consent in order for the project or development to take place.*

*Whilst we have moved forward on debates about what FPIC is and is not (i.e., it involves consent, not simply one-way “consultation”), financial institutions struggle with ascertaining whether their clients have achieved FPIC in practice. What does it look like when an indigenous community has given their free, prior and informed consent for a project on their lands? Is evidence of a signed FPIC agreement enough? What does “good FPIC” look like?*

## 1. FPIC is *both* process and outcome

It is crucial that financial institutions and their clients understand FPIC not only as an agreement or the end-point of a consultation process, but as an ongoing process of information exchange and good-faith negotiation. To assess whether a client has achieved FPIC in practice, FIs should look for evidence of ongoing processes for iterative agreement making throughout the life of a project, not just a “final” document or agreement which is obtained before a project begins.<sup>13</sup> This is also important because consent, once given, can be withdrawn.

## 2. FPIC requires broad community support

Whilst FPIC does not require unanimity, and may be achieved even when individuals or groups within the community explicitly disagree, it is important to seek evidence of broad community support. Evidence of broad community support requires engagement at multiple levels, in addition to the formal leadership of a community. Good practice for FIs then, is to look for evidence of good quality processes that demonstrate engagement with both the established leadership of indigenous communities, as well as other underrepresented members of the community, such as with women and youth. However, this important principle of consultation should not be used to enable the client to ‘get the answer it wants’ by creating or exacerbating divisions within a community.

## 3. Allowing sufficient time is crucial

FPIC requires time: time to build trust between indigenous communities, government actors and clients; time and space for indigenous communities to follow their own internal decision-making processes; time for translation; time for engagement and negotiation and time to build understanding. There is often a clear tension between project timelines and the time needed for an effective FPIC process.<sup>14</sup> So much so, that one participant in the FI Circle said the **best example they’d seen of FPIC was on a project that was significantly delayed**: a revealing commentary on the way in which quality of process can too often be sacrificed for speed.

Banks and other FIs can put their clients in a challenging position by pushing them to achieve FPIC while simultaneously pushing for aggressive project timelines and repayment schedules that don’t allow sufficient time for a robust FPIC process.<sup>14</sup> Recognizing this tension and addressing it may be one of the most important steps that FIs can take to enable successful FPIC processes.



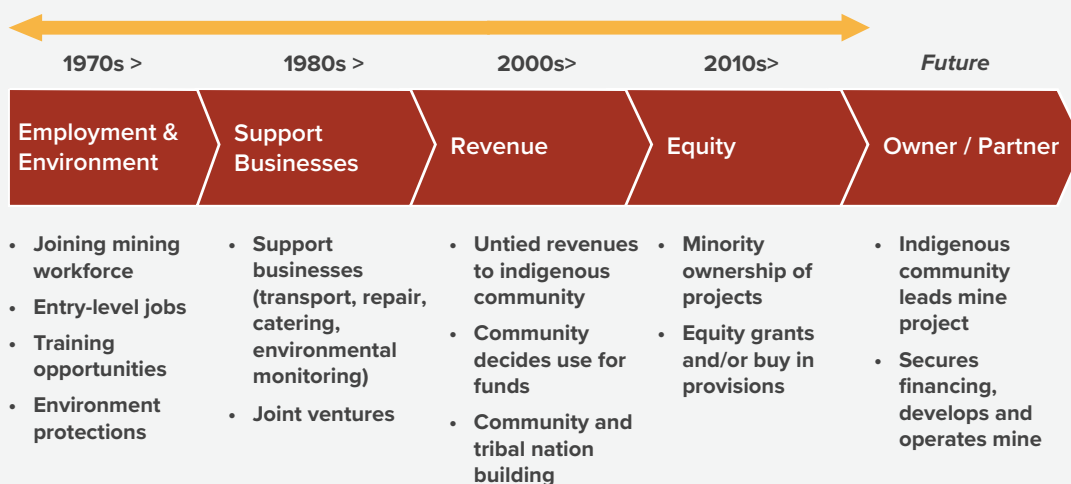
#### 4. Equity ownership as a proxy for FPIC?

Typically, an outcome from an FPIC process is an (or multiple) Impact Benefit Agreement(s) (IBA) between a developer and indigenous community which outlines how impacts from a project will be managed, and how indigenous communities will benefit from the project's presence on their lands.

The First Nations Major Project Coalition (FNMPC) has prepared an analysis of the evolution of impact-benefit agreements (IBAs) of First Nations Communities for mining projects in Canada (summarized in the figure below). It describes how, over time, the benefits that indigenous communities have sought and achieved from these agreements have evolved. Particularly in the Canadian context, it is not uncommon now for indigenous groups to agree revenue or equity ownership in a project on their lands.<sup>15</sup> Not all indigenous communities will a) desire equity ownership or b) be able to achieve it. The barriers to equity ownership may be on the side of the company, but where access to finance is an issue, financial institutions can play (and are already exploring) a role in unlocking access to capital or loan guarantees to enable indigenous communities to “buy in” to commercial projects on their lands. As capacity builds and financing becomes available, FNMPC sees an evolution of this trajectory towards indigenous ownership/partnership.

As a negotiated partnership between an indigenous community and a business for development on Indigenous lands, equity ownership in a project could serve as a proxy for FPIC. That is, where there is broad community support for equity ownership and the benefits of it are distributed fairly throughout a community.

#### Impact Benefit Agreements (IBA)



## 3

## NAVIGATING THE INFORMATION VACUUM: WHEN THE FI RECEIVES POOR-QUALITY INFORMATION ON RESPECT FOR INDIGENOUS RIGHTS

### “THE CLIENT SAYS THEY HAVE AN IMPACT BENEFIT AGREEMENT IN PLACE, BUT WE CAN’T SEE IT.”

*Even if FIs have a clear set of expectations on FPIC in the context of a particular transaction or client activity, there are many cases in which the quality of information they receive from clients and environmental and social (E&S) consultants is underwhelming. Companies usually require that impact benefit agreements (IBAs) are confidential, and FIs report difficulties in getting access. Without information, it is difficult to determine whether Indigenous rights are being respected in practice, or what appropriate action should look like.*

FIs cite a number of reasons for a lack of good quality information on whether and how indigenous rights are respected on the ground. Where they relate to lack of client understanding, FIs can use their influence to encourage the hiring of consultants with appropriate expertise on Indigenous Peoples rights in the local context, as it is not uncommon for E&S consultants to be stronger on the “E” (environment) than the “S” (social). The profile of such experts should include strong local knowledge, cultural sensitivity and language skills to engage appropriately with the relevant indigenous groups.

Where impact-benefit agreements contain confidential information, FIs can enquire about non-confidential details: What was the process for coming to an agreement? Which parties were involved? When was the agreement signed? How is it monitored? What were the findings from the most recent monitoring period? Are there any processes in place for ongoing engagement with the indigenous community? It is important not to accept the existence of an impact-benefit agreement as sufficient for human rights due diligence, without understanding how it is being implemented in practice. This is especially important when IBAs were signed many years ago, and it is hard to establish what ongoing actions the client is taking to maintain the consent of the Indigenous People.

And of course, if there is reason to be concerned about whether indigenous rights are being respected in practice, FIs should consider engaging with Indigenous People directly. For example, Citibank and ING engaged directly with representatives of the Standing Rock Sioux Tribe in response to concerns about financing the Dakota Access Pipeline in the US.<sup>16</sup> FIs can also work through trusted experts and indigenous organizations with on-the-ground knowledge. In this regard, stronger IBAs and processes for ongoing FPIC should have mechanisms for resolving disputes and grievances between the company and the community. These mechanisms should be aligned with the effectiveness criteria outlined in the UNGPs,<sup>17</sup> and should also be adapted to take into account traditional structures and processes for dispute resolution.



## 4

## IDENTIFYING AND ADDRESSING POWER IMBALANCES

*In some cases, clients will lack knowledge and understanding of FPIC. In other cases, FIs may find that a relatively sophisticated client is (or may in future be) benefitting from an imbalance of power with respect to an indigenous community, especially where the community doesn't have access to knowledge about their specific rights under FPIC or the details of a proposed project development. In such a case, building Indigenous Peoples' capacity is crucial for the FPIC process; there is no "I" in FPIC without it. Agreements that are not well understood by indigenous communities can also create risk for FIs as the agreement can be challenged afterwards as not being either free or fully informed, if and when there is a power imbalance, including in terms of access to information.*

One of the root causes of power imbalance between clients and Indigenous People is that indigenous groups may not have access to the resources or knowledge to make informed decisions about projects on their territories. Furthermore, companies may take advantage of this power imbalance to present a one-sided view of their projects and may understate the risks of adverse impacts on indigenous communities. Financial institutions can play an important role here, by calling attention to this power imbalance, and advocating for dedicated resources to strengthen indigenous organizational capacity. The FI might influence the client to devote resources to independent experts or facilitators to work with and upskill indigenous organizations; in other cases, the FI might use its own resources to this end.

Some clients may find it counter-intuitive to fund experts to upskill indigenous people to better negotiate with them. But FPIC negotiations should not be viewed as a zero-sum-game, nor should it be assumed that indigenous communities are “for” or “against” development. Instead, such processes should be understood as a process for finding a **mutually agreeable solution that benefits Indigenous People and project proponents**, whilst respecting Indigenous rights. With this framing, funding independent experts to build indigenous capacity makes sense as a way to facilitate effective negotiations, build trust, and ultimately **forge longer-lasting partnerships** between clients and indigenous organizations. Participants in the FIs Circle shared experiences in which independent facilitators helped to break through deadlocks in FPIC negotiation processes by supporting indigenous groups to organize and articulate their concerns, and build understanding between negotiating parties.

Another interesting trend is that indigenous communities are increasingly interconnected and upskilling themselves and others to better negotiate when projects are proposed on their territories. For instance, indigenous representatives at COP15 reported training themselves in carbon market regulation and organizing global exchanges to help other Indigenous People avoid falling victim to carbon credit deals where indigenous communities lose access to their lands.<sup>18</sup> In another case, an indigenous community created a resource for potential partner companies explaining how the community themselves frame FPIC-related concepts to facilitate smoother engagement. The resources of the First Nations Major Project Coalition, which support First Nations in Canada to understand topics such as environmental impact assessments and equity ownership, are another example of indigenous-led capacity building.<sup>19</sup>

# FROM RISK TO MUTUAL OPPORTUNITY

The presence of Indigenous Peoples in a project or company supply chain is often seen as a risk factor by financial institutions. With a ‘risk to people’ lens, it is well understood that Indigenous Peoples are highly vulnerable to social and environmental impacts caused by businesses because of their unique connections to their territories and distinct cultural rights. From a ‘risk to business’ lens, infringements of Indigenous Peoples rights increasingly lead to litigation, protests or negative media attention which impacts business value.

However when FIs and their clients embrace a genuinely collaborative and rights-respecting approach with indigenous communities, such partnerships can create value. For example, in Alaska, the Red Dog Mine, a partnership between Teck Resources and the 15,000 Iñupiat shareholders of NANA Corp. sources nearly 5% of the world’s zinc supply.<sup>20</sup> One of the largest seafood companies in the Southern Hemisphere is a joint venture between Māori and a Japanese seafood company.<sup>21</sup> Indigenous owned, managed, used or occupied land represents 20% of the earth’s territory, and contains 80% of the world’s remaining biodiversity.<sup>22</sup> Vast quantities of critical minerals are needed for the global energy transition, and the majority of these minerals are located on indigenous territories.<sup>23</sup> This means that it will be challenging to achieve the energy transition or halt devastating biodiversity loss without working in partnership with Indigenous communities.

**Is it time for financial institutions to see the presence of Indigenous People as a mutual opportunity to achieve better outcomes rather than a risk to investments?**

COP26 and COP15 both recognized and highlighted the critical role that indigenous knowledge and communities should play in finding solutions for climate change and biodiversity loss. In a new UNESCO project in Colombia, the indigenous Kogi people will train scientists in indigenous biodiversity conservation and restoration methods, and create education material to teach the Kogi conservation method in western schools, universities and elsewhere.<sup>24</sup> Where Indigenous Peoples are interested, FIs have the opportunity to catalyze this type of partnership as a model for the future.



## ANNEX: KEY RESOURCES FOR PRACTITIONERS

### 1. INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS

#### United Nations Declaration on the Rights of Indigenous People (UNDRIP, 2007)

UNDRIP was adopted by the UN General Assembly in 2007, after more than two decades of consultation. The Declaration is considered the most comprehensive international instrument on Indigenous Peoples rights.

UNDRIP did not establish new rights, but reflects an articulation of existing rights of Indigenous Peoples. The Declaration is not a binding legal instrument in itself – but it has authoritative normative power, and is a core reference text in the UN Guiding Principles on Business and Human Rights.

[Learn more](#)

#### International Labour Organisation Convention 169 on Indigenous and Tribal Peoples (ILO 169, 1989)

ILO 169 recognizes Indigenous Peoples rights; including collective rights to participation, consultation and self-management for Indigenous peoples, and to exercise control over their own economic, social and cultural development.

As an international treaty, it becomes legally binding on states through ratification. To date, ILO 169 has been ratified by 24 states.

Note that ILO 169 ascribes the same set of rights for both “indigenous” and “tribal” peoples.

[Learn more](#)

#### African Charter on Human and Peoples’ Rights also known as the Banjul Charter (1981)

The African Charter recognizes people’s collective rights to development, free disposal of natural resources and self-determination. It has been ratified by all 54 African states.

[Learn more](#)

#### African Commission on Human and People’s Rights Advisory Opinion on UNDRIP in Africa

The African Commission on Human and Peoples’ Rights Working Group on Indigenous Peoples has developed a number of advisory opinions, including on the application of UNDRIP in Africa.

[Learn more](#)

**American Declaration on the Rights of Indigenous Peoples (2016)**

While not legally binding, the regional standard is an important instrument recognizing and reaffirming rights for Indigenous Peoples of the Americas.

[Learn more](#)

**UN Expert Mechanism on the Rights of Indigenous Peoples Report on Free, Prior and Informed Consent**

A detailed study by an authoritative UN group of experts on the evolution, objectives and constituent elements of FPIC.

[Learn more](#)

## 2. STANDARDS AND TOOLS FOR BUSINESS (WITH A FOCUS ON THE FINANCE SECTOR)

**STANDARDS****Equator Principles 4 (2020)**

The Equator Principles (EP) serve as a baseline and risk management framework for financial institutions to identify, assess and manage environmental and social risks when financing Projects. The most recent revision of the Equator Principles re-affirmed protections for Indigenous People, including requirements for FPIC.

[Learn more](#)

**IFC Performance Standard 7 (2012)**

The International Financial Corporation's Environmental and Social Performance Standards define IFC clients' responsibilities for managing their environmental and social risks. Performance Standard 7 seeks to ensure that business activities minimize negative impacts, foster respect for human rights, dignity and culture of indigenous populations, and promote development benefits in culturally appropriate ways. Informed consultation and participation with IPs throughout the project process is a core requirement and may include Free, Prior and Informed Consent under certain circumstances.

[Learn more](#)

## TOOLS/GUIDANCE

### International Work Group of Indigenous Affairs (IWGIA) Annual Report

A credible source to get an overview of different Indigenous People in different countries.

[Learn more](#)

### A Business Reference Guide to the UN Declaration on the Rights of Indigenous People (2013)

Helps business understand, respect, and support the rights of Indigenous People by illustrating how these rights are relevant to business activities. A practical supplement provides a compilation of practical case studies of business practice.

[Learn more](#)

### Business and Human Rights Resource Centre Transition Minerals Tracker

The tracker highlights the potential impacts on Indigenous People from transition minerals.

[Learn more](#)

### Respecting Indigenous Rights: An Actionable Due Diligence Toolkit for Institutional Investors (2023)

This Toolkit provides practical guidance and tools for institutional investors to learn about and meet their responsibility to respect Indigenous people's rights, and in turn, avoid financial, and reputational risks. It was written by a member of the Kichwa people of Sarayaku in Ecuador, with contributions from other organisations.

[Learn more](#)



## ENDNOTES

- 1 As evidenced, for instance, by the Taskforce on Climate Related Financial Disclosures, Taskforce on Nature Related Financial Disclosures, and the US Security and Exchange Commission (SEC) and European Union regulations requiring disclosures.
- 2 The UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multi-National Enterprises outline the responsibility of companies, including financial institutions, to respect human rights, including indigenous rights. The International Labour Organization Convention 169 on Indigenous and Tribal Peoples (ILO 169, 1989), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) are two key international standards on Indigenous rights. The Equator Principles and the IFC Performance Standards are two finance-sector standards that re-affirm the responsibility to respect Indigenous rights.
- 3 Davis, Rachel and Daniel M. Franks. 2014. "Costs of Company-Community Conflict in the Extractive Sector." Corporate Social Responsibility Initiative Report No. 66. Cambridge, MA: Harvard Kennedy School.
- 4 The revision of the Equator Principles in 2020 underlined the expectations of financial institutions to require clients to obtain Free, Prior, Informed Consent (FPIC) when there are potentially adverse impacts on indigenous lands and natural resources, wherever they are located.
- 5 FPIC, or Free, Prior and Informed Consent is a principle and process to protect Indigenous Peoples rights. According to the UN Expert Mechanism on Indigenous Peoples, FPIC is a manifestation of Indigenous Peoples rights to self-determine their political, social, economic and cultural priorities. It constitutes three interrelated and cumulative rights of Indigenous Peoples: the right to be consulted; the right to participate; and the right to their lands, territories and resources.
- 6 ILO Convention 169 on Indigenous and Tribal Peoples, African Charter on Human and People's Rights, The American Declaration on the Rights of Indigenous People
- 7 Note that ongoing use of Indigenous territory is not a pre-requisite to recognition as Indigenous Peoples. This recognises that many Indigenous Peoples have been historically displaced from their territories.
- 8 The Inter-American Court of Human Rights recognised the Saramaka people of Suriname as meeting the criteria to access the protections for indigenous and tribal peoples. The Saramaka are not "first inhabitants" but are African descendants. However, they do have historical continuity with the occupation and use of a specific territory, with a distinct culture and spiritual relationship with their lands. Note also that the Working Group of the African Commission on Human and Peoples Rights makes it clear that the term indigenous populations "does not mean 'first inhabitants' in reference to aboriginality as opposed to non-African communities or those having come from elsewhere."
- 9 See for example, the guidance under IFC Performance Standard 7 which recommends that clients should seek the input of experts to determine whether a group should be considered as Indigenous People.
- 10 Another term used in the Sub-Saharan context is "Historically Underserved Traditional Local Communities." See: World Bank ESS7, "Indigenous Peoples / Sub-Saharan Historically Underserved Traditional Local Communities: Note for Borrowers."

- 11 Human Rights Council, "Free, prior and informed consent: a human rights-based approach: Study of the Expert Mechanism on the Rights of Indigenous Peoples, UN Doc." A/HRC/39/62 (10 August 2018), para. 7.
- 12 International Labour Organization Convention 169 on Indigenous and Tribal Peoples (ILO 169), and the United Nations Declaration on the Rights of on the Rights of Indigenous Peoples (UNDRIP).
- 13 Indigenous Peoples need to determine the process for engaging with outsiders on their traditional terms, in order to achieve the outcomes that they can say they have meaningfully 'consented' to. Kendyl Salcito and Kate Finn, Rights of Indigenous Peoples, in: (Ed. Anthony Ewing) Teaching Business and Human Rights, Edward Elgar, 2023 (Forthcoming)
- 14 See Shift's Business Model Red Flag "Project timelines that undermine consultation with communities" for resources on this issue: <https://shiftproject.org/resource/redflag-03/>
- 15 See for example: Group of First Nations and Métis communities acquires minority stake in 7 Enbridge pipelines, CBC News, 28 September 2022 <https://www.cbc.ca/news/canada/edmonton/enbridge-stake-pipelines-indigenous-1.6598405>
- 16 See Citi's Letter to Investors Regarding the Dakota Access Pipeline: <https://www.ing.com/Sustainability/ING-and-the-Dakota-Access-pipeline-1.htm> <https://www.citigroup.com/global/news/perspective/2017/citis-letter-to-investors-regarding-the-dakota-access-pipeline>
- 17 See Guiding Principle 31, Effectiveness Criteria for Non-Judicial Mechanisms
- 18 See for example, <https://www.theguardian.com/environment/2023/jan/21/amazon-indigenous-communities-carbon-offsetting-pirates-aoe>
- 19 See <https://fnmpc.ca/resources/>
- 20 <https://www.teck.com/operations/united-states/operations/red-dog/>
- 21 <https://www.sealord.com/about-us/our-story-heritage/>
- 22 [www.iisd.org](http://www.iisd.org)
- 23 85% of the world's lithium reserves, needed for electric vehicles batteries, overlap with indigenous lands; 75% manganese and 57% of nickel reserves overlap with indigenous lands. A recent study estimated that overall around 54% of minerals needed for the energy transition are located on or near indigenous people's lands. John R Owen et al, "Energy transition minerals and their intersection with land-connected peoples," Nature Sustainability (2022) DOI: [10.1038/s41893-022-00994-6](https://doi.org/10.1038/s41893-022-00994-6)
- 24 **"Indigenous Kogi worldview aims to change face of conservation for good"** Mongabay, 18 January 2023
- 25 Note that ILO 169 is considered a revision of ILO 107 FS.
- 26 ILO 169 provides for consultation and participation of indigenous and tribal peoples with regard to policies and programmes that may affect them. It establishes general policies regarding indigenous and tribal peoples' customs and traditions, land rights, the use of natural resources found on traditional lands, employment, vocational training, handicrafts and rural industries, social security and health, education, and cross-border contacts and communication.
- 27 Countries which have ratified ILO 169 are: Argentina, Bolivia, Brazil, Central African Republic, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Germany, Guatemala, Honduras, Luxembourg, Mexico, Nepal, Netherlands, Nicaragua, Norway, Paraguay, Peru, Spain, Venezuela.

## ***Understanding and Respecting Indigenous Rights for Financial Institutions***

Shift, New York. July 2023

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### **ACKNOWLEDGMENTS**

This resource was authored by Francesca de Meillac with valuable input from Rachel Davis and Ashleigh Owens. It builds on insights shared by Lloyd Lipsett, Mark Podlasly and participants in Shift's Financial Institutions Practitioners Circle. Design by Root Design.

### **ABOUT SHIFT**

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries, and redefine corporate practice, in order to build a world where business gets done with respect for people's dignity. Shift is a non-profit, mission-driven organization, headquartered in New York City. Visit [shiftproject.org](https://shiftproject.org) and follow us at @shiftproject.

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### **ABOUT SHIFT'S FINANCIAL INSTITUTIONS PRACTITIONERS CIRCLE**

Shift's Financial Institutions Practitioners Circle is a carefully designed space for practitioners working within financial institutions to discuss human rights challenges and co-create cutting-edge solutions that fit their unique reality. In addition to peer conversations, Shift's FIs Circle membership provides access to 101 training on core concepts of the UNGPs – including remedy – to which members may invite key internal stakeholders from across the institution. To learn more visit: [shiftproject.org/fiscircle](https://shiftproject.org/fiscircle) or contact us at: [info@shiftproject.org](mailto:info@shiftproject.org).