



# RESPECTING INDIGENOUS PEOPLES' RIGHTS: A BUSINESS IMPERATIVE?

Background Paper



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Mainstream media frequently emphasizes indigenous peoples<sup>1</sup> in connection to remote forest environments, particularly in the context of environmental conservation or land disputes. In reality, indigenous peoples are geographically diverse, even within one same country. Today, indigenous communities live in diverse settings, including rural, coastal and urban areas, and across more than 90 countries<sup>2</sup>. There are an estimated 476 million indigenous people worldwide and their rights are recognized by a number of international instruments<sup>3</sup>. These include the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention No. 169, the OECD Guidelines for Multinational Enterprises, IFC Performance Standard 7<sup>4</sup> and the Paris Agreement, which affirms the importance of aligning climate action with human rights, including those of indigenous populations.

Despite these legal frameworks, indigenous peoples face ongoing significant challenges. Although they steward or hold rights to approximately one-quarter of the world's land, contributing to the preservation of around 80% of global biodiversity, the recognition and enforcement of those rights is often constrained by governments and corporations<sup>5</sup>. Large-scale mining,

agriculture, energy, and infrastructure projects frequently proceed without Free, Prior, and Informed Consent (FPIC)<sup>6</sup> – the right of indigenous peoples to approve or reject activities on their lands –resulting in environmental degradation such as deforestation, pollution, habitat loss and displacement. Such outcomes can destroy key ecosystems to indigenous life, hindering food security and access to natural resources.

On the social front, environmental degradation also contributes to widening health gaps: indigenous peoples often face lower life expectancy, poorer access to clean water and sanitation, and higher exposure to diseases<sup>7</sup>. Moreover, indigenous peoples' rights defenders face elevated risks of violence and intimidation. For example, in 2023 they reportedly accounted for over 40% of fatal attacks against environmental defenders<sup>8</sup>. Forced displacement and loss of cultural identity also contribute to the loss of languages, sacred sites and traditional knowledge. Traditional livelihoods are often threatened by land loss and environmental degradation, pushing communities to precariousness. Economic marginalization is widespread, with indigenous peoples representing 19% of those living in extreme poverty<sup>9</sup> while

they only represent 6.2% of the world's population. In many cases, affected communities face barriers in accessing effective remedy and justice mechanisms<sup>10</sup>.

According to the UN, indigenous peoples are "...inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. Despite their cultural differences, indigenous peoples from around the world share common problems related to the protection of their rights as distinct peoples."<sup>11</sup>

Failure to respect and address indigenous peoples' rights can be associated with potentially material risks for businesses and investors. These may include litigation, costs overruns, reputational damage, and delay or disruptions to project execution<sup>12</sup>. Companies or projects failing to provide evidence of effective FPIC may also encounter challenges in obtaining insurance coverage<sup>13</sup>.

One illustrative case is the Fosen wind energy project which was found by Norway's Supreme Court to infringe on Sámi reindeer herding rights.

Despite the ruling, operations were continued, triggering public backlash and eventual settlement terms that required concessions from the developers<sup>14</sup>. In the United States, an MIT study identified opposition from tribal nations, often due

to lack of early and meaningful consultation, as a contributing factor in energy projects being delayed or discontinued between 2005 and 2021<sup>15</sup>. Public sources also reference instances where retailers have faced boycotts due to perceived links to suppliers allegedly involved in indigenous land-related controversies, particularly in Latin America.

At the same time, there is emerging evidence that companies engaging indigenous peoples early, respectfully, and in line with recognized international frameworks (particularly in the context of forest governance), may be better positioned to reduce conflict, foster trust-based relationships, and support the development of more resilient and sustainable business models<sup>16</sup>.

Projects co-developed with indigenous communities, such as the Okikendawt Hydro Project in Canada, co-owned by the Dokis First Nation, or Greenwood Energy's solar initiative with the Arhuaco people in Colombia, are examples of how collaboration may support long-term project stability, cultural preservation, and shared economic benefits<sup>17</sup>.

With investor expectations and regulatory frameworks continuing to evolve, respecting indigenous peoples' rights is not only increasingly viewed as an important aspect of risk management, but as a means to promote more sustainable, inclusive, and credible operations. It has also been identified as a potential enabler of a just transition<sup>18</sup>. In the EU, for example, the Corporate Sustainability Due Diligence Directive (CSDDD) and the EU Deforestation


Regulation (EUDR), introduced new requirements for companies to assess and address adverse human rights and environmental impacts, including those affecting indigenous peoples.

However, the proposed simplifications as presented in the first set of Omnibus proposals may result in limiting due diligence to direct suppliers, while most human rights violations including those affecting indigenous communities typically occur further upstream<sup>19</sup>.

Against this backdrop, stewardship on indigenous peoples' rights can be an important component of responsible investment practice, especially in cases where there are clear links to material risk or controversy. A first step for investor dialogue may be to screen for controversies—such as disputes, legal

challenges, or negative media coverage—and to assess whether investee companies have policies and practices that explicitly and adequately address indigenous rights, including adherence to principles such as the UNDRIP and implementation of processes such as FPIC.

While approaches vary across the industry, more investors are beginning to explore how dialogue with companies, policymakers, and ESG data providers can contribute to better outcomes, enhanced transparency and stronger accountability<sup>20</sup>. As indigenous peoples' rights gain greater visibility within corporate conduct and due diligence, they may become an increasingly relevant consideration within broader stewardship strategies, especially as regulatory expectations continue to evolve.

 **Contact**

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<sup>1</sup> “There is no universal definition of indigenous peoples (...), but ILO Convention No. 169 provides a set of subjective and objective criteria, which are jointly applied to identify who these peoples are in a given country:

Subjective Criteria: Self-identification as belonging to an indigenous people.

Objective Criteria: Descent from populations, who inhabited the country or geographical region at the time of conquest, colonisation or establishment of present state boundaries. They retain some or all of their own social, economic, cultural and political institutions, irrespective of their legal status.”

Source: <https://www.ilo.org/resource/who-are-indigenous-and-tribal-peoples>

<sup>2</sup> United Nations (n.d.). *Indigenous Peoples. Respect NOT Dehumanization*. Available at: <https://www.un.org/en/fight-racism/vulnerable-groups/indigenous-peoples> (Accessed on 21 June 2025).

<sup>3</sup> Idem.

<sup>4</sup> For a list of relevant international standards applicable to indigenous peoples see pp.16 : <https://respectingindigenousrights.org/respecting-indigenous-rights.pdf>

<sup>5</sup> Sirén Gualinga, E. et al. (2023). *Respecting Indigenous Rights: An Actionable Due Diligence Toolkit for Institutional Investors*. Amazon Watch. Available at: <https://respectingindigenousrights.org/respecting-indigenous-rights.pdf> (Accessed on 21 June 2025).

<sup>6</sup> “Free, prior and informed consent (or FPIC) centres on obtaining consent from Indigenous Peoples (IPs) for any activities undertaken on their land. At the basic level, governments cannot implement a policy or programme on or concerning Indigenous Peoples’ lands unless there is prior consultation and consent from the Indigenous community. This includes any state policy or programme seeking to grant permission to a company to conduct any activity on such lands. Once they have given their consent, they can withdraw it at any stage. Furthermore, FPIC enables them to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated.” Read more here: <https://www.ihrb.org/resources/what-is-free-prior-and-informed-consent-fpic>

<sup>7</sup> United Nations Inter-Agency Support Group on Indigenous Peoples’ Issues (2014). *Thematic Paper on the Health of Indigenous Peoples: Towards the Preparation of the 2014 World Conference on Indigenous Peoples*. Available at: <https://www.un.org/en/ga/69/meetings/indigenous/pdf/IASG%20Thematic%20Paper%20-%20Health%20-%20rev1.pdf> (Accessed: 21 June 2025).

<sup>8</sup> Global Witness (2024). *Missing Voices: The Violent Erasure of Land and Environmental Defenders*. Available at: <https://globalwitness.org/en/campaigns/land-and-environmental-defenders/missing-voices/> (Accessed on 21 June 2025).

<sup>9</sup> World Bank (2025). *Indigenous Peoples*. Available at: <https://www.worldbank.org/en/topic/indigenouspeoples> (Accessed on 21 June 2025).

<sup>10</sup> Expert Mechanism on the Rights of Indigenous Peoples (2025). *Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: the rights of Indigenous Peoples to their traditional economies*. Report of the Expert Mechanism on the Rights of Indigenous Peoples, A/HRC/EMRIP/2025/3 (Advance edited version, 6 May 2025). United Nations Human Rights Council. Available at: <https://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/emrip/sessions/session18/a-hrc-emrip-2025-3-aev.pdf> (Accessed on 21 June 2025).

<sup>11</sup> UNDESA (n.d.). *Indigenous Peoples at the United Nations*. Available at: <https://social.desa.un.org/issues/indigenous-peoples/indigenous-peoples-at-the-united-nations> (Accessed on 16 June 2025).

<sup>12</sup> *Respecting Indigenous Rights* (n.d.). *The investor imperative to address Indigenous rights*. Available at: <https://respectingindigenousrights.org/part-a-fundamentals/the-investor-imperative-to-address-indigenous-rights/> (Accessed on 21 June 2025).

<sup>13</sup> Sirén Gualinga, E., et al. (2023). *Respecting Indigenous Rights: An Actionable Due Diligence Toolkit for Institutional Investors*. Amazon Watch. Available at: <https://respectingindigenousrights.org/respecting-indigenous-rights.pdf> (Accessed on 21 June 2025).

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- <sup>14</sup> Juristnews (2024). 'Norway ends dispute with Sámi people over construction of wind farm on indigenous land', 7 March. Available at: <https://www.jurist.org/news/2024/03/norway-ends-dispute-with-sami-people-over-construction-of-wind-farm-on-indigenous-land/> (Accessed on 21 June 2025).
- <sup>15</sup> Susskind, L. et al. (2022). "Sources of opposition to renewable energy projects in the United States." *Energy Policy*, 165. Available at: <https://dspace.mit.edu/handle/1721.1/156389> (Accessed on 29 May 2025).
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- <sup>17</sup> Business & Human Rights Resource Centre & Indigenous Peoples Rights International (2024). *Exploring Shared Prosperity: Indigenous Leadership and Partnerships for a Just Transition*. Available at: [https://media.business-humanrights.org/media/documents/2024\\_Shared\\_prosperity\\_report\\_EN.pdf](https://media.business-humanrights.org/media/documents/2024_Shared_prosperity_report_EN.pdf) (Accessed on 21 June 2025).
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