

Check against delivery



Statement of
Mr. José Francisco Calí Tzay
Special Rapporteur on the rights of Indigenous Peoples

International Expert Group Meeting
Indigenous Peoples in a Greening Economy
23 – 25 January 2024
University of Colorado
Boulder, Colorado, USA

1) Are Indigenous Peoples developing and carrying out green entrepreneurship and green enterprise (water, energy, land, other) to implement the Sustainable Development Goals?

Thank you for the question. Before we dive in, it's important to emphasize that a 'just green transition' necessitates the direct involvement of Indigenous Peoples. We must adopt a human rights-based approach, acknowledging the rights enshrined in international instruments like the UN Declaration of the Rights of Indigenous Peoples.

As highlighted during COP 28 in Dubai last year, there's a pressing need for a significant shift in environmental policies. These policies should address the root causes of the climate crisis, commit to substantial reductions in greenhouse gas and methane emissions, and incorporate the wisdom of Indigenous Peoples, fostering a reciprocal relationship with the natural world and Mother Earth.

In my 2023 report to the Human Rights Council on "Green financing – a just transition to protect the rights of Indigenous Peoples," I underscored the necessity of transitioning to a green economy. However, I expressed concerns about the lack of protections for the fundamental rights of Indigenous Peoples in various conservation and climate-oriented projects.

A just transition must recognize Indigenous Peoples not merely as stakeholders but as rights holders under international law. It calls for a human rights-based approach that fully respects, protects, and acknowledges the distinctive individual and collective rights of Indigenous Peoples.

We, along with EMRIP and the Permanent Forum, urge UN entities and States to refrain from conflating Indigenous Peoples with non-indigenous entities. This includes minorities, vulnerable groups, or "local communities," as they possess different rights and interests.

This foundation is crucial, as illustrated in my 2023 report to the Human Rights Council. In areas where Indigenous Peoples enjoy their collective rights, the green economy presents numerous opportunities for sustainable and inclusive development.

For instance, Canada has seen success with Indigenous-led green energy projects, where Indigenous Peoples own or benefit from a significant portion of the country's electricity infrastructure.

On the flip side, the carbon market and related initiatives pose challenges to Indigenous Peoples' rights. Private investors, governments, NGOs, and businesses purchasing carbon credits can threaten the land security of Indigenous Peoples. The voluntary carbon market, lacking full regulation, allows for land-grabbing, undervaluing the carbon sequestered on Indigenous lands.

Yet, amidst these challenges, there are cases where Indigenous Peoples have engaged in the voluntary carbon market to bolster their autonomy and collective rights.

Take the Yurok Tribe in the United States, for instance. They used profits from forest offset projects to repay a loan, support youth programs, housing, road improvements, and develop off-reservation businesses. Similarly, in Mexico, the Indigenous municipality of Capulálpam de Mendez joined the carbon offset market, using the profits for forestry work, education, and athletic programs.

In the United Republic of Tanzania, the Yaeda-Eyasi Landscape REDD project enhanced land tenure and management capacity, benefiting Hadza hunter-gatherer and Tatoga pastoralist communities.

These examples underscore the potential benefits of responsible participation in the voluntary carbon market, demonstrating how Indigenous Peoples can strengthen their autonomy and collective rights while navigating this evolving landscape.

2) How is dialogue, equal representation and participation of Indigenous women and men ensured in all types of negotiations and consultations at all levels?

In my 2023 report, I've expressed concern about the occurrence of Green projects on Indigenous lands and territories without proper consultation and the free, prior, and informed consent, as established in international human rights instruments like Article 32 of UNDRIP.

Take lithium mining, for instance, often fast-tracked to speed up the transition to electric vehicles. Unfortunately, these projects are frequently adopted without due regard for the rights of Indigenous Peoples.

Main human rights violations linked to green economy projects, including hydropower, wind farms, and lithium mining, involve inadequate and non-participatory environmental and social impact assessments. There's also a lack of free, prior, and informed consent, insufficient or non-existent remuneration of

Indigenous Peoples on whose lands mining sites are located, and issues like forced displacement or degradation of their environment and means of sustenance.

The emerging carbon market presents even more challenges for dialogue, equal representation, and participation of Indigenous women and men in all types of negotiations and consultations.

For example, in the Amazon Basin, Indigenous Peoples are increasingly taken advantage of by so-called carbon pirates in this underregulated sector. Carbon rights deals lasting up to a century, involving lengthy contracts written in English, have been reported. Communities are being pushed out of their lands for projects, prompting Indigenous Peoples to seek training in carbon market regulation to avoid falling victim to these carbon pirates.

While some projects have been implemented with total disregard for the rights of Indigenous Peoples, my 2023 report highlights good practices that can guide us forward.

Hydro-Québec, a bond-funded Canadian public corporation, adopted a policy in 2019 formalizing its commitment to involve Indigenous Peoples in its decisions and initiatives. Some States have strengthened the participation of Indigenous Peoples in the regulation of carbon and biodiversity offset markets.

In Canada, Indigenous Peoples have participated in the development of federal offset protocols, and the Government is working on mechanisms for free, prior, and informed consent for land-based projects on Indigenous territories. In Malaysia, national guidance on voluntary carbon market mechanisms requires projects to conform to regulations on Indigenous Peoples' participation. In Argentina, in theory REDD-plus initiatives are implemented with the participation and respect for the knowledge and rights of Indigenous Peoples. In Argentina, in theory REDD-plus initiatives are carried out with the participation and respect of the knowledge and rights of Indigenous Peoples. However, practice leaves much to be desired.

However, these are just initial steps to guarantee the full and effective participation of Indigenous Peoples under international human rights instruments.

For this reason, my 2023 report includes recommendations to:

- Guarantee the right of Indigenous Peoples to provide or withhold their free, prior, and informed consent after a meaningful and gender-inclusive consultation process.

- Ensure Indigenous Peoples directly and equitably benefit from green financing projects, including access to employment opportunities, training, capacity-building programs, and business development initiatives.
- Urge donors, investors, and funders to adopt explicit policies aligned with international human rights standards and a regulatory framework on human rights due diligence.

These recommendations aim to protect the rights of Indigenous Peoples and foster their active involvement in decisions that impact their lands, territories, and resources.

3) Who is providing the funding to implement such projects?

In my 2023 report, I delve into the funding landscape, examining contributions from international financial institutions, development banks, UN specialized agencies, climate and biodiversity finance mechanisms, bilateral donors, philanthropic funders, and UN Green funds.

A key message resonating from my report is the urgent need for funding to flow directly to Indigenous Peoples. This support is vital for their development initiatives and the crucial conservation efforts they have undertaken. Astonishingly, despite Indigenous Peoples being the primary "conservationists," they receive minimal percentages of the funding.

The 2023 report underlines factors hindering direct financing of Indigenous Peoples' projects. Structural racism, colonialism, and political and economic interests of States perpetuate marginalization. Financial actors often view projects led by Indigenous Peoples as high risk, perceiving participatory processes as delays. Funding practices' rigidity, coupled with the lack of accommodation for Indigenous worldviews, poses additional obstacles.

In my 2023 report on green finance, I propose that facilitating Indigenous green enterprises requires governments to adopt a human rights-based approach in their energy transition plans. For example, Chile's 2022 national energy transition strategy emphasizes clean energy projects co-led by Indigenous Peoples, providing transparent mechanisms for project design, management, and funding access.

Several nations, such as Canada and Mexico, have embraced innovative models. Canada employs the project finance for permanence funding model to support Indigenous-led conservation projects, while Mexico established an Advisory Council to promote Indigenous Peoples' participation in protected area conservation.

At the twenty-seventh Conference of the Parties to the UN Framework Convention on Climate Change, Indigenous Peoples advocated for principles and guidelines for direct access funding. This initiative calls for an independent Indigenous-led global green funding mechanism to enhance global coordination, solidarity, and knowledge-sharing, crucial for a just transition to a green economy.

To strengthen Indigenous Peoples' direct participation in funding, this mandate suggests creating or redesigning flexible financing mechanisms. These mechanisms should simplify application procedures, respect Indigenous decision-making processes, avoid unnecessary intermediaries, and ensure direct financial flows to Indigenous Peoples.

I also recommend tracking all funds allocated directly to Indigenous Peoples to generate crucial data on their benefits from green finance. Furthermore, it's essential to involve Indigenous Peoples in the design and implementation of funding opportunities from the outset, ensuring responsiveness to their needs, priorities, and aspirations.

To boost institutional, technical, and financial capacity, it's imperative to involve Indigenous Peoples and their organizations in influencing the financial market related to conservation, clean energy transition, and nature markets. Investing in green projects should involve directing part of the funding directly to Indigenous Peoples, requiring resources to enforce their land tenure and empower them to access finance through training and other empowerment measures.

•4) What three key lessons have been learned from your work with Indigenous Peoples?

Reflecting on my work with Indigenous Peoples, three key lessons have emerged:

Firstly, the centrality of recognizing the collective rights of Indigenous Peoples is crucial for promoting Indigenous green entrepreneurship and sustainable development. A just transition to green energy must support Indigenous Peoples in securing their collective land rights and self-determination over their territories, which play a vital role in biodiversity conservation and climate change adaptation. This might involve allocating resources to ensure their land tenure and establish a direct financial flow to Indigenous Peoples.

In my role as Rapporteur, I've observed that where Indigenous Peoples have achieved recognition of their autonomy and territorial rights, poverty has decreased, opening up new opportunities for sustainable development. For example, Indigenous

communities in Mexico exercising autonomy over their ancestral lands have successfully promoted sustainable activities like ecotourism and forestry, providing employment and reducing unemployment. This underscores the crucial link between respecting the rights of Indigenous Peoples and achieving sustainable development, though much work remains for this to be a widespread reality.

Secondly, in these three and a half years as Special Rapporteur, I've witnessed the strength and tenacity of Indigenous women and their pivotal role in passing on knowledge and promoting innovative entrepreneurial activities. During an official visit to Costa Rica, I had the privilege of learning about sustainable development projects initiated by Bri Bri women. In 2022, I dedicated an entire report to the role of Indigenous women and girls in the transmission, development, and conservation of indigenous scientific knowledge. The report showcases examples from every continent, highlighting the indispensable role of women's knowledge in biodiversity conservation. Recognizing this, one of the recommendations in my green finance report is to enhance gender inclusiveness by increasing funding for Indigenous women leaders and their organizations. It emphasizes involving Indigenous women and their organizations in funding decisions, maintaining their engagement throughout project cycles, and ensuring leadership.

The third key lesson learned is the imperative to review and make more flexible and culturally appropriate mechanisms for accessing green financings, a point I've previously addressed. This ongoing process is vital for ensuring that financial mechanisms align with Indigenous values and practices, fostering a more inclusive and effective approach to green financing.

5) How can examples of lessons learned be transferred among/between regions?

It's essential to acknowledge that each regional experience is unique and shaped by distinct contexts. Predicting where certain good practices, like those I've highlighted in Canada and Mexico, might find application in other countries and continents is challenging due to these variations. What matters to me is creating spaces where Indigenous Peoples and their representatives can freely share ideas and best practices.

To facilitate this exchange, the University of Arizona and I have initiated virtual consultations. These sessions enable indigenous representatives and organizations to directly contribute to my thematic reports. These consultations serve a dual purpose – not only gathering crucial information for my reports but also fostering dialogue

among Indigenous Peoples from different continents and facilitating the exchange of best practices.

Utilizing existing platforms, such as EMRIP Fore and the Permanent, could greatly enhance these collaborative efforts and discussions around best practices. By promoting these types of forums, we can create valuable spaces for sharing and learning from each other's experiences, ultimately contributing to the advancement of indigenous initiatives globally.