

AFRODESCENDENT COMMUNITIES MUST BE TAKING INTO ACCOUNT IN THE INDIGENOUS PEOPLE'S POLICY FOR THE GREEN CLIMATE FUND.

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A) Draft and contents on the GFC Indigenous People's policy;

The Green Climate Fund has adopted a set of interim policies in order to establish mechanisms and ways to promote indigenous people's participation on the design, development and implementation of strategies and activities to be financed by the Fund. Thus it has the Environmental and social safeguards (ESS), A set of criteria that aims to address key environmental and social risks in the implementation of activities to be funded by GCF. The Fund has adopted interim ESS while it develops a comprehensive environmental and social management system (ESMS).

While this safeguards are developed and adopted, the Fund follows the dispositions included on its governance instrument¹, which provides on its numerals VIII and XIII:

"The Board will develop mechanisms to promote the input and participation of stakeholders, including private-sector actors, civil society organizations, vulnerable groups, women and indigenous peoples, in the design, development and implementation of the strategies and activities to be financed by the Fund", and "The programmes and projects, as well as other activities, funded by the Fund will be regularly monitored for impact, efficiency and effectiveness in line with rules and

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²"XIII. "STAKEHOLDER"INPUT"AND"PARTICIPATION:"71. "The "Board"will"develop"mechanisms"to"promote"the"input"and" participation"of"stakeholders,"including"privateNsector"actors,"civil"society"organizations,"vulnerable"groups,"women"and" indigenous"peoples,"in"the"design,"development"and"implementation"of"the"strategies"and"activities"to"be"financed"by"the" Fund""

procedures established by the Board. The use of participatory monitoring involving stakeholders will be encouraged”².

The Fund has also adopted, provisionally, social and environmental safeguards from the International Finance Corporation (IFC) and its eight performance standards (PS)³. Standard seven (7) on its guidance note, about indigenous people, recognizes:

“Indigenous Peoples, as social groups with identities that are distinct from mainstream groups in national societies, are often among the most marginalized and vulnerable segments of the population. In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. Indigenous Peoples are particularly vulnerable if their lands and resources are transformed, encroached upon, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also come under threat. As a consequence, Indigenous Peoples may be more vulnerable to the adverse impacts associated with project development than non-indigenous communities. This vulnerability may include loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and diseases”⁴.

Regarding its scope of application establishes;

“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,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” “first nations,” or “tribal groups.””

And identifies that;

“In this Performance Standard, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct social and cultural group possessing the following characteristics”.

Clarifying that;

“Over the past 20 years, “Indigenous Peoples” have emerged as a distinct group of human societies under international law and in the national legislation of many countries. However, there is no internationally accepted definition of “Indigenous Peoples.” Further the term “indigenous” may also be considered to be sensitive in certain circumstances. For this reason, Performance Standard 7 does not define, use,

² http://www.greenclimate.fund/documents/20182/574763/Governing_Instrument.pdf/caa6ce45-cd54-4ab0-9e37-fb637a9c6235

³ www.greenclimate.fund/documents/20182/114264/1.7_-_Environmental_and_Social_Safeguards.pdf/e4419923-4c2d-450c-a714-0d4ad3cc77e6

⁴ http://www.ifc.org/wps/wcm/connect/e280ef804a0256609709ffd1a5d13d27/GN_English_2012_Full-Documents.pdf?MOD=AJPERES

or require use of the term “Indigenous Peoples” to determine the applicability of Performance Standard 7”.

“Rather it is recognized that various terms including but not limited to indigenous ethnic minorities, hill tribes, scheduled tribes, minority nationalities, first nations or tribal groups may all be used to identify Indigenous Peoples. Accordingly, for the purposes of this Performance Standard applicability is determined on the basis of the four characteristics presented in paragraph 5 of Performance Standard 7”

These are:

- 1. Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;*
- 2. Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;*
- 3. Customary cultural, economic, social, or political institutions that are separate from those of the mainstream society or culture; or*
- 4. A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.*

“Each characteristic is evaluated independently, and no characteristic weighs more than the others. In addition, Performance Standard 7 applies to groups or communities, rather than individuals. A determination that a group or community is indigenous for the purpose of Performance Standard 7 does not affect the political or legal status of such a group or community within specific countries or states. Instead, such determination leads the client to meet the requirements of Performance Standard 7 in terms of avoidance of impacts, the process of engagement and management of potentially high risk circumstances”.

According to this, many international instruments on human rights, such as resolution 10/4 “Human Rights and Climate Change” from the Human Rights Council of the United Nations, recognize the impacts of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights, affecting people and communities all around the globe, but recognizing that those will be felt most acutely by those segments of the population who are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability⁵. Also Paris Agreement⁶ and Cancun Agreement⁷ acknowledge the need to respect indigenous people’s rights and the need to involve a wider type of stakeholders on global, regional, national and local levels, whether is the subnational and local government, private companies or civil society, including youth and minorities under disability status, and that gender equality and

⁵ http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf

⁶ Preamble, Paris Agreement!!<http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=2>

⁷ <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

effective participation of women and indigenous people are important to achieve effective actions over all the climate change aspects.

B) Policy Scope and Principles;

1. Policy must include the explicit participation of Afro descendent People of the world as well as it must ensure a space as observers.

Eventhough there is not a universally accepted definition on “indigenous people”, according to the Department of Economic and Social Affairs⁸ the terms “indigenous peoples” and “tribal peoples” used on the ILO Convention No. 169 can be used indistinctly as;

“there are tribal peoples who are not “indigenous” in the literal sense in the countries in which they live, but who nevertheless live in a similar situation – an example would be Afro-descended tribal peoples in Central America; or tribal peoples in Africa such as the San or Maasai who may not have lived in the region they inhabit longer than other population groups. Nevertheless, many of these peoples refer to themselves as “indigenous” in order to fall under discussions taking place at the United Nations. For practical purposes the terms “indigenous” and “tribal” are used as synonyms in the UN system when the peoples concerned identify themselves under the indigenous agenda” although “in many cases, the idea to be identified as “indigenous” associates to negative connotations, reason why some people may opt not to reveal or define their origin. Society must respect these decisions and act for the no discrimination of people of that origin”.

The highest concentration of afro descendent population is on Latin America and the Caribbean, with an estimate of over 150 million people, even though, afrodescendants live on many countries of the world, disperse among local population or gathering in communities. “Descendants from the African people transported to America during the transatlantic persons trafficking, many generations ago, as well as the ones who have migrated, more recently, to that region, Europe and Asia, and even within the African continent, constitute one of the most margin populations”⁹

In addition, human rights provisions, such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Interamerican Convention against Racism, Racial Discrimination and All Forms of Intolerance and Discrimination, and Declaration and Action Program of Durban, this one adopted by consensus on the World Conference against Racism of 2001¹⁰ in Durban, South Africa, are a holistic and action oriented document that embodies the firm commitment of international community to fight against racism, racial discrimination, xenophobia and all the forms of intolerance on a

⁸ DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS. Division for Social Policy and Development Secretariat of the Permanent Forum on Indigenous Issues. THE CONCEPT OF INDIGENOUS PEOPLES http://www.un.org/esa/socdev/unpfi/documents/workshop_data_background.doc.

⁹ http://www.un.org/en/events/africandecade/assets/pdf/PAD_Spanish.pdf

¹⁰ <http://www.un.org/spanish/CMCR/>

national, regional and international level, emphasizing the equitable participation, without any type of discrimination, on the adoption of decisions on a national and global level.

Although Declaration and Action program are not legally binding, the document has a strong moral value and constitutes the base for efforts on the defense of these causes around the world.

Accordingly, and looking to eradicate discrimination against afro descendent people, the ninth meeting report (April 12th – 16th- 2010), Working Group on People of African Descendent (WGPAD) “recommended to the international community to declare an international decennium for the afro descendants to make more visible challenges, identify solutions and to undertake a sustained campaign to eradicate the structural discrimination against people from African descendants”.

With this framework and following the fundamental criteria of self-identification under which ILO Convention No. 169 must be interpreted and applied, and taking into account that Durban Declaration used indifferently the terms African, Afro descendant and Indigenous, by recognizing that section 14 of the Declaration “ colonialism has led to racism, racial discrimination, xenophobia and all the forms of intolerance and that Africans, Afrodescendants, Asian origin peoples and Indigenous peoples were victims of colonialism and still are of its consequences”, it is consider necessary to make the semantic differentiation on the development of Indigenous people’s policies on the GFC, extending the scope in order to enhance recognition and participation of Afrodescendent peoples in the world.

All the policies and decisions applicable to Indigenous peoples to which Afrodescendent peoples decide to embrace, must be applied to them, as long as it complies with previous consent according to the scope.

We consider that Indigenous People’s policy, in addition to include explicit mention to the Afrodescendants peoples, must consider these principles valid to the previously mention peoples:

- 1) Principle of people rights to free determination and autonomy, stressing on the Right to Be, which is expressed on the ethnic- cultural identity affirmation, to be black women and men and to the dignity as black peoples. Ancestral and historical culture as tangible and intangible heritage of black people, being so subject of special protection. Specifically, to those elements of historic and ancestral memory that are the foundation of principles and values that constitute cultural identity, expressed by thoughts, practices, uses and costumes that are manifested and recreated on communities and territories, and there for, must have measurements for protection and preservation, as well.

The Fund must encourage all its activities to promote respect to Indigenous or Afrodescendent people's condition, as well as all rights linked to it, especially those mentioned on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). This includes the need for GCF, National Designated Authorities, Accredited Entities and Implementing Bodies, to recognize, promote and protect, on all their activities, communities land rights, traditional knowledge, ways of living, management and governance of their territories where they live, and they use, also the management and governance of the natural resources inside their territories, respect of their spiritual heritage and cultural values that they have and all the link rights.

Also, and as part of free determination principle, the Green Fund and its accredited entities, implementing bodies, mediators, must apply the principle regarding self – identity conscience as expressed on the ILO Convention No. 169, as fundamental criteria to define the presence of an Indigenous community.

- 1) Principle of democratic and intercultural participation, including the application of the previous, free and informed consent principle.

The Fund must guarantee the application of international law instruments for full guarantee of indigenous people and afrodescendents in the world. Thus, right of peoples to be informed on their language, time and according to their traditions regarding projects, prior to its development on their territories, must be consider, as it is necessary to gain their full, free of pressure and totally transparent consensus and in compliance to the governing principles and own normativity established by them.

In any case, territory must not be understood only as the geographical scope, although its demarcation is crucial for its appropriate legal and administrative protection, it should not be forgotten the expansive effect which includes religious or cultural meaningful places nevertheless they could be placed outside their physical boundaries. For their determination, own communities law rules must be attended as well as their vision on their territory in order to guarantee the non-exclusion of none of the self-elements of their culture and ways of living.

The effective participation of men, women and young on the decision-making process, information process and transparency on decision making must be mandatory for all of those who will be involved on the development of activities, programs and projects implemented by GCF. Private companies and all sectors must respect the established principles by the Fund and Human Rights normativity.

The Fund must promote, on the decision-making process at all level, non-discriminate participation related to matters or activities that may affect rights, lives

and destinies of afrodescendent and indigenous peoples. To do so, ways of representation and designation of each community and their election process must be attended. Their participation must be guaranteed on every local, national and international space on which those peoples get involved.

2) Government, Collective well-being and Self – development

The Fund must promote respect the right of Indigenous and Afrodescendent peoples, to freely determine their political status and to endorse at will their collective well-being and economic, social, spiritual and cultural development, and therefore to promote their right to be autonomous or own government regarding their culture, religion, education, information, communication media, health, habitat, employment, social welfare, economical activities, land and resource management, environment and admission of non-members, as well as to determine resources and meanings to finance those autonomous functions.

3) Direct access to Fund resources.

The Green Fund must promote financing and direct access to Climate Fund Resources, increasing participation opportunities, support, capacities enhancement and guiding on the proposal design and execution of projects that encourage concrete actions toward mitigation, adaptation and resilience to climate change. Peoples contributions to fight against climate change must be recognized and their traditions respected, as their conservation ways and activities based on ancestral knowledge.

C. Initial points for commitment and participation of indigenous peoples.

it is necessary to have a space for participation and adequate representation of afrodescendent peoples. The designation of members as focal point between GCF and indigenous and afrodescendent peoples, is required. Also, the development and implementation of an effective mechanism to evaluate compliance with safeguards and normativity to be adopted by GCF, which should be implemented mainly by the communities that are participating on GFC projects

Social and Environmental Safeguards Framework must be developed in conjunction with afrodescendent and indigenous peoples.

D) Requirements, functions and responsibilities on the policy implementation

Social and environmental safeguards for indigenous and afrodescendent peoples must be complied by every stakeholder on the project chain, accredited entities, NDA, implementers and facilitators of the projects. Stakeholders must report periodically compliance of the

safeguards framework for indigenous and afrodescendent peoples. Same reports must be fulfilled on the projects of direct Access of peoples to Fund resources.

In order to guarantee transparency, peoples could present, to GCF, shadow reports on safeguards compliance, when they consider it appropriate. Designated authorities by peoples under the procedure and form by them agreed, must present those shadow reports with the endorsement of representative bodies of their communities and peoples, according to their organization forms.

The Green Climate Fund, must develop a compliance mechanism and also have a space or independent body conformed by rights defenders and a technical body that complies as evaluator on those cases that could present doubts regarding projects development regarding safeguards.