



## INTERNATIONAL INDIAN TREATY COUNCIL

# INDIGENOUS PEOPLES AND THE RIGHT TO FREE, PRIOR AND INFORMED CONSENT

Indigenous Peoples have the inherent and inalienable right to freely determine what is best for them and for their future generations, in accordance with their own cultures and world views. For Indigenous Peoples, the Right to Free, Prior and Informed Consent (FPIC) is a requirement, prerequisite and manifestation of the exercise of their fundamental right to Self-determination as defined in international law.

FPIC is a basic underpinning of Indigenous Peoples' ability to conclude and implement valid Treaties and Agreements, to protect their lands and natural resources, and to develop and participate in processes that redress Treaty and land rights violations. It is also necessary for establishing acceptable terms and criteria for negotiations with States or others over any and all matters affecting them, their lands and ways of life.

### WHAT IS FPIC?

**Free** means the absence of any coercion or outside pressure on decision-making, including monetary inducements (unless mutually agreed as part of a settlement process) or "divide and conquer" tactics. It precludes threats or implied retaliation if the result of a decision is to say "no" or to place conditions on an agreement to go forward.

**Prior** means having sufficient time, without deadlines or time constraints, before a project or planning process starts to allow for information-gathering and full discussion, including translations into Indigenous languages as needed. A plan or project must not begin before this process is fully completed and an agreement is reached.

**Informed** means having full access to adequate, relevant and balanced information about potential risks and benefits before making a decision. This includes information from elders, spiritual leaders, food system practitioners and traditional knowledge holders, scientists and environmentalist as needed, and from other Indigenous Peoples who have already experienced impacts of a similar process or activity.

**Consent** is clear and compelling agreement reached by the leaders, authorities, representative bodies or institutions designated and authorized as decision-makers by the Indigenous Peoples in question and include traditional processes for reaching consensus.

Many Indigenous Peoples, in keeping with their original instructions, are also taught to apply what could be called the principle of Free, Prior and Informed Consent by asking for permission from the animals, plants, land, rocks waters and spirits before they build, gather foods or medicines, plant seeds, harvest crops, hunt or fish.

### FPIC FOR INDIGENOUS PEOPLES IS AFFIRMED IN INTERNATIONAL LAWS AND STANDARDS

General Recommendation XXIII of the United Nations (UN) Committee on the Elimination of Racial Discrimination, the UN General Assembly's Plan of Action for the 2nd International Decade of the World's Indigenous Peoples, International Labor Organization Convention 169, the OAS American Declaration on the Rights of Indigenous Peoples and other international instruments recognize FPIC as a right of Indigenous Peoples and obligate states (countries) to uphold this right.



## INTERNATIONAL INDIAN TREATY COUNCIL

# INDIGENOUS PEOPLES AND THE RIGHT TO FREE, PRIOR AND INFORMED CONSENT

The UN Declaration on the Rights of Indigenous Peoples explicitly affirms the Right to Free, Prior and Informed Consent and States' obligations to obtain it in several of its provisions, including:

Article 10 affirms that Indigenous Peoples shall not be forcibly removed or relocated from their lands or territories without their Free, Prior and Informed Consent.

Article 11 affirms that states shall provide redress including restitution for Indigenous Peoples' cultural, intellectual, religious and spiritual property taken without their free, prior, and informed consent or in violation of their laws, traditions and customs.

Article 19 affirms that states must obtain the Free, Prior, and Informed Consent of Indigenous Peoples before adopting and implementing legislative or administrative measures which may affect them.

Article 32 affirms that states must obtain FPIC prior to the approval of any development project affecting Indigenous Peoples' lands and resources, especially in connection with the development, utilization or exploitation of their mineral, water or other resources.

Learn about and assert your rights including FPIC! Help your Nations and Peoples to become well informed about the choices they are facing, the true risks and benefits and what is at stake. For more information, contact: [andrea@treatycouncil.org](mailto:andrea@treatycouncil.org). You can also visit IITC online at <https://www.iitc.org/>.



*IITC providing information about the health effects of toxic pesticides to Yaqui women and girls, Potam Pueblo, Rio Yaqui*



*Yaqui Traditional Authorities declare a halt to aerial spraying of toxic pesticides on their territory based on their right to FPIC regarding hazardous materials as affirmed in Article 29 of the UN Declaration on the Rights of Indigenous Peoples, Vicam Pueblo, Rio Yaqui, December 7, 2006*

*The International Indian Treaty Council (IITC) is an organization of Indigenous Peoples from North, Central, South America, the Caribbean and the Pacific working for the Sovereignty and Self Determination of Indigenous Peoples and the recognition and protection of Indigenous Rights, Treaties, Traditional Cultures and Sacred Lands.*