

# Consultation, Norms, and Guidelines Process

Group 3

# Members

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- NATIONAL SCALE

1. The study of the national judicial framework and public policy guidelines should be carried out in a participative manner between the government and representatives of civil society and indigenous organizations.
2. Legislative changes or the development of public policy proposals should be carried out in a participative manner and with consultation. This consultation is not merely reduced to a referendum, but rather should follow the same process as consultations such as in the case of more concrete projects regarding indigenous territories.

The diagnostic of the national judicial framework and public policy guidelines should be carried out in a participative manner between the government and representatives of civil society and indigenous organizations. When possible, mechanisms such as Consultation Committees can also be used: governmental representatives, indigenous organizations and the United Nations.

Legislative changes or the development of public policy proposals should be carried out in a participative manner and **with consultation**.

Creation of a new law and public policy.

The law and public policy should contain socio-environmental safeguards and collective and individual indigenous rights and shall establish basic mechanisms for conflict resolution.

## • LOCAL SCALE

### 1. Prior stage

Identify the players and the origin of the initiative, including knowledge of the origin of prior resources for consultation and to reach a consensus with regard to the expenses (who gets the bill); indigenous organizations should also have trusted negotiators.

- Both parties should have clarity as to the legal framework on which the consultation process will be based.

2. From the first instance that the indigenous community receives and analyzes the information, they can say yes or no with the certainty that they shall not receive any pressure to change their position.
3. Learn the legal status of the corporate body which possesses the project proposal or initiative, in which the negotiators should have decision-making power.
4. They must also have socio-environmental studies, should the proposing party have them, or the participating sectors should develop them jointly.

5. Authorization certainty when presented with consultation permission requested by the proposing party to the indigenous authorities. (At times, according to country, possibly through the national or regional indigenous associative organization in order to reach the traditional authority). This traditional authority should seek consultation from the various community authorities.
6. Jointly develop the consultation road map, according to the organizational levels of each indigenous people.
7. Convey the initiative information paying special attention to the language or diversity of the local culture languages and with an inter-cultural focus.

8. Establish the timelines according to the needs of the indigenous peoples.
9. Meetings should be in the community, always with an inter-cultural focus and as an essential part of the "free" determination.
10. It should be noted that each initiative is unique and can possess different nuances according to the environmental and territorial context and the affectation to indigenous peoples.



11. State clearly the initiative's advantages and disadvantages. In "good faith" means a constant exchange of information so that every agreement reached is known by all parties and the parties have the opportunity to be heard and to have questions and clarification requests attended according to each culture's worldview.

## 12. Consultation agreement conditions:

- Clearly understand that intellectual property is collective and belongs to the indigenous peoples.
- And the socio-environmental mitigation due to the impacts of the project.

13. The state has the responsibility to apply the rights and guarantees of the indigenous peoples throughout the entire consultation process.

# Critical points

- Everything that has an impact on an indigenous people's territory should be discussed; and the ones who have the last word are those who are affected or benefit from the topic discussed. There shouldn't be too many negotiators.
- With regard to the timelines the consultation should follow, the affected indigenous peoples should establish these in accordance with the nature of the initiative and weighing the conjuncture from which they are trying to develop.

# Critical points

- The indigenous peoples should try to ensure the execution and participation in the monitoring of the implementation of the project with the freedom of withdrawing from the same in the event evidence surfaces as to the violations of the agreed-upon guidelines or upon reporting them to the corresponding bodies.
- The participation of a national and/or international observer is recommended.

## Critical points - Consultation levels

Some small initiatives can be decided by leaders, but major issues are handled at a different level.

Often 3 levels: leader representation delegation; then the majority of people; and then there is the very separate spiritual level. The weight of these three is determined according to indigenous people. The affectation of adjoining territories to the indigenous territories. The cultural space, not only the territorial, needs to be considered.

# Critical points

- In regards to workshops, a critical point is that they should be cultural mediators and not only technicians. In regards to more practical knowledge approximations there is a need for adaptation with adequate methods: images, models, etc.