

The FPIC process: a way of empowering indigenous communities?



Francesca Rossi

Junior Social Consultant - WSP

Italy

francesca.rossi@wsp.com





Case Study: Linear infrastructure project

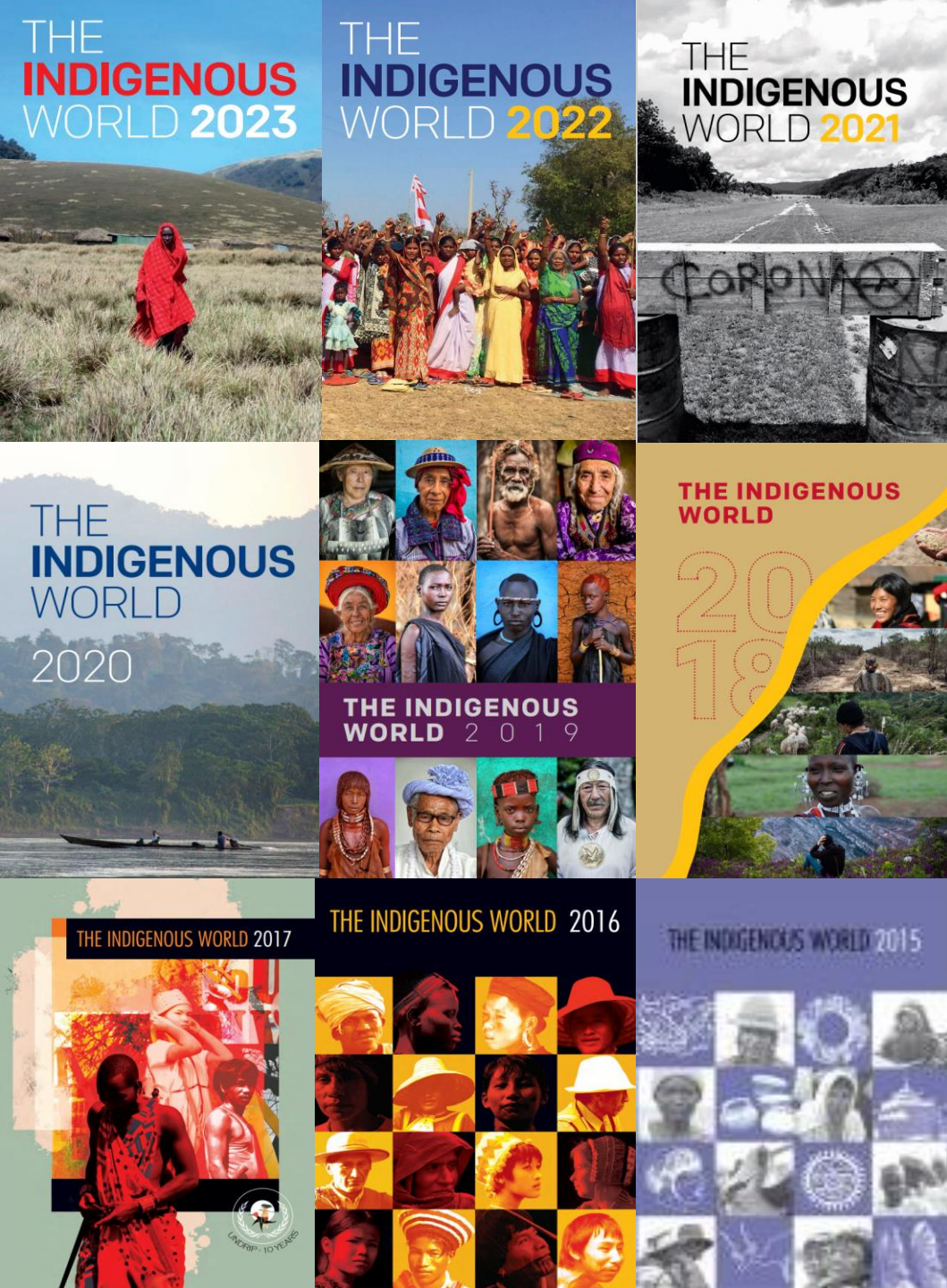
- Client:** Italian Engineering, Procurement & Construction company
- Project:** Road infrastructure project sponsored by the Government of Cameroon
- Location:** Southern part of the Republic of Cameroon
- Overview:**
- The Italian EPC company has hired WSP to conduct the Lender's compliant ESIA
 - During consultations as part of the ESIA, it has become apparent that Indigenous groups (Bagyeli) were living on the areas impacted by the project
 - The Project is financed by a pool of international banks that apply the International Finance Corporation (IFC) Performance Standards

The difficult definition of Indigenous People

- There are **no** international legal instruments that provide a **universal definition of indigenous peoples**. International Organisations, have also **struggled to find a common definitive criteria**.
- Also the **UN Declaration** on the Rights of Indigenous Peoples (2007) **does not include a definition of Indigenous People**.

However, the UN Declaration **does** recognise:

- The right of IP to self determination (Articles 3 and 4)
- Their collective right to own and control their lands and resources (Articles 25-27);
- Their right to free prior and informed consent in relation to legislation, measures and projects that may have an impact on their rights (Articles 10, 11, 19, 28, 29, 32);
- Their right to participate in decision-making processes (Articles 5, 18, 27).



Indigenous peoples' recognition in Cameroon

- Since its independence in 1960 the Cameroonian government has tried to focus on national unity.
- The **Constitution of the Republic of Cameroon** uses the terms “Indigenous” and “minorities” in its preamble; however, **it is not clear to whom this refers.**
- **Forestry, Wildlife and Fisheries Law 94/01 (1994, 2004), Law on land tenure (1974) and Pastoral Code (2010, 2014)** relate to indigenous groups in Cameroon but they are **still pending and not effective** in protecting IP livelihoods (IWGIA, 2011, 2012, 2013).
- **Land and resource rights of indigenous peoples are often excluded from full legal protection** (IIED, 2017)

Indigenous People in Cameroon

In Cameroon there are some communities which self-identify as indigenous.

- Hunter/gatherers (also called Indigenous Forest Peoples)
- The Mboro pastoralists
- The Kirdi

These Indigenous Forest People are divided into three sub-groups: the Bagyéli (around 4,000 people), the Baka (around 40,000 people) and the Bedzang (around 300 people)



Population



Location



Economic activities

Bagyeli

Around 4,000 people (0.4% of total population of Cameroon).

The group live in an area of around 12,000 km² in the south of Cameroon, particularly in the districts of Akom II, Bipindi, Kribi and Lolodorf.

Culturally hunter gatherers. Land cultivation and agriculture are gradually becoming significant.

Project impacts and FPIC activation

- The Project passes through a total of 60 villages with over 44,000 inhabitants
- Physical and economic displacement of people and Indigenous Forest People (Bagyeli) will be caused by land acquisition along the road's Right of Way (RoW).
- For acquiring land, the Project has to be compliant with the legislation of the Republic of Cameroon, to **IFC PS5 on Land Acquisition and Involuntary Resettlement and PS7 on Indigenous Peoples.**

PS7 is triggered if the Project generates the following impacts on IP:

- 1** **Impacts on lands and natural resources** subject to traditional ownership and **under customary use**
- 2** **Relocation of Indigenous peoples** from lands and natural resources subject to traditional ownership and under customary use
- 3** **Significant impacts on cultural heritage** that is essential to the identify and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples lives, including natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees and sacred rocks.
- 4** **Use of cultural heritage**, including knowledge innovations or practices of Indigenous Peoples for commercial purposes

Criteria 1 and 2 were triggered by physical displacement of Bagyeli & removal of forest subjected to customary use. Several graves triggered **Criteria 3**. Criteria 4 was not triggered.

The client had to implement a Free, Prior and Informed Consent (FPIC)

Steps for Performance Standard 7 – FPIC process



The presence of Bagyeli in the Project area was first identified during the baseline data collection process as part of the ESIA.

A Bagyeli advocacy NGO was engaged to conduct subsequent consultation and engagement

1st consultation:

Bagyeli NGO went on the field to the 19 communities to share Project information, proposed mitigation measures and information on the FPIC process.

- Communities were asked to nominate a representative
- A screening to determine if FPIC was required to be carried out
- 2 groups of settlements identified:
 - 8 not impacted
 - **11 impacted and in need of FPIC**

Steps for Performance Standard 7 – FPIC process



2nd consultation:

- 11 impacted communities visited
- Representatives formalized
- **Draft of the FPIC Agreements developed in collaboration with IP** (mitigation measures, proposed benefits).

WSP site visit

FPIC agreement shared to client for review

3rd consultation:

Final FPIC Agreement discussed with IP Communities and signed by representative.

FPIC agreement already signed by the IP representative sent to the client and the Government of Cameroon for final signature from their sides.

Some photos of FPIC negotiation and signature





Main concerns raised during FPIC consultation

Bagyeli often:

- Do **not** have **official ownership documents for the land** they reside in or they use for livelihood activities and have **not been included in the official census** and asset inventory **for land acquisition**.
- Do **not** have any **form of official identification** documents because in many cases they lack birth certificates and so cannot be directly hired by the company in the construction phase .

Main requirements included in the FPIC agreements

11 separate FPIC agreements were prepared together with each affected Bagyeli community.

The measures included in the agreements are:

- To receive **replacement land and housing** that is secure **instead of cash compensation** – a measure common to most communities
- To **repair a water well** – a measure specific to one community
- **Support** for the **organization of rituals** to appease the spirits – a measure common to some communities
- Support with local authorities for **obtaining official IDs** – a measure common to most communities
- The signing of an agreement with a community that owns a plantain farm in order to **supply plantain** to the project – a measure specific to one community

OUTCOMES

- IP communities were **empowered and listened to** through the FPIC process and **involved** in the overall ESIA process. This is rare in private projects in Cameroon.
- They elected representatives and **expressed their needs, negotiated their terms and obtained an agreement** with the client and the government.
- They obtained **specific guarantees from the Project** that they would not have received according to Cameroonian legislation and within the national permitting process.
- The agreement was signed by the Government of Cameroon, and this is can be considered **a step forward towards the recognition of the rights of Indigenous Forest People.**

References

Guidance Note 7 Indigenous Peoples: [*GN7_English_2012.pdf](#)

IIED (2017). Indigenous peoples' land rights in Cameroon: progress to date and possible futures: [17448IIED.pdf](#)

Singh Manvir (2023). It's Time to Rethink the Idea of the "Indigenous". The New Yorker.

The Indigenous World, 2011: [IW_2010.pdf \(iwgia.org\)](#)

The Indigenous World, 2012: [0573_THE_INDIGENOUS_ORLD-2012_eb.pdf \(iwgia.org\)](#)

The Indigenous World, 2013: [0613_EB-THE_INDIGENOUS_ORLD_2013.pdf \(iwgia.org\)](#)

The indigenous World, 2014: [0671_I2014eb.pdf \(iwgia.org\)](#)

The Indigenous World, 2015: [0716_THE_INDIGENOUS_ORLD_2015_eb.pdf \(iwgia.org\)](#)

The Indigenous World, 2016: [0740_THE_INDIGENOUS_ORLD_2016_final_eb.pdf \(iwgia.org\)](#)

The Indigenous World, 2017: [indigenous-world-2017.pdf \(iwgia.org\)](#)

The Indigenous World, 2018: [indigenous-world-2018.pdf \(iwgia.org\)](#)

The Indigenous World, 2019: [IndigenousWorld2019_UK.pdf \(iwgia.org\)](#)

The Indigenous World, 2020: [IWGIA_The_Indigenous_World_2020.pdf](#)

References

The Indigenous World, 2021:

[eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjI4ODM5NjM2LCJleHAiOiJlE2Mjg5MjYwMzZ9.z1CuM7PcT5CPkV0evx8ve88y6v0vmwDu_5IJQ_lwAkM](https://www.iwgia.org/2021/01/01/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjI4ODM5NjM2LCJleHAiOiJlE2Mjg5MjYwMzZ9.z1CuM7PcT5CPkV0evx8ve88y6v0vmwDu_5IJQ_lwAkM) (iwgia.org)

The Indigenous World, 2022:

[eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjUxMTM5NTg1LCJleHAiOiJlE2NTEyMjU5ODV9.jRnv3PeantfRZtJg4jph8xdshK5Mh25Z3hlcPs9As_U](https://www.iwgia.org/2022/01/01/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjUxMTM5NTg1LCJleHAiOiJlE2NTEyMjU5ODV9.jRnv3PeantfRZtJg4jph8xdshK5Mh25Z3hlcPs9As_U) (iwgia.org)

The Indigenous World, 2023:

[eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjg5NzcxMjYwMzZ9.PxHbwjCHHzLhC5V4CSm9QD0ZwrRgqSEZOAP38mX6h9c](https://www.iwgia.org/2023/01/01/eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9.eyJzdWIiOiJpd2dpYS1ib29rLXRoZS1pbmRpZ2Vub3VzLXdvcmxkLTIwMjEtZW5nliwiaWF0IjoxNjg5NzcxMjYwMzZ9.PxHbwjCHHzLhC5V4CSm9QD0ZwrRgqSEZOAP38mX6h9c) (iwgia.org)

[United Declaration on the rights of Indigenous Peoples 2007. UNDRIP_E_web.pdf](#)

[UNDESA \(2021\). State of the World's Indigenous Peoples :article viewer | United Nations iLibrary \(un-ilibrary.org\)](#)

[World Bank \(2023\): Indigenous Peoples Overview \(worldbank.org\)](#)



Thank you!



wsp.com

Let's continue the conversation!

Post questions and comments in the IAIA23 app.



Francesca Rossi

Junior Social Consultant- WSP

Italy

francesca.rossi@wsp.com