

# Climate Justice within the UNFCCC Negotiations: The Case of the Rights of Indigenous Peoples from Copenhagen Accord to Paris Agreement

Mwendwa Adamba Kaleb<sup>1,\*</sup>, Obiri John<sup>2</sup>, Agevi Humphrey<sup>3</sup>

<sup>1</sup>Science and Maths Education Department, School of Education, Centre for Kakamega Tropical Forest Studies, Masinde Muliro University of Science and Technology, Kakamega, Kenya

<sup>2</sup>Disaster Management and Sustainable Development Department, School of Disaster Management and Humanitarian Assistance, Masinde Muliro University of Science and Technology, Kakamega, Kenya

<sup>3</sup>Biological Sciences Department, School of Natural Sciences (SONAS), Masinde Muliro University of Science and Technology, Kakamega, Kenya

## Email address:

kmwendwa@mmust.ac.ke (M. A. Kaleb), jobiri@mmust.ac.ke (O. John), hagevi@mmust.ac.ke (A. Humphrey)

\*Corresponding author

## To cite this article:

Mwendwa Adamba Kaleb, Obiri John, Agevi Humphrey. Climate Justice within the UNFCCC Negotiations: The Case of the Rights of Indigenous Peoples from Copenhagen Accord to Paris Agreement. *International Journal of Natural Resource Ecology and Management*. Vol. 5, No. 4, 2020, pp. 160-167. doi: 10.11648/j.ijnrem.20200504.13

**Received:** October 14, 2020; **Accepted:** November 13, 2020; **Published:** November 23, 2020

---

**Abstract:** Indigenous peoples are a major constituent in the inter-play that involves management, protection, conservation and sustainable utilization of natural resources globally. Several UNFCCC Conference of Parties (COPs) negotiation events have been held worldwide to agree on climate change actions aimed at reducing global emissions. Qualitative research using discourse and content analysis (DA and CA) was carried out to evaluate trends and patterns of COPs discussions from 2009 (COP 15) to 2015 (COP 21) in including the rights of indigenous peoples in their sessions using official documents generated and published on the UNFCCC official web portal. The sensitivities and rights of indigenous people were not taken into account up and until the Copenhagen Accord of 2009 (COP 15). COP 16 registered the highest WFC “Indigenous People” of 10, followed by COP 20 (7) and then COP 21 (5). COP 15 had the least WFC of 2. The rights of Indigenous People are more expressed in Financing and Capacity Building areas of the UNFCCC and least in Mitigation and Adaptation issues. The right to food and land has seldom been addressed in the 7 COPs while the right to health has been addressed only once during COP 21. Only participation and traditional knowledge have improved over time. There is a serious need to operationalize the Cancun Agreement of 2010 (COP 16) on the rights of indigenous peoples.

**Keywords:** Climate Change, Indigenous Peoples Rights, UNFCCC, COPs

---

## 1. Introduction

Indigenous Peoples (IP) and the role they may play in combating climate change are rarely considered in public discourses on climate change yet they are among the first to face the direct consequences of climate change, due to their dependence upon, and close relationship, with the environment and its resources [1]. Comprising less than 5% of the world's population, indigenous people protect 80% of global biodiversity [2]. There are at least 370-476 million people in over 90 countries who define themselves as

Indigenous [3] and are descended from populations who inhabited a country before the time of conquest or colonization. They retain at least some of their own social, economic, cultural and political institutions and characteristics and practice unique traditions that are distinct from those of the dominant societies in which they live [4] (UN, 2015). Climate change exacerbates the difficulties already faced by indigenous communities including political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment [1]. Indigenous rights to self-determination, well-being,

traditional knowledge, and a healthy environment as articulated in the UN Declaration on the Rights of Indigenous Peoples of 2014 have also been increasingly recognized by national governments and the conservation community [2]. While Indigenous Peoples' land rights are acknowledged and implemented to varying degrees across time and geography, even when refused or ignored, Indigenous Peoples frequently retain de facto influence over their ancestral lands [5].

Climate change is predicted to interfere with the basic human rights of the most vulnerable members of our society and severely limiting their ability to access their basic needs. There is innumerable scientific evidence that give indication on the impact of climate change on the lives of millions of peoples across the globe and Indigenous Peoples (IPs) are among this group expected to be negatively impacted. The 5<sup>th</sup> Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), establishes that the livelihoods and lifestyles of indigenous peoples are highly sensitive to climate change and climate variability with some indigenous communities changing seasonal migration and hunting patterns in order to adapt to changes in temperature. The Asian Indigenous People's Declaration on the 21<sup>st</sup> Session of the United Nations Framework Convention on Climate Change-UNFCCC pointed out to other issues that climate change is exacerbating on their livelihood including displacement, marginalization and unemployment [6]. Besides and most of the time ignored in the discussions surrounding climate change and Indigenous Peoples, is the impact of climate change on the health of Indigenous People where they are experiencing increased cases of vector and water borne diseases such as cholera, malaria, dengue fever and pneumonia [7]. Increase in temperature related to Climate Change and the impact of extreme weather events such as drought and floods impacts on the livelihood of Indigenous Peoples. Climate change is thus affecting the overall human rights of Indigenous Peoples, altering their lifeway, their rights to access food, their health status and limiting their access to lands and resources such as forests, hence endangering their social cohesion, adaptive capacity and overall wellbeing which are key features of their collective and individual resilience.

Indigenous Peoples, besides being victims of climate change, hold considerable traditional knowledge relevant to mitigation and adaptation to climate change. The vast majority of the world's genetic resources are found on indigenous peoples' lands, and their specialized livelihood practices and traditional ecological knowledge contribute significantly to low-carbon sustainable development, biodiversity conservation, sustainable use of biodiversity and maintaining genetic diversity [8].

The UN Declaration on the Rights of Indigenous Peoples [9] Article 31 has established framework for recognition of this Indigenous Knowledge while the Cancun Safeguard has made a strong recognition of the need to blend the Indigenous Knowledge with the modern science in

Monitoring, Reporting and Verification of Reducing Emissions from Deforestation and Forest Degradation or REDD+ [10, 11, 12]. The Sendai Framework for Disaster Reduction 2015-2030 unequivocally recognizes the need to consider Indigenous knowledge in early warning systems. Indigenous peoples, through their experience and traditional knowledge, provide an important contribution to the development and implementation of plans and mechanisms, including for early warning systems [13]. There are also calls to recognize the importance of indigenous peoples' health practices and their traditional medicine and knowledge [8].

Despite the recognition of the role Indigenous Peoples can play in addressing climate change, and the milestone achieved under the Conference of Parties held in Cancun (COP 16), the participation of Indigenous People in key climate programmes is still minimal and their overall human rights needs are not captured in important decisions. Their health needs, access to food and land of Indigenous peoples under climate change are still unknown and little referred to in crucial decisions. To address this gap, this study aimed at establishing evidence about the progress towards the inclusion of Indigenous People's rights within the UNFCCC Negotiations, looking at the progress achieved from Copenhagen Accord (COP 15) to Paris Agreement (COP 21). The study concludes by drawing critical reflections and suggesting future areas requiring further research.

## 2. Materials and Methods

This study adopted a qualitative research design based on climate negotiations discourse with the view to assess the progression of key human right issues of Indigenous Peoples, from the Copenhagen Accord (COP 15) to the Paris Agreement (COP 21). In selecting these information sources, priority was also given to peer-reviewed literature, books by academic publishers and reputable data providers such as documented by UNFCCC.

Two research questions are used:

- 1) How did Indigenous Peoples Rights evolve over time from the Copenhagen Accord (COP 15) to the Paris Agreement (COP 21)?
- 2) Which specific Indigenous People's rights are addressed and by which UNFCCC bodies?

Data was collected mainly from the UNFCCC website. All the decision documents of the Conference of Parties from COP 15 to COP 21 were downloaded and their relevance to Indigenous Peoples was ascertained. Data analysis was done through MaxQDA 11 software. Where necessary, the analyzed data was exported to MS Excel 2016 for further exploration. The discourse analysis (DA) was combined with the content analysis (CA) in order to evaluate and examine trends and patterns and to monitor the shift in Conference of Parties Session documents regarding the Indigenous Peoples human rights.

Session Date	Location	Session	Related
30 Nov-11 Dec 2015	Paris, France	COP 22	Mandated Even
1-12 Dec 2014	Bonn, Germany	COP 21	Mandated Even
11-22 Nov-13	Warsaw, Poland	COP 19	Workshops
28 Nov-7 Dec 2012	Doha, Qatar	COP 18	Workshops
28 Nov- 9 Dec	Durban, South Africa	COP 17	Workshops
29 Nov-10 Dec 2010	Cancun, Mexico	COP 16	Workshops
7 - 18 Dec 2009	Copenhagen, Denmark	COP 15	Workshops
4- 12 Dec 2008	Poznan, Poland	COP 14	Workshops
8 - 14 Dec 2007	Bali, Indonesia	COP 13	Workshops
6- 17 Nov 2006	Nairobi, Kenya	COP 12	Workshops
28 Nov-9 Dec	Montreal, Canada	COP 11	Workshops
6-17 Nov 2004	Buenos Aires, Argentina	COP 10	Workshops
1-12 Dec 2003	Milan, Italy	COP 9	Workshops
23 Oct-1 Nov 2002	New Delhi, India	COP 8	Workshops

Body	Decisions	Title	Versions
COP	1/CP.21	Adoption of the Paris Agreement	EN
COP	2/CP.21	Warsaw International Mechanism for Loss and Damage Associated with climate change impacts	EN
COP	3/CP.21	Report of the Adaption committee	EN
COP	4/CP.21	National adaption plans	EN
COP	5/CP.21	Long term climate finance	EN
COP	6/CP.21	Report of the standing committee on finance	EN
COP	7/CP.21	Report of the Green climate fund to the conference of the parties and guidance to the green climate fund	EN
COP	8/CP.21	Report of the global Environmental Facility to the Conference of the Parties and Guidance to the Green Climate Fund	EN
COP	9/CP.21	Methodologies for the reporting of financial information of Parties included in Annex 1 to the convention	EN
COP	10/CP.21	The 2013- 2015 review	EN
COP	11/CP.21	Forum and work programme on the impact of implementation response measures	EN
COP	12/CP.21	Enhancing climate technology and development transfer through Technology Mechanism	EN
COP	13/CP.21	Linkages between the Technology Mechanism and Financial Mechanism of the Convention	EN
COP	14/CP.21	Capacity building under the convention	EN
COP	15/CP.21	Terms of reference for the intermediate work	EN

Figure 1. Data structure used in the study. Source: UN official Website for COP 21.

The study based its analysis on the official documents generated and published by the UNFCCC in its web portal regarding the sessions of the Conference of Parties (COP) from the Copenhagen Session to the Paris Session (Figure 1). Six (6) Indigenous People human rights were assessed (Right to food; Land, Territories and Resources; Health; Lifeway; Traditional Knowledge Recognition and Participation). They form the basis of human right of Indigenous Peoples under this study. The different structures of the UNFCCC were also divided into six sections namely (Mitigation, Adaptation, Financing, MRV<sup>1</sup>, Technology Transfer and Capacity Building). The approach consisted of analyzing which specific human right of Indigenous Peoples is being addressed in the document and under which section of the UNFCCC. Specifically, a word frequency count (WFC) with the keyword “Indigenous People” was also used to monitor the shift of opinion in regards to discussions surrounding the rights of Indigenous People in the Conference of Parties. The technique employed consisted of coding and categorizing data so as to follow the trend of the discussions. A category is a group of words with similar meaning or connotations (Weber, 1990).

### 3. Results and Discussion

Table 1 below shows the summary of key rights of Indigenous Peoples addressed in the last seven Conference of Parties sessions and the respective UNFCCC sections under which these rights are captured.

Table 1. Key Indigenous People Human Rights issues addressed in the last seven (7) Conference of Parties.

COPs	UNFCCC Bodies and/or focus area the corresponding text in the document:	Key IPs Human Right issue(s) addressed and corresponding text in the document:	Keyword Count	Source: (UNFCCC Document Code)
	1. Mitigation 2. Adaptation 3. Financing 4. MRV <sup>2</sup> 5. Technology Transfer 6. Capacity Building 7. Cross-Cutting	1. Right to food 2. Land, Territories and Resources 3. Health 4. Lifeway 5. Traditional Knowledge Recognition 6. Participation 7. Cross-Cutting		
COP 15 Copenhagen, Denmark 7 – 18 Dec 2009	(4): Methodological guidance for activities relating to reducing emissions from deforestation and forest degradation	(5 and 6): “...Recognizing the need for full and effective engagement of indigenous peoples and local communities in, and the potential contribution of their knowledge to, monitoring and reporting of activities relating to decision 1/CP.13, paragraph 1 (b) (iii)...” “...Encourages, as appropriate, the development of guidance for effective engagement of indigenous peoples and local communities in monitoring and reporting...”	2	FCCC/CP/20/09/11/Add.1 Decision 4/CP.15
COP 16 Cancun, Mexico 29	(7):A shared vision for long-term cooperative action	(6): “...Recognizes the need to engage a broad range of stakeholders at the global, regional, national and local levels, be they government, including subnational and local government, private business or civil society, including youth and persons with disability;	10	FCCC/CP/20/10/7/Add.1

1 Measuring, Reporting and Verification

2 Measuring, Reporting and Verification

Nov – 10 Dec 2010		and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change;...” “...Emphasizes that Parties should, in all climate change related actions, fully respect human rights;...” (5 and 6): Affirms that enhanced action on adaptation should be undertaken in accordance with the Convention, should follow a country-driven, gender-sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional and indigenous knowledge, with a view to integrating adaptation into relevant social, economic and environmental policies and actions, where appropriate;		
	(2): Enhanced action on adaptation			
	(3): implementation of the amended New Delhi work programme on Article 6 of the Convention	(6): “... To foster the participation of women, youth, indigenous peoples, civil society groups and relevant stakeholders in decision-making on climate change at the national level and their attendance at intergovernmental meetings, including sessions of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the subsidiary bodies; ...” (6): Further agrees that enhanced action on adaptation should be undertaken in accordance with the Convention, should follow a country-driven, gender-sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional and indigenous knowledge, and by gender-sensitive approaches, with a view to integrating adaptation into relevant social, economic and environmental policies and actions, where appropriate;	1	FCCC/CP/20 10/7/Add.2 Decision 7/CP.16
	(2): NAPs	(5): Also requests the secretariat to organize, in collaboration with Nairobi work programme partner organizations and other relevant organizations, the following workshops, informed by the information contained in annex I to the report of the Subsidiary Body for Scientific and Technological Advice on its thirty-fourth session I and subsequent views of Parties, and to include indigenous and traditional knowledge and practices for adaptation and gender-sensitive tools and approaches as cross-cutting issues:	2	FCCC/CP/20 11/9/Add.1 Decision 5/CP.17
COP 17 Durban, South Africa 28 Nov – 9 Dec 2011	(2 and 6): Nairobi work programme on impacts, vulnerability and adaptation to climate change	(6): “...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...” (7): How loss and damage associated with the adverse effects of climate change affects those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability, and how the implementation of approaches to address loss and damage can benefit those segments of the population;	2	FCCC/CP/20 11/9/Add.2 Decision 6/CP.17
	(3): Green Climate Fund	(6): “...Also reaffirming the importance of taking into account gender aspects and the need to promote the effective engagement of children, youth, the elderly, women, persons with disabilities, indigenous peoples, local communities and non-governmental organizations in activities related to Article 6 of the Convention...” Decides that at the meetings referred to in paragraphs 4 and 5 above, participants may seek input from relevant bodies established under the Convention, international and regional organizations, the private sector, indigenous peoples and civil society in undertaking their work and invite the representatives of these entities to participate as observers in these meetings;		Decision 3/CP.17
COP 18 Doha, Qatar 26 Nov – 7 Dec 2012	(3): Loss and damage	(6): “...Also reaffirming the importance of taking into account gender aspects and the need to promote the effective engagement of children, youth, the elderly, women, persons with disabilities, indigenous peoples, local communities and non-governmental organizations in activities related to Article 6 of the Convention...” Decides that at the meetings referred to in paragraphs 4 and 5 above, participants may seek input from relevant bodies established under the Convention, international and regional organizations, the private sector, indigenous peoples and civil society in undertaking their work and invite the representatives of these entities to participate as observers in these meetings;	1	FCCC/CP/20 12/8/Add.1 Decision 3/CP.18
	(6): Doha work programme on Article 6 of the Convention	(5): “...Also recognizing the importance of indigenous and traditional knowledge and practices, and gender-sensitive approaches and tools for adaptation to climate change...”	2	FCCC/CP/20 12/8/Add.2 Decision 15/CP.18
COP 19 Warsaw, Poland 11 – 22 Nov 2013	(1): Warsaw Framework for REDD-plus	(7): Provide meaningful and regular opportunities for the effective engagement of experts from Parties, relevant international organizations, civil society, indigenous peoples, women, youth, academic institutions, the private sector, and subnational authorities nominated by their respective countries; Stressing that all actions to address climate change and all the processes established under this agreement should ensure a gender-responsive approach, take into account environmental integrity / the protection of the integrity of Mother Earth, and respect human rights, the right to development and the rights of indigenous peoples,	1	FCCC/CP/20 13/10/Add.1 Decision 10/CP.19
	(2 and 6): Nairobi work programme on impacts, vulnerability and adaptation to climate change	(5): Reiterates that the national adaptation plan process is a country-driven, gender sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional and indigenous knowledge, with a view to integrating adaptation into relevant social, economic and environmental policies and actions, where appropriate;	2	FCCC/CP/20 13/10/Add.2/ Rev.1 Decision 17/CP.19
	Lima Call for Climate Action	Invite Parties to underline the importance of indigenous and traditional knowledge	5	FCCC/CP/20 14/10/Add.1 Decision 1/CP.20
COP 20 Lima, Peru 1 – 12 Dec 2014	(2): National adaptation plans		7	FCCC/CP/20 14/10/Add.2 Decision 3/CP.20
	(2): Adaptation Committee /			FCCC/CP/20



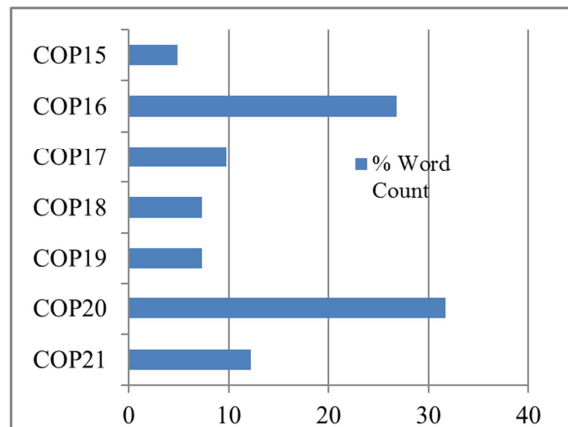
COP 21 Paris, France 30 Nov – 11 Dec 2015	National Adaptation Plans	<i>and practices, in a manner commensurate with modern science, for the effective planning and implementation of adaptation, including by encouraging the integration of indigenous, traditional and local knowledge into the NAP process;</i>		14/10/Add.2 Annex
	(2, 3 and 4): Adaptation Fund, Global Environmental Fund, Green Carbon Fund	<i>(7): Encourage the Adaptation Fund, the Global Environment Facility (GEF) and the GCF to enhance their consideration of local, indigenous and traditional knowledge and practices and their integration into adaptation planning and practices, as well as procedures for monitoring, evaluation and reporting</i>		
	(2): The Lima Ministerial Declaration on Education and Awareness-raising	<i>(6): Reaffirming that public participation, access to information and knowledge are crucial for developing and implementing effective policies to combat climate change and adapt to its impacts, as well as to engage actively, as appropriate, all stakeholders, including children, youth, the elderly, women, persons with disabilities, indigenous and local communities and non-governmental organizations in the implementation of these policies,</i>	1	FCCC/CP/20 14/10/Add.3 Decision 19/CP.20
	(7): Adoption of the Paris Agreement	<i>(3, 4 and 7): Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,</i>		FCCC/CP/20 15/10/Add.1 Decision 19/CP.20 and in Annex
	(7)Non-Party stakeholders	<i>Recognizes the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change, and establishes a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner;</i>	5	FCCC/CP/20 15/10/Add.1 Paragraph 135
	(2): Global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change	<i>Parties acknowledge that adaptation action should follow a country-driven, gender responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.</i>		FCCC/CP/20 15/10/Add.1 Annex Article 7, Paragraph 5

*a. Frequency of issues surrounding the right Indigenous of Indigenous Peoples in Conference of Parties*

The word count frequency analysis (Figure 2) reveals that the discussion surrounding the rights of Indigenous People was most frequent in the Conference of Parties held in Lima, Peru, COP 20, 2014 and the Conference of Parties held in and in Cancun, Mexico COP 16, 2010. The first World Conference on Indigenous Peoples was held on 22-23 September 2014 in Peru. The meeting was an opportunity to share perspectives and best practices on the realization of the rights of indigenous peoples, including pursuing the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. This is the same year the COP 20 was held in December and thus explains why COP 20 [14] had the rights of the Indigenous People strongly presented.

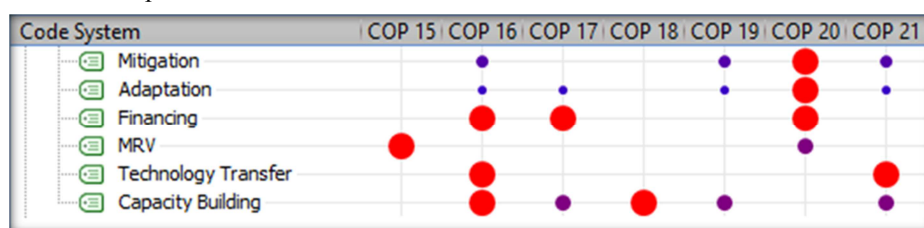
The Conference of Parties held in Copenhagen in 2009 (COP 15) referred to the Indigenous Knowledge only twice, touching on issues surrounding their participation in Monitoring, Reporting and Verification (MRV). From this word frequency analysis, it is not evident that there is a continuous trend or a shift of opinion in the Conference of

Parties in regards to the right of Indigenous Peoples.



**Figure 2.** Word count frequency analysis from COP 15 to COP 21

*b. The UNFCCC bodies and the expression of the Rights of Indigenous Peoples*



**Figure 3.** The UNFCCC sections and the right of Indigenous Peoples.

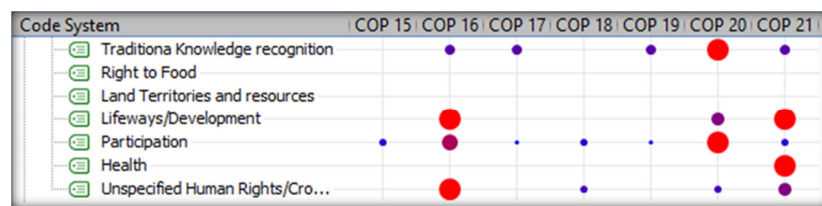
Figure 3 reveals that the rights of Indigenous People are more expressed in Financing and Capacity Building areas of the UNFCCC. It is evident that Mitigation and Adaptation issues are least expressed. This is a serious setback considering that Indigenous People dispose considerable knowledge that can be used in both mitigation and adaptation. For indigenous peoples, resilience is rooted in traditional knowledge, as their capacity to adapt to environmental change is based first and foremost on in-depth understanding of the land. As climate change increasingly impacts indigenous landscapes, communities are responding and adapting in unique ways [15]. In a recent statement to the Conference of Parties to the UN Framework Convention on Climate Change, the International Indigenous Peoples Forum on Climate Change (IIPFCC) stated:

“...[W]e reiterate the need for recognition of our

traditional knowledge, which we have sustainably used and practiced for generations; and the need to integrate such knowledge in global, national and sub-national efforts. This knowledge is our vital contribution to climate change adaptation and mitigation.”

The COP 16 and COP 20 held respectively in Cancun and Lima have captured the right of Indigenous Peoples more than any other Conference of Parties in the last 7 years. While the focus was on Financing, Technology and capacity building in COP 16, the Conference of Parties held in Lima shifted the attention toward Mitigation, Adaptation and Financing. The Paris Agreement appears to be a setback in relation to the right of Indigenous Peoples as when compared to the advance attained in the previous Conference of Parties.

*c. Frequency of issues surrounding the right Indigenous of Indigenous Peoples in Conference of Parties*

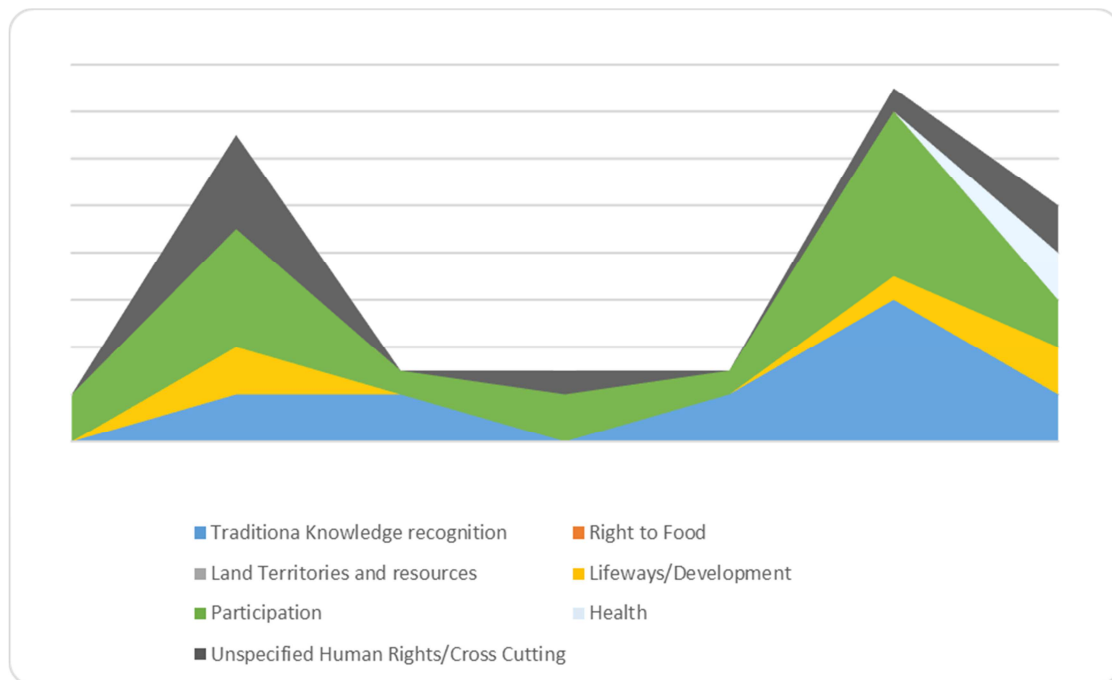


**Figure 4.** The rights of Indigenous Peoples as captured in the various Conference of Parties (COPs).

The Participation of Indigenous Peoples has been captured in all the 7 conference of parties (Figure 4) whereas the rights to food and land have seldom been addressed by any of the conference of parties. This is a serious concern for policy makers considering the impact of climate change on forests and other natural resources which constitute the main source of food and settlement for Indigenous Peoples. World Bank [16] confirms that Indigenous Peoples often lack formal recognition over their lands, territories and natural resources,

are often last to receive public investments in basic services and infrastructure, and face multiple barriers to participate fully in the formal economy, enjoy access to justice, and participate in political processes and decision making. The particularity of the Paris Agreement vis-à-vis the right of Indigenous People is the consideration on the agreement about the health issues of Indigenous People (COP 21).

*d. Involvement of Indigenous People Rights over time from the Copenhagen Accord to the Paris agreement*



**Figure 5.** Trends in recognition of the rights of Indigenous Peoples in the various Conference of Parties.

Figure 5 shows that Participation and the recognition of Traditional knowledge of Indigenous People are the two areas which have improved over time. However, the right to food, land territories and resources has been ignored while life ways/development is getting more recognized. Indigenous Peoples often lack formal recognition over their lands, territories and natural resources, are often last to receive public investments in basic services and infrastructure, and face multiple barriers to participate fully in the formal economy, enjoy access to justice, and participate in political processes and decision making [17]. This legacy of inequality and exclusion has made indigenous communities more vulnerable to the impacts of climate change and natural hazards, including to disease outbreaks such as COVID-19 [17]. Geospatial analysis studies indicate that collaborative partnerships and participation involving conservation practitioners, Indigenous Peoples and governments would yield significant benefits for conservation of ecologically valuable landscapes, ecosystems and genes for future generations using IPs traditional knowledge [17, 18].

#### 4. Conclusion and Recommendations

Indigenous Peoples and local communities are some of the best environmental stewards. Their livelihoods and cultures depend on forests, clean water and other natural resources, so they have strong incentives to sustainably manage their lands. While the improvement of the participation of Indigenous Peoples in key decisions is important, and the recognition of their traditional knowledge is essential to the protection of the right of the Indigenous People against climate change, the access to food and land are key important areas which should not be ignored in climate talks. It is noted in this study that none of the last 7 Conference of Parties under consideration in this study has addressed these two critical issues fully.

To ensure that the collective and individual rights of Indigenous Peoples are captured, this study recommends the following:

- 1) The need to consider in future Conference of Parties the operationalization of the Cancun Agreement since it unequivocally and explicitly recognizes and compels parties to respect human rights in all climate-change decisions including the rights of Indigenous Peoples.
- 2) The need to build upon the achievements attained in the Conference of Parties held in Cancun and in Lima (COP 16 and COP 20 respectively) in the adoption of decisions that cut across all aspects of Indigenous Peoples Human Rights that span across all processes, actions and plans of the UNFCCC including mitigation, adaptation, funding mechanisms, technology transfer and capacity building.
- 3) The comprehensive implementation of the "Resolution adopted by the General Assembly on 22 September 2014" contained in document 69/2- Outcome document of the high-level plenary meeting of the General Assembly

known as the World Conference on Indigenous Peoples.

#### Acknowledgements

The author acknowledges various lecturers in the Department of Disaster Management and Sustainable Development and Masinde Muliro University of Science and Technology (MMUST)-Kenya who assisted in the data analysis. We also acknowledge library staff in MMUST who assisted in the retrieval of a number of UNFCCC Conference of Parties (COPs) articles from the UNFCCC website.

#### References

- [1] Ban Ki-moon, (2007). Climate Change: The effects of climate change on indigenous peoples. UN Secretary General. Retrieved 15 October 2020 from <https://www.un.org/development/desa/indigenouspeoples/climate-change.html>
- [2] Raygorodetsky. G (2018): Indigenous Peoples defend earth's biodiversity but they're in danger. Retrieved 15 October 2020 from <https://www.nationalgeographic.com/environment/2018/11/can-indigenous-land-stewardship-protect-biodiversity/>
- [3] Indigenous peoples. The World Bank. Retrieved 26 October 2020 from [http://www.worldbank.org/en/topic/indigenouspeoples\(2017\)](http://www.worldbank.org/en/topic/indigenouspeoples(2017)).
- [4] C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169) (International Labour Organisation, 1989); Retrieved 27 October 2020 from [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)
- [5] Gilbert, J. (2016). Indigenous Peoples' Land Rights under International Law: From Victims to Actors. Second Revised Edition. Paperback : 326 pages, ISBN-13 : 978-9004323247 Brill - Nijhoff; Revised edition (July 8, 2016)
- [6] Errico, Stefania. The rights of indigenous peoples in Asia : a human rights-based overview of national legal and policy frameworks against the backdrop of country strategies for development and poverty reduction / Stefania Errico ; International Labour Office, Gender, Equality and Diversity Branch. - Geneva: ILO, 2017. ISBN 978-92-2-130489-0 (print) ISBN 978-92-2-130490-6 (web pdf)
- [7] MPSMRM. (2014). Demographic and Health Survey in the Democratic Republic of Congo 2013-2014. Key Findings. Rockville, Maryland, USA: MPSMRM, MSP and ICF International Retrieved 10 September 2020 <https://dhsprogram.com/pubs/pdf/SR218/SR218.e.pdf>
- [8] WCIP, 2014. The first World Conference on Indigenous Peoples. 22-23 September 2014. Retrieved 10 September 2020 from <https://www.un.org/en/ga/69/meetings/indigenous/>
- [9] UNDRIP, 2014. "Resolution adopted by the General Assembly on 22 September 2014". 69/2- Outcome document of the General Assembly known as the World Conference on Indigenous Peoples. UN Publications, 2014. Retrieved 5<sup>th</sup> September 2020 from <https://undocs.org/pdf?symbol=en/a/res/69/2>

- [10] Chomba, S., Kariuki, J., Lund, J. F., & Sinclair, F. (2016). Roots of inequity: How the implementation of REDD+ reinforces past injustices. *Land Use Policy*, Volume 50, January 2016, Pages 202-213 <https://doi.org/10.1016/j.landusepol.2015.09.021>
- [11] Kipalu, P., & Mukungu, J. (2013). The Status of the REDD+ process in the Democratic Republic of Congo. Retrieved 5 September 2019 from <http://www.forestpeoples.org/sites/fpp/files/publication/2013/05/redd-drc-engmay2013.pdf>
- [12] Aquino, A., and Guay, B. (2013). Implementing REDD+ in the Democratic Republic of Congo: An analysis of the emerging national REDD+ governance structure. *Forest policy and economics*, 36, 71-79. <http://dx.doi.org/10.1016/j.forpol.2013.04.003>
- [13] UN, 2014-2015. The Sendai Framework for Disaster Risk Reduction 2015-2030. Retrieved 30 October 2020 from <https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>.
- [14] UN, 2014. United Nations-Climate Change. The twentieth session of the Conference of the Parties (COP 20) <https://unfccc.int/process-and-meetings/conferences/past-conferences/lima-climate-change-conference-december-2014/cop-20>
- [15] McLean. K. G. 2012. Land Use, Climate Change Adaptation and Indigenous Peoples. *DEVELOPMENT & SOCIETY: Agriculture, Indigenous People, Climate Change, Traditional Knowledge, Land Management* Retrieved 9 November 2020 from <https://ourworld.unu.edu/en/land-use-climate-change-adaptation-and-indigenous-peoples>
- [16] Indigenous peoples. The World Bank. Retrieved 29 October 2020 from <http://www.worldbank.org/en/topic/indigenouspeoples> (2017-update October 1, 2020)
- [17] Garnett, S. T., Burgess, N. D., Fa, J. E. *et al.* 2018. A spatial overview of the global importance of Indigenous lands for conservation. *NatSustain* 1, 369–374(2018). <https://doi.org/10.1038/s41893-018-0100-6>
- [18] Reyta. K and Veit. P (2017). 5 Maps Show How Important Indigenous Peoples and Local Communities Are to the Environment. World Resources Institute (WRI). Retrieved 9 November 2020 from <https://www.wri.org/blog/2017/12/5-maps-show-how-important-indigenous-peoples-and-local-communities-are-environment>