

MAINSTREAMING WWF PRINCIPLES ON INDIGENOUS PEOPLES AND CONSERVATION IN PROJECT AND PROGRAMME MANAGEMENT



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Permission to reprint pages 42-46 from WWF, IWGIA, KULU, Nephenthes and DIIS 2005. *Integrating Indigenous and Gender Aspects in Natural Resource Management* is gratefully acknowledged.

Please cite this publication as:

Larsen, Peter Bille and Jenny Springer 2008. *Mainstreaming WWF Principles on Indigenous Peoples and Conservation in Project and Programme Management*. Gland, Switzerland and Washington, DC: WWF.

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MAINSTREAMING WWF PRINCIPLES ON INDIGENOUS PEOPLES AND CONSERVATION IN PROJECT AND PROGRAMME MANAGEMENT

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This document is intended as a resource to support the WWF Standards of Conservation Project and Programme Management when indigenous peoples, territories and resources are affected.

We believe it is important to continuing learning and improving these guidelines over time, and would be pleased to receive comments, criticism and additional examples from field experience.

Introduction

This document is intended as a resource to support the implementation of WWF's Statement of Principles on Indigenous Peoples and Conservation. The principles contained in this WWF Network policy govern:

- i) WWF conservation activities within indigenous peoples' lands, waters and territories
- ii) WWF partnerships with indigenous peoples' organizations
- iii) WWF partnerships whose activities may impact upon indigenous peoples

The document describes practical ways of mainstreaming the WWF policy commitments to indigenous peoples and their rights in the context of applying WWF Standards for Project and Programme Management.

Who are indigenous peoples?

Numbering around 370 million people worldwide in more than 70 countries, indigenous peoples are estimated to include at least 5,000 different socio-linguistic groups. While there is no single globally-recognized definition of indigenous peoples, WWF adopts the statement of coverage contained in International Labour Organization Convention 169 (ILO), which includes both **indigenous** and **tribal** peoples. Characteristics of indigenous and tribal peoples include social, cultural and economic ways of life different from other segments of the national population, traditional forms of social organization, political institutions, customs and laws and long-term historical continuity of residence in a certain area. In some regions, the term indigenous also refers to residence prior to conquest or colonization by others. WWF also, in accordance with ILO 169, recognizes self-identification as indigenous or tribal as a key criterion in identifying indigenous peoples.

Two other characteristics recognized as important in identifying indigenous peoples are: relative **political marginalization** and special ties, and **relationships with their customary lands and resources**, closely connected to their cultural identity. The widely-used "Cobo definition"¹ notes that indigenous peoples "form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis for their continued existence as peoples..."

The non-dominant/marginalized characteristic has been particularly emphasized in the Asian and African contexts to distinguish indigenous peoples from majority groups. In many Asian and African countries, other categories such as *adivasi*, *hunter-gatherers*, *pastoralists*, *nationalities*, *ethnic minorities*, *janajatis* may be employed.

¹ Proposed in a UN Special Rapporteur study by José Martínez-Cobo

The close ties of indigenous peoples with their customary lands, waters and resources are particularly relevant for conservation organizations, leading to recognition of indigenous peoples as important stewards of high-biodiversity areas and to the identification of natural resource-related characteristics often associated with indigenous communities. These include:

- natural resource-dependent customary livelihoods including subsistence economies
- traditional ecological knowledge
- traditional systems of control, use and management of lands, waters and resources
- traditional institutions and leadership structures for self-governance and decision making

The Convention on Biodiversity uses the terminology “indigenous and local communities embodying traditional lifestyles” in recognition of these resource-related characteristics found often, though not only, among indigenous peoples. WWF’s policy refers specifically to indigenous peoples, reflecting protections afforded under international law; however, the policy principles and guidance outlined in this document are also highly relevant and applicable to conservation partnerships with traditional peoples.

Please refer to page 23 for more information on identifying indigenous peoples and their territories and resources.

Why is it important to have specific guidance on work with indigenous peoples?

Indigenous peoples are distinct from other stakeholders. They have particular rights and concerns as well as ties of ancestry and stewardship to many areas of biodiversity importance.

In 1996, the WWF Network adopted the landmark “*Statement of Principles on Indigenous Peoples and Conservation*” (hereafter “WWF policy”) in recognition of the need to make special efforts to respect and protect indigenous rights in relation to conservation initiatives. The WWF policy is “rights-based” in that it recognizes indigenous peoples as right-holders (rather than just as vulnerable) and states specifically that, “without recognition of the rights of indigenous peoples, no constructive agreements can be drawn up between conservation organizations and indigenous peoples groups.”

In identifying indigenous communities in practice it is important to:

- ✓ Apply an inclusive **identification process** not limited to government definitions of indigenous peoples
- ✓ Make particular **use of self-identification** and consulting with indigenous organizations and social scientists when identifying indigenous peoples
- ✓ Adapt **identification processes to regional and national categories** such as hunter-gatherers or pastoralists in Africa, scheduled tribes, hill tribes and ethnic minorities in Asia.

Rights and interests of indigenous peoples recognized by WWF are described in Section I of the policy, and derive from key international agreements regarding indigenous rights endorsed by WWF.

WWF recognizes indigenous peoples' rights to:

- Customary lands, territories, and resources
- Cultural and intellectual heritage
- Free and informed consent prior to the approval of any project affecting indigenous lands, territories and resources
- Decision-making regarding management and governance systems and technologies for their territories
- Decision-making regarding development strategies and priorities for their lands
- Improved life quality and equitable benefit-sharing from conservation, sustainable use and traditional knowledge use
- Not to be removed from territories or — in exceptional circumstances — only with their free, prior informed consent
- Remain isolated, in the case of indigenous peoples living in voluntary isolation, and maintain their lands and territories and cultural values
- The protection of their environment and customary territories

Please refer to page 28 for further information on indigenous rights.

The WWF policy also emphasizes that WWF's mission and conservation objectives are the basis for partnership with indigenous peoples and others. Section II of the policy presents WWF's mission and objectives and states that activities WWF supports must be consistent with them.

WWF mission and conservation objectives:

WWF bases all its conservation work on the principles contained in its mission statement: to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature.

WWF seeks out partnerships with those who share WWF's commitment to the following conservation objectives:

- Conservation of biodiversity
- Sustainable use of renewable resources
- Reduction of pollution and wasteful consumption

Recognition of indigenous rights combined with implementation of WWF's conservation objectives entail certain actions on the part of WWF. Therefore, the policy's third section on Principles of Partnership states commitments regarding how WWF will engage with indigenous peoples and their organizations. It includes both core **safeguard requirements** – focused on avoiding negative impacts on the human and customary resource rights of indigenous peoples – and **positive commitments** to develop lasting partnerships with indigenous and traditional peoples for conservation and sustainable management of their lands, waters and territories, as long as these are **consonant with WWF's conservation objectives**.

Safeguard requirements

Make special efforts to **respect, protect and comply with basic and customary rights** (as set out in national and international law) in conservation initiatives.

Prior to initiating conservation activities in an area WWF will:

- seek out information about the historic claims and current exercise of customary rights of indigenous peoples in that area; and
- inform itself about relevant constitutional provisions, legislation, and administrative practices affecting such rights and claims in the national context.

Presence of **customary resource rights and/or historical claims** obliges WWF to:

- Identify, seek out and consult with legitimate representatives of relevant indigenous peoples organizations at the earliest stages of program development.
- Provide fora for consultation between WWF and affected peoples so information can be shared and problems, grievances and disputes can be resolved in a timely manner.

Presence of **indigenous peoples living in voluntary isolation** obliges WWF to not seek contact, and to work through appropriate channels responsible for the demarcation and effective protection of their lands.

Conservation, research and development interventions **without Prior Free and Informed Consent or with negative impacts on indigenous territories and rights** will not be promoted or supported, and may be actively opposed by WWF. Prior to starting work in an area, WWF will establish agreements with communities and organizations ensuring full indigenous participation and equitable benefit-sharing regarding the **use and management of knowledge** acquired.

WWF will ensure that **partnerships with national governments, donor agencies, private corporations and NGOs** do not undermine, and if possible promote, indigenous rights, share relevant information with indigenous representatives, and ensure consultation in advocacy or fundraising activities related to indigenous peoples.

Positive commitments

Whenever it promotes conservation objectives, and in the context of its involvement in conservation activities affecting indigenous peoples lands and territories, WWF will encourage governments to take steps to guarantee effective protection of indigenous land and territorial ownership and possession rights.

Consistent with achievement of conservation objectives, WWF will be ready to:

- assist indigenous peoples' organizations in the design, implementation, monitoring, and evaluation of conservation activities, and to invest in strengthening such organizations and in developing relevant human resources;
- assist them in gaining access to other sources of technical and financial support to advance development objectives that fall outside WWF's mission;
- assist indigenous peoples to protect, through legally accepted mechanisms, their resources;
- seek out and/or invest in the development of legitimate and transparent mechanisms to resolve conflicts at local, regional, national, and international levels, as appropriate;
- seek to ensure that the primary rights and interests of indigenous peoples are well represented in such fora;
- actively seek inclusion and engagement in relevant international, as well as national fora;
- initiate an ongoing process of dialogue with indigenous peoples' groups on WWF's principles for partnership.

The emphasis on rights in the WWF's policy is in line with much recent sustainable development and conservation thinking. In particular, an emerging set of "rights-based approaches" to development and conservation seeks to promote the recognition, protection and fulfilment realization of rights with "rights-holders" as well as with "duty-bearers" – meaning the institutions, groups or persons responsible for the realization of rights. Although mainly a State responsibility, the WWF policy acknowledges the important role of its Network, programmes and projects in recognizing and facilitating realization of the rights of indigenous peoples.

Please refer to page 36 for more information on rights-based approaches.

Philippines: Supporting territorial rights as a basis for co-management²

Many large intact forests in the Philippines coincide with the ancestral lands of the country's approximately 12 million indigenous peoples. The Indigenous Peoples' Rights Act, enacted in 1997, created unprecedented opportunities for improving indigenous tenure security and strengthening rights-based conservation planning. Yet, it quickly became clear that additional financial and technical capacity was needed to secure effective implementation. In 1997, WWF began implementing an Integrated Conservation and Development project in Sibuyan Island, with a focus on facilitating the ancestral domain claim as well as an "Ancestral Domain Sustainable Development and Protection Plan" for the indigenous Sibuyan Mangyan Tababukid (SMT). This involved working closely with the indigenous organization as well as support organizations with anthropological, legal and other technical expertise. In 2001, ancestral land title was granted. Project activities also facilitated dialogue between indigenous communities and park officials of the Mt. Guiting-Guiting National Park, which had been established in 1996. Sixty percent of the ancestral domain lies within the park, and indigenous access and rights had not been taken into account in the design process. The combined work on ancestral domain titling and management planning created a strong formal and technical basis for negotiating a co-management framework and joint activities with protected area authorities. According to WWF staff members, government officials now see the Sibuyan experience as a model for civil society and government collaboration. In situations of scarce resources for both conservation planning and indigenous titling, on-the-ground activities and support by WWF to strengthen territorial recognition, conservation planning and conflict resolution are of critical importance.

2 Information from Edgardo Tongson and Thomas McShane, *Securing Land Tenure for Biodiversity Conservation in Sibuyan Island, Romblon, Philippines* (Helsinki, Finland: EGDI and UNU-WIDER, 2004). <http://www.wider.unu.edu/conference/conference-2004-2/conference-2004-2-papers/Tongson.pdf>.

Indigenous Peoples and Conservation in WWF's Programme and Project Cycle

The following sections outline practical guidelines for mainstreaming implementation of WWF's Statement of Principles on Indigenous Peoples and Conservation in programme and project management. Each section describes recommended activities linked to steps of the WWF Standards framework, and key benchmarks of policy implementation. Core requirements of WWF's Statement of Principles are presented in shaded boxes at relevant points. Often, there are several points in the planning cycle at which policy requirements can be met. In keeping with best practice, these guidelines recommend addressing them at the earliest possible point.



Figure 1. Indigenous Peoples and Conservation in WWF's Programme and Project Cycle: Steps and benchmarks

Engage stakeholders

The WWF Standards identify “engaging stakeholders” as an overarching practice that applies to each stage of the program cycle. This emphasis on consistent engagement is particularly important in relation to indigenous peoples because of their particular rights and vulnerability considerations. Ideally, engagement should be initiated as part of a wider effort by WWF offices and programmes to understand indigenous concerns in relation to WWF geographical and thematic focal areas and build relationships of trust. This foundation of understanding and longer-term working relationships is important to successful collaboration in specific project contexts. In relation to particular projects or initiatives, a screening for indigenous concerns is essential in order to know if WWF’s indigenous policy is “triggered,” to ensure that relevant policy principles will be applied in the development and implementation of that project.

Key questions at programme and project levels include:

Are indigenous peoples concerned?

A very first step involves generating a quick understanding of whether indigenous peoples are present, have customary ties to and are concerned with the area or resources affected by a programme or project.

BENCHMARK 1: Initial screening of indigenous concerns undertaken

In practice, this would involve a very preliminary screening effort to identify whether there are indigenous issues and concerns relevant to a programme or project. At the programme level, this can be done in relation to the overall scope of an office/programme; presence of indigenous concerns will indicate that indigenous peoples are an important constituency for that office. At the project level, screening can be conducted based on an initial project scope and vision. ***Presence of indigenous concerns at a project level indicates that the WWF policy needs to be applied in the context of that project.*** While scope and vision are defined in Step 1 of the WWF Standards, screening for indigenous concerns is recommended in advance so these can be taken into account in relation to scopes and visions, and so policy relevance is established at the earliest possible stage.

Key questions to determine the presence of indigenous concerns are:

- Is there an overlap between biodiversity priority areas identified by the programme or project and customary lands and waters?
- Will the programme or project involve partnerships with others – including governments, private sector actors – that may or already impact on indigenous territories or rights?
- Who are indigenous peoples, communities, organizations and regional associations in the region? Will the project involve work with them?

What are their major issues?

Once the indigenous “factor” has been established, it is often necessary to invest in a more detailed assessment allowing WWF to familiarize itself with indigenous concerns and vice versa. It is particularly important to fulfil the WWF policy commitment to seek out information on customary land and resource rights, and legal contexts for their recognition.

PRINCIPLE 22: Prior to initiating conservation activities in an area, WWF will exercise due diligence to:

- seek out information about the historic claims and current exercise of customary rights of indigenous peoples in that area; and
- inform itself about relevant constitutional provisions, legislation, and administrative practices affecting such rights and claims in the national context.

In addition, assessment of major issues may involve:

- Understanding the history of relationships between conservation actors and indigenous peoples
- Sharing information with indigenous peoples about WWF objectives and priorities
- Assessing commonalities and differences between indigenous and WWF objectives
- Understanding different perspectives of indigenous men and women

How can indigenous communities and organizations be engaged?

Once indigenous concerns have been identified and WWF has informed itself about the wider context, it is useful to plan with indigenous communities and their organizations about how working relationships and dialogues can be established, either more broadly at a programme level or for the purpose of developing specific projects. Effective engagement with indigenous communities is rarely a given, and requires particular attention and planning. One critical consideration is WWF’s own capacity to engage effectively with indigenous peoples. Where lack of cooperation or even conflicts exist between indigenous peoples and other WWF partners including governments, it may also be necessary to clarify with all parties WWF’s interests, positions, and modalities of engagement with each group. Rendering explicit how WWF will work with indigenous peoples and their organizations is a basic building block for trust-based relationships, and contributes to fulfilment of the WWF policy commitments on consultation and information-sharing.

PRINCIPLE 23: When WWF conservation activities impinge on areas where historic claims and/or current exercise of customary resource rights of indigenous peoples are present, WWF will assume an obligation to:

- identify, seek out, and consult with legitimate representatives of relevant indigenous peoples' organizations at the earliest stages of programme development; and
- provide fora for consultation between WWF and affected peoples, so that information can be shared on an ongoing basis, and problems, grievances, and disputes related to the partnership can be resolved in a timely manner.

PRINCIPLE 29 further commits to sharing relevant information on partnerships with others that may affect indigenous peoples' territories or rights, and to consult with indigenous representatives on national or international advocacy and fundraising activities related to indigenous peoples.

Experience shows that it is also important to recognize differences within communities, including differences in the perspectives and concerns of men and women. Indigenous men and women often relate differently to land and resources and differ in their levels of participation in decision-making and representation in indigenous organizations. Please refer to page 42 for more information on recognizing and incorporating gender issues in relation to indigenous peoples and natural resource management.

BENCHMARK 2: Modalities for engagement planned and refined

Modalities of engagement may address how WWF will seek further understanding of indigenous concerns, how information will be shared, how joint visions will be sought and how participation in specific project development processes will take place. This may lead to formal agreements such as Memoranda of Understanding in cases where indigenous peoples are formally organized and represented or may take the form of statements of principle or plans for consultation processes, where communities are less organized or programmes are only relevant to indigenous peoples in a limited way.

In general, knowledge and relationship-building with indigenous peoples require iterative approaches. Initial assessments are likely to reveal needs for further learning down the road. Issues may be identified that will require more in-depth analysis as part of the situation analysis. The more information, understanding and relationship-development done at a programme level, the better-

positioned programmes will be in applying policy provisions in specific contexts – this becomes especially important where timeframes or resources for project development may be limited.

Cooperative Agreement between WWF and an indigenous federation in Peru

One example of a WWF formal agreement with an indigenous organization is the 3-year agreement signed in 2005 between WWF-Peru and AIDSESP, the national federation of indigenous peoples in the Peruvian Amazon. In the agreement, WWF agrees to strengthen the capacity of AIDSESP members to defend their rights and ensure conservation and sustainable management of the natural resources of their territories and communal reserves. The lines of action include WWF assistance with delineation, land use zoning, and titling of territories; strengthening indigenous capacities to negotiate with private-sector parties whose decisions affect their territories; facilitation of indigenous involvement in decision making that directly or indirectly affects their territories; assistance with developing policy and legislation proposals; and promotion of compliance with existing legislation and policy related to indigenous peoples.

Core principles listed in the agreement include transparency; respect for indigenous cultures, knowledge, and intellectual property; respect for human rights and gender equality; direct dialogue without intermediaries; and respect for indigenous organizations and autonomous collective institutions at local, regional and national levels. Specific commitments of actions include at least two meetings a year; collaborative monitoring of agreed-upon actions; joint working groups for themes of mutual interest (for example, issues related to forestry concessions operating on, or adjacent to, indigenous territories; proposed water laws; actions of regional government bodies, etc.); and giving priority to hiring indigenous experts.

1. Define

The Define step involves specifying the basic parameters for your project including its scope, vision, and targets. If initial screening indicates the presence of indigenous concerns, it will be important to include indigenous communities and representatives in a process of revisiting and defining these parameters. This process will vary according to the nature of the initiative. A field project directly targeting conservation within indigenous territories will require a fully-fledged participatory process and community ownership. A national policy reform process involving multiple actors may be less centrally focused on indigenous interests; however, engaging indigenous interests helps to ensure against conflicts and promote opportunities for positive collaboration. In practice, such a process will generally involve dialogue and negotiations to determine a common agenda, as well as to clarify differences in perspectives.

Initial team composition

Effective engagement with indigenous peoples relies on technical capacity within the project team. Project leaders should be familiar with the WWF Statement of Principles and wider guidance material available. It is critical that project teams include social science expertise to engage with indigenous peoples and establish working relationships with relevant indigenous organizations

and non-indigenous expertise. Where possible, hiring indigenous expertise has proven particularly beneficial and WWF has had good experiences with bringing indigenous professionals on board. Gender-related capacity is also important in this respect. It is important to provide adequate time, financial and human resources for team members to engage with indigenous peoples and their organizations on the ground. This may also involve ensuring adequate communication channels and resources for complementary teams of indigenous representatives, experts and organizations to represent the indigenous perspective rather than depending on individual experts or a single “WWF team”.

Inclusive scope, vision and targets

Indigenous peoples have their own visions and targets, in relation to many geographical and thematic areas of interest to WWF programs. Taking these into account when setting project and programme targets creates a basis for collaboration and minimizes the risk of conflicts. A major challenge involves moving beyond “narrow” scopes and conservation visions and taking into account related indigenous concerns such as the recognition of indigenous territorial rights and development needs. In practice, this may often be done as an iterative process, working from initial targets drawing on global scientific perspectives, towards joint targets reflecting indigenous concerns. Participatory approaches help to ensure that:

- The geographical and thematic scope of the initiative reflects indigenous concerns. Do geographical boundaries of project reflect priority areas from an indigenous perspective? Do thematic or policy areas reflect indigenous concerns such as rights and equitable cost and benefit sharing?
- The project vision statement takes into account indigenous biodiversity and development visions for indigenous lands, territories, waters and resources.
- Targets reflect *indigenous biodiversity targets* — priority concerns with regards to the sustainable use of particular species, habitats and/or ecological processes, which are not always identical with priorities identified from global, scientific perspectives.
- *Thematic targets* to address major threats or enabling conditions are linked to wider *indigenous development targets*. This may include targets to reduce external threats such as extractive industries or to increase policy support for community management.
- Gender aspects and other differences within and between indigenous communities are taken into account.

Indigenous concerns may be more or less explicit - and may be more or less in accordance with WWF priorities. There may also be a multitude of different priorities and visions within communities, between communities and conservation interests and between communities and government. This may require project teams to:

- Facilitate the development and mapping of different biodiversity and development visions for an indigenous territory, through an inclusive process taking into account perspectives from gender, youth and other different segments of and between communities;
- Better understand the links between conservation and indigenous visions, and engage in negotiations, trade offs and consensus-building where disagreement or different priorities exist;
- Promote increased understanding by government partners of how indigenous visions and practices are relevant to the development and sound management of the conservation initiative.

BENCHMARK 3: Project scope, vision and targets include indigenous priorities

WWF policy emphasizes the importance of engaging indigenous peoples from the very start. Reflecting indigenous priorities in the wider project scope, vision and targets provides a foundation for constructive conservation partnerships with indigenous peoples.

Context and stakeholders

While preliminary contextual data will already have been gathered in order to identify and work with indigenous communities, a **participatory situation analysis** is critical to identify factors and stakeholders affecting joint targets including *direct threats* and *opportunities* and *indirect threats*.

BENCHMARK 4: Participatory situation analysis

Conduct a participatory situational analysis with indigenous communities and their representative organizations as part of the wider contextual and stakeholder analysis. Facilitate inclusion of indigenous perspectives on threats and opportunities at a local scale, as well as drivers and enabling factors operating at multiple levels. Identifying strengths and weaknesses of indigenous institutions in relation to natural resource management and the sustainability of practices is also important as a basis for understanding how WWF can support indigenous partners to realize joint visions and targets.

A participatory situation analysis is likely to generate new insights with regards to direct and indirect drivers behind the particular conservation challenge, as well as key entry-points to address them. While project development often implicitly focuses on a particular conservation strategy, a participatory situation analysis will often reveal new insights shifting the strategic focus. Opportunities presented by existing community management efforts as well as factors constraining them may be uncovered. Additional indirect drivers may be identified such as lack of tenure security, social conflicts or outside-driven extraction. Shared threats to conservation and indigenous concerns may be identified, providing a foundation for alliances and collaborative efforts. The situation analysis also provides an opportunity to deepen understanding of the context of policies, institutions and practices affecting customary land and resource rights and of indigenous organizations, representation and decision-making processes, in fulfilment WWF policy commitments. In many countries, there are considerable differences between international and national policy frameworks related to indigenous peoples. The situation analysis is therefore critical to map out this policy context, and identify national constraints and opportunities for WWF action.

2. Design

Inclusive conservation strategies and action plans

Once you have described the basic parameters for your project, the next step is to design specific strategies and interventions. In its policy, WWF commits to assist indigenous peoples' organizations in the design and implementation of their conservation initiatives where these are relevant to WWF conservation priorities. WWF policy also commits, as a core requirement, to secure the **free, prior and informed consent** (FPIC) of indigenous communities to conservation and development interventions affecting their territories or rights.

PRINCIPLE 27: WWF will not promote or support, and may actively oppose, interventions which have not received *the prior free and informed consent* of affected indigenous communities, and/or would adversely impact – directly or indirectly – on the environment of indigenous peoples' territories, and/or would affect their rights.

Please refer to page 47 for more information on free, prior, informed consent.

A key element of FPIC is provision of information on likely impacts of proposed interventions, including positive and negative impacts. However, too often, these impacts are not well assessed, understood and communicated prior to project implementation. Therefore, it is recommended to build a social impact assessment into the design of conservation strategies, through participatory processes with indigenous communities. The Secretariat of the Convention on Biodiversity has produced the *Akwe: Kon Guidelines* for cultural, environmental and social impact assessments, as part of the work program of the Open-ended Working Group in Article 8j (see below) and in cooperation with indigenous and local communities.

In practice, FPIC processes provide opportunities to transform consultation into joint conservation strategy and action planning. Joint strategies are especially important where indigenous territories, lands, waters and resources are targeted in the effort. If indigenous development and conservation strategies formally exist, strategies may be based on supporting these; alternatively, strategies can be developed using the situation analysis and employing participatory strategy development tools. Critical elements include that strategies are:

- Not pre-cooked solutions, but developed jointly with indigenous counter-parts in a transparent fashion
- Open to changes suggested by indigenous partners before and during implementation
- Realistic and reflect actual opportunities for action within the scope of the project
- Not limited to local scale, but seek to address needs and opportunities for change at different levels
- Validated by representative institutions and fora (vs. dependence on individuals)
- Developed as an integral part of the wider conservation strategy, rather than as a side project.

Such an approach does not hinder project teams in exploring and assessing the costs and benefits of different conservation strategies, but it should counter tendencies to merely seek “consultation” and “inputs” to a pre-defined strategy (for example, to establish a protected area), as this is a major divisive factor in working relationships between conservation organizations and indigenous peoples.

BENCHMARK 5: Conservation strategies developed with free, prior, informed consent

Developing strategies based on free, prior, informed consent is a critical benchmark where strategies may impact on indigenous peoples, their territories and their rights. Especially where indigenous lands, territories, waters or resources are specifically concerned, FPIC processes should serve as a foundation for development of fully collaborative conservation strategies, or technical assistance to indigenous strategies. It is important that project *goals* clearly reflect desired status of “indigenous” targets in terms of being specific, measurable and impact-oriented (e.g. fish-stock recovery in xx rivers by yyyy, equitable cost and benefit sharing of protected area establishment); *objectives* reflect short and medium-term joint priorities (specific policy changes, land under effective management, strengthened institutions) and *immediate results and activities* reflect indigenous priority milestones (such as capacity needs assessment undertaken, participatory planning processes, number of community members trained).

Collaborative strategies can relate to a wide range of conservation programme areas—including protected areas, community-based natural resource management outside protected areas, and prevention and control of environmental impacts—and take a range of forms. As one distinction, strategies may employ targeted and/or mainstreaming approaches (Danida 2004). Targeted efforts include indigenous territorial management planning, capacity building, land demarcation or conflict resolution linked to a specific geographical area. Mainstreaming approaches involve integrating indigenous priorities into wider policy and eco-region initiatives such as regional landuse planning, protected area systems design, implementation of poverty reduction strategies and collaborative efforts with the corporate sector. The key point is that working with indigenous communities is not limited to one type of intervention, but may take a wide range of different directions.

Arctic collaboration on toxic pollution and climate change

In the Arctic, WWF has collaborated with indigenous peoples and their organizations in research and campaigning on toxics and climate change. Both affect human health and livelihoods as well as wider ecosystem health.

In Alaska, for example, WWF has worked with Yup'ik and Chu'pik communities to study the health effects of chemical contaminants dumped, spilled or released into the Kokechik Bay. The research program has been run entirely by the people of the four villages, who selected the species and the sites for collection and took the lead in collecting all the samples and shipping them to analytical laboratories. At the policy level, WWF has, among other things, facilitated dialogue between European parliamentarians, Arctic indigenous peoples and conservation researchers to highlight the environmental contamination effects of pollution from the EU. Results from the first study of newer, current-use chemicals, show that brominated flame retardants (BFRs) and perfluorinated chemicals (used in household items such as televisions, computers and cooking pans) were detected in the blood of all 20 pregnant women tested in the northern town of Bodø, Norway, and in Taimyr, a town in the Russian Northern Siberia where there are no local sources or uses of these pollutants.

In its climate change work, WWF is working both to raise the voice of indigenous peoples and to build resilience. The so-called "Climate Witness" projects give voice to people who are already experiencing climate change. The first "Climate Witness" involved high school students from the Native Athabaskan community of Huslia in interior Alaska producing a series of four radio programmes, letting community members tell the world about how they are being affected by climate change. In the Nenets region in Northwest Russia, WWF is working with indigenous and other organizations to strengthen models for resilience building against climate change.

For more information see

www.panda.org/about_wwf/where_we_work/europe/what_we_do/arctic/index.cfm

Where significant conflicts exist between indigenous peoples and governments, collaborative strategies may raise concerns for programs about entering into conflicts with governments, with which they must also maintain good relationships. In such situations it is often useful to:

- Maintain dialogue with indigenous partners about these concerns and their implications for thinking about tactics or approach
- Maintain dialogue with government partners including building understanding of international frameworks on indigenous rights as well as experience elsewhere on resolution of conflicts and collaborative approaches to conservation between indigenous peoples and States.

Monitoring plan

Two issues are important with regard to the **monitoring plan**. One issue is participation of indigenous institutions and representatives in monitoring and overseeing project progress. Second, types of data monitored should reflect indigenous concerns, in terms of process (e.g. levels of collaboration) and in terms of impacts (e.g. on levels of protection of indigenous territories, human well-being, implementation of rights). In practical terms, this often requires additional data collection specifically designed to measure social impacts as relevant for a particular project.

Operational plan

Many conservation projects with indigenous peoples have suffered from inadequate operational planning. The **operational plan** should ensure that:

- Adequate financial resources are in place to finance activities such as customary resource use mapping, participatory planning, capacity building and representation in policy processes, as well as any compensation agreements
- Adequate human resources are available to engage with indigenous partners on a continual basis including by hiring indigenous staff
- Working modalities, roles and responsibilities of different types and levels of indigenous organizations are clearly spelled out in relation to specific operational activities
- Exit strategies are in place, for example to institutionalize participatory approaches and ensure sustainable financing of indigenous management institutions.

3. Implement

Workplans, budgets and fundraising

As general strategic, monitoring, and operational plans are turned into short-term workplans and detailed budgets, teams will need to ensure that adequate financial and human resources are provided to engage with indigenous partners and implement key collaborative activities (as noted above under **operational plan**). Many projects have involved indigenous communities having to adapt to the implementation rhythm of conservation projects rather than vice versa; therefore, another key consideration in developing workplans is the timeframe required to accommodate the decision-making processes and pace of implementation of indigenous partners. WWF policy also states that international fundraising activities concerning indigenous peoples will be undertaken in consultation with indigenous representatives (see **Principle 29** box on page 19).

Inclusive implementation partnerships

Once action, monitoring and operational plans have been agreed upon with indigenous partners, it is timely to consolidate collaborative arrangements in a partnership agreement. Key decisions relate to who will undertake activities, who will oversee and manage activities and how they will be undertaken. Within the last couple of decades, indigenous organizations, representative structures and enterprises have become increasingly involved in directly implementing conservation activities at all levels. Adequate inclusive representation in project oversight and management, with attention to equitable gender representation, is also a critical element. For site-specific efforts targeting indigenous territories, this may involve working directly with indigenous organizations, decision-making bodies and representative institutions or establishing joint project oversight committees and decision-making processes. Inclusive governance of eco-region planning, protected area systems and policy reform processes may involve facilitating indigenous representation and inputs to existing committees, including establishment of specific sub-committees on indigenous concerns.

As with other partnerships, it is important to generate a good understanding of representativity, capacities and local ownership as part of the process of establishing collaborative arrangements:

- What are the specific mandates, roles and responsibilities of the institution?
- Are gender, age and the variety of community perspectives reflected in institutional structures and leadership?
- What are the specific technical and administrative capacities of the institution?
- What characterizes the relationship between the institution concerned and communities as well as government agencies?

Partnership agreements should also ensure that communities fully participate in decisions about use of traditional knowledge, as stated in WWF policy.

PRINCIPLE 28: WWF will establish agreements with indigenous organizations... to ensure they are able to fully participate in decisions about the use of knowledge acquired in or about the area they inhabit, and equitably benefit from it. These agreements will explicitly determine the ways and conditions under which WWF will be allowed to use such knowledge.

BENCHMARK 6: Partnership agreement developed

This agreement should spell out working procedures, roles and responsibilities with regard to project oversight, management and implementation, and conflict resolution mechanisms. WWF, in its policy, assumes an obligation to “provide fora for consultation between WWF and affected peoples, so that information can be shared on an ongoing basis, and problems, grievances, and disputes related to the partnership can be resolved in a timely manner.” Partnership agreements may also contain provisions regarding capacity building and collaboration with non-indigenous organizations (see below).

Indigenous capacity building

In some cases, indigenous organizations and community-level structures may not have the technical or organizational capacity to immediately engage in project implementation activities. WWF policy recognizes indigenous institutional capacity-building as a key area for proactive collaboration. Critical aspects of capacity building with indigenous organizations include the need to:

- Avoid setting-up parallel representative structures
- Undertake a rapid capacity needs assessment before agreeing on work plans
- Ensure that capacity building, where necessary, forms an integral part of project plans and partnerships with non-indigenous institutions
- Facilitate coordination and linkages with government agencies

Partnerships with non-indigenous organizations and institutions

WWF policy recognizes that partnerships with non-indigenous organizations have potential to affect the rights and resources of indigenous peoples, and these potential impacts need to be addressed.

PRINCIPLE 29: In the context of its partnerships with organizations other than those specifically representing the interests of indigenous peoples such as national governments, donor agencies, private corporations, and non-governmental organizations, WWF will:

- ensure that such partnerships do not undermine, and if possible serve to actively promote, the basic human rights and customary resource rights of indigenous peoples;
- ensure that all relevant information developed through such partnerships and accessible to WWF, is shared with the appropriate representatives of indigenous peoples;
- ensure that any national or international advocacy or fundraising activity related to indigenous peoples will be undertaken in consultation with representatives of relevant indigenous peoples' organizations.

Three clusters of non-indigenous institutions are typically involved in conservation projects. This includes, first, government agencies at national and local levels. Their conservation and natural resource management mandates typically extend beyond the geographical scope of specific indigenous communities and their territories. Practical avenues of action may involve:

- Building capacity of indigenous organizations to engage with government agencies and vice-versa
- Strengthening indigenous participation in and implementation of government conservation programmes
- Facilitating the integration of indigenous rights and concerns in public policy and programming processes
- Facilitating conflict resolution processes

Second, a range of different local NGOs and consultants are often involved in providing technical services and, in some cases, become implementing agencies of conservation initiatives. It is recommended to agree with indigenous partners and representative institutions about:

- the potential roles and responsibilities of non-indigenous organizations in implementing activities
- how to build joint implementation arrangements with gradual capacity building of indigenous institutions
- how to ensure that non-indigenous organizations have the capacity to work with indigenous communities
- how to proceed with conflict resolution processes where necessary
- how to mobilize further commitments and resources for strengthening indigenous involvement.

Third, partnerships with the private sector may require pro-active efforts to:

- explore with indigenous representatives the extent to which indigenous rights and concerns may be affected by the partnership, and how to address concerns
- sensitize private sector partners about indigenous needs and rights
- ensure that WWF indigenous policy principles are reflected in partnership strategies and approaches
- facilitate ongoing information-sharing and indigenous participation in relevant fora

4. Analyze and adapt

Conservation efforts with indigenous peoples offer both important advances and new challenges compared to traditional conservation approaches. Knowledge regarding community interactions, effective participatory approaches and the context for recognition of rights often needs to be built up over time through “learning by doing.” Even with good preparation, projects may underestimate timeframes, capacities and resources required for collaborative implementation. Changing socio-political contexts may create both bottlenecks and new opportunities for strengthening the engagement with indigenous peoples. It is therefore critical to:

- Render explicit the role and value of the conservation partnership as a learning process
- Assess progress being made on indigenous priority concerns including socio-economic targets
- Monitor contextual changes (new policies, stakeholder influence, etc.)
- Revisit core assumptions, e.g., related to the situation analysis and the project’s theory of change
- Be ready to change the scale of project ambitions and shift focus
- Tackle implementation gaps – for example related to land rights, conflicts regarding use practices and consent procedures – in a head-on manner
- Allow for flexibility to adapt action plans and working procedures along the way

BENCHMARK 7: Assess progress and adapt approaches on indigenous priority concerns

Assess progress on indigenous priority concerns, on a regular basis and in consultation with indigenous partners, and pursue opportunities for improvement. Remember in particular WWF’s commitment to resolving “problems, grievances and disputes” with indigenous partners.

5. Share

Lessons and products

The final step in the WWF Standards Management Cycle involves sharing lessons and formal products with key internal and external audiences. Learning from conservation partnerships is critical for both conservation agencies and indigenous peoples. Learning questions addressing key collaboration aspects and assumptions – for example, related to the effectiveness of community-driven efforts, adequate participatory approaches, or mainstreaming rights in conservation – contributes to strengthening as well as replication of partnership approaches. To enable learning it is important to:

- Ensure resources are available for two-way learning exercises
- Learn from positive experiences as well as problems encountered
- Produce and disseminate lessons learned in relevant local languages.

Feedback and evaluations

Regular, informal feedback, through channels appropriate to the local context, is crucial to ensure steady progress and improvement in partnerships between conservation organizations and indigenous peoples. In keeping with the overall learning approach of such projects, it is recommended that informal feedback be complemented by more formal periodic evaluations or audits specifically including indigenous representatives and concerns. Key considerations for evaluations or audits include that:

- Evaluation criteria, questions and indicators emphasize indigenous concerns such as those identified in the monitoring plan, such as progress made in terms of realizing indigenous rights or well-being indicators adapted to the local context
- Audits are based on the standards and principles contained in WWF's Statement of Principles on Indigenous Peoples and Conservation
- Indigenous experts and relevant social science expertise form part of the evaluation team
- All those directly affected by activities (including both men and women) are consulted in the process.

BENCHMARK 8: Open feedback channels and participatory evaluations

WWF policy recognizes assistance to indigenous organizations for monitoring and evaluation of their conservation activities as a key area for proactive collaboration. Because conservation-community partnerships often involve negotiation of multiple agendas as well as cultural differences, open, two-way channels for informal feedback are especially important. It is also recommended that these be complemented by formal feedback processes, including evaluations and audits against the partnership principles contained in WWF's policy.

References and additional reading

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Borrini-Feyerabend, Grazia, Ashish Kothari and Gonzalo Oviedo. 2004. *Indigenous and local communities and protected areas: towards equity and enhanced conservation: guidance on policy and practice for co-managed protected areas and community conserved areas*. Best Practice Protected Area Guidelines Series No. 11, IUCN and Cardiff University.

CBD web-site on article 8(j), www.biodiv.org/programmes/socio-eco/traditional/default.asp. The *CBD Ak We Kon Guidelines* can also be downloaded from their web-page.

DANIDA. 2004. *Tool kit: best practices for including indigenous peoples in sector programme support*. Royal Danish Ministry of Foreign Affairs (the publication can be ordered from the Danish State Information Centre, www.danida-publikationer.dk).

ILO. 1989. *ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries*. www.ilo.org/public/indigenous/standard/index also provides links to the Convention in a series of other languages.

ILO. 2003. *ILO Convention 169: a manual, Project to promote ILO policy on indigenous and tribal peoples*. www.ilo.org/indigenous.

OHCHR, The Office of the UN High Commissioner on Human Rights page on indigenous issues includes links to the Special Rapporteur on indigenous issues, documents from UN processes such as the UN working groups on indigenous issues <http://www.ohchr.org/english/issues/indigenous/index.htm>.

Oviedo, Gonzalo, Luisa Maffi and Peter Bille Larsen. 2000. *Indigenous and traditional peoples of the world and ecoregion conservation, an integrated approach to conserving the world's biological and cultural diversity*. WWF International and Terralingua.

Weber, Ron, John Butler and Patty Larson. 2000. *Indigenous peoples and conservation organizations: experiences in collaboration*. World Wildlife Fund. www.worldwildlife.org.

WWF (1996). *Indigenous Peoples and Conservation: WWF Statement of Principles*, WWF International Position Paper. www.worldwildlife.org/indigenous/policies/index.cfm.

WWF, IWGIA, KULU, Nepenthes & DIIS. 2005. *Integrating indigenous and gender aspects in natural resource management: guidelines for practitioners*. www.ignarm.dk (documents available in both Spanish and English).

Appendices

Identifying indigenous peoples, their territories and resources

A pre-requisite for working effectively with indigenous peoples is to identify them and their territories and resources. Covering around 370 million people worldwide in more than 70 countries, indigenous peoples are estimated to include at least 5,000 different socio-linguistic communities.

Identifying indigenous communities

Because of broad socio-cultural, economic and political diversity, there is no one universal definition of indigenous peoples. WWF adopts an inclusive approach by referring to the statement of coverage established in ILO Convention 169, which covers both **indigenous** and **tribal** peoples.

ILO Convention 169 identifies indigenous and tribal peoples as:

- 1(a). tribal peoples in countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations
- 1(b). peoples in countries who are regarded by themselves or others as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain, or wish to retain, some or all of their own social, economic, spiritual, cultural and political characteristics and institutions.
2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply

It is also widely-recognized that indigenous peoples often make up **marginalized or non-dominant segments of society**, and it is this condition the WWF policy and specific indigenous rights instruments seek to change. Reality remains that indigenous peoples are over-represented among the poorest, are often discriminated against and deprived of basic rights and tend to have too-limited influence over decisions affecting their lives and resources, not least with regard to conservation matters.

Another important characteristic in identifying indigenous peoples is their special ties and relationships with their customary lands and resources. The Convention on Biodiversity speaks of “indigenous and local communities embodying traditional lifestyles” reflecting certain characteristics related to natural resources that are often, though not always nor only, found among indigenous peoples. The CBD Preamble specifically speaks of a “close and traditional dependence on biological resources,” which is generally understood to include the following characteristics:

- A close attachment to ancestral/customary lands and territories (including coastal and marine areas where applicable);
- High presence of subsistence, often low-impact, economies often involving management of (relatively) large territories or areas in relation to population density and intensity of land use;
- Traditional ecological knowledge and practices;

- Traditional systems of control, use and management of lands and resources;
- Collective rights over resources;
- Traditional institutions and authorities for self-government of their areas;
- Traditional practices for decision-making on matters of their concern;
- Traditional systems for benefit sharing.

WWF's policy refers specifically to indigenous peoples, reflecting protections afforded under international law; however, the policy principles and guidance outlined in this document are also highly relevant and applicable to conservation partnerships with traditional peoples.

Identifying indigenous communities is not always a straightforward task. Population statistics are often incomplete or absent. In many cases, a host of different national categories or names may be employed. In some cases, indigenous identities may also be contested, erroneously grouped together or hidden. Examples of indigenous peoples include:

- lowland and highland peoples in Latin America
- Pastoralists, agro-pastoralists and hunter-gatherers in Africa
- Tribal, ethnic minority and highland peoples in Asia
- Aboriginal peoples in the Arctic and the Pacific

In many countries, notably in Asia and Africa, categories such as *adivasi*, *hunter-gatherers*, *pastoralists*, *nationalities*, *ethnic minorities*, *janajatis* may be employed when identifying indigenous communities.

Indigenous, tribal and traditional peoples

“For the purpose of building partnerships in conservation, WWF views the differences between indigenous peoples and traditional communities as far less relevant than the coincidences. Therefore, whenever WWF refers to indigenous peoples, the concept is applicable by extension to tribal peoples and to traditional communities or ‘local communities embodying traditional lifestyles.’ WWF policies on indigenous peoples are therefore generally applicable to traditional communities as well.”

~ (Oviedo et al 2000)

By referring to the ILO statement of coverage, WWF commits to an inclusive approach when applying its working principles. In addition to being applicable to both indigenous and tribal peoples, the self-identification criterion is important. For example, even in cases where a government may not identify a group as indigenous, self-identification would still matter for WWF.

This is extremely important in the WWF programme and project context, as a significant share of indigenous peoples may not be recognized as such. Whereas indigenous peoples in the Arctic region, for example, are generally well-recognized by their respective governments, peoples in arid, semi-arid, marine and tropical forest areas where WWF is particularly active are often not (Latin American countries being the main exception). In many Asian and African countries, there may be a perception that majority groups are equally ‘indigenous.’ In such cases, it is fundamental to take into account the ILO statement of coverage and other characteristics mentioned above when identifying indigenous communities.

Identifying indigenous representatives and organizations

WWF commits to seeking out and consulting with “legitimate representatives of relevant indigenous peoples’ organizations at the earliest stages of programme development.” How are legitimate representatives identified? Who are the “relevant” organizations? There are no easy answers to these questions, as indigenous communities are organized in very different ways with varying forms of socio-political representation. Not only will the meaning of community differ from one area to another, but decision-making processes regarding collective concerns will also vary.

In many countries, the roles, responsibilities and levels of legitimacy of indigenous organizations and leadership are evolving and sometimes even contested. A host of different organizations and organizational forms may exist, and determining the most “relevant” for a conservation initiative may prove difficult. Locally elected leaders may not represent the wider opinion of affected communities, nor are there necessarily representative organizations or organs, which can be consulted with. WWF also recognizes that relationships, perspectives and priorities may differ within and between different indigenous communities and different organizations reflecting gender, age, political and social differences.

It is therefore critical to conceive engagement with indigenous organizations and representatives as an iterative process where:

- Regional and national indigenous organizations, experts and others are consulted to identify indigenous representatives and organizations
- The “right” people and organizations are not identified through a one-off screening effort, but by gradually building up knowledge of the institutional and personal landscape.
- Information sharing and consultation initially is kept open to a variety of different indigenous organizations
- Particular attention is paid to gender representation and concerns
- WWF considers providing capacity building and other support to strengthen indigenous organizations and their ability to engage on conservation matters

Identifying indigenous territories, lands and resources

WWF commits to seek out information about both historical claims and the current exercise of customary rights to indigenous territories, lands and resources prior to initiating conservation in or affecting an area. This reflects international standards emphasizing both land currently occupied as well as land where other ties and attachments exist (such as sacred sites and seasonal use areas). Note that ILO Convention 169 characterizes territories as “the total environment of the areas which the peoples concerned occupy or otherwise use” (article 13).

Regional and international indigenous organizations and networks can provide critical entry-points for establishing contact with in-country organizations. These include:

- International Alliance of Indigenous and Tribal Peoples of Tropical Forests (<http://www.international-alliance.org/>)
- Indigenous Peoples of Africa Coordinating Committee (<http://www.ipacc.org.za/>)
- Coordinadora de Organizaciones Indigenas de la Cuenca Amazonica: (www.coica.org.ec)
- TebTebba Foundation (www.tebtebba.org)
- Asia Indigenous Peoples Pact (<http://www.aippfoundation.org/>).

The web-sites of support organizations such as the International Work Group on Indigenous Affairs (<http://www.iwgia.org/sw325.asp>) and the Forest Peoples Programme (www.forestpeoples.org/templates/links.shtml) include links to indigenous organizations as well as other resources.

This inclusive understanding of customary lands, territories and resources may not necessarily coincide with official policy. Concepts of traditional occupation have, for example, been subject to heated debates, and in some countries, customary ties to “unoccupied,” “unused,” or “historically occupied” lands are not fully recognized. In particular, many indigenous peoples face challenges in getting customary lands beyond settlements and agricultural plots recognized (such as sacred sites, non-intensive use areas), which further underlines the central importance of conservation initiatives being inclusive when identifying indigenous lands, territories and resources. Finally, it should be noted that while the majority of indigenous communities have individual tenure and use practices, this is an integral part of and is not in contradiction to collective territorial practices.

The following steps are recommended when identifying geographical overlaps with indigenous lands and territories:

- Work with indigenous communities and their representatives to identify customary lands, territories and resources. Depending on the scope of the initiative, this may involve more or less resource-intensive community mapping efforts.
- Acknowledge that differences are likely to exist regarding boundaries due to different perceptions, conflicts and the quality of mapping – particularly when initiatives seek to make use of existing maps and material
- Be inclusive in defining customary ties and uses to be mapped. Maps, among other things, should:
 - Include both terrestrial and marine environments
 - Include both lands currently occupied as well as areas and resources “traditionally owned or otherwise occupied or used”
 - Not be limited to lands and territories that have been recognized, codified and demarcated
 - Also reflect lands not exclusively occupied by indigenous peoples
 - Include a variety of uses -- e.g. both agricultural and non-agricultural practices
 - Reflect multiple uses, ownership and claims

References and additional reading

ACHPR and IWGIA .2005. *Report on the African Commission's Working Group of experts on indigenous populations/communities*. Adopted by the African Commission on Human and Peoples' Rights at its 28th ordinary session, can be downloaded from **www.iwgia.org**

Includes discussions and criteria for identifying indigenous peoples in Africa

DANIDA. 2004. *Tool kit: best practices for including indigenous peoples in sector programme support*. Royal Danish Ministry of Foreign Affairs (the publication can be ordered from the Danish State Information Centre, **www.danida-publikationer.dk**)

The tool-kit, itself a result of consultations with indigenous representatives and development practitioners, provide practical steps for identifying and engaging with indigenous peoples in a range of different sector initiatives.

Hvalkof, Soren & Roger Plant. 2001. *Land titling and indigenous peoples: Sustainable development department best practices*. IADB.

Provides a historical, conceptual, political and practical overview of land-titling and different forms of indigenous landownership in Latin America.

ILO. 1989. *ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries*.

www.ilo.org/public/indigenous/standard/index also provides links to the Convention in a series of other languages.

ILO Convention 169 is a key policy document for WWF policy and programming work containing legal-standards regarding indigenous peoples and their territories.

ILO. 2003. *ILO Convention 169: a manual, Project to promote ILO policy on indigenous and tribal peoples*. **www.ilo.org/indigenous**

Introduces and describes major articles of ILO Convention 169 and their application.

Oviedo, Gonzalo, Luisa Maffi and Peter Bille Larsen. 2000. *Indigenous and traditional peoples of the world and ecoregion conservation, an integrated approach to conserving the world's biological and cultural diversity*. WWF International and Terralingua.

Provides a global overview and map of the overlaps between biological and cultural diversity as well as a series of steps and chapters on how to work with indigenous peoples on conservation matters.

Indigenous rights, some critical aspects

Rights establish obligations on states and other actors to apply defined standards in dealing with vulnerable persons and groups. The WWF Statement of Principles endorses ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples as key international human rights instruments specific to indigenous peoples.

General or universal rights, guaranteed to all human beings as individuals, include the rights to life, freedom of association, adequate food and others as enshrined in the International Bill of Human Rights. Rights of indigenous peoples include **collective or group rights**, which should be seen together with such individual rights.

While the following sections focus on collective rights, it should not be forgotten that:

- indigenous peoples are repeatedly identified among those most likely to be deprived of basic individual rights
- the realization of individual rights such as to food and health, for indigenous peoples, depends on the effective realization of collective rights

Some collective indigenous rights described in this section include:

- Self-determination
- Rights to lands, territories and resources
- Rights to control and management of lands and resources
- Development rights and equitable benefit-sharing
- Traditional knowledge and intellectual property rights
- Indigenous heritage

The right to Free Prior Informed Consent (FPIC) is described in a separate section (see page 48 for more information on FPIC).

National legislation relates to indigenous peoples' rights in very different ways, ranging from established treaties in some countries to lack of recognition in others. This variety in national legislation does not influence the wider WWF policy objectives of engaging with indigenous peoples, but may significantly shape how support to implementation of rights is worked with in practice. Conservation practitioners will often be confronted with situations where rights are not recognized or are contested. Effective engagement with indigenous representatives is fundamental to identify practical ways forward in such situations.

Collective rights

*"Sometimes the equal worth and dignity of all can be assured only through the recognition and protection of individuals' rights as members of a group. The term **collective rights or group rights** refers to the rights of such peoples and groups, including ethnic and religious minorities and indigenous peoples, where the individual is defined by his or her ethnic, cultural or religious community."*

~ (OHCHR 2006)

Self-determination

The right to self-determination is a collective human rights standard of great importance to indigenous peoples reflecting their status as distinct peoples in contrast with other marginalized populations.

Self-determination is often presented as the central collective right from which other collective rights are derived. The UN Declaration on the Rights of Indigenous Peoples articulates the right of indigenous peoples to self-determination as the right to “freely determine their political status and freely pursue their economic, social and cultural development” (Article 3) and to “autonomy or self-government in matters relating to their internal and local affairs...” (Article 4).

In relation to conservation and natural resource management, WWF understands the right of self-determination as a bundle of rights (Oviedo, Maffi and Larsen 2000), comprised of:

- Rights to ancestral lands, territories and resources
- Land and resources control and management rights
- Self-government by own institutions and authorities
- Self-development (own decision-making on development options)
- Benefit sharing rights
- Free, prior informed consent on conservation and development actions
- Traditional knowledge/intellectual property rights
- Rights to indigenous heritage

Many conservation actors have been uncertain as to how to deal with the concept of self-determination, which, when pursued in the form of political autonomy, may go beyond the scope of conservation. WWF has stated that it respects the right of indigenous peoples to negotiate their status with governments, though does not see this as an issue on which it can always take a position (Ibid, 2000). In practice, the vast majority of claims and efforts to put self-determination into practice take **a functional approach** focused on implementing indigenous self-governance and ensuring decision-making authority of indigenous peoples in relation to a range of public affairs. In relation to conservation, for example, this has entailed reworking relationships with administrative bodies including protected area agencies and decision-making processes for protected area establishment.

Conservation actors can contribute by:

- Adopting self-determination as a guiding principle in working with indigenous peoples;
- Promoting conservation policy and institutional reform processes to integrate and operationalize indigenous management, participation, consultation and FPIC (protected area policies are a good example of where this is needed); and
- Using projects to strengthen and improve functional relationships between state policies or programmes and indigenous management.

Rights to lands, territories and resources

WWF recognizes that indigenous peoples have the rights to the lands, territories, and resources that they have traditionally owned or otherwise occupied or used, and that those rights must be recognized and effectively protected, as laid out in the ILO Convention 169.

Land rights are among the clearest expressions of indigenous collective rights, reflecting customary ties to lands, territories and resources as well as the frequent presence of customary management institutions and practices. Such rights can be both positively and negatively affected by conservation initiatives. The major challenge remains that such rights are often not recognized, continuously contested and/or poorly implemented leaving them particularly vulnerable to neglect or nullification when new development and conservation regimes are negotiated and introduced. It is therefore no coincidence that the WWF policy highlights the importance of:

- encouraging governments to take steps as necessary to guarantee effective protection of indigenous land and territorial rights
- assisting indigenous peoples to protect their natural resource base, through legally accepted mechanisms, where resource rights are contested by states or other stakeholders
- seeking out and investing in conflict resolution mechanisms, ensuring that indigenous rights-holders are represented in such fora.

WWF policy also recognizes the right of indigenous peoples not to be removed from the territories they occupy and—under exceptional circumstances—only with free, prior, informed consent in keeping with ILO 169.

Countries differ widely in terms of recognizing land and resource rights. In some countries, notably in Latin America, it is possible to directly support land demarcation or otherwise facilitate implementation, for example through capacity building of relevant government agencies and community rights-holders. In many other countries, without such a supportive policy framework, conservation actors have pursued complementary approaches to:

- Integrate customary land and resource tenure practices in other management regimes (community-based forest management, co-managed protected areas)
- Assist indigenous peoples in community resource use mapping and management planning
- Promote policy reform show-casing the relevance of rights in conservation
- Use other policy windows to strengthen collective tenure security
- Facilitate dialogue between indigenous representatives and policy makers

Rights to control, management and self-governance of lands and resources

The WWF principle of recognizing indigenous rights to “to exert control over their lands, territories and resources, and establish on them the management and governance systems that best suit their cultures and social needs” emphasizes the principle of self-government in relation to land and resource management. This emphasis on culturally relevant and locally appropriate management and governance systems aims to counter top-down approaches to management planning and institution building, which have often neglected and undermined customary institutions for governance of lands and resources. **Customary laws and institutions** have a particularly important role to play in conservation. Although these can rarely be expected to provide “ready-made” responses to evolving environmental challenges, they often provide a strong foundation for addressing them.

CBD Article 10 (c) specifically urges Parties to: “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.” In relation to protected areas, the *CBD Programme of Work on Protected Areas* (2004) recommends rights-based “full and effective participation” in the management of existing and the establishment of new protected areas.

Key practical approaches to promote indigenous governance and management include to:

- Promote policy reform to recognize a diversity of conservation management institutions and approaches, specifically including indigenous management
- Raise awareness among government actors and partners about customary and other community-based management approaches
- Work with indigenous communities to assess the strengths and weaknesses of customary management institutions and practices
- Build capacity of planners and decision-makers to apply participatory design approaches
- Strengthen indigenous technical, negotiation and management capacity

Development rights and equitable benefit-sharing

WWF recognizes indigenous rights to determine priorities and strategies for the development or use of their lands, territories and resources, to improve the quality of their lives and to benefit equitably from conservation and sustainable use of natural resources within their territories.

Exercise of the right to development does not in and of itself result in sustainable community-based practices. However, WWF believes that when indigenous communities enjoy territorial security and can make their own decisions, this provides a foundation for environmentally sound development choices, especially if they can count on the support and collaboration of conservation organizations.

WWF’s policy emphasis on equitable benefits reflects recognition that conservation and development activities can generate both local benefits and local costs. Costs from conservation, for example, may include restrictions on customary livelihoods activities and future development potential, human wildlife conflicts and loss of control over resources. Development activities—even those designed to be sustainable with regard to the environment—may be culturally inappropriate and/or primarily extractive for the benefit of others. Historically, indigenous and local communities have often borne an unequal burden of conservation and development costs and received an unequal share of benefits.

Recognizing indigenous rights to determine their own development and conservation priorities entails building agreements with indigenous communities, which explicitly address the associated costs and benefits of an initiative. These should include consideration of future development needs, in order to address concerns that conservation initiatives may “freeze” livelihood and cultural practices into so-called traditional forms. Key measures to facilitate informed change and promote equitable distribution of costs and benefits in conservation and development planning include:

- Grounding conservation efforts in indigenous development priorities and plans
- Generating a good up-front understanding of the social impacts (both costs and benefits) associated with particular conservation and development actions as well as their distribution
- Ensuring that assessments of social impact reflects key indigenous concerns (non-monetary values, collective rights, subsistence issues)
- Designing equitable cost and benefit sharing mechanisms, on the basis of FPIC
- Exploration of alternative conservation and development tools and approaches where costs and benefits are considered unacceptable by indigenous representatives.

The Secretariat of the Convention on Biodiversity has produced the *Akwe: Kon Guidelines* for cultural, environmental and social impact assessments, as part of the work program of the Open-ended Working Group in Article 8j (see below) and in cooperation with indigenous and local communities.

Traditional knowledge, conservation and intellectual property rights

The importance of indigenous knowledge systems and practices for environmental management and sustainable development is recognized in several international legal instruments including the Convention on Biodiversity.

CBD Article 8(j) states:

Each contracting Party shall, as far as possible and as appropriate:

“Subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices”

Article 8j addresses three inter-related challenges. The first is the challenge indigenous peoples face in preserving and maintaining their traditional knowledge. The second is the challenge they face in having customary rights to knowledge recognized and protected so they can control access to it and benefit equitably from its use if granted. These latter issues have been the subject of heated debate –including through the CBD Open-ended Working Group on Article 8j and the Working Group on Access and Benefit-sharing – because of concerns about the limitations of existing intellectual property rights regimes and access and benefit-sharing mechanisms to protect the collective nature of traditional knowledge. The third challenge is to consolidate effective and equitable approaches to integrating traditional knowledge systems and practices in natural resource management.

In practice, it is important to recognize that there are customary intellectual property issues associated with documentation and use of traditional knowledge. Conservation initiatives seeking to enhance the use of traditional knowledge in conservation, therefore, need to have a clear policy and set of tools (e.g. through research protocols) to ensure its protection.

At the same time, the traditional knowledge issues that arise in conservation contexts generally differ from those that arise in relation to commercial use. Whereas use for commercial purposes is often contested, most indigenous organizations do support appropriate use of indigenous knowledge in natural resource management. And whereas financial benefits are emphasized in relation to commercial use, benefits in a conservation use context are often more social and cultural in nature; for example, increased appreciation of traditional knowledge holders and enhanced knowledge transmission and innovation.

WWF commits in its policy to build agreements with indigenous communities on the decision-making processes, access, use and benefits arising from such knowledge. Areas of action include:

- Establishing working arrangements (e.g. research protocols) to promote appropriate use, management and integration of indigenous knowledge and practices in conservation
- Strengthening the recognition of customary rights and practical role of knowledge holders in wider management efforts
- Supporting indigenous initiatives to preserve, maintain and innovate indigenous knowledge as well as to control access
- Supporting indigenous participation in national and international policy dialogues to strengthen the integration of their concerns and rights in Access and Benefit-Sharing regulatory measures and agreements

Indigenous heritage

The concept of indigenous heritage has developed in response to concerns that the holistic nature of indigenous cultural heritage is not adequately reflected in existing regimes for protection of its various aspects including indigenous territory, indigenous knowledge or cultural objects. Recent work within the UN and the CBD (2005), has sought to define **indigenous heritage** and develop principles, guidelines and codes of conduct for its protection, including the following definition:

The heritage of indigenous peoples has a collective character and is comprised of all objects, sites and knowledge including languages, the nature or use of which has been transmitted from generation to generation, and which is regarded as pertaining to a particular people or its territory of traditional natural use. The heritage of indigenous peoples also includes objects, sites, knowledge and literary or artistic creation of that people which may be created or rediscovered in the future based upon their heritage (Daes 2000)

Conservation initiatives can affect indigenous heritage positively and negatively. On the positive side, efforts to support “bio-cultural” diversity highlight the linkages between biodiversity conservation and perpetuation of the cultural heritage inextricably linked to it. Negative impacts result, for example, from exclusion from sacred sites, resettlement, or neglect of customary management.

In practical terms, efforts to recognize indigenous heritage in conservation initiatives should:

- be inclusive and reflect indigenous notions of heritage as opposed to external definitions of what is cultural and sacred
- apply the *CBD Akwe: Kon Guidelines* when undertaking impact assessments
- seek to operationalize the Code of Conduct on indigenous heritage being developed by the CBD (see CBD 2005)
- reflect collective aspects of indigenous heritage such as ownership, links to land and management
- take into account culturally-specific forms of transmission and maintenance, and address drivers of heritage such as education and language policies and practices
- include agreements with communities on research protocols and appropriate benefit – sharing.

References and additional reading

Corobici Declaration and Recommendations on traditional forest-related knowledge

CBD web-site on article 8(j), www.biodiv.org/programmes/socio-eco/traditional/default.asp. The *CBD Akwe: Kon Guidelines* can also be downloaded from their web-page. The site provides access to a series of working documents related to indigenous knowledge as well as links to key institutions and organizations.

CBD. 2005. *Elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity*. UNEP/CBD/WG8J/4/8

Daes, Erica-Ines. 2000. *Report of the seminar on the draft principles and guidelines for the protection of the heritage of indigenous people*. Sub-Commission on the Promotion and Protection of Human Rights, Fifty-second session
Contains principles and guidelines for the protection of indigenous peoples' heritage.

ILO, The International Labour Office web-site on indigenous peoples includes documentation, analysis and guidance on key indigenous rights issues.

OHCHR, The Office of the UN High Commissioner on Human Rights page on indigenous issues includes links to the Special Rapporteur on indigenous issues, documents from UN processes such as the UN working groups on indigenous issues <http://www.ohchr.org/english/issues/indigenous/index.htm>

Oviedo, Gonzalo, Luisa Maffi and Peter Bille Larsen. 2000. *Indigenous and traditional peoples of the world and ecoregion conservation, an integrated approach to conserving the world's biological and cultural diversity*. WWF International and Terralingua.

Thornberry, Patrick. 2002. *Indigenous peoples and human rights*. Juris Publishing and Manchester University Press
Provides a detailed overview of indigenous peoples' rights including both general and specific human rights instruments.

Whall, Helen. 2004. *Indigenous Self-Determination in the Commonwealth of Nations*. Commonwealth Policy Studies Unit http://www.cpsu.org.uk/downloads/indigenous_self_determination.pdf
Provides an overview of debates and discussions related to the concept of self-determination

Taking a rights-based approach

Mainstreaming rights in the practice of project and programme work is the focus of an emerging set of what are being called “rights-based approaches” (RBA) to development and conservation. RBAs explicitly seek to contribute to the realization of rights and, by referring to specific rights, offer clearer statements about the standards programmes and projects must meet. A rights-based approach involves addressing the current, cumulative and future impacts of programme and project activities on a broad set of rights.

What can conservation initiatives do to address the fact that indigenous peoples are often deprived of their most basic rights? The WWF policy effectively recognizes that conservation planning and partnerships that do not build on rights are neither equitable, nor likely to be sustainable and constructive. Policy commitments to the rights of indigenous and traditional peoples are also growing in the CBD context, notably in the context of the Programme of Work on Protected Areas (<http://www.biodiv.org/programmes/cross-cutting/protected/default.asp>).

Operationalizing rights remains a challenge for many conservation initiatives, which can nevertheless have (and often do make) an important positive contribution. It is clear that many human rights goals linked to development such as the right to a clean environment (increasingly recognized in national constitutions) or the right to adequate food, housing and security will not be reached without the active efforts of conservation and development organizations. Furthermore, many conservation initiatives already contribute towards the effective implementation of specific indigenous rights, for example by demarcating indigenous lands as part of protected area design. However, there is also a risk of conservation initiatives undermining or violating rights as has been witnessed with resettlement activities, loss of livelihoods, lack of meaningful participation and lack of equitable cost and benefit sharing. WWF is often in a powerful position to secure change and progress on key rights of indigenous concern as they relate to conservation.

Concrete entry-points differ from country to country depending on specific capacities and opportunities. In some countries, these may include “advocacy” roles actively supporting formal recognition and practical implementation of indigenous rights, and, in others, engagement with indigenous communities without necessarily employing rights-based language. Even in situations where formal recognition of rights is difficult, there are often opportunities to put rights into practice through providing information, facilitating dialogue, supporting practical solutions on the ground and building long-term strategic alliances. Where rights are recognized, WWF can play a key role in bridging the often-existing gap between formal recognition and the realization of rights and benefits associated with them in practice. In both cases, understanding national policy frameworks as a point of departure and understanding the views and positions of indigenous organizations are fundamental to establish practical strategies.

Human rights are ...

“universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Human rights law obliges Governments (principally) and other duty-bearers to do certain things and prevents them from doing others”

~ (OHCHR 2006).

Linking rights to conservation objectives:

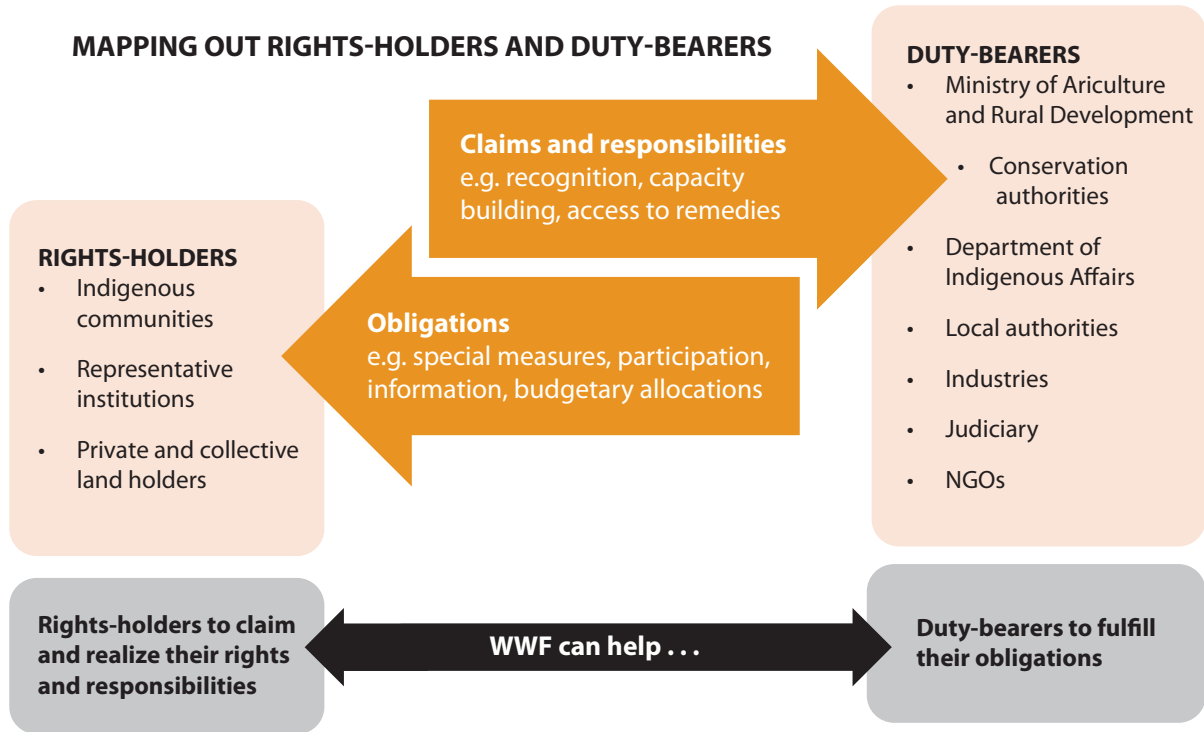
The WWF policy makes a distinction between recognition of rights and support for activities. In addition to indigenous rights instruments, the WWF policy endorses key international conservation and sustainable development commitments such as the Convention on Biodiversity, CITES, the Ramsar Convention, Agenda 21 and “Caring for the Earth.” Based on these commitments and its mission, WWF may not support or may oppose activities it judges environmentally unsustainable, even if carried out by indigenous communities. At the same time, the policy emphasis on indigenous rights reflects understanding that use may be unsustainable because rights are not recognized; for example, hampering the ability of indigenous communities to build up effective management around secure property rights.

Rights-holders and duty-bearers

A RBA involves identifying and working with both **rights-holders** and **duty-bearers**. In identifying rights-holders and duty-bearers, it is necessary to go beyond broad categories such as “indigenous peoples” and “the State.” In addition to identifying other non-State (e.g. extractive industries and partner NGOs), it is useful to clarify which specific line agencies and departments have specific duties. Second, it is important to clearly identify which collective institutions or individuals are concerned as rights-holders. This is especially important and challenging where indigenous communities and their institutions are not recognized by law. Third, it is important to emphasize that a particular actor may simultaneously be both a rights-holder and a duty-bearer, and that rights also generally entail responsibilities.

Conservation actors are very familiar with “duty-bearing” conservation agencies that are not in a realistic position to fulfil their mandates. WWF and other conservation organizations have traditionally sought to strengthen such agencies, and can play a similar capacity-building role with regard to rights aspects of conservation initiatives. In some countries, this may involve increased direct engagement with indigenous organizations and community institutions, and increased orientation towards rights aspects in ongoing engagement with government. It may also involve giving greater emphasis to facilitation roles, along with technical roles.

MAPPING OUT RIGHTS-HOLDERS AND DUTY-BEARERS



The added-value of rights-based approaches

Conservation and development programmes generally seek to:	Rights-based approaches add the importance of:
Discuss project activities key stakeholders	Institutionalizing dialogues between duty-bearers and rights-holders
Understand socio-economic baseline data	Understanding to what extent rights are recognized and implemented
Aim at reducing poverty and improving livelihoods	Including the realization of rights of the excluded and marginalized in objective-setting
Address vulnerability and sustainable livelihood concerns	Seeking to enable rights-holders to claim rights and duty-bearers to fulfil obligations
Enable participation in project implementation and management	Codifying (policy, laws and regulations) and institutionalizing participation and consultation
Build capacity to undertake project implementation	Building capacity to claim rights and fulfill obligations
Conduct project monitoring and evaluation	Strengthening accountability of duty-bearers towards rights-holders

Understanding rights and obligations

It is important to understand the context of rights in order to effectively design and plan conservation initiatives that empower indigenous communities to claim their rights and fulfil their responsibilities and duty-bearers to fulfil their obligations. This involves assessing both the current situation as well as the potential positive or negative impacts of a given initiative. Key questions include:

- **What are the rights and obligations relevant to a particular project context?** The particular constellation of rights and obligations, and particular rights-holders and duty-bearers involved, will obviously differ between, say, a protected area context and an extractive industries context. Mapping out the particular constellation of rights and obligations is a necessary first step.
- **To what extent are indigenous rights-holders, their rights and claims recognized?** In many countries, indigenous communities may not be fully recognized. Many communities have on-going land claims, which may be more or less recognized by State authorities.
- **To what extent are rights...**
Respected? (to respect rights means not to interfere with their enjoyment)
Protected? (to protect human rights means to ensure that third parties do not interfere)
Fulfilled? (to fulfill rights means to take steps to progressively realize rights)
- **To what extent are indigenous rights-holders able to fulfill their conservation responsibilities?** While indigenous peoples' rights in a particular context may be recognized, communities may lack the resources or regulatory support to put conservation into practice.
- **What is the relationship between indigenous rights-holders and duty-bearers?** A critical question involves understanding the power relationships shaping indigenous rights and their implementation. Are duty-bearers aware of and committed to fulfilling their obligations? Are other stakeholders seeking to influence the effective recognition and implementation of indigenous rights?
- **What are the potential, both negative and positive, impacts of a project or programme on the realization of rights, responsibilities and obligations in both the immediate and long-term?**
- **What are the main factors, including root causes, impeding and opportunities for enhancing the realization of indigenous rights?**

Questions will typically reveal a set of capacity needs and opportunities among both rights-holders and duty-bearers. Indigenous communities may not be aware of their rights or have the institutional capacity to engage in dialogues with national conservation and development agencies. They may not have the capacity to implement conservation responsibilities even where rights are recognized in terms of demarcated territories, lands and waters.

Duty-bearers may have a poor understanding of indigenous concerns or lack the human and institutional resources to engage in effective participatory processes. Analysis may also reveal gaps in terms of particular policies and institutional arrangements. Analysis will likely reveal a range of different action opportunities such as:

- Awareness raising and organizational support to right-holders
- Capacity building support to rights-holders and duty-bearers
- Alliance building & advocacy support
- Institutional and administrative reform to strengthen the institutionalization of rights
- Policy reform to codify rights in policy and legislation

Realizing indigenous rights and obligations in protected area conservation, for example, will in many countries require moving beyond work at the site level towards support for policy reform on effective participation, land rights and equitable benefit-sharing. It may also involve lobbying for adequate resources and capacity support to facilitate implementation of conservation obligations accompanying indigenous rights.

How to integrate rights in the planning process

Key points for grounding a RBA in a practical manner include to:

- Engage indigenous peoples and duty-bearers in the situational analysis and the identification of opportunities to address rights pro-actively
- Prioritize major negative impacts and severe human rights challenges
- Make sure that, as a minimum, where legal frameworks are absent, conservation initiatives do not undermine existing practice of rights, but seek to build capacity of right-holders to claim rights and duty-bearers to implement their obligations
- Explore practical ways and strategic opportunities to mainstream indigenous rights. Even if these are not recognized, there are often other windows of opportunity to promote further recognition and implementation on the ground. This may de-emphasizing or emphasizing rights terminology as appropriate to a particular strategic opportunity.

How rights-based objectives are set in conservation initiatives will depend on the nature of the initiative as well as the extent to which rights are recognized, realized and affected. An increasing number of conservation initiatives have, for example, aligned objectives to effectively protect indigenous territories with wider conservation objectives. Within a rights-based framework such an effort would contribute to the realization of indigenous rights to customary territories and resources, building on national and international standards for territorial protection.

References and additional reading

CBD. 2005. *Akwé: Kon Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous peoples*. CBD guidelines, **www.biodiv.org**

Provide guidance on how to integrate indigenous concerns in impact assessments.

CBD. 2005. *Elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity*. UNEP/CBD/WG8J/4/8

Draft guidance on measures to ensure respect for indigenous cultural and intellectual heritage

OHCHR. 2006. *Frequently asked questions on a human rights approach*. New York and Geneva,

http://www.ohchr.org/english/about/publications/docs/FAQ_en.pdf

Addresses a number of the practical dimensions of taking a human rights approach

MacKay, Fergus. 2002. *Addressing Past Wrongs. Indigenous Peoples and Protected Areas: The Right to Restitution of Lands and Resources*. Briefing Paper, Forest Peoples Program

An analysis of indigenous rights concerns in the context of protected area policies.

Tomas, Amparo. 2003. *A human rights approach to development: primer for development practitioners*. Draft July 2003, Primer prepared for UNDP Nepal training course

A good introduction to rights-based approaches

Integrating indigenous and gender aspects in natural resource management

This section is an extract (pages 11-14) from a more thorough set of guidelines and case studies developed by WWF – Denmark together with IWGIA, KULU, Nepenthes & DIIS. The whole set of guidance along with a screening and review analysis of practical experiences can be accessed through www.ignarm.dk.

Reasons for including gender and indigenous concerns

There are three main reasons for including gender aspects in natural resource management in indigenous communities, areas and territories. One is that traditionally both indigenous women and men have valuable knowledge of the natural resources and of how to manage them. Another is that they are both necessary and essential partners and agents in sustainable natural resource management and development work. And the last one is that indigenous families traditionally survive on the basis of both men's and women's integrated work and effort in daily life.

Test your knowledge and reflect on the statements mentioned below in relation to the natural resource management activities that you are engaged in.

A. Gender and Natural Resource Management

Indigenous women and men in some aspects have different traditional knowledge of the natural resources within their local environment both regarding habitat, conservation, management, use, storing and processing. There are no blueprint formula for the specific knowledge of indigenous men and women in that regard – it varies according to the specific ethnic group. In some cases the traditional knowledge is disappearing. For instance the introduction of modern natural resource management methods and technologies by external agents often do not take into consideration what indigenous men and women traditionally know and have done for ages. Consequently, the sustainability of the natural resource management initiatives can be hampered and the livelihood of local indigenous communities put at risk. Thus, it is essential to achieve as much information as possible about the indigenous men's and women's knowledge of the natural resources and their traditional natural resource management practices in order to include their knowledge and practices proactively in any project intervention. The information can be obtained through different methods, but one of the best ways is to ASK and LISTEN to the indigenous men and women themselves by addressing at least the following issues:

1. Identify the roles and responsibilities of indigenous men and women within the management of natural resources.
2. Identify the specific natural resources that are the areas of expertise of men and women.
3. Identify in which way the different natural resources are being used by both men and women, for instance for subsistence purposes, for market economy purposes, for religious or ritual purposes etc.
4. Identify who in terms of gender, age and social status benefit from the use of the natural resources and how the benefits are divided within the family and the social group.
5. Identify the positive/negative consequences of the specific use of these natural resources for their conservation and sustainable management.
6. Identify the implications of these consequences for both indigenous men and women within the social group.

BOX 1. WHAT DO WOMEN DO AND WHAT DO MEN DO?

Describe the roles and responsibilities that men and women have in relation to the management of natural resources.

EXAMPLE 1 from the Cocama people in the Pacaya Samiria National Reserve located in the lowland jungle of Peru in relation to the gathering/collection of flora and fauna products:

The men: During hunting and fishing activities (exclusively done by men) close to the home or far away from home, the men identify suitable resources like fruits, palms, plants, trees, turtle eggs, etc. to be gathered. The resources far from home (more than one day's travel) are collected by the men who set out in groups to bring the resources home to the wives.

The women: they collect the identified resources close to their home either alone, with their children or with their husbands depending on the specific resources. The processing and storing of the gathered resources are almost exclusively the responsibility of the women. Exceptions are the specific wood used for arrows and the alevins of the "torres fish" which are sold to local tradesmen as aquaria fish.

EXAMPLE 2 from the Aymara people in the Bolivian highland where the coca plant and its leaves are of essential importance for the indigenous mythology, nutrition, livelihood and family relations:

When a young couple and their families have agreed to a wedding, the agreement cannot be fulfilled unless the young man and the young woman have proved their ability to cultivate the coca trees (*Erythroxylum coca*) and to harvest the coca leaves.

The man: has to demonstrate that he is capable of constructing a well-terraced coca field, of planting the coca seedlings according to traditions and in the best way possible and of taking care of them in an appropriate way so that they yield the most.

The woman: has to demonstrate that she is capable of harvesting the coca leaves according to traditions, in the best way and as fast as possible as well as storing them according to traditions and to the maximum durability.

EXAMPLE 3 from the San people in southern Africa

The men: do the hunting, process the meat and distribute it to their group.

The women: do most of the recollection of wild plants, edible roots, wild melons and berries. This includes identifying the plants, digging for roots, etc. and carrying them back to their settlement. The women are also responsible for fetching water and fuel wood, for gathering timber products for construction and tool manufacturing purposes, for cutting of wild grasses to be used as thatch for their homes, and the exploitation of specialized resources such as medicinal plants and ochre for decorative purposes.

B. Culture and Natural Resource Management

Indigenous men and women often have a mythological and spiritual relationship with the natural resources and interact with them as living beings important for their physical, mental and spiritual survival and wellbeing. This relationship is often reflected in and regulated by traditional rules and traditional legal systems, normally referred to as “customary indigenous law”.

Furthermore, many indigenous peoples assign different qualities, such as feminine and masculine, to the different natural resources. They also assign specific social and religious status to the men and women with specific knowledge and responsibilities of as well as relationship to these natural resources. Consequently, it is important to focus on the cultural aspects of the traditional natural resource management in order to understand how cultural aspects influence men’s and women’s use and management of the natural resources. However, be aware that not all cultural beliefs, rituals and practices are sustainable in terms of natural resource management.

The following issues can help shedding light on the cultural relationship between indigenous men/women and the natural resources:

1. Identify in what way the natural resources are linked to the specific indigenous myths, traditions and cosmo-vision.
2. Identify which natural resources are of primary and secondary importance for the indigenous culture in question.
3. Identify what are men’s and women’s roles and responsibilities in relation to these natural resources as well as what are the implications of these roles and responsibilities for indigenous men and women and their social status.
4. Identify in what way the cultural norms and traditions help or impede the sustainable use and management of the natural resources.
5. Identify whether the cultural norms and traditions for natural resource use and management promote or impede gender equality and equity among indigenous men and women, for instance in terms of needs, social status, rights and decision making opportunities.

BOX 2. DIFFERENT QUALITIES ASSIGNED TO THE NATURAL RESOURCES

Example 1: The Anaconda as the Mother of all Life

The Anaconda living in the tropical forest of South America is and has always been subject to myths and stories about its strength, power and terrible killing capacities. For the Cocamas in the Pacaya Samiria National Reserve in Peru, the anaconda has an entirely different image and reputation. The anaconda is seen as the “mother of all creation” in the Cocama Cosmo vision and although she can be angry and use her strength towards human beings when she or other creatures of nature are harmed, she is normally a calm, fair and caring “mother” of both humans, fauna and flora if she is met with respect and consideration. The earthly existence of the Cocama people originated in the world below the river surface, where the anaconda is the unquestionable queen or mother. Therefore, anacondas must not be hunted or killed by the Cocama people. Rather she is asked for permission to fish and to kill mammals like the sea cow, whenever the Cocama people have a need for it to survive.

Example 2: The River Dolphins as Policemen and Charmers of women.

The coloured river dolphins living in the Amazon area of Peru are beautiful and playful animals. At times they appear playing in the waters in groups or alone in front of the canoes or smaller boats sailing the minor rivers of the Pacaya Samiria National Reserve. According to the Cocama legends these river dolphins are the guardians or policemen of the underwater world. They watch over fish and river mammals and take care that fishermen are not over fishing or killing too many river mammals. They sometimes lead the indigenous fishermen to good fishing locations, but they can also impede that fishing is taking place by teasing the fishermen rocking their canoes. As they are so charming and beautiful animals, they are believed to be able to transform themselves into human beings. During village or community events and parties, they leave the rivers and participate in the celebrations as human beings. They try to make the women fall in love with them hoping for at chance to fecundate them and bring them back to their river world. Therefore menstruating women should not wash their underwear in the river as it might attract the dolphins, which subsequently will come for them in the shape of a handsome man.

Example 3: The sacred land of Australian Aboriginals.

Australian Aboriginals speak about “Dream time” as the time when everything that is found in nature was created, or rather given form by supernatural beings. These beings – or almighty ancestors – turned themselves into a part of nature by letting their spirit live on as “spirit children” and “spirit animals” in certain places – the dream places. By doing this, they linked the people to nature, to the land on which they live. The land is therefore sacred, and this explains why the Aboriginals consider every unnecessary marking or digging of the land as a wound to themselves and their ancestors. Destroying nature also means that it is no longer possible to communicate with dreamtime and release the spirit animals and the spirit children that will provide for the regeneration and rebirth of nature, the animals and the people themselves.

C. Natural Resource Management and institutional issues

In many parts of the world the natural resources are subject to great interest from local and national authorities as well as from local, national and international private companies. Indigenous peoples are often faced with threats, abuse and oppression due to the economic value of the natural resources of their environment and are seldom in a favorable position to defend their livelihood and traditional territories against strong external forces.

Besides, within specific indigenous groups, traditions and cultural norms of access to, control and use of the natural resources are not necessarily very democratic in a Western sense of the word. Therefore, it is important to get information related to the institutional and legal frameworks for the protection of indigenous peoples rights to land, territories and natural resources. It is however equally important to know about the culturally defined institutional and organisational agreements of access to, control and use of the natural resources within the indigenous groups themselves reflected in their customary law:

1. Identify and clarify the national and local legal framework and practices for indigenous peoples' right to ownership, control and use of the different natural resources within the specific indigenous territory. It is particularly important to identify if there is a system of legal pluralism within the same country or region, and whether the different legal systems recognize and respect each other. Likewise, it is important to identify the existence of different forms of dealing with conflicts of competencies between them. In many cases, customary indigenous law can be parallel or opposite of national law, specifically in the case of natural resources and gender dimensions.
2. Assess in what way the national and local legal framework and practices for ownership to, control and use of the natural resources benefit indigenous men and women or impede their equal rights.
3. Identify who within the indigenous communities or structures have traditional access, right and possibility to the use and ownership of the natural resources in terms of gender, age, social position, etc.
4. Identify the consequences of these organizational traditions and practices for indigenous men's and women's opportunities in life and social status within their communities and organizational structures.

References and additional reading

Please consult with the full set of guidance, analysis and references provided by the IGNARM partnership. The documents available in Spanish and English can be accessed through www.ignarm.dk.

Specific documents include:

- Guidelines for Practitioners. Integrating Indigenous and Gender Aspects in natural Resource Management
- Screening of experiences of integrating indigenous peoples, gender and natural resource management by the participating organizations and their partners
- Reviews by indigenous resource persons from a number of countries and regions (China, East Africa, Ecuador, India, Nepal and Panama)

Free Prior Informed Consent

WWF not only recognizes indigenous peoples' right to "require that States obtain their free and informed consent prior to the approval of any project affecting those lands, territories, and resources" including relocation, but also that WWF will not promote or support, and may actively oppose, interventions which have not received prior free and informed consent (FPIC). This policy standard is a response to decades of efforts, including conservation initiatives, which have not engaged with indigenous peoples prior to project development, allowed indigenous communities to freely decide upon their involvement, or provided adequate information before decisions were made.

Incorporating the FPIC standard in the programme cycle is a crucial step to redress this situation. Several standard-setting and methodological discussions at the international level have sought to clarify the meaning of the Free Prior Informed Consent standard and how it can be put into operational practice. From this work, a consensus is emerging on what FPIC implies in terms of What, Who, When and How.

What?

Free: No coercion, intimidation or manipulation. Consent to a protected area establishment, for example, has not been imposed or manufactured, but obtained through free consultation and voluntary negotiations

Prior: Consent has been sought sufficiently in advance of any decision-making, authorization or commencement of activities and that respect is shown for time requirements of indigenous consultation/consensus processes.

Informed: Full information disclosure about:

- The nature, size, pace, reversibility and scope of any proposed project or activity;
- The reason(s) for or purpose(s) of the project and/or activity;
- The duration of the above;
- The locality of areas that will be affected;
- A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit-sharing in a context that respects the precautionary principle;
- Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others);
- Procedures that the project may entail.

Consent: Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest-holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions and access technical/ legal services if needed. The inclusion of a gender perspective and the participation of indigenous women are essential, as well as participation of children and youth, as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

Who?

Conservation initiatives need to make sure that individuals and institutions providing consent to a given project or programme are actually representative of the people affected. Identifying representative institutions capable of giving “consent” is not always simple. A guiding principle is that consent should not be limited to individuals, but should also include the collective voice of indigenous communities whether through customary institutions, formal organizations or collective decision-making processes.

In cases where representation is questioned by communities, complementary processes are often needed, for example grassroots level consultations with affected groups taking into account both gender and youth perspectives. FPIC should not be limited to countries where indigenous peoples are recognized and formal FPIC procedures are in place, but should be applied as a basic standard including where indigenous communities are not formally recognized.

When?

The emphasis on « prior » underlines the importance of initiating consultations as early as possible and providing adequate time for indigenous peoples’ own decision-making processes to inform different steps of the project cycle. FPIC is particularly important when defining project visions, goals and conservation strategies. This said, FPIC should also be understood as a **continuous iterative process of engagement with indigenous peoples rather than as a one-time consultation** (e.g. secure buy-in for a project proposal).

How?

The policy basis for promoting “optimal” FPIC is absent in many countries. It does not necessarily appear as a policy requirement or even as “good practice” when designing a conservation initiative. Adequate FPIC processes therefore typically require moving beyond official requirements. Practical steps may include to:

- Make information available in local and understandable language and formats
- Provide resources for indigenous peoples to debate problems and projects rather than “consent” to pre-determined project objectives and concepts
- Agree with indigenous peoples about how consent can be obtained
- Support indigenous communities to strengthen representative institutions and engage in negotiations and dialogues.
- Secure resources for indigenous-driven impact assessments and the like where relevant.
- Formalize adaptable working modalities with indigenous peoples, e.g., in terms of information sharing and negotiations.
- Support adoption of FPIC principles at a policy level (project approaches are useful, but often short-lived unless tied up to wider efforts)

Practitioners are still developing best practices for implementation of FPIC, and it is important to approach this work as a learning process. A range of practical questions remain. For example, questions identified in UN meeting on FPIC (United Nations 2005) and some potential responses are outlined below.

Questions	Potential responses
Who or which institutional entity provides consent in a community when the latter is being consulted?	Be open for seeking consent from multiple sources particularly where authorities are contested
Should the collective consent of indigenous peoples be considered more important than the individual property rights of non-indigenous persons who may occupy the same territory? And how should such conflicts be dealt with?	Both are important and need to be dealt with in conjunction to avoid generating further conflict. A range of conflict resolution processes could be considered, involving relevant governmental bodies in the process.
Which actor(s) should be responsible for providing information and impact assessments on projects that affect indigenous communities?	All sponsors of a particular project should take on responsibility for providing information and ensuring that relevant assessments are undertaken.
What type of documentation and information should be provided to indigenous communities?	Documentation in relevant languages and indicating proponents, their interests and supporters and potential impacts
How should the lack of awareness and capacity among those involved in free, prior and informed consent processes be addressed?	External support organizations can play a critical role by building the capacity of both right-holders and duty bearers
How can the disparity in resources, and power imbalances between indigenous peoples and private developers, or between indigenous peoples and the State, be addressed?	Support organizations can contribute by factoring resource disparities and power imbalances into the project and programme cycle e.g. through inclusive design, implementation and oversight.
How should indigenous communities benefit from their contribution of traditional knowledge to conservation and sustainable use of resources?	Support organizations can contribute by facilitating equitable benefit-sharing arrangements crafted through FPIC
What mechanisms for seeking redress should be available to indigenous peoples if free, prior and informed consent processes have not been followed?	Fora for resolution of problems, grievances and disputes should be established, at minimum, at a project level.

References and additional reading

Colchester, Marcus and Fergus MacKay. 2004. *In search of middle ground: indigenous peoples, collective representation and the right to free, prior and informed consent*. Paper presented to the 10th Conference of the International Association for the Study of Common Property, Oaxaca, 2004
An analysis of relationships between States and indigenous peoples in the context of PFIC

Motoc, Antoanella-Iulia and Tebtebba Foundation. 2005. *Legal commentary on the concept of free, prior and informed consent*. Sub-Commission on the Promotion and Protection of Human Rights, Working Group on Indigenous Populations, Twenty-third session, E/CN.4/Sub.2/AC.4/2005/2.

www.ohchr.org/english/issues/indigenous/docs/wgip24/2005-wp1.doc

Working paper with guidelines on practical aspects of implementing PFIC

Motoc, Antoanella-Iulia and Tebtebba Foundation. 2005. *Legal commentary on the concept of free, prior and informed consent*. Sub-Commission on the Promotion and Protection of Human Rights, Working Group on Indigenous Populations, Twenty-third session, E/CN.4/Sub.2/AC.4/2005/2.

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Key analysis of PFIC

Tebtebba Foundation. 2006. *Recent experiences and recommendations on the concept and implementation of the principle of Free, Prior and Informed Consent*. Permanent Forum on Indigenous Issues Fifth Session, Presented by Jennifer Corpuz, Tebtebba Foundation In behalf of the Asia Indigenous Women's Network (AIWN), the Cordillera Peoples' Alliance (CPA) and Tebtebba Foundation **http://www.tebtebba.org/tebtebba_files/unpf/pf5/FPICstatement.pdf**
A recent statement made at the UN Permanent Forum on Indigenous Issues on PFIC

United Nations. 2005. *Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples* (New York, 17-19 January 2005), E/C.19/2005/3
http://www.tebtebba.org/tebtebba_files/ipr/fpic.pdf , **http://www.un.org/esa/socdev/unpfii/en/session_fourth.html**

Results of a UN workshop on FPIC

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This publication is made possible by the generous support of the Ford Foundation.

Design by Ellipse Design
Printing by Balmar, Inc.



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Indigenous Peoples and Conservation

Indigenous peoples are among the Earth's most important stewards and are critical to WWF's mission to build a future where human needs are met in harmony with nature. WWF is committed to working with indigenous peoples and organizations to conserve and sustainably use natural resources and to advocate on issues of shared concern. We believe that collaboration depends on lasting partnerships based on recognition of indigenous peoples' rights and interests, appreciation for their contributions to biodiversity conservation and understanding of the links between biological and cultural diversity.

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