

GUIDELINES FOR GOVERNMENTS



SUMMARY OF GUIDELINES FOR GOVERNMENTS

Governments have many ways to innovate, support, and encourage the inclusion of indigenous knowledge and the participation of indigenous peoples in the development of their national, regional, or local resources and the well-being of their citizens. The following five guidelines may assist governments at all levels to focus their attention in a few critical areas that can significantly improve the capacity of any government to benefit from the inclusion of indigenous peoples and their traditional knowledge.

1) Establish policies to foster sustainable development

Most indigenous peoples are interested in maintaining the cultural and natural environment in an evolving, but sustainable fashion that reflects generations of wisdom through traditional practice. Including indigenous peoples in developing the national concepts of sustainable practices helps to conserve both the environment of the government's jurisdiction, and also its cultural heritage.

2) Develop strategies by involving all stakeholders

Policies are implemented through strategies that use tools and resources available to meet the goals embodied in the policies. By including all the potential stakeholders, including indigenous peoples, a greater likelihood of reaching the goals is achieved.

3) Separate program delivery departments from regulatory departments

Strategies are delivered through programs. Programs take place in a regulatory and enforcement framework that is defined by government. Separating programs that encourage the use or harvest of resources from the departments or agencies that enforce, regulate, or conserve, removes much of the potential for conflict of interest.

4) Acknowledge the traditional resource rights of indigenous peoples

In many development projects, it is necessary to protect the livelihood and access to places and other resources that are used by indigenous peoples. The traditional rights to resources of indigenous peoples protect this access. Be sure your legislation and policies reflect these rights.

5) Fund traditional knowledge capacity-building amongst your nation's indigenous people

Indigenous knowledge represents a valuable resource that can benefit the development of any area. Indigenous peoples are usually willing to share this knowledge and understanding, but may not have the money to travel, the ability to read the documentation, the language, or other skills needed to participate in processes that can benefit from including their knowledge. Relatively small investments can build this capacity with a large net benefit to the larger community.

GOVERNMENT GUIDELINE #1: **ESTABLISH POLICIES TO FOSTER SUSTAINABLE DEVELOPMENT**

Consistent with the national goal of ensuring the longevity and prosperity of the nation, specific policies to keep the nation's natural resources available over the very long-term should be a high priority. There are essentially three types of resource management: 1) non-renewable, 2) renewable a) wild, and b) domesticated.

The distinction is made within the renewable resources because a significant proportion of indigenous people subsist or augment their diets and other needs with wild stocks. The management style is quite different between wild and domestic stocks.

Development projects often consider that the management of resource utilization rationalizes the use of non-renewables and finds solutions for a balanced use and production or protection of renewable ones.

SET POLICIES TO RATIONALIZE THE EXPLOITATION OF NON- RENEWABLE RESOURCES

Mineral resources are finite and non-renewable. Development policies may be such that exploitation of mineral resources is based on national economic needs and commercial interests. Mining projects that affect rights of local communities should ensure that the commercial as well as traditional interests of local communities are given equal consideration.

Especially when indigenous peoples are involved, however, the potential for both damage and benefit is very high. It is wise to understand that if

non-renewable resources are sold as raw products, there is no value added to the national industrial capacity. Thus, extracting these when there is no immediate need to build the minerals into the technological capacity of the nation, must be based on a real and immediate need for the cash resources that result from selling your natural capital.

Forest products can also be managed as a non-renewable resource. Typically in this style of management, the forest is cut down, the forest products sold, and the land transformed to some other use such as urban development. In some projects of transformation, the forest is burned to make way for agricultural use. These two approaches do not allow regeneration of the forest. As many indigenous peoples live in forest environments, this loss of forest may need to take these indigenous populations into consideration as a special factor.

National and regional strategies should be established before wholesale reduction of forests is undertaken. The basis for these strategies should be to consider the long-term needs for self-sufficiency for both fibre and non-fibre forest products and by-products. While in the short or medium term, offshore purchase of forest products may be acceptable, in the long-term, it will not be a sustainable practice. The strategy should also be based on the need to preserve a degree of diversity in forest plants and animals that will allow for the needed genetic diversity in case of crop failures and general ecosystem health.

Traditional systems of management are often based on a sustainable use of all or most of the assets and products the forests provide. Selective enhancement of productivity without significant reduction of diversity is the principle of traditional management. Modern plantation management is based on very limited diversity to enhance productivity to the maximum – a risky long-term strategy, but an effective short-term strategy.

Although a definition of the necessary diversity to maintain ecosystem health is not well established in science, there are some simple guidelines that can be used. In most habitats, a reduction of area by 90% reduces the diversity of life by about 50%. A 50% reduction in biodiversity has been sufficient in geological history to cause a landslide loss of life on the planet with the most affected species being the dominant forms. In such a scenario, human kind would be a victim.

Many environmental experts suggest that a 30% to 40% maintenance of original ecosystems in any region may be sufficient to stabilize the decline of biodiversity at a sustainable level of health for the world's ecosystem. This assumes some reasonable resource management of urban and suburban environments as well. Targets such as these can form the basis for forest management strategies when removal, not renewal, is intended.

Establish benchmarks and indicators for maximum use of non-renewable or extractive use of renewable resources based on scientific and indigenous knowledge.

Natural environments can be better managed as a renewable resource.

Managed this way, the indigenous peoples within them are able to sustain their traditional way of life. For the long-term health of the planet, as much of the natural environment as possible should be managed and harvested as renewable resources.

Certain forest extraction processes, for instance, are not sustainable. Clear cutting in boreal forests

can eliminate the forest under certain conditions. Clear cutting in certain tropical forests may expose lateritic soils that not only cannot support regeneration of the forest, but also cannot support agriculture.

Many natural environments can be systematically harvested forever on an ecosystem basis (there is a vast literature on how to do this in a sustainable fashion). In other schemes, the ecosystem is replaced by a monoculture or plantation. Plantations are less able to maintain the biodiversity of the world, and the indigenous populations in a traditional life-style.

Living wild resources, whether terrestrial or aquatic, can all be managed in a sustainable fashion if sufficient knowledge and political will supports the management policies and regulations.

So far, the record is not good. In aquatic resources, for example, most world fisheries for wild stocks are over-harvested. The number of wild terrestrial stocks that are now harvested on a commercial basis is very limited, almost all have been brought to commercial extinction.

Where they occur, wild terrestrial stocks may be harvested by indigenous peoples. New policies will need to be developed because the advent of modern weaponry and transportation systems, as well as the sharp increase in populations of indigenous peoples has placed even wild terrestrial stocks managed by indigenous peoples in significant danger of over-exploitation.

SET POLICIES ON THE BASIS OF SUSTAINABILITY OF QUALITY OF LIFE FOR INDIGENOUS PEOPLES

When these policies are being designed, it is important to remember that within projects to extract natural resources or develop infrastructure away from the urban core, interaction with indigenous peoples is common. Developing policies that encourage the participation of

indigenous peoples in the development, management, and economic base that results from these projects avoids confrontations and enhances the capacity of the indigenous peoples. These same policies need to be based on the principle that indigenous peoples have traditional rights to use their traditional resources.

Governments need to assist their indigenous peoples by combining traditional and scientific

knowledge in cooperative ventures. This will help the participating members of these ventures to understand how to manage the population wild stocks under different regimes: 1) natural traditional management styles, 2) during the transformation toward market-economy-based management, and then 3) under full market-economy-based management.

GOVERNMENT GUIDELINE #2: **DEVELOP STRATEGIES BY INVOLVING ALL STAKEHOLDERS**

GOOD STRATEGIES COME FROM INCLUSIVE CONSULTATIONS

Strategies for sustainability discover ways and means of developing resources without diminishing the resource. To be effective, the process of developing these strategies should include the many participants, stakeholders, shareholders, and special interest groups in meaningful consultation.

Consultation intended only to inform may sometimes lead to increased short-term profitability, but sustainable development must be based on the inclusion of all parties. Good strategies are not the result of votes, or polls, or the lowest common denominator of a self-interested group. Good strategies are carefully designed to achieve sustainability while respecting the values and needs of all the people.

A large body of literature is developing worldwide on multi-stakeholder or round-table techniques for communication, with case-histories to demonstrate the value of the end results. See the appendices on web sites, literature, and traditional knowledge centres for sources of information.

CONSULTATION TECHNIQUES MAY REQUIRE FINANCIAL SUPPORT

Round table consultation does not work in all nations or in all cultures. Other techniques are available to include many viewpoints. These

include such techniques as involving people in training and capacity-building sessions. If certain groups are not able to participate directly, representatives from the community can be trained to train them. Informal groups can form networks of communication allowing information to flow through the community.

One impediment to successful participation can be funds. A policy of requiring a certain amount of funding for potential intervenors and participants be part of the project can significantly improve the communication and negotiation process.

DEVELOP AND PROMOTE A CODE OF PRACTICE FOR YOUR REGION

Staff members of development proponents or government departments may not have had experience inter-acting with indigenous peoples. It may also be that they are not as well aware of the ancestral domains, the traditional rights to resources in your area the special ways in which local community make decisions when asked to share traditional knowledge.

Consider using these guidelines as the basis for creating a draft code of conduct for proponents and for government that you can share with the indigenous peoples for suggestions and ideas for improvement. Let them know you are doing this to help them work with you. Suggest that your government will adopt the final draft as official government policy when dealing with indigenous peoples.

ACCREDIT GROUPS REPRESENTING INDIGENOUS COMMUNITIES

Indigenous groups may want to form organizations such as corporations or NGOs to represent them. If an indigenous community has not already done this, governments should invite them to create their own representative groups. It is the best practice to have indigenous communities participate freely in creating or forming their own groups. It is also a best practice to provide advice and examples on how to do this in the context of national and regional laws.

Once this has been accomplished and the indigenous community indicates their acceptance of the group, government can support this endeavor further by officially recognizing the representative group.

There are several practices governments should avoid.

1. Governments should avoid assigning indigenous peoples representative groups. Instead, the government initiative should be to invite the indigenous communities to form their own groups to represent them.
2. Governments should avoid using indigenous peoples who are part of government

departments, especially departments that are directly involved with the development project, as representatives of indigenous communities, unless the community has specifically recognized the government representative as their own representative. It is wise to follow this advice or the community will lose trust and respect for the government department.

3. Governments should not appoint or select the representatives of indigenous communities, but should officially recognize representatives appointed or approved by local communities.
4. Governments should avoid accrediting representative groups that have been formed using “divisive tactics, such as tribal leaders versus tribal dealers, or the use of tribal leaders as brokers in negotiations.
5. Governments should avoid the use of promises to deliver basic service in return for obtaining indigenous peoples’ consent for a development project.
6. Government corporations should avoid unilateral planning and implementation of development projects within ancestral domains, even if they are within the charter of the government company, without proper consultation with the affected indigenous peoples.

GOVERNMENT GUIDELINE #3: SEPARATE PROGRAM DELIVERY DEPARTMENTS FROM REGULATORY DEPARTMENTS

REGULATORY AGENCIES SHOULD NOT HAVE AN INHERENT CONFLICT OF INTEREST

Strategic development is achieved through programs and projects. Multi-stakeholder and round-table advisory groups can assist in supplying the knowledge base to support these programs and projects. This support creates a base of support for the strategies themselves. Creating a suitable infrastructure to monitor and enforce these policies and strategies is a crucial part of ensuring that the practice remains true to the goal of the strategy is attempting to achieve.

Government policy departments should be separate from government departments that are responsible for delivering programs. When departments are responsible for both harvest and regulation, the goals become confused.

If both functions are combined in one department, typically the department emphasizes harvest and the revenue that comes from that harvest. It is very difficult within a single department to rationalize the demands of both conservation and exploitation.

Policies and strategies that seek to impose sustainable practices can all too easily be forgotten in the other departmental goal to increase productivity in the short term. This confusion of goals means that it is often difficult to develop a workable combination of strategies to both increase revenue and maintain a sustainable set of

harvest practices. This confusion is not uncommon, but can ultimately lead to loss of economic health in a country or region.

The solution is to separate policy and regulatory departments from program delivery departments.

NEGOTIATE LAND CLAIMS BEFORE DEVELOPMENT IS PERMITTED IN GOVERNMENT PARKS AND RESERVES

Parks and protected areas of various kinds are often set up specifically to protect or to use pristine rural landscapes in special ways. If these areas are also the ancestral domain of indigenous peoples, it is important to settle any land claims before the issues of development projects are considered. If land claims and development projects are considered at the same time, and especially if they are considered by only one department (for example the parks regulatory department), there is an inherent conflict of interest in which the land claims will be settled in the context of development, rather than from their inherent claim on the basis of ancestral rights.

MANAGE ACCESS TO ISOLATED INDIGENOUS PEOPLES TO MAINTAIN THEIR SOCIAL, CULTURAL, AND PHYSICAL STABILITY

Establish policies on access to indigenous peoples by non-indigenous peoples as a safeguard against

health and social damage. Even today, projects can decimate traditional communities through the importation of diseases, or by introducing foods so unfamiliar that they cause digestive problems and malnutrition. The sudden introduction of non-indigenous peoples can be destructive to the social fabric of a traditional community. Sensitive policies can minimize the damage due to development.

REQUIRE REGULATORY AGENCIES TO WORK TO THE BENEFIT OF THE SOCIOECONOMIC AND CULTURAL CONDITIONS OF TRADITIONAL COMMUNITIES

The following checklist is a helpful guide to information a program officer in a regulatory agency might need before a program of public consultation begins with traditional communities:

1. Is there a political, historical, or social tie between this community and others nearby that might influence the development project?
2. Who are the community leaders? Do they represent the majority of the community, or a small segment? If the latter is the case, is it likely to be an important factor in the success of the project?
3. Has there been a recent change in the community leadership; if so why? How might this affect the project?
4. Is the community divided in its allegiance to the leaders, i.e. will you be dealing with more than one faction?
5. What are the political systems within the community? How are they allied to external political systems?
6. What significant changes to the social, cultural, economic, political, or environmental conditions of the community have taken place recently or even not-so-recently that could be important in how the development project is structured?
7. What experience or participation has this community had with development projects or agencies?
8. Has this community ever participated in a consultative process? If so, was it successful? Why was it successful? If not, why?
9. Does the community in general approve of the project or its ideals and goals?
10. What are the respective roles of Elders, men, women, and youth within the community?
11. Who is most knowledgeable about the community's biophysical, socioeconomic, and spiritual resources?

GOVERNMENT GUIDELINE #4: ACKNOWLEDGE THE TRADITIONAL RESOURCE RIGHTS OF INDIGENOUS PEOPLES

BE AWARE OF RELEVANT INTERNATIONAL STATUES AND CONVENTIONS

There are many international conventions, laws, and declarations that govern the traditional rights to resources that indigenous peoples have or should have. Use these as a guide to the manner in which the people are treated in your country. The following is a selected list of the most important such sources of information:

1. Convention on Biological Diversity
2. UN Convention to Combat Desertification in Countries Experiencing Serious Drought and Desertification, Particularly in Africa
3. UN Convention on the Elimination of All Forms of Discrimination Against Women
4. UN Convention on the Elimination of All Forms of Racial Discrimination
5. UN Convention on the Prevention and Punishment of the Crime Of Genocide
6. UN Draft Declaration of Principles on Human Rights and the Environment
7. UN Draft Declaration on the Rights of Indigenous People
8. UN Declaration on the Human Right to Development
9. Draft International Covenant on Environment and Development
10. International Undertaking on Plant Genetic Resources
11. Non-Legally Binding Authoritative Statement of Principles of Global Consensus on the

- Management, Conservation and Sustainable Development of All Types of Forests
12. UN International Covenant on Civil and Political Rights
13. UN International Covenant on Economic, Social, and Cultural Rights
14. International Labour Organization Convention 169 Concerning Indigenous and Tribal People in Independent Countries
15. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations
16. Rio Declaration
17. Universal Declaration of Human Rights
18. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
19. Recommendation on the Safeguarding of Traditional Culture and Folklore
20. Declaration on the Principles of International Cultural Cooperation
21. Convention Concerning the Protection of World Cultural and Natural Heritage
22. Model Provisions for National Laws on Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions
23. UN Vienna Declaration and Programme of Action

In the long run, the world will need to adjust to the growing interest in individual rights. Governments set the legal limits on human rights, and corporations need to live within these limits. But it is never a bad thing to err on the side of excellence in caring for the human beings who live

in traditional communities. Corporations and governments gain immensely in stature from managing these situations humanely. Increasingly, indigenous peoples are recognized as having traditional rights to resources.

To read a concise and helpful summary of many of the important issues concerning indigenous rights in the international arena, see Posey, D.A. *Traditional Resource Rights: International Instruments for Protections and Compensation for Indigenous Peoples and Local Communities*. Published by the IUCN, Gland, Switzerland.

GOVERNMENT GUIDELINE #5: **FUND TRADITIONAL KNOWLEDGE CAPACITY- BUILDING AMONGST YOUR NATION'S INDIGENOUS PEOPLE**

BUILD LOCAL SKILLS

Building the skills needed to cope with market-based economies and modern technology is an effective way of bringing indigenous peoples into the governing regime of any country, while enhancing the financial base of the indigenous peoples. Traditional knowledge does not need to be replaced or eliminated for indigenous peoples to enter a market-based economy. Parts of it can be transformed into products and services that are needed or desired by other societies.

When development projects take place, indigenous peoples will want to shape their own futures by having a part in developing according to their own decisions and traditions, while at the same time participating in a meaningful way in the process of the evolution of the nation and its economy.

Capacity-building can be carried out in a large number of ways. The most direct is to encourage local governments to empower indigenous peoples by holding training workshops or courses dealing with the way in which the indigenous peoples can fit into the project. If the resources or cultural values limit the number of people who can be trained by outsiders, consider offering courses to develop community trainers in the same subjects so they can offer the course work. This has the added advantage that the financial

support that would have gone to non-indigenous trainers can be diverted to indigenous trainers. Aid agencies and NGOs from around the world are often willing to bring in the expertise and resources necessary to carry out the capacity building for your nation. Consider suggesting that the local communities be invited to offer their own training courses to assist the trainers to understand the local etiquette and value systems. Logistic support can often empower traditional communities to undertake these revenue-producing workshops or courses.

BUILD HUMAN RESOURCE AND ECONOMIC DEVELOPMENT SKILLS IN INDIGENOUS COMMUNITIES

Governments can markedly increase the effectiveness of development projects and at the same time increase the capacity of indigenous groups to build sustainable projects within their own framework by assisting them in the development of human resource skills as well as the development of economic and business skills.

WIDEN INFORMATION ACCESS

NGOs can undertake newsletters or cooperatives to share knowledge. This approach can be supported by national, regional, or local governments.

In areas where telephone access is possible, simple Internet cafés can be encouraged, possibly with a

nation-wide or region-wide Internet service provider from the private sector on a contract basis, or provided directly by the government as part of its own internal system. The Internet is a huge reservoir of information available to all who can get access to it.