



# **Good Governance, Indigenous Peoples, and Biodiversity Conservation:**

**Recommendations for Enhancing Results across Sectors**



# Good Governance, Indigenous Peoples,<sup>1</sup> and Biodiversity Conservation:

## Recommendations for Enhancing Results across Sectors

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### I. INTRODUCTION

Cultural and biological diversity, which offer great benefits to humanity, are facing the same threats today—threats that are associated with poor governance. Donors, increasingly recognizing that good governance is an integral part of the development process, have expanded their core agendas to include policy and operational support for the rule of law, civil society, and institutional capacity building.

Donors are seeking new ways to identify and support opportunities presented by the spatial overlap between Indigenous Peoples' territories and regions targeted for biodiversity conservation. Overlapping interests in good governance extend beyond this geographic overlap. These coincidences of interest create many opportunities for donors to simultaneously improve governance and conserve diversity through synergistic interventions. Policy, operational, and institutional reforms can improve the performance and enhance the results of these interventions, based on lessons from the past decade.

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1. The term “Indigenous Peoples” is complex and best defined by reading ILO 169 (<http://ilolex.ilo.ch:1567/cgi-lex/convide.pl?C169>). The term is capitalized and pluralized to signify the special nature of these peoples as nations distributed within and across the borders of the world's nation states. The term is internationally recognized as having a meaning significantly different from the meaning of the term “indigenous populations,” which does not recognize the political integrity or other special rights distinguishing them from other citizens. Some of the key characteristics of Indigenous Peoples are self-identification as Indigenous Peoples, a distinct culture, a historical relationship with their resource base (e.g., forests, lands, waters, grazing territories, etc), and their own customary laws and institutions of self-government. They assert rights to self-determination and prior rights to resources and territories that have been claimed by the nation state and others.

The purpose of this brief is to raise awareness of opportunities and best practices to build a way forward. This document presents the highlights from a two-year assessment, funded by USAID under BSP's Peoples, Forests and Reefs (PeFoR) program. This assessment included an extensive review of published literature and donor reports, commissioned studies covering Asia and Latin America, field visits, interviews with experts, workshops, and an international donor roundtable. The thematic areas of policy and field practice related to *Indigenous Peoples and conservation* that were reviewed included programs and projects covering community-based resource management; wildlife management; protected area management; forest management and logging; mining; oil and mineral extraction; extractive fishing; and river and coastal management, particularly as they relate to decision-making rights over resources. The thematic areas related to *governance* that were reviewed included efforts to strengthen civil society; cross-sectoral synergies between environment and democracy/governance programming; and policy formulation on trade, resource extraction, education, decentralization, access to justice, human rights, biodiversity conservation, territorial claims, and the clarification of rights and responsibilities.

***Why should donors put special focus on assistance to Indigenous Peoples for improving governance and environmental health?***

Democratic reform is key for stable development and long-term biodiversity conservation. Both the “public good” and Indigenous Peoples benefit from projects that promote an active civil society, transparent management of public funds, effective and reliable systems of justice, government political accountability, and human rights protection.

Corruption and failure of the rule of law undermine sound management of the world's biodiversity and directly affect Indigenous Peoples. Poor governance results in wasted resources, poverty, human rights abuses, loss of cultural diversity, and a deteriorating environment.

Systemic governance reforms that benefit Indigenous Peoples as well as other members of society have easily noticeable impacts, because indigenous citizens (individually and as groups) are the weakest and most impoverished members of society. Social and economic development has largely bypassed indigenous communities. Inappropriate development has drained their natural and cultural resources. Concerns for their rights and needs have been outside the periphery of national development plans. Indigenous Peoples' lands and waters, home to rich biodiversity and the basis for their well being, often have been transferred without due process to the governing elite who engage in unsustainable resource extraction to maintain their hold on power—fanning societal conflicts and damaging the environment. Protected areas often create conflict with Indigenous Peoples, and protected area managers have sought local ad hoc solutions that are not lasting remedies to the twin issues of indigenous rights and illegal government-condoned extraction in protected areas.

Indigenous societies offer time-tested institutions, practices, and knowledge for adaptively managing ecosystems—yet, instead of being able to use these in a productive and collaborative fashion, Indigenous Peoples’ organizations and isolated communities struggle to address the consequences of poor national governance with little or no outside assistance.

*What kinds of investment have donors been making?*

While donors have been investing in biodiversity management and improved governance, donor investment seldom focuses on the tandem core environmental and governance issues of conservation on Indigenous Peoples’ territories.

Most frequently, investment has been in the form of side-projects to mitigate the impacts of companion development projects. Other investments have addressed fragments of the problem and avoided confronting its governance dimensions. There also has been a tendency to focus on technical interventions in conservation, health, immigration, or education. While such investments have had some positive local effects, a more comprehensive and integrated approach that includes policy and governance assistance would produce more sustainable, expanded impacts. Innovative approaches are showing the way forward in this era of globalization (see below) as the role of good governance is increasingly appreciated.

*How does globalization affect future assistance needs and options?*

Donors are rethinking their investment approaches in light of globalization and the rapid transformation of the final frontiers where biodiversity and Indigenous Peoples coexist. Over the past decade, many donors and some governments have increasingly recognized the special rights of Indigenous Peoples as nations within nations. Constitutions have been reformed to accommodate Indigenous Peoples’ rights and interests after governments have signed ILO 169 and incorporated articles addressing other concerns related to democratic foundations for states. Donors have begun to modify programs to accommodate Indigenous Peoples’ group rights and special needs in ways that nurture a multicultural future where people from diverse cultural backgrounds bring their particular knowledge and locally adapted institutions to solve environmental problems.

To this end, donors are supporting civil society participation, decentralization, rule of law, human rights, transparency, and other systemic governance reforms at local, national, and international levels. These programs, however, have been focused on urban populations and have not adequately incorporated the special needs of Indigenous Peoples. Indigenous Peoples have expressed their concerns that improved understanding of their experiences should propel donors toward the creation of new international standards for operations and policy—standards that include social justice concerns—so that everyone can benefit from globalization.

Globalization also has increased stresses on the remaining high-biodiversity areas of the world. As a result, for some years, donors have been supporting community-based conservation and comanagement of protected areas and the establishment of indigenous territories. International conservation organizations also have joined with Indigenous Peoples to seek ways to build better alliances. However, little investment has been dedicated to strengthening indigenous capacity and decision-making authority within the context of national government frameworks.

### *What are the barriers hindering change?*

These new positive trends are facing significant barriers and inertia. While Indigenous Peoples are concerned about long-term environmental stewardship, they are marginalized from participating in national and international political life. Their opportunities are often limited by institutionalized racism and paternalism. Governments historically have attempted to eradicate indigenous languages, cultures, and institutions in order to homogenize national society. Indigenous social and political institutions do not fit neatly into centrally mandated national and international frameworks. Having a different language reinforces indigenous identity but language can also be a barrier to collaboration.

Assistance to Indigenous Peoples is hindered by a perception that they are helpless victims, rather than parties with their own strengths and interests. Indigenous Peoples have in fact responded to assaults on their natural, linguistic, and cultural resources through their own initiatives to renew institutions for indigenous identity and self-governance. Yet, confronted by powerful interest groups that dominate national governments, indigenous communities remain impoverished and lack access to public services available to other citizens, particularly in Latin America. The basis for their continuing political weaknesses is linked to the broader lack of democratic institutions in the countries where they live.

The narrow focus of donor programs for Indigenous Peoples is also a barrier. While donors often include Indigenous Peoples in their human rights programs, they generally do not disaggregate or track indigenous involvement in all projects, or track project impacts on Indigenous Peoples. Donors have tended to compartmentalize biodiversity conservation outside the mainstream of development assistance and governance programs, despite new information indicating that sustainable development depends on good governance and a sound environment. On the governance side, few donors assist Indigenous Peoples to develop avenues and institutions for active and informed participation in civil society at the national and/or international levels.

Despite the potential for Indigenous Peoples to achieve conservation results, their initiatives are constrained by several factors. They often lack representative organizations or

effective venues for voicing their concerns to government. Their rights and responsibilities for managing biological resources on their lands may not be recognized by the state, or, despite legal recognition, be mired in implementation and final award of their territory if titling implementation faces conflict with colonists, ranchers, and companies that continue to ignore indigenous rights. In this context, conservation programs that ignore Indigenous Peoples' rights and due process conflict with other donor efforts to promote improved systems of justice and the recognition of civil and political rights.

Indigenous Peoples' core concerns are cultural and physical survival. Survival requires secure access to a sustainable resource base, including biological resources, functioning ecosystems, and clean water. Survival on a cultural level also requires secure access to historical landscapes and their biological components. Conservation and resource management programs, however, have worked with governments to restrict access to these same areas, and in the process sometimes allied themselves with regimes that violate human rights or fail to recognize Indigenous Peoples' prior rights to resources.

During the past decade, concern for sustainable conservation has brought new awareness that isolated protected areas are best integrated into sustainable landscapes. And there is a new understanding of the critical importance of civil society's role in sound governance of biodiversity, as well as an openness to innovative negotiated solutions supported by the rule of law. Yet, to integrate governance objectives with conservation objectives, the donor and its partners must negotiate an unambiguous path through the heart of politics in places where access to natural resources defines power. Transforming Indigenous Peoples' relationships with society requires thoughtful dialogue, reconciliation, and donor coordination. When donors do business as usual instead of collaborating with other donors who are actively promoting reform, they effectively support the status quo and slow positive change.

Unclear tenurial rights and responsibilities, and lack of accountability are particularly significant governance issues in the conservation sector, because conservation impacts land, water, below-ground resources, and biological resources—all of which are financially valuable. Biodiversity is claimed as global commons, national commons, and a local commons at the same time that it is claimed as the private property of individuals and/or communities. Biological resources are vulnerable to overextraction by many competing parties. Active conflict over rights to manage resource exploitation results in lack of protection and negative impacts on communities, which negatively affects Indigenous Peoples' survival as well as the biodiversity of the area. Natural resources are often viewed as assets whose value is in their potential for conversion to maintain political and economic power.

In some circles, there is a concern that Indigenous Peoples should not be viewed as special—because, the reasoning goes, they are just another class within a given national society. ILO 169, however, clarifies the differences. Political science is only beginning to develop analytical tools and theoretical frameworks that incorporate concerns for balancing the rights of Indigenous Peoples with the rights of others in multicultural societies embedded in a global economy. Out in front of theory, donors and practitioners have been discovering promising options through innovative praxes.

## II. THE PATHS FORWARD

### *Guiding principles and recommendations for best practices*

*By linking initiatives in appropriate ways and applying best practices, there are opportunities through which donors can achieve both environmental and governance goals. Recognizing that there is great diversity among donors and among Indigenous Peoples, these general recommendations can serve as the basis for dialogue to develop best practices that are appropriate to particular circumstances.*

Guiding principles—the foundation of best practices—are as follows:<sup>2</sup>

- Have a written policy. Enforce safeguards—do no harm.
- Have direct contact and relationships with Indigenous Peoples.
- Base relationships on respect, mutual learning, and reciprocal accountability.
- Empower and effectively engage indigenous social and political structures.
- Stay the course. Long-term relationships are the key to success.
- Be transparent.
- Support Indigenous Peoples in efforts to address core issues that affect all citizens.
- Raise the priority of indigenous rights and environmental concerns among other competing priorities during all bilateral and multilateral negotiations.
- Value donor coordination and work together on these issues.

One of the key criteria for assessing practices is whether the practice reflects or advances the special demands of working with politically marginalized groups (as described in ILO 169). Indigenous Peoples' collective rights, prior rights, and their rights to coexistence, self-governance, and self-determination differentiate Indigenous Peoples from other sectors of society.

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2. These principles emerged from a BSP-funded roundtable and workshop, held in Hundested, Denmark, 7–9 March 2001, where representatives of multilateral, bilateral, and private donors exchanged insights and experiences with indigenous participants representing perspectives from Latin America, Asia, Europe, the Arctic, and Africa.

*Policy reform—best practices*

*Donors should demonstrate leadership among nations and toward the private sector by supporting policies that create political space and by enabling conditions for Indigenous Peoples to exercise the full benefits of citizenship and participate in civil society as respected, collective groups coexisting within and among nation states, and as members of international society with full rights and dignity.*

*Operational reform—best practices in project-level assistance*

*Donors should demonstrate leadership by implementing projects that adhere to standards set by donor policies and international conventions, and respond to Indigenous Peoples' needs, strengths, and interests.*

*Capacity building for informed engagement—best practices*

*Donors should support creative assistance to respond to the expressed needs of Indigenous Peoples so that Indigenous Peoples may be fully informed and capable of participating in strategic decision making, policy dialogue, and project implementation—and otherwise more effectively participate in civil society at local, national, and international levels.*

### **III. A RECOMMENDED INVESTMENT PACKAGE OF KEY OPPORTUNITIES**

The key opportunities for investment lie in areas where a few donors have begun to see results but where the mainstream donor community is not yet engaged. The following four broad approaches need to be undertaken and supported as a suite that forms a self-reinforcing package.

*Linking democracy and conservation*

Institute programs and policies that link democracy and conservation. Support indigenous governance systems with positive cross-scale links to more democratic national governments through systemic reforms nurtured from the bottom up. Bring national conservation and democracy policies and standards into better concordance. Support experiments with innovative local conflict resolution systems, and train judges and lawmakers to be aware of these systems and to respect the diverse traditional laws that underpin them.

This process will contribute to resolving natural resource-based conflicts and build a multicultural society in which diversity is valued and conflict is reduced. These programs should include a private-sector component, where donors can identify problem areas and support Indigenous Peoples' engagement in informed negotiations with oil companies to influence the conduct of the private sector (national and international). These activities will help



global civil society to have a measure of control over multinationals. At the national policy level, donors should support governments' efforts to reform their Constitutions in order to incorporate indigenous rights and to bring protected areas legislation into line with respect for indigenous rights. Donors also should amplify indigenous voices in the national debates over Constitutional reform.

*Bringing focus to sustainable development and poverty alleviation*

Create and commit to processes that put special emphasis on long-term support for addressing the needs of Indigenous Peoples within poverty alleviation programs. These programs need to support financial independence and secure tenure as the companions to sound self-government. This often requires the enactment and implementation of new laws that establish the legal personalities of communities. It is important to note that financial independence is often a basic requirement for self-determination and indigenous management of territories, comanaged protected areas, watersheds, and corridors. But schemes for economic activities are inadequate if larger governance issues are not addressed. Secure access and corporate territorial tenure are essential for sound resource management and poverty alleviation.

Poverty alleviation programs need solid monitoring frameworks that incorporate information and active participation from locally driven monitoring networks as well as consultants monitoring externally selected measures. Donors should build a database of democratic environmental governance experiences with Indigenous Peoples. If widely shared and broad based, the information from these networks can assist donors to design better interventions rather than relying solely on consultant reports.

*Promoting learning through strategy networks for synergy*

Nurture new, innovative, dynamic global networks that link local perspectives and in turn convey those perspectives and experiences to donors. These new networks should support technical exchange, debates and strategic planning, as well as build solidarity among the participants. Create networks of Indigenous Peoples living in and around protected areas. Through links to donors, these networks would function to better inform donors with views from beyond their existing narrow windows mediated by international conservation NGOs and governments.

Such networks would nurture local and global civil society while building local capacity. They would bring marginalized rural voices and perspectives into the global civil society emerging from the world's urban areas. Through their connections to these networks, donors can better understand the full dimensions of problems on the ground and thereby be better positioned to invest in solutions that will work.

### *Reforming internal donor frameworks*

Invigorate donor processes that support Indigenous Peoples and biodiversity conservation. Enhance staff understanding and capacity in embassies and donor offices so that Indigenous Peoples policies are applied in practice and in negotiations. Provide funding and career incentives for informal networks of concerned staff in headquarters and field offices to create synergies, and learn and share insights with all staff. Support cross-sectoral collaboration between governance and environment teams.

Cross-sectoral programs can be highly effective in reaching multiple goals, including catalyzing simultaneous progress toward goals in both environment and systemic democratic reforms. Yet stove-pipe funding and internal bureaucratic divisions work against cross-sectoral work. Significant progress in addressing the challenges involving Indigenous Peoples and conservation is hindered by lack of support for cross-sectoral programming. Each donor is different and must seek its own appropriate mechanisms for addressing this challenge. Many large donors continue to wait for external pressure about single projects or new policy statements to drive their interaction with civil society. They could benefit from following the lead of other donors who have taken more proactive approaches. Within a single donor, affinity groups of staff who work in different offices or countries provide peer learning, networking support, and information exchange for more efficient use of staff resources.

The new International Funders for Indigenous Peoples (IFIP) subgroup of the U.S. Council on Foundations offers opportunities for donors to learn from each other. In order for donor agencies to be better supported by other agencies, donors should create and support training in the special needs of the linked circles of Indigenous Peoples and conservation—for staff in their own and other agencies, as well as for all ambassadors. Donors should create Consultative Groups (CGs) focusing on Indigenous Peoples at regional and global levels. As well, they should create budget lines for direct interaction with Indigenous Peoples and hire adequate staff resources to work directly with them, at a minimum to ensure that projects through third parties are indeed meeting Indigenous Peoples' needs.

Like other cross-cutting themes, such as gender and poverty, the issues involving biodiversity and Indigenous Peoples cannot be addressed by creating a small dedicated program in a single office. By their very nature, and by the unrecognized urgency of the situation, these intersecting sectors should be the focus of all offices, rather than being shuffled as side-projects from pillar to pillar as donor organizations reorganize themselves. Yet to achieve this integration, donors should create expanded dedicated offices that focus on Indigenous Peoples' issues to ensure that Indigenous Peoples and biodiversity interests are integrated into the activities and investments of all donor subunits.

## APPENDIX

### BEST PRACTICES FOR POLICY REFORM, OPERATIONAL REFORM, AND CAPACITY BUILDING

#### *Policy reform—best practices*

*Donors should demonstrate leadership among nations and toward the private sector by supporting policies that create political space and by enabling conditions for Indigenous Peoples to exercise the full benefits of citizenship and participate in civil society as respected, collective groups coexisting within and among nation states, and as members of international society with full rights and dignity.*

Donors and their governments can use their policy influence in many ways. They can engage in direct policy dialogue at national and international levels. They also can leverage change by collaborating in sector-specific working groups, roundtables, and other coordinating mechanisms.

The following points outline best practices in donor policy:

- Build constituency for policy reform through “pilot projects” that demonstrate the value of recommended policy reform and blueprints for the way forward, and through projects that draft legislation and build government capacity in new areas. Particularly relevant are projects and advocacy on community-based rights, land titling, anticorruption, intellectual property rights, human rights, environmental rights, rights to self-determination and self-governance, debt forgiveness to reduce demand for extraction of natural resources from communities’ lands to pay debts before rule of law and Freedom of Information laws are in place. The Aarhus Convention can be used as a model for negotiating the legitimacy of links among human rights, environmental rights, and freedom of information. Donors should seek innovative policy mechanisms for effectively recognizing corporate/group tenure on which indigenous natural resource management systems are based.
- Support policies and processes that strengthen indigenous participation in civil society. Create opportunities for dialogue and discussion that enable local voices to find consensus and bring those voices and perspectives into national political debates. Support democratic reforms that provide frameworks for Indigenous Peoples to participate in political life at local, national, and international levels. Value the diversity of locally adapted institutions. Respect and support indigenous decision-making structures as they

adapt cross-scale links to national government. Invite and assist Indigenous Peoples to participate as independent agents in donor-facilitated dialogues with the private sector. Create a place for participation for leaders of Indigenous Peoples, rather than relying solely on focus groups or individuals without consideration of indigenous political structures.

- Use a monitorable Indigenous Peoples internal policy to guide national and international policy reform agendas as well as to guide project design and management.<sup>3</sup> Donors that have policy statements and strategies focusing on Indigenous Peoples send a clear message to governments and the international community that they are concerned about the special needs of Indigenous Peoples. The best policy statements contain core values and principles to guide investments in all sectors; they address human rights and governance concerns, support improved access to development, and refer to international standards. The Indigenous Peoples policy is further strengthened if it is cross-referenced in other policies, including policies on environment and biodiversity. The policy is strengthened if it includes a transparent system for sharing information with the public as a means for monitoring compliance. It is also most useful if it provides specific examples of how sectoral interventions for indigenous development intersect with governance issues such as decentralization, community-based tenure to land, rule of law, local governance institutions, resource rights, human rights, rights to a safe environment, access to information, freedom of association, electoral and judicial reform, and so on.
- Use Convention on Biological Diversity Articles 8J and 10C, ILO 169, the UN Universal Declaration of Human Rights, Agenda 21, and other relevant international instruments and treaties as standards when negotiating with governments on trade policy

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3. DANIDA and Inter-American Development Bank have ‘best practice’ donor policies. Their policies have built-in monitoring mechanisms, and they are very clear. For example, The Inter-American Development Bank’s Resettlement Policy, OP 710 (which can be found at <http://www.iadb.org/cont/poli/OP-710E.htm>) states: “Indigenous Communities. Those indigenous and other low income ethnic minority communities whose identity is based on the territory they have traditionally occupied are particularly vulnerable to the disruptive and impoverishing effects of resettlement. They often lack formal property rights to the areas on which they depend for their subsistence, and find themselves at a disadvantage in pressing their claims for compensation and rehabilitation. The Bank will, therefore, only support operations that involve the displacement of indigenous communities or other low income ethnic minority communities, if the Bank can ascertain that: (i) the resettlement component will result in direct benefits to the affected community relative to their prior situation; (ii) customary rights will be fully recognized and fairly compensated; (iii) compensation options will include land-based resettlement; and (iv) the people affected have given their informed consent to the resettlement and compensation measures.”

reform and loan or project assistance. Use a human rights screen on all projects, loans, and other bilateral and multilateral negotiations. Ensure that all donor staff are aware of these treaties and their application.

- Assist and encourage corporations to develop policies, monitored codes of conduct, and mechanisms for respecting indigenous rights and addressing indigenous concerns. Leverage private sector change by making funding contingent on government's agreements to use ILO 169 as a code of conduct for private companies operating within their national borders. Pay particular attention to how resource extraction by private companies and parastatals affects Indigenous Peoples. Support the creation of processes that bring indigenous voices to "the top" when corporations' activities ignore indigenous rights. Create mechanisms by which indigenous communities and their organizations can demand accountability and achieve due process in seeking recourse. Establish mechanisms for consulting Indigenous Peoples on these issues, educate Indigenous Peoples on their options and potential consequences of their choices, and facilitate roundtables for them to meet with private companies and government, prior to government's granting loans or other support to private companies to extract oil, minerals, or other resources from indigenous lands and waters.
- Analyze the impacts of national constitutions and laws on Indigenous Peoples. Make the information available to the public and encourage public debate. Use the database for establishing a policy reform agenda.<sup>4</sup>
- Support the legitimacy of emerging social movements built on grassroots strength and where direction is held accountable to a broad indigenous constituency. Recognize the legitimate leaders and support their activities as appropriate in situations involving war, repressive military regimes, or institutionalized racism.
- Build an awareness of the issues of adequate and accountable indigenous representation, and assist Indigenous Peoples to control corrupt leaders who do not represent their interests. Demonstrate concern for these issues in interactions with government. Support solid, legitimate policy formulation by supporting processes that include adequate time for informed indigenous participation in consensus-based decision making.
- Assist governments to adapt decentralization processes to incorporate Indigenous Peoples' institutions and territorial borders, rather than supporting processes that only give authority to new cookie-cutter local government units. Encourage high-level government

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4. See the Recommended Reading section for a list of Web sites.

dialogue on the implications of, and the policy and legal means for, implementing support for indigenous rights.

- Learn about and support indigenous positions in policy dialogue and implementation of existing international conventions and instruments oriented toward conservation objectives such as the Convention on Biological Diversity (CBD), Ramsar, and the World Conservation Union's (IUCN) World Heritage Sites, etc., as well as those on indigenous rights, such as ILO Convention 169, Organization of American States' (OAS) "Proposed American Declaration of the Rights of Indigenous Peoples," etc.
- Support the strategic alliances that arise as initiatives joining indigenous organizations and international conservation NGOs interested in pursuing shared goals at national and international levels.
- Support education systems that include Indigenous Peoples' languages and curricula, particularly in countries where the teaching of local languages has been forbidden as part of an effort to eliminate indigenous culture and institutions. Include indigenous knowledge of environment, indigenous forest and agricultural management systems, and biota, as well as disseminate information about local, national, and international laws, policies and regulations (including those related to the environment and conservation of biodiversity) and about the processes open to civil society for shaping legal reforms and accessing justice.
- Look for and support opportunities to involve indigenous interests as a voice in recommending policy options and analyzing policy impacts, e.g., Steering Groups, Peer Groups, etc.
- Strengthen indigenous access to justice. Support bringing cases to courts to develop jurisprudence and case law on human rights and the environment, and to establish collective rights in jurisprudence.
- Under repressive governments, facilitate informal dialogues between Indigenous Peoples and governments to open channels for communication and positive progress.
- Carry out case studies of policy and governance reform projects that have affected Indigenous Peoples to find best practices and learn from failures.
- Help governments to develop legislation and effective mechanisms, based on good governance, for comanagement or direct protected area management by indigenous organizations representing communities in whose territories the protected areas are designated.

*Operational reform—best practices in project-level assistance*

*Donors should demonstrate leadership by implementing projects that adhere to standards set by donor policies and international conventions, and respond to Indigenous Peoples' needs, strengths, and interests.*

- Adhere to the principle of “do no harm” to Indigenous Peoples in the aggregate impact of donors’ interventions and policy formation. Forced resettlement should never be supported; rather due processes should be instituted for developing acceptable options. By reviewing portfolios, not just projects, donors can ensure that their policy on Indigenous Peoples is having the desired impact. Portfolios should be regularly reviewed for aggregate impact.
- Require identification of Indigenous Peoples who live in or depend on areas affected by projects as well as those outside any immediate project area, and require that indigenous concerns be addressed where they are present. Seek and implement creative options for direct funding to Indigenous Peoples. Find solutions to the problem that Indigenous Peoples cannot register as an organization (lack legal personality) in many countries where projects are demand-driven by governments that repress Indigenous Peoples and their interests.
- Integrate Indigenous Peoples’ projects and policy initiatives into a broader donor agenda, rather than showcasing minor projects or creating separate projects to mitigate negative impacts on Indigenous Peoples. Special projects can be useful if they are used to leverage other projects to address Indigenous Peoples’ objectives.
- Build a collaborative, integrated approach to human rights, development, and conservation objectives. Successful projects and portfolios include a mix of components that cover land rights, institutional capacity, economic improvement, the roles of women and youth, health, and education. This requires coordination across departments through inter-service groups or connections between policy departments and implementation departments. Support reciprocal accountability by involving Indigenous Peoples in evaluations and using the benchmarks and indicators that they select. Value the lessons learned from working together, and share them within and beyond your donor organization.
- Put a special focus on strengthening indigenous voices, thus helping nations create pluralistic civil societies—as a broad-scope component of project interventions. Create opportunities for Indigenous Peoples to join other members of civil society in a wide range of public discussions. Learn how to effectively engage indigenous political structures in ways that ensure cultures are not eroded as they adapt to development. Involve

Indigenous Peoples in national and regional assessments and strategic planning, reconstruction efforts, and other activities where public participation is key. Help Indigenous Peoples to join other civil society associations so that they can assess national and local governance. Involve Indigenous Peoples among the key players in the negotiation and implementation of peace accords.

- Develop regular processes to identify the perceived needs of Indigenous Peoples as a special subset of clients. Distinguish projects “for” and “with” Indigenous Peoples (through government or NGOs) from those “by” Indigenous Peoples, and seek creative ways to mix these different approaches to reach overall desired outcomes. Monitor feedback as to whether these perceived needs are being met and modify projects as necessary to satisfy clients.
- Avoid blueprints and maintain maximum flexibility. Create flexible mechanisms for handling transaction costs of participation and build in adaptive timeframes for capacity building and policy reform consolidation. Be alert for, trust, and respond to feedback regarding changes from the field, especially at the grassroots level. Avoid prolonged negotiation over terms of reference (TORs) of funding agreements, but keep the process open and flexible as the situation keeps changing. The desire for replication of results is best balanced with an acknowledgement of the need to adapt to local variations. Success can only be replicated if key conditions are shared and processes are adaptively managed. Adapt grantmaking and project processes that fit Indigenous Peoples’ needs and strengths. Simplify processes. Avoid imposing onerous reporting requirements that do not further project objectives. Accept alternative reporting mechanisms such as videos and tape-recorded oral reports. Use partnerships with private foundations to overcome internal bureaucratic barriers to creative programming.
- Assess potential partners and project implementers according to clear criteria that include impacts on governance institutions and regard for rights to consultation and decision making. Recognize the differences between the NGOs that promote advocacy and those that provide services. Avoid supporting national organizations that lack grassroots connections and/or otherwise bypass civil society processes. Support the development of grassroots NGOs that link to national NGOs, and reward national NGOs that are responsive to local concerns. Be wary of enabling NGOs to replace government or allowing NGOs to represent Indigenous Peoples to government.
- Support 360 degree (peer, upward and downward) evaluation of NGO intermediaries’ performance on their processes for working with civil society as well as measuring program conservation results. Avoid only evaluating performance on the basis of written results reports. Avoid creating unaccountable service NGOs that weaken existing organizations



that cross-cut society. Support the advocacy and project work of accountable coalitions of NGOs and other civil society associations.

- Create significant venues for Indigenous Peoples to assess and review conservation work. Orient scientists and conservationists to Indigenous Peoples policy through public awareness efforts. Support discussion of conservation issues within, as well as among Indigenous Peoples, other sectors of society, and government.
- Avoid giving more weight to the opinions of scientists and outside experts over those of Indigenous Peoples. Review the ways that scientists are integrated into projects so that there are clear channels for communities to hold them accountable.
- Find ways to level power differences in multistakeholder committees that design and/or oversee projects. Establish standards for participation and consultation, and ensure that project staff do not use “engineered” consultation lists to give the false appearance of participation.
- Develop guidelines and mechanisms for informed consent and decision making. Pay special attention to potential Intellectual Property Rights issues and support the development of equitable benefit-sharing mechanisms under Indigenous Peoples’ control. Support projects that are chosen and designed by Indigenous Peoples, with their own goals in mind, thereby enabling them to increase and strengthen capacity. Recognize, value, and support Indigenous Peoples’ plans and strengths during project design. Develop and use Memorandum of Understanding templates that clearly define the roles and responsibilities of all parties, including the donor.
- Improve public awareness of issues by developing data and analyses that are publicly available. Basic information on indigenous populations, poverty, distribution, and overlap with protected areas is especially useful for initiating public discussion and government response. Support the implementation of Freedom of Information legislation and promote public awareness of information about Indigenous Peoples and their issues.
- Use indigenous development funds selectively, not as replacement for other sorts of interventions, such as gaining policy influence with government, or supporting direct project interventions, which would be more effective.
- Approach the problem from both sides—build civil society into conservation projects and likewise, include civil society concerns in conservation projects. Support broad public participation when prioritizing strategic biodiversity interventions.

- Think beyond single projects and coordinate with local NGOs, civil society networks, and other donors so as to expand impacts beyond a project site, to national and international levels. Create internal learning networks focused on democracy and conservation. Share lessons within the donor organization and across donor lines.
- Invest for the long term. Use multiple mechanisms and monitor results over 20 years. Create creative financing mechanisms, such as trust funds under Indigenous Peoples' control. Fund core costs for indigenous organizations and their members in sustainability mechanisms, rather than only funding activities. Develop alternative ways to access credit. Nurture indigenous savings societies and credit unions to build financial independence without risking slow but steady loss of lands and territory as collateral for loans.
- Develop regular direct channels of communication between donors and Indigenous Peoples, at international, national, and local levels, so that the parties can communicate on a regular and frequent basis.

*Capacity building for informed engagement—best practices*

*Donors should support creative assistance to respond to the expressed needs of Indigenous Peoples so that Indigenous Peoples may be fully informed and capable of participating in strategic decision making, policy dialogue, and project implementation—and otherwise more effectively participate in civil society at local, national, and international levels.*

- Build the foundation for informed consent and participation. Raise public awareness of indigenous issues. Build indigenous awareness of people's rights and responsibilities as citizens. Strengthen broad public awareness of international conventions that governments have signed, and of governments' obligations under those agreements. Provide training in human rights laws and standards at local levels, particularly among indigenous communities.
- Support financial management, self-assessments, and strategic planning for Indigenous Peoples' organizations and local governments.
- Build indigenous capacity to measure improvements and achievement of goals, and capacity to communicate those findings, as part of project implementation so that lessons can be derived from practice.
- Support face-to-face horizontal exchanges and apprenticeships among Indigenous Peoples involved in conservation and resource management activities in different parts of a country, the region, and across regions.

- Assist Indigenous Peoples to identify and reduce weaknesses in indigenous capacity to interface with government agencies and donors in ways that are true to culture and institutions. Strengthen Indigenous Peoples' networks' capacities and their opportunities to build relationships with and effectively use donors. Disseminate information about donor processes, policies, interests, and concerns in local languages. Build donor capacity to communicate with Indigenous Peoples.
- Build Indigenous Peoples' capacity to work effectively with the press.
- Support indigenous education and cultural renewal efforts. Provide scholarships for building a solid cadre of indigenous professionals.
- Build capacity to seek and manage external technical assistance.
- Build advocacy skills to foster public discussion of issues among indigenous communities, analyze policies, and present alternatives. Include paralegal training and negotiation skills.
- Build skills for assessing development needs and economic, income-generating options. Include training in ways to evaluate alternatives that incorporate values of existing goods and services from forests, rivers, and reefs. Strengthen capacity to evaluate economic options and assess their ecological and social impacts.
- Strengthen grassroots democracy among Indigenous Peoples. Strengthen the capacity of local government, provincial-level government, and NGOs to better address the aspirations and problems of Indigenous Peoples.
- Accomplish capacity building through projects that are designed to create well-informed, technically competent, and politically active coalitions concerned with community-based natural resource management and indigenous rights. By financing technical assistance from other indigenous organizations together with small grants for activities, donors can build strong self-help networks by which community-based organizations and accountable NGOs create a social movement for change.<sup>5</sup>

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5. For an example of this approach at work, see the book by Tory Read and Lafcadio Cortesi, 2001, *Stories at the Forest's Edge: The KEMALA Approach to Crafting Good Governance and Sustainable Futures* (Washington, DC: BSP), available at [www.BSPonline.org](http://www.BSPonline.org).

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\* This is not a comprehensive bibliography but rather some key readings that cover the range of issues covered in this paper.

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## **WEB-BASED DOCUMENTS ON INDIGENOUS PEOPLES' POLICIES AND RIGHTS, AND THE RELEVANT INTERNATIONAL CONVENTIONS:**

Asian Development Bank's Indigenous Peoples Policy is available at:

*[http://www.adb.org/Documents/Policies/Indigenous\\_Peoples/default.asp?p=policies](http://www.adb.org/Documents/Policies/Indigenous_Peoples/default.asp?p=policies)*

Canadian International Development Agency's (CIDA's) Web site includes the Government of Canada Policy for CIDA on Human Rights, Democratization and Good Governance, information on Canada's work on Agenda 21 involving Indigenous Peoples, the CIDA-Supported Arctic People's Secretariat, and illustrative projects supporting Indigenous Peoples at:

*[http://www.acdi-cida.gc.ca/cida\\_ind.nsf/852562900065549c8525624c0055bafb/498e7f0a30827528852563ff00611f10/OpenDocument](http://www.acdi-cida.gc.ca/cida_ind.nsf/852562900065549c8525624c0055bafb/498e7f0a30827528852563ff00611f10/OpenDocument)*

*<http://iisd.ca/worldsd/canada/projet/c03.htm>*

*[http://www.acdi-cida.gc.ca/cida\\_ind.nsf/8525629000655487852562520006c0aeb78911d10b16d63d852564ca004d89d4/OpenDocument](http://www.acdi-cida.gc.ca/cida_ind.nsf/8525629000655487852562520006c0aeb78911d10b16d63d852564ca004d89d4/OpenDocument)*

*[http://www.inuitcircumpolar.com/Activities/international\\_dev\\_\\_summary/Northern\\_Russian\\_Indigenous\\_pe/northern\\_russian\\_indigenous\\_pe.html](http://www.inuitcircumpolar.com/Activities/international_dev__summary/Northern_Russian_Indigenous_pe/northern_russian_indigenous_pe.html)*

*<http://iisd.ca/worldsd/canada/projet/c28.htm>*

*[http://www.oneworld.net/partners/topic/topic\\_33\\_1.shtml](http://www.oneworld.net/partners/topic/topic_33_1.shtml)*

The European Union's progress toward an Indigenous Peoples policy (largely based on issues in the northwestern territories of Russia and the Baltic region) can be found at:

*[http://europa.eu.int/comm/development/lex/en/1998/res\\_98\\_indigen.htm](http://europa.eu.int/comm/development/lex/en/1998/res_98_indigen.htm)*

*<http://www.maanystavat.fi/oilengtyoryhma3.htm>*

*<http://members.aol.com/mapulink1/mapulink-1/ip-news-01.html>*

InterAmerican Development Bank's Web site includes hotlinks to other sites related to Indigenous Peoples issues as well as reports, project information, and a useful databank on legislation affecting Indigenous Peoples in Latin America:

*<http://www.iadb.org/exr/idb/xindige.htm>*

*[http://www.iadb.org/sds/IND/index\\_ind\\_e.htm](http://www.iadb.org/sds/IND/index_ind_e.htm)*

*[http://www.iadb.org/sds/ind/ley/menu\\_por\\_variables.htm](http://www.iadb.org/sds/ind/ley/menu_por_variables.htm)*

*<http://www.iadb.org/exr/topics/indigenous.htm>*

ILO 169 Convention on Indigenous and Tribal Peoples, as well as other relevant documents on indigenous rights and other international instruments can be found at:

<http://www.ilo.org/public/english/employment/strat/poldev/papers/1998/169guide/contents.htm>

<http://www.ilo.org/public/english/region/ampro/mdtsanjoselindigenous/derecho.htm>

United Nations relevant documents, including information about the UN Permanent Forum on Indigenous Peoples can be found at:

<http://www.un.org/News/Press/docs/2000/20000731.ecosoc5932.doc.html>

[http://www.unhchr.ch/indigenous/ind\\_pfi.htm](http://www.unhchr.ch/indigenous/ind_pfi.htm)

<http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Subject+indigenous+En?OpenDocument>

UNDP's Web site includes policies (including a draft Indigenous Peoples policy) and case studies:

<http://www.undp.org/csopp/CSO/NewFiles/ipindex.html>

USAID does not have an Indigenous Peoples policy, but the following documents contain mention of Indigenous Peoples' issues and rights:

<http://www.usaid.gov/wid/pubs/educgap97.htm>

<http://www.usaid.gov/environment/strategy.htm>

<http://www.usaid.gov/country/lac/ec/518-001.html>

<http://www.ee-environment.net/docs/biodusty.shtml>

<http://www.usaid.gov/countries/gt/>

[http://www.usaid.gov/press/spe\\_test/speeches/2000/sp000407.html](http://www.usaid.gov/press/spe_test/speeches/2000/sp000407.html)

<http://www.summit-americas.org/propreg.htm>

<http://www.state.gov/g/inl/rls/fs/index.cfm?docid=3184>

The World Bank's Web site includes relevant policies and documents:

<http://wbln0018.worldbank.org/essd/essd.nsf/NGOs/home>

<http://wbln0018.worldbank.org/essd/essd.nsf/28354584d9d97c29852567cc00780e2a/61b6299b68563321852567cc0077f418?OpenDocument>

[http://www.developmentgateway.com/topic/?page\\_id=3678](http://www.developmentgateway.com/topic/?page_id=3678)





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#### **BSP Publications**

The Biodiversity Support Program will close in December 2001. Many of our publications are now available online at [www.BSPonline.org](http://www.BSPonline.org). At the home page, click on **publications**.

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