

PREFACE:

THE BASIS OF THE GUIDELINES

I wrote these *Guidelines* to help draw together the wisdom of different perspectives about the world around us so that development projects have an improved capacity to be carried out to the benefit of all who are affected by them.

The ultimate aim of the *Guidelines* is to help develop a framework within which affected indigenous peoples can expect to receive information that will allow them to choose, on an appropriate collective basis through free and prior informed consent, whether a development project should go ahead. In the event they choose to have it go ahead, that they are offered the opportunity to participate in the planning and implementation of the project, using their traditional knowledge systems to help guide the decisions that will affect their future, and that the use of that knowledge and their participation is handled with respect, trust, equity and empowerment.

Modern advances in fields of high intensity agriculture, mining and oil and gas extraction, increasingly complex technology, planet-wide communication, and the geometric increase in human populations have placed an amazing diversity of cultures and ethnic diversity immediately in touch with each other.

Over the last five hundred years, the global expansion of populations has resulted in the exploration and conquest or colonization of almost the entire planet. Very few places in the world today, are governed by the indigenous peoples who were there since before historical records began.

Thus, for historical reasons, many indigenous peoples, although certainly not all, find themselves in a complex world that is not always able to understand their values, their normal life style, or their way of perceiving the world. In some cases, the transition from traditional indigenous life styles to western styles has been effective and beneficial, but in many, if not most cases, the indigenous peoples have not benefitted as fully as they might have.

The knowledge systems of indigenous peoples are quite varied around the world, but there are consistent patterns in the way the knowledge is acquired and in the nature of the content of indigenous knowledge systems. Indigenous knowledge systems are quite different to western, science-based knowledge systems, but have many aspects that complement science. To give but two examples, indigenous knowledge is intensely local in its factual information, whereas science usually must carry out new studies to gain the same information that is already present in indigenous knowledge systems. Science generally has a short-term base of information that it can use, whereas indigenous knowledge can draw on a very long-term information base. Thus, there is a great advantage to using the two knowledge systems together.

The *Guidelines* address the questions and issues that govern how this can be accomplished while respecting the perceived rights of everyone concerned.

In writing these *Guidelines*, I have taken the position that when dealing with human lives and their support systems, it is important to begin with

the assumption of individual human rights -- the panoply of collective rights flows properly from this base. I have also taken the position that indigenous peoples should be afforded certain rights that are a result of their long history in the area. Thus, traditional rights to resources including ancestral domains, self-governance, self-determination (or autonomy), cultural integrity, and social justice are fundamental to framing the guidelines. At the same time it is important for every stakeholder to recognize that national laws and policies should be able to accommodate the traditional laws, cultural diversity, and oral traditions. At least at this writing, I know of no country in which this has been completely and successfully implemented.

Increasingly, indigenous communities are being included in the discussion periods that precede the implementation of development projects, but this is a relatively recent trend. The *Guidelines* take the position, and offer advice on how to provide for the indigenous peoples' desire that their collective right to choose whether a development project is implemented should be based on "free and informed prior consent." This is not always a simple task, and advice is offered on how to form or recognize appropriate representation of the indigenous communities, as well as how to

know what is credible traditional knowledge and what is not.

The *Guidelines* do not make the assumption that indigenous knowledge or practices are superior to other systems of knowledge or practices. Neither do the *Guidelines* assume that western knowledge or practice is superior to traditional knowledge. Instead, the *Guidelines* recognize that both systems have strengths that can help the other system when they are invited to work together.

Finally, the *Guidelines* provide a way to help strike a rational balance between the protection of the environment, culture, and socioeconomic well-being of the indigenous communities and the changes that necessarily come during the course of project development. The specific advice recognizes that enormous opportunities are potentially available to indigenous communities, but it also recognizes that the risks can be equally great. Historical, and some, although definitely not all, current proponent and government practices have lead to development projects that did not benefit the indigenous communities they affected. In part, the *Guidelines* seek to correct that pattern.

Alan R. Emery, February, 2000

INTRODUCTION: **THE NEED FOR GUIDELINES**

BACKGROUND

Best practice in development calls for projects that benefit to all and result in a sustainable socio-economic and natural environment. There is an increasing appreciation of the advantages of using science and technology together with traditional knowledge to find mutually beneficial results from development projects. These goals can be met within development projects through cooperation and mutual understanding, combined with an understanding of the traditional rights of indigenous peoples.

Indigenous peoples want to have an integral and meaningful role in making decisions about their own future. A growing body of international law, fiscal and policy support in many countries, and an increasing interest in understanding the natural, cultural, and spiritual world of indigenous peoples have highlighted an opportunity. Development projects are beginning to include traditional knowledge in planning and implementation when indigenous peoples are directly or indirectly affected.

Many governments, development agencies, and corporations are interested in the principles that underpin indigenous peoples' traditional knowledge systems. The *Guidelines* capitalize on that informed interest. Many indigenous peoples find themselves in a transitional stage, facing the demands of a changing and demanding world, but still rooted in traditional life styles. This may place them in difficult living conditions. Projects that are planned and implemented using traditional knowledge help reduce the difficulties

of this transitional condition for indigenous peoples.

Traditional knowledge is more than a simple compilation of facts drawn from local, and often remote, environments. It is a complex and sophisticated system of knowledge drawing on centuries of wisdom and experience. It also constantly grows and changes with new information. To use this sophistication one must include the indigenous peoples themselves as practitioners.

Traditional knowledge systems of indigenous peoples, while highly variable in their content and style, nonetheless all have a great deal to offer in sustaining life on the planet. Most traditional knowledge systems assume that people are part of the land, not that they own the land, so they consider themselves as true guardians. The wisdom derived from this philosophy can be used to advantage when planning for sustainability.

The *Guidelines* can be used as triggers for actions. The *Guidelines* recommend that all stakeholders include valuable information and accumulated wisdom from people who lived for uncounted generations on the same land. They provide guidance on how to derive mutual benefit to all parties from development projects.

The *Guidelines* do not, and should not, attempt to teach traditional knowledge. In the same way that any other complex and vast body of knowledge, methods, belief systems, and assumptions requires context, language, and skilled interpreters to be used effectively in planning or implementation, so

it is with traditional knowledge. Legitimate holders of traditional knowledge range from highly skilled and experienced Elders to hunters and trappers, gatherers of herbs and practitioners of many kinds. Men and women reach equivalent levels of wisdom and understanding in traditional ways. Often, however, there are important gender differences in the knowledge content and in the assumptions for its use.

WORKING TOGETHER

Many advantages derive from the use of scientific approaches to development projects. In fact, the major advances in living standards that depend on technological change have primarily been the result of scientific discoveries in the last few centuries.

It is important to understand that the practice, as opposed to the theory, of both science and of traditional knowledge can be faulty, regardless of the accuracy of the theoretical models in each knowledge system. In addition, the simple transfer of practice from one system to another may not work well without thoughtful adaptation.

In the north, for example, Inuit peoples traditionally abandoned their sleds when they had worn out, allowing the bone, leather, sinew, and wood to decompose and return to the earth. Abandoning a worn out Skidoo does not have the same result. Instead of returning to the earth, the metal, plastic, and gasoline can cause significant damage. To cite but one other example; in some tropical islands, the traditional way to procure salt is to dig a shallow pond and allow the sea water to evaporate, leaving behind the salt. Salt gathered this way in some areas today is polluted with heavy metals, and can cause severe medical problems.

It is equally true that high-tech solutions to perceived problems in traditional societies may not be helpful. In the north, for example, several villages were designed and built on the assumption that the villages had electric power and running water. Now the bathtubs are used

outside the house for butchering seals that have been killed for food, leather, and fur. In the south, many communities have a shortage of water. The “obvious” solution of providing water pumps is often fraught with technological and cultural difficulties that make this apparently simple solution a complete waste of money.

These are not guidelines on how to carry out an environmental impact assessment nor how to plan a development project. They are guidelines on how to include indigenous peoples and their knowledge in development projects so that mutually beneficial results occur.

The true benefit of these guidelines is to suggest ways in which the two systems can be used together to improve the ultimate results of the projects and to include indigenous peoples in planning and implementing development projects.

ILO CONVENTION 169 CONCERNING INDIGENOUS AND TRIBAL PEOPLES IN INDEPENDENT COUNTRIES

This is perhaps the single most important document to define the rights, recognize the aspirations, and call attention to the many contributions of indigenous peoples. The convention recalls the terms of the United Nations Universal Declaration of Human Rights, The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the many international instruments on the prevention of discrimination. It revises the 1957 Indigenous and Tribal Populations Convention (107).

Several parts of the Convention are directly applicable to the acquisition of indigenous knowledge and the inclusion of indigenous peoples in the development process. This is a significant part of the Convention, placed there because of the historic treatment of many indigenous peoples. In many of the countries where they reside, the dominant culture is there

because of conquest or colonisation. These provisions are also present in the Convention because of the close relationship of most indigenous peoples to the land. The Convention seeks to give indigenous peoples an equal, but special, place in the nations of the world.

The approaches suggested in the *Guidelines* directly support the underlying principles of ILO 169. The *Guidelines* recommend:

- using the same definition of indigenous
- government action, with the full participation of the indigenous peoples,
 - ⇒ to protect their rights and respect their integrity
 - ⇒ to provide special measures to protect their persons, institutions, property, labour, cultures, and environment
 - ⇒ to recognize and protect their social, cultural, religious and spiritual values,
 - ⇒ to make a special effort to consult with the people acknowledging their unique procedures
 - ⇒ to make special provisions so that the indigenous peoples have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions, and spiritual well-being
 - ⇒ to assist them to make their own decisions concerning the land they occupy or otherwise use
 - ⇒ to promote their participation in any formulation, evaluation, or implementation of plans and programs for national or regional development that may affect them directly
 - ⇒ to ensure that whenever they participate in a development project,

that they benefit through the improvement of life, work, and levels of health and education

- ⇒ to ensure that the environment in which they live is protected
 - ⇒ to promote and protect their customs and customary laws
 - ⇒ to ensure that, should it be necessary to safeguard their rights against abuse, they can take legal actions, either individually or through representatives.
- The *Guidelines* further support and work to underscore the specific ILO 169 articles regarding “Land”:
 - ⇒ to respect the special importance for cultures and spiritual values of the peoples concerned of their relationship with lands or territories which they occupy or otherwise use
 - ⇒ to respect the ownership and possession of the land which they traditionally occupy
 - ⇒ to respect the traditional rights to resources in territories where the resources have been used for subsistence and traditional purposes (especially in the case of nomadic peoples who do not occupy the land continuously)
 - ⇒ to respect the rights of the indigenous peoples to participate in the use, management, and conservation of the resources they traditionally use
 - ⇒ to consult with and respect the wishes of indigenous peoples with regard to any damage that might incur from withdrawing mineral or sub-surface resources, before undertaking any actions

- ⇒ to ensure that wherever possible the benefits from development activities are equitably shared with the indigenous peoples
 - ⇒ to be especially cognizant of the exceptional cases only in which indigenous peoples can be relocated without their freely given permission
 - ⇒ to be especially aware that persons not belonging to indigenous peoples not be allowed to take advantage of their customs, or lack of understanding of the laws of the nation to secure ownership, possession or use of the land that traditionally belongs to the indigenous peoples
- to provide guidance to indigenous peoples' capacity building in vocational areas that can help them move back and forth between traditional and western styles of commerce
 - and finally to encourage the use of traditional languages in communicating information about development projects,

PREPARATION OF THE GUIDELINES

The first draft version of the Guidelines was developed for the World Council of Indigenous peoples, and was published in 1997. Since then well over 400 reviewers around the world have seen the Guidelines.

This revision reflects all the comments and suggestions received to date through reviewers, the international workshops convened to examine the *Guidelines* (Christ Church, New Zealand; New Orleans, USA; Montreal, Canada; and Manila, Philippines), and suggestions received through the author's web site (<http://www.kivu.com>).

LESSONS LEARNED

There have been many lessons learned as a result of the reactions to the *Guidelines*, their use as a teaching tool, and from people who have used them in the field. While most of these lessons have been integrated into the text of the *Guidelines*, three lessons cannot easily be defined in *Guideline* form.

Lesson #1:

The first lesson is that no single document can offer solutions to all the issues and problems that attend the integration of traditional knowledge in projects from start to finish. There are simply too many variables: the processes and rules vary from country to country, profound and important cultural differences are too numerous and too region-based to be able to cover them all, and finally each project presents its own unique problems. There cannot be a simple step-by-step process defined that will work in all cases. The *Guidelines* presented here should be considered a template. Users can add to and modify this template to make it more specific to their region or culture.

Lesson #2:

The second important lesson is that a text document such as this one has a broad appeal to people who are easily able to read. Unfortunately it is least well adapted to the very people who most need it. Many indigenous peoples are ill-at-ease with text-based documents or cannot use them at all. Thus, new versions of this document are needed in other media, such as graphic illustrations, videos, or street theatre story-telling

Lesson #3

There is an almost automatic assumption that the values of indigenous peoples are negotiable because of the overriding importance or benefit of the project to other people. It is important to avoid simplistic equations such as "the desires of a great number of people override the needs of a small number of people." Such simplistic

equations are too easily misused. Preserving the autonomy of indigenous local peoples is an important part of responsible development.

KEY PLAYERS

For the purposes of these *Guidelines*, four major parties are directly involved in the process of a development project: government regulatory agencies, proponents of projects (usually, but certainly not always a corporation), indigenous peoples and local communities, and special interest non-governmental organizations (NGOs).

Proponents of projects need to be aware that there can be advantages to using traditional knowledge. They should also be sensitive to the interests, concerns, and rights of indigenous peoples.

Indigenous peoples and local communities need to know what their rights are, and how to negotiate effectively with proponents governments, and NGOs.

NGOs, whether local or distant in origin, support, technical, or advocacy-based, need to take care that their participation is appropriate and approved by the local people.

Governments are called on to recognize, protect, and monitor the rights of both the proponent and the indigenous peoples.

The *Guidelines* suggest a framework within which stakeholders in development projects can ensure appropriate inclusion of indigenous peoples and their traditional knowledge as part of the process.