

The Nature Conservancy's Guiding Principles on Indigenous Peoples and Conservation

I. Introduction

In recent decades there has been an increasing recognition of the role that indigenous peoples play as key and legitimate actors in biodiversity conservation. A landmark expression of this acknowledgement was the Rio Conference on Environment and Development in 1992. Although there has been much progress since then, to date many issues remain unresolved, and there is a lively debate on this topic in international forums such as the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change, as well as in the arena of national policies and legislation.

Indigenous peoples are key allies for The Nature Conservancy to fulfill our mission “*to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive*”. We are therefore committed to deepen our alliances with indigenous peoples by making explicit the convictions we maintain and the principles that guide our action, building on the following foundations:

- Our core organizational value called ***Respect for Peoples, Communities and Cultures***, which states that “*Enduring conservation success depends on the active involvement of people and partners whose lives and livelihoods are linked to the natural systems we seek to conserve. We respect the needs values and traditions of local communities and cultures and we forge relationships based on mutual benefit and trust.*”
- A track record of several decades of working around the world on finding conservation solutions that seek to involve and benefit - or at the minimum do not harm - the related indigenous peoples, their livelihoods, cultural expressions and rights.

It is in that spirit that we developed The Nature Conservancy's Guiding Principles on Indigenous Peoples and Conservationⁱ, the application of which we will review through an appropriate institutional mechanism, and which we will regularly update to reflect the evolution of our thinking and of international practice and standards.

Rather than being prescriptive, these principles are intended to serve as guiding framework to orient The Nature Conservancy's action, and they need to be adapted when applied to specific situations, policies or geographies.

II. Background

Of the 1.3 billion people that depend on fisheries, forests, and agriculture for employment globallyⁱⁱ, it is estimated that there are 300 million people belonging to approximately 6,000 distinct indigenous and traditional peoples living in more than 70 countriesⁱⁱⁱ. These account for roughly five percent of the world's population^{iv}. Many of these people live in

rural areas, where the majority of the world’s biodiversity also exists and, where the incidence of poverty is high, in particular amongst indigenous groups.^v

The Nature Conservancy recognizes the fact that indigenous peoples depend largely on natural resources for their survival and that they have the capacity to directly conserve and maintain the ecosystems and their biodiversity for generations. It has been frequently documented that indigenous lands harbor some of the world’s most important biodiversity and extensive forest areas. According to a recent UN report, about 60 million indigenous people around the world depend almost entirely on the 3.9 billion hectares of global forests for their survival, of which only 11% is formally recognized as lands and territories for indigenous communities^{vi}, rendering them vulnerable to land-use changes taking place in the majority of forested areas. Just in the last 15 years, approximately 57% of this total forest cover has been transformed, demonstrating an accelerating global trend^{vii}. In Brazil, for instance, indigenous lands occupy 20% of the Amazon region, an area which is five times larger than that designated as protected areas^{viii}. This emphasizes the important role that indigenous territories currently play in biodiversity conservation and makes indigenous lands the most important barrier to Amazon deforestation.

TNC also recognizes that one third of the protected areas in developing countries overlap with indigenous peoples’ traditional homelands. Indigenous peoples and indigenous territories are therefore fundamental to the goals of conserving biodiversity, avoiding deforestation and maintaining local livelihoods, governance and management of natural resources.

The Nature Conservancy works with indigenous peoples and local communities through many aspects of its activities around the world, and fully recognizes their central role and the responsibility of conservation organizations to seek effective partnerships with them. Through those partnerships with local communities and indigenous peoples TNC has gained valuable experience in many regions and countries^{ix}.

III. Definitions of Indigenous Peoples

There are several international agreements and policies^x that commit governments to promote, protect and respect the rights of indigenous peoples worldwide, including their rights to lands, territories, and natural resources on which they have traditionally subsisted, continue to do so, or aspire to reclaim on traditional grounds. It is through these agreements and policies generally accepted contemporary definitions of indigenous peoples have emerged, which are generally consistent, and complement each other. Some of these formulations are:

1. “Indigenous communities, peoples and nations are those which, having a historical continuity with (mainly pre-colonial) societies that developed over generations on their territories, consider themselves distinct from other sectors of the societies or Government now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with

their own cultural patterns, traditional practices, social institutions and legal systems.”^{xi}

2. “Those who determine their own identity or membership in accordance with their customs and traditions.”^{xii}
3. “A distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:
 - a. self identification as members of a distinct indigenous cultural group in recognition of this identity by others;
 - b. collective attachment to geographically distinct habitats or ancestral territories and to the natural resources in these habitats and territories;
 - c. customary, cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
 - d. use and promote an autochthonous language, often different from the official language of the country or region.”^{xiii}
4. “Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply”^{xiv}

The Nature Conservancy embraces this contemporary understanding of the definitions of indigenous peoples, as expressed by indigenous organizations and reflected in international law.

IV. Principles on Indigenous Peoples and Conservation

TNC has considered a wide variety of sources and has compiled the following set of principles and undertakings to guide our work in conservation that involves or affects indigenous peoples. These principles provide TNC with a framework for an ongoing process of learning across the organization for engagement with Indigenous Peoples and the opportunity to translate such principles into specific policies, goals, strategies, and operational practices to be applied to the places where TNC works.

General Principles

TNC **recognizes** indigenous peoples’ social, economic, and cultural rights and **promotes** their full and effective participation in decisions that affect their lives, their traditional lands and territories, and their cultural integrity.

TNC endorses the provisions contained in: i) the United Nations Declaration on the Rights of Indigenous Peoples; ii) the International Labor Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries; and iii) the United

Nations Convention on Biological Diversity and its provisions related to indigenous peoples, in particular Article 8(j) and 10(c), and of Element 2 of its Programme of Work on Protected Areas.

TNC embraces the following principles linked to our core values, related to how we work with, and respect, indigenous peoples:

Collective Rights

- TNC recognizes collective rights in addition to universal individual rights and acknowledges that indigenous peoples have collective rights to ensure their continuing existence as distinct collective groups.
- Within the framework of these universal rights, TNC respects indigenous peoples' territorial rights, spiritual and religious traditions, customs and ceremonies as well as their organizations, institutions, traditional knowledge, heritage, expressions, technologies and intellectual property.

Voluntary Isolation and Mobile Indigenous Peoples

- TNC acknowledges, respects, and will not seek contact with indigenous peoples who have decided to live in voluntary isolation and refuse to be contacted to preserve their cultures and mode of living.
- TNC also respects traditions, institutions, and land management and conservation practices exercised by Mobile Indigenous Peoples^{xv}.

Participation

- TNC believes that conservation actions in indigenous lands and territories should take place through a permanent and respectful dialogue with the concerned indigenous groups and with full acknowledgement of their social and cultural values.
- TNC also acknowledges that participation is more than consultation and is crucial in the decision making process, and that it should occur voluntarily and early, recognizing existing indigenous peoples' organizations, and should lead to tangible empowerment, buy-in and effective decisions.
- TNC will encourage effective and culturally appropriate participatory processes that promote empowerment and ownership as part of its planning framework, implementation and budget allocation.

Governance and Self Determination

- The Conservancy supports and promotes the full and active participation of indigenous peoples in decision making processes that affect their rights, self determination, and governance, and to decide their institutional structures and human rights principles.

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- TNC will support governance systems that are inclusive, transparent and accountable and, where appropriate, cater for the effective involvement of indigenous peoples. TNC will also encourage activities that build the capacity of indigenous organizations and strengthen their own institutional structures to support sustainable development and conservation actions.
- TNC respects the right of indigenous peoples to maintain and develop their political, economic, and social systems and institutions.

Free, Prior and Informed Consent

- TNC will not engage in or directly support activities that affect the rights, lands, territories and waters of indigenous peoples, who have not been provided with a process for free, prior and informed consent.
- TNC adopts the definition of free, prior, and informed consent expressed in the UN guidelines^{xvi} on indigenous peoples:
 - *Free* implies no coercion, intimidation or manipulation;
 - *Prior* implies that consent has been sought sufficiently in advance of any authorization or commencement of activities and respects time requirements of indigenous consultation; and
 - *Informed* implies that the information provided is complete and accurate and is disseminated properly and fully.
- The process for obtaining free, prior and informed consent should be transparent and well documented.

Discrimination, Equality and Gender

- TNC is against any form of discrimination of indigenous and non-indigenous women and men on any grounds, and rejects any means that provokes their inequality or limits their access to opportunities.
- TNC will ensure the incorporation of gender considerations in its conservation programs that empowers and enhance the rights, especially those of children, women, young and old people, and their equal access to natural resources, social services, training, and employment.

Partnerships

TNC works with partners and allies from various backgrounds across the world, ranging from governments, local communities, civil society, indigenous peoples, and the private sector in order to achieve its institutional mission. Indigenous peoples are regarded as natural allies and partners in conservation.

- TNC will seek and promote and maintain these partnerships and make sure that the basic human rights and the customary resource rights of indigenous peoples are not undermined.

- TNC will promote partnerships based on mutual trust, collaboration, respect, commitment, transparency and mutual benefit.

Lands and Territories

In the majority of developing countries, a large portion of priority conservation areas overlap with indigenous territories or community lands. As much as TNC is committed to conserving these areas, TNC above all, recognizes the rights of indigenous peoples to their lands and territories that they have traditionally possessed, used, or have acquired.

- TNC supports the legal recognition, demarcation, and protection of indigenous lands and territories and the use of appropriate tools and processes to achieve those.
- TNC does not support and will not engage in activities that dispossess indigenous peoples of their lands, territories and resources. In areas where TNC works, where lands have been assigned to conservation areas to the detriment of indigenous peoples and where free, prior and informed consent has not been conducted, or where issues of compensation have not been addressed, TNC will support that indigenous peoples seek just and fair redress.
- TNC does not support involuntary resettlement or physical relocation of indigenous peoples. However, if necessary as an exceptional measure and if it has been agreed through free, prior and informed consent by the affected communities, in areas where TNC works, it will make as much as possible to ensure that relocation is just, fair, minimized, mitigated, and compensated and is done in accordance to human rights principles and international agreements.
- TNC respects and encourages land management practices exercised by indigenous groups that are compatible with sustaining healthy ecosystems and are in accordance to their practices and cultures. TNC recognizes that indigenous peoples have the right to their own management practices, application of their traditional technologies on their lands, and means of determining priorities and development strategies, and will support and assist indigenous peoples in their efforts to protect their lands, territories, and resources to conserve their environment, ecosystems, biodiversity and their places of cultural expressions and sacred sites.

Traditional Knowledge and Intellectual Property

- TNC will respect, encourage, and support the maintenance and application of traditional knowledge, practices and technology that support conservation and sustainable development; as well as maintaining and transmitting their cultural heritage.
- TNC will support the establishment of regimes that recognize and guarantee the rights to protect traditional knowledge of indigenous peoples.

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- TNC will not use, or profit from, indigenous peoples' genetic resources, traditional knowledge, practices, or creativity without their free, prior, informed and written consent and having agreed to equitable sharing of benefits.
- All information that is generated by TNC from indigenous groups lands, territories or traditional knowledge shall be shared with indigenous groups and be in accessible formats. This information shall not be distributed to others unless it has the agreement from indigenous groups.

Protected Areas

Around the world, the designation and administration of protected areas continues to be a common means of conducting biodiversity conservation. Historically, TNC has invested significantly in the establishment of protected areas using technically and legally appropriate mechanisms and in the maintenance of existing protected area systems; and will continue to do so in the future to meet our institutional mission. Nevertheless, TNC is also aware that many protected areas have been created without the consent of indigenous peoples and local communities that live within the territory demarcated, and in many cases depriving them of their livelihoods, lands, and resources.

- TNC promotes and encourages the full participation of all stakeholders and especially of indigenous peoples in the creation and management of protected areas and in shared decision making processes, as a means to ensure the social acceptance and proper governance of protected areas.
- Appropriate, good protected area governance systems will be a standard in our protected area management practices worldwide; noting that in many cases governance of natural resources by indigenous peoples in parts of their territories may already meet the definitions and standards of protected area governance.
- TNC maintains that new protected areas should not endanger indigenous peoples' access to their land and resources, should legally recognize collective rights, and should also abide with national and local legislation and international standards.
- TNC will also seek to support initiatives of indigenous peoples to establish and manage new protected areas including collaboratively managed areas or indigenous community conserved areas, thus fostering the recognition by indigenous peoples of both their rights and responsibilities in conservation as well as the recognition by others of the role that indigenous peoples play in conserving biodiversity.
- In places that TNC works we will advocate that existing protected areas that overlap with indigenous peoples' lands, territories and resources should be zoned and managed in consultation and agreement with indigenous peoples. TNC firmly believes that indigenous peoples should be granted access to the resources necessary for their livelihoods consistent with their voluntary stewardship of protected areas, acknowledges their due rights to lands and territories, and also encourages the maintenance of their traditional practices.

- Where indigenous peoples are claiming customary resource rights in existing protected areas, TNC will promote management arrangements and representative governance schemes that are fair to indigenous peoples.

Natural Resources and Ecosystem Services

TNC acknowledges that the natural resources and ecosystems within indigenous lands and territories are vital components for the well-being and livelihoods of indigenous peoples and acknowledges that in many cases, it has been the sustainable management practices of indigenous peoples that has maintained and protected these resources for centuries.

- TNC supports the establishment of appropriate legislation providing for access to resources by indigenous peoples and/or benefit sharing of indigenous peoples to surface and sub-surface resources.
- TNC recognizes that indigenous peoples have the right to exercise free, prior, and informed consent for the exploration and exploitation of resources by external agents in the lands and territories owned or claimed by them and that they also have the right to benefit-sharing arrangements including intellectual property and traditional knowledge rights.
- TNC recognizes that the protection of ecosystems by indigenous people provides environmental services that are important for society as a whole and supports the recognition by governments of the role of indigenous peoples in maintaining these services for their own benefit and for the common good
- TNC believes that indigenous peoples should have access to the services provided by the ecosystems in their territories.
- TNC believes that appropriate governance systems and financial mechanisms should be in place to ensure that indigenous peoples can access and benefit from incentive systems, such as those deriving from environmental services^{xvii}.

Social and Economic Development

TNC acknowledges that indigenous peoples have been politically, socially and economically marginalized in many areas in the world and excluded from receiving the benefits of development and that many live in situations of extreme economic poverty and exclusion.

- TNC acknowledges the rights of indigenous peoples to achieve social and economic development, including their right to enjoy education, health, housing, employment, training, and other social and economic benefits.

TNC acknowledges that indigenous peoples should share in the benefits of projects, developments, protected areas, employment, and economic activities, among others.

- TNC will not engage in any project where indigenous peoples could be deprived of their legitimate rights or means of subsistence and development, and provisions for just and fair redress are not taken.
- TNC will support activities that generate economic and social incentives for conservation that can benefit indigenous peoples and if appropriate should strive to contribute to poverty reduction.
- TNC should ensure that conservation activities at the very minimum “do no harm” to indigenous peoples. Based on our practice of project implementation in countries for over 40 years, TNC will continue to assess the social, economic and political impact of the projects. Similarly, TNC will keep conducting permanent monitoring and evaluations in order to identify and update strategies that help to overcome adverse situations generated for indigenous peoples or local communities.

Infrastructure Development and Natural Resources Extractive Projects

TNC is aware that infrastructure and natural resources extractive projects may be necessary for governments and stakeholders to promote economic and social development; however, when these projects are not properly planned or executed, they can cause severe impacts on natural areas and on indigenous lands.

- TNC will advocate that any infrastructure or natural resources extractive project developed by governments or other stakeholders, which impacts indigenous peoples lands territories, resources and ecosystems, should firstly seek free, prior and informed consent of those affected. TNC will oppose projects that seriously compromise the conservation of biodiversity and the maintenance of ecosystems and negative impacts on indigenous peoples.
- TNC will support the development of tools oriented to avoid, reduce, mitigate, and compensate for the impacts produced by infrastructure development on indigenous lands and territories that overlap with important ecosystems and conservation areas. TNC will encourage the application of these tools in both preventive and corrective approaches.
- TNC acknowledges and respects indigenous peoples groups who want to opt out of development projects.

International Borders

TNC recognizes that indigenous peoples tend to have strong connections to the territory that is vital for their development and survival, and that indigenous peoples’ ancestral territories are often related to the integrity of ecosystems. We also understand that these territories might straddle international borders and that this has implications for the sovereignty of nations, the movement of peoples across the national boundaries and resource management. TNC therefore supports collaboration among governments that strives for the establishment of trans-boundary natural resource management and conservation areas that facilitate the physical and cultural integration of indigenous peoples.

VI. Application of these Principles

TNC will establish an appropriate institutional mechanism to serve as the organization central point for the Indigenous Peoples, monitor the application of these Guiding Principles, as well as to review and update them regularly. More specific functions include:

- Representation: Represent or coordinate the representation of TNC in relation to these principles, including in major forums and with strategic partners.
- Strategy, policy development and advocacy: Provide advice to geographic and thematic TNC teams on institutional strategies and policy positions related to indigenous peoples, in fields such as: climate change strategies and negotiations (e.g. such as on Reduction of Emissions by Deforestation and Forest Degradation (REDD)); biodiversity strategies/negotiations (e.g. ABS = Access and Benefits Sharing); when TNC pursues related efforts jointly with likeminded organizations.
- Information and communication. Secure effective information and communication for fundraising, marketing, learning, policy, program consistency and other purposes, by securing the maintenance of an inventory of indigenous peoples related staff, partners, projects, case studies, publications, and the like.
- Coordination: Provide a focal point for TNC policy and practice staff working with indigenous peoples, and act as an initial organizational clearing house for issues that arise in relation to this policy. Regarding the latter, a panel of experts will be established to undertake this function.
- Learning and exchange: Organize and coordinate TNC's Staff Learning Network on Indigenous Peoples.
- Fundraising: Help raise and mobilize private and public funds for indigenous peoples related work.

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Notes

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ⁱⁱ World Resources Institute, 2005

ⁱⁱⁱ Cohen, 2003.

^{iv} Toledo, 1992.

^v In Latin America alone, indigenous peoples represent 10% of the population, and while the incidence of poverty in the region is high, it is particularly severe among the indigenous population. (*G. Hall and Patrinos, World Bank, 2005*)

^{vi} White, A. & Martin, A. (2002). Who Owns The World's Forests?: Forest Tenure And Public Forests In Transition. Forest Trends.

^{vii} Forest Trends, 2005

^{viii} Research conducted by Daniel Nepstad of the Woods Hole Research Center and the Instituto de Pesquisa Ambiental da Amazônia published in Conservation Biology (2006, Vol 20, pages 65-73)

^{ix} Including in Brazil, Guatemala, Ecuador, Nicaragua, Peru, Bolivia, Papua New Guinea, Australia, Alaska, Canada, United States and Mongolia.

^x Agenda 21; the International Labour Organization - Convention 169; Article 8(j) of the United Nations Convention on Biological Diversity; and the recently approved United Nations Declaration on the Rights of Indigenous Peoples, among others.

^{xi} Martinez-Cobo, 1986. United Nations submission on minorities

^{xii} United Nations Declaration on the Rights of Indigenous Peoples

^{xiii} World Bank Operational Policy (OP 4.10, 2005); United Nations

^{xiv} International Labour Organization Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries

^{xv} Defined by the World Alliance of Mobile Indigenous Peoples (WAMIP) as nomadic peoples and communities practicing various forms of mobility as a livelihood strategy while conserving biological diversity and using natural resources in a sustainable way

^{xvi} United Nations Development Group Guidelines on Indigenous Peoples Issues, 2008

^{xvii} Reduced Emissions from Deforestation and Degradation