

UN Expert Mechanism on the Rights of Indigenous Peoples

Study on the on the Rights of Indigenous Peoples – Good practices and challenges in business and access to financial services by Indigenous Peoples

Submission by Cultural Survival. April 2017



Submitted by Cultural Survival
Cultural Survival
2067 Massachusetts Avenue
Cambridge, MA 02140
Tel: 1 (617) 441 5400
agnes@culturalsurvival.org
www.culturalsurvival.org

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org.

Cultural Survival's Submission to the Expert Mechanism on the Rights of Indigenous Peoples' Study on good practices and challenges in business and access to financial services by Indigenous Peoples

I. Background

Indigenous Peoples face discrimination in the financial sphere in much the same way that they do politically and culturally - on the basis of their race, ethnicity, and gender. Indigenous Peoples are affected most severely by agro-industrial and extractive projects, which often occur without their Free, Prior and Informed Consent. These projects include mining, oil drilling, forestry, and the construction of oil pipelines, dams, roads, etc. Their land rights and land tenure are not recognized by governments or corporations. They are also affected by free trade agreements and bilateral investment agreements.¹

UN Guiding Principles on Business and Human Rights 11 says that business enterprises have an obligation to respect human rights, but this responsibility is often skirted in regards to Indigenous communities and their needs.² Consequences of negligence by corporations and agro-industrial and extractive projects include eviction, resettlement, loss of property, and food insecurity.³

The average income for Indigenous households is typically far below that in non-Indigenous households. For example, the Aboriginal income in Canada is half the Canadian average.⁴ In the United States, Native Americans earn approximately ¾ of what non-Indigenous households earn. Poverty rates on Native American reservation in the United States are three times higher than off the reservations.⁵ Access to financial services is key to reducing poverty rates and closing the wage gap.⁶ However, in far too many countries, the challenges of providing access to financial services to Indigenous Peoples are perceived to outweigh the benefits. Creative solutions, such as Indigenous cooperatives, micro financing, and socially responsible investment by corporations have proven that perception false, and provide a blueprint going forward for how best to benefit Indigenous Peoples.

II. Challenges

There are challenges to accessing financial services for Indigenous Peoples in general, as well as challenges specific to implementing cooperatives, microfinance programs, and socially responsible investment commitments. Generally speaking, there are few banks in remote and

¹ Forum on Business and Human Rights. "Human rights and transnational corporations and other business enterprises." UN General Assembly. 7 Aug. 2013. Web. 31 Mar. 2017.

² Ibid.

³ Forum on Business and Human Rights. "Human rights and transnational corporations and other business enterprises." UN General Assembly, 04 Aug. 2016. Web. 31 Mar. 2017.

⁴ Nahwegahbow, Barb. "Microfinance could be a good fit for Aboriginal people." *Windspeaker*. Aboriginal Multi-Media Society, 2013. Web. 06 Apr. 2017.

⁵ Adamson, Rebecca. "The Lakota Fund: the First Micro-Loan Fund in the United States." *Month of Microfinance*. 25 Apr. 2014. Web. 06 Apr. 2017.

⁶ Bage, Lennart. "Microfinance: a lifeline for poor rural people." *Uluslararası Ekonomik Sorunlar*. Turkish Ministry of Foreign Affairs. Feb. 2008. Web. 06 Apr. 2017.

rural areas that can provide services to Indigenous Peoples. This limits their access when transportation is costly and time-consuming. Women face particular challenges as they are often not allowed to hold accounts or borrow money. Sometimes the only way Indigenous Peoples can borrow money is from informal money lenders who charge exorbitant interest rates, between 50% and 150%.⁷

There are several challenges to implementing cooperatives that must be addressed for an Indigenous cooperative to be as effective as possible. First, there are political, economic, and legal restrictions placed on cooperatives depending upon the state. Cooperatives must also be managed effectively,⁸ and therefore Indigenous Peoples may need to be educated on the cooperative model and entrepreneurship. Indigenous Peoples may also lack the capital and funding to start a cooperative, and once started may face barriers to access the market.⁹

Microfinance models face challenges as well. There are costs associated with starting a microfinance initiative, licensing, and travelling to remote areas to engage with Indigenous Peoples. Indigenous communities are also often lacking commercial space to house their new enterprises.¹⁰ The lack of property rights, land tenure, and collateral is a barrier to taking out loans, as is the fact that Indigenous income is often seasonal and unpredictable due to its dependency on agriculture.¹¹

Finally, the key challenges for socially responsible investment movements are that ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples do not adequately address the responsibilities and obligations of the financial and corporate sectors, and that many socially responsible investing (SRI) movements are advocating for Indigenous rights but do not have enough Indigenous members and input.¹²

III. Case Studies of Best Practices

A. Indigenous Cooperatives

There are many examples of successful Indigenous cooperatives across the globe. In Mexico, the Union of Indigenous Communities of the Isthmus Region has united coffee producers from 53 communities, including 5000 families. They sell their coffee nationally through the fair trade market, and they have started a cooperative called Solidarity Fund which provides credit support.¹³

⁷ “Microfinance.” *IDEX*. Web. 06 Apr. 2017.

⁸ Mendoza, Ines V. “The Role of Cooperatives in Empowering Indigenous People and Older Persons.” United Nations Department of Economic and Social Affairs. 2016. Web. 05 Apr. 2017.

⁹ “A cooperative way for empowering Indigenous Peoples.” United Nations Social Development Network. 21 July 2016. Web. 05 Apr. 2017.

¹⁰ Nahwegahbow, Barb. “Microfinance could be a good fit for Aboriginal people.” *Windspeaker*. Aboriginal Multi-Media Society, 2013. Web. 06 Apr. 2017.

¹¹ Bage, Lennart. “Microfinance: A lifeline for poor rural people.” *Uluslararası Ekonomik Sorunlar*. Turkish Ministry of Foreign Affairs. Feb. 2008. Web. 06 Apr. 2017.

¹² Richardson, Benjamin J. “Protecting Indigenous Peoples through Socially Responsible Investment.” *Osgoode Digital Commons*. Osgoode Hall Law School of York University. 2007. Web. 06 Apr. 2016.

¹³ Mendoza, Ines V. “The Role of Cooperatives in Empowering Indigenous People and Older Persons.” United Nations Department of Economic and Social Affairs. 2016. Web. 05 Apr. 2017.

In Colombia, Casa Nacional del Profesor provides financial services to people in the education sector. They recently won the Take Up Peace Prize for an agricultural and forestry project that both conserves the environment and helps to generate employment for Indigenous communities impacted by the civil war.¹⁴

In Chaco, Paraguay, 75% of the national dairy industry is controlled by Indigenous cooperatives. They also spearhead efforts to supply clean water, such as catching and storing rainwater and desalinating groundwater. In Oaxaca, Mexico, weaving cooperatives are especially beneficial to Indigenous women, who find themselves doubly disadvantaged by their ethnicity and gender. Belonging to a cooperative is a source of economic, political, and cultural empowerment.¹⁵

In Honduras, a cooperative of Indigenous Lenca farms partnered with PACTA (Programa de Acceso e la Tierra) and won the National Environmental Prize in 2011. The cooperative produces food which is sold in 7 supermarket chains, and PACTA provided technical aid which saved the cooperative \$40,000. FUNED (the Foundation for the Development of Honduras) is an NGO that runs microfinance initiatives. They provided credit to the cooperative.¹⁶

In Souss-Massa-Draa, Morocco, a cooperative of Indigenous women produce argan oil. By owning their own business and making their own money, they are economically empowered and their status in society is heightened. A federated Inuit cooperative in Northern Quebec has lobbied for political leverage in Canada, which supplements the economic involvement of Inuit cooperatives in stores, hotels, restaurants, and other facets of tourism.¹⁷

In India, the Nirmala Niketan is a cooperative of domestic workers who protect Indigenous women working in the domestic sphere. Joint Forest Management supports Indigenous Peoples who rely on forests so they can protect the forests and consequently the sources of their livelihoods.¹⁸

The Alma de Anil in El Salvador grow their own indigo plants and produce handbags. This cooperative preserves traditional agricultural and craftsmanship techniques. The Cheque Oitedie in Bolivia grow *dajudie*, a near extinct traditional plant, and then produce goods woven with the *dajudie* fibers. The Ock Pop Tok in Laos also supports Indigenous craftsmen and women and their traditional techniques. The Waqxaqi Kan in Guatemala is a cooperative formed by women widowed in the civil war. They produce crafts, which is economically empowering, but they are also socially supported by their involvement in this cooperative.¹⁹

Indigenous cooperatives empower Indigenous Peoples economically, politically, socially, and culturally by promoting values of self-help, accountability, democracy, equity, equality, and

¹⁴ Mendoza, Ines V. "The Role of Cooperatives in Empowering Indigenous People and Older Persons." United Nations Department of Economic and Social Affairs. 2016. Web. 05 Apr. 2017.

¹⁵ Ibid.

¹⁶ Mejia, Thelma. "Honduras: Indigenous Cooperatives Cultivate Success." Inter Press Service. 8 Dec. 2011. Web. 05 Apr. 2017.

¹⁷ "A cooperative way for empowering Indigenous Peoples." United Nations Social Development Network. 21 July 2016. Web. 05 Apr. 2017.

¹⁸ Ibid.

¹⁹ "Cooperative-Companies." *ClothsRoads*. Web. 06 Apr. 2017.

solidarity.²⁰

B. Microfinance

Microfinance can take the form of both revolving loan funds, where entire communities can take out a loan for an enterprise, and self-help or savings and credit groups, where groups of people save money together and then can lend out money from this group account. Microfinance loans can also be given to individuals, for business expenses or personal emergencies, through banks and organizations such as Kiva.org.²¹

Microfinancing is also a “good risk” for banks. People living in poverty have higher repayment rates than other borrowers, and women, who can benefit the most from microfinancing, have the highest repayment rates. Providing credit for women has a ripple effect, benefiting her household, her children, and often her community.²²

In Canada, Waubetek Business Development Corporation is a group of 50 organizations that are owned and managed by Aboriginal Peoples. They provide financing, loans, and economic development services to First Nations and Aboriginal Peoples.²³ Vancity is another Canadian example - they are an institution in Vancouver which provides microloans to entrepreneurs from First Nation communities.²⁴

In 1983, the Lakota Fund was established in the United States with the aim to provide loans to Native Americans on reservations in “culturally appropriate and sustainable” ways. They connect money from large institutions like the Ford Foundation to small businesses and entrepreneurs and they also provide financial education. Additionally, they created the Wanbli Otipi low-income housing project to assist Native Americans.²⁵

C. Socially Responsible Investment by Corporations

The socially responsible investment movement (also called the sustainable and responsible investment movement) is a movement that encourages financial institutions and corporations to pay attention to human rights and sustainable development and make decisions accordingly.²⁶

The financial sector can affect Indigenous Peoples in two key ways: by funding projects that affect Indigenous Peoples’ livelihoods and by maintaining a culture and system of values in

²⁰ “A cooperative way for empowering Indigenous Peoples.” United Nations Social Development Network. 21 July 2016. Web. 05 Apr. 2017.

²¹ “Microfinance.” *IDEX*. Web. 06 Apr. 2017.

²² Bage, Lennart. “Microfinance: A lifeline for poor rural people.” *Uluslararası Ekonomik Sorunlar*. Turkish Ministry of Foreign Affairs. Feb. 2008. Web. 06 Apr. 2017.

²³ Nahwegahbow, Barb. “Microfinance could be a good fit for Aboriginal people.” *Windspeaker*. Aboriginal Multi-Media Society. 2013. Web. 06 Apr. 2017.

²⁴ Heule, Nandy. “Microfinance could be a ‘game changer,’ says Aboriginal Chief in Canada.” *SEE Change Magazine*. 08 June 2014. Web. 06 Apr. 2017.

²⁵ Adamson, Rebecca. “The Lakota Fund: the First Micro-Loan Fund in the United States.” *Month of Microfinance*. 25 Apr. 2014. Web. 06 Apr. 2017.

²⁶ Richardson, Benjamin J. “Protecting Indigenous Peoples through Socially Responsible Investment.” *Osgoode Digital Commons*. Osgoode Hall Law School of York University. 2007. Web. 06 Apr. 2017.

the development world that are in opposition to Indigenous values.²⁷ There are two main tools for exercising socially responsible investment. The first is screening, and the second is shareholder engagement. Screening processes allow investors to identify and selectively include or exclude companies from their investment portfolios if their values and practices are contrary to Indigenous values or negatively affect Indigenous Peoples.²⁸ For example, the Swift Foundation used screens to include companies that support local farmers and Indigenous communities.²⁹

Shareholder engagement is “the process whereby shareholders in publicly-traded companies change corporate behavior related to environmental, social, and governance practices.” Shareholder engagement can be done through the submission of resolutions to be voted on during a company’s annual meeting, and for allowing experts in the field to proxy vote for shareholders at these meetings. For example, Trillium Asset Management partnered with Oneida Tribe of Indians of Wisconsin to submit a shareholder proposal aimed at FedEx to divest from the Washington “Redskins” as a show of opposition to the perpetuation of racist stereotypes through that name.³⁰

In 2016, Boston Common Asset Management partnered with First Peoples Worldwide to write resolutions to corporations partnered with the Dakota Access Pipeline, such as Marathon Petroleum, Phillips 66, and Enbridge. They also organized meetings and trainings with representatives from the Standing Rock Sioux Tribe to aid their opposition to the pipeline.³¹

D. Indigenous-Led Business Models

Everyday more and more Indigenous-led businesses are being started that are based on Indigenous values, cultures, lifeways and relationships with the environment. Innovations Development Group (IDG), a majority-owned Native Hawaiian company dedicated to increasing the prosperity and well-being of all by developing sustainable energy resources in ways that support vital cultural traditions. The company is a model for how the UN Declaration can be implemented via the private sector, respectful of Indigenous human rights and can bring about change in terms of the development of renewable resources in Indigenous territories.

The Native-to-Native model for development is the fundamental operational guide for IDG and was established based on a belief that Native people are the best to work with other Native people because of cultural affiliations. The Native-to-Native model challenges the current approach to how energy is developed by governments where Native peoples are expelled from territories, their title to their energy resources is denied, contracts are negotiated giving exclusive development rights to the company, and energy is sold at the highest market price.

²⁷ Richardson, Benjamin J. “Protecting Indigenous Peoples through Socially Responsible Investment.” *Osgoode Digital Commons*. Osgoode Hall Law School of York University. 2007. Web. 06 Apr. 2017.

²⁸ Ibid.

²⁹ “Protecting the Protectors: Aligning Investment Strategies for Native American Communities.” *Confluence Philanthropy*. February 2017.

³⁰ Ibid.

³¹ Ibid.

The Native-to-Native model consists of four criteria for development: culturally appropriate, environmentally sustainable and clean, socially responsible, and economically equitable. Ways for community benefit-sharing are built into the model. The model is gaining traction; the Office of Hawaiian Affairs adopted it in 2011. Additionally, the Hawaiian state legislature has introduced legislation requiring that there be an economic and social benefit whenever state resources and lands are being developed. The model is also being considered by the State of Hawaii Department of Hawaiian Homelands. Though based in Hawaii, IDG has worked on projects across the Pacific, including several geothermal projects with Ma-ori in New Zealand.

In pursuing its goal of being a true sovereign Nation, the Spokane Tribe of Indians of Washington, USA, is emerging as an innovative leader in attaining self-sufficiency. Over the past several years the Tribe has been engaging its community members in vision and strategic planning processes. They have refocused their efforts from basic survival mode as a Tribal Nation and community into proactively creating and implementing inclusive policy and economic development in alignment with their mission statement.

Guided by their core values, the Tribe evaluated their business dealings, supply chains, and partners; this involved looking into how companies treat other Indigenous Peoples globally, along with their human rights and environmental records. To turn their grocery store into a source of health and vitality, for example, the Tribe worked with the CEO of Spokane Tribal Enterprises to identify companies that reflected their cultural values, and now has a strategic partnership with Whole Foods, working towards achieving food sovereignty. They decided to do the same on the construction and energy fronts and only work with partners that reflect their values as a community, focusing on sustainability, efficiency, equity, and cultural relevance and are implementing clean and sustainable energy projects on their lands.

The Tribe built a high efficiency, direct combustion biomass boiler system that uses wood chips, tree limbs, and waste from the Tribal logging industry to heat the water, which is then distributed throughout the district to heat the neighborhood. The Tribe partnered with Sovereign Power, an energy marketer that provides Tribal Nations with clean, renewable energy and works to leverage Tribal Nation wealth preservation through job creation in installation, servicing, and manufacturing; lower utility bills; and risk mitigation.

Since 2015, the Tribe has also partnered with a large scale solar power provider, GRID Alternatives, an Oakland, California-based nonprofit organization that provides solar power and energy efficiency to low income communities. Together, GRID Alternatives, Sovereign Power, and the Spokane Indian Housing Authority are deploying solar photovoltaic cells (PVs) on the reservation for low income families.

IV. Recommendations

1. Investors should consider the investments in their current portfolio and use screening processes to exclude corporations whose work harms Indigenous Peoples.

2. Investors and corporations should support the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 and incorporate its language into socially responsible investing (SRI) screening procedures and shareholder engagement initiatives.
3. In the United States, investors and corporations should work with the National Congress of American Indians and support its SRI resolution.
4. Financial institutions in countries with Indigenous populations should take measures to extend their services to remote and rural areas to service Indigenous communities.
5. Financial institutions should provide financial and entrepreneurship education to Indigenous entrepreneurs and small business owners.
6. Corporations and financial institutions should provide technical assistance to Indigenous Peoples building their own cooperatives and provide opportunities for benefit sharing.
7. Indigenous cooperatives and micro financing programs should support women in their entrepreneurial efforts, to economically, politically, and culturally empower them.
8. Corporations and investors should adopt policies in line with the principle of Free, Prior and Informed Consent and provide opportunities for benefit sharing.
9. Involve Indigenous people in the design and implementation of services.
10. Support Indigenous-led business models rooted in Indigenous lifeways and values.