

Lund University  
Masters of International Development and Management  
June 2011

SOCIALLY RESPONSIBLE BUSINESS IN INDIGENOUS TERRITORY?  
A HUMAN-CENTERED APPROACH TO IMPACT ASSESSMENTS AND  
CORPORATE RESPONSIBILITY

---



*Eviction (Paley, D. 2008)*

Author: Stephanie Rozak  
Supervisor: Catia Gregoratti

# Table of Contents

---

<b>Abstract</b>	4
<b>List of Acronyms</b>	5
<b>Acknowledgements</b>	6
<b>1. Introduction</b>	7
1.1 Framing the Problem	7
1.2 Research Purpose and Questions	10
1.2.1 Specific Research Questions	11
1.3 Research Synopsis	13
<b>2. Background and Context</b>	13
2.1 Contextualizing Impact and how to Capture the Effects of Change	13
2.2 Assessing Corporate Impacts	15
<b>3. Methodology</b>	19
3.1 Research Design	19
3.2 Methods of Inquiry	21
3.2.1 Primary Data Collection Methods	21
3.2.2 Secondary Data Collection Methods	22
3.2.2.1 Literature Review	22
3.2.2.2 Case Studies	22
3.3 Limitations and Challenges	25
3.4 Ethical Considerations	26
3.4.1 Ethical Interviews	26
3.5 Validity and Reliability	26
<b>4. Theoretical and Conceptual Framework</b>	27
4.1 CSR Defined	27
4.2 'Critical Stakeholders' and a Critical Look at Stakeholder Theory	29
4.3 Critical Theory	30
4.3.1 Power and All its Dimensions	30
4.3.2 Power and Knowledge	32
4.4 Fusing Theory with Practice	33
4.4.1 A New Critical Stakeholder Approach?	35
<b>5. Analysis</b>	37

<b>Summary of Case Studies</b>	38
Table 1: Primary Case Studies	38
Table 2: Secondary Case Studies	41
<b>5.1 Answering Critical Questions</b>	42
<b>5.2 Business, CSR and Development: Power and Participation</b>	43
5.2.1 Undermining Participation	45
<b>5.3 A New Paradigm?</b>	46
5.3.1 Empowering Critical Stakeholders through Participation and Capacity	47
5.3.1.1 <i>Enabling Through Participation</i>	48
5.3.1.2 <i>Giving Ability through Capacity</i>	51
5.3.1.3 <i>Enabling: Power as Knowledge</i>	52
5.3 Legal Responsibility or Voluntary Practice?	55
<b>6. Capturing Indigenous Values and Considering Alternative Indicators</b>	58
6.1 Value-Full Considerations for the Impact Assessment Process	58
6.2 Application of Human-Centered Approaches	60
<b>7. Conclusion: Going above and beyond in CSR</b>	64
7.1 Remove Barriers	64
7.2 Introduce a New Stakeholder Theory	64
7.3 Understand the Impacts of Business for Effective CSR	65
7.4 Realize New Human-Centered Impact Assessments	66
7.4.1 Shift Power	66
7.4.2 Discover Intersections between knowledge and development perspectives	67
<b>8. References</b>	70
Literature Cited	70
Websites	78
Interviews	78
Seminars, Conferences and Workshops	79
<b>9. Appendices</b>	80
Appendix A – Interview Questionnaire (Guatemala – transcribed)	80
Appendix B – International Frameworks	82
Appendix C – Case Studies (in depth analysis)	85
Appendix D – Case Studies – Impact Assessment Frameworks	94
<b>10. Enclosures</b>	96
Enclosure 1: IFC Performance Standards	96
Enclosure 2: ICC General Assembly Agenda	99

## Abstract

This paper takes a critical look at current methodologies used by business for assessing impacts on indigenous communities dependent upon natural resources for the maintenance of their traditional way of life. It argues that new human-centered, holistic and bottom-up approaches can contribute to a greater understanding of direct, indirect and cumulative impacts of resource development on indigenous peoples. It also stresses the need to critically address power constraints embedded within structures and behaviours in current IA, CSR and stakeholder processes in the discovery of new assessment methodologies. In doing so, new approaches may greatly improve CSR practices through an increased understanding of needs, priorities and value systems of the communities and countries within which multinational corporations operate. Additionally, through the use of participatory approaches and good consultation practices, conflict and rights abuses can be further avoided, moving business from the realm of altruism to action-oriented approaches that empower change and foster development. This paper encompasses experiences from a selection of resource extractive case studies, including mining, oil and gas and hydro-electric projects that have a large population of resource dependent communities and concerned indigenous populations. Case study findings are used to explore the discovery of new human-centered approaches that shift the balance of power, reflect indigenous worldviews, and empower human agency. Therefore, the paper presents both the business case and the people's case, with particular focus on the latter, in the aim to promote responsible business in indigenous territory by means of new human-centered methodologies.

**Key Words:** *Indigenous Peoples, Resource Development, Corporate Social Responsibility, Impact Assessments, Identity-based Rights, Power, Participation, Knowledge, Capacity, Critical and Stakeholder Theory*

## List of Acronyms

ADISMI	Asociacion de Desarrollo Integral de San Miguel Ixtahaucan
COPAE	Comisión Pastoral Paz y Ecología
CENTRARSE	El Centro para la Acción de la Responsabilidad Social Empresarial en Guatemala
CSR	Corporate Social Responsibility
EIA	Environmental Impact Assessment
FPIC	Free, Prior and Informed Consent
IA	Impact Assessment
IAIA	International Association for Impact Assessment
ICC	Inuit Circumpolar Council
IFC	International Finance Corporation
ILO	International Labor Organization
IPDP	Indigenous Peoples Development Plan
NGO	Non-Governmental Organization
SEA	Strategic Environmental Assessment
SEIC	Sakhalin Energy Investment Company
SIA	Social Impact Assessment
SIMDP	Sakhalin Indigenous Minorities Development Plan
TEK	Traditional Ecological Knowledge
UNDP	United Nations Development Program
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VEC	Valued Ecosystem Component

## Acknowledgements

First, I would like to thank my classmates, for inspiring me to see things from different perspectives and for the friendships that were created along the way. Thank you to the staff of LUMID for offering your time and knowledge, two precious gifts that are very much talked about throughout this paper. This research would not have been possible without the insights, discussions and time provided by indigenous peoples and communities visited while conducting this research. However I am further indebted to many others whom have opened their hearts and lives to me previously, sharing experiences no matter how despairing. I am moved by your graciousness. A special thanks to my advisor, Catia Gregoratti for prompt responses, positive criticism and constant guidance that is often hard to come by. To my friends and family whom waited patiently for much delayed responses and my disappearance from their lives, and for their constant words of encouragement and support when we did speak. Mostly however, I would like to thank my best friend and husband for the long distance phone calls, constant love, abundant sacrifices and unconditional support to make this achievement possible. Thank you.

# 1. Introduction

---

## *1.1 Framing the Problem*

Although culturally distinct, indigenous peoples worldwide do share some common similarities. First, they have a strong relationship with their land and resources and ultimately depend upon a healthy environment for their social, cultural and economic survival. Secondly, indigenous people continue to be among the poorest and most marginalized in society, even within developed countries (Bianchi 2009:1). Human development indicators of indigenous communities are generally much lower than that of the greater society, recognizing that many of these problems are attributed to processes of assimilation, a loss of land and resources, a destruction of traditional economies and social institutions and a failed recognition of aboriginal peoples' right to self government (INAC, 1996). This was particularly evident in former Canadian policy aimed to civilize and assimilate the aboriginal population treating them as racially inferior, dispossessing them of their traditional lands and relocating them to reserves to facilitate their absorption into greater society (Couch 2002: 265).

This becomes a particularly precarious situation then, when resource development activities find themselves operating near, or within indigenous territory whose views and uses of local resources are often at odds with that of industry (Lertzman and Vredenburg 2005: 240). Moreover, due to the nature of resource extraction activities, significant environmental impacts and in turn human impacts are unavoidable. One look no further than the indigenous peoples of South America, including the Shuar, Achuar, Cofan, Quichua, Secoya, Siona, and Huaorani, whom have borne the brunt of severe and irreversible environmental and social damage due to decades of poorly conducted oil operations (Soltani and Koenig cited in Goodland 2007: 76). Since the arrival of Texaco in the late 60s, many of these communities have lost most of their land and natural resources while they are simultaneously devastated by epidemics and widespread pollution (ibid).



*Shuar Community, Ecuador (Rozak, 2004)*

As further noted by Couch (2002: 269) the boom-bust cycles of industrial development has led to the destruction of traditional societies leaving in its wake despair, bewilderment, family breakdown and adolescent suicide. In Peru, the development of the highly controversial Camisea pipeline has likely caused irreversible damage as is principally constructed inside a reserve established for people avoiding human contact. Not only does this violate their right to self-determination, it also has contributed to high death rates and malnutrition as the isolated population has no immunological defense to introduced disease (Goldzimer cited in Goodland 2005: 93).

As a result, societies and cultures of indigenous peoples have been seriously damaged by unsustainable and non-participatory resource extraction activities in their traditional territories that fail to capture the impacts of development on their unique human-environment relationships.

For instance, the experience of the Aboriginals with Rio Tinto's Argyle diamond mine in Australia was a direct result of poor and non-inclusive engagement. What resulted was the development of a mine upon a highly spiritual site, which caused immense grief for the aboriginal peoples of the region, particularly the women who practiced creative dreaming ceremonies. In indigenous communities visited in Guatemala, a people once unified and collective are now in a state of ongoing conflict over resource development. Likewise, in Northern Canada (and elsewhere) the rapid shift from traditional economies to wage-based has been associated with immense social dysfunction and a loss of connection to the land (Berger, 1977). Overall, the loss of traditional territory due to project developments has displaced indigenous peoples globally.

Many of these negative outcomes are a result of poorly assessing and understanding the effects of resource development on distinctly unique societies whom are dependent upon such resources. Presently, many of the impact assessment approaches used to evaluate corporate impacts – pre and post development – are still incapable of fully documenting the indigenous values and the interconnectedness, or *their cumulativeness*, with other elements of the socio-cultural and environmental fabric. Moreover, lacking a cumulative and holistic perspective in impact assessments has also failed to gauge the significance of indirect impacts. For instance, due to the relationship with the land, many environmental impacts have significant, social, spiritual and traditional consequences.

Furthermore, indigenous peoples affected by resource development activities are often completely excluded from participating in the assessment process altogether; therefore, new approaches should not only look to create new human-centered frameworks and alternative indicators (Prieto-Carron *et al.* 2006: 987) but also look to address structural and behavioral power trends that impede indigenous participation in the consultation, assessment and CSR practices. In sum, due to the interconnectedness of indigenous people and their values with

the environment, a holistic and cumulative approach will help determine the full extent of direct, indirect and cumulative impacts of resource development on indigenous livelihoods.

## **1.2 Research Purpose and Questions**

*“In the past, indigenous peoples have often been entirely excluded from social impact assessments (SIAs) of projects and activities that affect them, or have faced major financial and cultural barriers in participating effectively and having their perspectives accepted as legitimate”*

*~O’Faircheallaigh 1999: 63*

The contributing factors to the resource development dilemma in indigenous territories are multi-dimensional. First, large scale development projects continually find themselves operating within or near indigenous peoples’ territories and moreover, within territories with weak or non-existence land rights enjoyed by indigenous peoples (Bianchi 2009:1), as discovered in case study fieldwork in San Miguel Ixtahuacán and Uspantán, Guatemala<sup>1</sup>. Secondly, it may also be a result of business not fully understanding the realm of potential consequences – or impacts - that result from their operations. Third, it often results from poorly understanding the cultural context and value systems of the local population or; perhaps more bluntly, not acknowledging the indigenous values and perspectives when they conflict with the dominant social philosophy (O’Faircheallaigh 1999: 64). Lastly, it is a result of significant power stratification and knowledge-sharing practices that exclude indigenous populations from participating in the development process, impede their access to information and moreover, obstruct the realignment of power as it relates to participation, capacity and knowledge development.

As a result, impacts of development in indigenous territories and cultures can be significant. In addition, when business does not fully understanding the corporate footprint, it can result in unsuccessful social initiatives as they do not reflect the wishes or needs of the community, nor do they address the impacts of their business activities. More often than not, they reflect the wishes of the people inside the firm rather than those of the community (Frynas 2005: 586).

---

<sup>1</sup> For full illustration of Guatemala (primary) case studies see Table 1 on page 38.

Therefore with corporate social responsibility in mind, the purpose of this research is to discuss how business can fully engage indigenous peoples through the development of participatory, human-centered impact assessment methodologies that will 1) shift the balance of power and 2) support sustainable development goals of the community, and 3) understand the impact(s) of resource development activities on indigenous value systems through *mutual* knowledge-sharing practices and improved stakeholder approaches.

Through more human-centered and inclusive methodologies, business may be better able to understand the consequences of its activities on indigenous populations, both directly and indirectly, understanding the cumulativeness, or *interconnectedness*, of indigenous values. Moreover, a new approach should empower communities to communicate such impacts, through improved capacity and knowledge-sharing practices and a bottom-up approach. Such information may serve to make business more accountable for its impacts through increased participation and mutual information exchange. Ultimately, this approach would challenge current power dynamics in contemporary consultation arenas and aim to realign such structures. This is explored through the following research questions.

### ***1.2.1 Specific research questions include:***

***RQ1.*** *What are the current barriers facing indigenous peoples' meaningful engagement with business in their consultation, impact assessments and CSR practices?*

***RQ2:*** *What are some of the impacts of business operations on resource dependent communities and how can improved participatory assessments lead to more effective CSR practices?*

***RQ3.*** *What might new human-centered impact assessment methodologies appear and how might they shift power, reflect development priorities of the community and capture unique value systems of indigenous peoples?*

In addition, new human-centered methodologies, explored through case study findings<sup>2</sup>, endeavor to gather an understanding of a) direct impacts – *i.e. increased access*, b) indirect impacts – *i.e. increased colonization and disease transmission* and c) cumulative impacts – otherwise understood as the incremental impacts of activities when added to other past, present and future actions (Goodland, 2005). The cumulativeness can be through the existence of various actors (*numerous gas concessions in one area*), the existence of various industries (*forestry, mining and gas*) or the accumulated impact(s) from one operation, for instance on water, health, or gender (*ibid*). In many cases one impact (*contaminated water*), has numerous indirect and cumulative impacts on gender (*women's workload as water-bearers in many traditional societies*), spirituality (*water often plays a central role in indigenous belief systems*) and/or food security (*through loss of marine species*).

In sum, human-centered methodologies should encompass alternative and avant-garde considerations in order to capture unique impact-value correlations and the significance of resource loss for indigenous peoples. Through a greater understanding of communities' value systems and development priorities, business may be better able to contribute to equitable community development, which may also include their desire to refrain from resource development activities altogether.

Additionally, a new holistic approach should not only encompass cumulative and tertiary impacts often not captured within contemporary assessments processes, but look for a means to bring together two different epistemologies; western science and traditional ecological knowledge, recognizing both as legitimate sources of information (Lane, 2009). It must also be recognized that new human-centered methodologies can only be effective if they also promote empowerment and participation.

---

<sup>2</sup> For full illustration of case study findings that support new human-centered, holistic approaches see page 38

### **1.3 Research Synopsis**

The following paper unfolds by first contextualizing impact along with various assessment processes used by business to capture the positive and negative effects of development on societies and environments where they operate. Following this discussion is a presentation of methodologies used to collect research data in section 3, subsequently pursued by a presentation of the theoretical and conceptual underpinnings, in section 4. Section 4 also introduces a new critical theoretical approach applicable to future stakeholder and human-centered methodologies that challenge power and all its dimensions. Section 5 moves into a critical analysis of key questions along with a presentation of case study findings. Section 6 presents alternative impact assessment considerations that may reflect indigenous worldviews, along with a brief discussion of its potential application and limitations. Lastly, this paper closes with conclusions that aim to answer aforementioned research questions in the discovery of new methodologies that empower participation and reflect divergent worldviews.

## **2. Background and Context**

---

### **2.1 Contextualizing Impact and how to Capture the Effects of Change**

In order to discover new human-centered methodologies that capture the impacts of business operations and CSR initiatives while also empowering communities to voice their concerns, it is important to contextualize impact and how it is currently captured in contemporary impact assessment (IA) approaches. Additionally, a review of corporate impacts from CSR practices is discussed. As such, this section aims to present an overview of current IA methodologies, their shortcomings and arguments for new approaches to capturing the corporate footprint.

Impact can be understood as the positive and negative changes that occur due to imposed outside forces, or as Blowfield (2007: 683) explains, the outcomes associated with particular

actions. It can further be elaborated as the difference between what would happen with a proposed action as opposed to without it (IAIA, 2009).

Impacts are documented through various forms of impact assessments (IAs), described as a process of identifying future consequences *or impacts* of a current or proposed action where the effect, or *impact*, is essentially comparing between a current state and potential future state (IAIA 2010: 1). Impact assessments take on various forms. For instance, an environmental impact assessment (EIA) acts as a tool to consider environmental factors into planning and decision-making processes and mitigate the effects of a particular action/decision on the environment (Natural Resources Canada, 2010). Broadly defined, it can be considered a systematic process to identify and evaluate environmental consequences of a particular project and act as a tool to inform decision-makers and promote environmental sustainability (United Nations University, 2006).

Additional impact assessments include social impact assessments (SIAs) and strategic environmental assessments (SEAs) among others. SIAs emerged as a way to evaluate the impacts of certain development projects on society prior to their implementation (Inter-organizational Committee 2003: 231). A standard definition of SIAs explains it as a process of analyzing, monitoring and managing the social consequences of development and identifying any social change caused by such developments (IAIA 2002, 2003: 2). SIA is often carried out as a component of an EIA with its primary purpose to lead to a more sustainable and equitable natural and human environment (*ibid*). However, SIAs often plays a much less significant role in the impact assessment process.

Some challenges with SIAs include their ex-ante nature. That is to say they are conducted prior an activity taking place and often without further monitoring to see whether predicted impacts have occurred; or conversely, whether unforeseen impacts have transpired. Secondly,

SIAs tend to focus on impacts in isolation, over the short-term, thereby ignoring long-term, cumulative impacts (O’Faircheallaigh 1999: 64).

## 2.2 Assessing Corporate Impact

“Oil operations also have adverse social effects on the local communities in oil-producing areas. In most extreme cases in the developing world, establishment of oil infrastructure may deprive the local community of any means of subsistence”

Frynas 2005: 595

While the impacts of business activities can be profound, the consequences of poorly planned CSR initiatives can be equally significant. As mentioned by Blowfield (2007: 683), understanding impacts is essential to move from the realm of “feel good” to the realm of “do good”. Therefore, while CSR projects continue to be driven by short-term expediency, bottom line thinking and impression management, rather than long-term development needs of a community (Frynas 2005: 585; Sanchez 2007: 11), it will continue to be a public image exercise with poor or negative development outcomes. Moreover, a failure to involve beneficiaries (Prieto-Carron *et al.* 2006: 979) in understanding corporate and CSR impacts will result in initiatives that do not reflect the wishes of the community for which they were intended.

Unfortunately, social impact assessments, often conducted through a process of consultations, can be also short-sighted and hence, fail to encompass a cumulative perspective as it focuses on the individualistic rather than communitarian values (Blowfield and Frynas 2005: 501). In doing so, they may not capture the direct and indirect consequences of development on indigenous peoples, particularly if they are excluded in the assessment process. A failure to involve ‘stakeholders’, CSR beneficiaries or impacted communities has resulted in local community consultation that is “superficial and grossly inadequate” (Frynas 2005: 589). As argued by Prieto-Carron *et al.* (2006: 982) the lack of methodologies for assessing CSR’s impact calls for a need for the development of well-elaborated approaches to systematically assess such impacts and progress towards social development goals (Koljatic and Silva 2010: 375); or

as Fidler (2010: 233) urges, sustainability-based criteria that encompass inclusive social and environmental development models. To achieve this however, shortcomings within current stakeholder approaches must be addressed in the context of power, participation and CSR processes.

Shortcomings in current approaches are largely due to the fact that resource development in indigenous territory presents significant power inequalities in the impact assessment and consultation process, particularly in the realm of capacity, knowledge-sharing and participation. Communities continually find themselves in a less advantaged position that finds its roots in historical processes (Molm, 1981; Marianni 2011<sup>3</sup>). Oftentimes, indigenous communities lack the knowledge (information), technical expertise and human resources to engage with industry by western standards. Therefore, to foster participation, not only should new methodologies for assessing impact be presented (Prieto-Carron *et al.* 2006: 982); but new methodologies of engagement that realign power relations embedded within structures and behaviors, should be explored.

While there have been some notable efforts made by business to engage indigenous peoples more meaningfully in the development process, there is still much room for improvement. As stated by Frynas (2011: 581), *“oil and gas companies have initiated, funded and implemented various development schemes and have placed greater importance on their environmental and social impacts than they have done previously”*. Nonetheless, there remain numerous examples of business exploiting the power imbalance or failing to engage marginalized communities appropriately in order to understand their impacts or the communities’ needs.

This is especially evident in developing countries where poor and marginalized do not have a strong voice (Blowfield 200: 686) as firms essentially listen to those stakeholders that will pose

---

<sup>3</sup> Comments from Marianni, Roberto (Director, COPAE), Interview, February 20, 2011

the greatest threat towards their operations (Frynas 2005: 585). As a result, companies often fail to identify their principle impacts; therefore, many of their most significant consequences are not the ones given the greatest attention (Blowfield, 686). Worse yet, poorly conducted consultations and CSR planning can result in local conflict and negative development outcomes (Frynas 2005: 592). Community and family conflict was one of the principle and most pressing impacts discussed among the Mam and Q'eqchi' Mayan communities visited in Guatemalan case studies. It was also considered the most irreparable.

The Lutsel K'e Dene's experience with diamond mining in northern Canada highlights such aforementioned power imbalances. The community did not have the capacity to understand technical documents, nor had the linguistic equivalent to translate information shared with them to the rest of the community. Lack of access to knowledge/information along with a rushed (60 day) process eliminated the possibility for meaningful engagement and full participation of all community members. Couch (2002: 270) sums it up by saying "*An important intercultural communication problem exists between the Aboriginals, whose world view and points of reference in discussions are rooted in traditional knowledge (TK); and Southerners, who try to impose science, and a belief in progress, rational analytical thinking, objectivity, reductionism and the Judeo-Christian ethic of human domination over nature.*"

In sum, many SIAs do not successfully portray long-term, indirect effects of resource development on indigenous communities (O'Faircheallaigh 1999: 64) as there is generally a lack of participation and local knowledge invested into the process. Without proper consultation and engagement of indigenous peoples, CSR strategies aimed to mitigate negative consequences of development often fail to be effective. In many cases, social initiatives will more likely reflect the interests of business rather than those of the local population when there is no consultation carried out with them or development specialists (Frynas 2005: 586). As further stated by Frynas (2005: 591), many of the negative consequences of poorly developed CSR strategies could be avoided through in-depth, participatory consultation in the evolution

of self-help initiatives that incorporate local knowledge and expertise. Moreover, using purely science-based approaches tend to privilege the interests of developers and the State by using the lens of science as the hermeneutic process to interpret human-environment ecosystems (Lane 2003: 90).

By failing to empower the engagement of local indigenous populations, and thereby failing to understand indigenous value systems, resource exploitation activities have, in many cases, led to the erosion of traditional cultures due to the destruction of biological diversity, ecosystems, lands and resources upon which cultures exist (Bianchi 2009:2); Consequently, new holistic human-centered assessment approaches would allow for greater understanding of the cumulative and long-term impacts that resource development activities can impose on indigenous peoples, through empowered engagement methodologies. In achieving greater understanding of impacts, business can potentially contribute to positive development outcomes through sound CSR strategies as opposed to taking a more philanthropic role of gift-giving that ultimately leads to a dependency mentality (Frynas 2011: 590) and unsustainable outcomes.

However, in the development of more comprehensive approaches, various elements should be encompassed for such processes to be effective. First, human-centered approaches should be participatory in their approach; address power imbalances and human capacity constraints and lastly, recognize that communities should have the power to veto, sanction or reformulate projects proposed by the private sector (Sawyer and Gomez 2008: 1) if they conflict with their rights, interests and cultural integrity as indigenous peoples.

Previous research conducted by Blowfield (2005; 2007), Frynas (2005) and Prieto-Carron *et al.* (2006) argue for more critical perspectives and alternative research on CSR and development. The latter author(s) particularly argue the need for further research regarding the 'people-case' of CSR (Prieto-Carron *et al.* 2006: 987). Prieto-Carron *et al.* (2006) also advocates the need to

allot special attention to the development of people-centered impact assessment methodologies that use alternative indicators of well-being while also addressing power imbalances in current CSR discourses and practices. Consequently, such arguments contributed to this research and the discovery of new stakeholder approaches and human-centered methodologies.

### 3. Methodology

---

#### **3.1 Research Design**

Critical theory approach guided the research process, from philosophical beginnings to data collection, data analysis and (inductive) theoretical development, as it aimed to “critique society and envision future possibilities” (Fay 1987; Morrow and Brown 2004 cited in Creswell 2007: 27) with the perspective of empowering human beings to rise above constraints placed upon them due to race, class and gender and throughout will encourage people to interact, form networks and become action-oriented, and allow individuals to examine the conditions in which they exist (Creswell 2007: 27). Moreover, it will aim to reveal non-explicit processes and promote progressive social change (Scheyvens and Storey 2003: 21).

As the goal of the research is to create a means for an indigenous voice through the development of more participative impact assessments and consultation processes, it will look to assess the oppressive forces in society and take a dialectical analysis approach (Seiler, n.d.), which encompasses the “art of knowing truth by uncovering contradictions” and “exposes the underlying struggle of opposing forces”. As further explained by Seiler (n.d.) only through awareness of the opposing forces that are in a struggle for power can individuals liberate themselves and change the existing order (*ibid*). As such, the research design is principally action-oriented as the ‘study object’, in this case indigenous people and business, has been in direct dialogue with the researcher (Mikkelsen 2005: 126). The study focuses on change through knowledge (learning) and its desired direction is to 1) assess power inequities and 2) understand the impact and social responsibility of business in society (Mikkelsen 2005: 125). It

can also be understood as action-oriented as its form of rationality is centered on emancipation and empowerment (*ibid*: 126).

The epistemological paradigm guiding research questions is essentially three-fold. First, it is empirical, examining how power is currently distributed between business and communities; second, it is normative as it aims to assess how such power should be distributed through participatory and knowledge-sharing processes; third, it is critical in that it provides concepts as to how power can be equitably redistributed based upon research findings (*ibid*: 128)<sup>4</sup>.

The research design encompasses a qualitative approach for gathering data from both primary and secondary sources and looks to gather data on a global scale to draw on similarities and differences between multinational corporations' social responsibility and its influence upon indigenous populations.

This research journey began in Nuuk, Greenland at the Inuit Circumpolar Council (ICC) General Assembly where Inuit, academics, government representatives and International Organizations<sup>5</sup> discussed the pressing issues of resource extraction in the Arctic. Inuit from across the circumpolar region shared experiences and perspectives of development in their region, including positive and negative elements<sup>6</sup>. These findings were later complemented with comments from indigenous peoples regarding resource development in their traditional territory from fieldwork carried out in Guatemala. The objective was to gather an indigenous perspective on current engagement and assessment practices used by business and equally, to document the impacts of resource development on their livelihoods.

The research design was comparative in nature and had a two-pronged objective. First, it aspired to compare between pre and post-development using data collected from community

---

<sup>4</sup> Refer to Table 3: Alternative Indicators generated from case study findings located on page 60

<sup>5</sup> See Enclosure 2: ICC General Assembly Agenda for list of presentations, speakers and thematic areas discussed

<sup>6</sup> Refer to Red Dog Mine Case Study 1 located on Page 42

interviews and literature findings. Second, it aimed to compare experiences between case studies globally. In doing so, it endeavoured to conduct a gap analysis [*or needs assessment*]. Gap analysis is a technique used to identify the current position as compared to a desirable future state, outlining the factors necessary to achieve the future objective (Gupta 2007: 16). This approach was used in conjunction with case studies to identify where indigenous communities 'wished to be' and determine their development priorities in the face of industrial activity. As with critical theory, it aspires to identify the oppressive and dominant actors in society and influence change by empowering people to emancipate themselves from the current situation. It also tends to be normative in nature, aiming to "bring about change in the situations that affect our lives" (Seiler, n.d.), aiming to fuse theory with action (*ibid*).

### **3.2 Methods of Inquiry**

Both primary and secondary techniques were used to explore the research problem. Primary data collection consisted of discussions and semi-structured interviews, community meetings in addition to various field observations. Case studies, on the other hand are an amalgamation of both primary and secondary sources described in detail in following sections. Lastly, an in-depth literature review was conducted to verify findings and investigate the research problem further. A detailed explanation of primary and secondary methods follows.

#### **3.2.1 Primary Data Collection Methods**

Primary data collection methods included multiple (participatory) qualitative data techniques to collect and analyze data, as well as triangulate results, as outlined by Mikkelsen (2005: 64):

- » Semi-structured interviews/discussions with indigenous peoples impacted by resource extraction activities. Oral accounts have been audio-taped, transcribed and analyzed using discourse and conversation analysis techniques (Silverman 2005: 55)
- » Semi – structured interviews with private consultants
- » Semi-structured interviews/discussions with industry CSR representatives
- » Semi-structured interview with other CSR regulating bodies (Centrase, Guatemala)
- » Case studies ( 5 secondary, 2 primary discussed below)
- » Participant observation and video documentation

### **3.2.2 Secondary Data Collection Methods**

#### **3.2.2.1) Literature review**

A literature and theoretical review was conducted and useful in determining what is already known about the area of research (Bryman 2004: 81) and further, as a means to develop an argument as to the significance of such a study.

A collection of baseline and impact studies (Mikkelsen 2005: 128) was important to help identify the current situation faced by indigenous communities when confronting resource development activities to determine 1) how their well-being is impacted 2) how the lack of information, capacity and power leads to poor development outcomes and 3) to gather indigenous perspectives on resource development in their traditional territory and how they should be engaged. Literature also examined CSR practices, impact assessment frameworks as presented previously, and consultation approaches used by businesses to engage with indigenous peoples.

Data was used, in conjunction with primary findings, to identify considerations for new human-centered methodologies that may represent indigenous values that fall outside of present consultation and impact assessment approaches (i.e., culture, language, spirituality). Research also aimed to discover a new paradigm of engagement that shifts the balance of power in business-indigenous relationships through alternative, holistic and bottom-up approaches.

#### **3.2.2.2) Case studies**

The research problem was explored through multiple cases, selected as they were bound by a similar context (Creswell 2007: 74) and chosen to illustrate power and capacity constraints facing indigenous communities when confronted by resource extraction activities. Multiple case studies will also allow for replication (Yin, 2003) and act as a way to verify results. In total, seven case studies were examined to assess indigenous engagement and social impact

assessment practices, or lack thereof, that will contribute to the exploration of new collaborative, human-centered approaches through a greater understanding of corporate and CSR impacts. Through increased capabilities, choices and empowerment, reflective of Sen's development philosophy (Sen, 1999), a normative approach is taken with the aim to improve peoples' ability to influence their social welfare, particularly through increasing knowledge, capacity and power, which in turn will aim to challenge the current social structures.

Five of the seven case studies were conducted through secondary data collection methods. These include Red Dog Mine of Alaska<sup>7</sup>, Sakhalin Energy in the Russian Federation, Ekati, Diavik and DeBeers diamond Mining in Northern Canada, the Hamersley Mine of the Pilbara, Australia and lastly, Argyle Diamond Mine of the East Kimberley, Australia<sup>8</sup>.

Two case studies were conducted in Guatemala using primary data collection methods noted previously. Both were somewhat controversial, representing a more negative tone of business-indigenous relations. One case study examined a proposed hydroelectric project in Uspantán, El Peten Region and the other assessed the Marlin Mine of Goldcorp/Montana Explorador located in San Miguel Ixtahuacán<sup>9</sup>. Each meeting and interview was recorded and transcribed. Findings are presented throughout the document. Additionally, interviews were conducted with NGOs, foundations and other indigenous interest groups<sup>10</sup>.

Case studies were selected based upon literature available (*previous case studies, ethnographies, consultation approaches, impact assessment documentation*) and likewise, the opportunity to visit (*Greenland, Guatemala*) and explore how resource extraction activities might impact indigenous peoples. Cases were selected globally across a diversity of resource extractive

---

<sup>7</sup> Information was gathered from secondary sources but also from presentations made at ICC General Assembly in Nuuk, Greenland attended by researcher and discussed among Inuit of Greenland, Alaska, Russia and Canada over the course of 5 days. However, no interviews were conducted.

<sup>8</sup> See 2 for summary of secondary case studies located on page 41 or Appendix C for extended findings on page 85.

<sup>9</sup> See Table 1 for summary of primary case studies located on page 38.

<sup>10</sup> A full list of interviewees can be found within Reference Section of document on page 78.

activities (*mining, oil and gas, hydropower*) working within indigenous territories; however a lack of human-centered IA approaches fast became evident. Although a few IA approaches are becoming more comprehensive they are not specific to cultural ecosystems. Moreover, while consultation and negotiations become more complex, there still tends to be a genuine lack of IA methodologies that capture human and cultural ecosystems as they relate to the environment and in turn, the consequences of resource development. Therefore, the discovery of such gaps has greatly contributed to the unfolding of this research.

Cases selected told similar stories. In most instances, there existed significant tension and negative relationships; however in some cases, these progressed to positive outcomes as business changed their approaches to, and perceptions of, indigenous communities. For instance, revisiting stakeholder identification processes; recognizing identity-based rights as indigenous peoples began to assert such rights; and integrating indigenous knowledge in the decision-making process were contributing success factors. All hinged on empowerment and the recognition of diverse worldviews, including the importance of resources to cultural integrity.

Additionally, three historical impact assessment processes were reviewed, as they provide important examples for new human-centered approaches. They include the Berger Inquiry, The East Kimberley Impact Assessment Project and the Aboriginal Social Impact Assessment of the Kimberley Land Council<sup>11</sup>. Therefore, merging case study findings brings forward key elements that are applicable to the discovery of a new human-centered IA approaches proposed throughout this paper.

Research presents sound arguments for business to understand the societies within which they operate through improved holistic and participatory assessment tools. This is not only to promote business's CSR platforms, competitive advantage (Frynas, 2011) or act as public

---

<sup>11</sup> Findings from these impact assessment processes are summarized in Appendix D on page 94.

relations exercises (Pedersen 2011: 177) but to provide alternative approaches for business to significantly contribute to inclusive development, by addressing power relations. Moreover, through a greater understanding of indigenous value systems and business impacts within such societies, business can make improved decisions by providing a means for indigenous views, knowledge and expertise to be brought forward.

### ***3.3 Limitations and Challenges***

The outcomes of this research are dependent on the participation of various actors; therefore each participant will be integral in shaping the outcome of this study. Consequently, any misgivings may result in conflict and an abrupt halt to the development of further research.

Challenges to understanding cumulative impacts of development are notable. In itself, understanding the full extent of indirect impacts may be impossible without the complete engagement of indigenous peoples, but also without the participation of other businesses such as tourism, hydro, and forestry among others. Additionally, the challenge to collect accurate baseline data may be considerable if resource development has been occurring in an area with significant historical impacts.

The role of historical influences will be an important but challenging issue to document as many indigenous communities will have centuries of accumulated impacts and “fragmented imprints of other forms of knowledge, ontologies and temporalities” upon their cultures and societies (Ghosh 2006: 525). Therefore, while baseline data may reflect pre-development or pre-colonization, it still establishes a `starting point` for monitoring future impacts.

Of greatest challenge will be confronting power structures that have endured for centuries. Due to such power relations, working with exploited and marginalized communities will require a consciousness of researcher-researched relations that tend to bring its own inherent power dynamics. Establishing and maintaining trust with rightfully sceptical communities will require perseverance, transparency, compassion and patience.

### **3.4 Ethical considerations**

Much akin to critical theory that proposes flexibility in ethical decision-making (Scheyvens & Storey 2003: 141), research looks to provide feasible alternatives to the existing social structures and patterns of development (Corbridge 1998: 49), and focuses on building mutually beneficial relationships between researcher and researched, while being cognizant of the power dynamics associated with such relationships (Scheyvens & Storey 2003:149). This also includes knowledge produced and how it influences our understanding of the human condition (Kvale 2009: 61). Rather the study looks to generate knowledge to empower communities and ‘do good’ as opposed to harm (Madge 1997 cited in Scheyvens & Storey: 149).

As much of the study involves a human dimension, sound research ethics and integrity were mandatory. Cultural sensitivity and respect for diversity acted as a guiding principal. Additionally, confidentiality and anonymity (Scheyvens and Storey 2003: 146) were integral to ensuring the wishes and safety of participants, particularly when dealing with sensitive situations and conflict.

#### **3.4.1 Ethical Interviews**

Semi-structured interviews followed an interview guide<sup>12</sup> and were thematic with respect to understanding and improving the human condition investigated (Kvale 2009: 62). Informed consent was a guiding principle; participants were informed of the study and granted the possibility to participate or not. Most interviews were recorded, with consent, and transcribed ensuring loyalty to participants’ oral statements (*ibid*). Lastly, interviews encompassed 2<sup>nd</sup> questions and were open to what findings might appear; therefore active listening led to further discussion on thematic issues (*ibid*: 139).

### **3.5 Validity and reliability**

As this study was based upon understanding complex social issues through the collection of qualitative data, triangulating results was essential through the use of different data collection techniques to arrive at similar conclusions.

---

<sup>12</sup> For full illustration of Interview Questionnaire refer to Appendix A located on page 80.

Reliability, replicability and validity are important social research factors to consider (Bryman 2004: 32). Seven case studies were selected to ensure findings were reliable and replicable. Validity and the integrity of conclusions generated were supported through other research conducted previously. External validity argues that results of a study can be generalized beyond the specific research context (ibid 33). In the case of this research, it can be argued that indigenous peoples face significant power constraints when dealing with MNCs globally, and that this social phenomenon is not particular to the case studies conducted. Moreover, it can be argued that resource development has significant and unique impacts upon their cultural well-being. Lastly, it is evident based upon this study and numerous researchers (Blowfield 2005,2007,2011 Frynas, 2005; Blowfield and Dolan, 2010; Prieto-Carron *et al.*, 2006) among others, that CSR initiatives are still failing to adequately address social needs of beneficiaries to the level necessary that it complements the development agenda.

## 4. Conceptual and Theoretical Framework

---

### **Overview**

The following section presents an overview of concepts and theories used to frame research and critically answer research questions. As this study is centered on the role of business in society and how indigenous groups can be engaged to participate effectively with business, a conceptual analysis of CSR is presented, followed by theoretical discourses on power and its applications. Lastly, a new critical stakeholder approach is presented along with its application to new human-centered impact assessment approaches methodologies.

### **4.1 CSR Defined**

CSR can be broadly understood as the role of business in society. As stated by Blowfield and Frynas (2005: 500), the evolving elements of CSR encompass a more global outlook in which development, environment and human rights, and their overlapping relationships make up part of the more contemporary definition.

CSR can be defined as “the way firms integrate social, environmental and economic concerns into their values, culture, decision-making, strategy and operations in a transparent and accountable manner, and in doing so, establish better practices within the firm, create wealth and improve society” (Hohnen and Potts 2007: 4). It can also be described as a commitment to ethical business behavior that is reflected in corporate strategies, operations and culture with a recognition that social responsibility is integral to the business’ long-term performance and sustainability (UN Global Compact & the IFC, 2009; the IFC 2002).

As explained by Prieto-Carron *et. al.* (2006), CSR is ‘a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis’ (European Commission, 2001). Or in broader sense, and applied throughout this paper, CSR encompasses a variety of theories and practices that include: (a) that companies *have a responsibility for their impact on society and the natural environment*, sometimes beyond legal compliance and the liability of individuals; (b) that companies have a responsibility for the behavior of others with whom they do business; and that (c) business needs to manage its relationship with wider society, whether for reasons of commercial viability, or to add value to society (Blowfield and Frynas 2005: 503).

Accordingly, both international development and businesses through their CSR policies have a much needed interest in understanding the impact of their activities, whether it be through economic indicators, broader human development indicators, or other methodologies such as social impact assessment (Blowfield 2007: 684). Generally, resource development activities tend to measure impacts by the latter, using various forms of social, environmental and strategic impact assessment processes that try to gather information on current social, environmental, cultural and economic status. Bringing forward a human-centered methodology will most likely challenge more scientific quantitative approaches; however, it will provide a necessary soft science perspective to resource development ventures.

#### ***4.2 ‘Critical Stakeholders’ and a Critical Look at Stakeholder Theory***

Stakeholder Theory, as developed by Freeman (1984) is considered to be largely normative in its approach (Egels-Zanden and Sandberg 2010: 37) and is a highly applied theory in the realm of CSR and business. Stakeholders are identified by their interests, or *stake*, in a particular project and considered intrinsically valuable (Donaldson and Preston, 1995). It is also an approach that tends to be managerial in its application, as it recommends structures, attitudes and practices while mandating attention be granted to the interests of identified stakeholders (ibid; Freeman *et.al.* 2004). However, in dealing with indigenous communities, one must be cognizant of the application of such a term. Stakeholder theory, as mentioned, has corporate and managerial intonations, a view not necessarily compatible with indigenous communities. Oftentimes, the ‘critical stakeholders’, and those most impacted by business activities, are often excluded from stakeholder forums altogether and precisely those lacking a strong voice in society as power hierarchies continue to shape outcomes and issues raised (Prieto-Carron *et al.* 2006: 984). This in turn only further reflects the interests of dominant actors thereby bringing into question the legitimacy of stakeholders (Brueckner and Mamun 2010: 327).

Nonetheless, for business to understand its impacts on society, it must identify those that may be affected by their business operations, while being cognizant of the power to choose who are stakeholders and who are not. As Pedersen states (2011: 179) *“separating the critical stakeholders from the trivial ones is ultimately an exercise of power; given the voluntary nature of CSR, the inclusion and exclusion of stakeholders are to a large extent controlled by the firm”*. Moreover, business tends to ‘select-in’ stakeholders with like-minded interests, while ignoring alternative and potentially valuable voices (Banerjee 2001 cited in Pedersen 2011: 179). As such, indigenous populations have been unable to participate effectively in any SIA process and are rendered powerless to shape any of the outcomes (O’Faircheallaigh 1999: 63).

This was the case with the community of Uspantán, Guatemala. Industry provided project information on internet websites, which was entirely inaccessible to many rural indigenous

communities without electricity or internet access<sup>13</sup>. Such practices immediately alienate such communities from any information sharing or dialogue. Moreover, many processes still fail to encompass the values, perspectives and knowledge systems of indigenous populations, particularly when they conflict with the dominant colonial social norms (ibid: 64).

### **4.3 Critical Theory**

#### **4.3.1 Power and all its Dimensions**

Many of these barriers to participation are founded in the structural and behavioral power dichotomies that exist, and the associated barriers they create. Power can be defined as “*the ability of human agency to exercise control over its social and physical environment*” (Girvan 2007:6) and conceptualized by the degree of control one actor can exercise over another’s outcomes (Emerson 1962; 1972 cited in Molm 1985: 812). Power is both structural; a characteristic of a relationship, and behavioral in its application between the two actors (*or power use*) (Molm 1981: 43; 1985: 813). Furthermore, power dimensions exists at the macro level (between communities, states and markets) (Prieto-Carron *et al.* 2006: 984) and at the micro level (individual) (Sadan 1997: 137). Collectively, these elements can create social processes that result in people, communities and states void of control and thereby powerless to determine the outcomes of decisions that influence them and their environment (ibid; Prieto-Carron *et al.* 2006: 984). This is illustrated in former neoliberal strategies aimed to reform many developing countries economies and open up markets to foreign investment and transnational corporations (Sawyer and Gomez 2008: 32). This in turn, can have significant impacts on communities unfamiliar with such economic philosophies.

*“These [impacts] are all caused by “money” which has psychologically affected many of us. It is not our culture to use money for exchange for goods and services; it is a modern world “white man’s” culture. Our culture is the land. On the land we plant food, find food, find materials to build houses, find herbal medicine, other cultural significances and all that’s our heritage. Money is not our culture. Its introduction has blind-folded us and is killing our culture.”*

*International Women and Mining Network 2004:42*

---

<sup>13</sup> Findings from community meeting, Uspantán, Guatemala, recorded discussion, February 14, 2011

Consequently, power imbalances exist when there are asymmetrical relations of power among persons, institutions or states, and intrinsically linked with control (Girvan 2007: 6). Such imbalances are quite evident in North-South relations, particularly in economic and knowledge spheres, the latter of particular focus in this research (*ibid*). While economic power imbalances are embedded in the control of global markets, knowledge control is embedded in the constant application of western (northern) knowledge as superior to that of southern, developing and local (indigenous) knowledge (*ibid*: 16).

As mentioned, power is both structural and behavioral. Consequently, the existence of social structures and processes of domination maintained by rules, regulations and authority that systematically limit the human agency of particular groups are a direct result of interaction history (Molm 1981: 43). This includes the social, political and economic relationships, alongside the associated power imbalances and related dependencies they create (*ibid*).

Structural manifestations of powerlessness include the inability to exert influence and therefore function effectively in society (Sadan 1997: 153). Barriers are found in limited allocation of resources, which result in the inability of human agency to develop its full capabilities, thereby re-affirming their submissive state (*ibid*; Sen, 1999). Powerlessness is further rooted in social processes and behaviors that can act to disempower entire populations. The disempowerment of specific population group results in the systematic denial of identities, rights and roles that possess social value and important resources for them (Solomon 1976 cited in Sadan 1997: 153). Additionally, there is the tendency to selectively disempower certain groups, by and large, those that are amongst the poorest, weakest, culturally and ethnically different (Sadan 1997: 154). This is perhaps the most salient issue with stakeholder theory, in that it tends to maintain this power dichotomy. It is precisely those that those who do not normally have a voice in society that are often missing from stakeholder meetings (Prieto-Carron *et al.* 2006: 984) and further highlights the need to re-address stakeholder approaches.

### *4.3.2 Power as Knowledge*

Power is very much related to knowledge, which is further related to control of its dissemination. Knowledge-sharing, it can be argued, not only represents the people's case to CSR; it is a valuable tool for business to make sound decisions by incorporating local wisdom and thereby gaining contextual relevancy. For instance the use of community-based knowledge as a development resource has evolved from various [indigenous] social movements and community development strategies (Girvan 2007: 33). Such social movement was illustrated in community led consultation witnessed in San Miguel Ixtahuacán in which indigenous Mam communities had organized to voice their development priorities. The human agency that exists within indigenous communities is significant; however, until barriers are removed that impede their human potential and ability to voice their concerns they will continually find their voices falling on deaf ears.

To date, western knowledge continues to dominate over traditional local epistemologies. This essentially establishes knowledge hierarchies, which can be conceptualized both epistemically, with 'western' knowledge viewed as superior and "local" knowledge as inferior; and institutionally with western knowledge institutions taking a more dominant (powerful) position (Girvan 2007: 16). Knowledge control only further establishes power dichotomies and is essentially both structural and behavioral.

In line with structural power and the interaction history of power (Molm, 1981), knowledge domination has also contributed to the shaping of North-South relations. Historically, religious doctrines were used to justify conquest and enslavement, while "civilizing missions" were used to justify colonialism, cultural assimilation and oppression, whereas today neo-liberal market economies and corporate globalization further press western-ways as superior (Bendana 2006 cited in Girvan 2007: 6). Additionally, domination of the global media, information control, impression management and knowledge renovation all serve to maintain the hegemonic discourse in ways that preserve existing hierarchies of power (Girvan 2007: 6).

Local, traditional knowledge is often seen as insignificant and silenced by the dominant and mainstream discourse (*see Muted-Group Theory* Woods 1997: 321). However, it is a critical resource in the development process, and local actors should be the primary agents in the diagnosis of impacts and identification of community development goals. Local knowledge is embedded in cultural traditions, values and social processes and is dynamic and evolving, as is western, scientific knowledge.

Power however, can lead to distorted communication as media can shape public consciousness; therefore, a rational and knowledgeable public depends greatly upon information available to them (*see The Public Sphere* Habermas, 1964). Thus, access to accurate knowledge should empower people to make enhanced decisions based upon an understanding of the activities that will impact them. Likewise, the application of both scientific and indigenous epistemologies together can provide significant input to informed decision-making (Lane 2003: 89). Therefore, uncovering a means to fuse critical theory with action is explored throughout this paper by proposing a new Critical Stakeholder Theory that contributes to an evolving human-centered impact assessment approach.

#### ***4.4 Fusing Theory with Practice***

Critical theory critiques basic social structures, examines society to interpret how certain groups are oppressed and scrutinizes social conditions to uncover hidden structures (Seiler, n.d.; Bronner & Kellner 1989: 2). It also advocates that *power is knowledge*, an argument that underlies this research and considered pivotal to improved and holistic impact assessment processes. While knowledge must be shared with communities, knowledge must also be collected to improve project decisions and CSR initiatives to reflect the needs, wishes and priorities of communities. Knowledge comes in many forms, such as



*Shuar Elder, Ecuador (Rozak, 2004)*

traditional (local) ecological knowledge (TEK), which is arguably a necessary aspect to informed decisions and a powerful tool for companies to understand local cultural context<sup>14</sup>.

As critical theory looks for a means to emancipate groups that are marginalized due to gender, class or race, it is highly applicable to an examination of private-public and business-society relationships in which power imbalances and subservient, post-colonial relationships continue to persist. This is generally visible in states, marked by significant income disparities, which remain largely obedient to the wishes and powers of multinational corporations (Sawyer and Gomez 2008: 4).

Overall, critical theory is highly applicable to an examination of power, stakeholder processes, institutional structures and social behaviors that uphold current power dynamics between different actors. Therefore, critical theory along with a critical analysis of power will frame a large part of this research as a goal is to fuse theory and action (Seiler, n.d.) in the discovery of human-centered methodologies that bring about change in the conditions that affect the well-being of marginalized indigenous people.

It is argued that this may be achieved through improved power-sharing, recognizing power's embeddedness in behaviors and structures. Consequently, new methodologies will require a shift in both aspects. It further argues that power is knowledge, capacity and participation. Therefore improved and culturally appropriate methodologies should center on these elements. Additionally, a critical analysis of the stakeholder approach and its shortcomings is provided, in search for new processes of empowering marginalized voices. This is a critical step in fusing theory with action, not only proposing new human-centered impact assessments, but concomitantly exploring new critical



*Mam indigenous children 6-12 vote for their future, 2011*

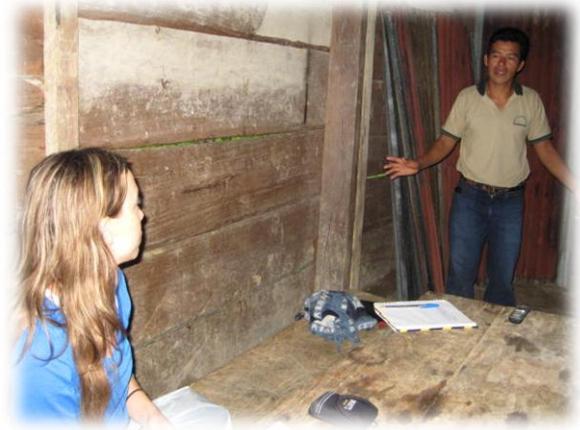
---

<sup>14</sup> Traditional knowledge is also proprietary and must be protected as such.

stakeholder approaches that remove barriers and encompass all 'stakeholders'. This argument is presented in following section.

#### 4.4.1 A New Critical Stakeholder Approach?

CSR advocates that companies' responsibility extend beyond its business activities to address its impacts upon society, accepting responsibility for the social and environmental consequences its existence creates (Koljatic and Silva 2010: 374). In other words, business recognizes that their activities have a larger impact upon society and conversely, that such impacts will inevitably influence business



Community Meeting, Uspantán, Guatemala, 2011

operations (*ibid*). The question remains however, as to how business can identify such impacts and react accordingly to potential consequences. More importantly, how can business engage, at an equal level with counterparts '*or critical stakeholders*', to ensure their needs and interests are considered throughout the lifetime of a project and beyond?

At present one critical weakness with the stakeholder approach must be re-addressed. Stakeholders are generally identified by the firm and consequently, the power to determine who is affected by business activity remains in the hands of the corporation (Pedersen 2011: 179). This was highlighted in an interview with Centrarse staff<sup>15</sup> regarding CSR in Guatemala. It appeared that business determined who was impacted along with the social initiatives to be undertaken through a series strategic mapping exercises. This approach, however, is not specific to Guatemala. Therefore, the delineation of stakeholders and the power to identify who will have a voice must be revisited. In several case studies examined, the exclusion of *critical stakeholders* led to corporate-community conflict as well as significant conflict within the communities themselves.

---

<sup>15</sup> Interview with Laura Lainfiesta of Centrarse, March 2, 2011

To address aforementioned questions and those that follow, it is proposed that both stakeholder and critical theories are merged to envision a new '*Critical Stakeholder Theory*', understanding that many of the most critical voices are almost always powerless when facing multinational powerhouses.

In line with critical theory, new approaches will aim to empower marginalized stakeholders through increased knowledge-sharing, capacity and participation, thus challenging the current means of stakeholder identification. Moreover, as indigenous peoples' relationship with the land and resources is extremely unique, the development of new methodologies would aim to capture their unique ecosystem values through human-centered (Prieto-Carron *et al.* 2006: 985), or *indigenous-centered*, approaches that encompass alternative indicators (*ibid*) and sustainability-based criteria (Fidler 2010: 235). Furthermore, by understanding indigenous peoples as 'critical' stakeholders business "must take into account the legitimate rights and interests of those groups or individuals who can affect or be affected by their activities" (Freeman *et al* 2004: 365).

Subsequent sections attempt to deliver such a critique, which includes a further analysis of the role of power in current stakeholder approaches, impact assessment methodologies and CSR practices. In doing so, a new critical stakeholder theory is explored, alongside human-centered impact assessments, to enhance participation and remove barriers facing disempowered groups. Presently, more technical, short-term approaches tend to misrepresent the needs of the people they impact and lack the application of development specialist skills (Frynas 2005: 591) with business thinking still dominating the worldview (Blowfield 2005: 516).

## 5. Analysis

---

### **Synopsis**

This section begins with a presentation of case studies, both primary and secondary, used to answer research questions and discover the elements necessary for human-centered impact assessments and consultation approaches that empower voices of critical stakeholders.

Primary case studies are presented in more extended form as they are of greater focus. Table 1 provides a brief summary of the primary cases including a summation of resource development activity followed by consultation processes, EIA/SIA applications, identity-based rights and overall criticisms. Both cases in Table 1 represent the “*people’s case*” and the perspectives of indigenous communities visited in Guatemala. Secondary case studies presented in Table 2 follow in a more protracted form; however extended information is supplied in Appendix C. Secondary cases present both the business case and people’s case and reflect more positive outcomes. Collectively, all empirical findings are used to explore answers to critical questions presented subsequent to case study details.

## Table 1: Case Studies from the Field

### Case Study 1: Marlin Mine, San Miguel Ixtahuacán, Guatemala (Glamis and Goldcorp)

#### Summary

In 2002 Glamis Gold Ltd. (*later purchased by Goldcorp*) acquired rights to develop the open-pit Marlin mine in the Department of San Marcos, Guatemala. After purchasing land in San Miguel, Ixtahuacán, Goldcorp's wholly-owned subsidiary Montana Exploradora de Guatemala began construction with the aim to begin actual production in late 2005 (Holt-Giminez and Spang 2005; Goldcorp<sup>16</sup>). The mine is located in the western highlands, an area populated predominantly by Mam-Mayan and Sipacapense-Mayan peoples. About 85% of the mine's infrastructure and the ore body are located within the San Miguel Ixtahuacán municipality, with processing facilities and some water sources to be used located within the Sipacapa municipality (sustainalytics, 2011). The area encompasses approximately 100,000 hectares and is expected to yield some 217,000 ounces of gold per year over an 11-year period (Holt-Giminez and Spang 2005; Goldcorp).

Marlin Mine was the first mining project authorized by the Guatemalan government following the 1997 mining law (Fulmer *et al.* 2008: 93). The law however, designed to attract foreign investment, has been widely criticized for creating too many incentives without any assurance that the country itself would economically benefit (Fulmer *et al.* 2008: 93). For instance, the law establishes the lowest royalty rates in the country's history (PDH 2005: 15) and comes with weak and unenforceable protections for the environment and public health. Presently only 1% of gross value of extracted resources remains in the country (COPAE 2010). Lastly, the law further lacks mechanisms for community participation in the decision-making and development process' (Fulmer *et al.* 2008: 98).

*It must also be noted that in 2004 the International Finance Corporation (IFC)<sup>17</sup> pledged a \$45 million loan to the Marlin mine following evidence of past projects' failure to produce sustainable development outcomes (ibid: 93).*

#### Consultation

It was presumed by 'decision-makers' that the mine would contribute to rural development in one of the poorest and most remote regions of Guatemala by means of job creation; however this is also strongly refuted in an economic study conducted, which demonstrates indisputable losses for the country and its residents (COPAE 2010)<sup>18</sup>. Moreover, the proponent had put forth an incentive package that included local schoolteachers' salaries, infrastructure development, and a corporate-funded foundation to finance community development initiatives (Fulmer *et al.* 2008: 93).

Local indigenous peoples claim that the neither government nor the company consulted with them (Holt-Giminez and Spang, 2005; sustainalytics 2011) and that they were intimidated into selling land (sustainalytics 2011). However, the company claims it held consultations before ever beginning construction though an independent poll taken by the Guatemalan newspaper Prensa Libre (Holt-Giminez and Spang, 2005) - 37.75% villagers claimed they were unaware of the mining concession and of those polled, 95% were against the project, undermining the company's claim of "broad community support" (ibid). To support such allegations, a human rights impact assessment (HRA) conducted in May 2010, examined the mine and identified significant gaps and concern in the areas of community consultation and land acquisition (sustainalytics 2011). Locals further explain the company presented only the benefits of the mine not the environmental or health risks and explain that additional attempts to obtain information were often met with evasiveness or outright hostility (Holt-Giminez and Spang, 2005). Adequate information was not provided in a timely manner, raising the question of meaningful consultation, free, prior and informed consent and the right to negate project activities (ibid). While the IFC admit that Glamis may not

<sup>16</sup> Refer to <http://www.goldcorp.com/operations/marlin/>

<sup>17</sup> See Enclosure 1, IFC performance standards located on page 96.

<sup>18</sup> The Association of Research and Social Studies (ASIES) carried out the first economic cost-benefit study of the Marlin Mine in San Marcos.

	<p>have carried out the best consultations, they insist that <i>technically</i>, neither the company, nor the bank violated ILO 160 (ibid). However, in 2005, the World Bank Group's Compliance Advisory Ombudsman recognized that deficiencies existed in the consultation process (sustainalytics, 2011). As of fieldwork conducted in March 2011, opposition from local indigenous residents is significant. Due to such opposition and concerns raised by reputable international organizations, evidence suggests Goldcorp's consultation mechanisms are ineffective and more importantly, that there is an evident failure to respect and promote human rights in Guatemala (ibid).</p>
<p><b>The EIA process</b></p>	<p>The 1997 mining law requires that companies present an EIA to the National Commission; however no specific instruction are provided as to what the EIA should encompass. Additionally, once an EIA is submitted, environmental authorities have 30 days to review and approve the EIA with no possibility for extending the allotted 30 days; therefore, if the EIA is unresolved within that timeframe, approval is automatically granted (Holt-Giminez and Spang 2005).</p> <p>Dr. Robert Moran undertook an extensive review of the EIA conducted by Glamis, in accordance of IFC regulations. His report is highly critical of the company's EIA assumptions, stating the study lacked sufficient baseline indicators, water monitoring provisions, data on water availability and consumption, information on the chemical composition of the ore, waste rock and tailings, and possible toxic effects on wildlife to back up its environmental claims (Holt-Giminez and Spang 2005).</p>
<p><b>Criticisms</b></p>	<p>The mine has received significant and widespread public protest since its inception, especially in the municipality of Sipacapa, where the first community-led consultations and subsequent public opposition took place in 2005 (Yagenova and Rocio 2009: 161). This was later seen throughout various other communities to be impacted by the mine. The community of San Juan Ostuncalco and San Miguel Ixtahuacán were visited during field study research. The former was in the process of conducting community consultations to vote in favour or against the mine. Of over 25,000 votes, from ages 6 and up, 3 people voted in favour of the mine<sup>19</sup>.</p> <p>A growing national anti-mining movement led by broad sectors of the Catholic Church, national indigenous organizations<sup>20</sup> and other NGOs is growing in Guatemala with protests stemming from flawed consultation processes; allegations of forced and manipulated land sales; lack of recognized indigenous rights, unregulated water consumption; lack of personal security; and the absence of clear development benefits (Holt-Giminez and Spang 2005).The mine has also fuelled local conflict and re-instilled the use of armed forces in an area with a brutal history of oppression from 36 years of civil war. The department of San Marcos was heavily impacted by massacres and human rights violations. Once again they are facing the presence of armed soldiers.</p>
<p><b>Indigenous and Identity-based Rights</b></p>	<p>It is argued by Holt-Giminez and Spang (2005) that "<i>the mine may violate the International Labor Organization's (ILO) Convention 169 on Indigenous and Tribal Peoples, an indigenous rights convention ratified by the Guatemalan government as part of the 1997 Peace Accords. Article 15 (2) of the Convention stipulates that in the case of subsurface resources on indigenous lands, governments must "consult these peoples, with a view of ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programs for the exploration of exploitation of such resources pertaining to their lands."</i></p>

<sup>19</sup> Data collected from fieldwork conversations. I was present for the day of voting in San Juan Ostuncalco carried out on February 17<sup>th</sup>, 2011

<sup>20</sup> COPAE and ADISMI were two organizations visited during field research. COPAE is related to Catholic Church and is highly involved in supporting community consultations (anti-conflict), ADISMI is based in San Miguel Ixtahuacán and is an indigenous-led anti-mine organization.

## Case Study 2: The Xalalá Hydroelectric Dam, Chixoy River, Uspantán, Guatemala

<b>Summary</b>	<p>The Xalalá dam is a proposed hydro-electric mega-project that, if constructed, will flood up to 26 miles along the Chixoy River and 10 miles along the Copón River in an isolated jungle region of the country (Rights Action, 2006). If developed, the dam will wreak havoc on land tenure, food security, and livelihoods of the predominantly rural Ixcán and Q'eqchi' population, whom rely heavily on agriculture, forest products, and waterways for survival. Presently, the Chixoy River is used for fishing, transportation and water consumption while the surrounding floodplain is highly fertile agricultural land.</p> <p>Currently, the Guatemalan government is accepting bids from national and international investors interested in developing the Xalalá Dam. However, it appears investors will also be responsible for conducting two years' worth of social, economic, and environmental studies prior to construction, which also represents a key period to oppose the Xalalá Dam (Nisgua, nd).</p>
<b>Consultation</b>	<p>While it does not appear that the government has engaged in any consultation or EIA/SIA process with local communities, indigenous peoples of the region, and other regions of Guatemala, have come together in community-led consultation processes. For instance, in 2007, 89.7% of Ixcán's inhabitants held a referendum and voted against the development of large hydroelectric projects, including Xalalá, along with other mega-projects facing the region (Nisgua, n.d; International Rivers, n.d; CIFCA 2008). The Ixcán referendum is part of a growing movement of local indigenous consultations that directly challenge national policies and fosters the development of community organization that will ensure the local indigenous people are able to determine their resource uses and development priorities (ibid).</p>
<b>The EIA/SIA Process</b>	<p>While an EIA/SIA has yet to be conducted, the potential social and environmental effects of the Xalalá Dam would include the flooding of 18 to 30 communities; the displacement of 2,000 to 3,000 Q'eqchi' Mayas; the destruction of agricultural lands and livelihoods of approximately 6,000 to 8,000 Q'eqchi' farmers; the disruption of habitat and migration of land-based and aquatic species; decreased water quality; reduced fertility of farmlands and forests; depleted fish stocks among others yet to be documented (Nisgua, n.d.). Community members spoken with during field research associate their well-being and 'richness' with their land and resources, therefore, the loss of fish and land is associated with increased poverty.</p>
<b>Criticism</b>	<p>Access to electricity is highly uneven with 75% of Q'eqchi' Mayas lacking electricity in their homes as opposed to 13% of non-indigenous people (UNDP cited in Nisgua, n.d.). The construction of the Xalalá Dam would only further perpetuate this inequality as the electricity it generates would primarily fuel urban areas, whereas the local population would have no say in its management or distribution (Nisgua, n.d.).</p> <p><b>Information distribution and media:</b> Communities near the proposed Xalalá Dam have become increasingly alarmed by national press reports that speak of plans for construction; however, when communities and social organizations request information from state officials, they deny information exists or negate plans for the dam's construction. As expected, the total lack of information and cooperation from the Guatemalan government only adds to the fears and speculations of the local population (Rights Action 2006).</p>
<b>Indigenous and Identity-Based Rights</b>	<p>A report prepared by the Copenhagen Initiative for Central America and Mexico (CIFCA, 2008) calls on the Guatemalan government to recognize and honor the communities' rights to free, prior and informed consent, and to prepare an environmental impact assessment which includes the environmental, social, economic and cultural impacts of the project.</p>

**Table 2: Secondary Case Studies (Contracted)**

<b>Case Study 1</b>	<p>The Red Dog mine is located in North-western Alaska, on lands owned by the Inupiat people. The Inupiat are also owners of the Northwest Native Alaska Association (NANA) Regional Corporation, one of thirteen regional corporations established during the 1971 Alaska Native Claims Settlement Act (Horswill <i>et al.</i> n.d, ICME 1999:32). The land on which Red Dog Mine is located is under lease agreement with NANA, which in turn is part of a land claim settlement between NANA and the US Government (ICME, 1999:32). At present, approximately 83 percent of the population within the NANA region is Inupiat, whom have developed a way of life traditionally dependent upon their natural resources. Subsistence hunting and fishing are culturally and socially significant, and the resources upon which they depend are a vital part of the Inupiat identity (ibid).</p>
<b>Case Study 2</b>	<p>Sakhalin Energy Investment Company Ltd. (from here on referred to as <i>Sakhalin Energy</i>) is a joint venture between Royal Dutch Shell, Mitsui, and Mitsubishi with Shell acting as the operator. It was formed in 1994 to develop the Piltun-Astokhskoye oil field and the Lunskoye gas field in the Sea of Okhotsk offshore Sakhalin Island in the Russian Far East (SEIC 2006). With the arrival of the offshore oil and gas industry, many local people were newly exposed to oil and gas development including the nearby indigenous minority communities of Nivkhi, Evenki, Oroki and Nanai (ibid)<sup>21</sup>. While no longer completely nomadic they continue to survive off of their land and resources through reindeer herding, hunting, fishing and berry collecting. As with other Indigenous peoples of the world, they rely heavily their traditional ways of making a living and these resources remain central to the indigenous communities' existence; therefore the arrival of the offshore oil and gas business on Sakhalin in the 1990s had the potential to cause major upheaval for the Indigenous Peoples of the region (ibid).</p>
<b>Case Study 3</b>	<p>Lutsel K'e Dene First Nation is one of the northernmost Dene communities located on Great Slave Lake in the Northwest Territories. The people in the area continue to live from hunting, trapping, fishing and berry-picking while there continues to be a rich tradition of artisanal activities such as beading, weaving and moccasin making (Weitzner, 2006). Oral history and knowledge passed down from Elders are common practice, and have been integral (and accepted element) to the Treaty negotiation process (ibid). In the 1990s, the Lutsel K'e Dene experienced substantial impacts from diamond mining in their traditional territory. Over the course of several years, the community faced BHP Billiton's Ekati Mine, Rio Tinto's Diavik Mine and DeBeers' Snap Lake and Kennady Lake Mines, along with several other smaller mining projects. Consequently, the community has gained important experiences and can provide an indigenous perspective to the strengths and weaknesses of the processes they experienced.</p>
<b>Case Study 4</b>	<p>Hamersley Iron Pty Limited is located in the Pilbara region, a remote area of North-western Australia. It is a member of the Rio Tinto Group of companies formed in 1995, one of six mines that located along the company railway including Mount Tom Price, Paraburdoo, Marandoo, Brockman, Channar and Yadicoonga. Hamersley's most recent mine (Yadicoonga) began production in 1999. For various reasons, the local Aboriginal people of the Pilbara were not benefiting from, nor had they been adequately involved in mining activities affecting them and their traditional lands, culture and heritage (ICME 1999: 1). As a result, Aboriginal communities were establishing a new awareness of their rights and beginning to communicate their expectations to the mine.</p>
<b>Case Study 5</b>	<p>Argyle Diamonds have been mining in the East Kimberley region of Western Australia for the past 20 years. The Argyle lease area is located within the traditional territory of the Gija, Malngin, Miriwoong and Worla peoples all of whom have long standing connections to this region of the East Kimberley (Native Title Report, 2006). The Argyle Diamond site encompasses an area of two significant story places for the traditional owners, Devil Devil Springs and Barramundi Gap; the latter of deep spiritual significance, especially to women as it is one of the areas of female Barramundi 'creative Dreaming being' (Doohan 2007: 4) Dreaming, or Ngarranggarni, is considered a living belief system that established continuity between past, present and future (Native Title Report 2006: 126). As viewed by the Traditional Owners, it is their responsibility to protect and maintain these sites of spiritual and ceremonial significance.</p>

<sup>21</sup> Sakhalin Energy Investment Company (SEIC) available at <http://www.sakhalinenergy.com/en/default.asp?p=channel&c=4&n=16>

## 5.1 Answering Critical Questions

---

### **Overview**

To date, the effectiveness of CSR initiatives has been questioned, particularly in oil, gas and mining initiatives, as there are significant gaps between intention and actual impact on the ground (Frynas 2005: 581). In many cases, predominantly in regions with weak regulatory frameworks and government institutions, business is often not interested in understanding, or documenting the direct and indirect impacts of their operations on its critical stakeholders affected by resource development activities, particularly indigenous communities. As stated by Sawyer and Gomez (2008: 6), *“exploring the intersections between the production of mega resource-extraction activities and the shaping of indigenous peoples offers a fruitful analytic for dissecting modern power”*.

Therefore, through a critical theory lens and a strongly normative approach, this section aims to answer key questions using in-depth analysis of case study findings merged with theories of power. It will endeavour to present both the business and peoples’ case, attempting to move more from the former to the latter through the redistribution of power dominating current IA, CSR and stakeholder engagement practices. There will be a concomitant discussion about power as knowledge, power as capacity and power as participation. It will assess the role business can play as a positive development agent and argues this may be achieved through improved methodologies that consider potential impacts on indigenous values while also empowering communities to communicate their needs and priorities. In doing so, the corporate footprint can hopefully have a more positive development role while minimizing negative outcomes.

New human-centered methodologies explored in this paper have two principle objectives. First, they aim to capture unique indigenous values associated with lands and resources

through alternative, holistic indicators. Second, a new paradigm will look to empower the participation, capacity and knowledge of marginalized and excluded groups from current processes proposing new critical stakeholder approaches that challenge both structural and behavioural power relations. It is argued that with improved engagement business can achieve a better contextual understanding, and therefore have a significant role as a development agent as CSR initiatives will reflect the needs and priorities of impacted communities. The following section aims to present such arguments, along with shortcomings from current methodologies.

### ***5.2 Business, CSR and Development: Power and Participation***

Empowered participation is central to the idea of new human-centered approaches and the people-case to CSR. A failure to involve beneficiaries, through participatory and inclusive processes, can often result in unsustainable solutions and poorly planned CSR initiatives. As noted by Frynas (2005: 589), participation and self-help are regarded as the best options for development assistance. In empowering communities to determine their own development paths, priorities and solutions that are culturally relative will be much more successful in the long-term. Exclusion will lead to opposition as was reflected in almost all case studies. Additionally, selective negotiations and discriminatory social giving only further exacerbates the problem by dividing people and communities.

Furthermore, it is evident that while CSR remains strategic and value-free stakeholder salience will remain a shortfall of the stakeholder approach (Barkemeyer 2009: 276). For instance, as stated by one CSR specialist, Goldcorp<sup>22</sup> continually makes mistakes in their stakeholder and CSR approaches. Instead of discovering what the communities need, the company presents its social initiatives without appropriate understanding, gained through participatory

---

<sup>22</sup> Formerly Glamis Gold. Refer to case studies found on page 38 for further details.

consultation, of their development needs. Consequently, they often fail to have positive development outcomes.

Therefore, while stakeholder salience remains dependent upon power, legitimacy and urgency and stakeholders are divided by companies based upon their ability to influence the corporation, the 'beneficiaries' for which CSR initiatives are intended will likely be left out of the stakeholder process altogether (Blowfield and Frynas 2006, Prieto-Carron et al. 2006, Clarkson 1995, Pedersen 2006 and Barkemeyer 2009). In addition, the disempowered (poor, indigenous groups, women) will find themselves only further marginalized as power relations and cultural contextuality will remain ignored (Barkemeyer 2009: 276). Therefore, while present stakeholder approaches continue to promote structural and historical power inequalities, true participation will remain a challenging prospect. Consequently, the discovery of new critical stakeholder approaches is necessary.

Of additional concern is the relationship between MNCs and countries heavily reliant on natural resources. In many cases, there is the evolution of a state that *"practices systems patronage and protects its resources with military power rather than through democratic institutions"* (Sawyer and Gomez 2008: 24). In such cases, MNC may collude with such states to gain access to resources (*ibid*). This was illustrated in the case of the Marlin Mine, San Miguel and the apparent collusion of the Guatemalan government with industry. In both case studies visited in Guatemala, the project site was protected by use of military force and intimidation. This was particularly traumatic for a people heavily impacted by 36 years of civil war and oppression. In many cases, people had already lived through a period of bloodshed and massacre. Therefore, the presence of military force and armed guards instilled a sense of fear in the population. The disregard of understanding such an impact (by the proponent) can be seen as a significant weakness in understanding the historical and cultural context of a people once oppressed (Newell and Wheeler 2006: 3).

Lastly, corruption presents a significant barrier to genuine development and can happen at all levels, from government to community leaders. When corruption exists, industry in the business of buying off local people with gifts as opposed to genuine development (Frynas 2005: 587) will fall short of acting in the best interest of community and fostering sustainable development outcomes.

### 5.2.1 'Undermining' Participation

#### *Voices from the Field*

*In the two case studies in Guatemala, indigenous communities visited were not consulted nor advised neither of the hydroelectric project nor of the gold mine. Rather, the latter community was aware of the project when machinery arrived and began to develop the mine. No consultation or discussions were conducted, which essentially left people voiceless and powerless to the forces that were inevitably going to impact their lives. To appease the community, the mine had built various schools and other infrastructure projects. Certain people were economically benefitting from the mine, as they had been offered employment. However, as explained by various interviewees, the people were offering their labor for much below the normal wage standard but much above what they were receiving as 'campesinos'. This can be viewed as business exploiting poverty, and in fact benefitting from poor peoples' strife and the immediacy to feed themselves and their families. One anonymous statement captured in Guatemala reflects the urgency of many poor people's situation "es mejor morir de cáncer que el hambre" essentially translated as "it is better to die from cancer than hunger". Not a particularly appealing choice between two appalling options. Of added consequence, those that took work at the mine were at odds with the rest of the community that were opposing the mine. A compounding factor was the fact that the mine had been constructed amidst various indigenous communities, fragmenting them from their previous ability to communicate and share knowledge. As commented by many, people once able to visit one another in 15 minutes were now forced to walk 2 hours. Again, some communities were included in mine activities while other remained in opposition. Such divergence was also occurring within families, completely fragmenting the family unit and dividing relatives. Many viewed this as divide and conquer tactics employed by the mine. Many viewed this as irreparable.*

In almost all cases analyzed indigenous populations were faced with significant power and capacity constraints. Power and participation go hand-in-hand, as does power and knowledge. If people understand what is happening through shared information, and have the ability to

voice their concerns, they are much more able to influence decisions that impact them. Therefore, having the ability to participate can significantly influence outcomes. As stated by one leader in Uspantán, Guatemala, he was not necessarily opposed to development but rather opposed to the human rights abuses, the exclusion from any decision-making and lack of consultation with the community. This was exacerbated by the lack of knowledge and understanding as to the project being developed<sup>23</sup>. The community did not know what would happen to their river, what a hydroelectric project encompassed and how it would change their lives. This lack of knowledge contributed to a lack of power to voice any concerns they may have had about the project and eliminated them from the information sharing process altogether.

### ***5.3 A New Paradigm? Empowerment through participation, capacity and knowledge***

Conversely, other case studies represent movement towards a new paradigm. Red Dog Mine in Alaska is one such example. Consultation with the indigenous people, the Inupiat, was carried out over the course of ten years with partnerships forged with indigenous representative bodies. This was ultimately to assist the company in conducting community-based consultations and therefore understand concerns and needs of Inupiat communities.

As reflected in the statement by E.F. Schumacher in Frynas (2005: 589), “if the rural people of the developing countries are helped to help themselves [I] have no doubt that a genuine development will ensue [but it] cannot be produced by skilful grafting operations carried out by foreign technicians or an indigenous elite that has lost contact with the ordinary people”.

This statement is critical for two reasons. It recognized that business, without empowering local human agency, cannot solve development problems and second; it recognizes the necessity that indigenous leaders be in tune with the needs and priorities of the people they

---

<sup>23</sup> The UN Special Representative’s states “conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse.” U.N. Draft “Guiding Principles” on Human Rights and Transnational Corporations, January 2011

represent. The latter has, in many cases, posed an equally challenging issue that cannot be fully addressed in this paper. However, it is important to be cognizant of leaders, organizations and activists that are dependent (financially and organizationally) upon the existence of conflict, power dynamics and underdevelopment issues that feed their cause.

Additionally, when purely conducted as a public relations exercise, CSR may only further promote the oppressive forces through the use of media as a vehicle to either perpetuate or oppose the dominant economic institutions (Seiler, n.d.). As critical theory argues, knowledge is power and therefore, media can perpetuate already unstable power dynamics. Knowledge management and knowledge control are significant obstacles to empowerment.

In the end, a new paradigm must not only capture unique value systems and holistic perspectives, it must empower people to communicate those values and share a different epistemology that can complement the current scientific approaches.

### **5.3.1 Empowering “Critical Stakeholders” through Participation and Capacity**

*“When you are consulting local people, the consultation should not be perfunctory. But when you have such a vast area, when you have people of four races, speaking seven languages, how do you enable them to participate? How do you keep them informed? We wished to create an Inquiry without walls. And we sought, therefore, to use technology to make the Inquiry truly public, to extend the walls of the hearing room to encompass the entire North. We tried to bring the Inquiry to the people. This meant that it was the Inquiry, and the representatives of the media accompanying it – not the people of the North – that were obliged to travel.”*

*Chief Justice Thomas Berger, 1977*

As one key element to new human-centered approaches is empowerment, a critical look at barriers and the role of participation, capacity and knowledge as a means to new improved approaches is assessed. Empowerment can be envisioned as giving authority (*legal power*); enabling (*participation, knowledge, access*); granting validity to (*traditional knowledge*); and giving ability to (*capacity development*) (Napier 2006: 2). It is a process by which individuals gain

power through access to resources and control over their own lives and in doing so, achieve their highest potential (Robbins; Chatterjee and Canada 1998: 91). As Sen (1999) argues, it is about removing unfreedoms and thereby empowering individual agency. Therefore, community empowerment depends upon the acquisition of capabilities and access to essential resources (Sadan 1997: 150). An examination of power as it relates to these elements is presented below and supported with case study findings.

### 5.3.1.1) *Enabling through Participation*

The identification and inclusion of all ‘critical stakeholders’, including youth, Elders and women was integral to successfully engaging indigenous communities and understanding social dynamics, as in the case of Red Dog Mine, while it proved to be a significant downfall in other cases examined. Moreover, partnerships with aboriginal representative bodies proved beneficial to community-based consultations and improved mutual understanding of the cultural context and community priorities, so long as indigenous leaders were connected to the greater indigenous society (Schumacher in Frynas 2005: 589).



*Hmong youth, Lao PDR (Rozak 2006)*

Conversely, an exclusion of key stakeholders seriously disempowered local communities and, concomitantly, failed to recognize identity-based rights and international frameworks that mandate indigenous peoples are appropriately consulted. This was illustrated in both case studies from Guatemala<sup>24</sup>. Excluding critical stakeholders also resulted in internal division, conflict, and community fragmentation due to poorly conducted consultations. As stated by various individuals, “*vienen y nos dividen*” or “*they come and divide us*”. The concept of “divide and conquer” was heard in numerous indigenous spheres from Greenland to Ecuador.

---

<sup>24</sup> Refer to case studies presented in Table 1 located on page 38 or Appendix C located on page 85.

A significant element consistently discussed was that of ‘meaningful consultation’ and the need to ‘consult in good faith’ (*consulta de buena fe*). However, consulting in good faith may also find itself lost in translation; what consulting in good faith means to industry can be very much opposed to that of indigenous peoples. As stated by Greene (2010)<sup>25</sup>, “The single most important step in the consultation process was conferring with the Inupiat people, recognizing that the corporate world’s idea of consultation and that of indigenous peoples is vastly different”.

Therefore understanding what constitutes meaningful engagement is embedded in contextuality. Participation and knowledge of the local population’s perspectives would act to capture diverging views. However in most cases, indigenous people feel that the current level of participation is too limited, or in some cases nonexistent. What is more, lacking the ability (capacity) to participate has posed significant barriers to indigenous peoples’ engagement. Therefore, due to such constraints to participating effectively in consultations, negotiations and impact assessments, they are often rendered powerless to determine the outcomes of project development (O’Faircheallaigh 1999: 63).

By and large, this disempowerment results from the lack of *time*, which is generally excessively short and often does not consider indigenous decision-making structures and timeframes (*ibid*); a lack of *financial resources* which impedes participation; a lack of *capacity* or human resources; and lastly, a lack of *access* to project information that is presented in such a way that the community members are able to fully comprehend the projects aims and implications (*ibid*). Therefore, a significant consideration for participation and empowerment is *sufficient* information-sharing with the community, presented in understandable terms, so that they can then consider what the potential impacts may be on their way of life. Lack of capacity and access to information was a significant constraint voiced by community members in field work conducted in Uspantán, Guatemala.

---

<sup>25</sup> Marie Greene is President of NANA Regional Corporation. This was from a speech provided by her at ICC General Assembly, Nuuk, Greenland, June 28 - July 2, 2010.

The use of culturally appropriate methodologies also fosters participation. For instance meeting should ideally occur in the community, on the land base upon which people depend, as illustrated in the Berger Inquiry and East Kimberley Impact Assessment<sup>26</sup>. This will not only show an interest in understanding their relationship with the natural environment, it will allow for a cultural transaction to occur between business and indigenous peoples. It will also promote greater participation of those that are unable to travel such as the poor and women caring for families. Additionally, the use of local languages or interpreters further empowers people through increased access to knowledge; hence they are better able to make sound decisions and ultimately choose their development paths. Furthermore, the development of culturally appropriate information-sharing methodologies such as oral accounts, storytelling, *Dreaming*<sup>27</sup>, focus groups and other methods allow for a greater transfer of knowledge and again supports participation of more marginalized groups.

From the perspective of the community, participation in project decisions and consultation is an ongoing process (Weitzner 2006: 10) as impacts cannot be fully predicted (O’Faircheallaigh 1999: 64). Indigenous peoples do not want to be envisioned as ‘objects of mitigation’ (ibid: 65) but rather participating fully in the process and ultimately having a relevant say in decision-making. Moreover, due to changing legislation, governments, value systems and social structures (*recognizing that culture is dynamic*), assessment methodologies should have an element of flexibility and not be purely predictive in nature. On the whole, flexible timeframes alongside lengthy and inclusive consultation approaches led to positive outcomes; mutual understanding, decreased fear and anxiety, reliable baseline data, ongoing relationship building processes and allowed for changing priorities. Conversely, rushed processes often resulted in conflict, opposition and litigation.

---

<sup>26</sup> See Appendix D located on page 94 for details of impact assessment case studies

<sup>27</sup> A practice carried out by Australian Aboriginal peoples, generally women.

Additionally, there should be an examination of the larger political and institutional context and how they distribute power, both internal and external to the indigenous peoples, including the relationship with local, regional and national governments (Stevensen, 1996). Such dynamics may in turn promote or inhibit participation. This would include an understanding of the cultural context, the traditional decision-making processes and timelines, traditional governance structures, the role of women and youth and how disempowered groups within marginalized societies can be accessed (ibid).

### **5.3.1.2) Giving Ability through Capacity**

Increasing the capacity of indigenous peoples to engage meaningfully is a significant contributing factor to participation and empowerment. In many of the secondary case studies reviewed, various community-based impact monitoring projects, environmental monitoring programs, rights-based institutions and aboriginal organizations were formed with support from business, based on capacity constraints identified by the community. For instance, in the case of Argyle and Hamersley, business supported the development of an aboriginal negotiating body both financially and through human resource training provided (Native Title Report 2006; ACIL Consulting and ISS 2001: 29). Likewise, in the Sakhalin Energy case study of the Russian Federation, the creation of a legal center was developed so as to allow indigenous peoples to learn their rights and assert them accordingly (SEIC SIDMP 2006:15). In the latter case, the formation of an indigenous peoples development plan (IPDP) was created, in line with World Bank Operative 4.20, developed to reflect their priorities (ibid:16).

The biggest ‘capacity contribution’ by business however centered on economic development. In this sense capacity was developed through various employment, training and education initiatives. Nonetheless, rapid economic development, as

*“There is no economic development, there is economic growth. There is growth for the investors but there is no growth for the population”*

Javier de Leon, ADISMI  
Interview February 19, 2011

associated with resource development, often brought more negative consequences than positive (alcoholism and drug abuse). In other cases, such as San Marcos, development contributions came in the form of infrastructure projects and social giving schemes that did not reflect the communities' needs. Therefore, success based upon conventional business concepts such as growth and market share (Blowfield and Dolan 2010: 145) rather than poverty alleviation and development-oriented initiatives may further exacerbate poverty, rather than contribute to positive development outcomes. In sum, economic growth does not mean poverty alleviation.

### **5.3.1.3) Enabling: Knowledge as Power**

Knowledge-sharing is an important element to empowerment as it leads to improved choice (Sen, 1999) provided the mechanisms to voice concerns and negate development are available. Knowledge-sharing encompasses three key aspects; informing, listening and understanding. Positive information sharing practices include *access* to information through the use of local languages, including the development of linguistic equivalents to translate project activities<sup>28</sup>, along with the training and use of interpreters. Therefore, information and knowledge formation is central to empowerment, in addition to allotting appropriate time for consultation to occur at the community level.

Listening was critical to successful relationships including the dedication of time to just hearing indigenous concerns, fears, apprehensions and wishes. In the case of Argyle Diamonds, listening to the hurt and pain caused by the Mine were integral to righting the wrongs of the past (Native Title Report 2006). Moreover, the increased recognition of aboriginal priorities helped identify capacity constraints and current social, environmental,

---

<sup>28</sup> The Lutsel K'e Dene First Nation's experiences struggled significantly to understand technical documents presented in English, while in Uspantán information was provided only on websites inaccessible to local communities.

political, legal and economic status of communities. One of the greatest examples of engaging all stakeholders, in appropriate forums, is the Mackenzie Valley Pipeline Inquiry.<sup>29</sup>

### *Recognizing Two Ways of Knowing: Divergent Worldviews*

*Traditional knowledge, in spite of its evident strengths, corresponds poorly with Western intellectual ideals of 'truth.' In our society, the acceptable norms of intellectual development have been rigidly institutionalized. University degrees, journal publications, conference presentations are the milestones which mark our narrow 'path to knowledge.' Guided by these inflexible norms, environmental scientists reject the traditional knowledge of Native hunters as anecdotal, non-quantitative and amethodical. Unable to overcome a deeply engrained and ethnocentric prejudice against other ways of 'knowing', they turn their backs on a source of data of exceptional utility to EIA.*

~Nakashima 1990: 23

While having the ability to receive knowledge empowers people through improved access to information, having the ability to share local wisdom is equally empowering, recognizing that views of the corporate world and indigenous world are fundamentally different, as are the values placed upon resources. In Guatemala *"Indigenous Peoples have explained that because of the profound relationships indigenous peoples have with the land, territories and resources there is a need for a new conceptual framework to understand this relationship and a need for recognition of the cultural differences that exist"* (Anaya and Williams 2001: 94 cited in Fulmer et al 2008: 94). For instance, indigenous peoples argue that large scale mining fundamentally contradicts the Mayan 'cosmivision' of the world, in which societies depend upon and are inseparable from the land and its resources (Fulmer et al 2008:93). Therefore, granting validity to traditional knowledge is an important aspect of the empowerment process. There must also be the recognition of traditional knowledge as dynamic, as the following statement reflects<sup>30</sup>.

*"I have been talking to you as though our traditional knowledge is fixed and isn't affected by changes around us. But it is affected – and the changes that climate change is forcing on the Arctic – are also forcing us to take stock. But knowledge is never static. To survive, it must take on new findings, adapt to change and consider the implications. Just because we call it traditional knowledge doesn't mean it's not dynamic."*

~ Speech at ICC General Assembly, 2010

<sup>29</sup> Refer to Berger Inquiry provided in appendix D located on page 94, for more information.

<sup>30</sup> Speech presented at ICC Canada General Assembly in Nuuk, Greenland, June 28-July 3<sup>rd</sup>, 2010, See Enclosure 2 on page 99.

For indigenous peoples, an understanding of impacts that any project may bring to lands and resources is critical. Therefore, finding ways to combine traditional knowledge and western science has shown to be integral to success. First it proved to aboriginal communities that their knowledge is considered valuable and second, that their concerns and priorities are seriously considered. In some cases, the establishment of joint science-based and traditional knowledge panels worked to bring together the two epistemologies, as evident in the Lutsel K'e Dene's experiences with Diamond mining in Northern Canada<sup>31</sup>.

Consequently establishing balance between a traditional subsistence way of life and growing dependence on a cash economy, between development and conservation and between contemporary employment and tradition is necessary to realign power structures while exploring new conceptual frameworks and methodologies that also endeavour to reflect the human-environment relationship indigenous people share with their resources. Moreover, finding balance between two worlds helps alleviate the potential boom-bust economy often related to resource development. Balance will help ensure that traditional economies and associated knowledge remain vibrant alongside present-day development.

In many cases, an understanding of different institutions, structures and processes were important for improved corporate-community engagement. Oftentimes, decision-making processes occur along different time scales and do not always work parallel with industry or governments timeframes. For instance, in the East Kimberley, *the darkness of the night-time is a traditional time when Aboriginal people air grievances and assert their authority, their opinions and their positions without fear of open challenge or of transgressing established positions within the community. Night-time provides an opportunity to introduce or establish a new position or proposition that might not be possible in a public arena during the day*' (Doohan 2007: 204). Consequently, understanding the cultural context, including the human-environment relationship is a much

---

<sup>31</sup> See Appendix C on page 85 for further details.

needed consideration in new methodologies. Table 3<sup>32</sup> attempts to capture such unique indigenous values while also highlighting their interconnectedness. For instance, traditional artisanal activities can have significant value for gender, subsistence activities and spirituality. Therefore, a holistic approach is necessary for new human-centered impact assessment methodologies, ultimately guided by indigenous people themselves through knowledge-sharing, participation and a bottom-up approach.

#### ***5.4 Legal Responsibility or Voluntary Practice?***

It is argued that to uncover human-centered methodologies and to empower ‘critical stakeholders’, a shift in both behaviours and structures that maintain power disequilibrium is required. In other words, new methodologies and IA frameworks are essentially only one step. In addition, there must also be a shift in power at the structural and institutional level. At present, one can argue that CSR is behavioral reflected in its voluntary nature. However, it also maintains structural dimensions of power relations through consultation and stakeholder engagement practices that perpetuate disempowerment of weak states and communities. Therefore, it is questioned how business can go above and beyond legal requirements and act to empower people, respect human rights, and have a positive development role.

Generally, governments have the legal responsibility to consult with indigenous peoples impacted by development activities (Government of Canada 2008), while in many cases industry does not. Rather, the latter is guided by voluntary corporate policies that outline business’s consultation guidelines and social responsibility practices with respect to indigenous peoples. Nonetheless, while government legislation, corporate policies, human rights standards and international convention mandate that indigenous rights are respected, they continue to face marginalization, discrimination and poverty, as do many rural populations in countries with weak and illegitimate governance structures.

---

<sup>32</sup> Refer to Table 3 *Alternative Indicators* located on page 60.

This was illustrated in Uspantán and San Miguel field research findings from Guatemala. In both cases indigenous communities were entirely excluded from consultation and impact assessment processes alleged

*“We have been told that there will be consequences for defending our rights”*

Javier de Leon, President, ADISMI  
International Cry, 2010

to have been conducted by the state prior to project development, even though indigenous communities have a right to free, prior and informed consent, as mandated by various international performance frameworks (Holt-Giminez and Spang, 2005; sustainalytics 2011). Moreover, weak environmental regulation and human rights abuses led to the Inter-American Commission on Human Rights ordering a suspension on the mine’s operation following a study that found elevated levels of mercury, lead, zinc and arsenic in the blood and urine of people living near the mine (International Cry 2010). As commented by Javier de Leon<sup>33</sup> and others, a number of people have died from water use below the mine, in addition to a number of farm animals falling victim to toxic effects of contaminated water and vegetation. The same year the Inter-American Commission ordered a suspension, the ILO also submitted its own formal request; however the government stated it would not comply with the latter (ibid). As commented by Udiel Miranda of COPAE<sup>34</sup>, to date, no international mechanism ‘has the teeth’ to ensure governments comply with international orders. This is evident even within the newly proposed UN Draft “Guiding Principles” on Human Rights and Transnational Corporations that remain “guidelines”, albeit a step towards codifying best practices (Millstein et. al. 2011: 3). This is further reflected in the case of Marlin Mine, which received funding from the IFC, an institution with stringent Performance Standards with respect to consulting and relocating indigenous peoples<sup>35</sup>. Despite mandates to cease operations from various recognized international bodies, Goldcorp yet to heed orders, nor has the government enforced such orders.

<sup>33</sup> Recorded interview, Javier de Leon, President, ADISMI, February 19, 2011

<sup>34</sup> Interview February 20, San Marcos, Udiel Miranda is a lawyer with COPAE

<sup>35</sup> See Enclosure 1 for IFC Performance Standards and Guidance Notes located on page 96.

Consequently, the lack of regulation is a highly discussed issue within the realm of CSR, as is the need to achieve greater understanding of CSR's impacts on poverty alleviation and development. While the business case for CSR is central to many debates, the people-case has yet to receive the same level of attention. Of course the business

***Marlin Mine: The Price of Gold***

*“The mine consumes 250 000 liters of water an hour. This is the amount a family of 8 consumes in 28 years. That is to say, the mine, in only one hour, is rendering a family of 8 people without water for 28 years”*

Javier de Leon, President, ADISMI  
Interview, February 19, 2011

case tends to be the most appealing to corporations but their remains a complex issues about assessing impact when there is little or no systematic regulation (Blowfield and Dolan 2010: 157). On the other hand, allowing for flexibility in impact assessments that are human-centered is necessary, as the appropriateness and efficacy of different CSR approaches will be highly influenced by context, location and circumstance (ibid: 144). Accordingly, this paper has endeavored to explore the business-case and people-case to find intersections that contribute to new methodologies that will complement each position accordingly.

Nonetheless, while CSR remains principally voluntary, one might ask what the incentive is to conduct business in a socially responsible manner. The primary response is that business can only flourish if the ecosystems and the services they provide are sustainable and healthy (Kallesoe, 2010). Humans are part of those functioning ecosystems, as is cultural biodiversity. Not only are humans dependent upon ecosystem services, so too are businesses; therefore, if there is no access to water, or natural resources business operation will be seriously compromised along with the health of a population (ibid). For instance, the lack of regulated water consumption for the Marlin Mine has raised significant concerns.

## 6. Capturing Indigenous Values and Considering Alternative Indicators

---

### 6.1 Value-Full Considerations for the Impact Assessment Process

*“...Such secondary impacts may be more difficult to manage than the primary impacts, and it may be questioned whether it is the responsibility of an oil and gas company to manage secondary impacts. However, ignoring secondary impacts may pose risks to both operations and our reputation. Accepting a social responsibility implies that we need to work with others in seeking to minimize negative impacts, whether they are directly caused by our operations or not, and strive towards contributing to overall positive and sustainable development wherever we operate.”*

Steinar Eldøy, Statoil (EBI 1999: 36)

The need for exploring new approaches has been presented throughout this paper, as well as argued by other researchers in the field of CSR. Shortcoming to current assessment processes include their primary focus on direct impacts to non-human elements while bypassing the human-environment relationship altogether. This includes the documentation of people, cultures and societies that depend upon natural resources. While social elements are becoming more integrated into the EIA process, indirect cumulative impacts are often not accounted for or measured appropriately. For instance, the culture, economics and spirituality of Aboriginal communities can be closely intertwined. Therefore, alterations in one area can simultaneously cause cultural dislocations in others (Lee 1992 cited in Hipwell *et al.* 2002). The cumulateness of Aboriginal values is unique; therefore impact must consider more holistic interdisciplinary perspectives.

While previous sections have discussed the role of new methodologies with respect to empowerment this section presents potential alternative indicators to consider in human-centered and holistic methodologies. Table 3 is one such effort to capture indigenous perspectives that are culturally specific and based upon indigenous knowledge, voices and priorities brought forth in case study research. The table endeavours to represent unique and interconnected values; however, it should be noted that while compartmentalized, the concept is holistic. Therefore, while one element may be primarily monitored its interconnectedness

with other elements must be considered indirectly or cumulatively, as explained at the inception of this paper.

## ***6.2 Application of Human-centered Approaches***

The application of new human-centered impact assessments encompasses two objectives. First, to explore a means to empowered participation through new critical stakeholder approaches discussed previously. Second, new approaches explore the human side of the human-environment relationship, bringing forth examples as to the need for holistic perspectives and indigenous worldviews, recognizing them as legitimate. However, in order for such processes to occur, there must also be a new CSR that looks to move from the realm of the business-case to the people-case, bringing the most marginalized voices to the forefront again through the application of new stakeholder practices. Ultimately, for effective CSR initiatives and positive social development outcomes, the people-case needs greater attention. The identification of indicators as presented in the following table would be determined by the indigenous peoples themselves, recognizing the diversity and uniqueness of each culture, including their development priorities. Yet again, this would require the full engagement of indigenous peoples and occur concomitantly with new critical stakeholder methodologies, if bottom-up development (Chambers, 1983) is to reflect priorities of those most impacted by business and CSR initiatives.

**Table 3: Alternative Indicators and *Holistic Perspectives for Consideration in Indigenous-centered Impact Assessments***

**Politics & Governance**

*Identity-Based Rights; Self-Determination and Sovereignty*

Issues of sovereignty<sup>36</sup> and identity-based rights must be examined and assessed in the context of a long history of struggle to gain recognition and respect as indigenous peoples, having the right to exercise self-determination over their lives, territories<sup>37</sup>, cultures and languages. The importance of indigenous peoples' sovereignty over natural resources has been further emphasized by the ongoing debates about indigenous peoples' right to self-determination and the adverse impacts of natural resource exploitation in indigenous territories. Impacts from industry result from a lack of recognition to indigenous rights.

*System of Law and Decision-making Processes*

The role of aboriginal law and the need to respect two distinct legal systems is important. This can include elements of unique decision-making processes; the role of Elders or traditional healers; and the relationship with the land. For instance, in the East Kimberley, Aborigines belonging to certain places have the right to speak for those places based on their traditional laws and customs (Doohan 2007: 5). One should be cognizant of the changes imposed through the introduction of Western law, not elucidating one as superior to the other but rather looking for forms of complementation and respect for each process. The context of time and place for making important decisions is also critical.

**Economics and Environment**

*Traditional Subsistent Economies*

Indigenous people worldwide rely upon their resource base for traditional economies as well as for subsistence purposes. Traditional economies are facing new pressures from resource development and an emerging 'dependence' on a cash economy. However, the sustainability of these traditional economies, and practices/knowledge embedded within them, are at risk. In the Sakhalin case study, indigenous peoples were traditionally self-reliant due to abundant salmon and grasslands for reindeer herding. Today they are forced to seek jobs in towns to survive due to the inability for these practices to be economically viable in a modernizing world.

*Traditional Artisanal Activities<sup>38</sup>*

In many cultures traditional artisanal activities continues to be a part of the economy. It is also how women often generate an income. However, these traditional activities face equal challenges as new economic activity moves in and may appear more lucrative. The importance of traditional artisanal activities cannot be understated however, as it often encompasses traditional knowledge within the cultural practices. Consequently, the loss of such activities can have profound effects on the survival of cultures, the continuity of traditional knowledge, the empowerment and social structure of women, the ability to generate income and the spiritual connections with resources that provide for that activity.

*Economic Development*

Economic development is not only about traditional economies but also how a dynamic and evolving culture can survive within a dual-economy world. It is about community economic development and revenue generation through new and evolving mechanism. It incorporates elements of self-determination and independence. Impacts within the realm of economic development can be both

<sup>36</sup> Inuit Circumpolar Council (2009): Circumpolar Inuit Declaration on Arctic Sovereignty. Available online at <http://www.itk.ca/circumpolar-inuit-declaration-arctic-sovereignty>

<sup>37</sup> In our culture you are born a Banjyma person with a distinct skin colour. This allows an aborigine to have sovereignty, a birth right over his or her country. Nobody can take away this right from us. This means that our communities can never be extinguished. The law is written on rocks and trees, on sacred objects and painted on our bodies. It cannot be erased as long as we are alive' (May Byrne, Australia, International Women and mining Network 2004: 53).

<sup>38</sup> In Mayan society women's weaving has embodied the esoteric designs that encoded the Mayan vision of the world. Therefore, the work of weavers was essential to the survival of important elements of ancient culture. Weaving also encompasses important social and spiritual elements as it is believed that the handling of sacred symbols keeps a girl in touch with the deities and act to empower women. (Rosenbaum, 1999)

positive and negative. If planning occurs with aboriginal peoples, including the development and support of community development plans, then many of the outcomes can be positive while negative outcomes mitigated.

## Natural Resources

### *Land and Terrestrial Resources*

The destruction of the environment is a serious insult to Aboriginal cultures that have a strong sense of responsibility towards the natural environment (Callicott, 1989). The conservation of resources that are used for subsistence should be integral to sustainable development and ethical business practices. There is an urgent need for non-indigenous societies to understand the spiritual, social, cultural, economic and political significance to indigenous societies of their lands, territories and resources for their continued survival and vitality<sup>39</sup>. In order to understand the profound relationship that indigenous peoples have with their lands, territories and resources, there is a need to recognize the cultural differences that exist between them and non-indigenous people. Moreover, attaching a positive value to these relationships is an important step to respecting and considering such differences when facing resource development.

### *Aquatic Resources*

Stream and ground water pollution can result from an array of cyanide spillages, acid mine drainage, tailings leakages and mine waste disposals all of which may deprive local communities access to water, which is a basic need for human survival. Impacts related to the consumption of large amounts of surface water are significant. Excessive dewatering can result in the lowering of the ground water table, which affects the water availability for human consumption. As many communities in developing countries already have inadequate access to clean drinking water, the change in the water table is a significant concern. Not only do they lose necessary water for their own use, they also have inadequate water for agricultural purposes which again lead to loss of income generating activities and food security. Lack of food can lead to an array of additional problems such as malnutrition, starvation and death. Lastly there is a spiritual and cultural connection to rivers and to freshwater in general<sup>40</sup>.

### *Access and Displacement*

Impeded access to traditional lands resulting from mineral developments can have a subtle, but important impact on Aboriginal cultures<sup>41</sup>. The displacement of Aboriginal Peoples from their traditional lands is argued to be a significant causal factor in a myriad of social problems including alcoholism, suicide and social disarray. Again it also affects the ability of aboriginal peoples to access resources used for subsistence purposes and may impact upon their health and food security.

### *Genetic & biological resources; biodiversity*

Genetic resources<sup>42</sup>, including medicinal plants are an important and integral element of many indigenous communities, particularly those that still rely heavily upon traditional medicines. Increased access is one of the most significant causes of depleting resources and bio-prospecting by researchers and pharmaceutical companies.

### *Climate*

Climate, sunlight, wind, the atmosphere, air quality and noise must be considered. Noise pollution from industrial activity can impact

<sup>39</sup> Comment by human rights expert Erica-Irene A Daes in final report to UN Commission on Human Rights (cited in Bianchi 2009: 3).

<sup>40</sup> "Rivers are the lifeblood of Papatūānuku that supply nourishment to her, through her, and to all living things. They are connected through whakapapa to the landscape and to the people, and as such are a source of mana and identity. *The Waiau River catchment is a Ngāi Tahu cultural landscape*. Tribal history is embedded in the river, and the lands that it flows through. Over the generations, the river, its tributaries, the vast areas of repo raupo (wetlands), waipuna (springs), and riparian areas, as well as the surrounding forests, valleys and maunga (mountains) provided tangata whenua with abundant natural resources, mahinga kai and cultural and spiritual associations" (Jolly, 2004).

<sup>41</sup> The drop in water levels in the Athabasca River resulted in a further drop in wildlife. It also had a negative impact on Mikisew culture by making it more difficult to visit traditional hunting and spiritual gathering sites. The inability to use the waterways to travel across the territory has also made the teaching of language and traditions more difficult (Bianchi 2009: 7).

<sup>42</sup> Genetic resources are described as any plant, animal, or microbial material that contains functioning genes that could be of actual or potential value Available at: [http://www.cbin.ec.gc.ca/apa-abs/accessing\\_genetic\\_e.pdf](http://www.cbin.ec.gc.ca/apa-abs/accessing_genetic_e.pdf)

upon wildlife and human quality of life (peacefulness). Contaminated air resulting from emissions, either due to transportation, (air and ground travel) and emissions from industrial production (i.e. flaring) can have significant consequences on indigenous communities living near the project site. Various health concerns have been raised due to the decrease in air quality (respiratory distress).

## Socio-Cultural Aspects

### History

The history of an indigenous population is an important element to understand when interacting with them. History connects people to their lands and resources, it is a fundamental element of traditional use studies in which people retrace their ancestor's steps and understand where they came from. Elders are often considered *history keepers* and stories are commonly shared orally, from one generation to the next. As such, history is integral to the ongoing understanding and cultural awareness of new generations. Unfortunately, in many cases, indigenous peoples worldwide have experienced a long history of discrimination and oppression. Therefore, it is equally important to understand these elements to deal empathetically with some situations and understand factors which may influence social behaviour and the development of trusting relationships.

### Demographics

Dramatic population increases or decreases are important indicator of social impacts (Asselin & Parkins 2009). Major influxes or losses to a population can have significant impacts on a community, particularly if they have not had much experience with the 'outside' world. Migration can cause significant increases to the cost of living (housing and food security), dilute the language and culture of the region and bring racism and discrimination towards a misunderstood population. Equally difficult is outmigration, as it has impacts on the family unit and creates further strain on women who are often left to raise and support children.

### Language

Language is a web of history that binds people together (Aristar, 2009). Language defines a culture, both through what it allows people to share and how they are able to express themselves. Words that, in one language, describe a particular idea may not be translatable into another<sup>43</sup>. As with many indigenous languages, they are based upon oral histories and accounts which share traditions, stories, songs, and events passed on to younger generations. There may be no equivalent written form to share this language. Therefore, with the extinction of a language, an entire culture can be lost, as can the associated knowledge it carries.

### Learning

From an aboriginal perspective, learning is much more than just an individual pursuit, it is a holistic process that nurtures relationships between the individual, the family, the community and Creation; it is a process of transmitting values and identity; it ensures cultural continuity; and its importance to individual cannot be separated from its value to collective well-being (Capon 2008: 61). Aboriginal learning styles can be impacted through the introduction of new western style education. While both are necessary to find balance in two worlds, it is important that one system of learning does not replace the other.

### Kinship and Social Collectiveness

Kinship, family and collectiveness are all very important features of society for most indigenous peoples and is a trait that tends to be shared across various different aboriginal cultures globally. This is very much the case for Australia's Aboriginal people where *kinship is fundamental to the social, economic and ceremonial practices of the Gija, Miriwoong and Malngin. It is a powerful and pervasive aspect of people's lives in that it provides a kind of ,map', or ,blue print' of an individual's connections to others and to the land* (Doohan 2007: 191). Impacts that may disrupt these values include inflexible work schedules, significant time away from family, internal disputes that arise through poor negotiations, the exclusion of communities or groups within communities (youth) may result in internal fractures.

<sup>43</sup> National Geographic (2010): Disappearing Languages: Enduring Voices – Documenting the Planet's Endangered Languages

<i>Song, Art, Dance, Recreation &amp; Sport</i>	Music, song and dance is an important element of Aboriginal life and customs and often practiced at large ceremonial gatherings when people gathered to celebrate and trade goods. Song and dance is a unique aspect of culture and often passed down from one generation to another. As with many cultural practices, it is tied to the land, in one way or another, and is considered a sacred practice.
<i>Spirituality, Belief Systems and Sacred Sites</i>	Mineral exploration and development can occur with little regard for the possible existence of sites held to be sacred by Aboriginal Peoples. These may include burial grounds, sites of worship, or areas with special significance in spiritual belief systems. When sacred sites are disrespected and/or destroyed it can result in emotional and spiritual distress, and can ultimately lead to hostility and conflict towards resource companies.
<i>Health and Well-being, Food and Human Security</i>	Numerous health impacts may result from mining development including increased rates of alcoholism and sexually-transmitted diseases as a result of in-migration of miners from outside the area; increased levels of family violence due to changes in the socio-economic structure of the community; and decreased access to traditional foods. These impacts can also result from new and conflicting human activities in traditional harvesting areas <sup>44</sup> . Additionally, poor water quality, decreased access and availability of water, contamination in soil, water and marine species can all contribute to decreased food security; increased cost of living and food; a change of diet; decreased health and associated health risks.
<i>Gender<sup>45</sup></i>	Whiteman and Blacklock (2000 cited in Hipwell et al. 2002: 11) suggest that the differential impacts of mining operations on women fall under three broad categories: a) health and well-being; b) women's work/traditional roles; and c) gender inequalities in the economic benefits of mining activities ( <i>ibid</i> ). However, one can add volumes to the impacts upon women, particularly in instances where they are a marginalized sector of society, which is most often the case. Indirectly, women and children often bear the responsibility of providing for the water needs of the family; therefore the loss of potable water means more work for community women and girls. When community streams are destroyed, women and children spend several hours to walk significant distances searching for water. Not only is this tiresome and time-consuming, it generally has negative consequences on children's educations (primarily girls) as they are removed from school to collect water throughout the day.
<i>Limitations/ Challenges</i>	The above categories are illustrations of unique value-systems and <i>valued ecosystem components</i> of a diversity of indigenous peoples. This is not meant to be representative of one or all values. All such impact categories/indicators must be determined by indigenous people and although compartmentalized, not to be measured exclusively as such, but rather through direct and indirect or cumulative impacts. Impact and CSR/mitigation planning should be conducted through impact mapping exercises.

<sup>44</sup> Persistent Organic Pollutants (POPs) are of great concern, particularly in northern and Arctic climates where marine species are traditionally part of the diet<sup>44</sup>. Consequently, they are often found in high concentrations in the traditional diets of Inuit and other northern aboriginal peoples that consume marine species.

<sup>45</sup> "The mine has brought rapid changes in the lives of people, especially in women, youths, children such as domestic violence, social welfare problems, drug abuse by children, wife beatings, sexual aberrations, commercial sex trade, marital discord, diseases such as HIV-Aids VD (Venereal Disease) and others, sexual abuse, rape, drinking alcoholism, high drop-out rate and reproductive health problems" (International Women and Mining Network 2004: 42)

## 7. Conclusions: Going Above and Beyond

---

In the end, the purpose of this research was to discover how business can fully engage indigenous peoples, shift the balance of power and support sustainable development goals of the communities within which they operate. This section concludes with critical findings to critical research questions. Research journeyed through literature reviews, case studies and gap analysis and provided an analysis of power dynamics in current IA, stakeholder and CSR processes related to knowledge, capacity and participation that foster or impede indigenous peoples' participation in decision-making and the development process. Findings in turn, were used to uncover the development of new human-centered approaches that support both the business case and the people's case, moving from the former to the latter in an attempt to find equilibrium, bringing an indigenous voice to the forefront.

### 7.1 Remove Barriers

*“Development consists of the removal of various types of unfreedoms that leave people with little choice and little opportunity of exercising their reasoned agency”*

*Sen, 1999: xii*

#### ***A Right to Know & A Right to Participate: What can Identity-based rights provide?***

*Globally, indigenous peoples have unique rights associated to land and resources, highlighted through numerous international agreements that recognize indigenous peoples' **right to knowledge** via consultation and free, prior and informed consent; and their **right to meaningful participation** in decision-making regarding natural resource development (Stevenson 1996: 279). Other agreements identify their right to self-determination and self-development while explicitly mandating the need to recognize indigenous land rights and need to compensate indigenous peoples when their land is negatively impacted by resource development. (Whiteman and Mamen 2002: 4).*

*Agenda 21, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the IFC Performance Standards, World Bank Policy Directives on Indigenous Peoples, and ILO Convention 169 collectively recognize indigenous land should be protected from culturally and environmentally unsound activities, due to the dependence of indigenous peoples upon healthy, functioning ecosystems (Information Habitat 2010).*

A principle first step in the discovery of new human-centered approaches is the removal of barriers facing “critical stakeholders” and indigenous participation. In arguments presented throughout this paper, barriers to participation centered on power; power in knowledge, power in capacity and power in participation. However, power also rests with legal authority and the recognition of identity-based rights. Indigenous peoples have the right to knowledge (free, prior and informed consent) and the right to participate, as mandated in various international agreements (*see text box on page 64*)<sup>46</sup>. Therefore, recognizing such rights is critical to empowerment and a significant factor in removing barriers to knowledge and participation, which in turn contributes to increased capacity.

### ***7.2 Introduce a New Critical Stakeholder Theory***

The intention of uncovering a new critical stakeholder approach is unequivocally to remove barriers facing disempowered groups participation, in this case indigenous peoples impacted by resource development activities. Consequently, the need to re-examine current stakeholder approaches and their embedded power is necessary. How stakeholders are identified and enabled to participate via culturally appropriate methodologies, is integral to capturing voices of those that today find themselves on the margins or excluded altogether. Business should revisit who is considered to have the most at stake, recognizing the immense consequences of environmental impacts on socio-cultural indicators, the value of a heterogeneous society and that corporate views on development and consultation will be vastly different from those of indigenous communities.

### ***7.3 Understand the Impacts of Business for Effective CSR***

Much akin to the previous conclusion, understanding the extent of impacts of business and CSR requires the exploration of new critical stakeholder approaches, which in turn contribute to bottom-up, human-centered impact assessments. By improving stakeholder accessibility

---

<sup>46</sup> See Appendix B: International Frameworks for further details of recognized Indigenous rights.

and removing barriers to participation, business can have more effective CSR by understanding its impacts on societies, particularly those dependent upon healthy and functioning ecosystems.

Nonetheless, while business continues to be disconnected from resource values that are of importance to indigenous communities, CSR initiatives will not reflect their wishes or needs, and in turn, fail to have significant development outcomes. As a result, new holistic perspectives and empowered communities will only improve CSR initiatives, mitigate negative impacts upon indigenous communities, and address the gaps between intention and impact in the real world (Frynas 2011: 581).

## ***7.4 Realize New Human-Centered Impact Assessments***

### ***7.4.1 Shift Power***

Ultimately, shifting power is central to human-centered approaches. However, this can only be achieved by addressing behavioral and structural power disparities in current approaches and changing them to empower the full participation and human agency of indigenous counterparts. Again, new stakeholder approaches are one such step and an integral element in new human-centered methodologies that together aspire to alter power imbalances. Both hinge on understanding peoples' ambitions and goals for the future. Both allow for the holistic values of indigenous communities to be presented alongside the potential impacts that can evolve from resource development activities. Together they promote the discovery of *intersections* between two worlds of knowing and two worlds of being. In doing so, it can promote socially responsible business in indigenous territory.

### ***7.4.2 Discover Intersection between Knowledge and Development Perspectives***

Business and indigenous peoples will continually find themselves dealing with one another; therefore, the need to find collaborative human-centered approaches is imperative. Discovering the intersections between scientific approaches and traditional expertise, between

rights and resources (Newell and Wheeler 2006:1), will contribute greatly to improved impact assessments and development initiatives that reflect the needs, concerns and development priorities of indigenous peoples. At present current IA and CSR approaches still tend to favour a more scientific approach, while in fact the two epistemologies can significantly complement one another. Therefore legitimizing indigenous knowledge will allow for more positive development outcomes in the realm of IAs, CSR and community development. Proposed human-centered approaches are based upon indigenous input that reflects their unique value systems and human-environment interconnectedness. Therefore, indigenous people must be empowered to bring forward these value systems, which should subsequently be integrated into the planning of business and CSR activities. It should be noted however, this must also encompass the power to change, reform or veto activities that will irreparably impact their livelihoods.

Case study findings were indicative of what was needed to remove barriers and collate indigenous and scientific knowledge. In the end, many of the secondary case studies were examples of business improving its engagement and consultation practices significantly; however, none appeared to follow a systematic process. Rather they were done through a series of ad-hoc consultation approaches that were independent for each case. While flexibility is critical in a human-centered approach aimed to empower indigenous participation and reflect a diversity of worldviews, there is the need for more stringent mechanisms, such as EIAs, that benefit from rigorous regulatory frameworks.

By empowering voices and removing barriers, business will be better suited to capture impacts and likewise, play a significant part in the development process. However, this requires new outlooks, and new perspectives. It requires the recognition that in the pursuit of development economic growth does not mean poverty reduction or signify that marginalized groups become empowered. Therefore business and CSR initiatives should be cognizant of wealth

distribution, power dynamics and development priorities of indigenous peoples. There should also be an awareness of the local and oftentimes different context within which business may be operating, for instance in areas of conflict, unethical labor standards and diverging gender roles. Understanding context will help businesses avoid participating in behaviour that may only further impoverish or disempower people.

In conclusion, recognizing legal frameworks and going beyond the minimum requirements, particularly when weak governance and regulatory frameworks exist, re-examining critical stakeholders and understanding indigenous worldviews are necessary to 1) remove barriers facing indigenous participation 2) reflect development priorities and alternative worldviews and 3) improve CSR effectiveness to reflect cultural contextuality. As Blowfield (2005: 504) questions, *“does effective CSR require good governments or does weak governance allow for business to exploit social and environmental conditions?”* It is hoped that, where rule of law is weak, voluntary approaches might encourage business to initiate higher levels of performance standards than those required for local legal compliance (Blowfield and Frynas 2005: 502).

In the end, increasing performance measures and assessing corporate impact would aim to move from strictly voluntary to new disciplines of human-centered methodologies and stakeholder approaches that systematically empower indigenous counterparts by removing capacity, participation and knowledge-sharing barriers and in turn, cultivate capabilities (Sen, 1999), empower human agency, reflect alternative worldviews and foster community development goals. It is then that we may see socially responsible business in indigenous territory.

## References

---

Aboriginal and Torres Strait Islander Social Justice Commissioner (2006) *Native Title Report*, Human Rights and Equal Opportunity Commission. Australia.

ACIL Consulting Pty Ltd (ACIL) and Indigenous Support Services (2001) *Agreements between Mining Companies and Indigenous Communities: A Report to the Australian Minerals and Energy Environment Foundation*. ACIL & ISS.

Altman, J., Martin, D. (2009) *Power, Culture, Economy: Indigenous Australians and Mining*, The Australian National University E Press.

Arctic Council Protection of the Arctic Marine Environment Working Group (2009) *Arctic Offshore Oil and Gas Guidelines*. PAME.

Aristar, A (2009) Losing your Tongue: World's Top Endangered Language Experts Gather. *Science Daily*. Available at <http://www.sciencedaily.com/releases/2009/11/091102085834.htm>

Argyle Diamonds (n.d.) *The Argyle Participation Agreement: Breaking New Ground*, Information Brochure.

Asselin, J. Parkins J.R. (2009) Case Study as Social Impact Assessment: Possibilities and Limitations for Anticipating Social Change in the Far North, *social indicators* 94:3, 483-497.

Barkemeyer, R., (2009) Beyond compliance – below expectations? CSR in the context of international development, *Business Ethics*, 18:3, 273-289.

Berger, T.R. (1977) *Northern Frontier, Northern Homeland*. The Report of the Mackenzie Valley Pipeline Inquiry.

Bergmann, W. (2009) Chief Executive, Kimberley Land Council, Aboriginal Social Impact Assessment. Available online at: <http://klc.org.au/gas/aboriginal-social-impact-assessment/>

Blowfield, M. (2007) Reasons to be Cheerful? What we know about CSR's impact. *Third World Quarterly*. 28:4, 683-695.

Blowfield, M. (2005) Corporate Social Responsibility: Reinventing the Meaning of Development? *International Affairs*, 81:3, 515-524

Blowfield, M., Dolan, C. (2010) Fairtrade Facts and Fancies: What Kenyan Fairtrade Tea Tells us About Business' Role as Development Agent, *Journal of Business Ethics*, 93, 143-162.

Blowfield, M., Frynas, J.G. (2005) Setting New Agendas: Critical perspectives on Corporate Social Responsibility in the Developing World, *International Affairs* 81, 499-513.

- Bologna, S.A. (2008) Stakeholders and stickholders: power and paradigms in a South African development context, *Anthropology Southern Africa*, 3:3&4, 123-130.
- Bronner, S.E., Kellner, D.M. (1989) *Critical Theory and Society*, Routledge, London, U.K.  
<http://gseis.ucla.edu/faculty/kellner/essays/criticaltheorysociety.pdf>
- Brueckner, M., Mamun, M.A., (2010) Living Downwind from Corporate Social Responsibility: a community perspective on Corporate Practice, *Business Ethics*, Blackwell Publishing Ltd., 19:4, 326–348.
- Bryman, Alan (2004) *Social Research Methods*, Oxford, Oxford University Press.
- Byrne, S. (2009) Persistent Organic Pollutants in the Arctic. *A Report for the Delegates of the 4th Conference of the Parties Stockholm Convention on Persistent Organic Pollutants*. Alaska Community Action on Toxins (ACAT), Anchorage, AK.
- Centre for Indigenous Environmental Resources Inc. (2009) *Meaningful Involvement of Aboriginal Peoples in Environmental Assessment: Final Report*. CIER Inc.
- Chambers, R. 1983. *Rural development: Putting the first last*. London:Longman Group.
- Creswell, John W. (2007) *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, Thousand Oaks, Sage.
- Cleghorn, C. (1999) Aboriginal Peoples and Mining in Canada: Six Case Studies: MiningWatch Canada Available online at <http://www.miningwatch.ca/en/aboriginal-peoples-and-mining-canada-six-case-studies>.
- Corbridge S. (1998) Development Ethics: Distance, difference, plausibility *Philosophy & Geography*, 1090-3771, Volume 1:1, 35 – 53.
- Deakin (1978) Ethnography (pp.159-161) cited in Doohan, K.E., (2007) 'Making Things Come Good' Aborigines and Miners at Argyle: A thesis submitted in fulfillment of the requirements for the requirements for the degree of Doctor of Philosophy, Department of Human Geography, Macquarie University.
- Doohan, K.E., (2007) 'Making Things Come Good' Aborigines and Miners at Argyle: A thesis submitted in fulfillment of the requirements for the requirements for the degree of Doctor of Philosophy, Department of Human Geography, Macquarie University.
- Doohan, K.E.(2006) *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner*, Interview, cited in social justice report available online at:  
[http://www.hreoc.gov.au/social\\_justice/nt\\_report/ntreport06/chp\\_5.html#](http://www.hreoc.gov.au/social_justice/nt_report/ntreport06/chp_5.html#)

- Donaldson, T., Preston, L. (1995) The stakeholder theory of the modern corporation: Concepts, evidence and implications. *Academy of Management Review* 20, 65-91.
- Duarte, F. (2010) Corporate Social Responsibility in a Brazilian Mining Company: “official” and divergent narratives, *Social Responsibility Journal*, 6:1, 4-17.
- Egels-Zanden, N., Sandberg, J. (2010): Distinctions in Descriptive and Instrumental Stakeholder Theory: A Challenge for Empirical Research *Business Ethics: A European Review* 19:1, 35-49.
- European Commission (2001): Promoting a European framework for corporate social responsibility, *green paper*, Commission of the European Communities, Brussels.
- Fidler, C. (2010): Increasing the sustainability of resource development: Aboriginal engagement and negotiated agreements. *Environmental Development Sustainability*, 12, 233-244.
- Finer, M. Jenkins, C.N., Pimm, S.L., Keane, B., and Ross, C. (2008): Oil and Gas Projects in the Western Amazon: Threats to Wilderness, Biodiversity, and Indigenous Peoples. *PLoS ONE* 3:8.
- Freeman, R. E. (1984) *Strategic management: A stakeholder approach*. Boston: Pitman.
- Freeman, R.E., Wicks, A.C., Parmar, B (2004) Stakeholder Theory and “The Corporate Objective Revisited”, *Organizational Science*, 15:3, 364-369.
- Frynas, J.G., (2005) The False Development Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies, *International Affairs*, 81:3, 581-598.
- Frynas, J. G. (2011) The Development Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies. *International Affairs*, 81:3, 581-598.
- Fulmer, A.M., Godoy, A.S., Neff, P. (2008) Indigenous Rights, Resistance, and the Law: Lessons from a Guatemalan Mine, *Latin American Politics and Society*, 50:4, 91-121.
- Gamble, D.J. (1978) An Impact Assessment Process: The Mackenzie Valley Pipeline Inquiry represents and innovation in the Canadian Decision-making Process. *Science*. American Association for the Advancement of Science, 199:4332, 956-952.
- Garnett, S.T., Crowley, G.M., Hunter-Xenie, H., Kozanayl, W., Sithole, B., Palmer, C., Southgate, R., Zander, K.K. (2009) Transformative Knowledge Transfer Through Empowering and Paying Community Researchers. *Biotropica*, 41:5, 571-577.
- Ghosh, K. (2006) “Between global flows and local dams: Indigenoussness, locality, and the transnational sphere in Jharkhand, India.” *Cultural Anthropology*, 21: 4, 501–534.

Girvan, N. (2007) Power Imbalances and Development Knowledge, *Southern Perspectives on Reform of the International Development Architecture* Professorial Research Fellow, Graduate Institute of International Relations, University of the West Indies, Trinidad and Tobago.

Goldzimer, A. (2005) Peru: Camisea Gas and Gas Liquids Project. *Environmental Defense*. cited in Goodland, R. (2005) Oil and Gas Pipelines Social and Environmental Impact Assessment: State of the Art, International Association of Impact Assessments (IAIA), Fargo, USA.

Goodland, R. (2005) Oil and Gas Pipelines Social and Environmental Impact Assessment: State of the Art, International Association of Impact Assessments (IAIA), Fargo, USA.

Greene, M. (2010) ICC Keynote Remarks. NANA Regional Corporation. Presented at Inuit Circumpolar Council General Assembly, Nuuk, Greenland.

Government of Canada (2008) Aboriginal Consultation and Accommodation Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, Ottawa, Canada.

Gupta, K. (2007) *A Practical Guide to Needs Assessment*. John Wiley & Sons.

Habermas, J. (1962; English Translation 1989) *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Thomas Burger, Cambridge Massachusett: Polity Press.

Hegman, G., Cocklin, C., Creasey, R., Dupuis, S., Kennedy, A., Kingsley, L., Ross, W., Spaling, H., Stalker., D. and AXYS Consulting Ltd. (1999) Cumulative Effects Assessment Practitioners' Guide. The Canadian Environmental Assessment Agency. Available online at <http://www.ceaa-acee.gc.ca/>

Hipwell W., Mamen, K., Weitzner, V., & Whiteman, G. (2002) Aboriginal Peoples and Mining in Canada: Consultation, Participation and Prospects for Change Working Discussion Paper, The North-South Institute.

Hohnen, P., Potts, J. (2007) *Corporate Social Responsibility: An Implementation Guide for Business*, International Institute for Sustainable Development.

Horsewill, D., Riley, D., Parker, D. (n.d.) Zinc and Sustainable Development: The Case of the Red Dog Mine, Cominco Ltd.

ICME (1999) Mining and Indigenous Peoples: Case Studies, The International Council on Metals and the Environment, Ottawa, Ontario.

ICMM (2010) Indigenous Peoples and Mining Good Practice Guide. International Council on Mining and Metals.

International Finance Corporation ( 2002) *“Developing Value: The business case for sustainability in emerging markets,”* Sustainability and Ethos.

Indian and Northern Affairs Canada (1996) The Royal Commission on Aboriginal Peoples. People to people, nation to nation: Highlights from the report of the Royal Commission on Aboriginal Peoples, Minister of Supply and Services Canada.

Information Habitat: Where Information Lives (n.d.) Agenda 21, Chapter 26: Recognizing And Strengthening The Role Of Indigenous People And Their Communities. Available online: <http://habitat.igc.org/agenda21/a21-26.htm>

International Indian Treaty Council (2010) Indigenous Peoples and the Right to Free, Prior and Informed Consent. Available online at [http://www.treatycouncil.org/PDFs/FPIC\\_ENG\\_110908WEB.pdf](http://www.treatycouncil.org/PDFs/FPIC_ENG_110908WEB.pdf)

International Finance Corporation (2007) International Finance Corporation’s Guidance Notes: Performance Standards on Social & Environmental Sustainability Performance Standards available at: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_GuidanceNote2007\\_full/\\$FILE/2007+Updated+Guidance+Notes\\_full.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_full/$FILE/2007+Updated+Guidance+Notes_full.pdf)

International Women and Mining Network (2004), *Defending Our Lives, Demanding Our Rights* Organized by mines, minerals & PEOPLE, III International Women & Mining Conference, India

IPIECA (2010) Community Engagement. The Global Oil and Gas Industry Association for Environmental and Social Issues. Available online at <http://www.iecea.org/topic/social-responsibility/community-engagement#ti2372>

International Women and Mining Network (2004) III International Women & Mining Conference, Theme: “Defending Our Lives, Demanding Our Rights” Organized by mines, minerals & PEOPLE, India.

Inuit Circumpolar Council (2009) Circumpolar Inuit Declaration on Arctic Sovereignty. Available online at <http://www.itk.ca/circumpolar-inuit-declaration-arctic-sovereignty>

Jolly, D (2004) *Waiau River Catchment: Tangata Whenua Values Report*, Report No. U04/72, Te Rūnanga o Kaikōura and Environment Canterbury.

Kallesoe, M. (2010) Accounting for Nature: The case for corporate ecosystem valuation. *The European Business Review*.

Koljatic, M., Silva, M. (2010) Differences in the impact assessment of social initiatives carried out by private firms and civil society organizations: evidence from Ibero-America. *Social Responsibility Journal*, 6:3, 374-385.

Koenig, K., Soltani A. (2005) Case 5 Ecuador: Crude Oil Pipeline cited in Goodland, R. (2005): Oil and Gas Pipelines Social and Environmental Impact Assessment: State of the Art, International Association of Impact Assessments (IAIA), Fargo, USA.

Lane, M.B., Ross, H., Dale, A.P., Rickson, R.E. (2003) Environmental Conflicts: sacred land, mineral wealth, and biodiversity at Coronation Hill, Northern Australia: indigenous knowledge and SIA. *Impact Assessment and Project Appraisal* 21(2), pp. 89-98, Watford Close, Guilford, Surrey.

Lertzman, D.A., Vredenburg, H. (2005) Indigenous Peoples, Resource Extraction and Sustainable Development: An Ethical Approach. *Journal of Business Ethics*, 56, 239-254.

Mackenzie Valley Environmental Impact Review Board (2007) Report of Environmental Assessment and Reasons for Decision on Ur Energy Inc. Screech Lake Uranium Exploration Project (EA 0607-003).

Millstein I. M. Reiss, S.A, Gregory, H.J. (2011) U.N. Draft "Guiding Principles" on Human Rights and Transnational Corporations, *Memorandum*, Weil, Gotshal & Manges LLP.

Mikkelsen, B. (2005) *Methods for Development Work and Research: A New Guide for Practitioners*. Sage Publications Ltd.

Molm, L.D., (1985) Relative Effects of Individual Dependencies: Further Tests Between Power Imbalance and Power Use, *Social Forces*, 63(3), pp. 810-837, The North Carolina Press.

Molm L. D., (1981) Power Use in the Dyad: The Effects of Structure, Knowledge and Interaction History, *Social Psychology Quarterly*, 44(1), pp. 42-48.

Munoz Tellez, V. (n.d.) Recognising the traditional knowledge of the San people: The Hoodia case of benefit-sharing. NGOs, Intellectual Property Rights and Multilateral Institutions. Available online at <http://www.ipngos.org/NGO%20Briefings/Hoodia%20case%20of%20benefit%20sharing.pdf>

Nakashima, D. (1990) Application of Native knowledge in EIA: Inuit, Eiders and Hudson's Bay Oil', Hull, PQ. Canadian Environmental Assessment Research Council

NANA Regional Corporation and Cominco Alaska Incorporated (1982) *Development and Operating Agreement Between NANA Regional Corporation Inc. and Cominco Alaska Incorporated*.

National Geographic (2010) Disappearing Languages: Enduring Voices – Documenting the Planet's Endangered Languages available at: <http://travel.nationalgeographic.com/travel/enduring-voices/>

Newell, P., Wheeler, J. (2006): Rights, Resources and the Politics of Accountability. Zed Books Ltd.

Norlen D. (2005) *Case Study 9 Russia: Sakhalin II Gas and Oil Pipeline: Behemoth with a Bad Attitude*

- Shuns Best Practices, Risks Extinction, and Threatens an Island's Fisheries* cited in Goodland (2005)  
 Goodland, R. (2005) Oil and Gas Pipelines Social and Environmental Impact Assessment: State of the Art, International Association of Impact Assessments (IAIA), Fargo, USA.
- O'Faircheallaigh, C. (2009) Effectiveness in Social Impact Assessment. *Impact Assessment and Project Appraisal*. 27:2, 95-110.
- O'Faircheallaigh, C. (1999): Making social impact assessments count: A Negotiations-Based Approach for Indigenous Peoples, *Society and Natural Resources* 12, 63-80.
- Pedersen, E.R.G. (2011): All animals are created equal, but...management perceptions of stakeholder relationships and societal responsibilities in multinational corporations. *Business Ethics*, 20:2, 177-188.
- Prieto-Carron, M., Lund-Thomsen, P., Chan, A., Muro, A., Bhushan, C. (2006) Critical perspectives on CSR and development: what we know, what we don't know, and what we need to know. *International Affairs* 82:5, 977-987.
- Reemtsma, K., Briones, S., Ibero, M. (2008) Informe de investigación sobre Guatemala: Proyecto Xalalá ¿Desarrollo para todos? CIFCA
- Robbins, S.P., Chatterjee, P., & Canda, E.R. (1998) *Contemporary Human Behavior Theory*. Boston: Allyn & Bacon.
- Rosenbaum, B.P. (1999) "Mayan Women, Weaving and Ethnic Identity: a Historical Essay", in *Mayan Clothing and Weaving Through the Ages*,. Guatemala: Museo Ixchel del Traje Indígena. The Symbolic Associations topic refers specifically to data collected from Mayan women in the Tzotzil town of San Juan Chamula, in Chiapas, Mexico, 157-169.
- Sadan, E. (1997) *Empowerment and Community Planning: Theory and Practice of People-Focused Social Solutions*. Tel Aviv: Hakibbutz Hameuchad Publishers [in Hebrew].
- Sakhalin Energy (2008) Indigenous People: Sakhalin Energy's social projects – recognized among the best. Available online at: <http://www.sakhalinenergy.com/en/default.asp?p=channel&c=4&n=294>
- Sakhalin Energy Investment Company Ltd. (n.d.) Social Impact Assessment: Indigenous Peoples' Consultation Programme (Chapter 6). SEIC Ltd.
- Sakhalin Energy Investment Company Ltd. (2006) Sakhalin Indigenous Minorities Development Plan First Five-Year Plan (2006-2010), Sakhalin II Phase 2 Project. SEIC Ltd.
- Sallenave, J. (1994) Giving Traditional Knowledge its Rightful Place in Environmental Impact Assessment. *Northern Perspectives*, 22:1, 1-7.

Salmo Consulting Inc., Axys Environmental Consulting Ltd., Forem Technologies, Wildlife & Company Ltd. (2004) Deh Cho Cumulative Effects Study Phase 1: Management Indicators and Thresholds.

Sanchez, G. (2007) Cases of Good Practices of Business Social Responsibility Guatemala 2006. Centrase.

Sawyer, S., Gomez, E.T. (2008) Transnational Governmentality and Resource Extraction. Indigenous Peoples, Multinational Organizations, Multilateral Institutions and the State. Identities, Conflict and Cohesion Programme Paper Number 13, United Nations Research Institute for Social Development.

Scheyvens R. and Storey, D. (2003) *Development Fieldwork: A Practical Guide*, London, Sage.

Searle, G. (n.d.): Project Management and Society – A case study from the Sakhalin II Phase 2 Project, Sakhalin Energy Investment Company Ltd.

Sen, A. (1999) *Development as Freedom*, Oxford University Press.

Silverman, David (2005) *Doing Qualitative Research*, London, Sage.

Solano, L. (2005) Guatemala petróleo y minería en las entrañas del poder, Guatemala City; *Infopress Centroamericano*.

Stevenson, M. G. (1996) Indigenous Knowledge in Environmental Assessment. *Arctic*, 49:3, 278-291.

Supreme Court of Canada (1997): Delgamuukw vs. British Columbia. Judgements of the Supreme Court of Canada. Available online at <http://scc.lexum.umontreal.ca/en/1997/1997scr3-1010/1997scr3-1010.html> .

The Energy and Biodiversity Initiative (n.d.): Integrating Biodiversity Conservation into Oil and Gas Development. The EBI group. Available online at <http://www.theebi.org/products.html>

The Energy and Biodiversity Initiative (2003) Good Practice in the Prevention and Mitigation of Primary and Secondary Biodiversity Impacts. The EBI group.

The Interorganizational Committee on Principles and Guidelines for Social Impact Assessment (2003) US principles and guidelines Principles and guidelines for social impact assessment in the USA, *Impact Assessment and Project Appraisal*, 21: 3, 231–250.

UN Global Compact and the International Finance Corporation (2009) Corporate Governance: The Foundation for Corporate Citizenship and Sustainable Business. UN Global Compact and the IFC.

Weitzner, V. (2006) 'Dealing Full Force': Lutsel K'e Dene First Nation's Experience Negotiating with Mining Companies. The North-South Institute and Lutsel K'e Dene First Nation.

Winds and Voices Environmental Services Inc. (2000) Determining Significance of Environmental Effects: Aboriginal Based Criteria for Determining the Significance of Environmental Effects. WAVES.

Whiteman, G., Mamen, K. (2002) Meaningful Consultation and Participation in the Mining Sector? A Review of the Consultation and Participation of Indigenous Peoples within the International Mining Sector. The North-South Institute.

Wood, J. T. (1997) *Communication Theories in Action*. Belmont, CA: Wadsworth Publishing Co.

Yagenova, S., Garcia, R. (2009) Indigenous People's Struggles Against Transnational Mining Companies in Guatemala: The Sipakapa People vs GoldCorp Mining Company, *Socialism and Democracy*, 23:3, 157-166.

Yin, Robert (2003) *Case Study Research: Design and Methods*, Thousand Oaks, Sage.

## **Websites**

COPAE (Pastoral Commission Peace and Ecology) <http://www.resistance-mining.org/english/index.php>, retrieved 2011-03-03

Holt-Giménez, E., Spang, L. (2005) Glamis in Guatemala: A Project Alert on the Marlin Mine at the Bank Information Center. <http://www.bicusa.org/en/Article.2019.aspx>, retrieved on 2011-03-01

International Association for Impact Assessment (IAIA) <http://www.iaia.org>, retrieved 2010-10-10

Indian and Northern Affairs Canada (2010): Acts. Available online at: <http://www.ainc-inac.gc.ca/al/abr/lgis-eng.asp>

International Cry (2010) Guatemala to Suspend Goldcorp's Marlin Mine <http://upsidedownworld.org/main/news-briefs-archives-68/2574-guatemala-to-suspend-goldcorps-marlin-mine>, retrieved on 2011-04-04

International Rivers, Xalala Dam <http://www.internationalrivers.org/guatemala/xalala-dam>, retrieved 2011-04-10

Napier, A., (n.d.) Empowerment Theory, [http://www.malone.edu/media/1/7/71/Empowerment\\_Presentation\\_A\\_Napier.s06.pdf](http://www.malone.edu/media/1/7/71/Empowerment_Presentation_A_Napier.s06.pdf), retrieved 2011-04-16

Australia Human Rights Commission, Aboriginal and Torres Strait Islander Social Justice Native Title Report 2006, [http://www.hreoc.gov.au/social\\_justice/nt\\_report/ntreport06/index.html](http://www.hreoc.gov.au/social_justice/nt_report/ntreport06/index.html), retrieved 2010-10-01.

Natural Resources Canada, Environmental Assessment, <http://www.nrcan.gc.ca/com/envamb/impact-eng.php>, retrieved 2010-09-30

Nisgua, Xalala Dam [http://www.nisgua.org/themes\\_campaigns/index.asp?cid=1131](http://www.nisgua.org/themes_campaigns/index.asp?cid=1131), retrieved on 2011-02-10

Rights Action (2006) Xalala Dam: Water Privatization, Global Exchange website, <http://www.globalexchange.org/countries/americas/guatemala/4343.html>, retrieved 2011-04-10

Seiler, (n.d.) Critical Theory, <http://people.ucalgary.ca/~rseiler/critical.htm>, retrieved on 2011-04-01

Sustainalytics, Goldcorp Inc., Controversy Report, <http://www.sustainalytics.com>, retrieved 2011-02-28

The World Bank Operational Manual (1991): Operational Directive 4.20: Indigenous Peoples. [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol\\_IndigPeoples/\\$FILE/OD420\\_IndigenousPeoples.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_IndigPeoples/$FILE/OD420_IndigenousPeoples.pdf), retrieved on 2010-12-01

United Nations Development Program (2010) The Millennium Development Goals, <http://www.undp.org/mdg/basics.shtml>, retrieved on 2010-12-02

United Nations Environment Program (2010) Stockholm Convention Factsheet <http://www.pops.int>, retrieved on 2010-11-20

United Nations Global Compact (2010) The Ten Principles <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>, retrieved 2010-12-10

UNPO (2010) Development of Natural Resources in Minority Regions, *Unrepresented People and Nations*, <http://www.unpo.org/article/12083>, retrieved 2011-01-11

United Nations University, Environmental Impact Assessment Open Educational Resource <http://eia.unu.edu/about.html>, retrieved 2010-11-11.

## ***Interviews***

Cairns, Sue (Senior Resource Coordination Officer, First Nations Initiative Division, Integrated Land Management Bureau), Interview, October 25, 2010

Community of Uspantán (Community Meeting), Recorded Discussions, February 14, 2011

De Leon, Javier, (Director, ADISMI: Asociación para el Desarrollo Integral de San Miguel Ixtahucan), Recorded Interview, February 19, 2011

Esquit, Vilma (Employee, Conavigua), Interviews and discussions, February, 13, 14, 15, 2011

Fitzgerald, Geraldine, (Aboriginal Liaison, Ministry of Energy, Mines and Petroleum, Government of British Columbia), Interview, October 24, 2010

Ixcoy, Domingo Hernandez (Director, Ukib K'e), Recorded Interview, March 6, 2011

Lainfiesta, Laura (Representative, Centrarse), March 2, 2011

Marianni, Roberto (Director, COPAE), Interview, February 20, 2011

Miranda, Udiel (Lawyer, COPAE) February 20, 2011

Melville, Arturo, Executive Director, Helps International. Interview, March 4, 2011

Villagran, Tulio, Gerente de Desarrollo Comunitario, Helps International, Interview, March 4, 2011

Valasquez, Raquel (Assistant, Guatemala), Interviews and Discussion, February 18, 19, 20, 21, 2011

Wells, Lane (Consultant, *former Community Relations Employee for BP*), Interview November 11, 2010

### ***Seminars and Conferences and Workshops***

David Lertzman, PhD, '*Avatar, Oil Sand and the Amazon: Field notes from the Energy Indigenous Environment Interface research program*' Presentation, Haskayne School of Business, University of Calgary, Canada

International Association for Impact Assessment Presentation: *Working with Indigenous Peoples as Vital Partners for Successful Ventures: A Luncheon with Guest Speaker Peter Croal* Canadian International Development Agency (CIDA), November 9, 2010

International Association for Impact Assessment Workshop: *Social Impact Assessments, Concepts, Methods & Techniques*, Calgary, Canada, March 23-24, 2011

Inuit Circumpolar Council 11<sup>th</sup> General Assembly, Nuuk, Greenland Speeches (SEE ENCLOSURE 2), June 28-July 3, 2010

Inuit Leaders' Summit on Resource Development, Ottawa, Canada (*assisted with document preparations*), February 2011

## **Appendix A: Interview Guide (Guatemala)**

1. Una misma actividad, hecho por la misma empresa, puede generar distintos impactos segun las características culturales, sociales y/o políticas de una comunidad. Entonces;
  - a) Cuales son los impactos (o beneficios) que han llegado a la comunidad
  - b) Cual es la relacion entre sus tierras, los cambios ambientales y los impactos culturales? Me pueda explicar?<sup>47</sup>

*1. The same activity, realized by the same company, can generate different impacts depending on the social, cultural and/or political characteristics of a community. Therefore:*

- a) What have been the impacts (or benefits) that have come to the community?*
- b) What is the relationship between your land, the environmental changes and cultural impacts? Can you explain?*

2. Caulquier cambio en la propiedad o uso de la tierra tendra fuerte incidencia en la estructura social (y tambien de poder) de una region. Caules han sido los cambios en la tierra?

*2. Any change in the ownership or use of land will have significant consequence in the social structure and power of a region. What have been some of the changes with respect to land?*

3. Caules son las características sociales, políticas y espirituales que podrian ser afectados por el desarrollo basado en la extraccion de recursos naturales?

*3. What are the social, political and spiritual characteristics that will be affected by development based upon resource extraction?*

4. Muchas veces hay una falta de respeto a los principios de equidad en la participacion de los pueblos indigenas en todos los niveles de toma de decisiones. Encima, hay una imposicion de una sistema juridico occidental que anulen o desconocen los sistemas propios de los pueblos indigenas. Entonces, caules instituciones respaldarian la asesoria para que puedan defender sus tierras y culturas?

*4. Many times there is a lack of respect for principles of equitable participation of indigenous peoples in all levels of decision-making. In addition, there is an imposition of western legal systems that cancel out or are incompatible with indigenous systems. Therefore, what are some of the institutions that will support an assessment that would allow you to defend your land and culture?*

5. Como se enterro la comunidad del proyecto? Algun representante llego a la comunidad para compartir informacion, o como han recibido informacion? Si hubiera llegado alguien (de la empresa o del estado), los resultados habrian sido diferentes?

---

<sup>47</sup> Question Guided by CEPLAIS (2005: 51) Minería y Comunidades Locales: Criterios Para Una Relacion de Mutuo Beneficio, The World Bank, Latin America and the Caribbean Region Civil Society Team.

5. How did the community find out about the development project? Did a company representative visit the community? How did the community receive information?

6. Que pasara cuando la mina se vaya?

6. What will happen when the mine leaves?

7. El estado no tiene obligacion hacer un studio de impacto ambiental? O sea, no hay un marco legal? Hay estudios de impacto social?

7. The state does is not obligated to conduct environmental impact assessments? In other words, is there a legal framework? How about social impact assessments?

8. En su punto de vista que es necesario para que las empresas transnacionales sepan de los impactos que trayen sus proyectos? Cual es el proceso de consulta necesario?

8. In your point of view, what is necessary so that transnational corporations understand the impacts their activities may bring? What would be the necessary consultation?

9. Hablando de actividades empresariales, como va a afectar la vida sostenible/medios de vida (por ejemplo si tapan el rio)?

9. Speaking of business activities, how might they affect your sustainable livelihoods and ways of life? For example if they dam the river?

10. Que hicieron las comunidades en cuanto a la consulta publica? Como se organizaron?

10. What did the community do with respect to internal public consultations? How did you organize yourselves?

## Appendix B: International Frameworks

Agreement	Content
<p><b>Agenda 21</b></p> <p>URL: <a href="http://habitat.igc.org/agenda21/a21-26.htm">http://habitat.igc.org/agenda21/a21-26.htm</a></p>	<p>Chapter 26( 3) Objective: In full partnership with indigenous people and their communities, Governments and, where appropriate, intergovernmental organizations should aim at fulfilling the following objectives:</p> <p>Establishment of a process to empower indigenous people and their communities through measures that include</p> <p>(ii) Recognition that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate;</p> <p>(iii) Recognition of their values, traditional knowledge and resource management practices with a view to promoting environmentally sound and sustainable development;</p> <p>(iv) Recognition that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of indigenous people and their communities;</p>
<p><b>Rio Declaration</b></p> <p>URL: <a href="http://habitat.igc.org/agenda21/rio-dec.htm">http://habitat.igc.org/agenda21/rio-dec.htm</a></p>	<p>Principle 22: Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.</p> <p>Principle 23: The environment and natural resources of people under oppression, domination and occupation shall be protected.</p>
<p><b>Convention on Biological Diversity</b></p>	<p>Article 8(j), instructs parties to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”</p> <p>Article 10(c), instructs parties to “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.”</p>
<p><b>The UN Permanent Forum on Indigenous Issues</b></p>	<p>The Permanent Forum is an advisory body to the Economic and Social Council with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights.</p>

<p>URL: <a href="http://www.un.org/esa/socdev/unpfii/en/about_us.html">http://www.un.org/esa/socdev/unpfii/en/about_us.html</a></p>	<p>The Permanent Forum is one of three UN bodies mandated to deal specifically with indigenous peoples' issues; the other two are the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.</p>
<p><b>The UN Expert Mechanism on the Rights of Indigenous Peoples</b></p>	<p>The Expert Mechanism on the Rights of Indigenous Peoples was established to assist the Human Rights Council in providing thematic expertise on the rights of indigenous peoples.</p>
<p><b>International Labor Organization Convention 169 Indigenous and Tribal Peoples Convention</b></p> <p><b>Countries which have ratified C169:</b> <i>Argentina, Bolivia, Brazil, Central African Republic, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Nepal, Netherlands, Nicaragua, Norway, Paraguay, Peru, Spain, Venezuela</i></p> <p>URL: <a href="http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169">http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169</a></p>	<p>Article 4 (1) Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labor, cultures and environment of the peoples concerned and (2) Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.</p> <p>Article 5 states:</p> <p>1. In applying the provisions of this Convention:</p> <p>(a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognized and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;</p> <p>(b) the integrity of the values, practices and institutions of these peoples shall be respected;</p> <p>(c) policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.</p> <p>Article 6</p> <p>1. In applying the provisions of this Convention, governments shall:</p> <p>(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;</p> <p>(b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;</p> <p>(c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.</p> <p>2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.</p>

**UN Declaration on the Rights of  
Indigenous People**

Article 8 states that indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Article 10 affirms that Indigenous Peoples shall not be forcibly removed or relocated from their lands or territories without their Free, Prior and Informed Consent,

Article 26 (1) Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

(2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

(3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 29 affirms that Indigenous Peoples must give their FPIC before hazardous materials are stored or disposed of on their lands

Article 32 (1). States that Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

(2) States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

(3). States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

**URL:**

<http://www.un.org/esa/socdev/unpfii/en/drip.html>

## Appendix C: Extended Secondary Case Studies

### Case Study 1: Red Dog Mine and NANA Regional Corporation

#### Summary

The Red Dog mine is located in Northwestern Alaska, on lands owned by the Inupiat Eskimo people. The Inupiat are also owners of the Northwest Native Alaska Association (NANA) Regional Corporation, one of thirteen regional corporations established during the 1971 Alaska Native Claims Settlement Act (Horswill *et al.* n.d.; ICME 1999:32). The land on which Red Dog Mine is located is under lease agreement with NANA, which in turn is part of a land claim settlement between NANA and the US Government (ICME 1999: 33). At present, the majority of the population within the NANA region is Inupiat, whom have developed a way of life traditionally dependent upon their natural resources. Subsistence hunting and fishing are culturally and socially significant, and the resources upon which they depend are a vital part of the Inupiat identity (Ibid: 32).

#### Consultation

*“Consultation by NANA took the form of family discussions as opposed to boardroom meetings – they involved Elders; the history keepers. Elders were involved to remind the Inupiat people of their values, their identity today; of their past and where they came from; informing them that choices made today are promises to the future and the lives entrusted upon you.”*

Greene (2010)

The single most important step in the consultation process, which began in the early 1970s, was conferring with the Inupiat people, recognizing that the corporate world’s idea of consultation and that of indigenous peoples is vastly different (Greene 2010<sup>48</sup>). Due to these differing views, NANA was integral to the consultation process for both industry and the Inupiat people. While NANA’s primary goal was to protect the Inupiat culture and resources, they also had a shared interest in resource development.

At the beginning however, there was little support as people feared development would have negative impacts on their traditional lifestyle and subsistence resources (ICME 1999: 34). To address peoples’ apprehension, NANA conducted a series of village-based meetings with the aim establish unified consent on developing the mine.

Although the same concerns surfaced about maintaining traditional lifestyle and sustenance resources, there was a new and growing dependence upon a cash economy which was ultimately influencing peoples’ views on development (ICME 1999: 33) and consequently, many of the Inupiat began to consider ways in which the mine could be developed so as not sacrifice their lands and traditional way of life.

A significant step to fostering understanding was Cominco’s invitation to NANA leaders to visit other operations in the Arctic (ibid, 134). This allowed leaders to meet with other community’s and discuss the impacts of the mine upon their way of life. This led to a shared understanding and mutual interest in the project, and in turn, both NANA and Cominco worked diligently to ensure full consultation with key players was fulfilled.

Consequently, each of the villages located within the NANA region were consulted on various occasions over a period of ten years, with the most integral component being that of *listening* to the views and concerns of the people (Greene 2010); there had to be a mutual understanding of what resources meant for Inupiat as opposed to the ‘outside world’, which included an understanding of the unique values placed upon those natural resources. Furthermore, recognizing that risks and benefits would evolve from the development of the mine the Inupiat wanted to weigh the pros and cons of resource development for themselves (ibid). In doing so, the result was a mine that allowed for the maintenance of a traditional subsistence lifestyle while also offering the Inupiat people an opportunity to participate in the modern world economy (Horswill *et al.* n.d.)

As subsistence resources continue to be of greatest value and the basis of wealth and the economic foundation upon which Inupiat intend to build their future; resource extraction must also entail the maintenance and development of subsistence resources – *including art, stories and dance* – all of which will strengthen and guide the next generation (Greene, 2010). In sum, it was about finding balance to ensure people do not have to choose between a western-based economy and a traditional one; therefore it was also integral that the village-level economy and human capacity was developed so allow Inupiat to engage in today’s economy, while also being able to maintain their traditional values.

<sup>48</sup> Source: speech presented by Mary Greene, NANA President, at Inuit Circumpolar Council General Assembly 2010; Nuuk, Greenland.

Lastly, consultation was viewed as an ongoing process and therefore, is to be conducted throughout the lifetime of the mine. As a result, NANA continuously conducts approximately 100 meetings a year, visiting villages, presenting information and most importantly, listening (Greene, 2010).

### Outcomes

After a long period of consultation between Red Dog and NANA, an agreement was finally reached, which entailed significant provisions and commitments to be carried out over the life span of the mine. The 1982 Development and Operating (lease) Agreement gave Cominco the right to build and operate the mine and in return NANA would receive an escalating percentage of royalties with a commitment from the company to provide employment, protect their environment and subsistence way of life (ICME, 1999:34).

Additionally, Cominco is responsible for training and employing NANA shareholders. The agreement provides an important provision that first priority of employment will go to qualified natives in the NANA region (Horswill et al. n.d). In lieu of taxes, Red Dog provides several million dollars annually to the Northwest Arctic Borough (ICME 1999: 34) that benefits the residents of the area in the form of education and economic development opportunities. Outcomes fall into three main categories:

*Creation of the Red Dog Management Committee:* an advisory committee composed of equally distributed NANA and Cominco representatives, that “oversee all exploration, mineral development and production activities and; are responsible for safeguarding the physical, cultural, economic and social needs and the subsistence needs of the Native peoples of the NANA region.”<sup>49</sup>

*Employment and Training:* Specific measures were implemented to promote employment of NANA shareholders (Inupiat people) through the formation of an employment committee and an employment plan that was flexible to changing circumstances, preferential hiring was a key element; there was the creation of vocational and various training programs while also working with state and federal governments to increase education standards; (Horswill et al. n.d).

*Measures to protect traditional lifestyles and the environment:* Aside from carrying out a public and comprehensive environmental impact assessment, the Cominco–NANA agreement also established a subsistence advisory committee made up of Elders from two villages located nearest the mine (ICME 1999: 37). This committee meets quarterly or when required, to review reports from the environmental monitoring required by government and Cominco. For instance, the committee was involved with the selection of an appropriate 84 kilometer road route to avoid important caribou, fish spawning or nesting sites (*thereby integrating traditional knowledge*) (ibid).

### Case Study 2: Sakhalin Energy and Indigenous Minorities of the Russian Federation

#### Summary:

Sakhalin Energy Investment Company Ltd. (from here on referred to as *Sakhalin Energy*) is a joint venture between Royal Dutch Shell, Mitsui, and Mitsubishi with Shell acting as the operator. It was formed in 1994 to develop the Piltun-Astokhskoye oil field and the Lunskeye gas field in the Sea of Okhotsk offshore Sakhalin Island in the Russian Far East (SEIC 2006). With the arrival of the offshore oil and gas industry, many local people were newly exposed to oil and gas development including the nearby indigenous minority communities of Nivkhi, Evenki, Oroki and Nanai (ibid)<sup>50</sup>. While no longer completely nomadic they continue to survive off of their land and resources through reindeer herding, hunting, fishing and berry collecting. As with other Indigenous peoples of the world, they rely heavily their traditional ways of making a living and these resources remain central to the indigenous communities' existence; therefore the arrival of the offshore oil and gas business on Sakhalin in the 1990s had the potential to cause major upheaval for the Indigenous Peoples of the region (ibid).

#### Consultation

The Sakhalin Energy Social Impact Assessment (SIA) document<sup>51</sup> outlines Sakhalin Energy Indigenous Peoples' Consultation and Monitoring Program. The SIA states that Sakhalin Energy employed a community relations officer to share information with indigenous peoples regarding the Company's activities and to consult with them regarding dispute resolution; socio-economic

<sup>49</sup> Development and Operating Agreement Between NANA Regional Corporation Inc. and Cominco Alaska Incorporated (1982:54)

<sup>50</sup> Sakhalin Energy Investment Company (SEIC) available at <http://www.sakhalinenergy.com/en/default.asp?p=channel&c=4&n=16>

<sup>51</sup> SEIC Social Impact Assessment [http://www.sakhalinenergy.com/en/library.asp?p=lib\\_social\\_shelf&l=lib\\_social\\_impactdocs](http://www.sakhalinenergy.com/en/library.asp?p=lib_social_shelf&l=lib_social_impactdocs)

monitoring, village-based assistance; negotiating land leases and; monitoring of local project-related economic pressures (SEIC SIA, 2003).

Nonetheless, Sakhalin Energy expanded its initial Consultation and Monitoring Program to meet the World Bank Operating Directive (4.20 and 4.30), which required the development of an Indigenous Peoples Development Plan (and relocation plan) (SEIC SIMDP 2006:16). Between 2001 and 2004 a series of consultations and meetings took place with indigenous peoples' representatives, involving 150 indigenous representatives, indigenous peoples' organizations (IPOs) and enterprises (ibid: 30). Objectives of the consultation process were to provide indigenous peoples' with information about Project activities; elicit public opinions and concerns; determine potential impacts on indigenous communities, including impact upon their livelihood activities and subsistence resources; and lastly, to discuss mitigation measures that would alleviate potential negative impacts (SIMDP 2006: 30 & SIA 2003:8).

Consultation regarding the actual Sakhalin Indigenous Minorities Development Plan (SIMDP) did not begin until 2005, (SEIC SIMDP 2006: 33) a year which also documented various protests and uprisings from indigenous minorities (Norlen 2005: 122 cited in Goodland 2005). The Plan focused primarily on ascertaining priorities of the communities, developing benefit sharing schemes and mitigation strategies through a series of focus groups, interviews and meetings<sup>52</sup>. Community-based priorities included the creation of social benefits such as improved access to education and health; however, their main priority was to ensure their traditional lifestyle was sustainable so it could be passed on to the next generation (SEIC 2006).

Throughout the process baseline data was collected, however, this was implemented after business operations were underway and therefore, may not accurately depict 'pre-development' conditions; nonetheless, it is an important step to understanding the socio-economic and cultural conditions of the communities impacted by development activities. Data collected aimed to document the location of indigenous communities; the types of subsistence food resources used; the traditional livelihood activities including migratory routes and camp locations used by reindeer herders; the state of health of indigenous

families and lastly the current indigenous enterprises in the area (SEIC SIA: xvi). The SIA (*chapter 6: Indigenous Peoples Consultation Programme*), outlines the methodology used for consultation and to collect<sup>53</sup>.

The Sakhalin Energy project, despite significant documentation and publicity of positive efforts put forth by project proponents, has received mixed reviews as to its impact on indigenous peoples. Conversely, it has been criticized for its impacts and damage to indigenous peoples and their resources. It has also received significant negative reviews of environmentally poor practices.

### Outcomes

Consultation focused on not only informing people of the project but also listening to their concerns, gathering information, and when possible, acting on such information. For instance, there was rerouting of a pipeline that deeply concerned reindeer herders as it would affect pasture land (SEIC SIA 2003; SIDMP 2006). There was also concern as to the location of work camps, with fear that there would be further pressure on their food sources (increased hunting and gathering by foreigners), and increased access and thus poaching; therefore, camps were located accordingly (ibid). This can be one example of Sakhalin Energy incorporating Traditional Knowledge into their mitigation measures.

Aside from the development of the Sakhalin Indigenous Minorities Development Plan, there was the establishment of a *working group* composed of Sakhalin Energy staff, regional government representatives and Sakhalin indigenous minority council members, formed to provide guidance to Sakhalin Energy including appropriate mitigation measures and benefits sharing (SEIC SIDMP 2006:9). Additionally, there was the creation of *sustainable resource use and social development committees* formed to discuss project impact mitigation measures with indigenous representatives (ibid).

Ultimately, consultation resulted in the identification of development priorities. In line with these priorities was the development of a *Sustainable Resource Use and Environmental Protection Mitigation Matrix*<sup>54</sup> which helped determine the action required to mitigate an impact. This

<sup>52</sup> Further methodologies available in Sakhalin Indigenous Minorities Development Plan 2006-2010 (2006:9) or Social Impact Assessment Chapter 2

<sup>53</sup> See Case 9 Russia: Sakhalin II: Behemoth with a Bad Attitude Shuns Best Practices, Risking Billions: by *Doug Norlen* cited in Goodland 2005

<sup>54</sup> SIDMP 2006: 51

[http://www.sakhalinenergy.ru/en/documents/doc\\_lender\\_soc\\_4.pdf](http://www.sakhalinenergy.ru/en/documents/doc_lender_soc_4.pdf)

subsequently led to the establishment of a Sustainable Resource Use Committee to address specific mitigation issues. It also led to the development of a Memorandum of Understanding outlining ongoing engagement protocol and provisions supplied for the monitoring and implementation of the Mitigation Matrix (ibid).

As baseline studies identified that indigenous minorities suffered from a lack of access to and understanding of the law and as a result, the Indigenous Peoples' legal center for Sakhalin Oblast (the state) was established. The legal center aimed to increase indigenous minorities' legal awareness, not only informing them of their rights, but also assisting them to enjoy such rights (ibid: 15).

Consultation with indigenous peoples' revealed various anxieties over the potential impacts of development on their natural resource base, particularly fisheries and reindeer pastures, in addition to their concerns of low capacity (skill sets); therefore, hindering them to benefit from the project by means of increased employment opportunities (SEIC SIA 2003; SIDMP 2006). These concerns led to the development of the *Traditional Economic Activities Support Programme (TEAS Programme)*, a response to discussions within the SIMDP working group meeting, which determined that half of the SIMDP budget should be allocated to the TEAS programme (SEIC SIDMP 2006: 60).

The fundamental rationale for the programme was based upon the recognition that traditional economies can become *economically* unsustainable or uncompetitive. The aim of the TEAS programme therefore, was to develop and preserve traditional economies, create and support business opportunities based upon these traditional forms of economic activity, build upon people's current skills and abilities, and develop economically sustainable enterprises enabling people to support their local communities and pass these skills onto the next generation (ibid). Sakhalin Energy committed \$300,000 per year, for the following 5 years, of which half was earmarked for maintaining traditional economic activities (reindeer herding, fishing), while 10 percent of the fund was administered by the IPs themselves as a small grant fund (SEIC 2006)<sup>55</sup>.

Interestingly, the Sakhalin Indigenous Minorities Development Plan (SIMDP), implemented in May 2006, was included in the *Best corporate social projects 2006-2007*,

however it appears its implementation is still being discovered (SEIC 2006).

### **Case Study 3: the Lutsel K'e Dene First Nation and Diamond Mining, Northwest Territories**

#### **Summary**

Lutsel K'e Dene First Nation is one of the northernmost Dene communities located on Great Slave Lake in the Northwest Territories. The people in the area continue to live from hunting, trapping, fishing and berry-picking. Additionally, there continues to be a rich tradition of artisanal activities such as beading, weaving and moccasin making (Weitzner, 2006). Oral history and knowledge passed down from Elders are common practice, and have been integral (and an accepted element) to the Treaty negotiation process (ibid).

In the 1990s, the Lutsel K'e Dene First Nation experienced substantial impacts from diamond mining in their traditional territory. Over the course of several years, the community found itself facing BHP Billiton's Ekati Mine, Rio Tinto's Diavik Mine and DeBeers' Snap Lake and Kennady Lake Mines, along with several other smaller mining projects. Consequently, the community has gained important experiences and can provide an indigenous perspective to the strengths and weaknesses of the processes they experienced.

#### **Consultation**

*"You have to let them know how you use your land, how you use it to survive, trapping, even berry picking, even the plants is medicine, even the rock is medicine"*

Lutsel K'e Trapper (Weitzner, 2006)

Consultation with BHP's Ekati Mine happened extremely quickly, as the proponent was instructed by the government to negotiate an impact benefit agreement and demonstrate 'significant progress' with the community in a timeframe of 60 days (Weitzner 2006: 9). From the Nation's perspective, there was inadequate consultation. The community ultimately bypassed consultation and entered straight into a series of negotiations with which they had negligible previous experience. Many were overwhelmed and intimidated by the process as they lacked the ability to understand the proposed plan, the implications for their traditional territory, and the ability to interpret technical documents into their own language as there was no linguistic equivalent (ibid: 10). Additionally, the community did not feel that it was in a position to oppose the mine, as they believed the government had already approved the project (ibid).

<sup>55</sup> [www.sakhalinenergy.com/en/default.asp?p=channel&C=4&n=20](http://www.sakhalinenergy.com/en/default.asp?p=channel&C=4&n=20)

Due to the rushed process and subsequent lack of sufficient information, there were various misunderstandings about the project; consequently, the community felt misled (ibid). Moreover, as negotiations proceeded so quickly, BHP and the Government of Canada failed to include the community of Deninu Due First Nations. As a result, the Lutsel K'e Dene and the Yellowknives Dene First Nation resolved that they would share their IBA funding with the excluded community (ibid). Unfortunately, this created a source for ongoing 'internal' tension.

From the Company's perspective, consultation was more comprehensive. BHP Diamonds Inc explains that it visited all communities in the project area at least twice targeting local and regional residents and organizations, especially Aboriginal people, and government bodies (Couch 2002: 272). Methodology used included public presentations, field trips, community meetings, open houses, cultural exchanges and joint workshops; they also presented information through the use of audio and videotapes (ibid). Additionally, BHP Diamonds Inc took a group to three mines owned by its parent company in New Mexico where 75% of the work force is Aboriginal (ibid).

With the second diamond mine (Diavik) the LKDFN established a community-based monitoring agency; however, they continued to face difficulties. Although there were more community meetings and consultations with Diavik, the community representatives still experienced challenges understanding the company's technical reports and therefore relying on external capacity (through consultants) (Weitzner 2006).

The third diamond mine experience with DeBeers presented a new course of action. The consultation and negotiation process resulted in the meaningful inclusion of traditional knowledge which acted as a cornerstone of negotiations (Weitzner 2006: 15).

### **Outcomes**

Various lessons came out of this experience, which ultimately increased the Lutsel K'e Dene First Nations' capacity to deal with future resource development and the negotiation process. For instance, linguistically there were some notable outcomes. Since negotiations with Ekati highlighted the challenges facing interpreters there have been significant strides to break the language barrier. Both Dogrib and Chipewyan interpreters have been trained extensively through numerous workshops aimed to develop technical terminologies in the local languages and

therefore, enhance communication (ibid). Additionally, the nation developed consultation protocol outlining community expectations for those that wished to engage with them.

Due to increasing pressure from resource development activities, the LKD established a Wildlife, Lands and Environment Committee (WLEC) to deal with ongoing negotiations and monitor impacts. The WLEC also initiated *The Ni hat'ni (Watching the Land) Project* which was created to track the impacts of mining on the land and the people (Weitzner 2006: 8). Initially, the WLEC administered two separate programmes: the Community-Based Monitoring Programme, which focused on socio-economic monitoring; and the Kache Kue program, which focused on environmental monitoring; however, in 2002, the two programmes were merged to analyze the impacts each component imposed on the other (ibid). *This is one attempt to gain a cumulative perspective.*

The Lutsel K'e Dene First Nation has actively pursued research and monitoring at the community level, to assess the impacts of industrialization on the community. This occurs simultaneously to the monitoring carried out by industry. For instance, water quality, which is defined as important to both industry and the community, are monitored by both parties (as perhaps values placed on that ecosystem service diverge) (Cleghorn, 1999). Over the course of three years the community has undertaken the development of three major projects; the Community-Based Monitoring Project in 1996; the Traditional Knowledge Study on Community Health in 1997; and the Community-Based Monitoring Cycle Three in 1998 (ibid).

The Community Based Monitoring Project aimed to increase the capacity of the Nation (and other northern communities) to address positive and negative impacts of mineral development. The Project consisted of developing Chipewyan terminology; relevant indicators of community health; and a monitoring process (ibid).

The Traditional Knowledge Study on Community Health involved documenting traditional knowledge (health-related) and the Lutsel K'e Dene way of life (Cleghorn 1999). This included Elders participation through various interviews about a range of indicators they felt were important such as healing practices, mental, physical and emotional well-being, nutrition, parenting and families, leadership, togetherness, respect, youth participation.

They also voiced their concerns with alcoholism, gambling and family violence (ibid).

In addition, there was the establishment of an Environmental Monitoring Agency which created a Traditional Knowledge and a Science Panel to bring together the two knowledge spheres (Weitzner, 2006: 15). With funding from DeBeers, Lutsel K'e Dene were able to submit an independent traditional knowledge assessment to compliment the environmental impact assessment mandated by the Company with the agreement (in principle) to the implementation of a community directed traditional monitoring project (ibid). It remains somewhat unclear however, as to how the Company will integrate this knowledge.

Traditional food consumption was also monitored over the course of two years (Cleghorn, 1999). However, is not yet confirmed if the level of traditional food consumption has been affected by mineral development. Nonetheless, a baseline was established. Although the potential effects of industrial developments may not be well understood by the scientific community, or regarded as insignificant by government and industry, the cumulative effects of development may be significant an attempt to document them an important step forward.

#### **Case Study 4: Hamersley Iron Pty Limited and the Pilbara, Mining in Australia**

##### **Summary**

Hamersley Iron Pty Limited is located in the Pilbara region, a remote area of northwestern Australia. It is a member of the Rio Tinto Group of companies formed in 1995, and is one of the largest producers of iron ore. There are a total of six mines that are located along the company railway including Mount Tom Price, Paraburdoo, Marandoo, Brockman, Channar and Yadicoonga. Hamersley's most recent mine (Yadicoonga) began production in 1999 (ICME, 1999:1).

##### **Consultation**

For various reasons, the local Aboriginal people of the Pilbara were not benefiting from, nor had they been adequately involved in mining activities affecting them and their traditional lands, culture and heritage (ICME 1999: 1). As a result, Aboriginal communities were establishing a new awareness of their rights and beginning to communicate their expectations (ibid: 4). For instance, during exploration activities in the region, Aboriginal representatives approached the Company to inquire about

it field activities on traditional lands. Prior to this, the Company's contact with Aboriginal people had purely been through formal and legal mechanisms. This unprecedented approach, initiated by Aboriginal people, set in motion a new consultation process, which continues to this day (ibid).

Moreover, due to their previous adversarial and litigious relationship (Altman and Harman 2009: 135), Hamersley recognized the need for an improved relationship with the Aboriginal population. Consequently, the company created an Aboriginal Training and Liaison Unit (ATAL) aimed at improving consultation and cooperation (ibid: 137; ICME 1999: 4). The ATAL group also aims to support programs that will assist Aboriginal people achieve self-sufficiency, independence and sustain their cultural link to the land.

*"The consultation revealed a wealth of information about which individuals had to be involved in negotiations over the project. Apart from establishing personal contact [with Aboriginal people] the company had also gained an understanding of their attachment to the land, of personal motivating factors, and of family relationships and disputes, all of which added up to more than passing understanding of the shifting and unpredictable nature of Aboriginal politics in the Pilbara"*

(Senior, 1998)

Cited in ACIL Consulting Pty Ltd and ISS 2001

Through an improved and consistent approach, ATAL has greatly improved relations with the outlying Aboriginal communities and established more effective working relationships. For instance, the development of the Yadicoonga Land Use Agreement came as a result of a year-long consultation and negotiation process in which discussions '*maintained momentum*' and occurred frequently, with no more than two to three weeks between meetings (ACIL & ISS 2001: 32). Communication channels were to remain open, even during disagreements, to allow parties to explore options and identify ways to proceed (ibid).<sup>56</sup>

Of perhaps greater consequence was the changing internal political structure and corporate culture of the company. Key executives "*saw [in the Native Title Act] an opportunity to shift policy towards a more constructive resolution of disputes*" (ibid: 28; ATNS 1999). The attitude of top management was evolving and focused on developing

---

<sup>56</sup> ACIL Consulting Pty Ltd (ACIL) and Indigenous Support Services (ISS) (2001): Agreements between Mining Companies and Indigenous Communities A Report to the Australian Minerals and Energy Environment Foundation

more 'constructive and consistent approaches' favoring the development of agreements through negotiations.<sup>57</sup>

Over the course of the 12 month consultation period, three objectives were identified; obtaining the views of others involved in similar experiences (knowledge sharing); getting to know and understand the circumstances, motivations and aspirations of the Indigenous peoples' and; developing a positive climate through consultation ACIL & ISS 2001:28).

A negotiations protocol was developed, circulated and shared among all parties and adhered to two key principles; that negotiations were to be conducted in good faith and second; that there should be a focus on outcomes with long-term benefits and security for both parties (ATNS, 1999). Negotiations focused on honoring the privacy and confidentiality of the other party with discussions focused on isolating issues of importance; identifying forward looking interests; and assisting parties agree on issues that were mutually beneficial (ibid).

### Outcomes

Various agreements came out of the consultation process. First, was the Protocol Agreement which guided negotiations; second was the Agreement to Conduct Heritage Surveys; third was the establishment of a MoU (setting out terms of Yadicoonga Land Use Agreement); and lastly there was the creation of the Final Yadicoonga Land Use Agreement (ACIL & ISS 2001: 30).

Through the consultation process, the company realized that the Aboriginal peoples lacked the capacity to engage appropriately; as a result the company acknowledged the need to allocate resources to support the Indigenous negotiation parties. Although there was some inherent risk by 'relinquishing control' over this aspect of consultations it was an important step in creating an even playing field. Therefore, the company funded various community 'bush' meetings, engaged an external facilitator and provided legal advice for the Indigenous parties (ibid: 29).

As there were three distinct indigenous peoples' of different linguistic groups (the Bunjima, Innawonga and Niaparli) (Altman & Martin 2009: 155), the decision was taken by the indigenous parties involved to form a single unified indigenous body – the Gumala Aboriginal Corporation – to represent their views (ibid). The decision

to create Gumala followed various internal consultations and informal 'bush meetings', which was the most appropriate meeting place for Aboriginal peoples of the region.

Once Gumala was created, there was then the need to staff the organization accordingly. Again, the Company, albeit reluctantly, funded a range of resources needed to operate the Corporation including legal and commercial advice, assistance with community planning and management; Gumala was then capable of establishing a negotiating team that was able to enter into formal negotiations with Hamersley (ACIL & ISS 2001: 29).

The formation of the ATAL Unit led to the development of a range of programs guided by Aboriginal communities input. Through conducting a 'problem census' (ICME 1999: 4), Aboriginal peoples' identified their primary needs and concerns, which led to the development of 'action programs' (ibid: 5). Various additional programs have evolved since the initial census, and continue to evolve as new priorities are identified. Some of the programmes include skills training aimed to qualify individuals to reach an *equal footing* as to other applicants (as opposed to superficial training programs); business development; cross cultural training; education; and pastoral worker traineeships.

The evolution of a new corporate culture was also integral to the process of developing positive relationships with the surrounding Aboriginal communities and the recognized need for positive relationships with Aboriginal peoples.

*"The Yadicoonga process demonstrates what can be achieved given detailed planning and a willingness to negotiate in good faith on both sides. The process can no doubt be criticized as being expensive and time consuming, taking almost two years to complete. However, it does not necessarily compare unfavorably with the time and expense that alternative approaches may have involved."*

(Senior, 1998)

Cited in ACIL Consulting Pty Ltd and ISS 2001

The Yandicoonga Land Use Agreement was a major outcome of negotiations between Hamersley and Gumala. The agreement, reached between the two parties themselves in 1997, paved the way for the sixth mine of Hamersley (ICME 1999: 9). Moreover, the agreement provided long-term benefits to the three Aboriginal groups represented through the Gumala Aboriginal Corporation, including a present agreement of A\$60

<sup>57</sup>Ibid, 28

million to Gumala over the next 20 years (ibid; ACIL & ISS 2001: 36). Lastly, the agreement, full of provisions for jobs, training and enterprise support, was envisioned to be the beginning of a 'new era' of relationships between mining companies and indigenous peoples.

### **Case Study 5: Rio Tinto's Argyle Diamond Mine and the East Kimberley, Australia**

#### **Summary**

Argyle Diamonds have been mining in the East Kimberley region of Western Australia for the past 20 years. The Argyle lease area is located within the traditional territory of the Gija, Malngin, Miriwoong and Worla peoples all of whom have long standing connections to this region of the East Kimberley (Native Title Report, 2006)<sup>58</sup>. The Argyle Diamond site encompasses an area of two significant story places for the traditional owners, Devil Devil Springs and Barramundi Gap the latter of deep spiritual significance, especially to women as it is one of the areas of female Barramundi 'creative Dreaming being' (Doohan 2007: 4) Dreaming, or Ngarranggarni, is considered to be a living belief system that established continuity between past, present and future (Native Title Report 2006: 126). As viewed by the Traditional Owners, it is their responsibility to protect and maintain these sites of spiritual and ceremonial significance.

#### **Consultation**

The history of engagement between the Aboriginal peoples and the mining company goes back to the 1980s. Initially, the local Aboriginal people with support from the newly established Kimberley Land Council (KLC) challenged the proposed mine, declaring it as an area of significant spiritual value. In 1980, following a series of negotiations with Argyle that were generally informal, unrecognized, unarticulated negotiations and engagements, and through legal challenges between mining personnel and aboriginal representatives, the Glen Hill Agreement was reached (Doohan 2006; Native Title Report 2006). This is also known as the Argyle or Good Neighbour Agreement and was eventually reproduced into the Argyle Participation Agreement of 2004 (Doohan, 2007: 5). Aboriginal groups had little support or assistance during the initial negotiation process in the 80s.

As viewed by Argyle Diamonds, the original Good Neighbour Agreement (GNA) provided a range of 'benefits'

to the aboriginal community in exchange for their opposition to the mine to be withdrawn (ibid). Argyle assumed that the Good Neighbour Agreement would provide the basis for continued relationship building with the local aboriginal population. However various problems existed with this initial agreement, first, it had been negotiated with one family group and therefore had excluded and disenfranchised various other traditional landowners (Native Title Report 2006: 128), additionally, it had failed to establish a relationship with the Kimberley Land Council, which represented various aboriginal interests.

For the local aboriginal population, the Good Neighbour Agreement was, in the eyes of indigenous peoples, to entail continued and ongoing exchanges with the mine, which fell within the context of their own cultural traditions, most notably the Wirman. The concept of Wirman is complex but emphasizes the concept of sharing and exchange as an integral component - "*Everyone receives to give away*". This is to be said one of the underlying characteristics of how the Aboriginal population engaged with the mine (Doohan, 2007).

In 2001, after a history of misunderstandings and misinterpretations of the Good Neighbour Agreement, Argyle Diamonds and the Traditional Owners once again came to the table to renegotiate and renew their relationship. On this occasion however, neighbouring aboriginal groups were included in negotiations that had previously been excluded. This process provided an opportunity for the development a new agreement and eventually led to the creation of the Argyle Participation Agreement (Native Title Report, 2006). This new stage of negotiations included a process for recognizing and bringing together two different systems of law; the western-based local indigenous systems (ibid). As further explained in the Native Title Report (2006)<sup>59</sup>, "*mediation and negotiations met western law requirements through the adherence to the Native Title Act 1983 and Indigenous Land Use Agreement regulations, while specific ceremonies carried out at the mine site met the responsibilities of indigenous traditional law.*"

Another first step, and of greater consequence during initial meetings, was to rebuild relationships and right the wrongs of the past as Traditional Owners demanded

<sup>58</sup> Native Title Report 2006, [http://www.hreoc.gov.au/social\\_justice/nt\\_report/ntreport06/chp\\_5.html](http://www.hreoc.gov.au/social_justice/nt_report/ntreport06/chp_5.html)

<sup>59</sup> Native Title Report 2006 available online at [http://www.hreoc.gov.au/social\\_justice/nt\\_report/ntreport06/chp\\_5.html#endnote8](http://www.hreoc.gov.au/social_justice/nt_report/ntreport06/chp_5.html#endnote8)

representatives of Argyle “hear our grief, pain, distress and hurt from the past before proceeding any further with negotiations” (ibid). Consequently, many of the first meetings had no formal agenda and Argyle personnel focused on listening to the Traditional Owners. Most importantly, they made a point of formally apologizing for the past (ibid; Argyle Diamonds, n.d.).

Subsequently, a Memorandum of Understanding (MoU) was developed between Argyle and the Kimberley Land Council and provided the foundation for the negotiation process. The MoU encompassed the issues to be negotiated; a structure and timetable for the negotiation; outlined principles and objectives; resources and funding; legal arrangements for a new formal and binding agreement with traditional owners and the development of trust (Argyle Diamonds, n.d.).

There was also recognition of power imbalances between the two parties; therefore, Argyle attempted to remedy the imbalance by ensuring that communication was tailored to the needs of the Traditional Owners (Native Title Report 2006: 28). Different strategies were developed to communicate the impact of the mining activity on their traditional territory. For instance Traditional Owners were given a tour of the mine site to gain a greater understanding of impacts; translators were used to ensure everyone could follow discussions and participate in negotiations; key documents were prepared in a format that included plain English interpretations and resources for negotiations were provided by Argyle and the Australian Government to support the aboriginal peoples’ full engagement in the process (ibid).

Conversely, recognizing that ‘understanding’ is a two way process, Traditional Owners realized that representatives of Argyle also required interpretations of the traditional processes of agreement making and traditional law of the region and therefore, provided Argyle representatives with information about their laws and customs (ibid).

### Outcomes

The Argyle Diamond Mine Participation Agreement came as a result of a three year consultation process and a complex and comprehensive agreement process with traditional owners that included an Indigenous Land Use Agreement (ILUA)<sup>60</sup> and an Argyle Management Plan

Agreement (AMPA) (ibid 130). Within the ILUA are two established Trusts (the Gelganyem and the Kilkayi), which are basically a Sustainability, Law and Culture Fund and a Partnership Fund, respectively. Funds are allotted for community development projects, education and training, legal and cultural activities (ibid). Importantly, the agreements reflect the aspirations of both Argyle and the Traditional Owners, and provide a firm base for a long-term partnership. It also aims to ensure a sustainable future for the Traditional Owners during the life of the Argyle mine and once mining is completed.

Other outcomes of the Participation Agreement include an Aboriginal Site Protection Plan, a Training and Employment Management Plan (TEMP), capacity building programs and cross-cultural training initiatives, (ibid, 132). Lastly, the Argyle Mine acknowledged the traditional native title rights in the lease area (Argyle Diamonds, n.d.); however, the ILUA states that the mining company’s rights prevail for the lifetime of the mine which determines that the traditional owners will not lodge a Native Title application over the lands until after the mine is closed (Native Title Report 2006: 132).

The Management Plan developed outlines rules and regulations related to access, security, and land management protocol. It also outlines procedures for communication between Argyle and the traditional landowners, particularly regarding sensitive sites. Additionally it contains provisions for the decommissioning and rehabilitation of the land by Argyle (Argyle Diamonds, n.d.). A Relationship Committee was established, comprising traditional land owners and a small group of Argyle representatives whom are committed to meet every three months for the lifetime of the agreement to discuss its implementation (ibid.).

This particular case study documents the commitment of the participants in the Argyle Agreement to understand differing cultures and systems of law. Ultimately, the Argyle Agreement achieved the required technical outcomes, but according to both Indigenous and non-Indigenous parties, it achieved more. It is about reconciliation between Indigenous land owners and non-Indigenous industry representatives. The Argyle Agreement has provided a model for recognizing, accepting and incorporating two worlds.

---

<sup>60</sup> An ILUA “is a voluntary agreement entered in good faith [and] are the product of agreements between traditional owners and governments or commercial operators or both simultaneously. Participating parties have

---

particular interests in an area of land and a desire to work together outside of the courts to achieve practical certainty about rights and future acts on land.” Native Title Report (2006: 128).

## **Appendix D: Impact Assessment Case Studies**

### **The Mackenzie Valley Pipeline Inquiry: The Berger Report**

The Mackenzie Valley Pipeline Inquiry, commissioned by the Government of Canada and carried out by Justice Thomas Berger in 1974, aimed to investigate the potential social, environmental, and economic impacts of a proposed northern pipeline that would carry oil from Alaska's Prudhoe Bay to energy markets in the south. Justice Thomas Berger was assigned to define these impacts.

The process took a total of three years in which Berger visited all communities located along the Mackenzie River whom would be impacted by such developments, along with an array of other communities and concerned public. The consultation process resulted in the comprehensive *Northern Frontiers, Northern Homeland: Mackenzie Valley Pipeline Inquiry* otherwise known as the Berger Report. The results of the consultation process and final report asserted that such developments would be too significant, stating "social consequences of the pipeline will not only be serious—they will be devastating" (Berger, 1977). Justice Berger also felt that aboriginal rights and values were not being considered seriously enough, and asserted that the involvement of indigenous peoples in the decision making process was crucial when resource development would impact their lands and rights (CIER 2009:1). The report also highlighted various ways to include aboriginal peoples in meaningful discussion regarding project development and subsequent social and environmental impacts (ibid).

Mr. Berger also recognizes in his letter to the Minister that the social, cultural and political tension in the North are closely linked to industrial development and that intrusive developments have further aggravated social problems of the North including welfare, violence, disease, alcoholism and social disarray (Berger 1977: x<sup>61</sup>). Consequently a ten year moratorium was recommended so as to allow aboriginal land claims to be settled and conservation areas to be determined. He affirmed that, with appropriate consideration and planning, 'a strong native society and strengthened renewable resource sector can exist side by side with large-scale non renewable resource development, but only if we change we change our priorities' (ibid). Berger's Report was an example to many

other impact assessments to follow. However, some feel that none have been quite as comprehensive or inclusive.

### **The East Kimberley Impact Assessment Project**

Nearly 20 years ago, the East Kimberly Impact Assessment Project was conducted, in response to Argyle Mine and other resource developments (tourism) to assess how such pressures were impacting Aboriginal communities (Doohan 2007: 56). Inspired by the Berger Inquiry<sup>62</sup>, the assessment was a means to assist Aboriginal communities determine their development priorities and strategies to cope with externally imposed pressures (Ross 1991: 313). Furthermore, the assessment was initiated in response to Aboriginal community's requests to conduct social impact assessments and to monitor the effects of the diamond mining industry on their communities, and understand the changes that were happening to their region' (East Kimberley Working Paper No.1 1985:4-5 cited in Doohan 2007: 56).

The study also took into consideration an array of issues, recognizing the cumulative impacts of development upon the region (Doohan 2007:56). The assessment included a recognition of the history, culture, different development sectors active in the area, and the political/policy framework of the time. The assessment has taken a cumulative view of impacts, recognizing that Aboriginal people today are not only affected by immediate impacts but also by a history of previous change and development (Ross 1991: 314).

Importantly, the approach taken throughout the assessment focused more on a strategic process rather than a technical and 'value-free' methodology (ibid: 316). The assessment was envisaged as process for change and to provide means to achieve a more equitable process of development, thus empowering the community and improving access to decision-making. Throughout, it emphasized *improved choice* through increased participation and ultimately, an improved ability to articulate needs and values (ibid: 316).

### **Methodology Used**

During the planning of the assessment, a series of visits to communities and indigenous peoples' organizations were carried out to discuss their hopes and aspirations and to collect background information on the current issues affecting communities. Researcher lived within the

---

<sup>61</sup> Cited in Letter to the Minister, Berger, 1977.

---

<sup>62</sup>Berger, T.R. (1977): *Northern Frontier, Northern Homeland. The Report of the Mackenzie Valley Pipeline Inquiry*

impacted region for up to 18 months to provide a means for aboriginal peoples to be heard, recognizing the value of listening (ibid: 318). In addition, a workshop was conducted to discuss development issues, which aimed to promote Aboriginal awareness and a conference was held to bring together industry, the public and Aboriginal people to exchange views and information about developments in the region (ibid; Doohan 2007:59). The Aboriginal people also carried out 'bush meetings' to discuss the principle issues facing their communities and to ultimately develop Aboriginal strategies, based upon research findings, which were to continuously evolve over time (Ross 1991: 319).

Overall, the research sought to illustrate various aspects of Aboriginal society including the history of (European/white) settlement and colonization, economic changes (introduced by industry, agriculture, and tourism), the impacts of present-day land uses on indigenous society, indigenous political organizations, and various quality of life indicators (ibid; Doohan 2007: 58). It also sought information on the needs and aspirations of indigenous communities and their particular development ideas, as opposed to those of the private sector and government (Ross 1991: 319).

#### **Aboriginal SIA: The Kimberley Land Council (KLC)**

In 2010 the Federal Government of Australia was to decide whether a Gas Precinct development should be approved. The Government was also in the position to determine the conditionalities to be placed on the Proponent, to ensure the Project would not adversely affect the environment, the Aboriginal people, or on their cultural heritage (KLC 2009).

As a result, the Kimberley Land Council was involved in conducting Phase I of an Aboriginal Social Impact Assessment (ibid). The Assessment aimed to provide Traditional Owners and other Aboriginal people affected by the Gas Precinct a voice when the Federal Government made its final decision and provide useful information about Aboriginal people's most urgent needs such as health, housing, education, training, and support for land management and culture (ibid).

#### **Consultation<sup>63</sup>**

The Aboriginal Social Impact Assessment consultation process conducted by the Aboriginal Impact Assessment Team, took the following steps.

- Provided information about the Gas Precinct (*size, activities, shipping activities from gas harvesting*);
- Provided information about the Agreement negotiated between the KLC, Traditional Owners, the Proponent, and the Western Australia government, and the benefits generated for the Aboriginal people impacted;
- Gathered information on how impacted Aboriginal people live today and what they need most urgently to improve their quality of life (*i.e. needs assessment*);
- Collected the Aboriginal peoples' perspectives and views about the Gas Precinct, pros and cons
- Gathered data as to how Aboriginal people can benefit from opportunities provided by the Project; (*employment, training, business development, traditional livelihoods support*)

#### **Outcomes**

Upon the completion of the initial consultation/assessment period, the Aboriginal Social Impact Assessment team was to provide a report to the Federal Government conveying the views, aspirations and apprehensions of the Traditional Owners and other Aboriginal people of the Kimberley region (ibid). The Aboriginal SIA Team was to provide a report to the KLC and Traditional negotiators in order to discuss a detailed Indigenous Land Use Agreement with the Proponent and Western Australia, and bring to the table the most important issues of the Aboriginal people (ibid).

In 2009, over a hundred members of the Goolarabooloo Jabirr Jabirr people, voted in favour for an in-principle agreement, tentatively approving the site of the proposed Kimberley LNG hub resulting from 16 months of consultations facilitated by the KLC to ensure development in the Kimberley comes with the *informed consent* of Aboriginal People (ibid). The Chief Executive of the KLC stated<sup>64</sup> "*Traditional owners have said yes to jobs and economic opportunities, but not at any price. The in-principle agreement is subject to cultural and environmental studies and ensures that Traditional Owners will continue to be part of the process for deciding the development that takes place on their land.... while also taking responsibility for developing opportunities to improve the economic and social conditions of Kimberley Aboriginal people.*"

<sup>63</sup> Consultation process available at [www.klc.org](http://www.klc.org)

<sup>64</sup> Statement from Wayne Bergmann, Chief Executive, Kimberley Land Council, 2009 available online at: [www.klc.au.org](http://www.klc.au.org)

## Enclosures

---

### **Enclosure 1: IFC Performance Standards<sup>65</sup>**

#### **Performance Standard 1: Social and Environmental Assessment and Management Systems**

Performance Standard 1 highlights the importance of managing social and environmental performance throughout the life of a project. An effective social and environmental management system is *a dynamic, continuous process initiated by management and involving communication between the client, its workers, and the local communities directly affected by the project (the affected communities)*. The system entails the thorough assessment of potential social and environmental impacts and risks from the early stages of project development, and provides order and consistency for mitigating and managing these on an ongoing basis. A good management system appropriate to the size and nature of a project promotes sound and sustainable social and environmental performance, and can lead to improved financial, social and environmental project outcomes.

#### **Performance Standard 2: Labour and Working Conditions**

Performance Standard 2 recognizes that the pursuit of economic growth through employment creation and income generation should be balanced with protection for basic rights of workers. For any business, the workforce is a valuable asset, and a sound worker management relationship is a key ingredient to the sustainability of the enterprise. Failure to establish and foster a sound worker-management relationship can undermine worker commitment and retention, and can jeopardize a project. Conversely, through a constructive worker-management relationship, and by treating the workers fairly and providing them with safe and healthy working conditions, clients may create tangible benefits, such as enhancement of the efficiency and productivity of their operations.

#### **Performance Standard 3: Pollution and Abatement**

Performance Standard 3 recognizes that increased industrial activity and urbanization often generate increased levels of pollution to air, water, and land that *may threaten people and the environment at the local, regional, and global level*. On the other hand, along with international trade, pollution prevention and control technologies and practices have become more accessible and achievable in virtually all parts of the world. This Performance Standard outlines a project approach to pollution prevention and abatement in line with these internationally disseminated technologies and practices. In addition, this Performance Standard promotes the private sector's ability to integrate such technologies and practices as far as their use is technically and financially feasible and cost-effective in the context of a project that relies on commercially available skills and resources.

#### **Performance Standard 4: Community Health Safety and Security**

Performance Standard 4 recognizes that project activities, equipment, and infrastructure often bring benefits to communities including employment, services, and opportunities for economic development. However, *projects can also increase the potential for community exposure to risks and impacts arising from equipment accidents, structural failures, and releases of hazardous materials. Communities may also be affected by impacts on their natural resources, exposure to diseases, and the use of security personnel*. While acknowledging the public authorities' role in promoting the health, safety and security of the public, this Performance Standard addresses the client's responsibility to *avoid or minimize the risks and impacts to community health, safety and security that may arise from project activities*. The level of risks and impacts described in this Performance Standard may be greater in projects located in conflict and post-conflict areas.

---

<sup>65</sup> IFC performance Standards Available online at:

[http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_GuidanceNote2007\\_full/\\$FILE/2007+Updated+Guidance+Notes\\_full.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_full/$FILE/2007+Updated+Guidance+Notes_full.pdf)

With Guidance Note 1 stating *,The client's Social and Environmental Assessment presents an opportunity to the client to identify, evaluate and address potential impacts and risks of the project to the local community, and to decrease the incidence of accidents, injuries illnesses, and deaths from project related activities in the community within the project's area of influence (the local community). Local community is considered as an affected community if it is likely to be directly affected by the project. The breadth, depth and type of analysis should be proportionate to the nature and scale of the proposed project's risks to and potential impacts on the health and safety of the local community.'*

This Performance Standard also includes guidance on conducting a health impact assessment.

#### **Performance Standard 5: Land Acquisition and Involuntary Resettlement**

Involuntary resettlement refers both to physical and economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition.

Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement. This can occur in cases of lawful expropriation or negotiated settlements.

Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities, as well as environmental damage and social stress in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided or at least minimized. However, where it is unavoidable, appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented. Experience demonstrates that the direct involvement of the client in resettlement activities can result in cost-effective, efficient, and timely implementation of those activities, as well as innovative approaches to improving the livelihoods of those affected by resettlement.

Negotiated settlements help avoid expropriation and eliminate the need to use governmental authority to remove people forcibly. Negotiated settlements can usually be achieved by providing fair and appropriate compensation and other incentives or benefits to affected persons or communities, and by mitigating the risks of asymmetry of information and bargaining power. Clients are encouraged to acquire land rights through negotiated settlements wherever possible, even if they have the legal means to gain access to the land without the seller's consent.

#### **Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management**

Performance Standard 6 recognizes that protecting and conserving biodiversity—*the variety of life in all its forms, including genetic, species and ecosystem diversity—and its ability to change and evolve is fundamental to sustainable development*. The components of biodiversity, as defined in the Convention on Biological Diversity, include ecosystems and habitats, species and communities, and genes and genomes, all of which have social, economic, cultural and scientific importance. This Performance Standard reflects the objectives of the Convention on Biological Diversity to conserve biological diversity and promote use of renewable natural resources in a sustainable manner. This Performance Standard addresses how clients can avoid or mitigate threats to biodiversity arising from their operations as well as sustainably manage renewable natural resources.

#### **Performance Standard 7: Indigenous Peoples**

Performance Standard 7 recognizes that Indigenous Peoples are often among the most marginalized and vulnerable segments of the population. Their economic, social and legal status often limits their capacity to defend their interests in, and rights to, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. They are particularly vulnerable if their lands and resources are transformed, encroached upon by outsiders, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also be under threat. *These characteristics expose Indigenous Peoples to different*

*types of risks and severity of impacts, including loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and disease.*

Private sector projects may create opportunities for Indigenous Peoples to participate in, and benefit from; project-related activities that may help them fulfill their aspiration for economic and social development. In addition, this Performance Standard recognizes that Indigenous Peoples may play a role in sustainable development by promoting and managing activities and enterprises *as partners in development*.

### **Performance Standard 8: Cultural Heritage**

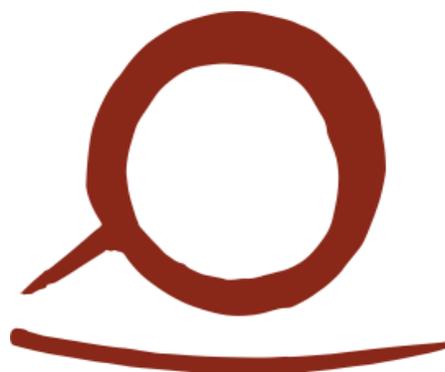
Performance Standard 8 recognizes the importance of cultural heritage for current and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage, this Performance Standard aims to protect irreplaceable cultural heritage and to guide clients on protecting cultural heritage in the course of their business operations. In addition, the requirements of this Performance Standard on a project's use of cultural heritage are based in part on standards set by the Convention on Biological Diversity.

Guidance Note 2 explains, *'Tangible cultural heritage is considered a unique and non-renewable resource that possesses cultural, scientific, spiritual or religious value and includes moveable or immovable objects, sites, structures, groups of structures, natural features, or landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic or other cultural value'*.

Guidance Note 3 states, *'Integration of preservation and protection of cultural heritage into the assessment process and management systems of projects is essential because damage to cultural heritage can result from activities other than direct excavation or refurbishing buildings. Some project aspects may also impact cultural heritage in less direct ways, for example by increasing erosion to a coastal site, or building a road into a previously inaccessible area. The client should consider these possible impacts and address them through appropriate measures.'*

Moreover, *'When in doubt about whether something is cultural heritage, the client should seek the knowledge and advice of local and international experts, government authorities, and members of local communities and Indigenous Peoples.'*

*Enclosure 2: ICC General Assembly Agenda*



INUIT

# ***Inoqatigiinneq-Sharing Life***

INUIT CIRCUMPOLAR COUNCIL  
11th GENERAL ASSEMBLY  
Nuuk, Greenland  
June 28th – July 2nd, 2010

Assembly Honorary Patron:  
H. R. H. Frederik, Crown Prince of Denmark

ENGLISH AGENDA

**SATURDAY, JUNE 26, 2010**

**ARRIVALS BEGIN**

15:00

**EXHIBITION: “Inuit Nunaat – In the Trails of Knud Rasmussen”, Nunatta Katersugaasivia Allagaateqarfialu**

**SUNDAY, JUNE 27, 2010**

10:00 AM – 5:00 PM

**REGISTRATION, Katuaq**

2:00 PM – 4:00 PM

**ICEBREAKER, Katuaq**

**MONDAY, JUNE 28, 2010**

8:30 AM – 8:45AM

**WELCOMING CEREMONY**

**ASSEMBLY CHAIR: Jim Stotts**

8:45 AM – 10:00AM

**OPENING OF ASSEMBLY**

**CALL TO ORDER**

**Jim Stotts, ICC Chair**

**OPENING PRAYER**

**Sofie Petersen, Bishop of Kalaallit Nunaat**

**HOST WELCOME**

**Aqqaluk Lynge, ICC Vice-Chair, Greenland**

**QULLIQ LIGHTING CEREMONY**

**WELCOMING REMARKS**

**Jim Stotts, ICC Chair**

**Asii C. Narup, Mayor, Kommuneqarfik Sermersooq**

**WELCOMING SPEECH**

**Kuupik Kleist, Premier, Kalaallit Nunaat**

**GREENLAND NATIONAL HYMN**

**The National Choir of Greenland**

**INTRODUCTION OF DELEGATES**

**Heads of National Delegations**

10:00 AM – 10:15 AM

**BREAK**

10:15 AM – 12:30 PM

**OPENING REMARKS**

**Lars Møller, Ambassador, Government of Denmark**

**Dr. Kerri-Ann Jones, Assistant Secretary of State for Oceans and International Environment and Scientific Affairs, United States**

**Harald Finkler, Director, Circumpolar Liaison Directorate, Canada**

**Alexey Rogov**, Minister-Councillor, Government of Russia  
**Eva Aariak**, Premier, Nunavut  
**Floyd Roland**, Premier, Northwest Territories  
**Valentina Keulkut**, Chukotka Government  
**Carl Weisner**, Vice President Northwest Arctic Borough Assembly  
**Olav Mathis Eira**, Vice-Chair, Saami Council  
**Joe Linklater**, Chief, Gwich'in Council International  
**Lars-Anders Baer**, member of UN Permanent Forum on Indigenous Issues

12:30 PM – 2:00 PM

**LUNCH**

**RECEPTION BY PREMIER OF Kalaallit Nunaat**  
(Invitation Only)

2:00 PM – 2:15 PM

**APPROVAL OF AGENDA**

**APPROVAL OF 2006 PROCEEDINGS**  
**APPOINTMENTS**  
Credentials Committee  
Declaration Drafting Committee

2:15 PM – 2:45 PM

**CHAIR'S REPORT**

**Jim Stotts**, ICC Chair

2:45 PM – 4:00 PM

**POLITICAL DEVELOPMENTS**

**Alaska: Edward S. Itta**, ICC Vice-Chair, Alaska  
**Canada: Mary Simon**, President, Inuit Tapiriit Kanatami  
**Chukotka: Tatiana Achirgina**, ICC Vice Chair, Chukotka  
**Greenland: Josef Motzfeldt**, Greenland Parliament

4:00 PM – 4:15 PM

**BREAK**

4:15 PM – 5:00 PM

**CLOSED MEETING**  
Presentation of ICC Financial Statements

5:00 PM – 6:00 PM

**CAUCUS MEETINGS**

7:00 PM – 10:00 PM

**GALA DINNER**, Katuaq (Invitation Only)

**CULTURAL PROGRAM**

**TUESDAY, JUNE 29, 2010**

8:00 AM – 9:00 AM

**CAUCUS MEETINGS**

**ASSEMBLY CHAIR: Aqqaluk Lyngø**

9:00 AM – 9:05 AM

**INTRODUCTION OF SESSION #1**

**Aqqaluk Lyngø**, ICC Vice-Chair, Greenland

9:05 AM – 12:30 PM

### ECONOMIC DEVELOPMENT

This session features presentations on economic development. Global warming resulting in a thinning ocean icepack is accelerating the rate of renewable and non-renewable resource exploration and development activity. Although there are opportunities for Inuit communities with the new economic interest, there are also challenges and concerns particularly considering the potential for vast offshore development. Questions will be raised about the terms and conditions that Inuit would like in place prior to exploration and development.

#### PRESENTATIONS

**Marie Greene**, President NANA Regional Corporation, Alaska: Keynote Speaker

**Chris Krentz**, Oceana, North Pacific Project Manager, Communications: Arctic Commercial Fishing

**William Barbour**, Minister for Lands and Natural Resources, Nunatsiavut Government: Mining Development

**Dr. Henry P. Huntington**, Arctic Science Director, Pew Environmental Group: Arctic Marine Shipping

**Jens B. Frederiksen**, Minister for Infrastructure, Greenland Government: Sustainable Economic Development

12:30 PM – 2:00 PM

#### LUNCH

#### *Side Event - Inuit Children and Youth*

2:00 PM – 2:05 PM

#### INTRODUCTION OF SESSION #2

**Aqqaluk Lyngø**, ICC Vice-Chair, Greenland

2:05 PM – 5:00 PM

### ENVIRONMENT

This session features presentations on the environment. The Arctic environment is under stress from many directions under the backdrop of global climate change. There will be discussions on biodiversity, contaminants, traditional knowledge and how to approach resource development.

#### PRESENTATIONS

**Dr. Minik Rosing**, Professor, Geological Museum, University of Copenhagen: Keynote Speaker

**Violet Ford**, ICC Canada Vice President: Biodiversity

**Per Bakken**, United Nations Environment Program, Chief of Chemicals Branch: Contaminants

**Nicholas Hanley**, Head of Unit of International Relations and Enlargement Department, European Commission: European Union Legislation on Arctic Marine Mammals

**Lene Kielsen Holm**, ICC Greenland, Director of Environmental and Sustainable Development: Inuit Witnessing Climate Change

**Duane Smith**, ICC Vice-Chair, Canada: Traditional Knowledge in Policy Development

5:00 PM – 6:00 PM

#### CAUCUS MEETINGS

6:00 PM – 7:30 PM

#### RECEPTION BY ICC ALASKA (Invitation only)

## CULTURAL PROGRAM

WEDNESDAY, JUNE 30, 2010

8:00 AM – 9:00 AM

### CAUCUS MEETINGS

**ASSEMBLY CHAIR: Edward S. Itta**

9:00 AM – 9:05 AM

### INTRODUCTION OF SESSION #3

**Edward S. Itta**, ICC Vice-Chair, Alaska

9:05 AM – 12:30 PM

### HEALTH and WELL-BEING

This session features presentations on Inuit health and well-being with a focus on the community level. Well-being is defined as those conditions necessary for healthy living. There will be an emphasis on children and youth issues, and how strong language and culture skills impact on health and well-being.

#### PRESENTATIONS

**Maliina Abelsen**, Minister for Social Affairs, Greenland: Keynote Speech

**Minnie Grey**, ICC Health Committee, Canada: Presentation of Draft Circumpolar Inuit Health Action Plan

**Elvira Tyunikova**, Chukotka: Social Challenges

**Carl Christian Olsen**, ICC Greenland Vice-President, Director of Greenland Language Secretariat: Presentation of Arctic Indigenous Language Symposium Results

**Dr. Edna MacLean**, President Emeritus, Iilisaq College, Alaska: Education and Training

12:30 PM – 2:00 PM

### LUNCH

*Side Event – Circumpolar Inuit Health*

2:00 PM – 2:05 PM

### INTRODUCTION OF SESSION #4

**Edward S. Itta**, ICC Vice-Chair, Alaska

2:05 PM – 5:00 PM

### HUNTING AND FOOD SECURITY

This session features presentations on issues of access to food resources necessary for the nutritional and cultural survival of Inuit. Questions will be raised about habitat conditions necessary for the food resources Inuit depend on. There will be a discussion about the effects animal rights groups are having on Inuit hunting and harvesting activities. Finally there will be presentations on management practices of Inuit organizations dealing with wildlife resources.

#### PRESENTATIONS

**Ane Hansen**, Minister of Hunting, Fishing and Agriculture, Greenland: Keynote Speaker

**Vera Metcalf**, Alaska Eskimo Walrus Commission, Director: Walrus Management

**Vasili Dobriev**, Chukotka: Traditional Land Use in Chukotka – Features and Problems

**Dr. Henning Sloth Petersen**, MD, PhD: Our Food and Our Health

**Finn Lynge**, Former Member of European Parliament, Earth Charter: Responsive and Responsible Development – A Greenlandic Opinion

5:00 PM – 6:00 PM

#### CAUCUS MEETINGS

6:00 PM – 7:30 PM

Reception by Government of Nunavut & ICC Canada  
(Invitation only)

#### CULTURAL PROGRAM

**THURSDAY, JULY 1, 2010**

8:00 AM – 9:00 AM

#### CAUCUS MEETINGS

**ASSEMBLY CHAIR: Duane Smith**

9:00 AM – 9:05 AM

#### INTRODUCTION OF SESSION #5

**Duane Smith**, ICC Vice-Chair, Canada

9:05 AM – 12:00 PM

#### GOVERNANCE

This session features presentations on issues related to governance. There is increasing interest from within and outside the Arctic on how the Arctic region should be governed. Questions of Arctic Sovereignty will be raised to articulate the Inuit perspective on how to best govern the Arctic and the role of Inuit in governing.

#### PRESENTATIONS

**Dr. Dalee S. Dorough**, Professor, University of Alaska, ICC Human Rights Advisory Committee: Keynote Speaker

**Pita Aatami**, President, Makivik Corporation: Self Government in Nunavik

**Jakob Janussen**, MSc. Political Science.: Self Determination Within the Danish Realm

**John B. Henriksen**, Member of Expert Mechanism on the Rights of Indigenous Peoples: Indigenous Peoples and Governance

**Lars Møller**, Ambassador, Chair, Arctic Council Senior Arctic Officials: Arctic Council

**Ove Karl Berthelsen**, Minister for Industry and Mineral Resources: Environmental and Social Impact Assessments

12:00 PM – 12:30 PM

#### REVISED INUIT ARCTIC POLICY

**Jim Stotts**, ICC Chair

#### BY-LAW AMENDMENTS

**Aqqaluk Lynge**, ICC Vice-Chair, Greenland

12:30 PM – 2:00 PM

#### LUNCH

***Side Event - International Indigenous Rights and Governance***

2:00 PM – 2:05 PM	<b>NOMINATION OF ICC CHAIR</b>
2:05 PM – 3:15 PM	<b>NUUK DECLARATION 2010</b> Presentation and Discussion
3:15 PM – 3:30 PM	<b>ADOPTION OF NUUK DECLARATION 2010</b> Ceremony and Signing
3:30 PM – 4:00 PM	<b>ELECTION OF ICC CHAIR AND PRESENTATION OF NEW ICC EXECUTIVE COUNCIL</b> <b>CHAIR ACCEPTANCE SPEECH</b>
4:00 PM – 4:15 PM	<b>SELECTION OF 2014 GENERAL ASSEMBLY HOST</b>
4:15 PM – 5:15 PM	<b>AWARDS AND GIFT PRESENTATIONS</b> Bill Edmunds Award Alaska Head of Delegation (10 min) Canada Head of Delegation (10 min) Chukotka Head of Delegation (10 min) Greenland Head of Delegation (10 min)
5:15 PM – 5:45 PM	<b>CLOSING OF THE GENERAL ASSEMBLY</b> <b>CLOSING REMARKS</b> <b>CLOSING CEREMONY</b> <b>CLOSING PRAYER</b>
5:45 PM – 6:15 PM	<b>MEETING OF ICC EXECUTIVE COUNCIL</b>
7:00 PM – 9:00 PM	<b>FAREWELL DINNER, Katuaq (Invitation Only)</b> <b>CULTURAL PROGRAM</b>

**FRIDAY, JULY 2, 2010**

DEPARTURES BEGIN

9:00 AM – 5:00 PM      CULTURAL PROGRAM

9:00 PM – 1:00 AM      CLOSING CONCERT, Nuummi Illorsuaq Timersortarfik

**SATURDAY, JULY 3, 2010**

**DEPARTURE DAY FOR REMAINING PARTICIPANTS**