

Indigenous Media Network

INCOMINDIOS

“GIVE US THE STUFF AND WE’LL FIGURE IT OUT”

Indigenous Peoples and the Information Society

Survey Brief – 2003

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Preface

This document contains the comprehensive summary of an initial international survey conducted among Indigenous Peoples on their relationship with the Information Society. The survey was carried out by the *Indigenous Media Network (IMN)*. It was part of a project funded by the Swiss Agency for Development and Cooperation (SDC), for the purpose of developing an Indigenous Position to the World Summit on the Information Society (WSIS)¹. The project has been implemented by *IMN* in cooperation with *Incomindios*, a Swiss human rights organization.

The *IMN* is an Indigenous organisation formed in the course of the World Conference against Racism in Durban. Its members are Indigenous journalists. The creation of the *Indigenous Media Network* was sponsored by the United Nations High Commissioner for Human Rights, who made it possible for several Indigenous journalists to attend and cover the World Conference in Durban. Out of these efforts emerged the beginnings of a network of Indigenous journalists. The *IMN* was formally founded during the Permanent Forum on Indigenous Issues in 2002. For further information on the *IMN* please visit our web-site www.indigenousmedia.org. *Incomindios* is a Swiss Human Rights NGO, supporting Indigenous Peoples since 1974 in their efforts to protect and promote Indigenous rights, their political, economic and cultural sovereignty and their self-determination. It is based in Zurich. Further information on the organisation can be found at: www.incomindios.ch.

The Indigenous Position Paper to the WSIS, that has been developed on the basis of this survey, can be downloaded from the *IMN* web-site. It has been reviewed by Indigenous representatives of the Geneva "Working Group on the Draft Declaration on the Rights of Indigenous Peoples" in September 2003 and was discussed at the meeting on "Indigenous Peoples and the Information Society for the Americas" that took place in October 2003 in Brazil.

The paper has served as a lobby document to the WSIS process with the goal to give Indigenous Peoples a place in the Summit's Declaration of Principles and Plan of Action. These documents can be obtained from the WSIS web-site www.itu.int/wsis.

Finally, the position paper became a background document at the *Global Forum on Indigenous Peoples and the Information Society* - held as a parallel event of the WSIS under the responsibility of the United Nations Permanent Forum on Indigenous Issues - for developing the "Geneva Declaration and Programme of Action". The latter was officially presented at the WSIS as the Indigenous contribution.

Indigenous Peoples succeeded to be mentioned in both summit documents. Nevertheless, they are still a long way from having their visions and concerns respected. The full survey report is available at the *IMN* web-site.

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¹ The World Summit on the Information Society (WSIS) is a United Nations event, taking place in two phases. The first part was held in Geneva in December 2003. The second Summit will be hosted by Tunisia in November 2005. Further information can be obtained from the WSIS web-site.

Question 1:**The Information Society and Traditional Knowledge of Indigenous Peoples*****Summary***

Sharing and dissemination of knowledge and information are the key elements of the Information Society. For Indigenous Peoples, however, unqualified and unauthorized release of their traditional knowledge into the so-called public domain and related loss of ownership emerges as one of the paramount issues of concern. Applying the “Western” public domain concept to Indigenous knowledge means that all information and knowledge, as soon as it has been published or considered otherwise shared and/or disclosed, can be freely utilized for economic and other purposes.

Major problems addressed in this context included:

- misuse of Indigenous knowledge causing violations of customary laws with related ethical provisions and cultural obligations
- loss of ownership and loss of control over the culturally appropriate application of Indigenous knowledge, and
- unauthorized commercialization of Indigenous knowledge by third parties without sharing of benefits.

In fact, these concerns turned out to be so predominant, that they were mentioned under almost all subsequent questions of the survey – from ICT²- applications, education or environment to health and e-commerce.

Many responses indicated that Indigenous Peoples find themselves in a serious dilemma as regards their participation in the Information Society. On the one hand they consider sharing as an important part of their cultures. On the other hand, they so far have no possibility to share their knowledge in accordance with their own customary laws and/or on their own terms within the framework of the Information Society, as it is currently evolving. Thus, many Indigenous Peoples approach these issues with extreme caution and for some, the only consequence of this situation is to object to sharing Indigenous knowledge at all. Those, who wish to share with the non-Indigenous world as much of their knowledge as possible for the benefit of humankind, were nevertheless likewise concerned about its vulnerability to unauthorized use, appropriation, abuse and misuse by third parties, once it was disseminated.

Therefore it was generally considered necessary to establish some legal instrument and/or mechanism to protect Indigenous intellectual and cultural property rights, which could be viewed as a basic and fundamental step to allow Indigenous Peoples to participate as equal partners in the Information Society. Many answers comprised the notion that this instrument needs to take into consideration Indigenous approaches towards their knowledge, such as related ethical guidelines and cultural obligations attached to its use as provided for by customary law.

² ICT or ICTs is the abbreviation for *Information and Communication Technologies*

Question 2: ICT applications

Summary

ICTs are fundamental tools for the implementation of the Information Society. They determine how knowledge and information are communicated. For Indigenous Peoples, the essential question was if it is possible to utilize this non-Indigenous technology within their own cultural contexts without risking to lose their cultural identity. Accordingly, the identification of challenges and potentials of ICT applications towards weakening or strengthening Indigenous cultures was a predominant issue.

Within this context six areas of concern were addressed:

- Challenges and potentials for the participation of Indigenous Peoples in the Information Society;
- Digital preservation of traditional knowledge and Indigenous cultural expressions;
- Considerations about ICTs and the Indigenous approach to communication;
- Problems relating to the dissemination of information;
- Capacity-building needs of Indigenous Peoples on ICT applications;
- Access to ICTs and the effects of the digital divide on Indigenous Peoples.

As regards participation of Indigenous Peoples in the Information Society, it was generally emphasized that it should take place on their own terms. Many questionnaires stressed that Indigenous Peoples must be able to determine the use and application of ICTs in their communities, often accompanied by the indication that this would need to be done in a culturally appropriate way. Again, questions related to the ethical dimension of traditional knowledge were of concern. Special attention in this context was given to the problem of the digitalization of Indigenous cultures for preservation purposes.

Question 3: Education and Language

Summary

Most responses identified challenges as well as potentials with ICT utilization in Indigenous education and for teaching and preserving of Indigenous languages. Some viewed ICTs primarily as a threat to Indigenous cultures and languages, while some only noted possible potentials of their application.

Nevertheless, many questionnaires pointed to the limitations of ICT use and emphasized that these means could not replace traditional means of knowledge and language transmission in a living cultural environment. Furthermore, it was stressed that ICTs could only become a helpful tool, if Indigenous Peoples were able to make the decisions about their use on their own terms. In this context, it was often indicated that ICT application need to be pursued in a culturally appropriate way, with caution and well considered. In addition, some questionnaires

expressed that respect for and acknowledgement of Indigenous rights towards their languages and educational systems would be a prerequisite for being able to use ICTs in a meaningful way that could strengthen their cultures and identities.

ICT application might, for instance, provide the conditions for teaching Indigenous cultures and languages through the school system. Furthermore, long distance education may become a promising instrument to enable bi-cultural education in remote Indigenous regions. However, concerns were raised again about the danger to lose ownership over Indigenous knowledge once it was displayed for educational purposes.

Finally, several answers highlighted the need for Indigenous Peoples themselves to educate the non-Indigenous world about their cultures and languages in order to promote intercultural understanding and to overcome prejudices through ICTs.

Question 4: Health

Summary

Many responses stressed the difference in approach between Indigenous and non-Indigenous medicines. Thus, it was felt that the fundamental question would rather be one of different healing principles than one of technology only. However, several answers also emphasized that technology can not replace an Indigenous healer and the human contact it involves for holistic healing. Most questionnaires, therefore, were rather cautious about e-health applications. A number of responses nevertheless suggested that Western medicine could be complementary to Indigenous healing arts. Again, participation of Indigenous Peoples in this process was considered essential.

A major challenge to the integrity of Indigenous healing systems was seen in the display of related Indigenous knowledge on ICTs such as the Internet, where Indigenous Peoples would lose control over its use. It was emphasized that much of the Indigenous medicinal knowledge and treatment methods are considered sacred and secret. Some expressed concern that it could be harmful if this knowledge is used in an inappropriate way.

At the same time, it was stressed that Indigenous Peoples readily contribute their medicinal knowledge to global health improvement – as they did in the past (e.g. quinine). This could even be done via ICT-dissemination, if decided and controlled by Indigenous Peoples themselves. Sometimes, it could also be of help for local or urban Indigenous users. However, several responses highlighted that a major difficulty consisted in commercial exploitation of traditional healing knowledge by third parties, once it was disclosed. This would include securing of Intellectual Property Rights on health products derived from Indigenous medicinal knowledge. Thus, traditional knowledge needed protection.

Some responses mentioned potentially positive health-related ICT-utilizations:

- Enabling Indigenous communities, and especially those in remote areas, to call for health assistance when needed, and attract attention to special health problems;
- Assistance in health and nutritional education.

Question 5: Youth

Summary

A number of questionnaires expressed concern about the loss of identity among Indigenous youth and highlighted that this process might be re-inforced by ICT use, as it is currently taking place. Indigenous youth would, for instance, be exposed unprepared to content containing discriminating information about Indigenous Peoples, while their knowledge about their own culture would be limited.

The vital question was, if a partnership between Elders (as holders of Indigenous knowledge and culture) and youth (as actual or potential ICT users) could be established on developing culturally appropriate local content and ICT applications for Indigenous communities - and thus could assist in remedying the situation.

In fact, many questionnaires saw a double function in promoting such “Elders-and-Youth ICT-initiatives”. First, they could serve as the needed bridge to develop Indigenous approaches towards overcoming the digital divide in their communities on their own terms. Second, they could support Indigenous youth in strengthening their identities and cultural background by reaching and working with them through the very same instrument that poses a potential challenge.

Generally, these measures could contribute to the survival of Indigenous cultures as such. However, several responses also mentioned that certain pre-conditions needed to be met for successfully building this bridge:

- A beneficial framework for passing on a solid cultural basis to Indigenous youths, including recognition of related Indigenous rights and provision of bi-cultural education;
- Technical capacity-building to develop necessary skills;
- Financial support to acquire needed equipment in the communities.

Question 6: Environment

Summary

As regards to ICT use in the field of environment, it was stressed that if there would be no change of attitude and practices towards environmental destruction, ICT applications would not be of significant help. At the same time, it was felt that ICT utilization for environmental protection would have to involve recognition of related Indigenous rights, such as rights to Indigenous ancestral territories and their ecological integrity.

Many responses indicated that traditional ecological knowledge provides a holistic perspective on use of the environment. As such, Indigenous knowledge and related

philosophies could assist in solving global environmental problems. Dissemination via ICTs could be an option, if the process was controlled by Indigenous Peoples themselves and their rights towards their knowledge be respected. Indigenous Peoples need to determine which knowledge and information could or could not be shared in this way. However, concern was again raised about possible commercial exploitation and abuse of environmental knowledge that has been contributed by Indigenous Peoples.

Many thought that ICTs could become a useful tool for Indigenous Peoples to carry out environmental education among themselves, and particularly for Indigenous youth, but also in the context of intercultural education on Indigenous approaches towards the environment and its use. Another possible target group mentioned was the non-Indigenous scientific community.

It was, however, also expressed that ICT use could not replace direct interaction with the environment.

Possible positive ICT applications envisioned in the field of environment included:

- Environmental monitoring of Indigenous territories and dissemination of information about environmental concerns;
- General sensitization on environmental issues and exchange and promotion of sustainable solutions.

Question 7: Indigenous E-business and ICT Business

Summary

The use of e-business and ICT business by Indigenous Peoples was mainly seen in the context of its possible contributions to poverty reduction. Many questionnaires focused on its potentials for Indigenous Peoples, although a number of challenges were mentioned as well.

Several responses emphasized that with globalization, Indigenous Peoples would be inevitably confronted with these developments. Thus, it would be necessary to make use of this instrument in a way that would be supportive for Indigenous cultures and economies.

Some answers stressed that e-commerce practices need to be culturally appropriate. It was for instance pointed out that sacred objects could not be sold on the Internet. It was also emphasized that e-business could not replace human contact and the social context of economic activities. Furthermore, some indicated that Indigenous Peoples so far lack sufficient knowledge and expertise to make decisions on its meaningful use. Finally, doubt was expressed that Indigenous business could survive against global competition.

Some answers also highlighted that e-commerce has certain shortcomings that should be considered. It was mainly mentioned that it was difficult to make it really profitable to sell via the Internet. Despite its difficulties, e-business was potentially viewed as a positive tool for Indigenous Peoples - particularly in remote areas - to reach a market for their merchandise. Another advantage was seen in the possibility for direct marketing, which would decrease any existing dependency on middle men, controlling the sale of Indigenous products such as arts and crafts. However, the lack of access to ICT-applications and connectivity was pointed out as an obstacle to develop e-business in Indigenous communities.

Once more concern was expressed about the protection of Indigenous knowledge and cultural expressions in the context of e-commerce. It was for instance suggested that it might be of help to establish a trademark, copyright and/or label of origin that would prevent exploitation by third parties.

In general, it should be noted that little response was given to the question of ICT-business.

Question 8: Intercultural Communication and Combat of Racism

Summary

The dissemination of racist, stereotyped, one-sided or wrong information about Indigenous Peoples and their situations through the media, including e-media, was a predominant concern. Thus, many addressed the potentials of ICTs as an instrument for combating racism against Indigenous Peoples. In principle, two possibilities were seen to counter this type of information and work towards better intercultural understanding:

- the establishment of Indigenous Peoples' own media;
- the production of Indigenous Peoples' own content for education of the non-Indigenous world.

Especially the Internet was viewed as an important tool for intercultural education, combating racism against Indigenous Peoples, and to create an understanding on the values of Indigenous cultures. However, it was as well pointed out that these problems cannot be solved by ICTs alone, but also by direct intercultural interaction. Furthermore, it was mentioned that Indigenous Peoples would need technical capacity-building. Additionally, they would have to consider questions such as how to present their information to the non-Indigenous world. Finally, it was highlighted that digitalization of Indigenous content has to be done by Indigenous Peoples themselves in order to avoid another distortion of their reality.

Sensitizing a global community on the reality of racism that Indigenous Peoples are suffering from was considered a second component in using ICTs and especially the Internet. ICTs would offer the ability to give detailed information about cases of racism against them.

The establishment and control of Indigenous media by Indigenous Peoples themselves was generally viewed as an essential means to provide an alternative to prejudiced information and to disseminate content from an Indigenous perspective on issues relevant for Indigenous Peoples. Besides assisting in educating the non-Indigenous world about the Indigenous point of view, Indigenous media were also seen as an important tool to provide information for Indigenous Peoples.

However, several questionnaires stressed that it was not easy for Indigenous Peoples to establish and control their own media due to non-Indigenous media monopolies and Government policies. In this context, it was also mentioned that access to radio and TV frequencies for Indigenous media was difficult. Moreover, it was highlighted that many Indigenous media are funded by Government agencies, which makes them vulnerable to Government media politics of the day, affecting their financial support and infrastructure. This would present a particular problem, since it was difficult to make Indigenous media commercially profitable, with Indigenous Peoples often being in a minority situation.

Finally, several responses emphasized that it was necessary to establish procedures through which Indigenous Peoples could control the dissemination of content about their cultures and prevent spreading of racist, stereotyped or culturally offending information.

Questions 9 and 10: Further Aspects and an Indigenous Vision

Summary

1. An Indigenous Approach to the Sharing and Protection of Traditional Knowledge

Some responses indicated that it was necessary to further explore the sharing and protection of Indigenous knowledge from an Indigenous point of view. Questions that were raised included:

- Can we ensure that keepers of Indigenous knowledge are involved in the process?
- What are the implications of using non-Indigenous IPR-systems³ for Indigenous Peoples? Does it mean that they must put a price on their worldview? What about Indigenous Peoples own approaches towards their knowledge?
- What are the implications of sharing Indigenous knowledge and information about Indigenous Peoples via ICTs for future generations?
- How can sharing of Indigenous knowledge and digital assistance in preserving and strengthening Indigenous cultures be possible in the context of the Information Society without risking to lose ownership?
- How do we fight the multinational corporations that want to take and sell what we know and think?

Last but not least it was mentioned that Indigenous expert groups on these issues need to be formed to enable exchange among Indigenous Peoples, develop approaches and provide advice to relevant non-Indigenous bodies dealing with ICT-issues.

2. An Indigenous Approach to Bridging the Digital Divide

A number of questionnaires also pointed to the necessity to consider questions related to bridging the digital divide from an Indigenous perspective. The issues raised in this context included:

- How can a grassroots approach be developed towards bridging the digital divide in Indigenous communities? How about participation? How about rural areas and remote communities?
- How can Indigenous communities afford ICT equipment and necessary communication infrastructure?
- Can a network of Indigenous ICT-experts and designers be created to assist Indigenous communities in their efforts?
- How can ICTs be effectively used for poverty alleviation?
- How can ICT use assist in combating AIDS/HIV among Indigenous Peoples?

³ IPR – Intellectual Property Rights

Some responses provided these recommendations:

- Indigenous organizations themselves need to develop principles, goals and objectives for the use of ICTs
- Capacity-building, particularly for Indigenous women and children, with a view to strengthening their cultures and identities is important.

However, it was also stressed that although ICTs might be an interesting option, they would often not be a number one priority for Indigenous Peoples in developing countries. The immediate “bread and butter” issues would remain the same with or without ICTs. Furthermore, ICTs would not solve the problem of non-recognition of Indigenous rights. Without recognition of basic Indigenous rights, the Information Society would just be another instrument for domination.

3. The need to work on creating an Information Society where Indigenous Peoples have a firmly established space on their own terms

Several responses made suggestions on the elements needed to develop an Indigenous vision towards Information Society. The points made included:

- Indigenous Peoples need to train their own young ICT experts, since only they could build a “civilised” Information Society;
- Indigenous philosophies and concepts need to be considered, included and respected (e.g. the circle, the individual and collective approach etc.);
- Indigenous Peoples have to be equal partners with respected and recognized rights;
- There should be no exclusion;
- It would be important for Indigenous Peoples to use ICTs to strengthen Indigenous cultures and identities;
- Exploring the possibilities of creating meeting spaces for Indigenous Peoples on the Internet;
- More solidarity among Indigenous Peoples is needed for building the Information Society;
- Equal sharing of information to enhance intercultural understanding and to contribute to the conceptual cultural diversity of the Global Information Society;
- Combating racist stereotypes against Indigenous Peoples by educating the non-Indigenous world on Indigenous cultures from an Indigenous point of view;
- Launching Indigenous research projects among various Indigenous Peoples to gain concrete ideas, provided directly by them, how to develop appropriate ICT programs.

Finally, it was expressed that it would be important for Indigenous Peoples to participate in future United Nations activities on the Information Society. Most were interested in taking part in a follow-up initiative to this survey.

One response stressed that Indigenous Peoples would not only have a right but also a responsibility towards information to avoid an ideological manipulation – otherwise ICTs would become a source of contamination. Another answer commented that the Information Society would have to prove to Indigenous Peoples that ICTs will be beneficial to them.

ANNEX

Question 1:
The Information Society and Traditional Knowledge of Indigenous Peoples

Sharing of Indigenous knowledge for general and commercial use (such as the development of commercial drugs or cultivars, for display of cultural diversity on the Internet or non-Indigenous artistic use) is high on the international agenda.

ICTs play a crucial role in recording our knowledge, altering it for specific uses or to digitalize it for storage in public or private data banks so that it can be recalled, whenever needed for any Indigenous or non-Indigenous utilization.

The ready availability of Indigenous knowledge databanks, the definition of equal benefit sharing for use of traditional knowledge by “outsiders” (that is a remuneration for use of Indigenous knowledge) and the conditions of how such benefit sharing might be arranged (e.g. in form of contracts between research institutions on the one hand or companies and Indigenous holders of knowledge or Indigenous communities on the other hand) are vital on the current development agenda.

The possibility to protect Indigenous knowledge as intellectual property has been proposed in this context as well.

How do you think these issues should be approached and what aspects need to be considered?

Summary

Sharing and dissemination of knowledge and information are the key elements of the Information Society. For Indigenous Peoples, however, unqualified and unauthorized release of their traditional knowledge into the so-called public domain and related loss of ownership emerges as one of the paramount issues of concern. Applying the “Western” public domain concept to Indigenous knowledge means that all information and knowledge, as soon as it has been published or considered otherwise shared and/or disclosed, can be freely utilized for economic and other purposes.

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In fact, these concerns turned out to be so predominant, that they were mentioned under almost all subsequent questions of the survey – from ICT⁴- applications, education or environment to health and e-commerce.

Many responses indicated that Indigenous Peoples find themselves in a serious dilemma as regards their participation in the Information Society. On the one hand they consider sharing as an important part of their cultures. On the other hand, they so far have no possibility to share their knowledge in accordance with their own customary laws and/or on their own terms within the framework of the Information Society, as it is currently evolving. Thus, many Indigenous Peoples approach these issues with extreme caution and for some, the only consequence of this situation is to object to sharing Indigenous knowledge at all. Those, who wish to share with the non-Indigenous world as much of their knowledge as possible for the benefit of humankind, were nevertheless likewise concerned about its vulnerability to unauthorized use, appropriation, abuse and misuse by third parties, once it was disseminated.

Therefore it was generally considered necessary to establish some legal instrument and/or mechanism to protect Indigenous intellectual and cultural property rights, which could be viewed as a basic and fundamental step to allow Indigenous Peoples to participate as equal partners in the Information Society. Many answers comprised the notion that this instrument needs to take into consideration Indigenous approaches towards their knowledge, such as related ethical guidelines and cultural obligations attached to its use as provided for by customary law.

1.1 Aspects of traditional knowledge

Some responses highlighted certain aspects of traditional knowledge to underline its meaning for the respective Indigenous People as well as to outline connected cultural obligations and ethical implications to guide its utilization.⁵ The points that were made emphasized the following elements:

The source of Indigenous knowledge is the land and the environment. Traditional knowledge stems from and is constantly generated through the inter-relationship between Indigenous Peoples and their ancestral territories. Its flourishing, thus, depends on daily interaction. Neglecting the nourishing of this relationship, denial of land rights and/or environmental destruction of ancestral territories would mean to contribute to the loss of Indigenous knowledge.

Ultimately however, creation, invention and knowledge may be viewed as gifts from spiritual beings and/or depending on proper relations with ancestors. Therefore, holders of Indigenous knowledge carry a responsibility to guard and protect it against any misuse. In this context, it was often indicated that traditional knowledge contains ethical guidelines on its application and that its dissemination would be related to certain culturally appropriate protocols. Some aspects of traditional knowledge, for instance, are considered sacred and secret all together and neither can be given away as public information nor be commercially utilized. In some

⁴ ICT or ICTs is the abbreviation for *Information and Communication Technologies*

⁵ This chapter represents a compilation of aspects provided in those questionnaires which touched upon these issues. Generally, the mentioned elements are also supported by anthropological literature and research on traditional knowledge. Nevertheless it can be observed that non-Indigenous works tend to neglect its ethical dimension, while Indigenous researchers or comments collected from Indigenous Peoples rather present the ethical component as an integral part. An introductory bibliography for additional information can be found in the annex.

responses concern was expressed that it can be dangerous or harmful, if this knowledge is not used correctly. Furthermore, inappropriate use would lead to social and cultural disruption of Indigenous Peoples themselves.

Indigenous knowledge in fact has to be understood as a multi-level and multifaceted **worldview** and as such is holistic in character. Its application is highly bound to the context of a particular situation. Teachings, for instance, would be specific in time and place and adapted to the respective recipient(s). Therefore there is often a reluctance to write down Indigenous knowledge – its written form would produce a generalization that fixes a part as the whole, and would put it out of context.

Several responses also pointed to Indigenous traditional authorities that usually are responsible for handling and overseeing the utilization, transmission and sharing of knowledge. These men and women, it was felt, needed to be involved in any activity related to sharing, disseminating and displaying Indigenous knowledge.

1.2 Ethical guidelines for the application of Indigenous knowledge

Sharing of Indigenous knowledge with the non-Indigenous world was in many cases placed in the context of being a culturally defined process with application of certain protocols. Generally, a strong correlation was seen between sharing of knowledge with third parties and its potential subsequent unauthorized use and application. It was particularly the potential misuse and exploitation of Indigenous knowledge, once it was disseminated, that caused major concern among Indigenous Peoples.

Some emphasized that those who are sharing traditional knowledge have a responsibility to ensure adherence to ethical guidelines and cultural obligations. These principles were not only valid for its dissemination towards the non-Indigenous world, but also in the context of preserving it for the very survival of Indigenous cultures. Thus, the displaying of traditional knowledge can become a difficult decision for Indigenous societies:

“In previous experiences dealing with sensitive issues such as Indigenous knowledge, consultation with Elders has proven to be invaluable. There are many aspects to Indigenous cultures and some of them are very sacred and are only passed on through oral teachings. Some cultures have very strict rules about sharing information, especially medicines, sacred rituals, etc. We are at a stage, however, where knowledge of Indigenous practices, teachings and customs are at risk of being lost forever. This is the position that has been presented to Elders. Because many of our young people do not know their Indigenous language, many teachings have already been lost, because those teachings could only be passed on through that specific language. We approached the Elders with this problem, and after much thought and prayer, agreed that some of our teachings should be preserved in any manner we could preserve them. However, there were some aspects that were strictly forbidden from being shared. For Indigenous people, who have not lived their culture, these principles and teachings are in serious danger of being lost because they are passed on only when the keeper of the teachings finds someone worthy of passing it on to. This comes from the teaching that when Indian [Indigenous] people begin exploiting gifts that the Creator gave them to use, it will be lost because it was not respected and protected. This fear is what brings Elders to protect some of their teachings.”

In other cultures, Indigenous knowledge is rather viewed as a part of the common heritage of mankind. Nevertheless the same concerns are expressed regarding its culturally unacceptable utilization, violating related ethical provisions for its application:

With the exception of some religious or spiritual rituals, Indigenous Peoples' knowledge should be fairly free and available. The spiritual and material cultures of Indigenous Peoples must be accessible to any person, because it is an integral part of the common human heritage. To "manipulate the market" so to speak, to speculate with traditional knowledge is against the core principal of what makes most Indigenous Peoples Indigenous. Thus, when "the others" are trying to profit from the Indigenous traditional knowledge they are offending the memory of our ancestors and must be stopped unequivocally."

Several responses made a distinction between different "types" of Indigenous knowledge. They generally hold that certain traditional knowledge, such as spiritual ceremonies and rituals, is sacred and has to be kept out of the so-called public domain. Other knowledge, including historic, arts, technologies or other livelihood and life skills was more permissible to impart. In one of the answers it was also suggested to particularly share traditional knowledge with the goal to develop a bi-cultural health system.

However, various questionnaires provided different reference points on how to deal with questions of disseminating Indigenous knowledge in general and utilization of this knowledge in particular. These reference points included:

- The traditional authorities of Indigenous Peoples on these matters should be involved in deciding on the dissemination and use of their knowledge to ensure that cultural protocols and obligations are met;
- Non-Indigenous persons have to seek permission from appropriate Indigenous authorities for obtaining and using Indigenous knowledge;
- The rights of the primary Indigenous rights holders have to be considered.

As already mentioned, some responses expressed the opinion that Indigenous knowledge was part of the common human heritage and therefore would belong to all humankind. Keeping traditional knowledge accessible by means of ICTs was in this context partly also understood as a contribution to mutual intercultural understanding. However, even in these cases concern was expressed about unauthorised and/or culturally inappropriate use, particularly with regard to commercialization. In some cases it was stressed that mechanisms for fair benefit sharing of profits being made from Indigenous knowledge should be established, since Indigenous Peoples were after all the "knowledge providers".

Sharing, it was indicated in several questionnaires, represents a principle common to many Indigenous Peoples. As such it often carries the idea of reciprocity. Sharing of knowledge in the Indigenous context might, for instance, rather be practised in a framework of mutual exchange to support the general wellbeing of humankind:

In the Andes of South America, we find peoples that for thousands of years have dedicated themselves to protect the health of this continent. In Northern Bolivia the inhabitants travel across the border to Peru, ... to different parts of the country, bringing medicinal plants and seeds for gardening. This has been done for a very long time. They exchange knowledge, medicinal plants and seeds among each other. They also go to the different celebrations held by the Indigenous Peoples of the region, where they exchange their knowledge. In general, this way of teaching is given to the youth from father to son, from generation to generation.⁶

Many Indigenous Peoples currently see themselves in a dilemma regarding the free sharing of their knowledge with the non-Indigenous world. One of the answers commented the situation as such:

⁶ This example was provided under *Question No. 4: Health*

“Sharing is something that we do and have done automatically. Now look at us, once a proud people with our own land base. But that’s not the point here. It’s just that I say you took our land, now you want our knowledge?”

Within these parameters of considerations and concerns a variety of opinions were expressed on the question of sharing, display and dissemination of Indigenous knowledge - ranging from no general sharing to sharing of certain knowledge under certain conditions to generally sharing Indigenous knowledge for the benefit of humankind. A similar range of views was provided on the commercialization of Indigenous knowledge, ranging from general prohibition to the possibility of commercializing certain knowledge to the importance of benefit sharing from profits made by third parties, and particularly from unauthorized commercialization of Indigenous knowledge. However, it is important to note that the willingness to freely share Indigenous knowledge does not automatically imply unlimited permission for its commercialization. Even the opposite can be the case.

In general it has to be highlighted that Indigenous concepts and ideas of sharing and disseminating knowledge do not match with the principles nor with the economic and legal implications of the “Western” public domain concept.

1.3 Commercialization of Indigenous knowledge

Commercialization of Indigenous knowledge was an issue that in principle raised two questions:

1. Should and can it be done at all? And if yes, how?
2. How do we deal with unauthorized exploitation of our knowledge?

Independently from the approach to these questions, it was generally emphasized that Indigenous Peoples must be the first beneficiaries of their knowledge. However, on the question if Indigenous knowledge could and should be commercialised there was a wide range of answers.

Some responses stressed that commercialization of their knowledge would challenge the cultural integrity of Indigenous Peoples, particularly with reference to its spiritual background. Therefore, it would not be permissible at all. Others pointed out that especially knowledge considered sacred could not be traded, sold or commercialized in any way. At the same time, they suggested that remuneration of other more everyday knowledge such as home remedies or arts and crafts might be a different case. One of the questionnaires proposed as a decision criteria that

“the question should perhaps not be reduced to a mere matter of “outsiders”, but rather of the more ethical consideration of ‘what use’.”

Nevertheless, also in these cases it was held that steps to contract such knowledge for private commercial or non-commercial use might compromise its availability to the primary rights holders, for instance in the case of technologies (e.g. weaving technologies). Several responses emphasized that the question of rights to Indigenous knowledge and sharing of benefits would need to be adequately addressed in the concerned Indigenous community/people and, if remuneration or commercialization was an option, mechanisms for culturally appropriate benefit sharing be developed. The above mentioned reference points for sharing and utilization of Indigenous knowledge would also apply for remuneration and commercialization.

In some of the questionnaires it was expressed that utilization of Indigenous knowledge by the non-Indigenous world was inevitable and that Indigenous Peoples would not really have a choice, partly due to the new Information Technologies. One answer therefore suggested that utilization of Indigenous knowledge should be regulated by Intellectual Property Rights regimes for the benefit of Indigenous Peoples as well as for the non-Indigenous world.

Unauthorized commercialization of traditional knowledge by third parties was a major concern for Indigenous Peoples, partly for its effects on their cultural integrity, partly for the accompanying lack of appropriate benefit sharing. In one of the responses, it was also pointed out that many Indigenous Peoples have no information on how to defend their knowledge and are not even close to information about existing legislation – another reason why Indigenous knowledge remains vulnerable to use and appropriation by third parties.

Moreover, it was pointed out in one of the questionnaires that many Indigenous Peoples have no experiences with attaching monetary worth to their knowledge because that would not be part of their cultures. Also, as indicated in various responses, having aspects of their cultures valued by the non-Indigenous world is seldom the case. Both factors might pose some additional obstacles to exercising fair benefit sharing. In one of the answers this point has been made as such:

“The idea that people might want to buy and learn about something that you know is a relatively new concept for many Indigenous Peoples. Attaching a dollar sign to this information is even more startling.”

Some responses emphasized the need for capacity-building for Indigenous Peoples. The points made included:

- The importance to promote the protection and defense of Indigenous knowledge in the communities;
- The necessity of building capacity on the management of Indigenous knowledge, including adequate information about conceptual differences between Western and Indigenous knowledge;
- The need for capacity-building of Indigenous communities related to direct marketing of products based on Indigenous knowledge.

One of the questionnaires stressed that capacity-building would be a means to avoid exploitation by non-Indigenous business:

“Our land is rich on natural resources and medicinal plants. The villagers use plants and herbs instead of company drugs. Non-Indigenous peoples collect the plants. If experts in this field of medicinal issues could train the villagers how to make use of the plants, that would help. As long as they can market it themselves. The Indigenous Peoples should have the control over the use and beneficiaries. Otherwise non-Indigenous people and business people come and buy for a very low price and sell on a much higher level in the market. It should not be allowed. Beneficiaries need to go to the rural peoples.”

All in all, it was generally considered necessary to establish a legal instrument and/or other legal mechanisms to protect Indigenous Intellectual Property Rights.

1.4 Protection of Indigenous knowledge

“To stop the theft is almost impossible. The control is impossible. And because of this, it is evident that you need *an international legislation* to control the multinational companies and other organisations that abuse Indigenous knowledge. Without such an international

instrument you can not do anything. What aspects should be considered? You have to start from the Indigenous People's point of view.”⁷

This quote is one expression of the concerns that were raised in many questionnaires. It was generally agreed that Indigenous Peoples' rights to their intellectual and cultural property needed to be legally protected. In this context, different responses provided various aspects to be taken into account:

- Legal mechanisms must be enforceable;
- Full recognition of Indigenous knowledge as intellectual property and its legal protection must take place on both, the national and international level;
- A global policy on traditional knowledge, Indigenous Intellectual Property Rights and benefit sharing has to be developed, considering the differences in the notion of “property ownership” between Indigenous Peoples and Western societies;
- The protection of Indigenous knowledge as intellectual property should start from the Indigenous point of view instead of the current “Western” notion, with for instance recognition of Indigenous knowledge as collective knowledge;
- WIPO should be involved for the development of unified sets of legal standards for the protection of Indigenous knowledge and property;
- UNCTAD should be involved for the development of guidelines for dealing with such knowledge and property;
- Guidelines should address elements like accountability, sharing, ways to negotiate, with whom, when and how;
- Legal instruments and other mechanisms for dealing with these issues should be developed with the involvement of Indigenous Peoples;
- The recognition of Indigenous Intellectual Property Rights, including recognition of the collective status of Indigenous knowledge, would be meaningless without recognition of general Indigenous rights (e.g. the right to self-determination or rights to ancestral territories) in an international legal instrument.

From a holistic perspective, as expressed in the last point made above, an international legal framework permitting the continuation of Indigenous traditions and ways of life, including the integrity of their environments, would be most effective to guarantee the protection of Indigenous knowledge. Some answers actually developed elements for a more holistic or rights-based approach. Indigenous knowledge, it was pointed out, could only be continuously protected if certain conditions would be met allowing Indigenous Peoples to preserve, evolve and constantly generate it in the context of their living cultures. Examples for necessary provision of such needed conditions included recognition of:

- the right of Indigenous Peoples to self-determination
- the rights of Indigenous Peoples to their ancestral territories and ways of life
- the need to protect the environmental integrity of Indigenous territories and their respective medicinal plants
- the need to protect Indigenous knowledge by speaking and teaching Indigenous languages.

a. The scope of protection

⁷ The quotation continues: „But who is it? How can you define who it is? For this there are existing instruments: The WGIP (= *UN Working Group on Indigenous Populations*) documents, and concretely the Martínez Cobo report (= *UN-report on the discrimination of Indigenous Peoples; Doc.No. E/CN.4/Sub.2/1986/7*) that defines Indigenous peoples.”

As regards the needed scope of protection for Indigenous knowledge, a variety of aspects were mentioned. In general, the following points were indicated:

- The protection of Indigenous knowledge as intellectual property should serve the purpose to keep Indigenous knowledge out of the public domain;
- It should guarantee ownership and control by Indigenous Peoples over their knowledge and its use;
- The goal of addressing issues pertaining to Indigenous knowledge should be to protect all cultures from exploitation.

Issues related to controlling the authenticity of Indigenous artistic expressions and of information about Indigenous Peoples were an area of specific concern. In this context it was suggested to introduce a label of origin and approval, covering various fields of application:

- dissemination of data on Indigenous Peoples would need approval from its source with a confirmation of its authenticity;
- data written about Indigenous Peoples by non-Indigenous writers would have to be identified as such;
- the same would apply to use of Indigenous worldview images, e.g. by non-Indigenous artists, at least to clarify a non-Indigenous perspective.

Several questionnaires generally emphasized that third parties, such as research institutions and companies, needed to seek permission from Indigenous Peoples for obtaining and using Indigenous knowledge. Furthermore, it was stressed that permission has to be granted by means of culturally appropriate procedures, involving the community.

Intellectual property protection for Indigenous knowledge was also seen as a means to regulate benefit sharing of profits gained by third parties from its utilization. Again, some responses emphasized that benefit sharing mechanisms - e.g. models for negotiating contracts, models for contract contents or institutional mechanisms for arranging agreements - have to reflect Indigenous protocols and need to proceed in a culturally appropriate way. One of the answers highlighted that it would be important to keep in mind that the notion of “property ownership” would be a foreign concept to many Indigenous Peoples.

b. Other steps to be taken

Monitoring was by some considered essential for the protection of Indigenous knowledge, especially against its unauthorized utilization and/or commercialization. However, it was also emphasized that it would only be effective if the entire “travel route” from the original source, the respective Indigenous People/community the knowledge belongs to, could be traced. In addition, monitoring of legislation might show to be an important aspect:

“In Canada, our First Nation knowledge with respect to languages, medicines, and teachings are at risk of being exploited more and more. One example is the Regulation of Natural Health Products, which threatens to expose many medicinal ingredients that have been used for hundreds of years. The regulation requires that any use of any natural health product must be identified before it will be recognized. The problem with this is that the drafters of the regulation did not properly consult First Nation people. So in effect, the “natural health product” (traditional medicine) will be in danger of being exploited. Western Medical professions have already taken many of our traditional medicines, studied them, processed them, and use them regularly. These medicines were taken without our permission.”

Finally, some questionnaires proposed steps that Indigenous Peoples themselves could take to promote protection of their traditional knowledge. Possible Indigenous initiatives that were suggested included:

- Indigenous Peoples and/or their organizations should develop lobbying strategies;
- Indigenous Peoples and/or their organizations should co-operate with UN bodies to achieve legal protection of their knowledge on the national and international levels;
- Indigenous Peoples might consider to include a new aspect into the discussion, namely the understanding of Indigenous knowledge as a multi-level and multifaceted world view - as yet most discourse within Indigenous forums had been focussed on protection, preservation and transmission;
- Indigenous Peoples need to examine this aspect themselves in order to fully explore and re-discover its implications;
- Indigenous Peoples could create an Inter-Indigenous network comprised of Internet and media proficient Indigenous people connected via Internet, with e-contacts made widely known, to monitor and act on the misuse of Indigenous knowledge.

In this context it was also pointed out by some questionnaires that ICTs could in fact be a useful tool for supporting the protection of Indigenous knowledge and recognition of fundamental rights of Indigenous Peoples, including Intellectual Property Rights.