

Ethical codes of conduct for research related to Indigenous peoples and local communities – core principles, challenges and opportunities

Håkan Tunón, Marie Kvarnström & Henrik Lerner

Abstract

Codes and guidelines related to the rights of and respect for Indigenous and local communities and their knowledge have been developed during the last decades. A milestone is the UN Convention on Biological Diversity (CBD) where the parties have agreed “to respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles”. This study analyses core ethical principles in 13 codes and guidelines. Of 18 principles listed six were identified as core principles. A discussion on challenges and opportunities in implementing these is made with the reference to the Swedish setting and to a Saami context. The codes are created with good intentions and contribute to raising general ethical awareness. However, in Sweden awareness of the relevant guidelines is low among researchers, in ethical committees of universities as well as in local communities. There is also a risk that the elements in the guidelines will be administrative items to tick off rather than favouring a good working relationship between the research team and the local community.

Introduction

My mantra is listen, listen some more, and when you have finished listening, listen again, and then when you have finished listening again, listen, and then listen some more. Don't stop listening. (Nlaka'pamux elder Verna Miller, formerly Board Member of the International Society of Ethnobiology)

Today there is an increasing awareness of the benefits of and willingness to adapt to research ethics in relation to power imbalances and Indigenous peoples' issues.

Many different research associations have consequently developed ethical guidelines or codices of conduct for their members as well as for their journals. In several international fora, Indigenous peoples play an important role together with representatives of governmental and non-governmental organisations in developing statements, declarations and guidelines of considerable political and symbolic significance. The Indigenous peoples' representatives have contributed with new angles and perspectives and thus created a new reflectiveness upon issues of importance for a sustainable future.

One important instrument in this context is the UN Convention on Biological Diversity (CBD 1992), since it is a legally binding agreement. In 1992, the CBD was approved by the political leadership of the world²² and today the negotiations around the Convention and clarifications of the meanings of the different national commitments have been progressing for more than two decades. The Parties of the Convention stress the importance of Indigenous peoples²³ and local communities as custodians of the landscape and its biodiversity. Their knowledge is considered necessary in order to achieve long-term conservation and sustainable use of biodiversity, both from an ecological as well as from a societal and cultural perspective. For Indigenous peoples, the signing of the Convention meant *inter alia* that the Parties agreed on article 8(j), requesting them to “respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles”²⁴. This has been an opening for continuous dialogue and negotiations within the CBD context regarding ethical considerations and the development of international ethical codes of conduct on the ownership of and respect for traditional knowledge, as well as the full and effective participation of Indigenous and local communities in policy- and decision-making (Tunón 2010a). Within the work of the Convention it has been highlighted that there is a need to achieve full and effective participation of Indigenous and local communities in all relevant programmes of work, both in policy-making and action related to biodiversity management, conservation and restoration and in the development and implementation of agreements regarding access and benefit-sharing and intellectual property rights.

The international negotiations within the CBD have resulted in a large number of documents of ethical relevance, including the Akwé: Kon guidelines (CBD 2004a), the Addis Ababa Principles and Guidelines (CBD 2004b), the Tkarikhaié:ri Code of Ethical Conduct (CBD 2011a), and the Nagoya protocol (CBD 2011b). Some

22 To date the CBD has 196 Parties of which 168 have signed it. The US has signed, but not ratified the CBD and are together with the Holy See and states with limited recognition considered as non-parties. (www.cbd.int)

23 In 2014 the Conference of the Parties to the CBD decided to henceforth use the term “Indigenous peoples and local communities” rather than “Indigenous and local communities” in future work and decisions of the CBD. (UNEP/CBD/COP/DEC/XII/12) <https://www.cbd.int/decision/cop/default.shtml?id=13375>

24 There is an on-going discussion on how “traditional” a “traditional lifestyle” ought to be as well as what signifies a “relevant” local community. (UNEP/CBD/WG8J/7/8/Add.1 2011)

of these will be described later in the paper. The focus of these documents is linked to the scope of the CBD, i.e. “relevant to the conservation and sustainable use of biological diversity”, but the aim can be perceived as much broader: to ensure a respectful and ethical dialogue, between nations and between peoples and people in relation to conservation and sustainable use of natural resources. The scope of the CBD might be seen as limiting, the guidelines can in fact be interpreted to cover most aspects of traditional knowledge and other cultural elements.

Issues related to Indigenous peoples and local communities, traditional knowledge, biological resources, and ethics are also treated within other international processes and agreements, e.g. World Intellectual Property Organization (WIPO, i.e. the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore [IGC-GRTKF] from 2001), Food and Agriculture Organization (FAO, especially the International Treaty on Plant Genetic Resources for Food and Agriculture [ITPGRFA] from 2001, i.e. article 9 on farmers’ rights), and within several initiatives within UNESCO (e.g. UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage from 2003). Each of these has its own specific focus.

Ethical codes of conduct and guidelines have also been developed in other contexts. For instance, different academic associations have developed their own sets of guidelines with different shapes and content depending on the perceived need of the specific research discipline. Furthermore, a third category of guidelines has been developed by or on behalf of Indigenous peoples, often with a clearer perspective on Indigenous peoples’ rights. When it comes to the Saami there is an ongoing slow process of the adoption of a Nordic Saami Convention as well as other national work within the different Nordic countries.

Aim

The aim of this paper is to analyse different ethical guidelines and codices related to Indigenous peoples and local communities, especially with focus on traditional knowledge and cultural practices, in order to compare ethical concepts and principles within the codes and discuss some of the challenges and opportunities in relation to their respective language and use. We also aim to raise the issue of the degree of awareness of these guidelines among researchers as well as knowledge holders and highlight some of the difficulties connected to the development of such guidelines. This study has a broad focus but looks more closely at the situation in Sweden and in the context of the Saami people, since the Swedish Biodiversity Centre has had an assignment to run a national programme of local and traditional

knowledge in relation to the CBD (Naptek). Consequently, we are familiar with the international negotiations and have contributed in Swedish national delegations in this context, as well as the on-going work on the national implementation of its outcomes in Sweden.

Comparing different ethical guidelines

Ethical guidelines included in the study have been chosen based on their relevance for research issues related to Indigenous peoples, local communities, traditional knowledge, intangible cultural heritage and biodiversity (see Table 1). The Internet was searched for suitable guidelines and codices available in full text and in English, as well as for home pages with secondary listings of ethical guidelines/codices/documents. The initial search words have been “ethic”, “ethical”, “guidelines”, “codex”, “codices”, “Indigenous”. Also publications regarding research ethics within the field were used to search for specific guidelines. The overall purpose was to find relevant entries to a large number of available guidelines. From the total number of guidelines we tried to make a selection of guidelines focusing on either general research on Indigenous peoples and/or local communities or more specifically on cultural aspects and/or traditional knowledge. We also sought to get a wide geographical distribution and excluded the more specific health-related guidelines since they represent a specific research field outside the focus of this study.

We have divided the different chosen instruments into three groups depending on if they have been developed by or within:

- i) *international political contexts.*
- ii) *Indigenous peoples and local communities,*
- iii) *academic associations and institutions,*

These categories are not exclusive since the development of these guidelines often has taken place in a blend of contexts, but they give us a reasonably good analytic distinction when reflecting upon similarities and differences.

Each article in each code has been analysed for main ethical aspects mentioned. These are ordered in the left row in Table 1. Only one code, the International Society of Ethnobiology Code of Ethics, contains all the aspects found in this study. Therefore we have chosen this as our reference point (in italics in Table 1). Each code has then been summarized into a single core principle, indicating the main focus (bottom row, Table 1). This comparison and analysis is only a first step to a more comprehensive one.

Instruments developed in international political contexts

There are many different political negotiations on-going internationally regarding Indigenous peoples and local communities and they have slightly different foci. The UN Permanent Forum on Indigenous Peoples' Issues and the UN Declaration on the Rights of Indigenous Peoples are contexts with a strong focus on the human rights' issues. This is also the case with the ILO-169, the Indigenous and Tribal Peoples Convention, within the International Labour Organisation. Within the WHO issues regarding Indigenous peoples' health are being discussed. The UN Convention on Biological Diversity has a focus on conservation and sustainable use of biodiversity and the fair and equitable sharing of benefits from the use of genetic resources. What these contexts all have in common is that they address the issue of the rights of the local people.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP 2007) is one of the most important documents in this context. It has been negotiated within the UN framework in an intergovernmental context. Even if it is not an ethical guideline or code of conduct as such, it has components that refer to ethical conduct in relation to Indigenous peoples and contains elements mentioned in the ethical guidelines in table 1, e.g. active participation, full disclosure, prior informed consent, respect, acknowledgement. The declaration was adopted by the UN General Assembly in 2007.

The CBD is another UN instrument, but unlike the Declaration on the Rights of Indigenous peoples, the CBD is a legally binding framework treaty. It has three main objectives²⁵ of which the third relates to "the fair and equitable sharing of the benefits arising out of the utilization of genetic resources". Consequently, much effort has been put into producing instruments to facilitate ethical behaviour of developers and researchers. Two instruments directly linked to ethical codes of conduct in relation to Indigenous peoples and local communities have been developed within the CBD process:

25 The objectives of the Convention on Biological Diversity "are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding" (CBD, 1992, article 1).

Table 1. Comparison of important concepts and core principles between ethical guidelines with implications on research on Indigenous peoples.

	studied codes and guidelines						
	i) International political contexts			ii) Indigenous peoples and local communities			
Important principles or concepts	UN Declaration of the rights of Indigenous peoples	Tkarihwa-í:ri - Code of Ethical Conduct (CBD)	Akwé: Kon Voluntary Guidelines (CBD)	Nordic Saami Convention	Swedish Saami Parliament: árbediehtu-policy document	Ethics in First Nations Research	Te Ara Tika (Guidelines for Māori Research Ethics)
1. Prior rights/responsibilities	Articles 4-11, 20-24, 31-35	Para. 4, 5, 13, 18-19	Para. 3, 59-60	Articles 1, 4, 14-16, 23, 31, 34-36	p. 17, 19	Intro., p. 14-18, 24	p. 14, 16
2. Self-determination	Articles 3, 14, 32, 34	Para. 13, 27	Para. 59-60	Preambular, Articles 1, 3	p. 17, 19	Intro., p. 7, 24	p. 2, 8, 16
3. Inalienability	(Article 31)	Para. 17	Para. 23, 28		p. 11	p. 21	
4. Traditional guardianship	Article 26	Para. 20					p. 2
5. Active participation	Articles 11, 18, 27, 38	Para. 25, 28-30	Para. 3, 8, 12-16, 17, 22	Article 10-12		Intro., p. 8, 19, 32	p. 7, 9, 10, 11, 12, 13, 14, 16
6. Full disclosure	Article 27	Para. 10	Para. 10, 62		p. 25	p. 19, 25-26, 30	p. 6, 7, 13
7. Prior informed consent (Educated)	Articles 19, 28	Para. 11	Para. 52-53, 60		p. 25	p. 9, 12, 19, 27-28	p. 6, 12
8. Confidentiality		Para. 31	Para. 33		p. 26	p. 9, 11-13, 19	p. 5, 10-11
9. Respect	Articles 11-17	Para. 2, 5, 12, 18-19	Para. 3, 33, 59-60	Articles 7-11, 13, 31, 34	p. 25	Intro., p. 11, 14-18, 28-29, 30-31	p. 2, 9, 10, 12, 14, 16
10. Active protection	Articles 12-13	Para. 15		Articles 6, 24, 31, 34, 41-42		p. 13, 14-18	p. 5, 9, 14
11. Precaution	Article 29	Para. 8, 16	Para. 3, 19, 33			p. 9, 19, 25	p. 5, 6, 10, 13
12. Reciprocity, mutual benefit, equitable sharing	Article 28	Para. 14, 26	Para. 19, 46	Article 31		p. 8, 22, 23, 28-29	p. 4, 8, 9, 10, 11, 13, 14, 17-18
13. Support Indigenous research		Para. 25	Para. 64-66	Articles (11), 27		p. 32	p. 7, 9, 14
14. Dynamic interactive cycle							
15. Remedial action	Article 29	Para. 15, 22-23	Para. 3, 20, 46-47, 55-56		p. 28	p. 32	p. 6, 10
16. Acknowledgement & credit	Article 31	Para. 8				p. 14-18, 22, 28-29	p. 12, 16, 17
17. Diligence (cultural knowledge & language)		Para. 12, 21, 32			p. 20	Intro.	p. 5, 6
18. Mutually-agreed terms		Para. 22	Para. 21			p. 12, 27-28, 31	p. 14, 16-17
Core value*	Respect/ rights	Respect	Participation/ respect	Rights	Rights	Respect	A matter of values, justice and equity

* Clearly stated as the fundamental value of the Code

The International Society of Ethnobiology Code of Ethics is used as a reference point (*italics*).

More extensive information about the different guidelines is presented in the paper

	studied codes and guidelines					
	iii) Academic associations and insitutions					
Important principles or concepts	<i>International Society of Ethnobiology</i>	Australian Institute of Aboriginal and Torres Strait Islander Studies	Code of Ethics of the American Anthropological Association	Protocols & Principles For Conducting Research (Univ. of Victoria)	American Sociological Association Code of Ethics	Research ethic principles <i>Vetenskapsrådet</i>
1. Prior rights/ responsibilities	<i>Principle 1</i>	Principle 2, 1 3, 4		3.1.3		
2. Self-determination	<i>Principle 2, Guideline 8</i>	Principle 2		2.1.1, 3.1-5		
3. Inalienability	<i>Principle 3</i>	Principle 1, 4				
4. Traditional guardianship	<i>Principle 4</i>					
5. Active participation	<i>Principle 5, Guideline 8</i>	Principle 4, 6, 8, 10		2, 2.1.1, 2.1.3, 3.3-1-4		
6. Full disclosure	<i>Principle 6, Guideline 7</i>	Principle 6, 7, 8	III. intro, B.4	2.1.3, 3.1.2, 3.1.4, 3.1.10, 3.2.2, 3.5-1	Principle E	p. 7, 15
7. Prior informed consent (Educated)	<i>Principle 7, Guidelines 2-4</i>	Principle 6, 7, 13	A.3-5	2.1.2, 3.1.1, 3.1.10, 3.2.2	Standard 12	p. 7-10
8. Confidentiality	<i>Principle 8</i>	Principle 6, 7	A.3	3.1.5, 3.1.9	Standard 11	p. 10, 12-13, 16
9. Respect	<i>Principle 9</i>	Principle 5, 10, 13	A.2	1.3, 1.5, 2.1.1	Principle D	
10. Active protection	<i>Principle 10</i>	Principle 5		2, 2.1.2, 3.1.3		p. 14
11. Precaution	<i>Principle 11</i>	Principle 1	A.2	3.1.3, 3.1.10		p. 13
12. Reciprocity, mutual benefit, equitable sharing	<i>Principle 12</i>	Principle 4, 7, 11-13	A.6	1.6, 2.1.1, 2.1.3, 3.1.7, 3.2.1, 3.4, 3.5-1, 3.5.2	Principle E	
13. Support Indigenous research	<i>Principle 13</i>	Principle 10		3.3-1-4		
14. Dynamic interactive cycle	<i>Principle 14</i>	Principle 4, 6				
15. Remedial action	<i>Principle 15</i>				Principle E	
16. Acknowledgement & credit	<i>Principle 16</i>	Principle 4, 13	A.3	3.1.3, 3.2.3, 3.2.4	(Principle 15)	
17. Diligence (cultural knowledge & language)	<i>Principle 17, Guideline 1</i>	Principle 4		3.1.10		
18. Mutually-agreed terms	<i>Guideline 6</i>	Principle 6, 8, 13	A.5	1.6		
Core value*	<i>Mindfulness</i>	Respect/rights/mutual benefits	Responsibility as a scholar	Responsibility as a scholar	Responsibility as a scholar	Responsibility as a scholar

The Tkarhiwaié:ri Code of ethical conduct (CBD 2011a) was adopted by the Conference of the Parties (COP) in 2010. This is an example of ethical guidelines with a broad intention to show respect to the community and its ownership and guardianship of knowledge and practices as well as surrounding biodiversity. It specifically addresses but is not limited to research.

The Akwé: Kon voluntary guidelines (CBD 2004a) were adopted by the COP of the CBD in 2004. They are guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by Indigenous and local communities.

The major objective is to increase the possibilities for participation of and to show respect towards Indigenous peoples and local communities within all sorts of proposed developments in order to avoid harmful impact on the communities or the biodiversity. Of particular interest here is the focus on cultural and social impact assessments, and not only environmental impacts, of the proposed projects.

Instruments developed by Indigenous peoples and local communities

There are also instruments developed by Indigenous people in order to safeguard their culture and interests from external actors of all kinds.

The Nordic Saami Convention (2014) was approved by the Nordic Saami Parliaments in 2006, but it has not yet been ratified by the Governments of the three Nordic countries with Saami communities. The draft Convention has been developed by a committee consisting of Saami experts, commissioned by the Saami Parliaments and Governments in the Nordic countries. It has a focus on the rights of the Saami and as such a much broader scope than the Code of Ethics of the International Society of Ethnobiology (ISE COE 2006, see further below), and it consequently has a lower resolution in details regarding the issues relating to the scope of this paper.

The traditional knowledge policy of the Swedish Saami Parliament (2010) was adopted by the Saami parliament as a starting point for a more detailed action plan. The objective is to strengthen the role of Saami traditional knowledge in the society and it delivers guidelines for knowledge-transfer, for maintain and knowledge and ownership of knowledge as well as for how documentation of Saami knowledge should be done. It is primarily a product developed through a synthesis of international guidelines and on-going academic discussions. Although not clearly visible in the final product, a Saami peer review procedure to get additional input was included in the process of developing this policy document.

The background to *Ethics in First Nations research* (Assembly of First Nations, 2009) is a general discontentment of the lack of respect shown in research previously performed on First Nations: “Research has not been grounded in respectful relationships and has failed to incorporate culturally appropriate ethical standards. [...] This has resulted in a widespread distrust of research and outside researchers in many First Nations communities.” (p. 4). This document is only partly an ethical guideline; it is rather an educational text to increase the awareness of ethical consideration in Indigenous peoples’ research and as such it is more reflective than most other instruments. However, it provides a norm for acceptable behaviour of researcher vis-à-vis the Indigenous community and presents a discussion regarding most of the relevant principles or concepts.

Te Ara Tika. Guidelines for Māori research ethics (Hudson et al., 2010) is a document to assist Māori communities as well as the academic community in ethical conduct in research on Māori issues. It was developed by a working group, based on Māori contexts, values, and worldviews and presents requirements for three levels of ethical consciousness; minimum practice, good, and best practice. The working group states that for ethical guidelines to be valid they have to be shaped by their cultural values, and, consequently, these guidelines differ from most other. At the same time they include most of the commonly used ethical concepts, but in a slightly different phrasing, especially since there is a conceptualisation based on Māori ethical framework and consequently partly in Māori nomenclature.

Instruments developed by academic associations or institutions

Most academic disciplines have their own ethical framework and many academic associations have developed ethical guidelines for their members. There are also some universities, departments and research institutes that have produced guidelines for ethical behaviour vis-à-vis Indigenous peoples and local communities. This is particularly true when it comes to universities in areas with a strong Indigenous influence and with Indigenous scholars.

ISE COE – International Society of Ethnobiology Code of Ethics from 2006 with additions 2008 (our reference point, ISE COE 2006) is a code of conduct developed within the framework of an academic association and its scope is research related to Indigenous peoples and local communities and their use of biological resources, which is in the centre of the interest of this paper. It is based on the Declaration of Belém from 1988 and consists of 17 principles and 12 practical guidelines. It delivers short and clear definitions in relation to the aim of each of its principles.

Guidelines for Ethical Research in Australian Indigenous Studies were devel-

oped by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS, 2012). This institute is “the national research and collecting institution for information and research about the cultures and lifestyles of Aboriginal and Torres Strait Islander peoples, past and present”. It could be described as a governmental academic research institute. These guidelines are interesting since they present the issues in a slightly different way than the others. The 14 clearly stated principles are divided into 6 bridging sections to simplify their use:

- Rights, respect and recognition
- Negotiation, consultation, agreement and mutual understanding
- Participation, collaboration and partnership
- Benefits, outcomes and giving back
- Managing research: use, storage and access
- Reporting and compliance

Each principle is described as well as requirements for applying the principle.

Code of Ethics of the American Anthropological Association (2009) is relevant to researchers dealing with a wide range of subjects, i.e. archaeological, biological, linguistic and sociocultural issues. The guidelines are divided into three sections, the responsibility to A) people, B) scholarship and science, and C) the public. To the subject of this paper the first section is most relevant, but it is written in a fairly general way and focus on a general desire to cause no harm to “the safety, dignity, or privacy of the people” and “to respect the well-being of humans and nonhuman primates”. We have here focused on issues concerning humans.

Protocols & Principles For Conducting Research in an Indigenous Context originates from the Faculty of human and social development, University of Victoria, Canada (2003). This is a set of principles for the benefit of the researchers at the faculty to enable them to respect the rights of human subjects in research. They are short, clear and concise, but still deliver a fairly good coverage to the issue.

ASA Code of Ethics from the American Sociological Association (1999) is as such not precisely within the scope of our investigation. The main ethical focus is rather on the “traditional” research ethics²⁶ relating to the scientist’s behaviour towards the research community. However, it contains several of the relevant elements of codes of conduct towards Indigenous peoples.

‘*Research ethical principles within humanities and social sciences*’ (Vetenskapsrådet 2002) was developed in the 1980ies–1990ies by one of the major Swedish research councils and are still spread by ‘the Research Council’ (<http://www.co->

²⁶ From here on we use the term “western research ethics”.

dex.vr.se, June 2, 2014) and used by researchers within these academic subjects. However, they are not focused on Indigenous and local communities, but more general regarding four requirements within social sciences, i.e. information, approval, confidentiality and use.

Important ethical concepts

We found at least 18 different concepts with ethical implications present in the guidelines (Table 1). Concepts which are present in at least 11 of the 13 ethical guidelines are listed below. The descriptions of these concepts are mostly taken from the International Society of Ethnobiology Code of Conducts, which we chose to be our reference point among the guidelines. The aspects are:

Respect (often mentioned in connection with the concepts *rights* and *inalienability*) – the purpose of many of these guidelines are to ensure respect for the Indigenous and local communities where research is planned. Respect in this context can be shown in many different ways and is expressed, directly or indirectly, in the texts, but not always with a heading of its own. It could also be worth mentioning that several of the guidelines or principles from Indigenous contexts have a very strong focus on prior, proprietary right over land, natural resources and associated knowledge that is generally lacking in guidelines developed in other contexts. This is also the case for reflections regarding self-determination and traditional guardianship, all of which can be interpreted as a call for respect.

Full disclosure – Most guidelines stress the importance that a researcher must be transparent and present the research project clearly in order to give the subjects a true possibility to penetrate the project and fully understand the context of participation. This can also be seen as closely related both to the concept of respect above and to informed consent below.

Free prior informed consent/prior informed approval (FPIC/PIA) – the purpose is that prior to all activities a consent or an approval should be obtained, and this should be obtained after a clear and concise presentation of the purpose, methodology and expected outcome, positive and negative, of the project to be undertaken (i.e. full disclosure). This information should be delivered in a form relevant for the receiver and a fair amount of time should be given for reflections and decision-making. This is often described as free and voluntary, prior informed consent to stress that the research subjects in no way are forced to participate in the project. Furthermore, the consent or approval should at any time or for any reason be possible for the participant to withdraw.

Confidentiality – the confidentiality principle refers to the right of the Indigenous community to exclude from publication information concerning matters considered sensible to them, as well as the possibilities for the informer to remain anonymous. At the same time it is important to stress that public acknowledgment can be considered as a sign of respect towards the knowledge holder and the knowledge provided, so both possibilities are valid, depending on circumstances (see Svalastog and Eriksson 2010).

Reciprocity, mutual benefit, equitable sharing – local and traditional knowledge has been developed within a community context over a long period of time and this needs to be acknowledged. Consequently, any result from such research should be considered as the result of a mutual effort and a fair and equitable sharing of any benefits should take place. Studies should be reciprocal and of mutual benefit for the community and the research group. Both should benefit from the outcome of the study – or, if only one party benefits it is often stressed that it should be the Indigenous or local community and not the researcher.

Core ethical principles

In our consideration of core ethical principles for the different ethical guidelines (bottom row of Table 1), we identified six. These were:

- Respect
- Recognition of rights
- Responsibility as a scholar
- Mindfulness
- Participation
- Mutual benefits

Among these, respect, rights and responsibility as a scholar were identified in most ethical guidelines. *Mindfulness* was the only value explicitly stated in the ISE Codex.²⁷ This could be seen as a sign of the depth of the process of developing this Codex. Mindfulness is defined as “a continual willingness to evaluate one’s own understandings, actions, and responsibilities to others” (ISE COE 2006).

Respect generally has a wider definition in the studied guidelines than the term generally has in general in western research ethics. It deals with almost all relations, both human and with nature. Castellano (2004) in her discussion on Abo-

27 A more thorough analysis of similarities and differences when it comes to core principles between the different codes would be an interesting task. However, for the purpose of this study we believe the performed analysis is sufficient.

original research ethics conclude that respect must be shown both in relations to animals, nature and between researchers and the Indigenous communities.

Recognition of rights is also defined wider than in general western research ethics. Indigenous Peoples and their heritage are granted as having the same rights as other peoples. In research this means for example that Indigenous peoples world-views, knowledge and processes to get knowledge are valued. One important aspect is that knowledge is collective rather than individual which might be in conflict with certain western research methods.

Responsibility as a scholar concerns how the researcher should act. It deals for example with the important principles or concepts of full disclosure, prior informed consent and confidentiality (see Table 1) or as Hing et al. (2010, p. 552) states, “doing no harm, protection of participants, maintenance of trust and clear accountability.” In research concerning Indigenous Peoples, methods of getting informed consent could differ from the standards in western research ethics. Also confidentiality that is well established in western research ethics has been questioned in Indigenous peoples research ethics (Ermine et al 2004, Svalastog & Eriksson 2010). “In matters of knowledge recognition and participant’s empowerment, this requirement ultimately continues to silence the Indigenous voice” (Ermine et al 2004, p. 33). This is particularly important in cases where knowledge is later patented by others than the true knowledge holders.

Participation is not only that Indigenous peoples and local communities should be invited to participate in a project, they should also be involved in the design process of the research in order to get mutual benefits.

Mutual benefits means that the community where the research takes place should gain from the process. McClancy and Fuentes (2013) stress that a collaborative process is better suited when meeting other cultures, rather than just bringing back the results from a survey to the community for the informants’ opinion. Indigenous peoples being a part of the design of the study will gain far more if they can influence how studies are designed, and are able to ask research questions that they want to have answered.

In spite of the fairly large resemblance of the studied ethical guidelines, both the ones developed within the scope of several other international agreements and by different Indigenous people’s groups, they do differ in general impression and overall focus. The academic guidelines, not too surprisingly, tend to have a stronger research issues perspective, while other instruments have an emphasis on the human rights perspective. The ethical guidelines developed in the context of the CBD and other international fora originate more from international policy than from any particular customary practices.

Different processes of development

Differences between ethical principles could depend on different processes of development. Below, the process of developing the ISE Code of Ethics and the process of developing the Tkarihwaié:ri Ethical Code of Conduct are described (see Table 1). As can be seen, there are fundamental differences between two widely different paths of development.

The International Society of Ethnobiology (ISE) was founded in 1988 as an umbrella organization through which scientists, environmentalists, and Indigenous peoples could work together to protect the world's endangered biological and cultural diversity (Hardison and Bannister 2011). It was established from a shared concern about the continuing destruction of ecosystems throughout the world, and the devastating biological and human implications. This was recognized in the Declaration of Belém (1988) at the first International Congress of Ethnobiology, organized by the late Darrell Posey and colleagues, where the ISE was founded. The Declaration of Belém was the first international declaration to call for mechanisms to recognize and consult with Indigenous specialists as proper authorities in all activities affecting them, their resources, and their environments (Hardison and Bannister 2011). Following this first meeting of ISE, the Society embarked on an intensive process of developing a Code of Ethics for ethnobiologists. The process included open hearings, workshops and dialogue between Indigenous and non-Indigenous scholars, professionals, activists and traditional knowledge holders (Hardison and Bannister 2011). The drafting process involved an assessment of many existing codes and guidelines. The ISE Code of Ethics (ISE COE 2006) was adopted in 2006 with additions in 2008 and it is currently available in English, French, Spanish, Italian, Chinese and Bahasa Indonesian. To promote the use of the Code, the ISE has established an Ethics Program and an Ethics Toolkit. As has been noted above, the fundamental or core value underlying the ISE Code of Ethics is the principle of mindfulness (ISE COE 2006). In line with this, there is a 4-year cycle of revision and renewal of the Code to ensure that it remains adjusted to current needs.

The Tkarihwaié:ri code of ethical conduct (CBD 2011a) has been developed and adopted within the CBD as an instrument to assist in the implementation of CBD's article 8(j). In the introduction (CBD 2011a), it is emphasized that

By its ethical nature, the Code establishes a new paradigm for researchers and others working with Indigenous and Local Communities and /or on their lands and waters. The code embodies both equal partnership and capacity building for Indigenous and Local Communities and those working with them. It is a tangible tool in keeping with the greater emphasis now

placed by Parties to the Convention on practical results based on the identification and pursuit of outcome-oriented targets with a view to achieving, by 2020, the revised Strategic Plan and the Aichi targets.

The process of initiating and negotiating the Tkarihwaié:ri Code differs fundamentally from that of the ISE Code of Ethics. It was negotiated in an intergovernmental context within a United Nations legally binding convention. Diplomats had to follow strict instructions from their governments and ensure compatibility with their national legislation, while representatives of Indigenous peoples raised concerns over past abuse of good faith and instances of bio-piracy (Persoon and Minter 2011). As noted by Hardison and Bannister (2011, p. 37):

International treaties are negotiated in diplomatic contexts. They may take decades to negotiate. They are, by their nature, extremely conservative and abstract processes. Because they intend to promote or establish law, they have to work within the constraint of developing and using concepts that can be understood by all of the state representatives and be accepted by consensus.

Since the third meeting of the CBD in 1996, representatives for Indigenous peoples have been able to make interventions at the meetings and participate in some negotiating sessions. However, they have no formal right to make proposals, and the right to make decisions rest with the Parties. The process of developing concepts, which are acceptable to all governmental parties, and compatible with national legislations, tends to produce language which is very highly formalized and which does not lend itself to easy understanding.

It is also interesting to note that although the focus of the Tkarihwaié:ri Code is on research, it has largely been drafted without substantial input from the world of science, and the code has not been coordinated with other professional codes within scientific disciplines (Persoon and Minter 2011). Although the Code has been formally negotiated and agreed, it has a voluntary status, and there is hence no authority to oversee the implementation of the code or address its violations. Furthermore, while considerable effort goes into the intergovernmental negotiations in the meetings of the CBD and similar instruments, there are typically few resources available for communicating and disseminating the results once the delegates return home to their often very full desks and tight schedules.

Awareness among researchers

With all these different codes in existence, is there awareness of them in academia and among the individual researchers? In 2009/10 we sent a questionnaire to the boards of 53 Swedish universities and university colleges, and to the main 18 Swedish research funding agencies, with the purpose to map their awareness and practical inclusion of ethical guidelines regarding research on Indigenous peoples and local communities (Tunón 2010b). Most of the universities have activities that could involve issues regarding ethical considerations of asymmetrical power between scientists and local communities. We received responses from 24 universities/university colleges (45 %) and 10 replies (56 %) from funding agencies.

The questions covered how the universities/university colleges/research financiers dealt with ethics in research related to Indigenous peoples or local communities, and whether they applied the available guidelines. The short answer was “no”. General research ethics as applied by ethical committees (universities) or requirements in the legislation (financiers) were considered adequate. Two respondents answered that they previously included more specific ethical considerations when reviewing research applications, but not any longer, as potential ethical dilemmas are supposed to be covered by a national ethics committee according to the present national legislation. One financier noted that research applications were evaluated through peer review and if the reviewing scientists raised any ethical issues, they normally didn't recommend the application. The main responsibility for ethical consideration is placed on the individual scientist, the research group or the department, since the law is strict that the project owner needs to consider the ethical aspects of the research project and whether there might need to be an application to the research ethical committee. On the other hand, the law does not cover e.g. ethical questions regarding Indigenous people and minorities. A general remark from the financiers was that they had many different aspects to consider and ethical considerations in relation to Indigenous peoples and local communities were not one of high priority. The majority of financiers pointed out that research quality was their first concern and priority together with the fact that the proposed project was in line with existing legislation and that good research ethics was considered. Most likely the last remark focused on other aspects of research ethics than social responsibility.

The response rate was fairly low. The results indicate that the awareness and understanding was low among the respondents regarding the potential need for a particular ethical consideration vis-à-vis these groups. Unfortunately, Umeå and Uppsala universities, where fairly extensive research on Indigenous peoples is carried out, did not respond to the questionnaire. One explanation of the lack of response might be that the boards think this is a minor issue and that the Swed-

ish legislation is focusing on the direct risk of the person being studied, especially health hazards and personal integrity. Concerns over this have been raised and a wider approach has been asked for (Pimple 2002 and Svalastog and Eriksson 2010). In our study as well as in a study by Hing et al. (2010), several ethical principles relating to Indigenous Peoples are recognized, some of which are not normally recognized in western research ethics.

Of course, in the best of worlds the individual researchers should be well aware of the ethical guidelines related to Indigenous peoples and local communities, and that might be true within certain disciplines. However, since there is a wide range of academic disciplines involved in research on issues related to Indigenous peoples, many researchers have not come across information about any of these codes. It was stressed in the results from the above study that the academic society often claims to regulate ethical issues within the peer review system for publication. Mentoring and peer-review system have also previously been mentioned as an important way of fostering young scientists in research ethics (Horner & Minifie 2011). However, knowledge concerning good ethical practice vis-à-vis Indigenous and local communities is not automatically part of the peers' and mentors' knowledge.

Awareness among knowledge holders

Does information about ethical guidelines and codes of conduct reach the concerned Indigenous peoples, local communities and knowledge holders? Based on our experience from Sweden with the work with the national programme Naptek, there are representatives of for example Samebys and small scale farmers (e.g. summer pastoralists 'fåbodbrukare') or artisanal fishermen who are aware of articles 8(j) and 10(c) of the CBD as well as of the Akwé: Kon guidelines for impact assessment, and who work for their effective implementation in Sweden. However, information on the existence of the Tkarihwaié:ri Code of ethical conduct and its scope and potential use seems to be less widely spread.²⁸ This leaves us with a situation in which many of the developed ethical guidelines regarding research might so far seem to be of limited importance in practice, at least in Sweden.

Conflicts due to language style

There seem to be inherent challenges both in the process of developing codes of ethical conduct and in implementing them. According to our studies and experi-

²⁸ Note here that several of the codes referred to in Table 1 are not directly applicable to the Swedish setting, even though some are fairly global in their contextualization.

ences, awareness of the existence of codes of conduct related to research on Indigenous and local communities is low in Sweden in organisations facilitating research and knowledge holders. An equally fundamental problem is in the development of the codes. They might, in spite of good intentions, be constructed in a manner and with a language that means they might miss their target.

For example, the language used in the Akwé: kon Guidelines indicates that the perspective is that of the government and perhaps also of the researcher. One should “respect”, “adapt” or “modify” methods to incorporate the views of Indigenous and local communities. This might be in conflict with the ethical principles of *participation* as well as *mutual benefits*. The process could also have been the other way around, starting from the Indigenous peoples’ and local communities’ point of view, as is the case with the Te Ara Tika-guidelines (Hudson et al. 2010).

Either way the language will most likely be out of place for the ‘other’ group.

As noted by a Swedish organization for local food production in response to a questionnaire on the implementation of CBD’s article 8(j) in Sweden:

Eldrimner finds it somewhat difficult to analyse and answer the questions since the Programme of Work²⁹ and the material are so bureaucratic that it is difficult to understand its effects on the local stakeholders. To enable dialogue and participation with the local stakeholders, the material should encourage dialogue and the bureaucratic material should be translated to an understandable language. (Eldrimner 2013. Our translation from Swedish.)

The Assembly of First Nations note in its code (Assembly of First Nations 2009, p. 7) that:

It is important to note that much of the writing on this topic is approached through a Western framework. In order to make a true shift toward so-called ‘ethical’ research, the research itself must be conceived from within an Indigenous paradigm that is reflective of the worldview and principles held by the First Nation where the research will occur.

A similar perspective is held by the Australian health authority (National Health and Medical Research Council 2003, p. 3):

In a research context, to ignore the reality of inter-cultural differences is to live with outdated notions of scientific investigation. It is also likely to

29 This referred to the program of work of article 8j, but the language used in the Tkarihwaïé:ri Code is similar.

hamper the conduct of research, and limit the capacity of research to improve human development and wellbeing.

Nordin Jonsson (2011) also claims when discussing how to document traditional knowledge that “The starting point should thus be the Indigenous peoples’ own values when traditional knowledge projects are planned, implemented and disseminated”. The central point is that the norms and values from Indigenous peoples or local communities should be governing the process of collecting knowledge. This does not mean that western scientific methods of research are banned, just that the foundation should not be based on only western scientific values. Nevertheless, it will have implications on the core principles of *participation* and *mutual benefits*. The problem of language in ethical guidelines is thus at least twofold: firstly, some of the guidelines, in particular those developed through intergovernmental negotiations, have a language that is simply difficult to understand. Secondly, the language does not always reflect the norms and values of Indigenous peoples and local communities and does not necessarily take due consideration to the local customary practices and cultural differences.

The importance of guidelines

On the positive side one has to admit that the presence of ethical guidelines regarding research on Indigenous peoples’ issues, no matter the origin of the thoughts, has the potential of raising the general ethical awareness and constituting a valuable source of reference. The ethical guidelines are usually created with very good intentions and they include valuable terms, elements and themes, but are they known by the relevant researchers, and are they always the best tool for creating awareness of these issues within the local community or the academic context? As noted above, the awareness within Academia of the existence of codes of conduct for research related to Indigenous peoples and local communities is low in Sweden. It doesn’t matter whether there are any number of principles or concepts which relate to research ethics of Indigenous peoples if these are unknown or unused.

Another inherent problem is the construction of ethical guidelines in that they need to be specific in some sense but still open to cover all possible situations. Nordin Jonsson (2011) argues that openness is important due to the fact that values differ among subgroups even within for example the Saami community. In the ongoing debate among anthropological field-workers, the critique is raised that formalizing research ethics might negatively influence the trust between informants and researchers (MacClancy and Fuentes 2013). As the American Anthropological

Association states “No code or set of guidelines can anticipate unique circumstances or direct actions in specific situations” (American Anthropological Association 2009). Also, there is critique that the values often highlighted in western research ethics are not congruent with guiding values in Indigenous and local communities (Svalastog and Eriksson 2010).

It seems that today, most codes of ethical conduct may also be overly detailed and formal, possibly creating a reluctance from the researcher to use them. Furthermore, they can also give a false sense of sufficient accomplishment: “if I just get the prior informed consent document signed...”. Interestingly enough, in the Te Ara Tika-guidelines there are suggestions of three different levels of fulfilment of ethical requirements, i.e. minimum standard, good practice, and best practice, which can be both positive and negative. One can easily forget that:

Research within Indigenous communities involves establishing personal relationships and committing to involvement over a long period of time. Any researcher entering a community must understand this time commitment and understand that it is inappropriate to enter a community, gather data and then disappear, leaving the community wondering what is next. (Assembly of First Nations 2009, p. 31).

And furthermore: “the success of the research will depend in the end of the relationships that are developed through the research and the degree of moral integrity with which the principles are applied” (Assembly of First Nations 2009, p. 31). It is an aspect worth consideration for the principles of *respect* as well as *responsibility as a scholar*.

As argued by Lövgren et al. (2012), one should not limit ethical concerns only to those present in guidelines or legislation. A wider perspective is often needed, due to the fact that the research process might involve other issues that could be ethically problematic. This study gives further support to this claim. Social relationships need time, trust and flexibility. The code of ethical conduct should be more than just a step-by-step manual in order to reach mutual respect and have sufficient flexibility to adapt to the situation at hand. As the role character Hector Barbossa said in the first “Pirates of the Caribbean”-movie “The Curse of the Black Pearl” from 2003:

“— And thirdly, the Code is more what you’d call ‘guidelines’ than actual rules. Welcome aboard the Black Pearl, Miss Turner.”

Guidelines, no matter how good they are, are just guidelines. They are seldom legally enforced and they often only apply within a certain context, where they may

not be known. The mental context and ethical standards of the research community change slowly and perhaps the most concrete benefit that could be obtained from ethical guidelines is an increased awareness among future generations of researchers regarding these issues. The research community has come a long way since the colonial attitudes and theories of racial biology of the past, but there is still a lot of scope for improvement of researchers' ethical behaviour. Research guidelines are important for both the research community and the Indigenous and local communities to gradually change the scene and one could wish they would be more implemented in current practice.

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Anna-Lill Drugge (ed.)

Ethics in Indigenous Research

Past Experiences - Future Challenges



Vaartoe - Centre for Sami Research
Umeå University

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SAMI DUTKAN. SAMISKA STUDIER. SAMI STUDIES.

Vaartoe – Centre for Sami Research
Umeå University

Ethics in research related to Indigenous peoples has, over recent decades, been increasingly discussed in a global context. Decolonizing theories and methods have gained legitimacy and prestige, and Indigenous scholarship has challenged mainstream research by adding novel perspectives and critical standpoints that encourage researchers of all origins to reflect upon their own positions within the colonial academic and social structures in which they work. This development has taken different directions and occurred at different speeds depending on local, regional and national settings. In a Swedish Sami research context, we are now in a time when it is clear that things are moving and discussions on research ethics are taking place on a more regular basis. This publication is one example of that. In Sweden, it is the first one in English that addresses ethics in Sami and Indigenous research and this will, hopefully, facilitate collaborations, comparisons and discussions on an international scale.

The book is based on some of the contributions to the international workshop Ethics in Indigenous Research, Past Experiences – Future Challenges that was held in Umeå in March 2014. The workshop gathered together around fifty scholars from different parts of Sápmi and abroad, and aimed to move forward Indigenous research ethics in Sweden by highlighting and addressing research ethics related to the Sami and Indigenous research field. It is hoped that this book will serve as an inspiration, a critique, and an illustration of where discussions are heading in a Nordic, and more specifically, Swedish context. It is intended to function as a foundation for future ethical discussions at different levels, in national and international settings both within and outside academia.



Vaartoe – Centre for Sami Research
Umeå University
SE-901 87 Umeå

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