

PLAN B

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WHAT IS GOING TO HAPPEN TO MY PEOPLE?

Be it for profit, energy, development, or because of a desire to help Indian peoples, outsiders continue dreaming up projects to develop Indian lands. Here in Arizona, thousands of Phoenix commuters zoom down the new 101 Freeway. On one side, they

Indigenous people find that some projects improve their quality of life and strengthen their capacity for cultural survival. Other projects do not. In most cases, however, it is not easy to determine a project's impact on cultural survival.



Highway 101 runs through the Salt River Indian Reservation with Scottsdale, Arizona on the left.

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see the Salt River Indian Reservation's agricultural land, casinos, and modest Bureau of Indian Affairs houses. On the other, they see expensive Scottsdale luxury homes and malls. Here and in comparable places around the world, entrepreneurs are convinced that indigenous peoples are not properly developing their resources. The Salt River Indians, like their sisters and brothers on other lands, are perpetually pelted by project proposals. We have worked with indigenous development issues on several continents, and whether projects are accepted or rejected, we have heard one question echo in many tongues: "what is going to happen to my people?"

The struggle for cultural survival is not simply one of resis-

Plan A & Plan B

Let's call either unequivocal resistance to or support for a project Plan A. As strange as it may seem, the "just say no" and "just say yes" strategies have a lot in common. Both attract outside supporters whose primary interests may not include the cultural survival of the affected peoples. To win a battle in what, for them, is a much larger war, advocates on either side of the issue are likely to understate or misunderstand the project's potential impacts—both positive and negative. Project promoters and their allies recruit mercenaries, who come as consultants, researchers, surveyors, government bureaucrats, and—the modern day equivalent of Imperial Stormtroopers—lawyers. Indigenous peoples sometimes pick up a few volunteers or advocates—often with agendas distinct from their own.

Rest assured that as the proponents and opponents of a project argue over their Plan As, someone, somewhere, is preparing Plan B as an alternative to resistance and confrontation. Plan B is what happens after support for or resistance against the project withers. The controversial project along the Alto Bio Bio River in southern Chile offers a poignant example (see www.irm.org/programs/biobio).

A Project Battlefield

In 1995, we were swept into a clash between environmentalists and *Empresa Nacional De Electricidad S.A.* (ENDESA), South America's largest power company, over whether a series of dams should be built on Pehuenche lands. The construction site of the first dam (Pangue) resembled a battlefield: as dynamite blew the sides off sacred mountains, armies of workmen marched into tunnels and convoys of heavy machinery wheeled down new penetration roads into what had been one of Chile's more isolated areas. Company sociologists and lawyers roamed

Pehuenche lands, collecting signatures—signing Indian people up as members of a newly-formed, company-controlled, indigenous development foundation—and handing out gifts.

In April, 2001, we returned to the now-quiet battlefield. The Pangué Dam was operational, generating power for non-Indians throughout Chile. Lakeview homes and a resort for the wealthy occupied lands on which the Pehuenche once grazed their animals. The former president of the company-controlled indigenous development foundation relaxed in his palatial villa on the shoreline of the Pangué Lake. In the nearby Pehuenche community of Pitiril, kerosene lamps still lit Pehuenche houses. Media cameras were turned off; microphones packed. Protest signs had long ago been used as kindling. A leading environmental warrior was camped out in a nearby town, writing about his experiences. A few mercenaries and indigenous supporters had moved further upstream to combat the construction of Ralco, a second dam. International concern had shifted to battlefields in other lands.

And the Pehuenche? Their economic and social structure is now in turmoil. Promised project-related benefits—primarily unskilled construction jobs—have almost disappeared. Traditional leaders have been undercut or deeply scarred in skirmish after skirmish. Factionalism has fractured kinship bonds. Women play an important role in early childhood acculturation. A Chilean sociologist reports that all single Pehuenche women who were of childbearing age at the project's outset had children fathered by the company's and its subcontractors' workers and managers. Given that the Pehuenche number only about 4,000, this is a significant cultural impact.

The company's vision of the Pehuenche's future—its Plan B—is unfolding. It has begun a resettlement of Pehuenche who are in the way of the second dam at Ralco. People are being forcefully relocated and divided into three groups. One is being moved to lands high in the snow-capped Andes, along the Chilean-Argentine border. Another is being transferred to privately-held farmsteads in the valley, about two hours away when the roads are passable. The valley has a dearth of grazing lands and no viable communal resources; even firewood for the harsh winters is unavailable. A third group of relatives—brothers and sisters—is being left behind. During the winter, up to seven meters of snow may prevent communication between the displacees. The company's Plan B was prepared by company consultants working in city offices. Refusing to recognize Pehuenche culture, the resettlement was negotiated with the government and with individual Pehuenche. The Pehuenche were not consulted or permitted to make decisions as a cultural group. They never formulated their own Plan B. Regrettably,



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Lakeview cabins (above) on the shoreline of the Pangué reservoir. The expensive villa (left) of the former president of the indigenous development foundation overlooks the new Pangué reservoir.

those claiming to be friends of the Pehuenche exhausted their efforts on Plan A. Both friend and foe seemed convinced that the Pehuenche were too incapable, ignorant, poor, or uneducated to develop their own vision. Indigenous peoples in the United States will recognize their own situation in this story. Many Indian Reservations in the United States are the product of the U.S. War Department's Plan B.

Components of a Good Indigenous People's Plan B

A people's chances for cultural survival increase when they develop their own Plan B to deal with a proposed project. Plan B may be developed concurrently with Plan A. A good Plan B should have at least eight components. It begins with a careful economic and legal examination of the project itself. Second, an assessment is made of the project's particular risks and benefits. Third, specific actions are budgeted to mitigate each identified risk. Concurrently and fourth, the plan determines how the project fits within the people's cultural vision. Building on this foundation, the group may decide to take several additional steps. Fifth, institutional and financial arrangements are proposed to assure that the people share in the project's benefits.

Sixth, arrangements are made to focus these benefits on a common group endeavor and/or distribute them within the group. The seventh component entails establishing strategies for negotiating with the project promoters, financiers, and other key stakeholders identified in the project assessment. The negotiations focus on benefit-sharing arrangements over and above risk mitigation. Within the indigenous group, arrangements are worked out for the distribution of benefits. Eighth, the negotiated arrangements with project promoters and other affected stakeholders are formalized in legally binding instruments. Properly done, a good Plan B offers answers to the all-important question: “if this particular project is approved, rejected, or modified, what will happen to my people?”

Many Pehuenche (right) have only kerosene lamps. Only foundations (below) remain of a Pehuenche house after the family was involuntarily relocated by the Ralco dam.



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Just as fires need fuel, projects need financing. A project is more likely to be cancelled because it is unprofitable than because of political resistance. Project promoters rarely use their own money. Instead, they struggle to convince potential investors, including banks, that their project will yield better returns on investment with less risk. Projects are usually financed by multiple investors. Groups of investors known as syndicates pool their resources to finance projects.

An interesting financial twist works in favor of indigenous peoples. Members of a syndicate generally have distinct environmental and social policies. To maintain the integrity of the investment group and keep the project moving forward, the syndicate—as a group—is restricted by the most stringent policy of any one of its members. (This may turn out to be a minority shareholder.) The failure to adhere to any lender’s policy may force that lender to pull out of the project. A lender’s withdrawal from the project may in turn raise doubts within the financial community about its viability. No financing, no project. For this reason, individual institutional investors’ policies on indigenous peoples are very important (see links at www.policyskiosk.com). A people’s Plan B is strengthened by paying close attention to the environmental and social requirements of project investors—especially those with the most stringent policies.

The inside-out analysis also identifies the promoters’ assumptions (often unstated) about the contributions that the people are expected to make to the project. These contributions sometimes go far beyond simple agreement about payments for the cost of extracted or disturbed resources. Assumptions may include predetermined local labor costs, assumed access rights, uncompensated demands on the indigenous group’s leadership, and no-fee waste disposal and dumping.

Normally, for example, our university has aimed at having productive relationships with the 21 sovereign tribes in Arizona. Many years ago, one of our hotshot research administrators proposed an agricultural development plan to the San Carlos Apache. Project promoters sang the praises of a new oil-seed crop and its potential to boost the tribe’s economic development. The San Carlos Apaches agreed to contribute land and labor to the experiment. Hidden within this project’s economic analysis, however, was the unrealistic assumption that the Apache would be willing to perform seasonal, backbreaking work for minimum wage. Knowing that this arrangement was probably unacceptable to the Apache, university economists tested the option of implementation in a Third World country. The Apache were not aware that the technology being developed on their Reservation was destined for another group. Once the Apache saw what was happening, they terminated their participation. A good inside-out analysis would have detected this flawed assumption and either saved Apache and university time or forced more reasonable terms for the Apache.

An inside-out analysis also probes deeply into non-disclosed arrangements. To protect their money, investors and lending institutions make legally binding agreements with project developers. These agreements should be disclosed to the people

1. Turning a Project Inside Out

The inside-out project analysis, as we like to call it, is the first step in preparing Plan B. It begins with questions: Whose money is being risked? Who are the investors? What obligations and policies—especially social and environmental policies—must the promoters and financiers follow? When will the project start and finish? What is the anticipated sequence of outside manpower being brought into the area? What government permissions and permits are necessary? What jobs and training are being reserved for the people? What loopholes in national legislation and regulations might be exploited by those negotiating in bad faith?

before an investment decision is made. Especially pertinent are any cost/profit-sharing arrangements with indigenous peoples. In 1992, the International Finance Corporation (IFC) and ENDESA signed a secret investment agreement that specified the company's financial and institutional obligations to the Pehuenche. The agreement included requirements that ENDESA share a fixed percentage of its net profits from the Pangué Dam's hydroelectric power with the Pehuenche. Neither the Pehuenche nor the Chilean government were party to the negotiations or the agreement. The company negotiated to channel benefit-sharing payments through a company-controlled development foundation. The Pehuenche were unaware that the company's ostensibly charitable assistance was actually interested, obligatory, and manipulative. It was used to improve public relations with Pehuenche living on land needed for ENDESA's next dam, Ralco. The IFC and ENDESA subjected the agreement to the legal jurisdiction of New York, effectively shielding it from Chilean eyes. Despite three or four charges of human rights violations, including two filed inside The World Bank by a long-time consultant, the investment agreement has remained secret for almost a decade. The IFC and company argue that disclosure of their loan agreement may divulge trade secrets to competitors. We have responded that for a company and an investor to have a secret agreement about the future of an ethnic group or tribal people not only violates the group's human rights, but also undermines the sovereignty of the government under which the group lives. And it *is* possible to limit disclosure: all necessary confidential business agreements can be kept secret while environmental and social agreements are made transparent and public.

How would the Pehuenche have reacted had they known that decades of future profits from the Pangué Dam were required to be channeled for their benefit? Would this have encouraged a Pehuenche Plan B? The lesson here is to routinely request that promoters and lenders provide a legally binding assurance that they have not entered into undisclosed agreements about the future of the indigenous group to be affected by the project they are financing.

Investors and bankers also routinely conduct due diligence studies on proposed investments. The studies telegraph to a potential investor the strengths and weaknesses of a proposed project, its profitability, and its financial requirements. On large investments, these studies may run into the hundreds of thousands of dollars. When investors approach indigenous peoples as potential partners in a venture, it is reasonable for the people to conduct their own due diligence analysis. A California banker offered a helpful suggestion: the indigenous people should ask project promoters to put down a non-refundable performance deposit—a measure of their faith in their own project—to hire an independent third party to review the proposed project's business plans and financing. A review may suggest that the project is not economically feasible and that its further consideration would be a waste of time. Or, should the project appear feasible and Plan B be activated, this information would prove valuable to both parties for future negotiations.

2. Assessing Risks

Large projects are routinely protected by risk-management, risk-financing, and risk-sharing arrangements. Insurance policies and bonds, for example, are used to protect investors. In contrast, indigenous populations are seldom protected against project risks. Relative to total project monetary costs, their potential losses are minute. But relative to what they have, the losses may be substantial. Depending on the scale and type of project, they may risk not only their limited capital, but also their cultural survival.

The risk assessment component of Plan B aims to determine the degree to which indigenous peoples are beneficiaries or victims of a proposed project. Projects may pose a wide variety of risks. In a widely-used model, the World Bank identified eight "impoverishment risks" associated with projects that cause development-induced displacement. (The World Bank, 1994) These risks include landlessness, homelessness, unemployment, loss of access to communal resources, food insecurity, health risks, marginalization, and social disarticulation. (Cernea, 2000) Subsequent work added political destabilization and the loss of civil and human rights to the list. (Downing, 1998; www.displacement.net) The Bank's risk model offers a reasonable framework for evaluating the risks associated with investment projects' impacts on indigenous people s in general, not simply those involving displacement. A project may be assessed in terms of its likelihood of increasing or decreasing homelessness, improving or undermining health, increasing or decreasing food security, etc. This multidimensional risk model intentionally covers different types of risks that cannot be consolidated, forcing a broader, qualitative and quantitative assessment of a project's anticipated impact.

The risk assessment component of Plan B changes dialogue and negotiations between the people, the project promoters, and the investors. A project promoter will not likely reject a risk assessment's results; the assessment clarifies the project's full cost, and someone, somewhere, must pay. Should the promoters fail to budget for identified project risks, they are overtly transferring project costs to the indigenous group or to the government. The assessment may then lay the groundwork for future legal action. The possibility—even remote—of legal action injects an undesirable financial uncertainty and an unspecified liability into the project's financial equations. A more likely reaction to a risk assessment is for promoters to open up negotiations, focusing on identifying risks, their costs, and actions that might be taken to avoid or mitigate these risks.

3. Mitigating Risks

In risk assessment, methodological disagreements are likely to surface. Project promoters want their bottom lines to look good. A common technique to realize this goal is externalizing costs. Promoters are quick to dismiss as "indirect" those costs they feel are not related to the project. Indirect, in this case, means "it's not our fault, so we don't have to pay." In this manner, ENDESA dismissed as an unrelated, "indirect cost" between three and 18 million dollars in deforestation that followed the entry

of their new road into Pehuenche territory. (ENDESA's development foundation, in contrast, provided less than half a million in company-controlled assistance over four years.) Here is the test to determine whether an impact is direct or indirect: a cost that would not have occurred if the project were not built is a project cost.

A mitigation and avoidance plan should accompany each specific risk identified in the assessment. A matrix should be prepared, listing each identified risk, segments of the population that are at disproportionately greater risk, mitigation efforts to be taken, anticipated costs, a time line, planned institutional arrangements, and monitoring methods to assure successful risk mitigation. Returning to the Pehuenche, the failure to protect Pehuenche women from the more than four thousand mostly male workers and to provide for these single mothers was a specific, foreseeable impoverishment risk identified years before the project's outset. ENDESA did take measures to protect young Pehuenche women from the workers and management, but these proved trivial and ineffective. A Plan B matrix would specify steps to be taken if risk mitigation failed. An equitable solution, in this case, might have been for the company to arrange for an insurance company to provide for child support, health insurance, and the education of children born to dead-beat workmen, subcontractors, and managers.

As the risk assessment and mitigation proceed, project promoters become more aware of their actions' complex impact on the indigenous community. Frustrated, promoters will probably attempt to short-circuit the mitigation/avoidance plan with cash payments. Plan B provides the people with a realistic appraisal so that they may carefully evaluate their options when cash payments are offered.

4. Subordinating Economic to Cultural Visions

The next step is to determine whether or not project risks, benefits, and mitigation plans can be reconciled with the indigenous community's cultural vision. A cultural vision addresses the critical questions about the great mysteries of life: Where do we come from? Where are we? Who are we? Why are they here? Where are we going? How do we stay in balance with our environment? Different peoples have distinct pathways to unique cultural visions. A successful Plan B links the specifics of a proposed project to a specific cultural vision, and requires subordination of the promoters' economic visions to the people's cultural visions. A cultural vision is not an economic plan, but an economic plan may be an important part of a cultural vision.

Determining how a project will strengthen and/or weaken a cultural vision requires a people's best facilitators and wise people, and, occasionally, technical assistants. Fortunately, numerous sisters and brothers and non-Indian facilitators have developed innovative, inclusive, participatory methods to move the process along. The Mountain Institute, among others, is using techniques that facilitate dreaming and turning cultural visions into on-the-ground actions (see Brewer Lama, *CSQ* 23:2).

As part of our evaluation of ENDESA's indigenous development foundation, we trained seven Pehuenche in evaluation and focus group methodologies that were adapted for working with heavily illiterate groups (see www.ted-downing.com). Our team met with different Pehuenche bands in a tent we erected. We encouraged group discussions of possible alternatives for investing windfalls should the Pehuenche gain control of their share of the project's profits. Three alternatives were drawn on slips of paper pinned to three pockets of a handmade apron. Each Pehuenche then privately expressed his preference by distributing five marbles in the pockets. After a lengthy discussion, the Pehuenche decided to vote on the alternatives of long-term, medium-term, and short-term distributions. Long-term investments included options like scholarships for their children. All were pleased when a small girl reached into the short-term pocket and found no marbles. The medium-term pocket likewise proved nearly empty. The group was delighted to realize that they shared a common concern for their long-term future. They had begun to craft their cultural vision of how the project might fit within their common hopes and goals.

Financiers and promoters should distance themselves from the process a group uses to form its cultural vision. Most are ill-equipped to lead the cultural visioning process and have a conflict of interest. As a condition for a loan, for example, the Pangué Dam's financier required the borrower, ENDESA, to create a foundation to study and preserve Pehuenche culture. Rather than listening to the Pehuenche's own visions, non-Indian staff formulated their own cultural vision for the Pehuenche. They contracted an expert—an anthropological consultant who completed his work with no participatory analysis or fieldwork with the Pehuenche. He reported that Pehuenche culture was destined to be homogenized into mainstream, Chilean culture, and advised that the company's cultural programs facilitate this inevitable transition. The foundation's final cultural promotion program included a few Pehuenche parents to be school monitors, the purchase of food and tobacco for Pehuenche ceremonies, a small museum to display Pehuenche artifacts to visiting non-Indians, and cultural horizon trips for Indian children to learn about Chilean cultural heritage. Their attempts were further skewed by religion. Company employees were of a common religious background and were extremely concerned, if not fixated, on reversing the damage caused by another group's evangelical work among the Pehuenche.

For several years, the *CSQ* has been reporting on events, plans, and organizations where indigenous peoples are using Plan Bs to take control of their own destinies. Indigenous peoples' policies define how external opportunities should fit within their cultural visioning. These policies should not be confused with general declarations of indigenous rights. Rather, they offer specific guidance to outsiders and remind a people how projects should and should not be worked out. An excellent example comes from the Kuna General Congress (CGK) in Panama. They recently reported on their 1996 Statute on Tourism (see Snow, *CSQ* 24:4), in which they defined their terms of interaction with outsiders and gained a measure of control over the burgeoning tourist industry. This new statute encourages project promoters from an entire sector to mold their proposals within the Kuna's crystallized cultural vision.

5. Arranging Benefit-Sharing

Sharing in a project's benefits means that compensation is received over and above payments for resources contributed to the endeavor, local wages, and payments for project-inflicted damages. This clarification is necessary because project owners and financiers often mistakenly view their risk mitigation costs, payment for damages, and locally-generated project employment as a benefits being paid to the people. If a project promoter's Lexus slammed into another car on the freeway, would he dare argue that the damages paid to the injured party were benefits? The cost of rebuilding a displaced person's house does not constitute benefit-sharing.

The benefit-sharing component of Plan B specifies how the people are to receive project benefits. It determines how benefits are to be calculated, what benefits are to be shared, how payments are to be made, who makes and receives them, how long they are to be made, and the amount to be paid. Everything is on the table when it comes to determining benefits, including access rights, discounted products (electrical energy in the case of a power plant, for example), and—most important of all—money. Although benefits may involve monetary and non-monetary arrangements, restoration of or additions to productive resources take priority. Templates for the preparation of Plan B may be found in tens of thousands of arrangements and agreements on how companies and governments will share benefits. (Unfortunately, these templates are scattered. Hopefully, some organization or foundation will establish a consultation library of sample agreements.)

Plan B forces agreement on benefit-sharing issues before a project gets underway. A great deal of mistrust surrounds this issue. Project promoters and financiers fear that benefit-sharing arrangements won't "stick." Payments might be mismanaged or misappropriated by corruption, especially when governments intervene in their distribution among the people. Segments of the indigenous community might later claim that they were not party to the agreement and demand additional payments. Some promoters are also concerned about equity. Benefits may not reach those who are actually harmed, or traditionally disenfranchised groups within an indigenous community. These groups might then question the legitimacy of the benefit-sharing arrangement. Project promoters are also bewildered by the great diversity of social organizations among indigenous groups. They sometimes forget that "indigenous" is blanket term tossed by outsiders over sovereign, distinct peoples. Such confusion makes it difficult for promoters to identify and negotiate benefit-sharing arrangements and to determine who is the group's authorized authority. Mistrust may likewise occur within the affected group.

6. Distributing Benefits

Defining institutional arrangements for the distribution of project benefits within an indigenous group is a delicate matter. Conflicts over the distribution of benefits may pose a greater threat to cultural survival than does the project itself. Pre-project factionalism may be exacerbated as money is poured, like salt, onto old wounds. People, indigenous or not, sometimes fight most bitterly over anticipated windfalls that never materialize. A good Plan B defines the way that benefits are to be distributed before a project begins. As Maximilian C. Forte recently reported about the Santa Rosa Carib community (CSQ 22:4), failure to define this arrangement ahead of time may stifle investment in shared dreams.



Pehuenche (left) vote by placing sticks on different options. A Pehuenche family (below) makes *mate* (tea) outside their house.



Photos © Segundo Vito, Pehuenche photographer

Following negotiation and agreement on the form of benefits, benefit-sharing arrangements must be firmly controlled and prepared by the affected people. The IFC and ENDESA were either unable or unwilling to decipher the Pehuenche's political organization. The Pehuenche are divided into multiple bands with consensual leaders who have limited traditional authority. Rather than negotiating benefit-sharing arrangements consistent with the group's socio-political organization, the company uni-

laterally named three leaders to a company-controlled foundation board. Four other company-named, non-Indian members of the board had veto power over Pehuenche board members. As a result, the Pehuenche were unable to fold project benefits into a Pehuenche cultural vision.

Plan B may consider several options for the internal distribution of project benefits, including moving funds through traditional indigenous political organizations or development foundations, fortifying or adding to common resources, and setting up trust accounts. In some cases, these organizations fall outside indigenous control. In Abuja, Nigeria, for example, NGOs and Shaman Pharmaceuticals, Inc. helped launch the Fund for Integrated Rural Development and Traditional Medicine (FIRD-TM) to channel the benefits of many contributors into multiple communities (see Moran, *CSQ* 24:4). The FIRD-TM's independent board included not only indigenous peoples, but also leaders of traditional healers' associations, government officials, representatives of village councils, and technical advisors.

Each people must determine which methods fit best within their needs and cultural vision. Given the diversity of indigenous organizations, a great variety of ways are emerging to distribute benefits. Some tribes in Arizona have prudently invested their casino revenues in long-term ventures such as scholarships, land purchases, infrastructure improvements, and provisioning of social services (clinics, nursing homes) intended to strengthen their cultural and economic capacity. Some have also opted to channel part of their revenues into short-term, individual per capita payouts. Most distribution arrangements permit, with the group's consent, midstream adjustments to match changing tribal needs. The worst possible solution, however, is to surrender sovereignty and let the project promoter determine the distribution of benefits. Doing so plunges an outsider deep into internal tribal politics and may undermine a perfectly good investment option.

7. Negotiating

Armed with an understanding of the project's financing, risks, and benefits, and with a knowledge of how the project might fit within their cultural vision, the people have the option of continuing with Plan A or negotiating Plan B. The negotiation agenda emerges from preparatory work on Plan B: the multiple risks identified, actions that might avoid or mitigate these risks, corrective actions to be taken when mitigation proves unsuccessful, payment for damages, procedures to make certain the people exercise informed consent, benefit-sharing arrangements, project scheduling, assumptions about the people's participation, and so on. Benefit distribution arrangements may or may not be part of these negotiations. Specifying which issues are non-negotiable is also useful. As each item on the agenda is brought forth, the cultural vision—folded into Plan B—provides guidance on when to harden and soften negotiating positions.

But who is authorized to negotiate? This is a critical question. Project promoters and their financiers prefer to deal with one person or with someone they designate as a spokesman. An im-

portant first step is to establish that the people—not the project promoter—decide who sits on the tribe's side of table. It is sometimes effective to explain that unless indigenous people define who is present at a negotiation, the deal might “not stick.” Equally important is the issue of transparency. Indigenous people are increasingly videotaping and tape-recording negotiations, not simply to confirm offers and counter-offers, but also to protect their own credibility with their people—confirming what they, as representatives, did and did not say.

As institutional arrangements are made, all parties must avoid the temptation to transfer responsibility for solving an unresolved issue to a third party. A company and people, for example, may agree to make the government responsible for environmental cleanups or impoverishment resulting from the project. At the Zimapan and Aguamilpas Dam, for example, the Mexican Federal Electricity Commission (CFE) was quick to assign the responsibility for cleaning up unresolved loose ends on a resettlement to ineffective, under-financed state governments. And in the negotiations between the IFC and ENDESA, both were willing to assign mitigation of risks to the Chilean government. The result in both cases was an unsatisfactory, illusory agreement. If third parties are being assigned responsibilities for mitigation or payment of costs, they must be party to the negotiations and consent to their role.

8. Drawing up Agreements

Negotiations must move beyond verbal understanding to produce concrete, legally binding agreements. Agreements may take on a wide range of forms, some of which are being reported in the *CSQ*. The Native Community of Infierno's Keiway Association's Participatory Agreement in Peru is noteworthy (see Stronza, *CSQ* 23:2). The community entered into full partnership with a private eco-tourism company that would ultimately transfer ownership to the community.

Given the legacy of broken agreements, project promoters and indigenous peoples are justifiably wary of this phase of Plan B. In Third World countries, the judiciary may have a history of rulings against the people. This issue might be resolved through creative use of jurisdiction for the agreement. Consider the tactics of ENDESA and the IFC, for instance. Neither side appears to have trusted the other in Chilean courts, so they agreed to place their agreement under the jurisdiction of a willing judiciary external to their country—in this case, New York. The option of setting the jurisdiction for enforcement of an agreement outside the local system might be explored as a way to improve the chances of an acceptable Plan B. Multilateral financiers should also stand ready to underwrite the costs of Plan B preparation and independent legal representation for indigenous peoples.

Agreements contain standardized, contractual elements: cross-cutting commitments, financial and institutional arrangements, payment and performance schedules, and mechanisms for dispute resolution. Agreements, however, are also reflecting distinct indigenous concerns, including a focus on benefit-sharing arrangements, long-term commitments, providing for the

group's children, training and technical assistance, shared ownership, future autonomous management, local employment, a minimal cultural and environmental footprint of the project, and provisions for waste disposal. Future issues of the *CSQ* will review specific options for different contractual elements.

Varying Capacities

Plan B preparations require time and money. The capacity of tribal groups to prepare a participatory Plan B varies greatly. The Pehuenche have only a handful of tribal members with secondary school education. Outspent by millions of dollars, they have jostled with one of the largest power companies in the world for more than ten years. They still do not have tribal legal representation. Other tribes have the capacity to prepare Plan Bs with minimal external technical assistance.

We feel that project promoters demonstrate good will and confidence in the proposed project when they are willing to underwrite some or all of the costs of Plan B. Alternatively, organizations active in Plan A should be willing to stand behind their commitment and pay some of the costs. This cost sharing must be undertaken without obligation on the part of the people. Because the promoter's access to capital may collapse as other opportunities come forward, project time lines are brutally short. Consequently, a people may be pushed to make decisions within a timeframe too brief for consensual agreements. Pressures to speed up the process should be folded back on the promoters. If they are in a hurry, then they should know that accelerating the schedule accelerates the costs of Plan B.

Impacts of a Good Plan B

At this point, it should be evident that a good Plan B is a plan for cultural survival, not a plan for surrender. A viable Plan B may be more important than a good Plan A. A willingness to prepare a Plan B indicates confidence and a desire to move beyond unequivocal support of or resistance to a project. The increasing number of reports in the *CSQ* of indigenous peoples throughout the world who are preparing their Plan Bs is encouraging. A good plan does not end factionalism, but focuses discussions away from exhausting arguments and onto very specific topics. Plan B builds respect by redefining the project owners' and financiers' relationships with the people. The act of taking control—producing and ultimately implementing their Plan B—is a significant step toward self-determination. Plan B will alter project financing and economics, making clear the differences between payment for damages, risk mitigation, and benefit-sharing arrangements. And, most important of all, by laying out a project's full social and economic dimensions, a good Plan B influences whether or not Plan A ever takes place.

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In this issue, we present several case studies of Plans A and B. Jerry Moles discusses a Plan B from Sri Lanka which shows that with an understanding of local systems and an appreciation of cultural values, projects can be designed that serve community needs without disrupting the social and cultural fabric. Monica Terkildsen and Kathleen Pickering discuss how the "Plan B" Lakota Fund for Native Americans on the Pine Ridge Reservation has been able to extend credit to indigenous enterprises that would not usually be considered by banks for formal business loans. And Dianna Wuagneux, taking a different approach, discusses Plan B on a more personal level, examining how the development of relationships and knowledge-sharing affirms the worth of both parties.

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