

1 ***Towards a Culturally Sustainable Environmental Impact Assessment (EIA):***
2 ***The Protection of Ainu Cultural Heritage in the Saru River Cultural Impact***
3 ***Assessment, Japan***

4 *ABSTRACT: Culturally sustainable environmental impact assessment (EIA) requires*
5 *consideration of the impact of development on local people's cultural activities, including*
6 *holding ceremonies, collecting resources, and learning skills, which are fundamental*
7 *essences of Indigenous rights. While culturally sustainable EIA has become a common*
8 *practice when a development project involves an Indigenous community, it is still argued*
9 *that Indigenous cultural heritage is not adequately protected. This is due to the fact that*
10 *Indigenous people do not always keep power in the post-approval stage of EIA, or the lack*
11 *of practical measures to minimise the impact of development projects on Indigenous*
12 *cultural heritage and to enhance the possibility of reaching a consensus among*
13 *stakeholders. The Cultural Impact Assessment of the Saru River Region in Japan was the*
14 *first investigation of a site to preserve an ethnic minority culture, with regards to a dam*
15 *construction. In the second phase of the assessment project, research staff members, some*
16 *of whom are of Ainu ethnicity, suggested alternative ceremony sites and conducted*
17 *experimental transplants to protect the local cultural activities. The long-term investigation*
18 *by research staff, in fact, influenced the direction of the dam construction. The developer*
19 *agreed not to proceed with the construction until measures were taken to minimise the*
20 *impact on cultural activities that would satisfy residents in the construction area. While still*
21 *early to conclude that Indigenous participation in this assessment project has been*
22 *successful, Indigenous participation has clearly enhanced the possibility of reaching a*
23 *consensus. The project should be considered with other published EIA reports, in*
24 *demonstrating a return from investing in EIA with Indigenous participation, with a*
25 *practical means for realising Indigenous rights.*

26
27 *KEY WORDS: Environmental impact assessment; cultural heritage; water development;*
28 *Indigenous rights; Ainu; Japan.*

29

1 Introduction

2 In 2004, the Secretariat of the Convention on Biological Diversity, Canada, released the
3 *Akwé: Kon guidelines*, with a long subtitle: *Voluntary guidelines for the conduct of cultural,*
4 *environmental and social impact assessments regarding developments proposed to take*
5 *place on, or which are likely to impact on, sacred sites and on lands and waters*
6 *traditionally occupied or used by indigenous and local communities* (SCBD 2004). The
7 guidelines were adopted in the 7th Conference of Parties to the Convention on Biological
8 Diversity in February 2004, and their major concepts were used as recommendations for
9 conducting social/cultural impact assessments, economic impact assessments, and
10 environmental impact assessments, with regards to development in Indigenous
11 communities, particularly when development will impact sacred Indigenous sites. On 13
12 September 2007, the United Nations Declaration on the Rights of Indigenous Peoples was
13 adopted by the United Nations General Assembly during its 62nd session at UN
14 Headquarters. According to Articles 32.2 and 32.3:

15

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

20 3. States shall provide effective mechanisms for just and fair redress for any such activities, and
21 appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or
22 spiritual impact. (UN 2007)

23

24 Japan, a country with a small Indigenous population, was in favour of the Declaration.
25 Some specialists have also discussed the possibility of how Indigenous people can
26 practically use these guidelines and the Declaration to protect their cultural heritage (cf.
27 Tsunemoto, 2005). Nevertheless, since the guidelines and the Declaration do not have any
28 legal power in Japan, the state or developers are not necessarily obliged to follow them. In
29 addition, an environmental impact assessment (EIA) which integrates Indigenous voices
30 regarding development projects has not long been observed in Japan. Under such
31 circumstances, Japan has observed an interesting Indigenous-involved EIA since 2003;
32 namely, the Cultural Impact Assessment of the Saru River Region (hereafter the CIA). The

1 CIA has been developed in connection to the construction of the Biratori Dam, as part of
2 the *Sarugawa Sōgō Kaihatsu Jigyō* (the General Development Project of the Saru River),
3 planned by the *Muroran Kaihatsu Kensetsubu* (the Muroran Development and Construction
4 Department, which belongs to the Hokkaido Regional Development Bureau under the
5 Ministry of Land Infrastructure and Transport of Japan) (hereafter the Muroran
6 office).[1][2] The CIA is the first site investigation project in Japan specifically dedicated to
7 preserve Indigenous culture with regards to a dam construction.

8 Previously, in focusing on the first three years of the CIA (2003-2006), I argued that it
9 successfully involved Indigenous people in its process and reflected their cultural values in
10 the results, while pointing to limitations in including Indigenous voices in the final
11 outcomes. I concluded that the CIA, among other similar projects, demonstrated the
12 difficulty in conducting culturally sustainable EIA and in minimising the impact of
13 development on cultural heritage. This is due to the lack of a consensus among stakeholders
14 over the protection of cultural heritage, especially when development is necessary. The first
15 phase of the CIA demonstrated the uncertainty Indigenous members have in keeping power
16 over decision-making (Nakamura, 2008; cf. O’Faircheallaigh, 2002; 2007).

17 Since 2006, the *Sarugawa Sōgō Kaihatsu Jigyō* has been moving towards a new stage
18 and the Muroran office has continued to fund the CIA with local residents (from the town
19 of Biratori) being hired to conduct site investigation and research. To minimise the impact
20 of the dam construction on Indigenous cultural heritage and to protect cultural activities,
21 research staff members have sought measures to reach a consensus among the stakeholders.
22 By analysing the case of the CIA, this paper aims to address how development can be
23 compatible with protecting Indigenous cultural heritage and the return from investing with
24 Indigenous participation in the EIA. I also discuss how Indigenous participation in EIA can
25 contribute to the realisation of Indigenous rights. The data for this paper was mostly
26 obtained from the two reports released from the Town of Biratori in March 2007 and 2008
27 (ABKHT 2007; 2008), as well as the minutes and supplementary documents of the
28 meetings of the *Sarugawa Sōgō Kaihatsu Jigyō*. [3] I have also communicated on a regular
29 basis by email with Hideki Yoshihara, the leader of the research staff. In addition, open-
30 ended interviews with Yoshihara and three research staff members were conducted in
31 August 2011.

1 **Challenges in Integrating Indigenous Cultural Heritage with the EIA**

2 Culturally sustainable EIA requires consideration of the impact of development on local
3 people's cultural activities, including holding ceremonies, collecting resources, and learning
4 skills. To make development culturally sustainable, developers are required to suggest
5 measures to minimise the impact on the local society. For example, developers may have to
6 relocate the construction site to protect some particular sites or important species for local
7 resource use, or establish an alternative site for ceremonies or plant habitations. When a
8 development project involves an Indigenous community, the participation of its members in
9 the EIA is important and has become a common practice. Scholars have also shown an
10 interest in such practices or have worked with Indigenous communities in EIA. This trend
11 is related to an epistemological shift and the development of Indigenous research
12 methodologies in social science; accordingly, Indigenous-related research needs to ensure
13 that research on Indigenous issues is accomplished in a more sympathetic, respectful, and
14 ethical fashion from an Indigenous perspective (Smith 1999; Hodge and Lester 2006; Louis,
15 2007; Edwards and Gibson, 2008; Evans et al 2009; Kovach, 2009). Also, Indigenous
16 research methodologies require Indigenous members' participation in the process of
17 research and the reflection of Indigenous voices in the research outcome. Developing
18 culturally sustainable EIA exactly reflects this trend and scholars who collaborate with
19 Indigenous communities in EIA must address Indigenous concerns.

20 However, regardless of this trend, it has been argued that integrating the protection
21 of Indigenous cultural heritage into the EIA is difficult, and often insufficient (Robertson &
22 McGee, 2003; Jackson, 2006; Lajoie & Bouchard, 2006; Porter, 2006; Tipa & Welch, 2006;
23 Jones, 2007; O'Faircheallaigh, 2007; 2008; 2009; 2010; Tipa & Nelson, 2008; IHRC, 2010;
24 Booth & Skelton, 2011a; 2011b; Hill, 2011). Several explanations for this have been put
25 forward. First, the attitude and understanding of developers or government officials may
26 limit the participation of Indigenous members in EIA. Developers are not always eager to
27 conduct an EIA, or may be unfamiliar with collaborating with Indigenous members (Baker
28 & McLelland, 2003; Booth & Skelton, 2011b). Developers usually conduct an EIA as a
29 'must-do process', according to the law, and the projects are developed by professional
30 consultants, in ways that are not understood by Indigenous people (Mulvihill & Baker,
31 2001, 366; see also O'Faircheallaigh, 2002, 17-9). Typically, developers do not show their
32 sensitivity toward Indigenous traditional ecological knowledge or oral history, which are

1 important for making the EIA culturally sustainable (Robertson & McGee, 2003).
2 Consequently, Indigenous people are not really given a chance to meaningfully participate
3 in EIA.

4 Second, even if Indigenous members are consulted in an EIA project, they do not
5 always succeed in keeping power over the final decision (Stoffle *et al.*, 2004;
6 O’Faircheallaigh, 2007; 2008; 2009; Nakamura, 2008). According to O’Faircheallaigh,
7 historically, findings and reports in EIA are often ‘ignored once project approval is secured’
8 (2009, 97). While ‘funding has been provided to indigenous groups to participate in EIA
9 processes in a number of developed countries... such funding ceases once a decision is
10 made on whether a project may proceed’ (O’Faircheallaigh, 2007, 323). To make an EIA
11 more ‘effective’, the continuous consulting and involvement of Indigenous members in the
12 ‘post-approval’ stage is necessary. The impacts of a development project must be both
13 predicted and addressed ‘to mitigate or avoid negative effects, or enhance positive effects,
14 either by changing project configurations to alter predicted impacts, or by implementing
15 initiatives in response to impacts that cannot be avoided’ (O’Faircheallaigh, 2009, 97).

16
17 If [the purpose of an EIA] is to shape impacts, the activities it encompasses must include the
18 development of strategies to allow this to occur. In turn, strategies can only be effective if they are
19 maintained over time and their effectiveness regularly evaluated. Recognition of this reality has lead
20 to a growing focus on ‘postapproval’ elements of [EIA]. (O’Faircheallaigh, 2009, 97)

21
22 At the moment, such Indigenous control in EIA is far from guaranteed.

23 Third, a gap exists in the understanding of the concept of ‘cultural heritage’ between
24 Indigenous and non-Indigenous members. In particular, the protection of intangible
25 qualities and spiritual heritage is not agreed upon (Rose, 2001; Byrne *et al.*, 2003; Howitt,
26 2005; Jackson, 2005; 2006; Porter, 2006; Jones, 2007). Indigenous cultural heritage often
27 lacks physical material evidence; ‘therefore places of importance’ for a particular people
28 ‘remain unrecognized in state-based cultural heritage management terms’ (Porter, 2006,
29 367). Also, the idea that ‘[t]he significance of heritage does not lie in its materiality or its
30 fabric, but in the cultural and historical processes that give it meaning, is rarely recognised
31 (Smith *et al.*, 2003, 75, cited in Porter, 2006, 368). Furthermore, cultural heritage ‘is about
32 people, communities and values they give to heritage places’ (Byrne *et al.*, 2003, 53, cited
33 in Jones, 2007, 101). Such notions are not easily translated into the Western philosophy, and

1 as a result, cultural heritage is not always understood by non-Indigenous developers. In
2 many cases, Indigenous concerns have been trivialised and ‘indigenous efforts to intervene
3 in local development decisions’ have been disempowered (Howitt, 2001, 339).

4 These are tough issues to solve and current research approaches seem to struggle to
5 figure out what culturally sustainable EIA is all about. In particular, several questions arise,
6 such as: Under what circumstances is Indigenous cultural heritage considered to be
7 protected; under what circumstances are Indigenous voices considered to be heard; and
8 under what condition can the impact of development on local Indigenous society be
9 minimised? In development projects, such as mining and water development, impacts to the
10 local Indigenous society may be either positive or negative. Sometimes, cultural heritage is
11 destroyed and the cultural landscape is modified, even when Indigenous members do not
12 wish it to occur. Nevertheless, if destruction and modifications are not allowed, ultimately,
13 no development projects will be planned in settler countries, which is an unrealistic
14 scenario. Therefore, culturally sustainable EIA does not necessarily result in the total
15 suspension of every development project. The issue is not simply ‘development versus
16 protection’, but rather, how development can be compatible with the protection of
17 Indigenous cultural heritage. Moreover, what is ‘protection’ and can practical measures be
18 used to convince Indigenous members to form a consensus among stakeholders to proceed
19 with a development project?

20 A single right answer for all of the questions may not be possible, considering that each
21 stakeholder has different values, and even local Indigenous members may have different
22 values and priorities. Nevertheless, the questions need to be answered to break through the
23 simple critical argument that EIA does not adequately address Indigenous concerns. In this
24 paper, I seek to determine the practical means for protecting cultural heritage, while
25 reaching a consensus among the stakeholders, using the case study of the CIA.
26

27 **The Ainu and the CIA of the Saru River Region**

28 *From the Nibutani Dam Lawsuit to the First Phase*

29 The Ainu are an Indigenous people of Japan, who mostly live on the northern island of
30 Hokkaido, and partly on the Kurile Islands and in southern Sakhalin. Historically, the Ainu
31 have experienced hardships and racism, like many other Indigenous peoples in different

1 parts of the world. The Ainu have experienced long-term colonisation by the Japanese,
2 government policies of assimilation, relocation of their community, spread of disease,
3 decreasing population, and discrimination (Siddle, 1996; Fitzhugh & Dubreuil, 1999;
4 Walker, 2001). The town of Biratori, located in central Hokkaido, is a small municipality
5 with a population of 5,600 (October 2010) in a mainly mountainous region. The District of
6 Nibutani, approximately six kilometres north of the centre of the town, is situated on the
7 Saru River (Figure 1). Roughly 70% of the residents are of Ainu ethnicity, living in the
8 district, which is popularly known as the ‘Ainu village’, thanks to a famous Ainu, Shigeru
9 Kayano. The Ainu have no special legal status or political rights in Japan, and the Ainu
10 village simply refers to a district where most residents are of Ainu ethnicity.

11 The Biratori Dam is to be constructed at the junction of the Nukabira and
12 Shukushubetsu Rivers (Figure 1). The initial plan for dam construction was established by
13 the Muroran office in 1971, along with the planned construction of the Nibutani Dam, as a
14 major part of the *Sarugawa Sōgō Kaihatsu Jigyō*, to supply industrial water to the
15 Tomakomai area. The Muroran office began building the Nibutani Dam, which was
16 completed in 1997. In the initial phase, the Nibutani Dam became a symbol for the
17 controversial issues regarding Ainu culture, Indigeneity, and water development. After land
18 was expropriated for the construction by the Muroran office, in 1988, two Nibutani Ainu,
19 Shigeru Kayano and Tadashi Kaizawa, who were land owners at the site, launched a legal
20 action of claim to rescind the land expropriation, claiming that the construction site had
21 been used as an agricultural field by the Nibutani Ainu for 200 years, possibly for more
22 than 400 years, and the field was the base of their cultural activities and identity. They cited
23 a lack of valid reasons for the expropriation, including the failure of the Muroran office to
24 conduct sufficient investigation that would guarantee property rights of the Ainu as an
25 Indigenous people (Kayano & Tanaka, 2003, 168-72). In 1997, despite the Sapporo District
26 Court’s dismissal of the claim to rescind the land expropriation since the dam construction
27 had been completed and water was being held in the reservoir, the Court declared that the
28 expropriation of the land by the Muroran office was illegal. The Court also criticised the
29 Muroran office for its failure to conduct an investigation that respected the culture of the
30 Ainu as an Indigenous people. The Court’s decision in 1997 was a landmark judgement in
31 that it recognised the Indigeneity of the Ainu.

32 Following the lawsuit, the Muroran office did not change its view about another dam
33 upstream as being necessary for flood control; however, it became more serious about

1 considering local Ainu culture and heritage. The change took place in response to
2 arguments that the Muroran office should listen to the earlier court that decided the
3 Nibutani Dam was illegal (ABKHTCI 2006, 51). The Muroran office planned to elicit
4 participation from local residents in investigating the preservation of Ainu culture in the
5 planned Biratori Dam construction. In December 2002, the Muroran office proposed a site
6 investigation to the local government of Biratori, which decided to conduct the
7 investigation with a subsidy from the Muroran office over three years (2003-2006). The
8 project constituted the first phase of the CIA. The local government recruited research staff
9 and the investigation began in May 2003. All of the research staff were local residents of
10 the town, with more than half being of Ainu ethnicity. While the administrative procedures
11 for preserving an archaeological site and buried objects with regards to water development
12 had already been established, this was the first site investigation to preserve an ethnic
13 minority culture in Japan. Moreover, the long-term participation of local residents in the
14 site investigation and research was epoch-making.

15 Still, the first phase of the project had some unresolved issues. While the final report,
16 released in March 2006, included data and analysis from the three-year investigation by the
17 research staff, demonstrating the importance of the dam construction site for the local Ainu
18 culture and life, neither did it indicate a consensus among the stakeholders nor suggest
19 detailed measures for protecting Indigenous cultural heritage (ABKHTCI 2006; Nakamura,
20 2008). At the time, the Muroran office appeared to be completing the CIA and proceeding
21 to the dam construction, with the excuse that they had listened to local voices. Citing the
22 Nibutani Dam Court decision, Biratori's Culture Department put pressure on the Muroran
23 office not to construct another 'illegal' dam, with repeated requests to continue the CIA.
24 The Culture Department claimed that an additional site investigation and research was
25 necessary to determine realistic measures for protecting sacred sites that would be
26 destroyed or submerged by the construction, and to minimise the impact on plant and
27 animal habitations (ABKHTCI 2006). It was also argued that the participation of local
28 residents in the project would help younger generations learn traditional Indigenous skills,
29 knowledge, and culture, to be passed to the next generation of Ainu. These arguments were
30 supported by Hideki Yoshihara, the leader of the CIA research staff. He strongly believed
31 that the Muroran office, as a local agency of the national government, should act
32 responsibly to support and fund such projects to promote the culture of Japan's Indigenous
33 people and to protect Indigenous rights (Yoshihara, pers. comm. 9 May 2009 and 4 August

1 2011).[4]

2 The Muroran office agreed to continue funding the investigation and research at the
 3 site; thus, beginning the second phase of the CIA in 2006. Since then, the Muroran office
 4 provided stipends to hire about 12 local residents for the investigation staff each fiscal year.
 5 Meetings have been held twice or three times a year, involving the mayor of Biratori, the
 6 Biratori branch of the Hokkaido Ainu Association, specialists, and Muroran officials, to
 7 discuss the direction of the project and to instruct the research staff. The Town of Biratori
 8 has released two annual reports (ABKHT 2007; 2008) (Figure 2) and the Muroran office
 9 has released all minutes of the meetings. In April 2008, the town reorganised the
 10 administrative structure and since then, the CIA has been managed under the town's
 11 Department of Ainu Affairs.

12

13 *The Second Phase: Measures for Protecting Indigenous Cultural Heritage*

14 The major focus of the CIA second phase has been to suggest detailed measures for
 15 minimising the impact of the dam construction. Specifically, possible alternative sacred
 16 sites and sites for plant and animal habitations were investigated. The research staff began
 17 with archival research and interviewed local residents near the construction site to identify
 18 the location and description of ceremonies being held by local residents, as well as any
 19 particular geographical features (e.g., mountains) that were considered sacred. They also
 20 updated the database of Ainu placenames for the various sites and the geographical features
 21 and placenames have been recorded). In the reports of 2007 and 2008, local residents were
 22 said to hold *kamuy-nomi* ceremonies when going to the mountain to gather mountain grass
 23 or firewood and collecting drinking water from the spring, etc. The purpose of the
 24 ceremonies is to express gratitude to their deity and to ask for safety in the mountains, or
 25 simply because it was a ritual taught to them by their ancestors. Some of the local residents
 26 hold ceremonies in the Ainu language, while others, who are not fluent in Ainu, use
 27 Japanese.[5] Occasionally, they held ceremonies while facing a particular mountain,
 28 considered to be sacred. In particular, Mount Poro-sir, 30 km to the east of the Biratori Dam
 29 site, is considered sacred by many of the local residents and many places near the dam
 30 construction site are particularly important because they provide a good view of the
 31 mountain. Some of the locations where local residents hold ceremonies are kept
 32 confidential to protect their privacy (ABKHT 2007; 2008; cf Rose, 2001).

1 Local residents have various opinions about the dam construction and the destruction of
2 their sacred sites. In general, most of the residents expect to have particular springs
3 protected, and to have alternative sites for their ceremonies established with good access
4 routes. Some residents feel an urgent need to hold ceremonies before the dam construction
5 so that they can pray to their deity about the changes to the site. While they recognise that
6 the dam will alter the existing landscape and geography, they feel that the modifications
7 should be minimised. Based on the input from local residents, the research staff suggested
8 some alternative ceremony sites with predictions about how the sacred mountains (i.e.,
9 Mount Poro-sir) can be viewed from the new locations (Figure 3). Construction of a
10 monument was also suggested, in cases when an existing site will be completely destroyed
11 by the reservoir (ABKHT 2008, I-3-23).

12 To protect plant habitations and the local resident's use of resources, the research staff
13 intensively investigated the kind, number, and use of trees, since many of the trees are used
14 by local residents for food, medicine, and carving. The GPS was used to map the plant
15 habitations. Since 2008, the researchers have conducted experiments with rare and
16 important species near the construction site to determine whether or not transplanting will
17 be possible (Figure 4). Successful transplanting is likely to minimise changes to the
18 landscape near the site. According to the researchers, the use of resources by local residents
19 can be maintained (ABKHT 2008, I-4-1-7; I-6-1-8).

21 *Return from Investing with Indigenous Participation*

22 The measures suggested by the research staff are by no means perfect. During any
23 construction of alternative ceremony sites, follow-up interviews with local residents will be
24 inevitable. In protecting the plant habitations, continuous monitoring will be necessary for
25 evaluating the effectiveness of the transplanting. Despite the best planning, only time will
26 tell if the CIA can successfully protect Indigenous cultural heritage in the water
27 development project.

28 In some cases, however, continuous Indigenous involvement has had some products; as
29 when a specialist at one of the meetings praised the work of the research staff, a request
30 was made to the Muroran office to arrange better working conditions and an additional
31 budget (minutes of 25 October 2008). Moreover, two of the research reports have been used
32 to not only predict the impact of the dam on local cultural heritage, but are significant

1 documents in the archives of local Ainu culture from the early-21st century. They are also
2 used as manuals for the use of Indigenous resources. Impressed by the serious intentions of
3 the research staff, specialists and the Hokkaido Ainu Association Biratori Branch have put
4 pressure on the Muroran office to consider their findings. In a committee meeting,
5 specialists successfully convinced the Muroran office to hold back from the construction
6 until local residents could be satisfied about the measures to minimise the impact of the
7 dam on their resources and cultural activities (minutes of 22 July 2007).

8 Local residents understand the importance of the CIA and are generally satisfied with
9 the measures being suggested by the research staff. For example, a local resident stated that
10 they had learned many things about local Ainu culture by participating in the site
11 investigations and from interviews with research staff (ABKHT 2008, I-3-9). The resident
12 recognised the significance of the project and that the CIA was offering an opportunity for
13 long-term research by those who might be unfamiliar with local Ainu culture. Because the
14 older generation has been discouraged from teaching the Ainu language or other skills to
15 the younger generations due to policies of assimilation and discrimination, the lifestyle of
16 the younger generation has been much Japanised. From the project and the participation of
17 local residents, the younger generation has been able to learn about local Ainu culture
18 (ABKHT 2008, I-3-09; Yoshihara, pers. comm. 4 August 2011; Research staff members,
19 pers. comm. 22 August 2011).

20 The importance of the CIA is not necessarily in its ability to find ‘perfect’ measures for
21 protecting Indigenous cultural heritage, or in its inclusion of traditional Indigenous
22 knowledge in the EIA. Its key feature, by having the participation of local residents in EIA,
23 is its greater likelihood of reaching a consensus among the stakeholders and such inclusive
24 EIA makes development successful and sustainable (cf. Fidler, 2010). This is the chief
25 return from investing in Indigenous participation in the EIA.

27 **Indigenous Participation in EIA as an Indigenous Right**

28 In September 2009, the Democratic Party of Japan took power, ending the era of the Liberal
29 Democratic Party (LDP), which had lasted since 1955. This event in Japan’s post-WWII
30 politics influenced the Biratori Dam construction. During the LDP coalition, public
31 investment and construction works in rural areas were a major source of revenue for local
32 economies, especially in regions without major industry. By bringing public investment

1 into their electoral zones, LDP members could gain political support. This structure enabled
2 the LDP to hold onto its power, though the national government accumulated a huge deficit.

3 In December 2009, the then Minister of Land Infrastructure and Transport, Seiji
4 Maehara, stated that the national government would re-examine the need for 89 dam
5 construction projects. In 2010, the *Sarugawa Sōgō Kaihatsu Jigyō* and the Muroran office
6 no longer received funding to proceed with the Biratori Dam construction. Interestingly, the
7 Muroran office continued with its funding of the CIA, until the 2011 fiscal year. In addition,
8 Hideki Yoshihara has been somewhat optimistic about the continuation of the CIA. In fact,
9 he emphasises that the Muroran office has a responsibility to continue funding the CIA
10 under the present national government, regardless of the direction of the *Sarugawa Sōgō*
11 *Kaihatsu Jigyō*. He believes that the CIA is a feasible way to guarantee Indigenous rights
12 according to the *United Nations Declaration on the Rights of Indigenous Peoples*.
13 Yoshihara also maintains that the CIA can meet the *Akwé: Kon* guidelines (Yoshihara, pers.
14 comm. 7 August 2011):
15

16 The Cultural Impact Assessment Project represents the national government's philosophy to
17 promote Ainu culture in collaboration with local municipalities. This is not simply a public
18 investment or employment creation. This is the realisation of "the state's responsibility to cooperate
19 with Indigenous peoples in water development projects", as stated in the UN Declaration [on the
20 Rights of Indigenous Peoples]. In addition, I think that Muroran officials at least understand the
21 principal of the CIA and why it is necessary. They show sensitivity with Indigenous issues and they
22 continue the funding. Local residents are positive in their opinion of the CIA. (Yoshihara 2009, 13,
23 my translation)

24 Howitt *et al.* state that '[d]espite the passage of time [since the adoption of the *United*
25 *Nations Declaration on the Rights of Indigenous Peoples*], most states still struggle with the
26 idea and the practice of indigenous rights' (Howitt *et al.* 2011). In fact, some activists and
27 specialists on international law in Japan have repeatedly criticised the national government
28 for the ineffective bureaucratic structures used to enact new laws for protecting Indigenous
29 rights (e.g., Uemura, 2011). Nevertheless, the significance of the CIA has hardly been
30 recognised by the activists and specialists. The CIA seems to exist in a totally different
31 context from the realisation of Indigenous rights. In actuality, evaluating the CIA in the
32 domestic context is especially difficult in terms of Indigenous rights, since the CIA is a

1 unique project in Japan. The special action of the Nibutani Dam lawsuit made the CIA
2 necessary, which suggests that Japan is not necessarily strong in promoting Indigenous
3 rights.

4 The nature of EIA is to predict the impact on the environment when a development
5 project is planned. Conducting EIA does not always result in the suspension of the project.
6 Also, cross-cultural impact assessment does not suggest the complete support of Indigenous
7 claims. It is rather a reciprocal work to find a common ground between Indigenous and
8 non-Indigenous, and this is where researchers who adopt Indigenous research
9 methodologies can contribute. It is practical for both sides to seek feasible measures for
10 protecting Indigenous cultural heritage and the usefulness in involving Indigenous
11 participation in EIA. Thus, the CIA can be a valuable addition to studies of EIA by
12 illustrating the potential for cultural sustainability and the realisation of Indigenous rights.
13

14 **Acknowledgements**

15 I greatly thank Hideki Yoshihara and research staff members. I also thank the editor and the
16 anonymous reviewers.
17

18 **NOTES**

19 [1] Unfamiliar Japanese and Ainu words, except for placenames, are in Italics and English
20 translations are included whenever possible. Macrons indicate a long vowel. The English
21 spelling of Ainu words follows the Ainu Language Dictionary by Shigeru Kayano (2002).
22 The Ainu character *C* is pronounced as *ch*.

23 [2] Basically, the Muroran office is a local agency of the national government.

24 [3] Minutes and documents are available in Japanese at the Muroran office website.
25 <http://www.mr.hkd.mlit.go.jp/>

26 [4] The responsibility of the national government is to promote Ainu culture, as stated in
27 the Ainu Culture Promotion Act (of 1997): http://www.frpc.or.jp/eng/e_prf/profile06.html

28 [5] According to the reports, some of the local residents do not speak the Ainu language
29 because they were discouraged to learn due to assimilation policies or discrimination.
30 Nevertheless, their customs and ceremonies are based on their Ainu spirituality and identity

1 (ABKHT 2007, I-3-11).

2

3 REFERENCES

- 4 ABKHT (2007) *Ainu Bunka Kankyō Hozen Taisaku Jigyō Chōsa Hōkokusho (Report on*
5 *investigation and measures to protect Ainu culture and environment)*. Ainu Bunka
6 Kankyō Hozen Taisakushitsu, Biratori.
- 7 ABKHT (2008) *Ainu Bunka Kankyō Hozen Taisaku Jigyō Chōsa Hōkokusho (Report on*
8 *investigation and measures to protect Ainu culture and environment)*. Ainu Bunka
9 Kankyō Hozen Taisakushitsu, Biratori.
- 10 ABKHTCI (2006) *Ainu bunka kankyō hozen taisaku chōsa sōkatsu hōkokusho (Final report*
11 *on investigation and measures to protect Ainu culture and environment)*, Ainu
12 Bunka Kankyō Hozen Taisaku Chōsa Iinkai, Biratori.
- 13 Baker, D.C. & McLelland, J.N. (2003) Evaluating the effectiveness of British Columbia's
14 environmental assessment process for First Nations' participation in mining
15 development. *Environmental Impact Assessment Review*, 23, 581-603.
- 16 Booth A.L. & Skelton, N.W. (2011a) Improving First Nations' participation in
17 environmental assessment processes: Recommendations from the field. *Impact*
18 *Assessment and Project Appraisal*, 29(1), 49-58.
- 19 Booth, A.L. & Skelton, N.W. (2011b) Industry and government perspectives on First
20 Nations' participation in the British Columbia environmental assessment process.
21 *Environmental Impact Assessment Review*, 31, 216-225.
- 22 Byrne, D. Brayshaw, H. & Ireland, T. (2003) Social significance: A discussion paper. NSW
23 National Parks and Wildlife Service, Research Unit, Cultural Heritage Division,
24 Hurstville.
- 25 Edwards, K. E. & Gibson N. L. (2008) Knowledge profiling as emergent theory in
26 community-based participatory research, *Progress in Community Health*
27 *Partnerships: Research, Education, and Action*, 2(1), 73-79.

- 1 Evans, M. Hole, R. Berg, L. D. Hutchinson, P. & Sookraj, D. (2009) Common insights,
2 differing methodologies toward a fusion of Indigenous methodologies, participatory
3 action research, and White Studies in an urban Aboriginal research agenda,
4 *Qualitative Inquiry*, 15(5), 893-910.
- 5 Fidler, C. (2010) Increasing the sustainability of a resource development: Aboriginal
6 engagement and negotiated agreements. *Environ Dev Sustain*, 12, 233-244.
- 7 Fitzhugh, W.W. & Dubreuil, C.O. (eds) (1999) *Ainu: spirit of a northern people*. Arctic
8 Studies Center, National Museum of Natural History Smithsonian Institution in
9 associated with University of Washington Press, Washington D.C.
- 10 Hill, R. (2011) Towards Equity in Indigenous Co-Management of Protected Areas: Cultural
11 Planning by Miriuwung-Gajerrong People in the Kimberley, Western Australia.
12 *Geographical Research*, 49(1), 72-85.
- 13 Hodge, P. & Lester, J. (2006) Indigenous research: whose priority? Journeys and
14 possibilities of crosscultural research in geography. *Geographical Research* 44, 41-
15 51.
- 16 Howitt, R. (2001) Social impact assessment. In: R. Howitt, *Rethinking resource*
17 *management: justice, sustainability and Indigenous peoples*, pp. 325-356.
18 Routledge, London and New York.
- 19 Howitt, R. (2005) The importance of process in social impact assessment: Ethics, methods
20 and process for cross-cultural engagement, *Ethics Place and Environment*, 8(2),
21 209-221.
- 22 Howitt, R. Havnen O. & Veland, S. (2011) Natural and Unnatural Disasters: Responding
23 with Respect for Indigenous Rights and Knowledge. *Geographical Research*, online
24 early view version
- 25 IHRC (2010) *Bearing the burden: The effects of mining on First Nations in British*
26 *Columbia*. The International Human Rights Clinic at Harvard Law School, Boston.
- 27 Jackson, S. (2005) Indigenous Values and Water Resource Management: A Case Study from

- 1 the Northern Territory, *Australasian Journal of Environmental Management*, 12(3),
2 136-46.
- 3 Jackson, S. (2006) Compartmentalising Culture: The articulation and consideration of
4 Indigenous values in water resource management. *Australian Geographer*, 37(1),
5 19-31.
- 6 Jones, E.R. (2007) Three Management Challenges for Protection of Aboriginal Cultural
7 Heritage in a Tasmanian Multiple-use Conservation Area. *Australian Geographer*,
8 38(1), 93-112.
- 9 Kayano, S. (2002) *Kayano Shigeru no Ainu go jiten: zoho ban (Ainu language dictionary*
10 *by Kayano Shigeru)*, Sansei do, Tokyo.
- 11 Kayano, S. & Tanaka, H. (eds) (2003) *Ainu minzoku futari no hanran: Nibutani Damu*
12 *saiban no kiroku (The resistance of two Ainu: the record of Nibutani Dam Lawsuit)*,
13 Sansei do, Tokyo.
- 14 Kovach, M. (2009) *Indigenous Methodologies: characteristics, conversations, and contexts*,
15 University of Toronto Press, Toronto, London, and Buffalo.
- 16 Lajoie, G. & Bouchard, M.A. (2006) Native involvement in strategic assessment of natural
17 resource development: the example of the Crees living in the Canadian taiga,
18 *Impact Assessment and Project Appraisal*, 24(3), 211-20.
- 19 Louis, R. P. (2007) Can you hear us now? Voices from the margin: Using Indigenous
20 methodologies in geographic research, *Geographical Research* 45(2), 130-139.
- 21 Mulvihill, P.R. & Baker, D.C. (2001) Ambitious and restrictive scoping: Case studies from
22 Northern Canada. *Environmental Impact Assessment Review*, 21(4), 363-84.
- 23 Nakamura, N. (2008) An 'Effective' Involvement of Indigenous People in Environmental
24 Impact Assessment: the cultural impact assessment of the Saru River Region, Japan.
25 *Australian Geographer*, 39(4), 427-444.
- 26 O'Faircheallaigh, C. (2002) Overcoming severe obstacles to public participation:
27 Indigenous people and impact assessment procedures in Australia. In: P. McLaverty

- 1 (ed), *Public participation and innovations in community governance*, pp. 13-33.
2 Ashgate, Aldershot.
- 3 O'Faircheallaigh, C. (2007) Environmental agreements, EIA follow-up and aboriginal
4 participation in environmental management: The Canadian experience.
5 *Environmental Impact Assessment Review*, 27, 319-342.
- 6 O'Faircheallaigh, C. (2008) Negotiating Cultural Heritage? Aboriginal-Mining Company
7 Agreements in Australia. *Development and Change*, 39(1), 25-51.
- 8 O'Faircheallaigh, C. (2009) Effectiveness in social impact assessment: Aboriginal peoples
9 and resource development in Australia. *Impact Assessment and Project Appraisal*,
10 27(2), 95-110.
- 11 O'Faircheallaigh C. (2010) Public participation and environmental impact assessment:
12 Purposes, implications, and lessons for public policy making. *Environmental Impact*
13 *Assessment Review*, 30, 19-27.
- 14 Porter, L. (2006) Rights or Containment? The politics of Aboriginal cultural heritage in
15 Victoria. *Australian Geographer*, 37(3), 355-374.
- 16 Robertson, H.A. & McGee, T.K. (2003) Applying local knowledge: The contribution of oral
17 history to wetland rehabilitation at Kanyapella Basin, Australia. *Journal of*
18 *Environmental Management*, 69: 275-287.
- 19 Rose, D.B. (2001) The Silence and Power of Women. In: P. Brock (ed), *Words and*
20 *Silences: Aboriginal Women, Politics and Land*, pp. 92-116. Allen and Unwin,
21 Crows Nest.
- 22 SCBD (2004) *Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental*
23 *and Social Impact Assessment regarding Developments Proposed to Take Place on,*
24 *or which are Likely to Impact on, Sacred Sites and on Lands and Waters*
25 *Traditionally Occupied or Used by Indigenous and Local Communities*, Secretariat
26 of the Convention on Biological Diversity, Montreal.
- 27 Siddle, R. (1996) *Race, resistance and the Ainu of Japan*, Routledge, London & New York.

- 1 Smith, L. T. (1999) *Decolonizing methodologies: Research and Indigenous peoples*, Zed
2 Books Ltd, London.
- 3 Smith, L., Morgan, A. & van der Meer, A. (2003) Community-driven research in cultural
4 heritage management: The Waanyi Women's History Project. *International Journal*
5 *of Heritage Studies*, 9, 65-80.
- 6 Stoffle, R.W., Zedeno, M.N., Eisenberg, A., Toupal, R. & Carroll, A. (2004) Shifting risks:
7 Hoover Dam Bridge impacts on American Indian sacred landscapes. In: A. Boholm
8 & R.E. Löfstedt (eds), *Facility siting: risk, power and identity in land use planning*,
9 pp. 127-43, Earthscan, London and Sterling.
- 10 Tipa, G. & Nelson, K. (2008) Introducing Cultural Opportunities: A Framework for
11 Incorporating Cultural Perspectives in Contemporary Resource Management.
12 *Journal of Environmental Policy & Planning*, 10(4), 313-337.
- 13 Tipa, G. & Welch, R. (2006) Indigenous Community Perspective Comanagement of Natural
14 Resources. *Journal of Applied Behavioral Science*, 42(3), 373-391.
- 15 Tsunemoto, T. (2005) Senju minzoku no bunka to chitekizaisan no kokusaiteki hosho
16 (International protection of intellectual property and culture of Indigenous peoples).
17 *Chitekizaisan hoseisakugaku kenkyu (Intellectual Property Law and Policy Journal)*,
18 8, 13-36.
- 19 Uemura, H. (2011) *Senjuminzoku no kenri gegenka ni muketa bijon, seisaku, kodo wo*
20 *kangaeru (Thinking about visions, policies, and activities to realise Indigenous*
21 *rights)*. Public lecture on 6 August 2011, Sapporo Christian Center, Sapporo.
- 22 UN (2007) *United Nations Declaration on the Rights of Indigenous Peoples* [WWW
23 document]. URL <http://www.un.org/esa/socdev/unpfii/en/drip.html> [accessed on 7
24 November 2011]
- 25 Walker, B.L. (2001) *The conquest of Ainu lands: ecology and culture in Japanese*
26 *expansion 1590-1800*. University of California Press, Berkley, Los Angeles &
27 London.

- 1 Yoshihara, Hideki (2009) *Efforts to conserve the Ainu Cultural Environment: Things to*
- 2 *preserve and restore*. Unpublished paper presented in the Joint Finnish-Japanese
- 3 Seminar on Northern Environmental Research. Hokkaido University, Sapporo.

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1 **Captions for figures**

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3 Figure 1: Town of Biratori and the Biratori Dam construction site (reproduced after
4 ABKHTCI 2006, 3)

5

6 Figure 2: *The 2007 and 2008 reports on investigation and measures to protect Ainu*
7 *culture and environment* (ABKHT 2007; 2008). The 2008 report is 30 cm wide and the
8 weigh is about 3 kg.

9

10 Figure 3: An alternative ceremony site. The top picture shows how sacred mountains
11 can be viewed from the site. The middle map shows the location of the site.
12 (reproduced after ABKHT 2008, I-1-9).

13

14 Figure 4: Alternative sites for transplanting (reproduced after ABKHT 2008, I-5-3).

15