

IDU MISHMI

CODE OF RESEARCH ETHICS
(IMCRE)



IDU MISHMI CODE OF RESEARCH ETHICS (IMCRE)

Idu Mishmi Cultural and Literary Society (IMCLS)
Roing, Lower Dibang Valley
Arunachal Pradesh
FEBRUARY 2024

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First Edition: February 2024

Book cover designed by : Mr Madan Mili and Mr Kule Elo
Photo credit: Miss Lajo Mili

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Preface

Across the world, several indigenous peoples and local communities (IPLCs) have their own set of codes of conduct. Some prefer to call with the name Community Protocol. It entails the normative value to express and implement the sociocultural aspirations of IPLCs to determine their life in the form of a broad overarching framework. A code of conduct is a set of prescriptions, unique to a community and may also be a *sui generis* (developed by the community based on certain values) tool to articulate the community's values, aspirations, and priorities at local, national, and international level with such entity that it decides to engage with or abstain in furtherance of community interests based on certain core principles of respect, free prior informed consent, equity, fairness, justice, transparency, accountability, recognition and support for their traditional knowledge, belief system, customary practices, their resources and way of living. It may be in written or unwritten form.

An increase in research studies in Mishmi Hills such as in areas of biological resources, conservation science, tourism, life sciences, culture, and food style has impacted to examination of the need for a code. In this goldmine of research, more studies are being carried out in the region to explore sometimes without prior informed consent owing to external funding that interests Non-Governmental Organizations (NGOs) and government institutions and policymakers. Such studies may potentially accelerate in the coming years with more possibilities of interactions with mainstream research institutions, associates, business companies private and public, or both. The prospective researcher need not necessarily come in specific shapes and forms. Therefore, considering such risks and issues for the measures that could be taken at the local level that would also benefit the entire Idu Mishmi community in the best possible way is critical. The IMCRE may be instrumental as an official policy document of the entire Idu Mishmi community's aspiration in the field of research. The IMCRE may also be a step to auger in developing, broadening, and constructively engaging with the researchers and research organization in the collective interest of the Idu Mishmi community while balancing the rights of researchers.

Community initiatives in the form of *sui generis* have often functioned based on their priorities and context-specific issues. A community may want to decide what is in their best and collective interest that is just and fair. There are no explicit and specific laws in India for community protocols and research ethics. However, a lack of laws does not mean community norms and practices have no value. The right to regulate unethical research practices by a community emanates from the principle of the right to self-determination espoused in legal instruments such as the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UNDRIP). The Convention on Biological Diversity, 1992, Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, 2010, Biological Diversity Act 2002, Biological Diversity Rules 2004, Access

to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014, Arunachal Pradesh (Biological Diversity) Rules, 2011 and various judgments of courts in India when harmoniously interpreted provides community certain rights. There are also de facto practices of government, which are implicit examples of its recognition of community initiatives. There is also the basic environmental legal doctrine that enshrines inter-generational equity,ⁱ sustainable development,ⁱⁱ precautionary approachⁱⁱⁱ public trust doctrines^{iv} and fair and equitable sharing of benefits. These principles can also be equally interpreted to an extent from a community point of view. The UNDRIP, 2007 provides the foundational legal basis for group rights of cultural possession and control for indigenous peoples, and tribal and ethnic minorities under Article 31.^v It provides that indigenous peoples have rights to “maintain, control, protect and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions.”

Ministry of Culture, Government of India (GoI) in its Periodic Reporting to the Convention for Safeguarding of the Intangible Cultural Heritage on the implementation of the Convention in 2017 has stated that its role is to preserve, promote, and disseminate all forms of art and culture.^{vi} This obligation is by India being party to the Convention for the Safeguarding of the Intangible Cultural Heritage 2003 (Cultural Heritage Convention) of UNESCO. IMCLS has also received funding under such broad objectives of the Ministry. To operationalize this Convention, an Operational Directive has been framed and according to paragraphs 93 and 103, NGOs are to abide by domestic ethical standards, and State Parties to the Convention are required to develop and adopt codes of ethics respectively.^{vii} In 2015, the Intergovernmental Committee of UNESCO endorsed the decision to have Ethical Principles for Safeguarding Intangible Cultural Heritage for the development of specific codes of ethics consisting of twelve ethical principles to complement the Cultural Heritage Convention, of 2003.^{viii} It has placed the rights of communities such as mutual respect in interactions, free, prior, and informed consent (FPIC), transparency, negotiation, dialogue, access to instruments, respect for identities, and cultural diversity at the heart of the ethical principles. As per Article 15 of UNDRIP, FPIC is an essential component for the right to redress or restitute “cultural, intellectual, religious and spiritual property taken without it or in violation of their laws including traditions and customs.” As per article 8(j) of CBD 1992 and articles 6 (2) and 7 of Nagoya Protocol 2010 prior informed consent of the IPLCs for access to genetic resources traditional knowledge associated with genetic resources must be sought. It is also part of the Cultural Heritage Convention, 2003 under paragraph 101 (b). A community or individual may also deny being part of a research subject based on right and respect for its privacy.^{ix} Some examples to that extent may include denying collection of blood samples, tissue samples, medical and physical information, and non-cooperation. Cultural Heritage Convention, 2003 provides privacy rights for the community and individuals. In *Asha Ranjan vs State of Bihar and Others*, W.P. (Criminal) No. 132 of 2016 dated 15 February 2017, SC made an observation that are relevant to the collective rights:

“In absence of any statutory law point of argument can be based on object, just application of principles of law and not mere technical observance of frame and forms of law. This settles that in absence of any specific provision or law, just and fairness components may be adequate to justify a practice.”

It also held that in cases of competing rights, rights that would advance public morality or interest would alone be enforced, for moral considerations cannot be kept at bay.^x The community may also be victim not just individual alone.^{xi} Community interest or interest of collective social order would be the principle to recognize and accept the right one of which has to be protected.^{xii} Biodiversity Management Committees (BMCs) have a vital role to play particularly in checking the unethical collection of biological resources within their village jurisdiction as they are legally empowered to do so under the Biological Diversity Act 2002, (BDA) Biological Diversity Rules 2004 (BDR) and Arunachal Pradesh Biological Diversity Rules, 2011 (APBDR). The duty of the Central Govt respects the protection of traditional knowledge of local people relating to biodiversity. The duty of the central govt to ‘respect’^{xiii} and protect the knowledge of local people relating to biodiversity including the *sui-generis* system under section 36(5) of BDA provides the legal foundation for enforcement of the Code. Under the Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 (the ABS Regulation), the National Biodiversity Authority (NBA) while taking any decision on an application relating to the use of biological resources or traditional knowledge associated with the community may consult BMCs through State Biodiversity Boards (SBBs). Similarly, for access to biological resources and associated traditional knowledge, NBA shall consult local bodies (different from BMCs as explained under Rule 23(3) of APBDR 2011) only after which it shall dispose of the application for approval within 6 months from the date of receipt of seeking approval by applicant.^{xiv} NBA shall (in deciding the criteria for quantum of equitable benefit sharing with applicant by NBA first consult with benefit claimers^{xv} and local bodies. These provisions can be used to verify and regulate researchers by BMCs to ensure whether to gain access to the knowledge and biological resources permission has been sought from BMCs or SBBs or NBA or not. If not, compliance with the law can be sought. Consultation is required from BMC/benefit claimer by NBA/SBB where the determination of benefit sharing arises with the applicant under ABS Regulation 14 (1). Consultation is also required from local bodies for channeling benefits to the claimers for accessing biological resources and knowledge under APBDR 2011, Rule 20 (6). Prior informed consent from BMC is required to access knowledge by outside agencies and individuals under Rule 23(9) of APBDR 2011. BDA provides that if the NBA feels that access requests may result in adverse effects on the livelihood of local people then access may be restricted.^{xvi} BMC may use this provision on the ground to restrict access explaining why access cannot be granted. APBDR 2011, Rule 23(9) provides BMC power to regulate access for the protection of knowledge from outside agencies and individuals. Rule 23 (11) provides for the power of inspection of biological resources and documents or permits or licenses; stop and search vehicles, premises, baggage,

computers, cameras, their accessories, and other such things; stop and detain any person without a license or permit; and seize biological resources or derivate including any samples along with tools, vehicles, used for such activities. Rule 23 (16), BMC has the power to decide the terms of permitting access to biodiversity resources and associated knowledge for various purposes. APBDR 2011, Rule 23 (20) and (22) provides BMCs the power to pass resolutions to form an ecotourism code to ensure the prevention of bio-piracy, environment-friendly activity, and culturally acceptable and equitable sharing of benefits with villagers in trekking destinations.^{xvii} Provision of ecotourism code provided under APBDR 2011 is in line with the community protocols. Benefit claimers are entitled for 95 of benefits where biological resources or knowledge is sourced from them as per regulation 15 (1) of BDR 2014. Under regulation 15(2) where benefit claimers cannot be recognized the funds shall be used to promote livelihoods of local people from where resources are accessed. Similarly, BMCs in Arunachal Pradesh has also power to levy charges by way of collection of fees from any person for accessing or collection of biological resources under Rule 23 (16). If collected from private individual land majority fee must go to knowledge holder or the land. Fee can be levied from government land also but must go to Local Biodiversity Fund (LBF) of BMC. As per APBDR 2011 Rule 20 (6), benefits have to channelize towards benefits to the claimers, conservation and promotion of biological resources, socio-economic development from where resources and knowledge are accessed. Supreme Court in *Divya Pharmacy v Union of India and Others*, in 2018 has held that rights of IPLCs have to be protected from inside and outside. It also held that India has international commitment towards CBD, 1992 and Nagoya Protocol 2010 and therefore including Indian company has legal obligation to share benefits with IPLCs.

Misrepresentation under section 18 is an offence under Indian Contract Act subject to fulfillment of certain elements. Unjust Enrichment can also be attracted when a person not in accordance with the accepted standards of fairness or justice gains something at the expense of the other. In the context of code, it could include career-enhancing publications, receipts of payments for a consultancy through use of community's resources or knowledge of IPLCs gained or accessed unethically. Mistake of law is also not an excuse, which could include requirement that researchers cannot take the defense that they did not know existence of the law. Where information was given in good faith and knowledge was given with the intention that there would be no benefits to researcher but later turns out to have been misused would draw both breach of trust and unjust enrichment.

Willful picking up, uprooting, damaging, destroying, acquiring, collecting any plants specified from any forestland is an offence under section 17 A (a). Section 17 A (b) prohibits selling, possessing, transfer by gift dead or alive of its derivative. However, STs are exempted from personal use but not for commercial use. Permitted granted other than Chief Wildlife Warden in protected area may be challenged under section 17 B. Section 17 C provides that some of the plants specified by the government cannot be cultivated without license. Those plants collected or acquired from Sanctuary/National

Park, are property of the government under section 17 H. Section 27 (1) and 29 of the Wildlife Protection Act 1972 (WLP) may be used for restricting entry into protected areas and for removing, destroying, damaging, or diverting wild animal. Therefore, WPA may not directly mention about ethics, but it may be utilized as it deals with collection of biological resources.

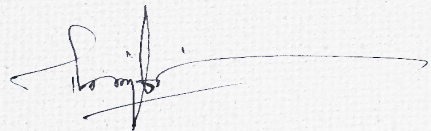
Dishonesty (section 24) in revelation of information, misappropriation of samples, archives, documents, information, or biological resources (section 403), and breach of trust (section 405) in agreement made can be some of legal resorts for the Code. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) (section 3 (1) (i)) provides right to protect, conserve, and manage community forest resources. It provides for right of access to biodiversity and community rights to intellectual property rights and traditional knowledge related to biodiversity and cultural diversity (section 3 (1) (k)). Section 3 (1) (j) provides for customary and traditional rights. Section 5 (d) provides with decision taken by village institutions to regulate access to community forests resources and stop any activity which adversely affects wild animals, forests, and biodiversity.

Government of Arunachal Pradesh officially recognizes and invites CBO's participation in State policy decision-making process from time to time. Secondly, the State Forest Department under Chief Principal Conservator of Forest, Government of Arunachal Pradesh in conjunction with United Nations Development Programme (UNDP) and State Medicinal Plants Board (SMPB) and the Centre for Cultural Research & Documentation (CCRD), Naharlagun has facilitated in formulation of Sartang Bio-Cultural Protocol for Sartang Community. These are clear indication of State's complementary policy and endorsement of community's significance and their role tribal state. Practices of State government have to be read holistically and harmoniously.

Forward

It is my privilege to pen a few lines in honour of the Idu Mishmi Cultural and Literary Society (IMCLS) for their commendable job. I am delighted to know that IMCLS conceived an idea of a community protocol and has come up with another beautifully crafted Idu Mishmi Code of Research Ethics (IMCRE). Mishmi Hills is one of the biodiversity hotspot regions in the entire world. Preservation of such biodiversity has been sustained because of the traditional values, knowledge systems and ancestral beliefs. Indigenous peoples and local communities are the real grassroots guardians who deserve reciprocity, respect, and acknowledgement. Such actions to sustain in-practice research approaches must respect them, take them into confidence and make them inclusive without discriminating against them in any form. There are instances, where research has jeopardized the Idu Mishmi community in ways that they were unaware of.

I am glad to know that IMCLS is moving gradually with some scholarly works despite limited assistance and resources. I hope IMCRE has opened a new avenue to engage constructively by building a bridge toward addressing the issues of both the researchers and the Idu Mishmi community rather than adversely perceiving them. IMCRE was the need of the hour. I also extend my warm regards to Dr Tilu Linggi, a member of IMCLS to have contributed to the pending issue. I hope IMCLS and our coming generations will use IMCRE as a living document to their best capacities in furtherance of the indigenous environmental steward.



Mr Matheim Linggi
Chairperson
Mishmi Welfare Society (MWS)

Forward

The hallmark of any progressive community is the way it constructively articulate the issues and leads the way. I am happy to acknowledge that the Idu Mishmi Cultural and Literary Society (IMCLS) is leading the way. In this endeavour, the Idu Mishmi Research Code of Ethics (IMCRE) is a modest beginning. IMCRE is a reflection that any given indigenous community has a community protocol of certain dos and don'ts to regulate its affairs.

Indigenous communities are known for their unique code of conduct many of which are not in written forms but are generally accepted practised norms. The accepted norms need not be defined in black and white. Nonetheless, it is appreciable that IMCLS has attempted to make the code of research ethics in writing. The conceptual understanding within IMCRE beautifully encapsulates broad principles and messages to address the issues and concerns that cannot be defined or described in a particular manner, unlike any formalistic statutory law.

I express my heartfelt regards and thanks to team IMCLS for having garnered the effort and interest to come out with innovative ideas of having a code for a context-specific issue. In the long run, it is for all of us to maintain the continuity to protect our traditional knowledge, and belief system from the impacts of unethical research practices. I extend my best wishes and support to the IMCLS for setting an example.



Mr Khulai Chaitom
General Secretary
Mishmi Welfare Society (MWS)

Forward

It is an honour and a privilege to write a note on behalf of the Idu Mishmi Cultural and Literary Society (IMCLS) in the capacity of President regarding the Idu Mishmi Code of Research Ethics (IMCRE). The Idu Mishmi has their unique cultural beliefs, taboos and traditions that have sustained the ecology for generations. The research has shown that cultural taboos play a significant role in conserving wildlife and biodiversity. Despite such studies, the research pedagogy and approaches often with inadequate community-oriented approaches, scientifically erroneous methodology and incorrect findings that tend to undermine equity and justice and harm the indigenous community. The IMCRE may be one of the ways to address such unethical practices and conflicts and to engage researchers constructively with the Idu Mishmi community.

In developing IMCRE, IMCLS over several years deliberated on this issue right from the first tenure of the then IMCLS President Mr Ginko Lingi and General Secretary Mr Rao Dele based on certain events that the Idu Mishmi community has experienced. Despite many limitations, IMCLS as a team has made its efforts to bring out the code in the public domain. In this endeavour, I feel it indispensable to extend my warm appreciation to the editor, Dr Tilu Linggi who has contributed his precious time for several years to deal with one of the community issues which was pending for several years. A research regulation need not necessarily be in a formalistic form but for the need of tangible objectivity and clarity in its implementation IMCRE with its offshoot IMCLS Research Ethical Review Board Rules, 2024 is indeed a requirement.

The IMCRE encourages how a researcher should be mindful in conducting certain research in the context of the Idu Mishmi region. I believe this is a timely initiative and an output, which is also in the interest of state government and local administration to encourage community participation at the local level and to facilitate achieving its targeted commitment of State Biodiversity Strategic Action Plans (SBSAPs), Sustainable Development Goals (SDGs), Paris Agreement and Convention on Biological Diversity, 1992 (CBD) in true sense. The IMCRE consisting of broad principles and guidelines is also reflective of United Nations-endorsed ethical norms. Therefore, I extend my warm gratitude to the entire people of Cithu Hulunyi (the land of twelve rivers) who supported IMCLS for engaging and adding another piece this new year.



Dr Ista Pulu

President

Idu Mishmi Cultural Literary Society (IMCLS)

Forward

It gives me immense pleasure to know that the Idu Mishmi Code of Research Ethics (IMCRE) has finally been materialized. With this achievement, the entire Idu Mishmi community has added another feather to its cap to become the first indigenous community in the entire state of Arunachal Pradesh to have its community research protocol for researchers. The need for a certain degree of research regulation, its merits and demerits were discussed and considered several times in the past keeping in view legitimate concerns of the Idu Mishmi community vis-à-vis balancing the rights of a researcher.

The finalization of IMCRE is a humble beginning towards decolonizing and decentralizing research and empowering local communities by understanding what is in their best interest based on certain legal foundations such as self-determination, respect, consent and equity. The IMCRE covers general ethical principles and guidelines such as respect, free prior informed consent, mindfulness, and non-discrimination. I appreciate and congratulate our Idu Mishmi Cultural and Literary Society (IMCLS), Subcommittee on Community Rights and Protected Area Issues (SCRPAI) Chairperson and legal researcher Dr Tilu Linggi who has shown keen individual and collective interest to devote his time in preparing several drafts, garner subsequent comments from Idu Mishmi community in hammering out the final form. He has added a meaning to the literary society.

Cithu Hulunyi (the land of twelve rivers) is goldmine for researchers. Research within the indigenous community is best served when it serves the interests of the wider community as well as addresses the rights and concerns of an indigenous community where such research is being considered or conducted. In this endeavour, I believe that the objective of IMCRE is not to restrict research but to regulate any unethical, extractive, and covert research practices without any meaningful and transparent disclosure of its objective, which is prohibited by IMCRE and IMCLS Research Ethics Review Board Rules, 2024 (RERB). IMCRE is in supplement to but not in derogation of any state or administrative regulation. With the finalization of IMCRE and IMCLS RERB Rules, 2024, IMCLS has tried to engage and move a step closer as a community-oriented think tank body. I also believe that IMCRE will lead by example and indulge with researchers including our indigenous researchers with intellectual vigor to address issues and conflicts in the field of research leaving no one behind.



Mr Ere Linggi

General Secretary

Idu Mishmi Cultural and Literary Society (IMCLS)

Acknowledgments

In 2019, Padma Shri and Sahitya Akademi awardee, Madam Mamang Dai while speaking as a chief guest during the Rê festival in Roing conveyed succinctly a strong message that as a community one ought to carefully decide what kind of change it wants. Diversifying its commitment and responsibilities, IMCLS has sought to indulge and focus on research approaches within Cithu Hulunyi (the land of twelve rivers) of Mishmi Hills. IMCRE is an initiative and a reflection of the indigenous Idu Mishmi community's reasonable indulgence in the field of research and to engage itself constructively with researchers and research institutions based on what is generally acceptable norms and rights.

First of all, IMCLS thanks all previous and current leaders and executive members of the Idu Mishmi Cultural and Literary Society (IMCLS) for their permission to pursue this task, providing their moral support, and encouragement in completing this small booklet on the Idu Mishmi Code of Research Ethics (IMCRE). This code is the result of critical deliberation among IMCLS members and several meetings with villagers in the Dibang Valley district. The first draft of the code took shape in March 2018 during the initial doctoral coursework of the editor Dr Tilu Linggi at Jawaharlal Nehru University (JNU), New Delhi. The experiences and concerns of the Idu Mishmi community in Dibang Valley and Lower Dibang Valley regarding the research were already out in the public domain which has also shaped this code. IMCLS is therefore thankful for the collective effort which has guided and shaped its scholarship for the larger benefit of the Idu Mishmi community. While such an issue is relatively nothing new in the West, homegrown concern in the Mishmi Hills in Arunachal Pradesh was a new concept to IMCLS. This subject matter was then shared with the then IMCLS President and General Secretary. Anything that is new faces an initial challenge to fully accept it. Nonetheless, our special thanks go to both former IMCLS President Mr Ginko Lingi, and General Secretary, Mr Rao Dele during whose tenure the need for further work on formulating a community protocol regarding research was endorsed. IMCLS appreciate Dr Mite Lingi, former IMCLS General Secretary who also highlighted some issues facing the community in general. With discussions and responses that came, there was a clear indication that a certain degree of community regulation with overarching principles was required. This further led to groundwork on existing context specific issue and how they relate with other national and international standards on community practices, ethics, protocols and laws.

In the final days of drafting this code, IMCLS received generous support in the form of constructive comments from many people. My heartfelt gratitude goes to Dr Akepi Linggi Ehili, IMCLS member and Deputy Director, Finance, Planning and Investment Department, Secretariat, Itanagar, Government of Arunachal Pradesh, Dr Rajen Miwu, Assistant Professor, Indira Gandhi Government College (IGGC), Tezu, Dr Aba Pulu, Assistant Professor, IGGC, Dr Riko Mihu, Assistant Professor, IGGC, Tezu, Dr Razeko

Dele, Assistant Profesor, Jomin Tayeng Government Model Degree College, Mr Aito Miwu, member of Dibang team and Biodiversity and Tourism Management Society (BTMS), Dibang Valley district, Ms Chamali Mili, member of Dibang team and Ms Achili Mihu, member of Dibang team for their critical comments. Appreciation also goes to Dr Rasto Mena, Medical Officer, Roing, Lower Dibang Valley district and Dr Sahil Nijhawan, Anthropologist for providing necessary feedback to suit the needs of the Idu Mishmi community.

IMCLS is highly indebted to Dr Tilu Linggi, member of IMCLS and chairperson of IMCLS Subcommittee on Community Rights and Protection Area Issues (SCRPAI) for showing his unwavering support in coming out with several drafts of IMCRE and IMCLS Research Ethics Review Board Rules, 2024 (IMCLS RERB Rules) single-handedly. A timely help was extended to the Editor by Mr Sangam Linggi, IMCLS Convenor who supported through office work to carry forward in the larger interest of the Idu Mishmi community. Finally, our sincere regards go to Mr Rala Mega, who contributed minimum financial support in bearing the cost of publication on behalf of the entire Idu Mishmi community.

This work is also dedicated to all beloved senior citizens, future generations of the Idu Mishmi community in particular and indigenous peoples and local communities of Arunachal Pradesh in general who are stewards of ecological conservation through their traditional knowledge system, who deserve acknowledgment, respect and love, yet in some form are advertently or inadvertently read as a mere research respondent in the sea of research footnote.

**IDU MISHMI CULTURAL AND LITERARY SOCIETY
(IMCLS)**

IDU MISHMI CODE OF RESEARCH ETHICS

GENERAL OPERATIVE PROVISIONS

Section I – Definition and Meaning

1. 'Benefits' may take form of monetary or non-monetary advantages.^{xviii}
2. 'Consent' means an Idu Mishmi individual's and Idu Mishmi community representative body i.e. IMCLS Research Ethic Review Board's (RERB) voluntary agreement, based upon sharing of adequate knowledge by prospective researcher and capacity to understand relevant information, to participate in any such activity or to agree to allow or prevent such processes.

Guidelines:

- i. 'Consent' shall be sought from both IMCLS RERB and from concerned villager(s) of an Idu Mishmi village where a person intends to carry out research or permission to use their land, traditional knowledge, expertise, assistance, human resource, ancestral properties, cultural expression, collect biological resources, shoot videos for commercial purposes and larger public view.
 - ii. 'Consent' within the meaning of IMCRE shall not mean mere permission from state or local administration.
3. 'Free' implies that while seeking the consent of IMCLS and concerned Idu Mishmi individual they are not pressured, intimidated, manipulated or unduly influenced and that their consent is given without coercion.
4. 'Prior' implies seeking consent sufficiently in advance of any authorization for the commencement of activities and respecting time requirements of IMCLS RERB consultation/consensus processes including with Idu Mishmi villagers to make informed choices.
5. 'Informed' implies that information provided by the prospective researcher shall explain in writing about his or her research (at least) the aspects of the nature, subject area, funding source, details of institution affiliation or individual researcher, period of research project, benefit sharing mechanism, purpose or objectives, how data would be used, intent of publication, probable positive and negative effect of research, scope of research project or activity for enabling decision making choice for IMCLS RERB.
6. 'Culturally appropriate' research practice^{xix} in the context of the Idu Mishmi community shall mean all such mindful, due diligent and ethical approaches,

practices, activities, and methodologies that respect the indigenous Idu Mishmi cultural and spiritual values, their spaces, customary practices, traditional knowledge, beliefs including among physical and non-physical entities in the world of Idu Mishmi community and all such duties expected from prospective researchers by the IMCRE. Therefore, it also includes research outcomes that do not impact their ancestral land tenure rights.

7. 'Respect' includes recognizing all substantive and procedural rights; acknowledging diversities of identities, Idu Mishmis indigenous cultural values, knowledge system and institutions; ensuring distribution of costs and benefits; and recognizing all rights and duties based on equity, just and fairness.
8. 'Research' means any academic and non-academic activities or methodology scientific or unscientific that may involve, indulge, or engage any person in understanding the Idu Mishmi community or its values or any of its aspects to investigate, gather, analyse, evaluate, any kind of information, values, beliefs, practices, traditional cultural expressions, biological resources or its derivatives and add, alter, demonstrate for prospective researcher's purpose or on behalf of any affiliated or non-affiliated institution any study or concepts or practice or theories or techniques or practices.

Guidelines:

- i. Any changes in research objectives, development, testing or evaluation must be pre-approved by IMCLS RERB constituted and delegated by IMCLS.
9. Prospective 'researcher' includes any individual, a group or institution, private or public or both or any such entity undertaking any use, study including detailed project report (DPR), assessment or collection of tangible or intangible resources that relate to traditional knowledge, practices, values, culture, or biological resources of the indigenous community for any purpose within the territorial region of Cithu Hulunyi (the land of twelve rivers). The phrase 'individual' encompasses all those including those who do not regard themselves as a 'researcher' in a strict sense yet fall within the nature of a researcher or covertly or clandestinely collect any tangible or intangible resources from the Cithu Hulunyi and use them in violation of provisions provided under this rule and IMCRE.
10. 'Tangible' sources include biological resources, all floral and faunal samples, blood samples, textiles, drawings copies, bamboo and cane carvings, basket weaving, carpets, musical instruments, traditional mugs, swords, wares, ornaments, beads, feathers, spears, bow, arrow, cap, metal instruments, photocopy or images that are developed by Idu Mishmi people or obtained from them in any form associated with them.

11. 'Intangible' sources include all artistic the traditional cultural expressions, textile designs, names, traditional knowledge, cultural practices, beliefs, songs, stories, hymns, tales, riddles, proverbs, poetry, folklores, dance forms, paintings, colloquial names, rituals, social and economic practices, medicinal practices/knowledge associated with the Idu Mishmi community.
12. 'Research Ethics Review Board' means the board constituted under IMCLS Research Ethics Review Board Rules, 2024 (RERB Rules).
13. 'Form' means the form appended to this code.

Section II - Ethical Principles

Principle 1 - Free, prior informed consent

We firmly believe that for access to the Idu Mishmi community's tangible and intangible sources that represents or are indicative of Idu Mishmi heritage, free, prior, and informed consent must be sought.

Guidelines:

- i. Consent to access any kind of tangible and intangible sources is non-negotiable at all stages.
- ii. In giving informed consent, the subject may not waive or appear to waive any legal and moral rights, or release or appear to release the applicant researcher and research institutions if any, thereof from liability for negligence.
- iii. All care shall be taken by the researcher to seek consent before accessing any tangible and intangible resources particularly, in the documentation of sensitive and private affairs such as taking photographs of sacred objects, sacred sites such as burial places, traditional performances such as rituals, ceremony, archival materials, recordings and transcripts of songs, chants, family information, genealogical data, ethnobotanical materials, community history, or areas.
- iv. All consent shall be in writing in the form of an agreement with both the community body and an individual knowledge holder.

Principle 2 - Fair and equitable sharing of benefits

When something is used or taken from the Idu Mishmi community, or any individual or their region associated with their knowledge and history, it shall be ensured that benefits are shared in a fair, just and equitable way in line with a legal underpinning of the Convention on Biological Diversity, 1992, Nagoya Protocol 2010; and United Nations Declaration on Rights of Indigenous Peoples (UNDRIP), 2007.

Guidelines:

- i. Sharing of costs and benefits that are fair, just and equitable is part of distributive justice and equity.
- ii. The benefits may be monetary or non-monetary proportionate to time, duration, amount accessed from the community and the costs and benefits that are likely to accrue thereafter from it.

Principle 3 - Non-discrimination

We believe that researchers and their research approach should be mindful of avoiding any kind of express or implied discrimination. Any forms of discrimination are against the ethical standards of research engagement.

Guidelines:

- i. Any forms of instinctive or spontaneous master-servant discrimination and subjugation in the process of research work are discouraged.

Principle 4 - Respect

No prospective researchers in the name of research shall before, during or after research duration disrespect any substantive and procedural rights of the community in any form. Recognition, procedure, distribution, non-discrimination, and equity are indivisible components of the 'respect'. Rights shall be respected in accordance with CBD, 1992 and its Conference of Parties (COP) Decisions.

Guidelines:

- i. Respect requires researcher(s) to recognize the community's integrity, morality, diversity and spirituality by being mindful and sensitive toward their culture, cultural sites, practices, ceremony, folklores, values, heritage, belief system, customary laws, protocols, code of ethics, sui generis laws, institutional structure, way of life, privacy, inter-cultural spaces, and its intrinsic ownership, rights with its resources flora and fauna at all stages and in all fields of research.
- ii. It requires developing a continual process of building mutually beneficial arrangements between users and the Idu Mishmi community to build trust, good relations, mutual understanding, knowledge exchanges, create new knowledge, reconcile, and accept responsibility for the consequences of their actions.
- iii. Idu Mishmi community members shall be meaningfully engaged as equal partners in decision-making, and research design with their full and effective participation or involvement to support indigenous initiatives and share benefits equitably, wherever such participation is sought.
- iv. A researcher shall commit to assurance and may communicate, act in good faith, and reciprocate even after research comes to an end.

Principles 5 – Precautionary approach and duty to care

All activities of the prospective researcher during and after research in Cithu Hulunyi shall take all necessary precautions to avoid any tensions, disturbance or interference in the community, place, decorum, belief system, resources and

environment during their visit.

Guidelines:

- i. Precaution shall be taken to ensure that research findings, reporting, and publication do not in any way yield any recommendation(s) during or after the task that are adversarial to the interest of the Idu Mishmi community.
- ii. The duty to take precautions is also incumbent upon researcher to avoid generalizing, fetishization, fossilization, or romanticism of Idu Mishmi culture in any forms. Care shall be taken to avoid imposing, inducing external or dominant worldviews, and standards, or making value judgments, distorting, influencing culture, values, practices or resources in any form.
- iii. Care shall be taken that the collection of knowledge, information and resources shall not constitute unjust enrichment, breach of trust, misappropriation, misrepresentation, dishonesty, breach of duty, or negligence under any pretext.

Principle 6 – Protection and safeguarding of both collective and individual rights

All tangible and intangible resources obtained in any form from the community and its regions shall be protected at all costs by the users and the provider and used only as agreed.

Guidelines:

- i. Knowledge which relates to the Idu Mishmi community, is a part of the collective identity and certain individual members of that group must keep knowledge on behalf of the collective. This obligation mandates a researcher to protect collective interests and by extension protect collective rights.
- ii. Tangible and intangible resources shall not in any way be used beyond what was initially stated or agreed upon.
- iii. Protection includes the prohibition of any chronicling or nomenclature exercises of any zoonotic and botanic taxa that undermines the community's prior interest by ignoring the sensitivity of species relationship with community's region, folklore, history, people or culture and leading to 'intellectual misappropriation or robbing'.

Principle 7- Transparency and full disclosure

Full disclosure and absolute transparency shall be the criteria for seeking any consent including change in the use of data, information and resources after consent is sought.

Guidelines:

- i. The purpose, intent of the research, funding agency or institution or source, advantages, possible harm if any before seeking consent and any changes that might occur during the research process shall be disclosed mandatorily. Any deviation from the initially stated purpose of the research shall be communicated.
- ii. The researcher's confidentiality agreement with its parent or funding institution(s) shall not bind the Idu Mishmi community.

- iii. Transparency shall be maintained at all stages with the IMCLS RERB and the participating individual.
- iv. Duty is upon users to make transparent disclosures especially towards possible harms without assuming that participants would understand.

Principle 8 - Repatriation

Repatriation of any data and resources shall be honoured and acted upon in the event of any unethical and culturally inappropriate research practices.

Guidelines:

- i. Repatriation is based on the principle that one cannot enrich which he/she is not entitled to. The researcher shall be responsible for repatriation including from herbaria, gene banks, museums, botanical storehouses, private collections, databases, and registry of any such data and samples.
- ii. Where no repatriation is possible researcher shall retribute back in other forms.

Principle 9 - Retention

The Community shall have the right to withhold, and retain all data, information and knowledge and retribute them for any unethical use.

Guidelines:

- i. Retention of knowledge and resources are conditions to encourage ethical or culturally appropriate use of tangible and intangible resources.
- ii. Where research could not begin after initial agreement, the researcher shall return all data acquired if any and keep no part of it.

Principle 10: Methodology and process

All methodology for research shall be just, fair, transparent, and equal guided by ethical principles of negotiation, cooperation, partnership, confidentiality, and reciprocity.

Guidelines:

- i. Negotiation for access shall be based on Mutually Agreed Terms (MAT) in good faith between the IMCLS RERB, individual participants, and researchers.
- ii. Research activities shall continue based on meaningful cooperation, partnership and communication of progress of all work throughout the project including before and after publication of any findings.
- iii. Both the researcher and community body shall respect and maintain the confidentiality of the data once the research commences till it concludes.
- iv. Data and information shall not be passed without express written permission from IMCLS RERB to any person or institution for whatever reasons and purposes.
- v. Full reciprocity related to research work shall be maintained by the researcher in complementary to all the above ethical principles with the IMCLS RERB.

ANNEXURE I FORM A

1. Name of researcher/research institution (in BLOCK letters):
Permanent address: _____

2. Profession:
3. Sponsoring/funding institution address & email (workable):
4. Email (workable) of researcher/research Institution:
5. Purpose of visit:
6. Purpose of desired activity:
7. Subject area of research:
8. Place of research:
9. Duration of research and specific place of stay:
10. Copy of ILP:
11. Research permission copy obtained from PCCF, Itanagar (if any):
12. Details if visited earlier (Name of guide, address & place of stay, date & year)

13. State how research output is/are going to be used:

14. Forms of equitable sharing of benefits to indigenous community/individual (specific detail of benefit if given to an individual or the community body during pre or post research findings)

I have received a copy of IMCRE and have read it completely. I have fully understood its provisions. shall respect all rights of Idu Mishmi community during my research as specifically proposed and agree to share the study results including research outcome, make prior and transparent disclosure regarding research modifications, its unintended negative consequences to my best possible extent as mindful researcher. My survey, research, its findings or reporting or publication shall not in any way harm collective interest of Idu Mishmi community. I agree to share the final draft with IMCLS RERB before publishing, making it public. If there is any breach of IMCRE within my limits and mandate, I shall be accountable in what ever manner including issuing necessary corrections. Therefore, I agree to abide by it voluntarily and in sound mind.

**Signatory
(Prospective Researcher)**

In accordance with the above stated undertaking and mutually agreed terms made by the prospective researcher the research permission for specific research nature and subject as stated in the form stands approved with the consent of IMCLS RERB members. He or she is required to proceed further for appropriate village level consultation.

(IMCLS RERB Member)

(IMCLS RERB Member)

(IMCLS RERB Member)

(IMCLS RERB Member)

(IMCLS RERB Member)

(IMCLS RERB Member)

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NOTES

- ⁱ State of Himachal Pradesh V. Ganesh Wood Products (1995) 6 SCC 363. See also, Indian Council for Enviro-legal Action v Union of India (CRZ Notification case), (1996), 5 SCC 281.
- ⁱⁱ M.C. Mehta v Union of India (Taj Trapezium Case) (1997) 2 SCC 353, 381.
- ⁱⁱⁱ Vellore Citizens' Forum v Union of India (1996) 5 SCC 647. See also, Narmada Bachao Andolan v Union of India (2000) 10 SCC 664, 727.
- ^{iv} The trust doctrine comes into play even when information may not be necessarily confidential in traditional sense but if obtained without following standard protocol. M.C. Mehta v Kamal Nath (1997) 1 SCC 388, paragraph 28. See also, T. N. Godavarman Thirumulpad v Union of India and Others, WP (C) No. 202 of 1995, I.A. No. 1000 of 2003. Supreme Court has held that government holds the property for people in trust. See also, T. N. Godavarman Thirumulpad v Union of India and Others, Civil Original Jurisdiction, 2022 Livelaw (SC) 540 dated 3 June 2022; available at: https://www.livelaw.in/pdf_upload/540-in-re-tn-godavarman-thirumulpad-v-union-of-india-3-june-2022-420775.pdf
- ^v It provides that Indigenous Peoples have rights to “maintain, control, protect and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions.”
- ^{vi} Periodic Reporting to the Convention for Safeguarding of the Intangible Cultural Heritage <https://ich.unesco.org/en-state/india-IN?info=periodic-reporting#rp>
- ^{vii} Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage, Chapter IV, paragraph 93 and 103; available at: https://ich.unesco.org/doc/src/ICH-Operational_Directives-5.GA-PDF-EN.pdf (accessed on 9 August 2022). https://ich.unesco.org/doc/src/ICH-Operational_Directives-5.GA-PDF-EN.pdf#p103
- ^{viii} Ethical Principles for Safeguarding Intangible Cultural Heritage <https://ich.unesco.org/en/ethics-and-ich-00866>
- ^{ix} K.S. Puttaswamy (Retd) and others v Union of India and others, W.P. (Civil) No. 494 of 2012 dated 24 August 2017; available at: <https://www.livelaw.in/supreme-court-said-right-privacy-judgment-read-judgment/?infinitescroll=1>
- ^x Paragraph 48.
- ^{xi} Paragraphs 41, 42 and 44.
- ^{xii} Paragraph 49.
- ^{xiii} The component of ‘respect’ is an essential dimension of equity and equity is one element of good governance. ‘Respect’ means acknowledgement and recognition of rights and diversity of identities, values, knowledge systems and institutions of rights holders. Equity being a general principle of law does not invoking any specific provisions of the law. See, UNEP (2018), Decision adopted by the Conference of Parties to the Convention on Biological Diversity, Decision 14/8, Protected Areas and other Effective Area-Based Conservation Measures, UN Doc. CBD/COP/DEC/14/8, 30 November 2018, Annex II, Section B, Paragraph 9; available at: <https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-08-en.pdf> (accessed on 20

April 2022).

^{xiv} BDR 2004, Rule 20 (5).

^{xv} Under Section 2 (a) of BDA 2002, the conservers of biological resources, creators and holders of knowledge and information, practices, innovations relating to use of such biological resources are the benefit claimers. Meaning thereby benefit claimers could be an individual or an organization based on the reading of section 21(3) of BDA 2002 and both the proviso of Regulation 15 (1) and Regulation 15 (2).

^{xvi} BDR 2004, Rule 16 (1) (iii).

^{xvii} Arunachal Pradesh (Biological Diversity) Rules 2011, Rule 23 (20).

^{xviii} Monetary benefits may include, but not be limited to:

- (a) Access fees/fee per sample collected or otherwise acquired.
- (b) Up-front payments.
- (c) Milestone payments.
- (d) Payment of royalties.
- (e) License fees in case of commercialization.
- (f) Special fees to be paid to trust funds supporting conservation and sustainable use of biodiversity.
- (g) Salaries and preferential terms where mutually agreed.
- (h) Research funding.
- (i) Joint ventures.
- (j) Joint ownership of relevant intellectual property rights.

Non-monetary benefits may include, but not be limited to:

- (a) Sharing of research and development results.
- (b) Collaboration, cooperation and contribution in scientific research and development programmes, particularly biotechnological research activities, where possible in the Party providing genetic resources.
- (c) Participation in product development.
- (d) Collaboration, cooperation and contribution in education and training.
- (e) Admittance to ex situ facilities of genetic resources and to databases.
- (f) Transfer to the provider of the genetic resources of knowledge and technology under fair and most favourable terms, including on concessional and preferential terms where agreed knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity.
- (g) Strengthening capacities for technology transfer.
- (h) Institutional capacity-building.
- (i) Human and material resources to strengthen the capacities for the administration and enforcement of access regulations.
- (j) Training related to genetic resources with the full participation of countries providing genetic resources, and where possible, in such countries.
- (k) Access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies.
- (l) Contributions to the local economy.

(m) Research directed towards priority needs, such as health and food security, considering domestic uses of genetic resources in the Party providing genetic resources.

(n) Institutional and professional relationships that can arise from an access and benefit-sharing agreement and subsequent collaborative activities.

(o) Food and livelihood security benefits.

(p) Social recognition.

(q) Joint ownership of relevant intellectual property rights.

^{xix} Some examples of culturally appropriate research practices include but not limited to as follows:

i. Respecting beliefs, taboos and ensuring mindful practices while doing research in the forest:

Avoid traditional caves:

Entering traditional caves used by the hunters, is traditionally avoided particularly by a person when such person is undergoing menstrual cycle to respect existing the taboos notwithstanding any disrespect towards a particular gender.

Prohibition on consuming certain edible item:

Eating mushrooms, onions, garlic, Marscana, Akana etc are restricted in the jungle and having any kind of physical intimacy is also regarded a taboo.

Follow Eyu-Ena (taboo):

In case, if any kind of wild meat is offered by local hunters or guide, such ritual of Eyu-Ena (taboo) shall be respected.

Maintaining decorum and respect towards forest and nature:

There are customary restrictions on mimicking, saying of names of animals, maintaining silence as the belief is that every mountain, river, lakes have its own spirit, and those spirits are superior to the human being. Shouting, commenting on the size of lakes and rivers, bathing or polluting is considered as reckless, inappropriate and unethical.

Mindful conduct in Ashano:

Ashano is the place of Asha (spirit) who protects the village and collecting of firewood, cutting trees, shouting inside Ashano are restricted.

ii. Respecting privacy and ensuring non-intrusive and mindful practices while doing research in the community:

Taking photos and videos: Taking photos and videos of any individual or of any indigenous cultural function including during funeral process or death rituals,

individual Re, shamanic ceremony etc. is considered unethical and unmindful approach.

After attending the birth ritual: After attending a birth ritual the existing taboo restricts such person from going to fieldwork, non-indulgence in sexual intimacy, attending death rituals, consume wild meats or do any hard work for one day. It is believed that committing such activities after attending the birth ritual will have negative effect to the infant. In this ritual Maselo Zinu, the creator of human observes the activities of the human being whether they are following the taboos strictly or not.

Approach towards Igu while he or she is performing: Clicking and flashing lights should be strictly prohibited when Igu (Shaman) is performing certain rituals unless it is for public performance. It is believed that the flashing light, shouting etc. attracts the negative spirit (Khinu). It can cause sudden death and if not then it can attract Amo-ana (epilepsy).

Avoid touching instruments of Igu: Female customarily (particularly during menstrual) in the community mindfully takes precautionary measures in touching Igu's instrument (Ripu, Awumbo, Amraala etc.) including the articles that are prepared to bury with the dead body.

iii. Certain due diligence practices required:

Hanging female garments in another person's dormitory room are customarily prohibited. There is a prohibition for any person to stand and pass through Amunido (an area in another person's dormitory room where the man offers animal blood after hunting rituals, keep animal trophies to keep the spirit satisfied). The spirit that resides in Amunido informs all the activities done by the humans to the Gonlo (the supreme spirit of all).

^{xx} For the purpose of this Rule, research includes but not limited to:

- (a) Basic and clinical research.
- (b) Behavioral studies.
- (c) Anthropological and archaeological studies.
- (d) Community based research.
- (e) Cultural, social, economic, political studies
- (f) Environmental and wildlife studies that breaches individual and community trespass and right to privacy.

(g) Feasibility and other studies designed to develop, test and evaluate basic data in all phases of environmental and public health.

(h) Study, use and collection of tangible or intangible materials that includes traditional knowledge, practices and biological resources associated with Idu Mishmi indigenous community.

(i) Photographic, audio, visual collection of any kind of human, animal, plant or species for their studies.

(j) All other activities not in the nature of strict meaning of systematic study or research pedagogy but clandestinely indulges oneself or other individuals to pass or share information, resources relating to community by the user or prospective researcher.

^{xxi} See Article 8(j) of CBD, 1992.

^{xxii} See Article 6(2) and 7 of Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity

^{xxiii} See Article 15 of United Nations Declaration on Rights of Indigenous Peoples (UNDRIP), 2007.

^{xxiv} See Rutzolijirisaxik Voluntary Guidelines. This guideline was adopted by Decision 14/12 at the 12th Conference of Parties (COP) meeting to Convention on Biological Diversity, 1992. COP being the highest political decision-making institution under CBD, 1992 its decision is binding on the state parties. States are obligated to facilitate repatriation). The *ex-situ* conservation generally includes ‘conservation’ or culturing of biological resources outside natural environment such as gene bank, botanical garden, museums, laboratory, and others.

