

65

participatory learning and action

Biodiversity and culture: exploring community protocols, rights and consent



Participatory Learning and Action (PLA) – formerly *PLA Notes* and *RRA Notes* – is published twice a year. Established in 1987, it enables practitioners of participatory methodologies from around the world to share their field experiences, conceptual reflections, and methodological innovations. The series is informal and seeks to publish frank accounts, address issues of practical and immediate value, encourage innovation, and act as a ‘voice from the field’.

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Guest editors: Krystyna Swiderska, Holly Shrumm, Wim Hiemstra, Maria Julia Oliva, Kanchi Kohli and Harry Jonas.

Editors: Holly Ashley, Nicole Kenton, and Angela Milligan.

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Participatory Learning and Action (PLA) is an umbrella term for a wide range of approaches and methodologies, including Participatory Rural Appraisal (PRA), Rapid Rural Appraisal (RRA), Participatory Learning Methods (PALM), Participatory Action Research (PAR), Farming Systems Research (FSR), and Méthode Active de Recherche et de Planification Participative (MARPP). The common theme is the full participation of people in the processes of learning about their needs and opportunities, and in the action required to address them.

In recent years, there has been a number of shifts in the scope and focus of participation: emphasis on sub-national, national and international decision-making, not just local decision-making; move from projects to policy processes and institutionalisation; greater recognition of issues of difference and power; and, emphasis on assessing the quality and understanding the impact of participation, rather than simply promoting participation. *Participatory Learning and Action* reflects these developments and recognises the importance of analysing and overcoming power differentials which work to exclude the already poor and marginalised.

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Editorial

Welcome to issue 65 of *Participatory Learning and Action*.

About this issue

Indigenous people and local communities (ILCs) are struggling to defend their rights over land and other resources they have traditionally used and over traditional knowledge they have developed over generations. For example, mining rights have typically been granted by governments to commercial organisations without reference to those living on and managing the land. Similarly, ILCs have received few benefits from the commercial use of their traditional crops or medicinal knowledge.

This issue focuses on participatory processes around two rights-based tools – community protocols (CPs) and free, prior informed consent (FPIC). These tools have the potential to:

- help indigenous peoples and local communities (ILCs) claim or protect their rights over their resources and traditional knowledge, using national and international law;
- build on and strengthen communities' own rules and regulations for conserving biodiversity and promoting sustainable community-led natural resource management;
- help ILCs to negotiate agreements with commercial organisations for access to their resources and equitable sharing of the benefits from the use of those resources, e.g. use of traditional crop varieties, medicinal plants; and
- strengthen community cohesion, organisation and confidence to take action to improve livelihoods and defend rights.

FPIC and community protocol-type processes are being used to help claim rights and negotiate agreements in various biodiversity contexts, e.g. agrobiodiversity, forests and mining, in Africa, Latin America and Asia – though not necessarily using these labels. However, recent developments in international law in relation to access to genetic resources and benefit-sharing (ABS) have brought these participatory tools and processes centre stage.



Photo: © Bulatlat

Women in the Philippines protesting against mining on World Indigenous Peoples Day.

This issue draws on a range of experiences of using these tools in different biodiversity and natural resources contexts to help understand how to support community protocols and FPIC. A key lesson is that, to be effective and to generate maximum benefits, CPs and FPIC must be bottom-up processes, designed and controlled by communities, not top-down ones designed and controlled by government or commercial organisations. The articles also suggest institutional changes are needed if these bottom-up processes are to be supported.

Developing the special issue

We were very pleased to be able to work with IIED's Agroecology and Food Sovereignty team and its networks in developing this issue, in particular the Kalpavriksh Environmental Action Group, India; Natural Justice: Lawyers for Communities

and the Environment; COMPAS (COMPARing and Supporting Endogenous Development) Network; and the Union for Ethical BioTrade (UEBT).

The issue benefited greatly from bringing together the experiences of biodiversity practitioners through our guest editors and contributors and those of participation practitioners through our editorial board. This is an important role that *Participatory Learning and Action* plays – bridging the gap between different communities of practice, enabling mutual learning, and ensuring that newer participatory approaches draw on past experiences and lessons.

We hope that the issue will provide ideas and inspiration for biodiversity practitioners and other natural resources and development workers, as well as those tasked with implementing the provisions of the Nagoya Protocol.

Guest editors

Our guest editors for this issue are **Krystyna Swiderska** (IIED), **Kanchi Kohli** (Kalpavriksh, India and Campaign for Conservation and Community Control over Biodiversity), **Harry Jonas** and **Holly Shrumm** (Natural Justice), **Wim Hiemstra** (ETC COMPAS, The Netherlands) and **María Julia Oliva** (Union for Ethical Biotrade).

Krystyna Swiderska has been a researcher at IIED for 17 years. During this time, she has worked mainly on biodiversity and livelihoods issues, in particular on the protection of traditional knowledge and access to genetic resources and benefit-sharing. Between 2005 and 2009, she coordinated participatory action-research with indigenous and local communities on Protecting Community Rights over Traditional Knowledge: Implications of Customary Laws and Practices. This project was conducted with partners in Peru, Panama, India, China and Kenya and developed a range of tools, including community protocols. It developed the concept of 'collective biocultural heritage', building on research with Quechua communities, as the conceptual framework for action-research. Krystyna set up the biocultural heritage website www.bioculturalheritage.org to share the results of the project. She has just started coordinating a major new project on the role of biocultural systems in adaptation to climate change and food security. Krystyna is also co-Director of the International Society for Ethnobiology's Global Coalition for Biocultural Diversity.

Kanchi Kohli has been involved in environment and forest governance-related issues for close to 15 years. She has worked with, amongst others, Kalpavriksh Environmental Action Group and the Campaign for Conservation and Community Control over Biodiversity, India, carrying out action-research campaigns and advocacy outputs related to environment, biodiversity and agriculture and its interface with industry,

infrastructure and energy in India. Her recent work explores the commodification of nature and its implications for conservation and environmental governance. Communication is a key component of Kanchi's work. She writes regularly in several national-level newspapers and magazines, as well as for websites. Since 2004, she has co-coordinated an information dissemination service for forest and wildlife cases in the Supreme Court of India. Kanchi has also been campaign and research adviser to national-level networks and organisations related to coal and climate, genetic engineering and conservation of agrobiodiversity, especially millets. She has also been involved in putting together publications on regulatory regimes and decision-making processes around environment, forests and biodiversity-related policy frameworks.

Harry Jonas is a lawyer and co-founder of Natural Justice: Lawyers for Communities and the Environment and an Ashoka Fellow.¹ **Holly Shrumm** also works for Natural Justice and has a background in anthropology, zoology and community-based natural resource management. Natural Justice works to uphold the principle that people should be involved in decisions that affect them. Natural Justice uses its understanding of international and domestic legal frameworks to help indigenous peoples and local communities to assert their rights to govern their lands, natural resources and traditional knowledge. Natural Justice and its partners are actively contributing to the development of biocultural community protocols as a widely accessible means by which communities can articulate their stewardship ethics, assert their rights and affirm their responsibilities. Based in Sabah, Malaysia, Harry and Holly are co-coordinating the Asia Regional Initiative on Biocultural Community Protocols together with COMPAS, the LIFE Network, UNU-IAS and community partners in Pakistan, India

¹ See: www.ashoka.org/fellows

and Sri Lanka. They set up the community protocols website.² Most recently, they co-edited *Biocultural community protocols: a toolkit for community facilitators* (see In Touch, this issue).

Wim Hiemstra is an agronomist trained in organic farming. He is coordinator of the COMPAS Network (COMPARing and Supporting Endogenous Development), which has CBO-NGO-university partnerships in 15 countries. The international coordination office of the COMPAS Network, ETC COMPAS, is part of the ETC Foundation in The Netherlands. It has been developing methodologies for endogenous development since 1998, building capacities in local communities based on their own strengths and cultures, as seen through their own worldviews. Thematic areas include food sovereignty, traditional medicine, sacred sites and well-being assessments. Together with CIKOD (the Centre for Indigenous Knowledge and Organisational Development) in Ghana, the League for Pastoral People (Germany) and Natural Justice (South Africa and Malaysia), ETC COMPAS is coordinating the African and Asian Biocultural Community Protocol programmes. Wim is inspired by the diversity of cultures linked to biodiversity and the emergence of biocultural jurisprudence.

María Julia Oliva has been Senior Adviser on Access and Benefit-Sharing at the Union for Ethical BioTrade (UEBT) since 2009. She manages legal and policy issues in the work of UEBT and provides training and technical support on access and benefit-sharing issues to its members. Previously, she held positions at the International Centre on Trade and Sustainable Development, the UN Conference on Trade and Development and the Centre for International Environmental Law. She has worked and published extensively on a range of issues at the interface of trade, intellectual property and sustainability. Julia is a member of the International

Union for Conservation of Nature (IUCN) Commission on Environmental Law, and is also on the Board of Directors of Intellectual Property Watch. She holds a law degree and a Masters degree in environmental law.

Acknowledgements

We would like to thank all the guest editors and contributors to this issue for their enormous dedication and patience as we worked to shape the issue and develop the articles. It has been a learning curve for us all – and an extremely stimulating and rewarding one. Special thanks go to **Krystyna Swiderska** for first suggesting an issue on this theme, and for her energy, persistence and commitment in making it happen.

We would also like to say a huge thanks to the UK Department for International Development (DfID), the Swedish International Development Cooperation Agency (Sida) and the Ministry of Foreign Affairs of Denmark (Danida) for their continued support for the *PLA* series.

Spanish translation

We hope to produce a Spanish translation of *PLA* 65 in the future to widen the reach of the issue. This is dependent on finding additional funding for the translation and production of a CD-ROM.

Other news

Launch of *PLA* 64: *Young citizens: youth and participatory governance in Africa*

We were delighted to be able to host a launch of *PLA* 64 at IIED's new offices. Marie Staunton, the CEO of Plan UK – which helped fund the issue – opened the launch, outlining how this special issue was initially developed and some background of Plan's work on youth and governance. Caitlin Porter from Plan delivered an excellent presentation on the concepts of citizenship and governance on behalf of Rosemary McGee, one of the guest editors, who was unable to attend. Jessica Greenhalf

² See: www.community-protocols.org

Box 1: Ideas on taking forward youth and governance advocacy work

- Promote youth participation in Mexico; work to lobby the government to effectively listen to the voices of youth
- Run a workshop for my team and partners in Uganda on the 'book' [PLA 64]
- Work on a report to document successful challenges of youth participation in Restless Development UK and push forward the creation of a Restless Development UK Youth Board
- Improve my current project with rural youth, based on learning today – with a stronger emphasis on governance
- Use and disseminate credible and concrete examples of youth-led participatory successes
- Distribute this to our Regional Youth Representatives in the African Commonwealth countries
- Talk to others in my organisation about integrating youth participation in M&E (of our programmes but social audits of governance programmes also)
- Encourage Plan to do more writeshops

then gave a talk on the *PLA* editorial process and the involvement of young people in producing the special issue, as well some discussion on the key themes from the special issue itself, and looking at governance from a young person's perspective – i.e. seeing like a young citizen.

The participants at the launch found the editorial process and the writeshop extremely interesting and relevant, especially the ways in which the authors brought so many young voices, perspectives and knowledge to the special issue. A Skype link-up with two of the authors in Nairobi, Kenya, Edwine Ochieng, a government officer, and Cynthia Ochola Anyango, secretary of the Jipange Youth Organisation, enabled them to share their learning and reflections on their own youth and governance experiences. Towards the end, Jessica facilitated an exercise using a two-circles diagram showing the interlocking spheres of 'citizens' and the State and the interfaces in between. We had a really interesting

discussion with participants who positioned themselves and their own work within the spheres.

Lastly, we spent a few minutes reflecting on how we could take youth and governance advocacy forward in our own work (see Box 1).

This is a hugely important aspect – that participants are taking forward ideas of their own to improve how young people participate in decision-making and governance within their own spheres of influence. It's something we also learnt from producing the last issue *PLA 63: How wide are the ripples? From local participation to international organisational learning* – that individually, we can all make a difference and that change comes from within, one step at a time!



New translations: *PLA 62* in Chinese, *PLA 64* in French

The French translation of *PLA 64* – *Jeunes citoyens : les jeunes et la gouvernance participative en Afrique* – is now available online.³ Please let your colleagues in francophone Africa know! We are in the process of preparing a bilingual CD version. If you know of anyone who would like a copy, please ask them to get in touch with us: pla.notes@iied.org.

The Chinese version of *PLA 62* – *Wagg the dragon's tail: emerging practices in participatory poverty reduction in China* – will soon be online. Again, please let your networks know that this is available.⁴

³ For *PLA 64* (French) see: <http://pubs.iied.org/G03336.html>

⁴ For *PLA 62* (Chinese) see: <http://pubs.iied.org/14605IIED.html> (forthcoming).

Next issue

The next issue of *PLA* will be a general (non-themed) issue which will contain articles on participatory processes in a variety of contexts and countries. It is quite some time since we published a general issue, so apologies to those who have had a long wait before seeing your article in print. If you are waiting to hear from us whether your articles has been accepted, then rest assured that we will be in touch soon.

Final thoughts

We hope this issue will inspire, challenge and help you in your work. Let us know how you have made use of it by emailing us at pla.notes@iied.org – we are always keen to hear what you think. Happy reading!

**Angela Milligan, Holly Ashley and
Nicole Kenton**

**Co-editors, *Participatory Learning and
Action***

Glossary

Access and benefit-sharing (ABS)

Prior to 1992, access to **genetic resources** and associated **traditional knowledge** was free to all. Genetic resources and knowledge were often taken from communities and countries by food, pharmaceutical, perfume and other industries, which monopolised the benefits. During the latter part of the twentieth century, a few countries developed legal provisions for ABS. However, benefits were usually narrowly defined as tangible benefits (such as royalties) and benefit-sharing was largely carried out at the government level. Benefits did not reach the traditional owners of genetic resources and associated traditional knowledge. Local communities and countries of origin were often not informed about the use of their genetic resources and associated traditional knowledge, limiting their bargaining power and preventing them from sharing in the benefits of their own resources. Growing concern over the monopolisation of benefits led genetic-resources-providing countries to restrict access to genetic resources and

associated traditional knowledge. This led to the negotiation of an international regime to regulate access and benefit-sharing known as the **Convention on Biological Diversity (CBD)**.

Source: www.icimod.org/abs

Biodiversity

According to the Convention on Biological Diversity, biodiversity is the diversity of genes, species and ecosystems and their variability (i.e. ability to change).

Biocultural community protocols (BCPs)

Charters of rules and responsibilities in which communities set out their customary rights, values and worldviews relating to biocultural resources, natural resources and land, as recognised in customary, national and international laws.

Biocultural heritage is the knowledge, biodiversity, landscapes, cultural values and customary laws of indigenous peoples and local communities. Its components are inter-dependent and together sustain local

economies. For more information see: www.bioculturalheritage.org

Biopiracy

Used to describe a situation where communities have received few benefits, if any, when their traditional knowledge and genetic resources have been used to develop new products which are then patented by commercial companies or governments.

Customary laws are locally recognised principles, norms and rules, which are orally held and transmitted and are applied by community institutions (e.g. councils of elders) to govern internally or guide all aspects of life. They include rules and norms to control access to natural resources and ensure sustainable and equitable use, and codes of ethics for proper use and transmission of traditional knowledge (Swiderska, 2006).

Customary rights are acquired by custom, and belong to all the inhabitants of a particular place. Indigenous peoples' customary rights often emphasise collective rather than individual rights, and stewardship rather than outright ownership. Rights are wedded to a responsibility to sustain resources for current and future generations.

Community protocols

Charters of rules and responsibilities in which communities set out their customary rights to natural resources and land, as recognised in customary, national and international laws.

Convention on Biodiversity (CBD)

The CBD is an international agreement, ratified in 1993, which aims to conserve biological diversity, promote sustainable use of biodiversity and ensure the fair and equitable sharing of the benefits arising out of the utilisation of **genetic resources**. It requires countries which use genetic resources (industrialised countries) to

share the benefits they derive fairly and equitably with countries that provide access to genetic resources. This is referred to as access and benefit-sharing (ABS). The CBD requires the prior informed consent of Parties to be obtained by any public or private enterprise seeking access to genetic resources (Article 15); and recognises the importance of the knowledge, innovations and practices of indigenous and local communities (Article 8j). However, in practise there are many contentious issues in ABS, one of which is the lack of implementation in industrialised countries.

The Nagoya Protocol on access and benefit-sharing was developed to address this. One hundred and ninety-three countries are party to the CBD. The CBD is also supported by the **International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)**.

Endogenous development

Development driven by communities, building on their culture, knowledge, resources and institutions.

Free, prior informed consent (FPIC) processes

Processes in which communities decide whether or not to allow projects affecting their land or resources to go ahead, and on what terms. The requirement for prior informed consent (PIC) to be 'free' responds to experiences where indigenous peoples have been coerced into giving their consent, rather than being allowed to give it freely or deny consent.

Genetic resources

Genetic resources are the genetic material of plants, animals or micro-organisms which may be of value as a resource for future generations of humanity (OECD, 2001). Genetic resources are used commercially in a range of sectors: biotechnology, plant breeding, pharmaceuticals, herbal medicines, cosmetics and industrial processes.

Intellectual property rights (IPRs)

The term 'intellectual property' refers broadly to the creations of the human mind, for example, inventions, designs, trademarks or artistic works, such as music, books, films, dances, sculpture or photography. Intellectual property rights protect the interests of creators by giving them property rights over their creations for a certain period in time, provided that the creators meet a certain criteria, for example, originality, defined by the relevant laws.

Source: www.wipo.int

International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), 2001

Treaty that aims to promote the conservation and sustainable use of plant genetic resources for food and agriculture, and fair and equitable sharing of benefits derived from their use, in harmony with the **CBD**. One hundred and sixteen countries are party to the ITPGRF.

For details see: www.planttreaty.org

Landrace

A landrace is a local variety of a domesticated animal or plant species which has developed largely through natural processes, by adaptation to the natural and cultural environment in which it lives. It differs from a formal breed which has been selectively bred deliberately. Landraces are usually more genetically and physically diverse than formal breeds.

Source: Wikipedia

The Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing (2010)

This protocol was developed to implement the Convention on Biodiversity's third objective on access to genetic resources and benefit-sharing. Its objective is:

...the fair and equitable sharing of benefits arising from the utilisation of genetic resources, including by appropriate access to genetic resources ... thereby contribut-

ing to the conservation of biological diversity and the sustainable use of its components.

The protocol will enter into force after 50 ratifications. It requires the prior informed consent, or approval and involvement, of indigenous and local communities for access to traditional knowledge and genetic resources held by them. It also requires countries to support the development by indigenous and local communities of community protocols for access and benefit-sharing. For further information, see overview for this issue and see:

www.cbd.int/abs). For a critique of the Nagoya Protocol in the Indian context, see: Ramdas (this issue).

Participatory plant breeding (PPB)

An approach to seed development and improvement that involves farmers and breeders in systematic procedures for jointly identifying desirable traits, selecting promising lines, and evaluating the resulting varieties. See: Jingsong *et al.* (this issue).

Prior informed consent (PIC)

See: Free, prior informed consent (FPIC)

Seed patents

A **patent** is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. In order to be patentable, the invention must fulfill certain conditions. Patents can be taken out on seeds that have been modified or bio-engineered. There is no obligation for the patent holder to seek the consent of, or share benefits with, the local custodians of the seed used to develop the product or process considered an invention.

Traditional knowledge

Contrary to a common perception, traditional knowledge is not necessarily

ancient. It is evolving all the time, a process of periodic, even daily creation as individuals and communities take up the challenges presented by their social and physical environment. In many ways therefore, traditional knowledge is actually contemporary knowledge. Traditional knowledge is embedded in traditional knowledge systems, which each community has developed and maintained in its local context. 'Traditional knowledge' itself has a number of different subsets, e.g. 'indigenous knowledge,' 'folklore,' 'traditional medicinal knowledge'.

Source: www.wipo.int

Acronyms

ABS	Access and benefit-sharing
BCP	Biocultural community protocol
BIT	Bilateral investment treaty
CBD	Convention on Biological Diversity
CBO	Community-based organisation
CESCR	Covenant on Economic, Social and Cultural Rights
CIKOD	Centre for Indigenous Knowledge and Organizational Development (Ghana)
COMPAS	COMPARing and Supporting Endogenous Development
COP	Conference of the Parties
CP	Community protocol
DANIDA	Danish International Development Agency
ED	Endogenous development
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FLEGT	Forest Law Enforcement, Governance and Trade
FPIC	Free, prior informed consent
FRA	Forest Rights Act
FTA	Free trade agreement
GIZ	German Development Cooperation
HIVOS	Humanist Institute for Development Cooperation
IBCHA	Indigenous biocultural heritage area
IBHT	Indigenous biocultural heritage territory
ICCA	Indigenous peoples' and community conserved area
IIA	International investment agreement
IIED	International Institute for Environment and Development

ILCs	Indigenous and local communities
IPR	Intellectual property rights
IPRA	Indigenous Peoples' Rights Act
IP-Watch	Intellectual Property Watch
ISE	International Society of Ethnobiology
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	International Union for Conservation of Nature
LIFE	Local Livestock for Empowerment of Rural People
MEA	Multi-lateral environmental agreement
MSP	Multi-stakeholder process
NCIP	National Commission on Indigenous Peoples
NGO	Non-governmental organisation
NTA	Native Title Act
OECD	Organisation for Economic Cooperation and Development
PGR	Plant genetic resources
PIC	Prior informed consent
PPB	Participatory plant breeding
REDD	Reducing Emissions from Deforestation and Forest Degradation
SEARICE	Southeast Asia Regional Initiatives for Community Empowerment
SIDA	Swedish International Development Cooperation Agency
TK	Traditional knowledge
TNC	Transnational corporation
UEBT	Union for Ethical BioTrade
UNEP	United Nations Environment Programme
UNU-IAS	United Nations University – Institute of Advanced Studies
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
VPA	Voluntary Partnership Agreement

Abstracts

1. Community protocols and free, prior informed consent: overview and lessons learnt

Krystyna Swiderska with Angela Milligan, Kanchi Kohli, Holly Shrumm, Harry Jonas, Wim Hiemstra and María Julia Oliva

In this overview article to the issue, the guest editors begin by setting the scene, explaining how loss of biological and cultural diversity is threatening the livelihoods and biocultural heritage of indigenous peoples and local communities (ILCs). They explore the role of community protocols (CPs) and free, prior informed consent (FPIC) in helping ILCs to defend their heritage and assert their rights over resources and traditional knowledge. They emphasise the importance of community-level participatory processes in the development of CPs and FPIC, and highlight the dangers of using these tools in a top-down, mechanistic way. They then consider recent changes in international law that have given CPs and FPIC official support. Next, they turn to this special

issue of *PLA* itself, introducing the process used to develop it, its objectives and structure. They identify key lessons and conclusions on how to effectively support FPIC/PIC and CPs to maximise positive impacts for biodiversity and livelihoods, drawing on the articles in the issue.

2. FPIC and beyond: safeguards for power-equalising research that protects biodiversity, rights and culture

Michel Pimbert

Too often, research programmes are imposed on rural people, adding to their already overwhelming burdens, causing harm and violating rights. It is vital to ensure that non-researcher citizens have an opportunity to assess, on their own terms and in their own time, the desirability and relevance of engaging in research activities before giving consent. However, there is a need to go beyond FPIC in research involving indigenous and local communities. FPIC needs to be part of a wider set of tactics and safeguards to enable local and indigenous communities

to defend their rights and determine their own destinies. Situating FPIC and community protocols within the broader research and development cycle, this article emphasises the need to incorporate participation at key stages throughout the cycle. It stresses that the development of community protocols should be grounded in respect for local knowledge, since the sidelining of local knowledge in favour of standardisation induced by western science will result in ABS regimes that are extractive and unfair.

3. Whose access and whose benefit? The Nagoya Protocol and customary rights in India

Sagari R. Ramdas

This article discusses the limitations of the Nagoya Protocol from the perspective of communities in India. As it promotes access to genetic resources for commercial use, the Protocol is grounded in the exclusive intellectual property rights framework. Yet in the worldview of Adivasi and pastoralist communities, natural and genetic resources and traditional knowledge form the basis of existence and are sustained through collectivism and spirituality for future generations, and cannot be reduced to a commodity. Although the provisions on prior informed consent (PIC) and community protocols provide space for communities to assert their own worldview, they are subject to domestic law. This is a severe limitation as none of India's ABS-related laws and institutions require PIC or community protocols. Instead, Adivasis and pastoralists are using indigenous rights laws to defend their customary rights.

4. The spirit of FPIC: lessons from Canada and the Philippines

Abbi Buxton

The 'spirit of FPIC' is to enable communities to have power over decision-making, so that decisions reflect their knowledge, values, practices and

norms. But how can this be put into practice? Commercial companies often look to governments and national legislation to provide guidance and help. The nature of the relationship between government and local indigenous groups and local communities then becomes crucial. The case studies in this paper look at this relationship in the context of large-scale mining projects, reflecting on how decision-making structures and processes can be designed to enable real community participation and influence and thereby reflect the 'spirit of FPIC'. The Philippines case shows clearly that a legal right to FPIC is not sufficient and can in fact have negative impacts where the government feels the need to engineer consent in order to comply with the law. By contrast, the creation of new bodies for participation in Canada has seen a process of empowerment of civil society and local indigenous groups. To implement the 'spirit of FPIC', institutions need to be flexible and recognise the importance of bottom-up design of the structures, processes and values for achieving FPIC.

5. Indigenous benefit-sharing in resource development: the Australian Native Title experience

David Ritter

This article describes the processes of indigenous representation, negotiation and agreement-making over mining and development that is mandated under the Australian Native Title Act (NTA) of 1993. It evaluates the lessons and learning from two decades of experience for similar processes such as FPIC. The NTA succeeded in giving indigenous people a seat at the bargaining table when a resource developer wanted to mine or explore on land under claim. As a consequence, indigenous communities received large benefits and numerous sites of traditional significance were probably saved from destruction. However, the

NTA did not establish a true right to veto, which would have given traditional land holders the power to decide whether or not to participate in the resource economy on a case-by-case basis. It therefore mainly provided a way of bringing traditional indigenous land rights within Australia's resource economy in an orderly way. Empowerment and strengthening of customary rules and responsibilities were limited by the predefined processes provided for under the Act. The lack of sufficient resources and expert advice also limited indigenous peoples' ability to use the rights under the Act to their advantage.

6. Changing the system from within: participatory plant breeding and ABS in China

Jingsong Li, Janice Jiggins and Yiching Song

China's first participatory plant breeding (PPB) programme was initiated in Guangxi, southwest China. It aims to address declining genetic diversity in farmers' fields and to improve livelihoods. As well as developing improved crop varieties for farmers, the programme is facilitating the negotiation of local agreements by which farming communities can benefit from sharing their genetic resources and related traditional knowledge with breeding institutes. This work has strengthened the legitimacy of farmers' rights to benefit-sharing, and is feeding into on-going policy discussions on how to implement the ABS provisions of the Convention on Biodiversity and the Nagoya Protocol. In a context where farmers face significant legal barriers to securing their rights and benefits, this experience shows how a local-level experimental project, involving formal breeding institutes, can start to change attitudes, practices and policy debates, paving the way for changes in policy and law.

7. Decolonising action-research: the Potato Park biocultural protocol for benefit-sharing

Alejandro Argumedo

For decades, indigenous peoples have been calling for a holistic and more sensitive approach to their culture – one that values and nurtures their traditional knowledge systems and biocultural diversity. This article describes an innovative participatory action-research approach with five Quechua communities in Peru, where the communities worked with researchers to develop the Andean Potato Park's biocultural protocol for equitable benefit-sharing. The BCP includes not only benefits derived from access to genetic resources and traditional knowledge, but also all benefits that come from activities related to the direct and indirect use of biocultural resources. The process of participating in the development of a research methodology and focus became not only a process of empowerment for the communities and their institutions, but also enabled them to participate in decision-making, particularly in defining the content of the BCP. As well as discussing this participatory process, the article briefly outlines the provisions of the BCP, and reflects on how the methodology could be improved in the future.

8. The Bushbuckridge BCP: traditional healers organise for ABS in South Africa

Rodney Sibuye, Marie-Tinka Uys, Gino Cocchiario and Johan Lorenzen

With a history of uncompensated bio-prospecting, the Kukula traditional health practitioners of Bushbuckridge, South Africa are faced with both marginalisation and an emerging ecological crisis from the overharvesting of medicinal plants. But they have staked their claim to rights through the development of a biocultural community protocol (BCP), to secure access to medicinal plants for healthcare, prevent overharvesting and gain benefits from commercial use. The BCP shows

clearly the challenges faced by health practitioners from external agents – such as businesses and government – and calls for the community's rights over its land, resources and knowledge to be respected. With support from Natural Justice, the process was initiated by a small group of healers, which discussed concerns about the illegal harvesting of medicinal plants, collected information and facilitated further discussions. As a result of the participatory process to develop the protocol, a healers' association was established with almost 300 members, bringing together dispersed communities and two different cultures and language groups, with a representative committee for negotiating with others. The healers have also gained some access to medicinal plants in a protected area which was previously completely sealed off.

9. Biocultural community protocols: tools for securing the assets of livestock keepers

Ilse Köhler-Rollefson, Abdul Raziq Kakar, Evelyn Mathias, Hanwant Singh Rathore and Jacob Wanyama

The role of communities in animal genetic resource conservation still remains largely invisible to scientists and bureaucrats. Livestock keepers in Pakistan, India and Kenya have developed community protocols to improve the visibility of the role of livestock keepers in conserving genetic resources, addressing problems of access to grazing land and conserving threatened breeds, as well as asserting customary rights in order to secure benefits from commercial use. This article examines three different experiences – the Pashtoon, Raika and Samburu BCPs – and the extent to which these were community-driven processes. It looks at whether and how communities have been able to make use of the protocols in the struggle to have their rights recognised. It concludes that BCPs are extremely useful for making visible the connection between

communities and their breeds and important for securing the assets of livestock keepers in the long term.

10. Sacred groves versus gold mines: biocultural community protocols in Ghana

Bernard Guri Yangmaadome, Daniel Banuoko Faabelangne, Emmanuel Kanchebe Derbile, Wim Hiemstra and Bas Verschuuren

This article relates the events leading up to protests by Tanchara traditional leaders in Ghana against gold mining on the community's land, which was threatening their sacred groves and water supplies. A local NGO facilitated a community organisational process which revitalised the community's traditional authorities and role in biodiversity conservation. The traditional leaders were empowered to take action to protect their resources. Building on this work, the community developed a biocultural community protocol (BCP) as a tool to seek legal protection for its traditional knowledge and natural resources against the threat of gold mining. The article draws out lessons for others in developing and using BCPs to assert and defend community rights over natural resources. It demonstrates the importance of an in-depth, long-term participatory process for developing BCPs.

11. Defining our territory: the biocultural community protocol of Alto San Juan, Colombia

Tatiana López Piedrahita and Carlos Heiler Mosquera

The Alto San Juan biocultural community protocol (BCP) in Colombia seeks to ensure that the collective territorial rights of Afro-Pacific communities (ASOCASAN) in the region are not violated by illegal mining and forestry, and that cultural practices and the development model that help to conserve biodiversity are recognised and respected by others. It also sets out guidelines for dialogue with

external actors wishing to implement development projects and research on the territory. The ancestral territory of the 30 afro-descendant communities is recognised by law but not in practice, and the BCP aims to ensure that these customary rights are recognised in municipal planning processes and national policies. The protocol was developed through a participatory process involving workshops and field interviews facilitated by the Pacific Institute of Environmental Research, with methodology approved by the ASOCASAN council. The article shows how a key challenge was to get the local government to recognise the legitimacy of the protocol, since it is a new tool. Involving local authorities in the development of community protocols is important for this recognition, and also to ensure follow-up projects once the protocol has been developed.

12. Creating the Ulu Papar biocultural community protocol

Theresia John, Patricia John, Louis Bugiad and Agnes Lee Agama

Following conflicts in a protected area and in the shadow of a threatening development project, the people of Ulu Papar (from the Dusun indigenous group) in Borneo came together to create a biocultural community protocol, articulating the interests, rights and responsibilities of the community in the preservation, management and utilisation of their territories and culture. This article describes the process to develop the protocol, which built on a prior participatory research process to document the use of key resources for community livelihoods. The protocol was developed through a series of workshops, trainings and discussions, in a process facilitated by community members. A travelling roadshow was used to reach as many remote villages as possible and engage people in the discussion to shape the content of the protocol. The challenge

now is to build on these participatory processes and form constructive relationships with outside actors and government agencies.

13. Accessible technologies and FPIC: independent monitoring with forest communities in Cameroon

Jerome Lewis and Téodyl Nkuintchua

This article looks at the partnership between communities and a community-based monitoring project on illegal logging and advocacy in Cameroon. Here both FPIC and BCPs were used to strengthen ownership of the project, following an evaluation which showed weak appropriation of the monitoring technology by participating communities. The first step was to hold extensive consultations with each community so that they could either refuse or give consent to the project, using an FPIC form and checklist to check the understanding of the information given about the project at each stage. If granted, community protocols were then developed to provide the basis for organising activities throughout the project – setting out who would participate in data collection and mapping, how they would participate and their roles and responsibilities. The process of elaborating FPIC forms and community protocols was important because it enabled most of the challenges and difficulties of implementation by the community to be identified at this stage. The use of accessible technologies and GPS icons designed with community participation, enabled communities to take control of a successful and empowering project.

14. Biocultural community protocols and ethical biotrade: exploring participatory approaches in Peru

María Julia Oliva, Johanna von Braun and Gabriela Salinas Lanao

This article describes a 'biocultural dialogue' – a more focused BCP adapted to the context of ethical biotrade. It was developed by a local indigenous forestry

organisation, AFIMAD, and a company engaged in sourcing biodiversity ethically, Candela Peru. Developing a BCP was seen as a way to support the indigenous communities in advancing their social, cultural and environmental expectations of their commercial relationships. The development of the BCP involved an internal reflection process with representatives from the community. They considered how protocols could help them to better respond to commercial proposals concerning forest resources, increase the government's recognition of their rights as indigenous communities, and communicate their views to other institutions and organisations. Beyond the document itself, which is still being discussed by the wider community, the process helped AFIMAD reflect on its goals and values, as well as its economic activities, and reaffirmed its significance within the communities. As a result, it was able to communicate in subsequent dialogue with Candela Peru much more assertively on issues such as sustainable resource use, negotiation processes, the kind of relationship they wanted, and the sharing of benefits. The communities and Candela Peru are now better placed to understand and address each other's needs and concerns in the context of their current and future work.

15. How to implement free, prior informed consent (FPIC)

Jerome Lewis

Negotiating FPIC is a process. Before explicit consent can be negotiated, information on planned activities and their potential impact needs to be provided to those affected, and action has to be taken to verify that this information has been understood. If people refuse to grant consent, this decision must be respected. FPIC focuses on harmonising and equalising relationships between groups of different power and means. This article outlines the elements of FPIC and what

they imply for the process of negotiating FPIC in practice. It discusses the eight key stages of an FPIC process, noting the requirements for each stage and the potential pitfalls. It then considers the advantages of FPIC processes for communities and for external actors, as well as the challenges faced in implementing such processes.

16. Understanding and facilitating a biocultural community protocol process

Holly Shrumm and Harry Jonas

This article looks at how to facilitate a community protocol process in practice. It discusses how to determine what a 'community' is, and the importance of understanding its culture and internal dynamics, as well as how it makes important decisions. It emphasises the importance of the participation of all parts of the community, especially those who are often excluded from decision-making, such as women and youth. It then looks at how to facilitate a CP process, including seeking agreement from the community about the process, identifying potential 'community catalysts', managing the expectations of the community and the importance of flexible timeframes.

17. Using stakeholder and power analysis and BCPs in multi-stakeholder processes

Herman Brouwer, Wim Hiemstra and Pilly Martin

Multi-stakeholder processes (MSPs) advocates often argue that, because of the interdependence of stakeholders in solving complex issues, MSPs create trust-based relations that enable the empowered and active participation of all stakeholders. However, the distribution of power, capacity and resources is generally imbalanced. Power differences are embedded in the social fabric of society and can be reproduced, or even reinforced, in an MSP. Even if participants are willing to engage in dialogue on an equal basis, there are still differences in the level of

experience, access to resources and information. Failure to recognise power dynamics can prevent the joint learning and innovative solutions which one would expect as outcomes of a good MSP, and the result will not reflect the interests and needs of less powerful stakeholders, often those representing the grassroots. The authors discuss how local action researchers are supporting communities to analyse power in MSPs so that they can learn how to engage effectively with and influence processes that involve more powerful actors. They outline some of the tools which can be used in this analysis, using an example from Lamu, Kenya.

OVERVIEW

Biodiversity and
culture: exploring
community protocols,
rights and consent

Community protocols and free, prior informed consent – overview and lessons learnt



by **KRYSTYNA SWIDERSKA** with **ANGELA MILLIGAN,**
KANCHI KOHLI, HOLLY SHRUMM, HARRY JONAS, WIM HIEMSTRA
and **MARÍA JULIA OLIVA**

Introduction

Indigenous, traditional and local communities have sustainably used and conserved a vast diversity of plants, animals and ecosystems since the dawn of humankind (Posey, 1999). For many rural communities in the global South – including some 370 million indigenous peoples – biodiversity and traditional knowledge (TK) continue to play an important role in livelihoods, food security, healthcare and well-being, whether they are farmers, pastoralists, forest dwellers or fisherfolk. Biodiversity is also closely linked to cultural and spiritual values (Box 1).

Indigenous peoples and local communities have helped to create and enhance this rich biocultural heritage, for example by

domesticating and improving thousands of native crops and livestock breeds, and developing related knowledge and practices.¹ However, with the loss of biodiversity in rural areas, valuable resources such as climate-resilient crops, medicinal plants and wild foods are disappearing.² Cultural diversity is also being lost at an unprecedented rate and with it, ancestral knowledge of how to use and conserve biodiversity.³

The causes of this ‘double extinction crisis’ include habitat change due to the expansion of commercial agriculture, industry and infrastructure and the over-exploitation of natural resources such as minerals and timber.⁴ This, in many cases, also results in loss of land or natural resources for communities.

¹ Biocultural heritage is the knowledge, biodiversity, landscapes, cultural values and customary laws of indigenous peoples and local communities. Its components are inter-dependent and together sustain local economies. See: www.bioculturalheritage.org

² Species extinction is occurring at 100 times the natural rate, and is likely to accelerate in the coming decades, according to the Global Environment Outlook 4 (see:

www.unep.org/geo/geo4.asp). The Food and Agriculture Organization of the United Nations (FAO) has estimated that we have lost 75% of our crop diversity over the last century. During the last six years alone, 62 livestock breeds became extinct (FAO, 2007).

³ It is estimated that up to 90% of all languages, an indicator of cultural diversity, will be lost by 2100 (UNESCO, 2003).

⁴ For more information about the causes of biodiversity loss, see Global Biodiversity Outlook 3. Online: www.cbd.int/gbo3/

Box 1: Biodiversity and culture

Biodiversity refers to diverse crop and livestock varieties which provide food, nutrition and resilience to climate change, medicinal plants which provide healthcare, wild plants which provide foods and resources for plant breeding, and landscapes which provide vital ecosystem services such as water. Biodiversity also provides options for income generation (e.g. health foods, herbal medicines, natural products, seeds, eco-tourism).

Biodiversity and culture are closely linked and inter-dependent. Cultural and spiritual values are enshrined in sacred bio-resources (e.g. coca leaves or special rice varieties used in rituals), ecosystems (e.g. sacred forests or mountains) and ancestral landscapes (e.g. sacred valleys). These values and beliefs help to sustain biodiversity and related traditional knowledge; while the use of diverse biological resources helps to sustain traditional knowledge and cultural values (Swiderska *et al.*, 2009).

Even where biodiversity is not lost, **access** to biodiversity resources may be restricted by intellectual property rights (e.g. commercial patents on seeds), or conservation initiatives such as strict protected areas. These pressures are making it ever harder for communities to secure their basic needs and continue their customary role and responsibilities as stewards of biodiversity.

Indigenous peoples, who make up a third of the world's poor and account for most of the world's cultural diversity (5,000 different cultures), are under particular pressure. They often inhabit areas of high biological diversity and share a spiritual, cultural, social and economic relationship with their traditional lands. Their customary laws and practices reflect an attachment to land and a responsibility for preserving these lands for future generations. Yet, they often face marginalisation, displacement from their lands, territories and resources, denial of land rights, and adverse impacts from large-scale development (UN Permanent Forum on Indigenous Issues, 2010).

This special issue of *Participatory Learning and Action* explores two important participatory tools that indigenous people and local communities can use to

help defend their biocultural heritage against these pressures and threats, and assert their rights over resources and traditional knowledge.

- **Community protocols (CPs)** are charters of rules and responsibilities in which communities set out their customary rights to natural resources and land, as recognised in customary, national and international laws.

- **Free, prior informed consent (FPIC)** involves processes in which communities decide whether or not to allow projects affecting their land or resources to go ahead, and on what terms.

In this overview article to the issue, written by the guest editors, we first set the scene, exploring CPs and FPIC further, emphasising the importance of community-level participatory processes in their development and highlighting the dangers of using them in a top-down, mechanistic way. We then consider recent changes in international law that have given these tools official support.

Next we turn to the special issue itself, introducing the process we used to develop it, the objectives we hope to achieve, and outlining the structure of the issue. We finish by identifying key lessons and conclusions on how to effectively support FPIC/PIC and CPs to maximise positive impacts for biodiversity and livelihoods, drawing on the articles in this issue.

Community protocols

Many indigenous peoples and local communities have their own orally held rules and procedures, also known as protocols, to regulate conduct and interactions within their communities, with outsiders, and with the territories and areas on which they depend. These are often rooted in customary laws and rights which have sustained biodiversity and biocultural heritage for generations (Box 2).

However, it is external actors (e.g. government agencies, researchers, companies or NGOs) who tend to define the terms

Photo: Khanh Tran-Thanh



Guest editor Krystyna Swiderska at IIED's information tent at the CBD 10th Conference of Parties in Nagoya, Japan (2010). The tent provided a meeting point for IIED partners and other visitors to the conference as well as a resource for information on IIED's work with biodiversity and conservation.

Box 2: Customary laws, rights and responsibilities

Customary laws are locally recognised principles, norms and rules, which are orally held and transmitted and are applied by community institutions (e.g. councils of elders) to internally govern or guide all aspects of life. They include rules and norms to control access to natural resources and ensure sustainable use, and codes of ethics for proper use and transmission of traditional knowledge (Swiderska, 2006). Many indigenous customary law principles or values also promote equity – for example the Quechua principle of reciprocity, or equal exchange (Swiderska *et al.*, 2009). However, the extent to which customary principles are still observed in practice varies, and in some cases, focusing on existing customs may further entrench existing power asymmetries such as the exclusion of women and youth in community decision-making processes (Natural Justice, 2009).

Customary rights are acquired by custom, and belong to all the inhabitants of a particular place. Indigenous peoples' customary rights often emphasise collective rather than individual rights, and stewardship rather than outright ownership.

of engagement, often imposing projects or plans which threaten local livelihoods or do not reflect local priorities. As a result, there is growing recognition of the need to articulate communities' rules and protocols in forms that can be understood by others. These new forms of protocols

(often written) are called community protocols (CPs) or biocultural community protocols (BCPs). They communicate the importance of their lands and resources for a community's livelihoods and way of life, their roles as stewards of land and resources, and their customary rights and how these are recognised in international and national law. Protocols can help communities to:

- assert and defend their customary rights in the face of external threats, e.g. from mining (Guri *et al.*; López and Heiler);
- negotiate access to customary resources (e.g. grazing rights in strict protected areas), and gain recognition from policy makers (Köhler-Rollefson *et al.*);
- promote constructive dialogue and equitable partnerships with others (e.g. NGOs or companies), which support the communities' plans and priorities (Lewis and Nkuintchua; Oliva *et al.*);
- improve organisation, representation and cohesion between communities (Sibuye *et al.*; Argumedo); and
- establish local systems and institutions in relation to access and benefit-sharing (ABS) arrangements provided for under the Convention on Biodiversity (CBD), in accordance with their customary laws,

livelihood needs and worldviews (Argumedo).⁵

In many cases, they serve a combination of these functions. For outsiders, such as companies seeking access to genetic resources, they can provide legal certainty and clarity, minimise potential conflicts with and amongst communities, and help to build long-term partnerships (Oliva *et al.*). Community protocols can also establish representative organisations and procedures for those seeking FPIC.

CPs started to gain prominence in 2008, as a community-based response to the CBD. Natural Justice and the LIFE Network facilitated their development as tools for legal empowerment, with support from the ABS Capacity Development Initiative and UNEP (Natural Justice, 2009).^{6,7} In November 2009, the African Group (a negotiating group made up of African countries) proposed the inclusion of CPs in the Nagoya Protocol on access and benefit-sharing (see Box 4, p. 30). Subsequently, COMPAS started supporting CPs, building on community initiatives for endogenous development (COMPAS, 2010), with the

support of the ABS Capacity Development Initiative to the BCP Africa project of COMPAS, Natural Justice and the Ghanaian NGO CIKOD, which has been testing the development of CPs in different settings.⁸ Also in 2011, GIZ funded the CP project of UEBT and Natural Justice, exploring how CPs could facilitate dialogue and partnership between communities and the private sector in the biotrade arena. These efforts build on earlier initiatives, such as the development of community protocols facilitated by indigenous organisations ANDES (Peru) and the Fundacion Dobo Yala (Panama), with support from IIED and IDRC (Canada), and by the NGO SEARICE (Southeast Asia Regional Initiatives for Community Empowerment) in the Anti-Biopiracy Programme in Southeast Asia funded by HIVOS, DANIDA and GIZ (1998–2001).⁹ They also build on previous efforts to support community participatory processes to defend customary rights, such as work by Kalpavriksh Environmental Action Group in India.¹⁰ Many of these organisations have contributed to this special issue.

⁵ The Convention on Biodiversity (CBD) is an international agreement for the conservation and sustainable use of biodiversity, signed in 1992 and ratified by 193 countries. Its third objective requires countries which use genetic resources (industrialised countries) to share the benefits they derive fairly and equitably with countries that provide access to genetic resources. This is referred to as access and benefit-sharing or ABS. Genetic resources are used commercially in a range of sectors: biotechnology, plant breeding, pharmaceuticals, herbal medicines, cosmetics and industrial processes. In the past communities have received few benefits, if any, when their traditional knowledge and genetic resources have been used to develop new products which are patented – hence the term ‘biopiracy’. The CBD also requires countries to encourage the sharing of benefits with communities for the use of traditional knowledge, innovations and practices.

⁶ Formed in 2000, the Local Livestock for Empowerment of Rural People (LIFE) Network is an international action-research and advocacy network promoting the sustainable use of local breeds to support the livelihoods of pastoralists and ecological livestock keepers.

⁷ Founded in 2006, the ABS Capacity Development Initiative is currently funded by the Governments of Denmark, Germany and Norway, as well as the European Commission and the Institut de l’Energie et de l’Environnement de la Francophonie (IEPF), and implemented by GIZ. See: www.abs-initiative.info. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (German Development Cooperation) is an enterprise owned by the German Federal Government. See: www.giz.de/en. UNEP is the United Nations Environment Programme.

⁸ The COMPAS (COMPARing and Supporting Endogenous Development) Network has members in 15 countries and is coordinated by ETC COMPAS in the Netherlands.

⁹ Asociación ANDES is a civil non-profit conservation and development association working in poverty alleviation, biodiversity management and supporting traditional rights to biocultural resources. See: www.andes.org.pe/en. The International Development Research Centre (IDRC) is a public corporation created by the Canadian government to help communities in the developing world find solutions to social, economic and environmental problems. See: www.idrc.ca. Protocols were developed as part of the IIED project ‘Protecting Community Rights over Traditional Knowledge: Implications of Customary Laws and Practices’ 2005–2009. See: <http://biocultural.iied.org/tools/community-biocultural-protocols>.

¹⁰ Kalpavriksh Environmental Action Group is a Indian NGO, based in Maharashtra. It believes that a country can develop meaningfully only when ecological sustainability and social equity are guaranteed, and a sense of respect for, and oneness with nature, and fellow humans is achieved.

Free, prior informed consent (FPIC)

FPIC has become a fundamental part of indigenous peoples' efforts and demands to assert their right to self-determination over the last two to three decades – in response to growing threats to their land, territories and waters, and violation of their customary rights, by large-scale development projects, mining and forestry.

FPIC enables communities to decide on proposed developments or projects on a case-by-case basis, based on full prior information and discussions and deliberations at community level. Crucially, FPIC allows communities to deny consent or veto proposals – without this, communities have far more limited influence over decision-making (Ritter).

Community-level participatory processes

Participatory processes form a critical part of these rights-based tools, for analysis, deliberation and coming to agreement. They help ensure that:

- resource development decisions are considered thoroughly and community resources are not sold off 'on the cheap', without considering potential impacts on the needs of all community members, and on cultural values and heritage (Ramdas);
- benefits negotiated reflect the needs of all community members and are fairly shared to maximise poverty reduction impacts, spread incentives for conservation and avoid conflicts (Argumedo), avoiding 'elite capture';
- women, who are often most dependent on biocultural resources and play a key role in the maintenance of traditional crops, wild foods and medicinal plants, are included. Their role is increasing with male out-migration to urban areas and the feminisation of agriculture, making it all the more important to ensure women's participation.

Institutional arrangements for FPIC and community protocols also need to facilitate participation. Top-down

approaches based on western bureaucratic norms are likely to undermine customary institutions and community governance of biocultural heritage, and limit community participation (Buxton; Ritter).

On the other hand, where communities play an active role in designing and facilitating community protocol and FPIC processes, these tools can be very empowering, building capacity, organisation and confidence (Pimbert; Lewis and Nkuintchua; Guri *et al.*; Argumedo; Sibuye *et al.*; John *et al.*).

Recent developments in international law that support CPs and FPIC

CPs and FPIC have been given official support through two recent pieces of international law:

- The UN Declaration on the Rights of Indigenous Peoples (UNDRIPs, 2007), requires the free, prior informed consent of indigenous peoples for any proposed development which affects them (Box 3).
- The Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing (2010) requires the prior informed consent (PIC) of indigenous and local communities for access to traditional knowledge and genetic resources held by them; and support for the development of community

Box 3: The UN Declaration on the Rights of Indigenous Peoples (UNDRIPs)

Although UNDRIPs is a non-binding or 'soft' law, it was adopted by 144 states and is widely supported by indigenous peoples. The Declaration requires that: *States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources* (Article 32).

The requirement for PIC to be 'free' responds to experiences where indigenous peoples have been coerced into giving their consent, rather than being allowed to give it freely or deny consent. For indigenous peoples therefore, a PIC process would always need to be FPIC to retain its integrity.

Box 4: The Nagoya Protocol

The Nagoya Protocol (2010) was developed to implement the Convention on Biodiversity's third objective on access to genetic resources and benefit-sharing. Its objective is:

... the fair and equitable sharing of benefits arising from the utilisation of genetic resources, including by appropriate access to genetic resources. ... thereby contributing to the conservation of biological diversity and the sustainable use of its components.

The Protocol will enter into force after 50 ratifications. See: www.cbd.int/abs

The Nagoya Protocol requires parties to:

- Take measures to ensure the **prior informed consent (PIC)** or approval and involvement of indigenous and local communities (ILCs) for access to traditional knowledge, and for access to genetic resources where they have the established right to grant access (Article 6.2).
- Set out criteria and/or processes for obtaining PIC or approval and involvement of ILCs for access to genetic resources (Article 6.3f).
- Endeavour to support the development by ILCs, including women, of **community protocols** for access to traditional knowledge and equitable benefit-sharing (Article 12.3a).
- Take into consideration ILC's customary laws, community protocols and procedures in implementing their obligations on traditional knowledge (Article 12.1).

protocols for ABS by indigenous and local communities (Box 4).

While these are important developments, they also have some limitations. UNDRIPs is non-binding, so although FPIC has been incorporated in a few national laws and institutions (Buxton), many countries still do not require it. However, companies in the mining, oil exploration and forestry sectors are increasingly going above the minimum standards required in national law to obtain a 'social licence to operate', i.e. to gain the support of local communities. In the forestry sector, respect for FPIC is seen as corporate best practice, as a means of averting and resolving conflicts with communities. Companies as varied as the US oil exploration company Talisman Oil and the Singapore-based pulp and paper giant APRIL have made public statements endorsing FPIC (Colchester, 2010).

Although the Nagoya Protocol introduces new requirements to ensure the PIC of indigenous and local communities, these are significantly weakened by the clauses 'in accordance with domestic law' and 'as appropriate'. In relation to genetic resources these measures are only required, 'where they have the established right to grant access'. Thus, the impact of these provisions depends to a large extent on existing national legislation, and how the Protocol is implemented and interpreted by national governments.

In Latin America and the Caribbean region, most ABS legislation requires PIC of indigenous and local communities for access to genetic resources on land owned or managed by them (Cabrera *et al.*, 2011). But in other countries, such as India, there is no such requirement in national ABS legislation. Community protocols for ABS are also not widely recognised, although they are now included in draft ABS legislation in Malaysia (Sabah) and Namibia; and in Bhutan's policy on ABS.

There are also concerns about the ABS framework within which these rights are recognised. The overall premise of the Protocol rests on obtaining economic benefits from biodiversity and traditional knowledge. Many ILCs have raised ethical arguments as to whether a seed or knowledge that is commonly-held heritage should be accessed by private or individual interests for commercial development and protected by exclusive intellectual property rights (e.g. patents) (Ramdas).

Furthermore, the scope of these laws is somewhat limited. The Nagoya Protocol only requires support for community protocols for ABS, whereas community protocols focus on many other issues. UNDRIPs, on the other hand, only applies to indigenous peoples, and does not require FPIC for non-indigenous communities.

About this special issue of *PLA*

This special issue reviews the experiences of communities in Asia, Latin America and

Box 5: Developing this special issue of PLA

The issue was initiated by IIED in May 2011, to share experiences of these new rights-based tools with the broader biodiversity and development communities, and to promote awareness of the need to avoid top-down blueprints in responding to the Nagoya Protocol requirements. The articles were selected on the basis of abstracts submitted. The guest editors from IIED, Kalpavriksh, Natural Justice, COMPAS and Ethical Biotech put together abstracts based on their own experiences and invited others in their networks to do so. The call for abstracts was circulated mainly amongst the biodiversity community. A broader call was not issued due to limited capacity for review. The abstracts were reviewed by the guest editors and selection decisions made on the basis of the relevance to the theme, the potential for learning lessons, the degree of participation and the diversity of experiences represented. The articles went through an extensive peer review process – first by the guest editors, and then by participation practitioners.

The process of compiling this issue has stimulated a great deal of mutual learning amongst biodiversity researchers and legal experts supporting community protocols and FPIC, and has brought this community of practice closer together. It has also deepened their understanding of participatory approaches, helping to steer these rights-based tools onto a more participatory path.

Africa with developing and using CPs, and with FPIC processes, mainly within the biodiversity community. It covers a range of contexts, including: developing mechanisms for access and benefit-sharing (ABS) for genetic resources and traditional knowledge; confronting threats from mining and protected areas; and improving forestry partnerships. It also looks at some government experiences of establishing institutional processes for FPIC and benefit-sharing. It identifies practical lessons and guidance based on these experiences. The issue also includes some cases from the forestry and mining sectors, where there is quite a bit of experience with FPIC. Box 5 explains how the issue was developed.

Objectives of the issue

CPs and FPIC are relatively new, and understanding and capacity to support them in

practice is still limited. This special issue aims to strengthen the capacity of a range of actors (e.g. local organisations, practitioners, NGOs, donors and governments) to support these rights-based tools effectively in practice. It also aims to highlight the need to support bottom-up processes designed by communities, and avoid pre-defined processes and procedures imposed from outside which do not reflect the distinct and diverse cultural norms of communities. This is important for the implementation of the Nagoya Protocol, where governments and donors may be tempted to adopt rigid, top-down procedures which fit more easily with their ways of working and the interests of business.

By promoting understanding of CPs and FPIC, and capacity to support them, the issue will help inform the implementation of the Nagoya Protocol provisions on prior informed consent and community protocols, and the UN Declaration on the Rights of Indigenous Peoples, as well as other situations and legal contexts where CPs and FPIC are of value, for example to claim rights under indigenous rights laws in India (Ramdas).

Structure of the issue

The issue is divided into four parts.

Part I: Setting the scene: research partnerships and ABS from the perspective of communities highlights the need for community participation beyond FPIC, throughout the research and development cycle (Pimbert). It also explains the limitations of the Nagoya Protocol from the perspective of indigenous communities in India (Ramdas).

Part II: Institutional innovations for FPIC and benefit-sharing reviews experiences with national laws and institutional mechanisms for FPIC and benefit-sharing (Buxton; Ritter). It also explores how participatory plant breeding and related ABS contracts with farmers in China are helping to promote institutional change (Li and Jiggins with Song).

Part III: Community protocols for genetic resources and ABS reviews the Quechua farmers' inter-community benefit-sharing protocol based on customary laws (Argumendo); the Bushbuckridge healers' protocol for securing access to medicinal plants and seeking commercial benefits (Sibuye *et al.*); and livestock keepers' protocols for securing grazing rights, recognition of their conservation role and commercial benefits (Köhler-Rollefson *et al.*).

Part IV: Community protocols and FPIC: mining, protected areas and forest partnerships explores the development and use of community protocols to defend sacred groves and territorial rights against mining in Ghana and Colombia (Guri *et al.*; López and Heiler) and the development of a protocol to assert customary rights in a protected area in Borneo (John *et al.*). It also reviews the use of FPIC and community protocols to strengthen community ownership of a project to monitor illegal logging in Cameroon (Lewis and Nkuintchua); and to improve a partnership with an ethical company for trade in non-timber forest products in Peru (Oliva *et al.*).

Lessons for supporting FPIC

Looking across the articles in this issue, a number of practical lessons can be drawn on how to support FPIC (see also Tips for Trainers).

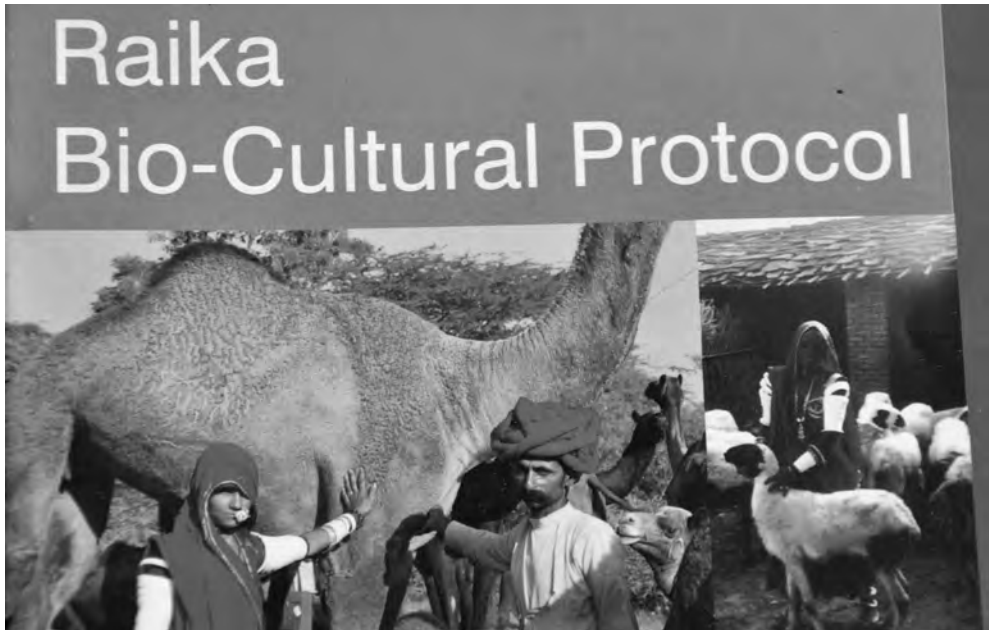
Importance of community-designed processes

As Pimbert and Lewis and Nkuintchua show, a community-designed FPIC process can not only build trust and ownership of a project but can also be empowering for marginalised communities. Dalit women in India organised open-ended discussions lasting almost three months, enabling the emergence of FPIC on their own terms and in their own time. Baka and Bantu communities in Cameroon were consulted in extended discussions, tailored to each

community and local context. In both cases, the communities were allowed to define the terms of engagement in the project and the modalities of implementation and went on to take control of the project, which was very empowering. And in both cases this was facilitated by the use of accessible technologies – understanding the role of icon-based handheld GPS was central to making FPIC more concrete for Baka and Bantu; while using video to document research enabled dalit women to take control of the research process.

Participatory design of government structures and procedures

Top-down structures and procedures established by national law for FPIC in Canada, and for benefit-sharing in Australia, have made participation difficult for communities and weakened traditional structures (Buxton; Ritter). As Buxton suggests, implementing the 'spirit of FPIC' rooted in self-determination implies participation in decision-making. This requires power-equalising which can only be achieved when indigenous practices, structures and norms are incorporated in the design of FPIC structures and processes. Even where there is equal representation of indigenous communities and other experts, acceptance of the validity of traditional knowledge and influence over decisions, there may be western bureaucratic norms, heavily reliant on written rules, complex documentation (in English) and hierarchical structures (e.g. in Canada). This conflicts with the informal processes, oral communication (low literacy) and egalitarian structures that are common in aboriginal communities. This means that 'participation is conditional on people being able to act like western bureaucrats, and that is a real problem' (Buxton). The key is for institutions to incorporate flexibility that allows them to evolve to reflect indigenous perspectives based on learning and the development of shared values.



The Raika are the largest pastoral community of western Rajasthan in north-west India. The Raika BCP is thought to be the first BCP ever completed by livestock keepers. It was developed with the support of international NGO Natural Justice and Lokhit Pashu-Palak Sansthan (LPPS).

Recognising the power to veto

As noted by Ramdas, indigenous communities may not want to participate in an ABS agreement if it means commoditising their resources and knowledge which are sustained through a collective, spiritual relationship, or losing resources which are vital for their health and survival. In Cameroon (Lewis and Nkuintchua), communities were informed that they can give, refuse or withdraw their consent for the whole project or certain activities at any time. This was empowering as being explicit about their right to refuse made the negotiation with outsiders more equal.

Conversely, if communities are denied the right to veto, FPIC becomes a tool which merely facilitates resource development, rather than giving traditional communities the capacity to decide whether or not to participate on a case-by-case basis. Australia's Native Title Act, which brought the right to negotiate with mining companies, but not to veto development, has brought millions of dollars to indigenous people. But evidence remains

mixed and ambiguous as to whether this has resulted in any improvement in social or economic well-being of the communities in question. Not having the power to veto also limited their bargaining power when negotiating with companies (Ritter).

Avoiding misunderstandings

Ensuring that communities fully understand the information provided about the proposed activity is critical for FPIC to be meaningful. The FPIC forms in Lewis and Nkuintchua provide questions to check community understanding of the objectives of the project, the benefits of participation and the potential risks. If any of the answers demonstrate a lack of understanding, these aspects have to be explained again until the answers demonstrate full understanding.

A good relationship between those seeking consent and the community is important for avoiding misunderstanding. If there is no previous relationship, FPIC could be refused or granted simply because

of false expectations. Where patron-client relations exist, it may be best not to compensate communities during FPIC to avoid consent being granted purely for immediate and insignificant benefits. And in other cases, FPIC could be granted not because the proposal is understood, but simply because the people making it are trusted (Lewis and Nkuintchua). Certain protocols and ways of behaving can help minimise the misunderstanding and friction associated with cross-cultural communication between indigenous and non-indigenous people (Ritter). As well as facilitation by a local organisation trusted by the community, the support of an anthropologist may be required.

Allowing enough time and money

A number of articles stress the need for unhurried processes and flexible design. Putting a time limit on FPIC may be desirable for companies seeking consent but risks rendering FPIC meaningless by preventing full understanding and deliberation, and bottom-up design based on customary institutions. Even where communities are participating in an NGO project which aims to support their livelihoods and rights, the process can take nearly three months (Pimbert). When new and complex issues are introduced where communities may be divided, more time may be required to develop understanding and consensus. These processes of deliberation are vital for communities to decide their best interests. What may appear an attractive proposition to youth, for example, may not be best for safeguarding community subsistence needs or cultural heritage (Ramdas).

As a number of articles point out, getting dispersed communities together is often costly. Even if communities themselves are not paid, the cost of facilitation will also need to be covered. Added to this, is the cost of legal support and representation for communities, particularly if benefit-sharing agreements are negotiated with companies. In Australia's native title

process (Ritter), the negotiation of benefit-sharing agreements for mining took a minimum of six months, often longer, and involved a number of experts. Given the lack of government support, companies often provided funding for FPIC, but this could lead to co-option of the process.

Lessons for supporting community protocols

A participatory process is an essential core element for developing community protocols which represent the negotiated majority view or common interest of the community as a whole and which are really owned by the community. While the main purpose of a protocol may be to communicate customary rules and rights, a participatory process is vital to build the capacity and confidence of communities to negotiate with more powerful actors so that these rules and rights are recognised. In some cases, community protocols have led to new inter-community representation structures which can facilitate FPIC (e.g. Sibuye *et al.*; Argumedo). They can also enable potential problems with a project or partnership to be identified in advance (Lewis and Nkuintchua), and help to build long-term partnerships based on trust (Oliva *et al.*).

Maintaining a flexible focus

Whatever the initial purpose for developing a community protocol, it is important to maintain flexibility in terms of objectives, focus and process design. For example, a community protocol for access and benefit-sharing typically sets out the community's customary values and rights relating to traditional knowledge and biodiversity and requirements for PIC and equitable benefit-sharing. However, ABS issues may not be the only or most pressing priority for communities. Discussions to develop a protocol will inevitably bring up other issues that communities need to address, such as securing their own access to biodiversity resources and defending

their resources and land against development threats.

Recognising the impacts of the process and supporting community facilitators

Generally speaking, there seem to be two types of protocols in this issue: those that focus on achieving impact and empowerment primarily through use of the document; and those that also see the process as a means for empowerment and change. In the latter, communities have played a leading role in the design and facilitation of the process and the community-level process has been more extensive. In the former, external facilitators have tended to play a greater role in facilitation, documentation and drafting. In both cases, the process has improved community organisation.

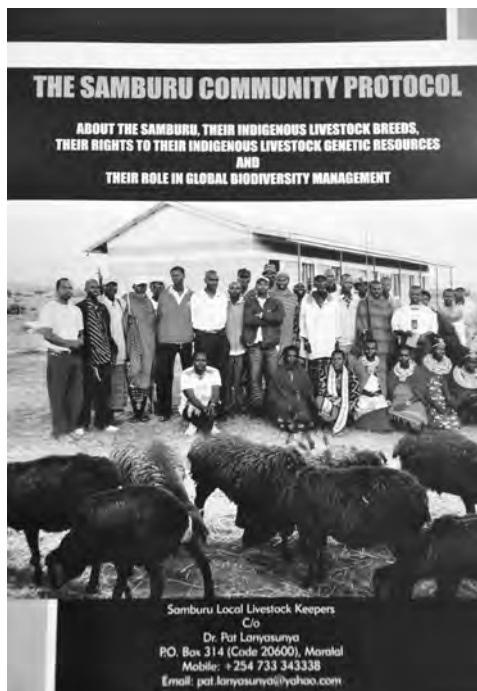
However, where community members have been trained to take the lead in the design of the process, in conducting the research and facilitation, and in developing the content of protocols, these processes have been very empowering, building capacity and confidence (Guri *et al.*; Argumedo; Sibuye *et al.*; John *et al.*) This has led to greater continuity and use of the protocol by the communities themselves after the process has ended – whether externally (Sibuye *et al.*) or internally (Argumedo). Training community facilitators may require more time and resources. In one case, it was not possible due to the limited timeframe imposed by the donor contract (nine months) (López and Heiler). While communities may be empowered and mobilised by the process, continuity of support by an external organisation may still be needed to promote impact once the protocol has been developed.

Key steps in developing a community protocol

There is no set formula for developing a community protocol. The form it takes and the methods to develop it should come from and reinforce the local biocultural

Box 6: Key steps in developing a community protocol

- Identification of a local organisation and community facilitator trusted by the community to facilitate the process. Existence of a community representative organisation will make the protocol process easier. An FPIC process to obtain the consent of the community to take part in the process is the first step for developing the community protocol.
- Research to understand the community, its bio-resources, customary laws and institutions. This can be a time-consuming process, particularly if such studies have not been conducted before. Ideally, it should be conducted and facilitated by the communities themselves. In Ghana, documentation of cultural and biological resources by the community was key to their revaluing these resources which were taken for granted. It revitalised sacred groves, traditional crops and built respect for traditional authorities (Guri *et al.*). In the Potato Park, Peru, research on customary laws was designed and conducted by community facilitators and formed the basis of the protocol (Argumedo).
- Internal discussions and consultations amongst the community to develop the protocol content on cultural values, roles and responsibilities of communities, customary laws and resource rights. This step can also include broader reflection processes on community priority needs and the actions required to address them (Guri *et al.*).
- Legal research on national and international laws and bylaws that support the customary rights and community priorities identified. This requires legal experts and can also take time if such research has not yet been done. A challenge here is to 'translate' the legal language to make it accessible to communities so that they can use the protocol.
- Drafting, review and agreement by the community, in the local language. External support will often be needed for drafting the protocol, but the greater the involvement of the community as a whole in shaping its content, the greater the ownership and continuity, and hence potential impact of the community protocol. This may be a challenge in dispersed communities – a travelling 'roadshow' was used to reach as many people as possible in a protected area in Borneo (John *et al.*).
- Using BCPs for negotiation. Once protocols have been agreed upon, they can be used for negotiation with others, either individually or in multi-stakeholder platforms where community representatives (ideally a broader range of communities together) engage with formal and state-level stakeholders and/or external parties. In this negotiation process, while being aware of power dynamics, the communities have ideally undergone a capacity-building process to understand how to operate in the process (Brouwer *et al.*).



The Samburu are Kenyan pastoralists. Their BCP elaborates indigenous knowledge and breeding practices, in particular for Red Maasai sheep, an endangered indigenous breed with commercial potential that has attracted attention from scientists.

system and situation of the community – of which there is a huge diversity. That said, most community protocols will entail certain steps (see Box 6) but some may be more limited in terms of their process and contents, for example, when the protocol is developed after an FPIC process to set out the modalities for engaging in a project (Lewis and Nkuintchua).

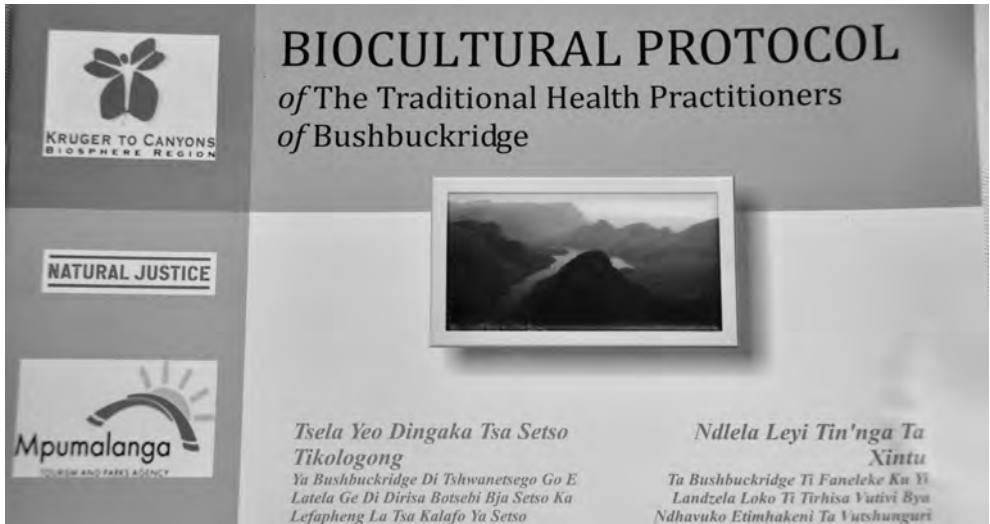
Impacts of community protocols and facilitating factors

Some protocols have had significant impacts, both internal and external. The Bushbuckridge BCP, for example, (Sibuye *et al.*) fostered a sense of identity amongst dispersed healers of two different language groups, resulting in a registered healers' association with 300 members, mainly women, actively negotiating and pursuing their needs. The process was facilitated by a group of healers and the BCP drafted with their active participation. The proto-

col has increased awareness of protected area authorities that local healers are not overharvesting. This has enabled the healers to negotiate some access to medicinal plants in a protected area which had been completely sealed off. Overharvesting has been reduced due to improved awareness generated by the process. The association has signed an agreement with a cosmetics company, which could lead to an ABS agreement – and, after extensive discussion, the healers decided to pool some of their knowledge so that benefits would reach the group as a whole. The association has appointed a committee to negotiate with external actors on its behalf.

In Ghana, the Tanchara community protocol not only revitalised stewardship of biodiversity but also succeeded in getting a mining company that threatened to destroy its sacred sites and pollute its drinking water to postpone mining until 2013. This impact was facilitated by a local NGO which started a dialogue between the communities and the mining company and conducted a study on community perspectives on mining. In addition, the local NGO has helped gain the support of the local government for the CP by involving officials in the development of the protocol and taking them to visit affected communities. Involving local government in the development of community protocols is vital to get institutional backing and work towards the legal recognition of CPs (Guri *et al.*).

In the case of Alto San Juan in Colombia, the novelty of the community protocol instrument has hampered its political recognition by local government – hence a follow-up phase is needed to promote its recognition, or develop community protocols on a region-wide basis, in order to defend territorial rights in the face of illegal mining. The development of community protocols will be facilitated in communities which have supra-community representation (e.g. the ASOCASAN council represents 30 communities) (López and Heiler).



The Bushbuckridge BCP is considered a living document by the Kukula Traditional Health Practitioners Association and they periodically review the aims and challenges outlined in their original document.

In the case of Peru's Potato Park (Argumedo), the biocultural protocol establishes a framework for equitable benefit-sharing amongst five communities based on customary laws and was signed as an inter-community agreement. As it applies to benefits that are already being derived, it is one of the few community protocols for ABS which is actually functioning in practice to guide the distribution of benefits. The process to develop it took about 15 months and was designed and led by the communities themselves. It has resulted in new inter-community governance structures and improved community cohesion. The agreement is guiding the way benefits are shared and used, ensuring they contribute to biodiversity conservation and poverty reduction. It has also enhanced capacity for PIC and negotiation of equitable ABS agreements.

Challenges to be addressed with CPs and FPIC

Despite the positive outcomes described above, it should be noted that community protocols are not a panacea. While they can help to mobilise and better equip communities to take action, their external impact may be limited if they are not recognised

by government legislation and institutions, as is often the case.

Similarly, the extent to which PIC procedures are recognised in practice depends on the extent of devolution of decision-making powers to communities. Thus, in many cases, community protocols and international law such as UNDRIPs and the Nagoya Protocol will provide tools for communities to advocate for their customary rights to be recognised, but will not achieve their objectives until more fundamental changes in law, governance and political processes are in place at national level.

Until then, significant efforts will be needed not only to support communities to develop CPs, but also for communities to use them for advocacy and negotiation and to raise awareness of their legitimacy.

Community-based monitoring and evaluation of the approach will be critical in learning and improving these tools and gaining external recognition. It should include monitoring of the process-based impacts. The growing challenge to assist communities to determine whether and how to develop community protocols needs to be addressed by inter-community lesson-sharing, good practice guidelines and rigorously tested methodologies

(Jonas, Bavikatte and Shrumm, 2010).

While broader acceptance of the need for FPIC is beginning to emerge (Colchester, 2010) there is still limited appreciation of the role and value of community protocols amongst governments, commercial companies and donors, even within the biodiversity community. As well as defending rights, community protocols have huge potential for improving governance and conservation of biodiversity at the local level, and for strengthening biocultural systems for resilience to climate change (Argumedo, Sibuye *et al.*; Guri *et al.*)

Efforts are needed to improve understanding of community protocols, of how to effectively support them in practice and of the benefits for different stakeholders, including government and business, across different sectors. At the same time, we need to avoid coming up with blueprints for these rights-based tools, and ensure that

external actors provide flexible support rather than setting standard procedures which prevent real community participation. We hope that this special issue will serve as a first step in this endeavour – by sharing the lessons from a diversity of experiences and participatory processes.

Last thoughts

There are undoubtedly many more NGOs and indigenous organisations undertaking similar initiatives with CPs and FPIC, building on earlier attempts at participatory processes for community empowerment, documentation and organising to defend customary rights. We hope that this issue will support and inform these practitioners, and inspire them to reflect on these potentially emancipatory tools, and to share their experiences with others. The resources section of this issue lists some platforms for sharing on CPs and FPIC – join the debate!

CONTACT DETAILS



Krystyna Swiderska
Senior Researcher
International Institute for Environment and Development (IIED)
80-86 Gray's Inn Road, London, WC1X 8NH,
United Kingdom
Tel: +44 20 3463 7399
Fax: +44 20 3514 9055
Email: krystyna.swiderska@iied.org
Websites: www.iied.org
www.bioculturalheritage.org



Angela Milligan
Co-editor, *Participatory Learning and Action*
International Institute for Environment and Development (IIED)
Email: angela.milligan@iied.org
Websites: www.iied.org
www.planotes.org



Kanchi Kohli
Kalpavriksh and Campaign for Conservation
and Community Control over Biodiversity
India
Email: kanchikohli@gmail.com
Mobile: +91 981 190 3112



Harry Jonas and Holly Shrumm
Natural Justice: Lawyers for Communities and
the Environment
479 Jalan Sang Kancil
Kota Kinabalu 88000
Sabah
Malaysia
Email: harry@naturaljustice.org
Email: holly@naturaljustice.org



Wim Hiemstra
ETC COMPAS
PO Box 64
Kastanjelaan 5
3830 AB Leusden
The Netherlands
Email: w.hiemstra@etcnl.nl
Website: www.compasnet.org



María Julia Oliva
Senior Advisor on Access and Benefit-Sharing
Union for Ethical BioTrade (UEBT)
Keizergracht 158
1015 CX Amsterdam
The Netherlands
Email: julia@ethicalbiotrade.org
Website: www.ethicalbiotrade.org

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PART I

Setting the
scene: research
partnerships
and ABS from
the perspective
of communities

FPIC and beyond: safeguards for power- equalising research that protects biodiversity, rights and culture

2

by MICHEL PIMBERT

This special issue of *Participatory Learning and Action* rightly emphasises the importance of community designed and controlled participatory processes of free, prior informed consent (FPIC) and of developing community protocols for research on biocultural diversity. In this article, I offer some reflections on how to give non-researchers (e.g. men and women in indigenous and local communities) more significant roles than before in the production and validation of knowledge for the equitable and sustainable use of biological and cultural diversity. I suggest that there is a need to go beyond the valuable concept of FPIC for research involving indigenous and local communities. Whilst an essential tool, FPIC needs to be part of a wider set of tactics and safeguards to enable local and indigenous communities to defend their rights and determine their own destinies (Colchester and Ferrari, 2007).

FPIC potentially allows communities to decide if they want to develop a

community protocol to assert their rights to biodiversity in different local contexts.¹ These biocultural protocols can be used by communities to set the rules of engagement in research and other initiatives (e.g. access and benefit-sharing under the Nagoya Protocol).² Experience suggests that participatory processes are key for the design of effective community protocols (Swiderska, this issue). To date however, there has been more documentation of the **content** of existing biocultural community protocols and FPIC than the actual **processes** required to develop them. This article aims to fill this knowledge gap by emphasising the processes and safeguards needed to ensure a truly participatory approach to research and development (R&D) for biodiversity, culture and rights.

I use the term ‘participation’ in an emancipatory and democratic sense. The values and normative framework which are at the heart of my own understanding of

¹ See Glossary, p.10.

² See Overview, p.25-40.

Photo: CENESTA



Pastoralists Rethinking Research project, Iran.

‘participation’ in this article can be summarised as:

... allowing each potential citizen-subject within society to become real subjects, by offering them ... a genuine autonomy to exercise their ability to give themselves laws and construct rules with others... More specifically, this implies giving to individuals the means to participate ... in the daily construction of the rules of living together, and to rethink political, social and economic relationships in order to civilise them at a deep level, through the permanent exercise of the freedom to participate (Méda 2000, author's translation).

Towards power-equalising research

Power-equalising research involves both researchers and non-researchers in close cooperative engagement, jointly producing new knowledge, with mutual learning from the process. As such, this form of cooperative enquiry is a significant reversal from dominant roles, locations and ways of knowing.

These reflections are based on ongoing participatory action-research with indigenous and local communities in the Andean Altiplano (Bolivia and Peru), Asia (India, Indonesia, Nepal and Iran), Europe (France, Italy, UK) and West Africa (Mali) where research is done **with, for and by**

people – rather than on people – to explore how locally controlled biodiversity-rich food systems can be sustained.³ In these different settings, it is noteworthy that citizens engaged in co-enquiry are viewed as knowledgeable and active actors with the ability to be centrally involved in both the ‘upstream’ choice of strategic research priorities and the design of innovations, as well as in their ‘downstream’ implementation, spread and regulation. Viewing citizens as knowledgeable actors is, in and by itself, an important safeguard in promoting community rights over their biocultural heritage. Empathy, respect and solidarity with fellow human beings are important prerequisites here. Without these enabling values, enduring prejudiced views will continue to undermine the possibility of seeing ordinary citizens as knowledgeable actors (Box 1).

Co-defining ways of working and research ethics

Power-equalising research often grows out of a participatory process in which local community members define or co-define with outside researchers the rules of engagement and ways of working. Ensuring this kind of ethical research is essential. Too often, research programmes are imposed on rural people, adding to their already overwhelming burdens, causing harm and violating rights.⁴ It is vital to ensure first that non-researcher citizens have an opportunity to assess, on their own terms and in their own time, the desirability and relevance of engaging in cooperative research activities. The validity and quality of the research are usually enhanced when non-researchers are allowed to co-define the rules of engagement and codes of research ethics. Open ended dialogues and village-level discussions with dalit women farmers in Andhra Pradesh (India) allowed participants to decide on the code of research ethics they should adopt and on

³ See Pimbert (2012); CNOP *et al.* (2007); and Pimbert (2011).

⁴ See Denzin *et al.* (2008).

Box 1: Disempowering mindsets, attitudes and behaviours undermine peoples' knowledge and capacity for co-enquiry

- According to Ibrahim Coulibaly, a farmer leader and president of the Coordination Nationale des Organisations Paysannes (CNOP) in Mali, many urban-based intellectuals are ashamed of their rural or peasant origins, and prefer not to mention them. Many researchers and decision makers also believe that small-scale family farmers, and women in particular, are backwards and ignorant – and that these farmers and food processors are a relic of the past that should be dispensed with as fast as possible.
- In Peru, Alejandro Argumedo gives many examples of the enduring racist and prejudiced attitudes which indigenous peoples and their knowledge systems experience when discussing issues of biodiversity, rights and culture with 'educated' decision makers and scientists of Spanish descent.
- In Iran, nomadic pastoralists and their biodiversity conserving practices continue to be marginalised by powerful modernising forces in government and research. Deep seated dehumanising attitudes and a desire for purification of difference and disorder often prevent genuine intercultural dialogue and co-enquiry.

Source: author's conversations with IIED partners involved in the Sustaining Local Food Systems, Biodiversity and Livelihoods initiative. See: Pimbert (2012).

how to document research on biodiversity, food and culture (see Box 2). This village-level process also allowed for an unhurried emergence of FPIC.

Forming safe spaces for co-enquiry and reversals from the normal

The spaces that bring community members and outside researchers together during the research process need to be carefully thought out – they need to be designed as **safe spaces** for communication and action. This is an important safeguard for participatory research as many spaces are not welcoming of women or inclusive of the weak and marginalised, nor free from manipulation and co-option by more powerful insiders and/or outsiders.

More generally, important differences exist between two radically different types

Box 2: Research agreements with women farmers in the drylands of South India

Action-research on Sustaining Local Food Systems, Biodiversity and Livelihoods worked with the Deccan Development Society (DDS) and 80 *sanghams* (voluntary village-level associations) made up of dalit women – the lowest group in the Indian social hierarchy. From the start, it was vital to ensure first that the *sanghams* and small-scale farmers had an opportunity to assess, on their own terms and in their own time, the desirability and relevance of engaging in collaborative research activities.

Through a process of locally-organised presentations, discussions and debates lasting almost three months, the women *sangham* leaders and DDS staff gave their informed consent for the project to go ahead and also clarified and agreed on the terms of engagement with IIED. These deliberations were the first step in this action-research and (a) ensured that the principle of FPIC was upheld, and that (b) trust, long-term commitment and ownership were built. All participants also felt it necessary to adopt an ethical code to guide the research. After discussing possible options, they agreed to use the International Society of Ethnobiology's Code of Ethics. This requires research partners to recognise, support and prioritise the efforts of indigenous peoples, traditional societies and local communities to undertake and own their research, collections, databases and publications. For example, participants agreed on how to ensure that the research findings were documented in a way that would be accessible to the many non-literate members of the community. Women *sangham* members pointed out that the DDS had trained villagers in the use of digital video technology and they argued that locally-filmed video should be used to document the research and communicate its findings. All co-enquirers agreed to this as the DDS's experience had already shown that being non-literate is no barrier to learning to use video.

As a result, women farmers felt both respected and empowered in the knowledge that they would be working with and communicating about this action-research through their community-produced video films – in their own ways, at their own pace, and with significant control over the entire research process and ways of working. They produced 12 video films documenting the action-research process and its outcomes.

For more information, see: Community Media Trust *et al.* (2008).

Box 3. Reversing gender biases

We do not need to include women in the citizens' juries because they are not farmers.

This astonishing comment was made by a senior member of one of the key peasant organisations in Mali, the AOPP (Association des Organisations Professionnelles Paysannes). As a result, the AOPP stalled the preparatory process of the Citizens' Jury on Genetically Modified Organisms (GMOs) and the Future of Farming. It took two months of discussions and negotiations among steering group members to convince this senior member of the AOPP that women do play a major role not only in food preparation but also in the production of food, usually by farming small plots of land. In late July 2009, one of the heads of the AOPP threatened to remove his organisation from the steering group of the Democratising Agricultural Research initiative because he was unhappy that the Convergence of Rural Women for Food Sovereignty (COFERSA) had been formally accepted as a new member of the steering group. This decision was eventually reversed by the AOPP and the larger steering group – but only after a month of intense discussion, persuasion and argument on the need for gender justice.

Source: Pimbert and Boukary (2010).

of spaces for participation: **invited spaces from above** and **popular or citizen spaces**. Examples of the former are government and donor-led efforts to set up co-management committees and research platforms. In contrast, citizen or popular spaces are created by people who come together to create arenas over which they have more control, e.g. farmers' platforms for negotiation and collective action; or do-it-yourself 'citizens' juries' that allow ordinary people to judge existing policies and frame alternative policies. Examples of such popular spaces include recent citizens' juries on the priorities and governance of food and agricultural research in India (www.raitateerpu.org) and West Africa (www.excludedvoices.org).⁵

Whilst there are notable exceptions, popular spaces are arenas within which, and from which, ordinary citizens can gain the confidence to use their voice, analyse



Photo: Peter Reason

A citizen's jury evaluating agricultural research, India, 2010.

and deliberate, frame alternatives and action, mobilise, build alliances and act. Creating and nurturing such safe spaces is essential for intercultural dialogue, mutual learning and embracing the experience, expertise, fresh thinking, energy and perspectives of hitherto excluded actors, including women and youth. But such popular spaces may also reproduce both overt and subtle forms of exclusion in the absence of a conscious social commitment to politics of freedom, equity and gender inclusion. The messy process described in Box 3 is an example of how co-enquirers ensured gender justice in citizens' deliberations on the priorities for public research in West Africa.

Safe spaces for communication and action not only strive to be inclusive of gender and difference, they also promote a culture of reversals from normal practice. They put the perceptions, priorities, judgement and knowledge of members of indigenous and local communities centre stage. These spaces are typically located in settings familiar to communities (e.g. villages, fields) and they rely first and foremost on local languages for analysis and deliberations (outside researchers receive translations). Last, but not least, such safe spaces when combined with the use of enabling participatory methodologies allow citizens to be directly engaged in the entire research cycle.

⁵ Parallel discussions around patient (i.e. non-elite) knowledge in health research also emphasise the importance of safe spaces. See: Cook (2012).

Photo: Peter Reason



Non-literate film maker from the Community Media Trust, India.

Participation throughout the research and development cycle

Key moments or stages when participation can occur throughout the research and development (R&D) cycle include:

- evaluations of results and impacts of research, as well as risk assessments;
- scientific and technological research – the production and validation of knowledge, including the FPIC stage and the initial design planning of the research;
- the choice of upstream strategic priorities for R&D and allocation of funds; and
- the framing of policies for environment and development, including biodiversity conservation and its sustainable use.

Power-equalising research seeks to embrace and intervene in all these different moments in the R&D cycle. Appropriate participatory methodologies and deliberative processes are used at each stage to engage citizens in direct and meaningful ways in shaping the political economy of knowledge as well as in the actual produc-

tion and validation of new knowledge, technologies and institutional innovations (Pimbert, 2009). A focus on the entire R&D cycle allows for a shift from narrow concepts of participatory research that confine non-researchers to 'end of the pipe' technology development (e.g. participatory plant breeding) to a more inclusive approach in which farmers and other citizens can define the upstream strategic priorities of research and governance regimes for environment and development. This more systemic understanding also allows one to situate discussions on the pros and cons of a particular innovation (e.g. an ABS regime) in the wider policy context and actor networks that have shaped the R&D process which generated that specific innovation.⁶

Cognitive justice – recognising different knowledge systems and their right to exist

Power-equalising research is all about ensuring greater cognitive justice between

⁶ For more information see Pimbert (2011).

fundamentally different knowledge systems and ways of knowing. Claims that one tradition of knowledge and practice (local, vernacular systems versus external science-based systems) is always better than the other may ultimately restrict possibilities. The idea of cognitive justice emphasises the right for different forms of knowledge – and their associated ecologies, practices, livelihoods and ways of being – to coexist. As Visvanathan argues, cognitive justice is *‘the constitutional right of different systems of knowledge to exist as part of a dialogue and debate’*. This implies the continued existence of *‘the ecologies that would let these forms of knowledge survive and thrive not in a preservationist sense but as active practices’* (Visvanathan, 2005). It is noteworthy that the successful protection of biocultural heritage in the Potato Park in Peru has grown out of local communities’ affirmation of their sovereign right to sustain their **entire** knowledge system, including the landscape and territories that renew biodiversity, culture and livelihoods (see Box 4).

Articulating and claiming this right to cognitive justice **by** and **for** hitherto excluded actors is a key challenge for all involved in power-equalising research for biodiversity, rights and culture. This is a crucially important safeguard against the standardisation induced by hegemonic western science that is now increasingly controlled by the life industry corporations (ETC, 2011; Grain, 2012). In the absence of ways of working grounded in principles of cognitive justice, the Nagoya Protocol on ABS could lead to the development of narrow science-based community protocols which do not reflect the distinct and diverse cultural norms, knowledge systems and practices of indigenous and local communities. Inevitably, this side-lining of

Box 4. Indigenous communities claiming cognitive justice in Peru

The concept of indigenous biocultural heritage territories (IBCHT) grew out of power-equalising research and has guided a successful community-led initiative in Cuzco, Peru known as The Potato Park. Located in a biodiversity hotspot for potatoes, the park is an IBCHT centered on the protection of potato biodiversity and related knowledge. The area is home to more than 4,000 varieties of potato as well as other traditional crops, including corn, barley, wheat, oca and ulluco. The Potato Park provides an alternative approach for protecting traditional knowledge. It protects not only the intellectual, but the landscape, biological, economic and cultural components of knowledge systems, thereby halting loss of traditional knowledge as well as misappropriation. Communities’ collective control over their knowledge has been strengthened by systematically affirming the holistic and indivisible nature of their rights to land, territories and self-determination. Cognitive justice is being claimed as the concept of IBCHT is increasingly recognised in national and international negotiations on the protection of biodiversity and knowledge.

Source: Argumedo and Pimbert (2008).

local knowledge systems will facilitate ABS regimes that are extractive, unfair, patent-friendly and easily captured by corporations and new cycles of capital accumulation.

Extended peer communities co-validating knowledge

How knowledge is validated – and by whom – matters a great deal in today’s context of open-ended uncertainties in which ‘we do not know what we do not know’. Co-enquiries between local communities and outside scientists need to be open to the possibilities of a ‘post-normal science’.⁷ This is the sort of enquiry in which the facts are uncertain, values are often in dispute, stakes are high and decisions are urgent. Post-normal science recognises a plurality of legitimate perspec-

⁷ Post-normal science expresses three key insights: 1) These times are far from ‘normal’: uncertainty now rules political and environmental affairs. 2) ‘Normal’ puzzle-solving science is now thoroughly inadequate as a method and a perspective for solving the great social and environmental issues of our times. 3) Extended peer communities of citizens can no longer be relegated to second class status, and their special knowledge can no longer be dismissed as ‘unscientific’, inferior or bogus (see Ravetz and Funtowicz, 1990).

Photo: Khanh Tran-Thanh



Following the International Forum on Food Sovereignty, IIED project partners from India, Indonesia, Iran and Peru participated in a workshop to share in a process of mutual learning (Selingue, Mali).

tives on every issue and insists on the need for extended peer review. This ‘extended peer community’ validates knowledge and can include scientists as well as members of indigenous and local communities – both men and women of different age groups, classes, castes, ethnic groups etc. All these actors have incomplete and partial knowledge – scientists included. Under conditions of open-ended uncertainties and rapid change **all** these different knowledge holders (e.g. farmers, healers, livestock holders, forest dwellers, scientists) have a legitimate and useful role to play in deciding what constitutes valid knowledge in a particular context.

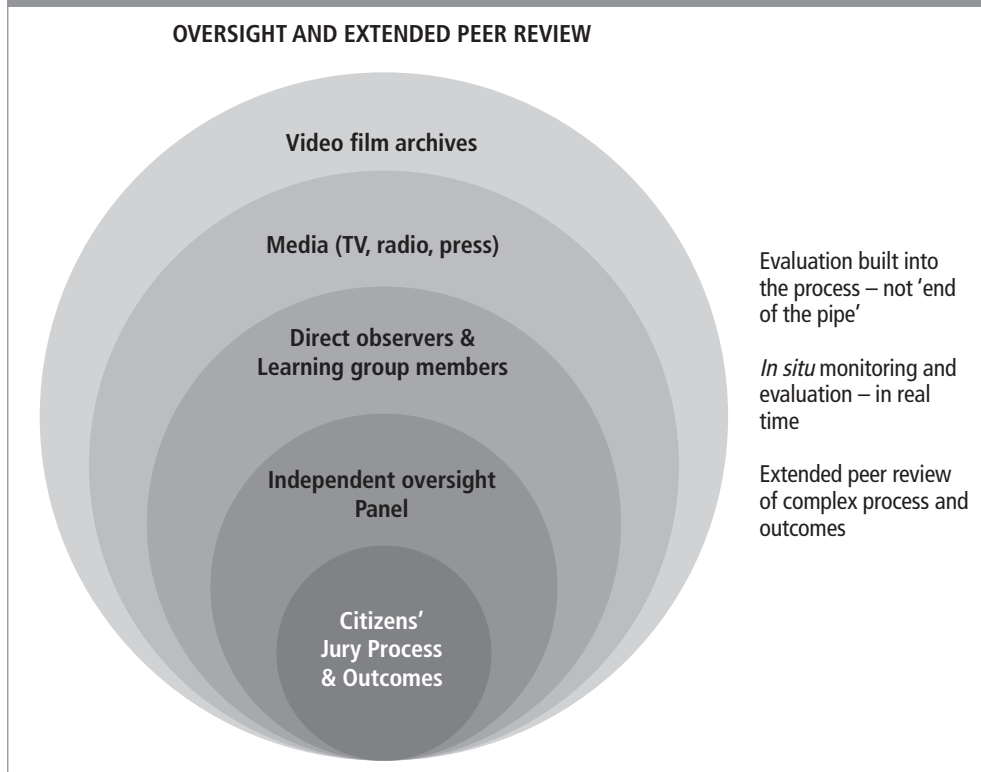
The more academic and narrow disciplinary-based peer review system alone – with its privileged power to decide what is ‘true science’ – is no longer seen as legitimate and relevant for dealing with the challenges of the 21st Century such as climate change and risk assessments.



Photo: Khanh Tran-Thanh

Citizens’ jury on the Governance of Agricultural Research in West Africa (Selingue, Mali), a process designed to strengthen the voices of small-scale producers and other citizens.

Figure 1. Diverse gatekeepers of knowledge decide on the validity and quality of citizens' juries' policy recommendations



Source: Pimbert (2011).

Instead, power-equalising research relies on a more inclusive and plural process of co-validation of knowledge that brings together representatives of different knowledge systems (scientific, indigenous, local) in 'extended peer communities'. For example, the process and outcomes of citizens' juries on the future of food, agriculture and environment in West Africa and South Asia have all been co-validated by many different actors (academics, donors, policy makers, media professionals and farmers) who were physically present during the citizens' juries (Figure 1).⁸

Extended peer communities necessarily engage in multi-disciplinary, intercultural dialogues and negotiations

to agree on what counts as valid and useful knowledge in their unique settings – often emphasising the value of people's knowledge of the local situation and of the context of change. People involved in this way of knowing thus participate in the joint production of **collective** knowledge. They are involved in a deeply sense-making activity, generating meaning both for themselves and for the knowledge they are co-creating. Such 'extended peer communities' are important safeguards for the generation of inclusive, valid, relevant and high quality knowledge needed to adaptively respond to rapid change and uncertainty through democratic processes.

⁸ For West Africa, see Pimbert *et al.* (2011). For South Asia, see: www.prajateerpu.org and Kuruganti *et al.* (2008). For the work of the Alliance for Democratising Agricultural Research in South Asia (ADARSA) and citizens' juries on agricultural research, see also: www.raitateerpu.com.

Photo: Khanh Tran-Thanh



Potato Park, Písaq, Peru. Elected representatives of the six communities that comprise the Association of Communities of the Potato Park, which is responsible for managing the park. The group meets on a weekly basis to discuss issues of agrobiodiversity, land and traditional resource rights, and local economic activities.

Photo: Khanh Tran-Thanh



As part of the Potato Park's agrotourism project, local residents conduct hiking tours of the agricultural area, and the women's collective that manages and operates the small restaurant provide cooking demonstrations and meals to showcase traditional local ingredients such as quinoa and amaranth.

Strengthening local organisations to build countervailing knowledge and power

Power-equalising research usually seeks to enlist and strengthen local organisations of indigenous peoples, farmers, pastoralists, forest dwellers, fisherfolk and other citizens. Engaging local organisations and communities in co-enquiry is important because they play a key role in:

- sustaining the biodiversity and ecological basis of systems that are essential for meeting human needs (e.g. food systems);
- coordinating human skills, knowledge and labour to generate both use values and exchange values in the local economy; and
- local governance, including decisions about people's access to food, biodiversity and other natural resources.

However, many local community organisations can be elitist, dominated by a few and discriminatory. The legitimacy, transparency and democracy of local organisations will often need to be strengthened as part of a process of change and co-enquiry (see Box 3). When this is done,



Farmer exchange for mutual learning among representatives of indigenous and peasant federations from Peru, Indonesia, India and Iran meeting in a village in South India.

embedding power-equalising research in local organisations and the federations they form usually better ensures that:

- the right questions are asked from the communities' point of view;
- there is more shared ownership over the research process and its outcomes; and
- that the capacities and assets of local organisations are enhanced (human, social, natural, physical, financial assets).

These are important safeguards for truly participatory research.

New energy and creativity are often released when different federations and networks of local organisations learn to better communicate and work together in producing knowledge for positive change and equity. Many such federations of the rural and urban poor are well placed to promote non-state-led forms of deliberative democracy aimed at making local, national and global institutions accountable to citizens – particularly those most excluded from decision-making. Indeed, federations of local organisations increasingly seek to have a greater say in the governance of environment and development – including R&D. In so doing, they challenge liberal understandings in which citizenship is viewed as a set of rights and responsibilities granted by the State. Instead, citizenship in the context of locally determined development is claimed, and

Box 5. International Investment Agreements boost corporate power

International Investment Agreements (IIAs) such as the Bilateral Investment Treaties (BITs) and investment chapters in the Free Trade Agreements (FTAs) give transnational corporations (TNCs) extraordinary rights without binding obligations. They allow TNCs to bypass local and national laws and courts. If public policy is against their interests, TNCs can sue sovereign States for millions of dollars before private international arbitral tribunals associated with the International Centre for Settlement of Investment Disputes (ICSID) and the United Nations Commission on International Trade Law (UNCITRAL) and others. It is noteworthy that there is no similar international tribunal where governments or citizens can bring TNCs to justice when their activities violate social, labour, human and environmental rights or when they act in breach of public policy requirements. This has led to calls for an alternative international investment framework that is based on democratic principles and prioritises public interests over private profits.

See: <http://tinyurl.com/Alternatelm>

Full URL: <http://justinvestment.org/2011/11/call-for-an-alternative-investment-model/>

rights are realised, through the agency and actions of people themselves.

Legal redress as safeguard against abuses

Power-equalising research on biodiversity, rights and culture is increasingly taking place in a context in which transnational corporations (TNCs) and investors are engaging in international arbitration to protect their rights as investors. For the first time in international law, large corporations are being given the right to sue governments. This trend is greatly facilitated by new International Investment Agreements (Box 5).

Indigenous and local communities engaged in co-enquiry need to develop safeguards against such abuses of power and must be able to seek legal redress when their rights are violated. But the ability of victims of corporate and State power to enforce their right to food and other rights (e.g. equitable ABS for indigenous knowledge on seeds and medicinal plants) has

been difficult without an international complaints mechanism. The newly adopted Optional Protocol of the International Covenant on Economic, Social and Cultural Rights (CESCR) may offer real opportunities to do that. The entry into force of the Optional Protocol greatly improves access to justice for victims of violations of the right to food and other rights by allowing individuals or groups to bring a complaint directly to the CESCR (Ziegler *et al.*, 2011).

However, history everywhere shows that these human rights will need to be

claimed through the agency and social mobilisation of local communities and wider coalitions of citizens. In many cases, legal redress will not be enough: safeguards based on more radical expressions of deep democracy, self-determination, self-organisation, direct action and people's sovereignty will be needed for equity, social justice and environmental sustainability. Developing such safeguards is a vitally important new conceptual and methodological frontier for power-equalising research that truly works for the well-being of people and the Earth.

CONTACT DETAILS



Dr Michel Pimbert
Principal Researcher
Agroecology and Food Sovereignty Team
Natural Resources Group
International Institute for Environment and
Development (IIED)
80-86 Gray's Inn Road
London
WC1X 8NH
UK
Email: michel.pimbert@iied.org

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Whose access and whose benefit? The Nagoya Protocol and customary rights in India

3

by SAGARI R. RAMDAS

Introduction

Adivasis (the indigenous people of India) and peasants, pastoralists and fisherfolk need to defend their rights to the resources on which they depend (land, forests and water) in order to live and carry out their livelihoods with dignity. These communities have nurtured, shaped and conserved these resources, including their genetic diversity (crops, trees, livestock, poultry, micro-organisms). Their mutually sustaining, complex, multi-layered relationship with the living world is one based on custodianship and stewardship over the resources to be handed down to future generations. It sustains life, livelihoods and spirituality, sows the seeds for future generations, and is grounded in the moral and political economy of the rights of mother Earth. This relationship, in the worldview of indigenous and other local communities, cannot be reduced to a commodity to be traded or 'accessed and benefited' via monetary payment, as is implied by the recently agreed Nagoya Protocol to the Convention on Biodiversity (CBD).

This article provides a critique of the Nagoya Protocol in the Indian context, concluding that it is unlikely that the Protocol's provisions on prior informed consent (PIC) and community protocols will enable communities to protect their customary rights. It then explores how Adivasi and pastoralist communities have used other national laws and self-mobilisation to protect their biodiversity and intellectual rights and safeguard their access to genetic resources for livelihoods and 'benefits', as understood according to their worldview.

The Nagoya Protocol in the Indian context

The Nagoya Protocol elaborates Article 15 of the CBD that deals with access to genetic resources and benefit-sharing (ABS). 'Access' and 'benefits' in this case are grounded in an intellectual property rights (IPR) framework because they often involve the development and patenting of commercial products to generate benefits. IPRs include patents, geographical indications, trademarks, plant variety protection, copyrights and protection of undisclosed

information. These regimes grant exclusive proprietary rights over an intellectual product to an individual or company to exploit an invention commercially for a certain period. Knowledge and associated genetic resources are seen as tradeable commodities, and access and benefits are mediated by the market. This commoditisation of knowledge and biodiversity is utterly antithetical to indigenous and pastoralist worldviews.

Moreover, the IPR framework cannot be neatly applied to protect biological resources and traditional knowledge because:

- it is impossible to identify an individual inventor;
- traditional knowledge often cannot be attributed to a particular geographical location;
- it is not always possible to demonstrate the required criteria of 'novelty' and 'inventive step'; and
- the concept of exclusive ownership of plants and knowledge is alien to many cultures.

Recent examples illustrate that states use ABS legislation to facilitate access by corporations to the genetic resources and knowledge of communities, as these are the raw material for the multi-million dollar international bio-tech industry (Kalpavriksh, GRAIN and PANOS South Asia, 2010). The benefits will essentially be profits flowing into the coffers of industry, with some (if any) monetary 'benefits' to be given to the community knowledge holders. The Government of India's 11th five-year research plan reaffirms its commitment to the IPR regime. Genetic resources and bio-prospecting are key research areas of the Indian Council of Agricultural Research (ICAR) in animal science, driven by the search for 'novel

genes' in indigenous breeds, which can be used to create new breeds, which are then commercialised and sold to farmers. In the process, IPRs/patents on genes will be obtained by scientists in research institutions and private companies.

Within the Nagoya Protocol, the space for communities to exercise their voice, reject the IPR regime and establish their own worldview lies in Articles 6, 7 and 12. Articles 6 and 7 talk about the Prior Informed Consent (PIC) of the community, which has to be obtained before anyone can access traditional knowledge or genetic resources held by communities.¹ Article 12 speaks of how states shall respect the indigenous and local communities' customary laws, community protocols and procedures pertaining to traditional knowledge associated with genetic resources. The communities can use PIC, community protocols and customary laws to protect their knowledge from the IPR regimes and bio-piracy. However, all these provisions are subject to domestic legislation.

None of India's key legislations concerned with the ABS system – Protection of Plant Varieties and Farmers' Rights Act (2001) and the Biological Diversity Act (2002) – require prior informed consent (PIC) of the concerned communities, nor have a mandate or provision for 'community protocols'. Only the PIC of the State, represented by the National Biodiversity Authority (NBA), is required.² It is assumed that the interests of the State equate to the interests of the people. Increasingly, however, the State is using its powers to defend the interests of corporations and big business, bartering away the rights of communities (Kalpavriksh, GRAIN and PANOS South Asia, 2010). Communities must instead turn to other

¹ The PIC component of the Nagoya Protocol flows from article 8(j) of the CBD, wherein parties shall, subject to national legislation, commit to: *respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities, and promote their wider application with approval and involvement of the holders of such knowledge, innovations and practices, and encourage the equitable sharing of benefits arising from the utilisation of such knowledge, innovations, and practices.*

² Under India's Biodiversity Act, even communities who are the knowledge-holders have to apply to the Biodiversity Authority to establish their claim to benefits.

laws and non-legal approaches to protect their customary rights. I explore some examples of these from Andhra Pradesh in the following sections.

Indigenous peoples (Adivasi) laws that protect biodiversity rights

The rights of Adivasis and other communities to their resources, biodiversity and associated traditional knowledge, are protected through two strong domestic laws.

- **The Panchayats (Extension to the Scheduled Areas) Act No.40, 1996 (PESA):** PESA empowers communities to take control over resources through the aegis of village councils – known as *gram sabhas* – and also to design and approve development plans, including those for agriculture.

- **The Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA):** FRA recognises the rights of Adivasis and other traditional forest dwellers over their intellectual property and traditional knowledge related to biodiversity, and their right of access to biodiversity and to govern their forests according to their customs and traditions. Free, prior informed consent (FPIC) must be obtained before any forest within customary boundaries is diverted for non-forest uses.

Struggles to secure customary forest rights

The Savara Adivasis of Heeramandalam Mandal, Srikakulam District, live on hill-tops in forests and have refused to ‘descend’, despite several attempts over the years by State authorities to bring them out of the forest. In 2008, soon after the FRA officially came into force, Savara Adivasis began asserting their rights to live in the forest, with the support of the Adivasi Aikya Vedika (AAV) (see Box 1). Every step of the way, they had to struggle against a recalcitrant bureaucracy reluctant to part with power and resources.

Box 1: Adivasi Aikya Vedika (AAV)

Adivasi Aikya Vedika is an alliance of Adivasi people through which Adivasis can protect their cultural identity, territoriality, governance, knowledge systems and customary law that affirms their sacred relationship with mother Earth. They challenge the dominant external forces and models of development that are displacing them from their territories using constitutional safeguards and legislations, particularly PESA and FRA, and affirm their own customary laws and systems of governance. Between 2002 and 2006, AAV played a key role in mobilising Adivasis across Andhra Pradesh to protest against forest evictions and to fight for recognition of their customary forest rights, as part of a nationwide mobilisation of Adivasis and other traditional forest dwellers. AAV was formed in 2000, at a gathering of Adivasi peoples from across the state of Andhra Pradesh. Its leadership is drawn from its members who are spread across nine districts of Andhra Pradesh.

Box 2: Mapping our territories to defend our rights

In November 2011, members of six adjacent village *gram sabhas* sharing customary boundaries met with government officials. They discussed details of the re-survey and decided to initiate the exercise in Bondigudda, Srikakulam. It took three days to walk around the entire customary forest boundary perimeter, the people leading the surveyor, making sure that he captured every turn as a waypoint, which the community marked with a pile of stones.³ The customary *sarrihadula* or traditional border posts of the village, identified by pre-existing physical structures (e.g. rocks/ancient trees), were also marked. The three-day march saw participation from every family and also neighbouring villages. It included elders (women and men) with historical knowledge, women who have an intricate and multi-hued relationship with the forest, and the youth in whose hands lie the present and future. The experience pulsated with the spirit of self-determination and self-rule, and was a way of collectively reconnecting the community to their culture, traditional knowledge and territories. It involved intense deliberation and dialogue to arrive at consensus within and between villages, respecting ancient traditions of porosity of boundaries.

The government unilaterally prepared community forest resource titles, which were to be jointly managed under a pre-existing and highly controversial

³ A waypoint is GPS terminology that indicates a point captured with its latitude and longitude.

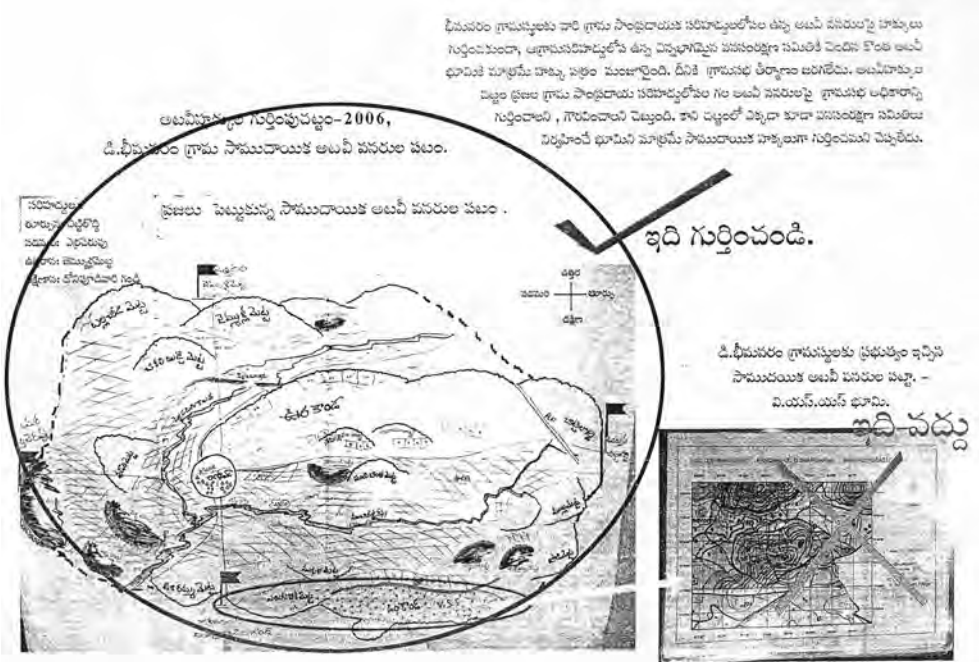


Photo: Anthra, Yakshi and Adivasi Aikya Vedika

Customary forest resources and the traditional boundaries – which is the community forest as per customary law, versus the limited forest area managed through joint forest management (JFM) – marked 'VSS' on the map.

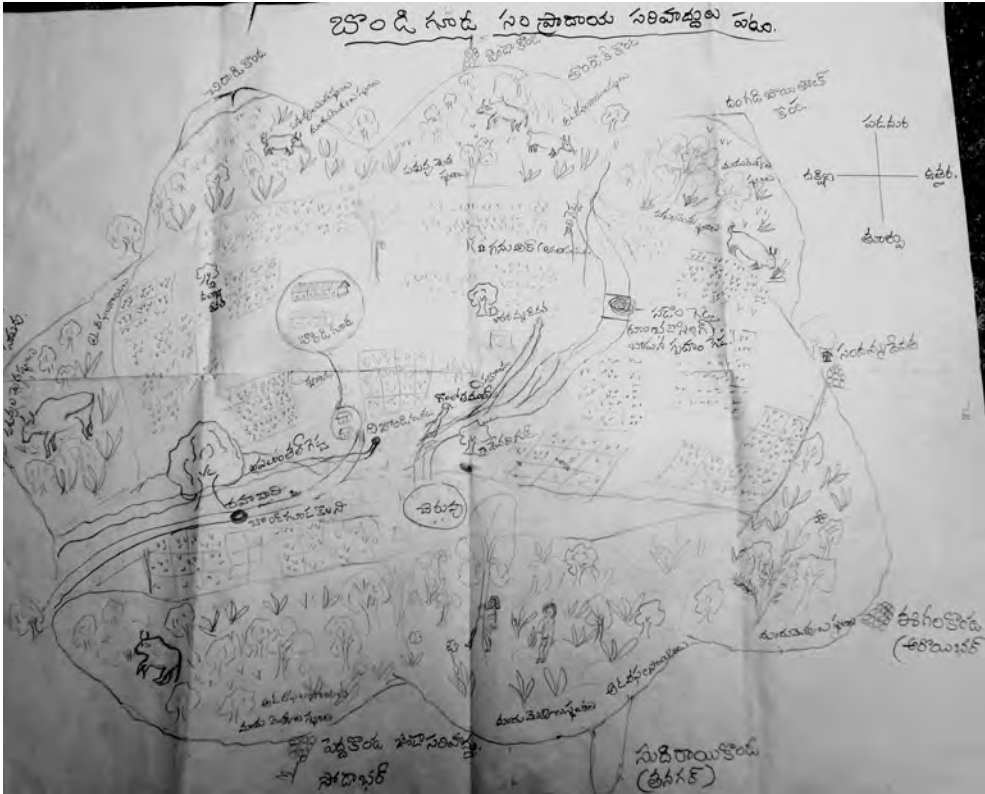


Photo: Anthra, Yakshi and Adivasi Aikya Vedika

A map of Bondigudda village showing community forest boundaries according to customary law and governance.

Photos: Anthra, Yakshi and Adivasi Aikya Vedika



Marking the names of traditional boundaries – Bondigudda village.



Villagers of Bondigudda creating boundary markers on every turning of their traditional customary boundary with a heap of stones.

programme known as Joint Forest Management (JFM), administered by India's forest department. The titles under-represented the true extent of community forest tenure traditionally enjoyed within customary boundaries, the integrity of which was vital for community survival and resilience. The people unanimously passed *gram sabha* resolutions refusing acceptance of these 'jointly managed forest' areas under the JFM, and also rejected individual titles which had been allocated, which were a fraction of their original claims (Ramdas, 2009). They resolved to remap their community forest resources according to customary systems of forest governance. They realised that it was imperative to secure community forest tenure rights, and that individual rights would follow. Sixty-two villages were involved in generating community maps based on customary boundaries (see Box 2).

The village *gram sabhas* and AAV have successfully used these maps to show government authorities at local, State and national levels how and why the JFM land does not represent their customary boundaries, and thus constitutes a breach of the law. The pressure finally resulted in the Integrated Tribal Development Agency deciding, in August 2011, to redo community forest maps according to communities' traditional customary boundaries, as the starting point for preparing community forest titles.⁴

Traditional council asserts the right to deny access

In 2010, the village of Dabbagudem had to decide whether to give permission to an outside trader from Tamil Nadu to access and purchase valuable medicinal herbs found in their forests. The village elders decided to call a traditional village council meeting (*dakkojanguber*), which is legally equivalent to the village *gram sabha* under PESA and hence its decisions are binding. The council debated over three days. Most



Healer with medicinal plants in Dabbagudem village.

Photo: Anthra, Yakshi and Adivasi Vedika

of the women and elders spoke out strongly against granting permission. The medicinal plants desired by the trader were an intricate part of medicines used by the villagers to keep them healthy and protect them from endemic malaria. While some youth were initially undecided about this issue, believing it would fetch them money, when they heard how critical these plants are for the communities' health and survival, they too supported the elders and women.

After listening to everyone's opinions, the council passed a resolution against trading in these valuable medicinal plants, and reaffirmed that they were to be exclusively used by the community, thus forbidding any community member from selling the herb. They feared that the herb would disappear if they allowed it to be commercialised. The community has abided by this decision, as have other villages, and the trader from Tamil Nadu has not ventured into these villages subsequently. This is an example of a village using its rights under national legislation to deny consent to use of their biodiversity

⁴ The government agency responsible for tribal development at the district level.

Photo: Anthra, Yakshi and Adivasi Aikya Vedika



Medicine used to prevent malaria.

and knowledge, through customary forms of decision-making.

Defending rights to rear local sheep breeds

Since 1995, the NGO Anthra has been working with pastoralist communities in Medak district to document, record and restore traditional knowledge of animal health, animal breeds, fodder varieties and management practices, and to defend grazing rights. Community shepherds, deeply concerned about increasing sheep morbidity and mortality, analysed factors that might be affecting sheep health and concluded that the gradual dilution of the pure Deccani breed (see Box 3) was compromising the health of their animals, leading to an explosion of diseases. This realisation became a strong stimulus for shepherds to revive the breed, resulting in the emergence of community collectives such as the Deccani Gorrela-Mekala Pempaka Dharla Sangham and the Mahila Bathukuderuvu Sangham.^{5,6} These organisations use community action to defend their livelihoods, including their rights to

Box 3: The Deccani sheep

The Deccani breed is spread across the four states of Andhra Pradesh, Karnataka, Maharashtra and parts of northern Tamil Nadu located in the Deccan plateau. The original custodians of the breed are the Kuruma/Kuruba/Dhangar castes whose stories narrate how the gods created the black wool sheep, and assigned the community with the specific task of its care (Murty and Sontheimer, 2004). Shepherds selected the breed over the years for its tolerance to drought, fodder and water shortages, capacity to migrate long distances and ability to endure large variations in diurnal temperatures. The wool has traditionally been spun into yarn by women and woven by men into blankets known as *gongadi*.

rear local breeds. The shepherds had stopped rearing the pure Deccani due to a combination of factors:

- structural adjustment policies which sought to divert land from traditional to industrial production;
- liberalisation of wool markets resulting in dumping of cheap international wool; and
- programmes to replace the Deccani breed with fast-growing sheep for meat.

These factors led to the near extinction of traditional wool crafts (Anthra, 2009).

⁵ The Deccani Sheep and Goat Rearers Collective.

⁶ Women's Life and Livelihood Collective.



Photos: Anthra, Yakshi and Adivasi Aikya Vedika

Deccani sheep and shepherds – both men and women.



Shepherds wearing *Gongadi* wool – a versatile textile used to protect shepherds from the sun, rain and cold.



Weaving *Gongadi* textiles.

Community strategies to conserve the breed have involved actions to secure grazing rights in forests using the FRA law, which legalised grazing in forests, involving the *gram panchayats*.⁷ They convinced them to pass resolutions to protect the last remaining village common property resources, restoring ancient forest grazing paths which had been encroached on, preventing the harvest of acacia trees, which are critical sources of summer fodder, and desilting village water bodies.⁸ They are also promoting animal health and sustainable agriculture based on indigenous knowledge and practices, and are involved in rediscovering and sustaining the communities' breeding knowledge about the Deccani. Elders share knowledge with young people through different community gatherings and cultural events that are closely associated with the breed. With the revival of the breed, came the

revival of wool and the *gongadi* woolcraft. Shepherds, spinners, weavers and *kada* specialists, who produce the *gongadi* borders, are rebuilding linkages between them and all are deriving benefits from conserving the breed.

In a context of climate change, the hardy black wool Deccani breed promises to be the best option for the pastoralists and farmers of the Deccan. However, the communities now face a new threat: a State decision to expand Hyderabad city, swallowing up 600 villages, including those in Medak district. The villages are determined to use the powers of the *gram panchayat* under PESA to resist this takeover.

Conclusions

Adivasis and pastoralist communities in India are challenging the fundamental premises of ABS agreements and laws which lie within a capitalist market

⁷ Local village institutions of self-governance formed under the Andhra Pradesh Panchayat Raj Act, 1994.

⁸ *Acacia nilotica* trees are being harvested for their timber value.

construct. Simultaneously they are forging the path forward for access and benefits from genetic diversity and associated knowledge based on their worldviews. This is contingent upon them securing unconditional rights to their territories and resources – land, forests, water, biodiversity, knowledge, customary laws and governance systems.

Since Indian ABS legislation does not require or support PIC or community protocols, communities are testing the effectiveness of existing domestic legislation designed to protect their rights to their territories and resources. This legislation also supports communities' self-rule and local systems of governance, helping to revitalise and democratise the decision-making roles of traditional village councils, and strengthening their legitimacy in the eyes of outsiders.

Community actions (such as community mapping by the Adivasi and community platforms to design conservation strategies by the pastoralists) help communities reconnect to their territories, knowledge systems and resources. They have encouraged the application of tradi-

tional knowledge in all spheres of life to rebuild the resilience and well-being of the community– from building homes, to revitalising traditional irrigation, cultivating food crops, conserving traditional seeds, rearing local animal breeds and healing. They have also enabled the transfer of knowledge, and the use of and 'benefit' from this, from the elders to the youth. Community organisation has also encouraged communities to actively engage with questions concerning governance of resources, biodiversity and knowledge, rather than being passive recipients of policies and laws, and has enabled them to secure their customary rights where national laws support these.

Although the experiences described here do not involve the use of community protocols, there are many common elements – reviving traditional knowledge, exploring national/international laws to support rights, and strengthening customary laws and decision-making institutions. I hope I have shown how these interlinked processes can help communities to secure their livelihoods and their rights to the resources on which they depend.

CONTACT DETAILS



Dr Sagari R. Ramdas
Director
Anthra
B-228/229 Sainikpuri
Secunderabad-500094
Andhra Pradesh
India
Email: sagari.ramdas@gmail.com

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PART II

Institutional
innovations
for FPIC and
benefit-sharing



The spirit of FPIC: lessons from Canada and the Philippines

4

by **ABBI BUXTON**

The spirit of FPIC is that development should become accountable to peoples' distinctive cultures, priorities and unique paths to self-determination, not endanger their very survival.

Joji Carino and Marcus Colchester
(2010).¹

Embracing the 'spirit of FPIC' means enabling genuine inclusion of indigenous peoples' perspectives and values and recognising their rights to self-determination. In this article, I look at two case studies in which indigenous peoples participate in FPIC or FPIC-type processes. Both case studies are in the context of mineral mining, an industry which brings into stark contrast competing interests and views. Processes that allow for a diversity of views to be incorporated into mutually beneficial decision-making are therefore of the utmost importance.

I begin the article by discussing each of the case studies in turn, first the Philippines

and then Canada. In each case I explore the institutions supporting FPIC, and how they work in practice. Building on this analysis, I then draw out some lessons from the two case studies, reflecting on how institutions may be designed or redesigned to reflect the true spirit of FPIC.

Legal recognition of FPIC: a case from the Philippines

The Philippines is a country that suffers huge poverty (ranked 97th out of 169 countries in the 2010 Human Development Report) but also has enormous mineral wealth (estimated at US\$3 trillion) – only 2% of which is currently explored. However, it is estimated that half of the area identified for mining development in the Philippines is subject to indigenous land claims (Holden, 2005).

Institutions for FPIC

The Philippines is one of the few countries in the world to have written FPIC into

¹ Ms Carino is policy adviser at Tebtebba Foundation and an Ibaloi-Igorot from the Cordillera region of the Philippines. Marcus Colchester is Director of the Forest Peoples Programme.



Photo: Andy Whitmore, PIPLinks

Barricade set up to protest against the Didipio Mine, northern Luzan, the Philippines.

national laws (others include Australia and Bolivia). FPIC is regarded as 'essentially the heart and soul' (ESSC, 1999) of the Indigenous Peoples' Rights Act (IPRA) 1997, which requires consent to be determined by 'the consensus of all members of the Indigenous Cultural Communities/ Indigenous Peoples... in accordance with their respective laws and practices' (Section 3g).

The body charged with implementing the IPRA is the National Commission on Indigenous Peoples (NCIP). The NCIP's implementing rules and regulations make clear the process for achieving FPIC, including who should be present, the period in which elders/ leaders should hold consultative meetings with the members (a 15-day period), and how decisions should be arrived at. Further to that, it states that these practices should reflect the customary practices of indigenous communities.

FPIC in practice

The NCIP is not independent from political processes: commissioners are selected by the President's office rather than the communities themselves. This has resulted

in widespread reports of the NCIP having bribed village leaders, created new 'leaders' where consent from the true leaders was not forthcoming, purposefully misled communities and falsified documents (Colchester and Ferrari, 2007).

The requirement to ensure FPIC is achieved in accordance with customary systems is arguably the most progressive part of the IPRA. However, it is often seen as 'a technical obstacle to be overcome as quickly as possible' (UNHCR, 2008). Meetings are not organised on the basis of the traditional customs of indigenous communities, rarely follow community procedures to reach consensus, and the timeframe allowed (a total of 55 days for the whole process) does not usually give sufficient time to complete traditional decision-making processes.

Guidelines issued in 2006 weakened the right to FPIC as the government wanted to further streamline the consultation processes. The guidelines are regarded as hurried and mechanical. They provide limited information to communities, with local communities in one case being told

Photo: DIOPIM Committee on Mining Issues (DCMI)



House belonging to Manolita and Loloy Galvez, who refused to sell to a mining company, so the company constructed the mine around them.

that they would become millionaires and be able to buy Mercedes Benz cars if they were directly affected by the mining operations (Goodland and Wicks, 2009). They also prescribe the establishment of indigenous authorities even where these are not in accordance with customary laws and practices.

Indigenous peoples' efforts to uphold their right to FPIC have brought them into direct, and often violent, conflict with both mining companies and the government – as experiences at Dipido mine in the Nueva Vizcaya and Quirino provinces, mining exploration in the ancestral lands in Bakun, Benguet, and many others show.² According to one group of indigenous peoples (Salamat, 2011):

A pattern has been established each time: mining exploration permits, mineral sharing and production applications, and coal mining contracts were granted by the government to private mining corporations before the onset of military operations.

The situation has got so bad that indigenous groups are now campaigning for the IPRA to be scrapped, as FPIC has been 'debased and debauched by the self-serving interests of companies and the NCIP' (KAMP National Alliance of Indigenous Peoples Organisations, 2011).

The Philippine experience demonstrates

a failure to implement the spirit of FPIC, instead engineering consent and complying only with the letter of the law. Mineral investments promoted by both the government and mining companies are given priority without considering conflicting or alternative views. As Joji Carino says:

While we must muster all of the economic, developmental, environmental and technical arguments in support of FPIC, ultimately it will require a political process that prioritises cultural and natural diversity as core values in our lives and our survival.

Understanding the 'spirit of FPIC' – a case from Canada

Canada is a country which benefits from its rich resource endowments: mining contributed \$53.9 billion (over 4%) to Canada's GDP in 2010 (Industry Canada 2011). However, Canada has a large indigenous population and an estimated 1200 aboriginal communities are located within 200 kilometres of a mining operation.

Institutions for deliberative processes

In contrast to the Philippines, Canada's constitution and case law does not allow for FPIC where consent is equated with a right to veto. In effect, the government prioritises benefits to the wider population over the impacts on local communities near or on the mining site.

The law does protect the right of indigenous peoples to be consulted through deliberative processes (i.e. 'meaningful consultation' ensuring all parties are better informed in decision-making), but it does not **require** that decisions accommodate feedback given in participation processes (UN Observer Delegation of Canada, 2005). Aboriginal groups continue to petition against this and for the right to 'consent'.

² For more information, see: www.minesandcommunities.org

Despite this, Canada's institutional structures for participation and decision-making on natural resource and mining projects (in particular in environmental assessment practices) go a long way to reflecting the **spirit** of FPIC. Indeed, the Supreme Court's ruling in *Delgamuukw v British Columbia* (1997: 3 SCR 1010) stated that, in the case of titled lands, the government's duty to consult is often 'significantly deeper than mere consultation' and on a spectrum that includes the right to 'full consent'.

Under Comprehensive Land Claims Agreements (CLCs) provisions are made for self-governance, the protection of traditional resource use and co-management by aboriginal communities to manage resources and plan development through a number of 'boards'—a result of Canada's indigenous land claims process.³ The boards are allowed to create their own rules and policies, giving them greater flexibility in institutional design. They are co-managed with equal representation of government and aboriginals and clear processes for incorporating different knowledge types. The water and land boards, for example, have adopted traditional knowledge policies for use within environmental assessments (see Box 1).

Implementing the 'spirit of FPIC'

In Canada's North West Territories, where both minerals and aboriginal communities are prominent, the Mackenzie Valley Resource Management Act (MVRMA) is charged with implementing the CLCs and holds responsibility for reviewing and approving land-use permits. The structures it adopts aims to decentralise decision-making and allow for cooperation between aboriginals, governments and private actors.

Applications for mineral investments are submitted to the board, who then distribute them to the potentially affected

Box 1: Examples of how traditional knowledge is incorporated into environmental assessments

Climate – time/dates as to when the project will occur, and what condition might be expected (e.g. when creeks and lakes freeze up, when the ground is frozen enough to support equipment).

Vegetation – lists types of vegetation in the area. What is the vegetation used for? Is it a local berry-picking area?

Water use – potential impacts of changes in quality or quantity (e.g. in small lakes used for camp water, the drawdown might be such that there will not be enough water left for plant or fish life).

Stream flow – affects stream crossings, freeze-up and spawning areas (e.g. will the stream flow be affected by ice bridges, or permanent bridges?)

Importance of site-specific areas – why land is important, sacred sites, legends, beliefs, need for respect (e.g. Red Dog Mountain in Tulita District is considered a sacred site by the Mountain Dene).

Traditional use – how might fishing, trapping and cabins be affected?

Source: Armitage (2005).

communities. These communities are given 30 to 45 days to provide comments and recommendations, much of which is supported by traditional knowledge. The applications are reviewed by the board based on these inputs, as well as information from technical experts looking at environmental and economic considerations. As the board has equal representation of aboriginal communities and government, these evaluations take place on the basis of values, information and experiences that come from traditional practices (see Box 1).

Projects with significant environmental impacts undergo further assessment by the Environmental Impact Review Board, which is government led but has equal representation from both government and indigenous peoples, who also approve the Chair. Projects with impacts for the wider population go to public hearings to get broader inputs. Final decisions are, however, made by the Minister of Aboriginal Affairs and Northern Development

³ Canada's land claims process aims to enable the Indians, Inuit and Métis to obtain full recognition of their rights under treaties or as the original inhabitants of what is now Canada.

Canada (AANDC – a federal government agency), who retains the ultimate authority on land and resource use.

There are cases where this process has led to the prevention of a mining project, for example, a proposed uranium mine at Screech Lake. To date, there has not been a case where the minister has overturned a decision by the boards.

By no means are these institutions perfect. Critics point to the continuance of Euro-Canadian, bureaucratic decision-making structures, heavily reliant on written rules, complex documentation (all in English) and hierarchal structures. These conflict with the informal processes, oral communication and egalitarian structures that are more common in aboriginal communities. As one First Nations participant commented (Fitzpatrick *et al.*, 2008):

The opportunity is provided to participate ... but that participation is conditional on people being able to act like western bureaucrats, and that is the real problem.

However, what these institutions seem able to embrace is a flexibility that allows them to evolve and better reflect indigenous perspectives – and thereby challenge these Euro-Canadian structures. For example, in a review of consultations under the Snap Lake Diamond project, unplanned technical sessions were organised to orally discuss specific issues coming out of the consultations (with each issue given two days and overseen by an independent moderator). These were found to be the best way to achieve consultation leading to a joint decision with face-to-face dialogues and open discussions between the mine proponent's experts and the aboriginal government representatives, civil society and federal government (Fitzpatrick *et al.*, 2008):

...when you get to the technical sessions where you have the proper people there to discuss issues you get resolution so much quicker, and you can see where people stand

on the issues, and as a whole, you can get all the parties involved, and I see that as being much more effective (Interview 6).

These sessions were not part of the legislation but simply adopted by the MVRMA Board, reflecting the values of that representative board and the flexibility of the institutions to achieve effective participation.

Analysis and recommendations

Canada is not a case of FPIC but provides important lessons as to how it might be possible to achieve the 'spirit of FPIC'. Implementing FPIC requires flexibility of institutions rather than legislative definition. To implement the 'spirit of FPIC' institutions need to be flexible to incorporate bottom-up design, dynamic cultural processes and political pressures.

Both the NCIP in the Philippines and the MVRMA in Canada are examples of top-down institutional design that prioritise efficiency and risk disempowering local communities. The Philippines case shows clearly that a legal right to FPIC is not sufficient and can in fact have negative impacts where the government feels the need to engineer consent in order to comply with the law.

On the other hand, the creation of new bodies for participation in Canada has in itself been a process of empowering civil society and local indigenous groups in decisions affecting their land. The structures themselves, such as the MVRMA, represent a change in power relations in which indigenous groups, and their knowledge and values, are equally represented.

Flexibility is integral to allowing the dynamic processes of FPIC to empower local communities through 'social learning' – whereby people reflect the behaviours of the social context they operate in. There remain difficulties with the Canadian system in cases where decision-making practices continue to be based on western framings that focus on efficiency and ration-

ality, limiting real empowerment. However, where decision-making processes have been more flexible, allowing processes to adapt to reflect different values, they have been more successful in reaching joint decisions.

Creating a space where all positions can be considered equally is crucial to achieving the spirit of FPIC. Legal frameworks are often necessary to force the start of a conversation. But they should look to codify existing practices and norms and be flexible in allowing new norms to develop, based on new partnerships between government, civil society and the private sector. Local communities and governments need to work together to identify shared values – based on both cultural and technical knowledge – and practices for implementing FPIC in a way that empowers local communities. This is seen in the Canada case study. By contrast, the strong anti-mining sentiment seen in the Philippines – which has followed from the many environmental disasters and violent conflicts surrounding mining operations – together with the government's prioritisation of mining's contribution to economic growth, has prevented government and civil society from coming together to identify shared values and institutions for upholding those values.

Institutions should be set up to give access to different perspectives. The MVRMA boards include indigenous knowledge not as a technical requirement but as part of a process of representing and incorporating different worldviews (Armitage,

2005). The boards are allowed to create their own rules and policies, which enable them to reflect the social and cultural values that they hold. This flexibility is in part the result of the political and social context in which these boards were designed, specifically aimed at enabling aboriginal communities to decide on the use of their land under Comprehensive Land Claims Agreements.

Conclusion

There is no blueprint for the institutions for implementing FPIC. Research into flexible systems for participation and deliberation will, however, provide governments, civil society and the private sector with guidance on how to achieve the 'spirit of FPIC'. This requires deliberative and participatory decision-making processes which reflect the knowledge, values, practices and norms of local communities. Deliberative processes are institutions that share information from all participants, consider all views equally based on the evidence shared and give conscientious consideration to a discussion in which all values and positions are relevant. Institutions for FPIC should incorporate customary practices that allow indigenous communities to properly reflect their values and consider indigenous knowledge alongside 'western scientific' knowledge. This will allow indigenous peoples' perspectives to be considered more equally alongside those of governments and companies, which are conventionally dominant. This is the spirit of FPIC.

CONTACT DETAILS



Abbi Buxton
 Researcher, Sustainable Markets Group
 International Institute for Environment and
 Development (IIED)
 80-86 Gray's Inn Road, London, WC1X 8NH,
 United Kingdom
 Tel: +44 20 3463 7399
 Fax: +44 20 3514 9055
 Email: abbi.buxton@iied.org
 Website: www.iied.org

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- For the Indigenous Peoples Rights Act of 1997 and its implementing rules and regulations see: www.ncip.gov.ph/downloads/irr.pdf

5 Indigenous benefit-sharing in resource development – the Australian Native Title experience

by DAVID RITTER

Introduction

An increasing number of multi-lateral environmental agreements (MEA) involve some form of rights-based participatory process for engaging local and indigenous peoples. Given international developments, two decades of Australian experience of working with national indigenous land legislation which provides rights of participation in decision-making about development should be of broader interest. Enacted in 1993, the Australian Native Title Act (NTA) provides a mechanism for the recognition of native title.¹ Australia's native title processes provide an analogue to international arrangements for the participation of local and indigenous people. In particular, this article describes the processes of indigenous representation, negotiation and agreement-making over mining and development that is mandated under the NTA, and then evaluates what lessons and learning may apply to similar processes under MEAs (such as free, prior informed consent). In particular, the

purpose is to describe participation in negotiation processes with industry and government, rather than to address dynamics at a community level.

Native title – indigenous peoples' rights to land and water arising from their own customary laws and customs – was only recognised in Australia in 1992 in the case of *Mabo v Queensland (2)*. This is much later than similar decisions elsewhere in the group of countries that follow the common law (including the USA, Canada and New Zealand) inherited from the United Kingdom. The Australian law of native title departs from that of other common law jurisdictions in important respects (Strelein, 2009). The NTA was the Australian government's legislative response to the Mabo case – it set up a legislative system to deal with the welter of claims that were expected to follow the decision.

Background – native title claims, future acts and representative bodies

The purpose of the Commonwealth Native

¹ For more information see: http://www.hreoc.gov.au/social_justice/native_title/index.html

Title Act was to provide an orderly process for resolving native title claims in Australia. Significantly the legislation did not create rights to land, but established a mechanism for the recognition of property rights that may have existed under the common law of Australia, but hitherto had never been recognised. The claim process provided for applications for recognition of native title to be lodged that would then be subject to a mediation process. In the course of this, the indigenous claimant community would engage with all statutory title holders in the area in question in a bid to achieve a legally binding consensus. This article is not concerned with the system for claiming land itself, but with two ancillary elements of the legislative architecture:

- The 'future act system', which set out how land and waters subject to registered native title claim could be dealt with by the government and third parties prior to the claim being decided;
- The 'representative body system', under which special 'Aboriginal corporations' were mandated with particular authority and provided with funding to represent indigenous groups bringing native title claims.

The functioning and interaction of the future act and representative body systems together governed how resource companies and governments have obtained permission from indigenous groups to undertake development on land subject to native title in Australia.

Broadly, the future act system stated that once a native title claim had been registered, a resource development in the area in question could only take place once certain indigenous procedural rights had been exhausted.

The term 'future act' is defined in the NTA. Broadly a future act means either the creation of a mining tenement (see Box 1) or a compulsory acquisition of land by government, on an area subject to a registered native title claim or area where native title had been determined to exist. The

future act system describes the statutory mechanism set up in the NTA for dealing with future acts.

The strongest of these rights was a 'right to negotiate' (for a minimum of six months) for the creation of a full right to mine. The weakest was no more than a right to be notified. Crucially (and contrary to some popular mythology in Australia), the NTA never established any right to free, prior informed consent or anything like the simple capacity to veto. Like the statutory arrangements for dealing with native title claims themselves, the intention of the right to negotiate was that contentious matters should be resolved by alternative dispute resolution (negotiation in good faith, mediation and arbitration if necessary), rather than be contested in court.

The right to negotiate and other procedural rights available under the future act system is vested in the registered native title claimant groups themselves and in particular in certain named individuals who enjoyed special status as the named applicants. However the NTA also intended that claim groups should be able to avail themselves of native title representative bodies (NTRBs). These NTRBs were special Aboriginal corporations with geographically bounded areas of operation who were funded to retain lawyers, anthropologists and other staff to provide expert advice and representation to native title claimant groups within their jurisdiction. Funding was generally provided by the Commonwealth government, with additional money also sometimes coming from state governments. Over the life of the NTA, the level of financial support provided to the NTRBs by the Australian government has often been woefully inadequate with dire consequences for the effectiveness of the services provided. One leading study in 1999 found that, Australia wide, it would be impossible for NTRBs to professionally discharge their functions because of lack of funding. These were functions that the government itself had



Photo: Ric Davies

Applicants for the Mayala native title claim sign the Irvine Island mining agreement following a claim meeting attended by some 250 Mayala people in Broome, Western Australia in June 2011.

imposed on the bodies as mandatory.

Underfunding by government created a direct imperative for NTRBs to seek alternative funding from resource companies on a cost recovery basis: that is, when a resource company required negotiations with a native title claimant group to be discharged under the future act system as a precondition to obtaining their mining tenements, the corporation would provide additional financial resources to make the engagement possible. These additional monies would generally go on the cost of extra community meetings (often expensive and resource intensive affairs to bring a dispersed community together), as well as the impost associated with retaining additional staff potentially including lawyers, anthropologists, archaeologists, indigenous liaison officers and others. This further capacity might be hired for short periods or for years – depending on the scale and duration of the negotiations in question.

The author's primary involvement in the native title process was as Principal Legal Officer of the NTRB for the Murchison, Gascoyne and Pilbara regions of Western Australia (the north west) between 1999 and 2005, now known as the Yamatji Marlpa Aboriginal Corporation (YMAC). YMAC's jurisdiction covers over 1 million square kilometres, with offices in Geraldton, South Hedland, Karratha, Tom Price and Perth. *Yamatji* means Aboriginal 'man' in the Murchison and Gascoyne, while *Marlpa* is used to denote the Aboriginal people of the Pilbara.

The areas in question are highly resource rich, including significant deposits of iron ore, natural gas, copper, molybdenum and gold. As a consequence, the major emphasis of my job became overseeing the professional advice and representation provided on negotiations with resource companies, rather than pursuing the land claims themselves. The direct result of development pressure was that actually

having native title applications decided was pushed into the background. Many claims remain unresolved after a decade or more in the system.

Methods and processes – indigenous representation and response

It was clear that despite the enactment of the NTA, without streamlining and systematisation, the indigenous people of the north west – the Yamatji and Marlpa peoples – would miss out on the procedural rights and associated opportunities created by the legislation. There were simply too many resource companies wanting to mine and explore to deal with tenement applications on an *ad hoc* basis.

Six key steps were taken to maximise the rights and opportunities available to the Yamatji and Marlpa peoples:

1. Procedural rights about mining and development only accrued to indigenous peoples once a native title claim had been registered, so it was essential to ensure that native title claims had been registered over the entire area of the YMLC's jurisdiction.
2. The number of tenement applications and strictness of the timelines for response meant that it was essential to have a reliable method for taking legal and political instructions from the claim group. Accordingly each native title claim group within the YMLC's jurisdiction appointed a smaller working group (usually of around a dozen people) who would meet for one-two day meetings on around a six-weekly basis to make all decisions.
3. As far as possible the YMLC obtained standard instructions from each claim group to 'object' to everything, not because there was necessarily actual opposition, but in order to maximise indigenous say over development.
4. Standard instructions were also obtained to recover costs of dealing from resource developers as often as possible.
5. Although always imperfect, certain protocols and ways of behaving were made standard to minimise the friction associ-

Box 1: Tenements and mining rights

Tenements are a form of title that gives the holder the permission to mine – it is a form of mining title. Different tenements are created for different levels of resource activity, such as mining, exploration, prospecting and infrastructure. Australia has a federal system of government in which the power to grant land titles is held by the States.

ated with cross-cultural communication between indigenous and non-indigenous people.

6. Although dealing with each tenement application was a discrete process under the NTA, it became the convention for particular classes of tenement to be dealt with consistently:

- Consent to prospect was generally provided in exchange for a small scale survey to ensure that no places of particular cultural significance would be disturbed;
- Consent to exploration was generally provided in exchange for a larger scale survey; and
- Consent to full scale development was generally provided in exchange for large-scale benefit-sharing, usually including direct monetary payments; jobs, training and business opportunities; share offers, etc.

Each of the above would be set out in a written contract. Typically, the smaller scale agreements could be dealt with comparatively quickly, while negotiations over large-scale developments could take months or even years. The scale of the payments was generally decided by a process analogous to a market: native title groups would generally obtain the largest amount that they could reasonably bargain for, bearing in mind that they did not have the power to veto development, only to delay for a finite period of time. The art of the negotiations was to trade the consent at precisely the moment when it was worth the most to do so. In most mining negotiations, the best time to reach agreement would be when the resource proponent was

Box 2: The Badimia Working Group

Since 1997, the Badimia Working Group – a group of approximately one dozen ethnically and culturally Badimia people (a tribal group from near Mt Magnet in Western Australia) have met regularly to make decisions about native title processes associated with all proposed exploration, mining and development on the land that they are claiming under the Native Title Act. There are many other tribal working groups throughout the north west of Western Australia.

under the greatest pressure to obtain the necessary permissions to go ahead as (for example) a precondition to further capital investment.

The system set out above constituted a radical departure from the functioning of indigenous societies in the north west prior to the NTA. Having never before held rights in relation to development, there were no pre-existing indigenous systems for dealing with such matters. The whole edifice for maximising access to the rights and opportunities inherent in the future act system was imposed – albeit with the active participation in design and consent of the communities in question. Nevertheless, the system described was never completely detached from indigenous law and custom.

However, native title meetings take time and are often stressful, imposing a considerable burden on indigenous communities. The social realities of indigenous people in Australia also mean that many of those attending native title meetings may often have very serious mental or physical health issues.

The representative structures mandated by the NTA and further elaborated in native title practice acted as a substitute for direct participation by the entire community at all times. The point of the substitution was essentially practical: to provide a legal and administrative mechanism by which certainty of indigenous consent and agreement could be given under the NTA. However, a variety of feedback loops exist in the native title process to try and minimise the extent to which the

representative structures may become distanced from the broader communities which they represent. For example, under section 66B of the NTA, a named applicant to a native title claim who is not acting in accordance within the scope of community authorisation can be removed as an applicant. This presents an intersection of traditional authority with statutory power. In the case of *Daniel v Western Australia [2002] FCA 1147*, for example, an applicant was removed, after the broader community which he was meant to represent had authorised him to execute a native title agreement and he refused to do so. Behind the face of the decision, lay considerable community stress and conflict around the land use decisions in question.

Rights to participate in decision-making, for example, were often determined by traditional authority and would be manifested in people being chosen to conduct negotiations, or heritage surveys on the basis of their right to 'speak for the country' in question. 'Speaking for country' is an expression commonly used in the Yamatji and Marlpa lands to refer to an individual having the right of traditional authority over an area of land or waters. For example it might be said 'Old Jack speaks for that country'.

Lessons learnt, critical reflections and analysis – Australia's Native Title era

Undoubtedly, the system described above was successful in ensuring that development did not take place on land under native title claim in the north west without some process of engagement with the indigenous traditional owners taking place. Many hundreds of individual dealings took place, giving rise to numerous agreements and tens (possibly now hundreds) of millions of dollars worth of commitments by developers. It seems likely that numerous sites of traditional significance were saved from destruction. A generation of post-colonisation indigenous people experienced a hitherto unknown level of

Photo: Ric Davies



Carrying out a flora survey on Irvine Island. Aboriginal traditional knowledge has been invaluable in assisting with environmental studies.

empowerment apropos of resource development, leading to the tangible economic returns described above. In the north west, all of this occurred in a reasonably predictable, effective and cost-effective economical fashion, at least by the standards of Australia's native title system. Evidence remains mixed and ambiguous as to whether the inward flow of monies arising out of these negotiations has resulted in any improvement in the social or economic well-being of the communities in question (I expand on this in Ritter, 2009, pp. 58-61).

However, it is also easy to overstate the case for what occurred. At one level the functioning of the NTA in general and the future act system in particular was more intended to ensure the orderly processing of resource tenements than to preserve indigenous rights. After the initial upheaval associated with the NTAs introduction, the system settled reasonably quickly in to a market-like system of exchange in which

developers would come and negotiate timely permission in exchange for consideration for value. The eventual impact of the NTA was not only the emancipation of indigenous people to have significant procedural rights, but a form of commoditisation. In effect, the NTA functioned to give traditional rights a narrow pecuniary value, creating what was in substance a 'native title market'.

There are a number of lessons from Australia's future act and native title representative body system that could have wider application.

- Determining traditional tenure can be an extremely lengthy and complex process, taking literally years.
- There is a tension between conserving traditional structures and the provision of complex procedural rights: the dynamic is never straightforward, but it seems likely that the internal functioning of Australia's indigenous societies was affected by the procedural obligations of the NTA. Proce-

dural rights should be designed to impinge on traditional structures as little as possible, but even with the best will in the world there are limits: it is simply not feasible to graft liberal procedural rights onto a system of traditional law and custom without causing some friction and a certain amount of underlying cultural transformation.

- New procedural rights do not escape the gravity of underlying political and economic pressures: in the end it was hard not to think that the native title system mainly functioned to facilitate resource development. A true right of veto would have made the situation very different as it would have given traditional landholders the genuine capacity to decide whether or not to participate in the resource economy on a case-by-case basis.
- Adequate resources and expert advice is essential to ensure that indigenous peoples are fairly able to utilise procedural rights to their advantage.
- Standardising procedures, cost recovery measures and cross communications protocols can go some way toward maximising rights and opportunities.
- Rightly or wrongly, the participation of

indigenous people in the system was confined by the limitations placed by a pre-defined process, including the absence of any right of veto.

Conclusion

Any system which creates rights for indigenous people – no matter how well intentioned or designed – will still inevitably have a transformative effect to the extent that it requires the people in question to act and think in new ways. In Australia, the Native Title Act did succeed in giving indigenous people a seat at the bargaining table every time a resource developer wanted to mine or explore on land under claim. The consequence was large-scale benefits coming into indigenous communities and development causing less destruction than it may have otherwise entailed. But it would be wrong to imagine that native title in Australia acted as break on development. Far from it, the native title system provided a way of bringing traditional indigenous rights in land within Australia's resource economy in an orderly way. Things changed, so that things could remain the same.

CONTACT DETAILS



David Ritter
Head of Biodiversity
Greenpeace UK
Tel: +44 77 1770 4595
Email: david.ritter@greenpeace.org

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Changing the system from within: participatory plant breeding and ABS in China

6

by JINGSONG LI, JANICE JIGGINS and YICHING SONG

Guangxi – centre of maize diversity

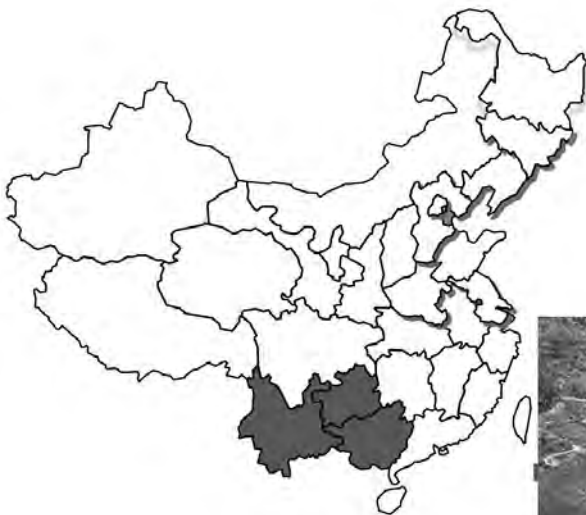
With the rapid loss of biodiversity worldwide, agricultural genetic resources are increasingly under threat. Those in China are no exception.

Guangxi is a mountainous area of southwest China. Although economically poor, Guangxi is agroecologically diverse and one of the centres of maize genetic diversity in China. However, a study in the 1990s revealed that the formal State seed system was operating entirely separately from farmers' own seed systems, resulting in inadequate variety development, poor adoption of formally bred varieties by farmers, and a decrease in both the genetic base for formal breeding and genetic diversity in farmers' fields (Song, 1998). This was impacting on food security and agrobiodiversity. Since 2000, the opening up of the domestic seed market has seen a rapid expansion in the availability of commercial seed, to a great extent marginalising farm-

ers' systems for saving and exchanging seed of local varieties. This has resulted in a dramatic loss of genetic diversity in farmer's fields in the last decade, in favour of modern varieties which are less resilient to the increasingly harsh local climate (e.g. drought).

China's first participatory plant breeding (PPB) programme was initiated in Guangxi and aims to address these challenges.¹ This type of collaborative research between farmers and plant breeders in government institutions has never been done before and is unique in China. The programme not only aims to develop improved crop varieties for farmers but also to develop local agreements by which farming communities can benefit from sharing their genetic resources and related traditional knowledge with breeding institutes. The programme has opened up space for farmers to negotiate ABS agreements and in the process strengthened the legiti-

¹ Participatory plant breeding is an approach to seed development and improvement that involves farmers and breeders in systematic procedures for jointly identifying desirable traits, selecting promising lines, and evaluating the resulting varieties.



Research site in Guangxi, Yunnan and Guizhou provinces. The photo shows a typical landform in this region.

macy of their rights/claims to benefit-sharing. The development of ABS mechanisms is also feeding into ongoing policy discussions on how to implement the ABS provisions of the Convention on Biological Diversity and the Nagoya Protocol.

ABS in China

Plant genetic resources (PGRs) for food and agriculture have been developed over millennia to satisfy the most fundamental of human needs. The free flow and exchange of these resources was once governed by individuals and communities. However, this has changed as intellectual property rights (IPR) regimes have been applied to agriculture. In international and national law, IPRs often overshadow or even extinguish the natural rights of farmers and farming communities to landraces and varieties they have developed, largely benefiting commercial plant breeders.² These companies have been able to develop new seeds, often based on farmers' PGRs,

and then protect their investment through commercial patents or plant variety protection laws which prevent farmers from legally exchanging and saving seed for future use (Tansey and Rajotte, 2008).

The recently agreed Nagoya Protocol is attempting to address this by requiring those accessing genetic resources for research and development to share the benefits they derive with the countries and communities that provide these resources. But in practise, in China, there is still no formal ABS policy, although in 2011, the Chinese government set up China's National Biodiversity Commission, which has started to draft national ABS regulations. Legislation to promote farmers' rights still lags behind protection of commercial breeders' rights, however.

There are also uncertainties over who 'owns' varieties developed through PPB and how benefits should be shared. Discussions with farmers have shown that the concept of intellectual property is new to

² A landrace is a local variety of a domesticated animal or plant species which has developed largely through natural processes, by adaptation to the natural and cultural environment in which it lives. It differs from a formal breed which has been selectively bred deliberately. Landraces are usually more genetically and physically diverse than formal breeds. Source: Wikipedia.

Table 1. The development of participatory plant breeding in Guangxi, southwest China

Date	Activities	Results
Phase 1: PPB (2000 onwards)	• Improve landraces and farmers' varieties • Develop locally adapted hybrids • Build farmers' capacity	Breeding processes documented and evaluated: • Guangxi Maize Research Institute (GMRI) – formal breeder • 13 communities • 100+ individual farmers
Phase 2: Community seed production (2005 onwards)	Community-based PPB seed production as a market-based reward for PPB farmers conducted by a women's farmer group (15 farmers) with technical support from the GMRI breeders.	Detailed information documented and analysed for seed production in terms of scale, yield, local distribution and problems/risks.
Phase 3: ABS contracts (2008 onwards)	ABS contracts developed and agreed between the breeding institute (GMRI) and 12 farming communities.	Contracts signed 2010.

local farmers. Chinese farmers do not own their land. Their perception of rights and property and their intellectual contribution to seed development are not strongly embedded in culture – and are actively discouraged. This creates a barrier for farmers who seek to become rights claimants during ABS negotiation processes.

The PPB programme had to deal with these uncertainties and contradictions as it tried to develop ABS mechanisms to benefit farmers through the PPB process.

The PPB programme

The PPB programme began in 2000. It was initiated and facilitated by a group of Chinese agricultural policy and social science researchers at the Centre for Chinese Agricultural Policy (CCAP) at the Chinese Academy of Sciences, together with concerned plant breeders. It was supported by the International Development Research Centre (IDRC) and the Ford Foundation. The project team consisted of: farmer breeding villages in Guangxi, local extensionists, breeders from Guangxi Maize Research Institute (GMRI) and the Institute of Crop Science (ICS)

under the Chinese Academy of Agricultural Sciences (CAAS), and sociologists from CCAP.³ The programme aims to bring direct benefits to poor maize growers and conserve genetic diversity by:

- developing improved crop varieties for farmers, combining formal and local farmers' genetic resources and knowledge; and
- developing mechanisms for access to genetic resources and benefit-sharing (ABS) between breeding institutes and farming communities.

The PPB team used a process of participatory action research to enable farmers and breeders to work together to learn about, explore and test innovative practical solutions for landrace variety improvement, seed production and related benefit-sharing mechanisms. The programme developed in three stages (see Table 1). From 2000 to 2011, the project gradually became a programme, expanding from one to 13 communities and from individual farmers to farmer groups. The selection of PPB communities was based on two aspects: the richness of local genetic resources, and the willingness of farmer breeders to take part. For both breeders and farmers, PPB became an entry point to

³ Their collaboration has been developed through Ph.D. research supported by Wageningen University, The Netherlands. The financial and intellectual support of our international partners is gratefully acknowledged.

explore and identify technological and institutional options to bridge farmers' seed systems and the formal seed system, integrate scientific knowledge and farmers' knowledge in breeding and conservation, and build mutual respect and understanding among farmers and public breeders.

Phase 1: from 2000–2003, aimed to develop mutually beneficial partnerships between formal breeders and communities and build farmers' capacity through breeding improved varieties. PPB varieties were successfully developed, but there were difficulties in marketing PPB varieties so that farmers could benefit (see below). Therefore, other ways to generate benefits for farmers were explored.

Phase 2: from 2005 onwards. Farmers suggested initiating community seed production and marketing of varieties bred by the team. Research focused on this activity and drawing lessons from it.

Phase 3: beginning in 2008, the programme started to develop ABS contracts between plant breeders and farmers. This enabled more farmers involved in developing PPB varieties to share in the commercial benefits from the varieties and agree the terms for access to farmers' genetic resources by formal breeders.

Challenges in releasing PPB varieties

By 2007, there were more than 100 newly bred varieties tested in on-station trials and farmers' fields. Five farmer-preferred maize varieties were selected and released to the 13 trial villages. Although the programme results showed that it benefited both farmers and formal breeders through joint breeding and the exchange of maize genetic resources, the programme faced challenges in releasing the new varieties and enabling farmers to claim benefits from their contribution. These challenges arose from China's seed regulations in relation to varietal release criteria, lack of recognition of collective intellectual property rights, and a lack of national ABS legislation.

China's seed regulations

The formal seed release system requires that new seed varieties must pass a series of tests: the Value for Cultivation and Use (VCU) test, and the Distinctiveness, Uniformity and Stability (DUS) test. Existing seed regulations only recognise and release varieties that pass these tests (Seed Law, 2001). But PPB varieties are unlikely to comply with these variety release criteria, such as VCU (i.e. value for cultivation and use) and DUS (distinctiveness, uniformity and stability) testing which are tailored to the characteristics of modern varieties, while farmer improved varieties cannot always show 'clear improvement' under different growing conditions, and can hardly meet the DUS criteria (Visser, 2002; Louwaars, 2007). Four of the five PPB varieties failed at the VCU testing stage in 2003. Only one hybrid PPB variety was officially released, *Guinuo 2006*, and this was registered and later commercialised by GMRI breeders. For the other varieties, the only option was to release the seed unofficially to the surrounding farming communities. But this meant limited recognition of the varieties in the marketplace as they were not officially released.

Intellectual property rights (IPRs)

IPRs grant exclusive rights to individuals or organisations, but these do not apply in PPB, nor to landraces and varieties developed collectively by communities of farmers. Varieties could be introduced into China's formal breeding system by registering them under a breeder's name, but this approach does not recognise farmers' input. There was no mechanism for deciding how each stakeholder might benefit from the sale or use of a PPB product. As a local initiative, community-based seed production provided a way to share both monetary and non-monetary PPB benefits. However, it was limited to farmers in one trial village and at that stage there was no formal mechanism for benefit-sharing with other PPB farmers. An unwritten agree-

ment between the PPB team, the breeding institute and the seed company supplying the commercial market enabled PPB farmers to supply *Guinuo 2006* locally.

Lack of ABS legislation

The lack of legislation meant there was no framework or mechanism for agreeing ABS between breeders and farmers. There was also a continued lack of awareness among both farmers and policy makers about the wider range of potential commercial and public interest benefits of both *in situ* conservation and fair and equitable use of local plant genetic resources.

Developing access and benefit-sharing (ABS) contracts

Given the lack of ABS legislation in China, the project team decided to formalise agreement on access and benefit-sharing among stakeholders through mutually agreed contracts. During the drafting of the ABS contracts from 2008 to 2010, the team reflected on how to protect the public value of crop genetic resources, considering farmers' contribution to agrobiodiversity enhancement and to maintaining the genetic base for hybrid breeding. The team also considered how to recognise farmers' rights to benefit-sharing, individually or collectively. During initiating ABS contracts, both breeders and farmers were interviewed by policy researchers, and later on they were brought together for further discussion and negotiation, based on their current conflicting interest, and the potential benefit from PPB collaboration.

In June 2010, the PPB programme's ABS agreement was signed among farmers and GMRI breeders. The contracting process was facilitated and witnessed by

CCAP researchers. The agreement recognises the contribution of both PPB farmers and their genetic resources during the breeding process, and regulates how benefits are shared. This includes e.g. the right to register new varieties, sharing ownership (via registration of joint plant breeders' rights (PBRs)⁴) and royalties, subsidy payments to farmers for landrace conservation and to cover any risks associated with breeding experiments, such as harvest loss due to severe weather conditions. Whilst the ABS contract sets up an initial agreement for benefit-sharing between breeding institutes and farmers, its effective implementation will depend on continuing to develop mutual understanding and collaboration between the parties.

What has the programme achieved?

The PPB process has created a platform for mutual understanding, knowledge creation and social learning between farmers and formal breeders and researchers on the project team. Breeders and farmers were able to learn from each others' experiences, ideas and values, creating a new understanding between these previously distant actors. Although they are from different backgrounds and may not share the same values and aspirations, farmers and breeders are linked by a common goal of developing improved varieties. By engaging stakeholders in practical action, PPB provides a way of actively involving stakeholders in searching for a solution to a problem, and this can change their perspectives. This has led to a recognition of the important role of farmers in plant breeding and conservation, and the need to acknowledge the rights of farmers over PPB varieties and landraces, which is vital for creating incentives for farmers to

⁴ PBRs are an internationally recognised instrument for registering the contribution of plant breeders to the development or improvement of seeds that are subsequently commercialised. A PBR confers the right to receive a proportion of the commercial profit. According to the PVP law (1997), Article 2, item 7 (www.caas.net.cn/caasnew/nykjpx/nyxz/6163.shtml), the PBR can be granted to either institute breeders or individual (hobby) breeders. For collaborative breeding, the ownership of PBR is based on contract arrangement. If farmer-breeders and other stakeholders have such recognition, farmers' rights over local genetic resources can be strengthened through contract arrangement.

conserve genetic diversity.

Working in partnership with farmers has greatly strengthened the legitimacy of the farmers' position as a stakeholder claiming rights, and the asymmetry of the existing legal framework in the way it treats farmers and commercial organisations has become apparent. The subsequent development of ABS contract mechanisms has given legitimacy to the idea of benefit-sharing with farmers in policy discussions.

The PPB and ABS innovations at the community level have also influenced formal (public) breeding institutions at provincial and national level, because plant breeders from GMRI (at provincial level) and the ICS (at national level) have been directly involved in the PPB work at local level. At each stage of the project, the CCAP researchers, farmers and breeders jointly defined problems, developed practical solutions and reflected on the tensions between PPB work at the local level and regulations at the national level (mainly seed laws). The resulting learning was documented and shared with government through regular policy workshops and discussions (see below). This reflexive process provided a systematic approach for fostering institutional innovation at different levels, including the adoption of PPB practices by national breeding institutes and extension programmes and creating awareness amongst the Ministry of Agriculture of the need to reform the national seed regimes. Further effort is required to stabilize this capacity in the evolving regime, such as amendment of existing seed regulations in order to accommodate farmer improved varieties, support to public research institutes' role in breeding oriented to smallholders and conservation, protection of the public value created by PPB in relation to agrobiodiversity conservation and farmer empowerment through ABS-related agreements, and support to farmer-led seed production and marketing (Li *et al.*, forthcoming, b).

The project has also had to address

power relationships. The national breeding institute leads the national agricultural research system, which has a top-down organisational style, with a clearly defined power hierarchy. But unlike any single disciplinary research project or one confined to local-level research, the PPB programme has facilitated interactions across the power structure (e.g. top-down bureaucratic settings within the formal breeding system) to create a network of relationships among diverse stakeholders with complementary experiences and knowledge backgrounds. The team consists of sociologists and policy researchers from CCAP, besides that the team also has active collaboration with GMRI and CAAS breeders. This has been facilitated by the close collaboration between agricultural scientists at local, provincial and national levels in the PPB process, and the systematic feedback and discussion of local level results at higher levels. At the same time, for both breeders and farmers, PPB became an entry point to explore and identify technological and institutional options to bridge farmers' seed systems and the formal seed system, integrate scientific knowledge and farmers' knowledge in breeding and conservation, and to build mutual respect and understanding among farmers and public breeders.

Influencing policy

The PPB project team is engaged in ongoing discussions and exchanging knowledge with researchers from the CAAS, policy makers from the Ministry Of Agriculture (MoA) and the Ministry Of Environmental Protection (MoEP). The PPB programme has also facilitated and/or contributed to 12 policy workshops and roundtable discussions at provincial, regional, national and international levels since 2000. These discussions have included the direct and indirect involvement of national and provincial policy makers from MoA and MoEP, CAAS, GMRI and international project partners.

Ongoing policy dialogue has created a platform where local-level PPB and ABS innovations can be discussed and assessed. This dialogue has borne fruit: at a policy workshop organised by CCAP in 2002, PPB was considered as an alternative and complementary methodology for crop improvement and agrobiodiversity management for the first time. In 2004, the MoA agreed to include PPB working methods in its national extension reform pilot programme; and from 2008 onward, a national maize breeding programme led by CAAS has collaborated with the CCAP team on one of its sub-objectives: conserving maize genetic resources and developing participatory maize breeding in southwest China.

The dialogue has also raised awareness of the existing barriers in policy and law that prevent farmers from benefiting from PPB, and promoted understanding of the need for changes in policy and law to remove these barriers. This has important implications for scaling-up the approaches.

Clashes between new approaches and established laws can foster change in the government regime. And change is further stimulated by the vacuum in national ABS legislation, which means that policy makers are actively looking for solutions at this point in time. With the implementation of the Nagoya ABS Protocol, CBD member countries are expected to formulate and enact national ABS legislation in the coming years. But the absence of ABS law in China has created a regulatory vacuum for PPB practitioners. There is no formal way for farmers' contributions to seed improvement and development to be recognised under PBR. The PPB programme has demonstrated an alternative approach in the form of ABS contracts between project participants. However, we also need to continue exploring ABS options within the legal system. China has already ratified and implemented the Convention of Biological Diversity (CBD)

and is currently preparing to become a signatory to the International Treaty on Plant Genetic Resources (ITPGRFA), which aims to promote the conservation and sustainable use of plant genetic resources for food and agriculture, and fair and equitable sharing of benefits derived from their use, in harmony with the CBD.⁵ China is now exploring a two-track policy framework for access and benefit-sharing relating to plant genetic resources, in order to balance the needs of commercially-driven IP protection regimes for a limited list of high value plants (such as ornamentals) and commercially important commodities (such as hybrid maize as a foodstuff for the pig industry), and the protection of farmers' rights.

Conclusion

In a context where farmers face significant legal barriers to securing their rights and benefits, this experience shows how a local-level experimental project, involving formal breeding institutes directly, can demonstrate a new way of doing things. By systematically feeding back the results to government departments, the project has started to change attitudes, practices and policy debates, paving the way for changes in policy and law. It has also strengthened the legitimacy of farmers' claim to share benefits from the use of plant genetic resources. Although concrete changes in law have yet to come, these achievements are significant, and show how positive change can be achieved by working within the system. The ABS agreements could serve as the basis for further exploring appropriate PIC principles and protocols in China (Li and Song, 2010; Song *et al.*, 2012). Although ABS legislation in China is not yet adequately formulated, ABS can still be addressed in local practice in terms of procedural approaches, such as ABS contracts, because the legal basis for these mechanisms already exists (Li *et al.*, forthcoming, a).

⁵ The International Treaty on Plant Genetic Resources for Food and Agriculture entered into force in 2004. See: www.planttreaty.org for details.

CONTACT DETAILS



Jingsong Li
Senior Research Assistant
Centre for Chinese Agricultural Policy
Chinese Academy of Sciences
Beijing
China
Email: jingsongli0421@gmail.com



Janice Jiggins
Communication and Innovation Studies Group
Wageningen University
P.O. Box 8130
6700 EW Wageningen
The Netherlands
Email: janice.jiggins@inter.nl.net



Yiching Song
Senior Research Scientist
Centre for Chinese Agricultural Policy
Chinese Academy of Sciences
Beijing
Email: yiching2002cn@gmail.com

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PART III

Community
protocols
for genetic
resources
and ABS



Decolonising action-research: the Potato Park biocultural protocol for benefit-sharing

7

by ALEJANDRO ARGUMEDO

Introduction

This article describes the process of developing the Potato Park biocultural community protocol (BCP) for equitable benefit-sharing: an innovative action-research approach, which was led and shaped by indigenous Quechua communities in Peru. It was a process of empowerment for the communities and their institutions, enabling effective control of decision-making, particularly in defining the content of the BCP. While this process was carried out throughout the three-year project period, the development of the protocol itself took approximately 15 months.¹

Background

The Potato Park in Cusco, Peru was established by six Quechua communities in

2002, with support from ANDES and IIED. The park currently incorporates the communal land of the Amaru, Chawaytire, Pampallaqta, Paru Paru and Sacaca communities, covering a total area of 8240 hectares, with over 6000 residents.

This area of the Andes is a known micro-centre of origin and diversity of the potato. The park serves as a genetic reserve, with 700 local cultivars, 410 varieties repatriated from the International Potato Centre (CIP), and another 151 being preserved for communities in Ayacucho and Apurímac. In addition, many native Andean crops and medicinal plants grow in the area.

The Association of Communities of the Potato Park (the Association) governs the park based on Andean values, customary laws and practices. Elected members from

¹ The process was part of an IIED-led project whose aim was to assist indigenous and local communities to protect their rights over their biocultural heritage in accordance with their customary laws and practices. It sought to identify new alternatives to ABS that promoted ecological sustainability and resilience and that economically benefitted the poor. The project took place in five countries – Peru, India, China, Kenya and Panama – between 2005 and 2009. It was funded by the International Development Research Centre and the Christensen Fund.

² Asociación ANDES is an indigenous NGO whose activities are focused on alleviating poverty by developing and disseminating alternative models for community-led management of biodiversity and landscapes.



A traditional Andean farmer, Potato Park, Písaq, Peru.

each community comprise the Board of Directors. Various economic collectives, based on the conservation and sustainable use of biocultural heritage, contribute to the livelihoods and development of the park.

Methodology

ANDES understands that knowledge comes from a variety of ways of knowing, and that any single perspective or approach is laden with assumptions, blindnesses and limitations. This action-research project began with a methodological orientation that combined the complimentary

Box 1: Methodological approaches

Participatory methodologies: involve relevant stakeholders in the decision-making processes and actions/activities that affect their lives.

Emancipatory/decolonisation methodologies: these begin with critiques of colonial relations in past research involving indigenous peoples, and highlight some methodological considerations for carrying out such research. The aim is to 'ensure that research with indigenous peoples can be more respectful, ethical, sympathetic and useful'. It is based on developing relationships and following community protocols, and explicitly addresses issues of power and rights.

Indigenous methodologies: rooted in indigenous cosmovisions, conceptual frameworks and ways of life.

Source: Smith (1999).

approaches of participatory, emancipatory/decolonising and indigenous methodologies (Box 1). The methodologies for the project were designed and implemented collaboratively with indigenous community partners. An explicit focus on decolonising approaches to access and benefit-sharing was incorporated, where traditional cultural beliefs, practices and ways of learning in Quechua communities were valued and asserted in the research as a way of resisting dominant discourses. The methodology sought to place control of actions and decisions that affect their lives in the hands of indigenous peoples themselves: from how problems and actions are conceptualised to how actions are taken and by whom.

The collaborative methodology design began with the process of free, prior informed consent (FPIC). This was especially important as the scope and framework for the investigation had already been pre-defined by the overarching project. ANDES staff and local researchers carried out consultations in village assemblies and focus group meetings with indigenous community members to re-interpret this framework from the perspective and needs of the community members. The objectives of the project became to:

- identify Quechua customary laws that govern access to and benefit-sharing of traditional resources and knowledge according to the holistic concept of collective biocultural heritage; and
- apply these norms in equitable ABS models with the aim of asserting the rights of indigenous peoples over their collective biocultural heritage at local, national and international levels.

The development of an appropriate methodology for the action-research was based on the following requirements:

- the methodology is oriented towards meeting the needs of the communities and contributing to their development;
- it uses flexible methods to collect and vali-

date scientific information and traditional knowledge, and link these two knowledge systems; and

- indigenous researchers act as a bridge between western and indigenous knowledge systems.

Capacity building for local indigenous researchers was an important part of the process, since the research tools had to be in the hands of trained indigenous peoples – for their own ends and in harmony with their own cosmovision and traditional cultural approaches to knowledge – learning, dialogue and decision-making.

Research phases

For planning and implementation purposes, the research was broken into three phases.

Phase 1: Identifying community norms and customary laws on benefit-sharing

The main objective of the initial phase was to identify and document customary laws and the underlying principles that relate to access to biocultural resources and the equitable distribution of benefits within the Potato Park. ANDES also trained 14 indigenous researchers (seven women, seven men), who represented the six communities of the Potato Park. They were chosen by their community assemblies, based on community criteria such as knowledge of customary laws and practices related to biocultural resources, and leadership experience. They learnt how to carry out research through semi-structured interviews, focus groups, study groups, participant observation, data analysis and the recording and filming of activities. They played a leading role in the design of the research and in its facilitation through study groups.

We used the following approaches in this phase:

- **Literature review** of customary Quechua laws and norms to identify potential principles and practices relevant to the investigation.

Box 2: Study groups

Study groups have been a key approach used throughout ANDES work with the Potato Park communities. Their objective is to systematically gather and analyse existing local knowledge and to generate new knowledge through dialogue. These groups are defined territorially. Meetings take place in convenient locations such as traditional family and group meeting spaces in the evenings. They employ a variety of appropriate tools and techniques such as participant observation, video documentation, interviews, narratives, informal conversations, focus groups, surveys and questionnaires. During the BCP process there were six main study groups (one for each of the park's communities) of between eight and 15 people, depending on community size, including a mix of traditional authorities, adults, elders and youth of both sexes.

- **Thematic working groups** which identified key themes to be addressed. Discussions focused on the principles and practices identified in the literature review such as *voluntad* (willingness), *ayni* (mutual assistance) and *minka* (exchange of labour), where equity in distribution of benefits/goods is a function of the equitable distribution of work. These groups provided important capacity-building for researchers, especially in relation to integration of traditional knowledge (TK) and indigenous concepts and approaches.

- **Study groups** held in-depth discussions on themes identified in the thematic working groups. Participants identified principles derived from customary law relevant to the context of access to biological and genetic resources, associated knowledge and benefit-sharing. The study groups also created capacity among community members and provided valuable input into the project research on indigenous concepts (Box 2).

- **Participant observation** was an important approach to research on customary laws because the customary laws of Quechua people are not written down, but embodied in everyday actions. Customary laws influence benefit-sharing in terms of the distribution of seeds, agricultural work,

Box 3: Customary laws related to access and benefit-sharing

Reciprocity (*Ayninakuy*): what is received must be paid back in equal measure. All of the elements of nature, including human beings, give and receive, contributing to the common good and harmony of the world. *Ayni* is the mechanism by which the principle of reciprocity finds expression; therefore *ayni*, defined as mutual assistance, can be applied both to people and to elements of nature. This principle can be seen in seed exchanges among the communities and in the distribution of agricultural work.

Duality (*Yanantin*): the cosmos is divided into two opposite but complementary halves. This can be seen in the division of labour between men and women (which, while differentiated, does not denote superiority or subservience, but mutual interdependence); or between rights and obligations, both of which should be met to achieve harmony and maintain equilibrium. This principle can be found in the transmission of knowledge related to agricultural practices, where the roles of women and men complement each other.

Equilibrium (*Rakinakuy*): refers to proportion and harmony with nature (Pachamama, Mother Earth), the sacred world, and among community members – for example, respect for nature and mountain gods, and the resolution of conflicts to restore social harmony and complementarity (including between ecological niches). Equilibrium needs to be observed in the application of customary laws. This principle is related to a fair and proportionate distribution of profits in relation to needs, capabilities, responsibilities, contributions and efforts. This criterion also features in conflict resolution and decision-making, ensuring the impartiality of all actors.

the use and inheritance of land, and the transmission of knowledge at the individual, communal, regional and generational levels.

These approaches led to the identification of three Andean principles – reciprocity, duality and equilibrium – that underpin the practices of administering traditional resources (Box 3). These principles and other community inputs were then put into practice in the creation of a draft inter-community biocultural protocol.

The drafting process identified the common interests of the communities, the

Photos: Khanh Tran-Thanh



A women's collective produce traditional arts and crafts made from local materials and sell them at the Centro de Interpretación.



Scenic landscape. Potato Park, Pisaq, Peru.

objectives and the scope of the protocol based on customary laws and practices. These were used to establish conflict resolution mechanisms and identify mechanisms for sharing information and benefits. For example, institutions

normally involved in conflict resolution at the community level are integrated into these processes. Also, rules around reciprocity are applied to the sharing of knowledge and seed exchanges through barter systems. These mechanisms help to



Photo: Khanh Tran-Thanh

Centro de Interpretación in the Potato Park. The Potato Park is located in a region that is the centre of origin to over 4000 varieties of potatoes. The Centro de Interpretación also functions as a research centre for the continued cultivation of potato varieties.

ensure access by women and other poor social groups to food security and nutrition. The result was the transformation of the draft writing process into an indigenous methodology for the project and the production of a draft protocol based on the Quechua customary law and principles of the communities of the Potato Park.

Phase 2: Consultation, discussion, revision and negotiation of the inter-community agreement

In this stage, the main objective was to expand community participation and control in the BCP development process. A broad-based consultation and negotiation process was initiated throughout the park, involving local authorities and community members in discussions concerning each of the proposed articles in the draft BCP and the options for implementing them.

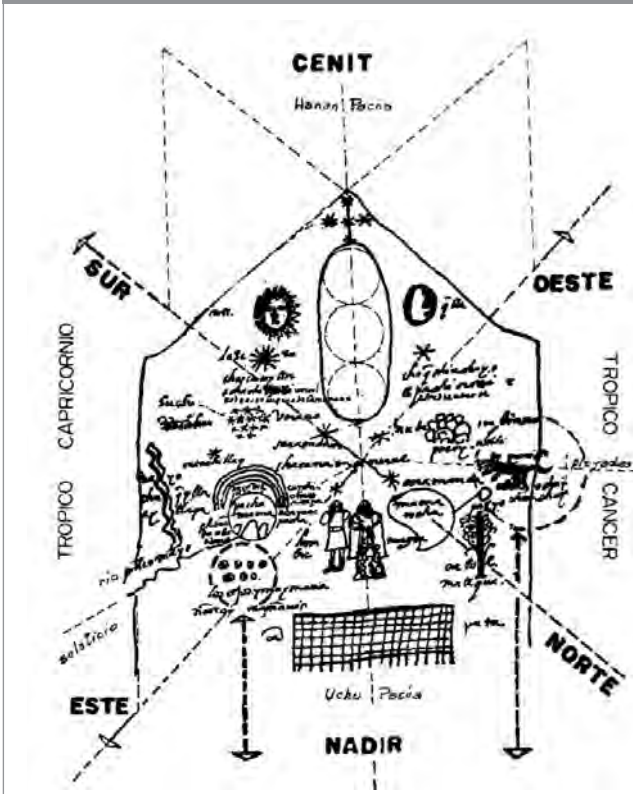
These discussions were also used to collect and incorporate community members' doubts, questions, observations and suggestions regarding the draft and how to improve and strengthen the document.

Participatory methodologies played an important role, particularly in identifying participants to be involved in the consultation and negotiation process. ANDES and park researchers used the Social Analysis System (SAS) to identify social networks of actors involved in the park, and potential project participants.³ The final decisions about inclusion in the consultation process were made by members of the Association of Communities of the Potato Park.

Once identified, key actors were invited to participate in consultation groups which examined and discussed the mandate of the draft BCP as well as the details of each

³ Social Analysis System (SAS) approaches seek to promote participatory social analysis, integrate research into action, support learning systems, and develop a process management approach to the project activities.

Box 4: Rich pictures



Rich pictures are images that visually depict a complex or multi-layered situation or concept and are used to ground, orientate or stimulate a discussion. ANDES, along with its indigenous research partners, have used rich picturing as an opportunity to re-value the ancient Incan image of Santa Cruz Pachakuti that symbolically depicts the indigenous Andean cosmovision.

This image has proved extremely useful in orienting discussions around natural resources or agriculture within an indigenous holistic cosmovision, ensuring that the discussions are rooted in these concepts and at the same time reasserting traditional culture and knowledge.

proposed article and potential regulations for enacting them. In total there were 30 consultation groups involved in this process, consisting of five members (designated by geographic proximity), an indigenous researcher who facilitated the discussions and a member of the gastronomy collective. Traditional leaders occasionally participated. The groups met four times a month at predetermined times to discuss the different aspects of the draft agreement and offer their observations, suggestions and doubts. Local researchers carried out semi-structured interviews with members of the communities for additional feedback. Input from the meetings and interviews resulted in a second draft of the BCP.

Indigenous researchers once again played a central role in facilitating these consultation groups and the discussions that took place. Researchers used methods such as video and powerpoint presenta-

tions and conceptual images/rich pictures (Box 4). A video was developed in Quechua to explain the legal terms used in the BCP and reinterpret the concepts in indigenous terms, even creating new Quechua terms to reflect these new concepts.

The consultation process itself was based on the Andean principles of reciprocity, duality and equilibrium, and traditional practices used for generating and maintaining flows of dialogue and decision-making. For example, members of the park's gastronomy group prepared and served traditional dishes using some of the rare species of potato found in the park to members of the consultation groups, both as a form of reciprocity and to facilitate discussion about biocultural heritage. The concept of duality is reflected in the inclusion of men and women, young and old, and diverse kinds of experience and knowledge.



Photo: Khanh Tran-Thanh

The women's collective that manages and operates the small restaurant provide cooking demonstrations and meals to showcase traditional local ingredients such as quinoa and amaranth.

Phase 3: Final consultation and validation of the inter-community agreement

The final stage was carried out by indigenous researchers and ANDES staff with the goal of finalising and signing the BCP. Community participation was expanded further through consultations and meetings with a wide range of actors from the study groups, micro-enterprises, community leaders, shamans, women's groups, elders, youth groups and the Board of Directors of the Association of Communities of the Potato Park. Indigenous facilitators led discussions focused on objectives, benefits and beneficiaries, rights and responsibilities and forms of benefit-sharing within the BCP. Knowledge gaps were identified and addressed to improve the final BCP drafts which were then reviewed by a group of experts, including a lawyer who specialises in customary law.

Study groups continued the process of simplifying the agreement for ease of understanding and reconceptualising the content in Quechua terms. Incorporating

the results from the study groups and consultations, another version of the agreement was produced and a validation process began. Following traditional decision-making procedures, the BCP was presented and discussed in community assemblies, and then put to a vote. All communities involved approved the agreement by a large majority.

The inter-community biocultural protocol for benefit-sharing

The inter-community biocultural protocol now exists as a broad outline for benefit-sharing that includes all benefits received by the Potato Park that are directly or indirectly derived from its biocultural resources. The BCP shares the benefits amongst the 6000 people of the five communities. A communal fund has been set up for the funds generated from such activities including:

- third-party use of biological resources, seeds and traditional knowledge of the Potato Park;

- activities undertaken in the park, such as research, ecotourism and other related services (e.g. restaurant, lodging facilities);
- repatriation of seeds, especially those derived from an agreement with the International Potato Centre;
- donations, projects or similar activities; and
- agreements with third parties outside of the above-mentioned categories and related directly or indirectly to the use of biocultural resources.

The earnings are redistributed in an equitable manner to park communities at the end of the year. In principle, the Association is in charge of the distribution and redistribution of benefits and goods to community members, although the park is currently being assisted by ANDES. The distribution takes place through a special commission created for this purpose (the Benefits Allocation and Oversight Committee). The BCP guides the distribution of monetary benefits. The park's economic collectives contribute ten percent of their earnings as a measure of reciprocity and as a contribution towards the maintenance of the park's collective biocultural heritage.

The BCP ensures that the distribution and redistribution of benefits is based on a set of criteria that is fair and proportionate to the needs, capabilities, responsibilities, contributions and efforts of the communities and their members. Each year, the Association establishes these criteria for rating community participation in activities that contribute to the maintenance of biocultural resources and promotion of the park. The criteria are organised into an abacus-like matrix (*yupana* in Quechua) where the leadership of the communities applies a simple numeric formula to rank themselves. The benefits are distributed among the communities accordingly. The surplus is used to construct and maintain a social safety net for the poor (e.g. widows, orphans), in line with traditional Quechua solidarity-building principles.

Lessons and conclusions

The BCP represents an innovative approach to ABS that prioritises indigenous epistemologies and norms. As such it contributes to a process of decolonisation from western discursive and legal frameworks and the resulting cultural and legal domination. It represents a broader approach to ABS which includes not only benefits derived from access to genetic resources and TK, but also those from **all** activities related to direct and indirect use of biocultural resources. The BCP is envisioned as a model benefit-sharing framework that can be used by other indigenous and local communities in the Andean region. The process to develop the BCP has strengthened cohesion between the park's communities and strengthened recognition of customary laws that promote conservation and equity, which are now formally adopted by the communities through the agreement. It has also enhanced the park's capacity for ABS negotiation.

The project used an innovative methodological approach combining participatory, emancipatory/decolonising and indigenous approaches orientated towards community leadership: not only in the implementation of the methodology, but in its design as well. High participation rates and leadership and control of the process by indigenous communities were achieved through such approaches. However, the scope and general theme of the framework were pre-defined. This proved a limiting factor for community leadership of the process. Though the process of obtaining FPIC and the collaborative methodology development helped to mitigate this, the methodology could be improved if the over-all project aims could be defined by communities in a bottom-up process, e.g. using visioning activities at the community and inter-community level followed by dialogue and collaborative project design based on the shared interests of communities.

Tools for ABS and the protection of TK – such as the Potato Park's BCP – may fall short without a local to international policy environment that creates a healthy relationship between local societies and nation states. Decision makers need to define national and international policies and legal frameworks for the protection of traditional knowledge based on the concept of collective biocultural heritage.

CONTACT DETAILS

Alejandro Argumedo
Asociación ANDES
Calle Ruinas 451
Casilla Postal No. 567 Cusco
Cusco
Peru
Email: alejandro@andes.org.pe
Website: www.andes.org.pe/en

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The Bushbuckridge BCP: traditional health practitioners organise for ABS in South Africa



by **RODNEY SIBUYE, MARIE-TINKA UYS, GINO COCCHIARO and JOHAN LORENZEN**

Introduction

National and international laws and policies are gradually recognising the importance of empowering communities to ensure conservation. But the implementation of these ideals has proved slow and uneven. With community-led conservation also sustaining livelihoods and protecting cultures, it is important for both conservation and communities that this pace is quickened.

With a history of uncompensated bio-prospecting, the Kukula traditional health practitioners of Bushbuckridge, South Africa are faced with both marginalisation and an emerging ecological crisis from the overharvesting of medicinal plants.¹ But they have staked their claim to rights directly through the development of a biocultural community protocol (BCP).² Their BCP is a community document or

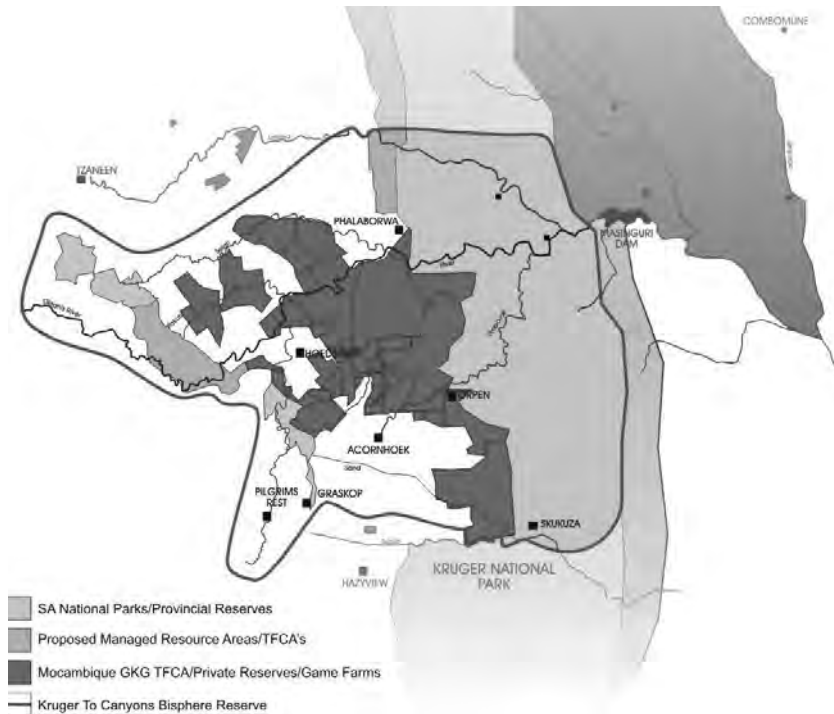
charter that asserts their traditional and continuing customary roles within their communities, and their roles in conserving the natural resources and knowledge on which they rely. The BCP identifies and makes clear the challenges of health practitioners to external agents – such as businesses and government – and calls for them to respect their rights over their land, resources and knowledge.

The BCP was developed through the participation of members of the Kukula Traditional Health Practitioners Association of Bushbuckridge (KTHPA). It was supported in this process by the Kruger to Canyons Biosphere management committee (K2C) and Natural Justice: Lawyers for Communities and the Environment (NJ), an international NGO working with communities to affirm rights over their resources and knowledge.³

¹ Bio-prospecting is the use and commercialisation of a resource and its associated knowledge.

² The Kukula healers are supported by Open AIR www.openair.org.za/ and are a part of the Africa BCP Initiative, supported by the ABS Initiative (funded by GIZ), the Open Society for Southern Africa and the Heinrich Böll Foundation.

³ The Kruger to Canyons Biosphere management committee is a group of six individual stakeholders supporting communities living in the biosphere and the continued conservation of the region.



Map of the Kruger to Canyons Biosphere Reserve.

This article briefly outlines the context in which the members of Kukula practice their healing, and the challenges they are facing. It then discusses the meetings in which the traditional healers of Bushbuckridge decided to develop a BCP – and the inclusive process by which they prepared it, with the full participation of all members. It concludes with a summary of the BCP process and looks at some of the impacts the BCP is already having.

Background

Spanning more than four million hectares, Kruger to Canyons (K2C) UNESCO Biosphere Reserve, is one of the largest Biospheres in the world.⁴ Its area encompasses key biodiversity hotspots, including the Kruger National Park (KNP) and Blyde River Canyon Nature Reserve. The area is rich in both biodiversity and culture.

Biosphere Reserves participate in

UNESCO's Man and the Biosphere Programme and seek to find and demonstrate innovative solutions in reconciling biodiversity conservation and sustainable development. The process to achieve recognition by UNESCO is government-led but must include community engagement. K2C is a non-profit company and its vision is to achieve a better life for all through partnerships.

The Bushbuckridge communities live in the southern portion of the K2C Biosphere in Mpumalanga Province. Bushbuckridge municipality is bounded by the Orpen road to Kruger National Park in the north, the Sabie River in the south, the Drakensberg escarpment in the west and the westernmost boundaries of KNP and Sabie-Sand Game Reserve in the east. While much of this area is government-managed, the majority is communal grazing land.

With 150 people per square kilometre

⁴ UNESCO is the United Nations Educational, Scientific and Cultural Organisation. See www.kruger2canyons.org for more on K2C.

Credit: Johan Lorenzen



Medicinal plant nursery maintained by Kukula members.

in the east and 300 per square kilometre in the wetter west, the population density is already one of the highest in southern Africa, and the population growth rate is 2.4%. Unemployment in the Bushbuckridge area is estimated at 63%. There is a heavy reliance on the cash economy and on State grants, mainly in the form of pensions and child grants. Approximately 50% of the adult male population and 14% of women engage in migrant labour. The average household income is R850 (about US\$110) per month.

The area is extremely biodiverse. It is also culturally and linguistically one of the most diverse in South Africa, with people from different ethnic backgrounds and language groups. For example, people living in the same geographical areas speak Pedi, Pulana (which is a mixture of Pedi, Swazi and Tsonga), Tsonga and Swazi. Many also speak English, Afrikaans or Portuguese, given the close proximity to the Mozambican border (Thornton, 2002).

Traditional health practitioners tend to their communities' physical, cultural and spiritual well-being through traditional

medicine and cultural ceremonies. The healers also hold various forms of traditional knowledge in relation to the uses of their local medicinal plants. Through their traditional practices of sustainable harvesting, the healers support the conservation and sustainable use of these plants. Unfortunately, commercial-level harvesting of medicinal plants for use in South Africa's cities threatens many of these plant species. Access in government-managed protected areas has been severely restricted due to this overharvesting and local traditional healers struggle to harvest the plants they need. The healers also have concerns about the use of their traditional knowledge (TK) without their prior informed consent based on a long history of bio-prospecting with no benefits to the community.

Methods and processes

In 2009, Natural Justice was invited by the K2C management committee and its partners to present and discuss community-based approaches to access and benefit-sharing (ABS) mechanisms, including biocultural community protocols

(BCPs). Interested in the possibility of using such approaches, researchers working with the K2C management committee conducted data collection surveys in each of the core, buffer and transition zones of the UNESCO-registered biosphere. They looked at how Marula trees, firewood, broom grass and medicinal plants are collected, with a view to developing a biocultural protocol linking traditional methods of gathering to conservation.⁵

In May 2009, a preliminary meeting was held between a small group of healers who were connected to a medicinal plants nursery in the region, Vukuzenzele, and representatives of K2C management committee. They investigated the potential for initiating a BCP process with the traditional healers. The process then began with a meeting of 26 traditional healers, members of the K2C management committee and Natural Justice to discuss the healers' concerns regarding the illegal harvesting of medicinal plants from the K2C, and potential cases of biopiracy. Presentations were made on the People and Parks Programme as well as the work of Natural Justice and the use of biocultural protocols.⁶

Following this initial gathering, the traditional healers held regular meetings to share their views, discuss ways to address their concerns and learn more about the laws relating to the conservation of medicinal plants and the protection of TK. This also provided the traditional healers with an opportunity to learn about access and benefit-sharing (ABS) laws under the Convention on Biological Diversity (CBD) and the South African Biodiversity Act.⁷ This process fostered a sense of identity as traditional healers that had not previously existed among them, given the large geographical distances between them and their two separate

cultures and language groups. Over the period of these initial meetings the traditional healers also began to plan how they could form an organisation of healers to meet the challenges identified and become registered as traditional healers with the Ministry of Health.

The process of BCP development led to the formation of the Traditional Health Practitioners of Bushbuckridge, now known as the Kukula Traditional Health Practitioners Association. The group began with 80 members and now has swelled to almost 300 healers, primarily women. The association consists of a management committee of 26 people, six of whom are part of the executive committee, elected on an annual basis by all members of the association. The executive committee assists the association in engaging with other stakeholders in K2C, including business and government, to co-ordinate the development and utilisation of the BCP.

During a two-day workshop in mid-2009 involving Kukula's executive committee, the K2C management committee and Natural Justice, the executive committee members volunteered to participate in a facilitation group (along with Natural Justice and K2C) to collect information from all members of the association involved in the BCP. At this workshop the facilitation group selected six goals for facilitating the BCP development process:

- Build credibility, trust and mutual respect among traditional healers.
- Identify the healers' concerns and values and ensure they are fully understood by asking probing questions and reflections.
- Facilitate consensus among the healers by ensuring that all opinions are heard and considered.
- Make sure all participants are part of the process and ensure they feel part of a

⁵ Marulas are South African trees found in much of Kruger Park. Many parts of the tree have been used since ancient times, including the bark, the leaves, fruit, nut and kernels.

⁶ A South African programme that engages local communities in preserving protected areas. See: www.peopleandparks.com/about/learn

⁷ Biodiversity Act no. 10 of 2004, South Africa.

Photo: Johan Lorenzen



The facilitation group draws up a code of ethics to supplement the BCP.

shared vision for the BCP.

- Capture and reflect to the group decisions that are owned by the healers.
- Ensure participatory and fair practices throughout the process. Encourage all members of the association to express their views and be involved.

The facilitation process was supported by sharing clear information about the environmental legal frameworks in which the traditional healers operate. Furthermore, it was ensured that by the end of each facilitated meeting during the process, decisions and processes to date were adequately summarised, tasks for the period between meetings were clearly articulated, and feedback opportunities for such tasks were included at the beginning of the follow-up meeting.

Based on the information collected, members of the facilitation group drew up the BCP with the assistance of Natural Justice. The BCP was then presented to, commented on and accepted by the wider membership of the association. The BCP sets out:

- their biocultural values;

- how they connect their communities through their culture to biodiversity;
- some detail of their traditional knowledge;
- the threats to their livelihood posed by biodiversity loss and the taking of their TK without the sharing of benefits;
- how the community plans to improve conservation and sustainable use of medicinal plants;
- information for people wanting to access their TK and medicinal plants; and
- the links between their values and concerns and the rights the healers have under national and international laws.

The BCP is considered a living document by the traditional healers and they periodically review the aims and challenges outlined in their original document. Through the process of developing the BCP, the traditional healers have formally organised themselves as Kukula Traditional Health Practitioners Association and developed their own constitution. The association achieved registration under South African law as a not-for-profit organisation in 2011.



Photo: Johan Lorenzen

Members of the Kukula Traditional Health Practitioners Association.

Through extensive internal discussion, the members of Kukula decided to pool some of their traditional knowledge collectively and shared this knowledge with a small local cosmetic company so that any benefits from the use of their knowledge would flow back to the group as a whole.

In 2011 the association signed a Non-Disclosure Agreement with the cosmetic company to research the use of some of their genetic resources and associated traditional knowledge. They are hoping to negotiate an access and benefit-sharing agreement if the research leads to the

development of cosmetic products.

With increased awareness from government that local healers are not responsible for extensive overharvesting, members have also negotiated for limited access to protected areas that were once completely sealed off to them. They also feel that their access to medicinal plants in their communally-held lands has improved as overharvesting has diminished, primarily due to greater awareness among members of the importance of using traditional practices for harvesting plants. They also now coordinate with farmers in their area to harvest medicinal plants before fields are ploughed.

The association has also extended its BCP by drafting a code of ethics for its members. They hope this will improve the consistency of service to clients and help members in the process of registering with the South Africa Department of Health as officially recognised traditional health practitioners.

Throughout this process, members have contributed to and supported the democratic nature of the association, in which regionally representative executive and management committees are elected to drive the process, whilst being required to seek majority support of all members for major decisions. In an interview with the executive committee in August 2011, it became clear that the impetus afforded by the BCP to drive a collective effort towards better integration and recognition is valued. Rodney Sibuye, one the authors of this article, was elected as Chairperson to the executive committee.

While the executive committee is able to meet regularly, the cost of bringing together the 26 member management committees and wider membership of 300 traditional healers, given the geographical distances between the group, impacts on how often they are able to meet. This in turn has an impact on the democratic processes within the association that they have sought to foster.

Conclusion

The BCP of the Kukula Traditional Healers of Bushbuckridge has been an important tool to assist the healers in defining themselves as a community with shared values in an attempt to deal with their concerns together. Their BCP clearly sets out their combined views on conservation and the sustainable use of medicinal plants, including the use of their traditional knowledge. What began as a small group of people now involves approximately 300 members. The association is now engaging with traditional authorities regarding land allocations for their livelihood and conservation projects. In addition, through the development of their BCP, the healers were able to develop greater capacity in asserting their rights over their resources and associated knowledge.

Through a process of in-depth discussion and consultation the healers agreed to pool their traditional knowledge. This is now widely seen as a leading example of a traditional knowledge commons in which benefits from the use of traditional knowledge return to the group as a whole.

Throughout the BCP process the desired outcomes have been inextricably linked to the integrity of the process and tools of community engagement and representation. The process has ensured that all the healers have full ownership over their BCP and collectively embrace their aims of conserved biodiversity, protected culture and increased recognition of their values and practices in the future. The healers understand that their BCP is not the end but one step in the process towards their aim of sustainable livelihoods and healthier communities. The revising and expansion of their BCP will continue to be at the heart of this process.

CONTACT DETAILS



Rodney Sibuye
PO Box 1270
Thulumahashe
1365
South Africa



Marie-Tinka Uys
PO Box 408
Hoedspruit
1380
South Africa



Gino Cocchiaro and Johan Lorenzen
Natural Justice: Lawyers for Communities and
the Environment
63 Hout Street
Cape Town
8000
South Africa
Email: Gino@naturaljustice.org.za



Email: Johan@naturaljustice.org.za

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Biocultural community protocols: tools for securing the assets of livestock keepers

9

by ILSE KÖHLER-ROLLEFSON, ABDUL RAZIQ KAKAR, EVELYN MATHIAS, HANWANT SINGH RATHORE and JACOB WANYAMA

Introduction

International recognition of the vital role communities play in conserving and managing livestock biodiversity is growing. The Food and Agriculture Organization (FAO) now refers to livestock keepers as ‘guardians of biological diversity’ (FAO, 2009). Their 2007 Global Plan of Action on Animal Genetic Resources (FAO, 2007) supports:

...indigenous and local production systems and associated knowledge systems of importance to the maintenance and sustainable use of animal genetic resources [and] the establishment and strengthening of in situ conservation programmes, including support to community-based conservation organizations.¹

Despite these gains on paper, many scien-

tists and bureaucrats tasked with conserving animal genetic resources remain unaware of the linkage between specific livestock breeds (i.e. animal genetic resources) and communities. They continue to ignore the rich local knowledge and expertise of livestock-owning communities whose way of life – and animals – are threatened by the loss of access to grazing, lack of services and low economic returns from traditional breeds. They give preference to conserving livestock breeds on government farms and through cryoconservation instead of supporting conservation by local communities, as is mandated by the United Nations Convention on Biological Diversity (UNCBD).^{2,3}

At LIFE Network, we have come to recognise that international agreements are not necessarily implemented at the local level.⁴ Communities need help to

¹ Strategic priorities 6 and 8 (FAO, 2007).

² See Article 8j.

³ Cryoconservation is conservation by deep-freezing genetic material.

⁴ LIFE is an international group of organisations that work with livestock keepers at the grassroots level. LIFE supports community-based conservation and development of local breeds and animal genetic resources. It highlights especially the role of pastoralists in conserving livestock biodiversity, and has developed a method for documenting indigenous knowledge about animal breeds and breeding.

secure their rights (Köhler-Rollefson *et al.*, 2010). Biocultural community protocols (BCPs) are one tool for helping to do this. A livestock BCP might document breeds and associated traditional knowledge and practices, and invoke rights under various existing legal frameworks such as the UNCBD. The process of developing these documents – when driven and designed by communities – offers the potential to strengthen community cohesion and the capacity to secure and defend rights.

Through LIFE's connection with the legal NGO Natural Justice, some LIFE Network partners were inspired to support the development of a number of BCPs by livestock keepers in Pakistan, India and Kenya.

This article examines three different experiences, and the extent to which these BCPs were community-driven processes. It looks at whether and how communities have been able to make use of the protocols in the struggle to have their rights recognised, and whether there were other benefits for communities in developing the protocols. It also discusses some emerging lessons and how these might help inform future work.

Pashtun Biocultural Protocol

The Pashtun live in the north-east highlands of Balochistan province, mid-west Pakistan. They are an indigenous and tribal pastoral community known as the Janobi Pashtunkhawa. Their territory centres around the Suleiman mountains and is comprised of 13 districts of Balochistan. References to the area, also known as *Arya Warsha* or 'the place for grazing', can be found in the Avesta, the holy book of Zoroaster, which is 2700 years old. Pashtunkhuwa is the cradle of domestication for many species like the Bactrian camel, sheep and goats.

Pashtun people are nature lovers. They keep their livestock in eco-friendly produc-

tion systems and can be nomadic, seminomadic or sedentary. Livestock is important not just for livelihoods. They are an intimate part of the cultural and spiritual life of Pashtun livestock keepers. The community is proud of their role in the conservation of precious biodiversity and landscape diversity. They decided to develop the BCP because the importance of their role had never been appreciated. The community wanted to reflect this through the BCP. Although other Pashtun people share knowledge, breeds and customary practices with the Janobi Pashtunkhawa, accessibility to some Pashtun lands is difficult due to conflicts in tribal areas of Pakistan and southern Afghanistan. It was not possible to develop a BCP for all the Pashtun people.

Process

Initial awareness-raising about the BCP began in October 2010 by three people from SAVES.⁵ They travelled throughout the region, meeting with livestock keepers. Their aim was to raise awareness about the general process of developing a BCP and about specific ideas for this particular process.

Primary meetings

First, we held group discussions with community groups at different village levels. These were documented in Pashto (the Pashtun language). Discussions focused on their livestock breeds, flora and fauna diversity that they know and use, and farming systems and practice. The community members demonstrated their familiarity with biological resources and their pride in their biological and cultural richness. Basic yet vital information was gathered, such as the names of breeds, their importance in low-input systems and dry seasons, the taste of the food items produced by their animals, and the cultural importance of the breeds. A first draft of

⁵ The Society of Animal, Veterinary and Environmental Scientists (SAVES) is an organisation set up by a university-educated Pashtun man with a background in animal science.

Photo: Abdul Raziq Kakar



Kahi camel of the Suleiman mountainous region.

the BCP was then composed, focusing on the origins of breeds and their diversity, importance and production systems.

Secondary meetings

On the basis of doorstep meetings (knocking on doors and talking to whoever answered), elders, indigenous knowledge experts, ethno-healers and best breeders were selected from the community for secondary discussions. This selection was based on the participants' knowledge, livestock species balance and willingness to participate, and led to the constitution of regional expert groups (REGs).

Three to five REGs meeting were held in each region, or sub-ecological areas designated on the basis of tribes, livestock species and accessibility. The draft protocol was discussed with each REG in detail, and more information elicited. With inputs from the community, a second version was drafted. Community representatives (e.g. elders) were involved in setting the criteria

and designing the process for finalising this draft.

Final meeting

Almost 40 individuals were selected for a three-day BCP workshop. The selection criteria were knowledge, livestock species balance and regional/tribal balance. Outside experts (scientists, lawyers and scholars) from the urban Pashtun community were also invited. The discussions focused on livestock breeds and evolved knowledge, ecosystem vegetation and effective customary laws which could support the Pashtun livestock production and pastoral system (e.g. for conservation, resource rights, access and decision-making). Other aspects included livestock products, weather and climate, production systems and the role of livestock keepers in society. An environmental lawyer from Pakistan compiled a list of national and international laws and regulations related to the rights and well-being of pastoralists.

Laws were discussed with participants and included in the protocol. After amendments and corrections, the final draft was declared.

The BCP has given the Pashtun a concrete document which can be used to inform others about their role and importance. The process has helped livestock keepers organise themselves. They are stronger now and have a forum to defend their rights. SAVES has used the BCP to highlight the important role of the Pashtun in biodiversity and livestock conservation with national and international policy makers. For example, the Pashtun have defined and reported some breeds of livestock which were unknown before. As the founder of SAVES and co-author of this article, Abdul Raziq Kakar says:

In my view, BCP is a process of organising and strengthening our community and protecting our community and its livestock culture.

Constraints and solutions

It was difficult to organise these meetings. The area is vast and inaccessible, with little mobile phone connectivity in many parts. The mobile way of life of many pastoralists contributes to this constraint.

Often, people were busy and had little time for extended discussions. To overcome this, the traditional information system called *hall* was used. *Hall* is the exchange of information about the rains, weather, grass conditions, disease, mortalities, movement and news. People share information with others they meet – especially relating to livestock and livelihoods. Horses and camels were used to access remote areas. To involve more people, elders were included from the start. Elders are highly respected and we took care to explain the process and rationale. Actively involving community elders was also important for generating local ownership of the BCP process.

More work is needed to expand the Pashtun BCP content and process and link

it with other Pashtun communities living in adjoining areas. These communities are separated either by international borders or provincial and administrative boundaries.

Raika Biocultural Protocol

The Raika are the largest pastoral community of western Rajasthan in north-west India. They have a close relationship with the camel, but have also developed many other livestock breeds, including cattle, sheep and goats. They are an extremely egalitarian society, often sharing animals amongst each other. As long as common property resources are amply available, the Raika feel strong and prosperous. Historically, they also have a close relationship with the ruling class of Rajputs, caring for their camel breeding herds, and enjoying grazing privileges in forests. But over the last 60 years, the Raika have suffered as developments have eroded common property resources and restricted access to remaining areas, such as intensified crop cultivation, new wildlife sanctuaries, population pressures, road building and land enclosures. There is also a split between traditional animal-keeping Raika and educated young people who are not interested in livestock and do not value traditional knowledge highly.

The Raika Biocultural Protocol describes a number of local breeds that they have been stewarding, including camel, Nari cattle, Boti sheep, and Sirohi and Marwari goats. The protocol sets out, among other things:

- biocultural values and roles of the Raika for *in situ* conservation;
- sustainable use of animal genetic diversity and forest and rangeland ecosystems;
- customary laws and decision-making processes (e.g. relating to prior informed consent); and
- the rights and responsibilities of the community and government agencies under national and international laws and policies.

Photo: LPPS archives



Raika protesting for their grazing rights, Rajasthan.



Bhanwarlal Raika and his camel herd entering Kumbhalgarh Wildlife Sanctuary.

Photo: Ilse Köhler-Rollefson

Process

The Raika BCP is thought to be the first BCP ever completed by livestock keepers. It was developed with the support of international NGO Natural Justice and Lokhit Pashu-Palak Sansthan (LPPS), a local NGO that has been working with the community for over 15 years to document traditional knowledge about livestock keeping and genetic resources. So a large amount of written documentation was already available.

In May 2009, two Natural Justice representatives – who had suggested the idea of establishing a BCP – travelled to the Raika area and based themselves at LPPS headquarters. With LPPS staff, they met with a cross-section of the community at

their doorsteps, explaining the rationale for a BCP and learning about the problems and constraints faced by the Raika, especially regarding grazing rights in a nearby wildlife sanctuary. Although Raika women generally do not interact with outsiders, and were not involved in these discussions, LPPS are aware that women are active behind the scenes and have some power, usually handling most money matters.

The information was compiled into a draft document in English. This was shared and discussed with community elders and revised accordingly. LPPS translated and printed the document in Hindi, sharing it widely with the community, local government officials, and internationally. In September 2009, a Raika female leader

Photo: Ilse Köhler-Rollefson



Raika leading his sheep and goats to grazing in the contested Kumbhalgarh Sanctuary.

presented the BCP at a meeting of local and indigenous communities on access and benefit-sharing (ABS) in Nairobi. She later travelled to Montreal for the Sixth Ad hoc Open-ended Working Group on Article 8J (Convention on Biological Diversity). However, it was difficult for her to share these experiences with the community afterwards, since they could not relate to travel abroad.

The Raika have used the document when interacting with government officials, especially the Forest Department. It has put them 'on the map' and become a source of information for young people. However, in their current struggle for grazing rights, it has also become evident that internationally binding agreements like the CBD severely lack local awareness and implementation, even though India is a signatory to the convention.

Problems and constraints

The Raika BCP builds on extensive existing documentation. It represents a concise summary of important aspects of Raika culture, traditional knowledge and genetic resources. This is useful, but also dangerous. It is not a comprehensive record and provides a limited segment of their total knowledge. While its legal contents are valuable, they are difficult for the Raika to understand, highlighting the need for legal empowerment within the community. The biggest value is in using the printed document to interact with outsiders. Overall, the BCP is just one of many tools in the arsenal required by the Raika to claim their rights under the Indian Forest Rights Act.

Samburu Biocultural Protocol

The Samburu are Maa-speaking pastoralists in Northern Kenya. They are closely related to the Maasai, with an estimated 800,000 households in the districts of Samburu, Laikipia, Isiolo, Marsabit and Baringo. Nine clans are divided into two

main subdivisions, White Cow and Black Cow. Eight keep livestock and the ninth consists of hunters and gatherers. They moved to the present area following the 1911 Treaty between Maasai leader Lenana and the British.

The Samburu keep small East African Zebu cattle, Red Maasai sheep and East African goats. The Red Maasai sheep has a unique genetic capability to cope with internal parasites, especially *Haemonchus contortus* (a kind of stomach worm). This has attracted attention from scientists who are keen to understand the genetic basis of this trait, which has obvious commercial potential. Despite this interest, the survival of the Red Maasai is threatened, particularly by the strong promotion of cross-breeding with Dorper sheep and market demand for large-bodied animals. The community itself seems to have lost confidence in its indigenous breed, although it is significantly more drought resistant than the Dorper and required for a number of Samburu life-cycle rituals.

Process

Compiling the Samburu BCP built on a series of activities that the LIFE Network Africa coordinator initiated in Samburu District, 2008.⁶ It began with a study of indigenous knowledge and breeding prac-



Samburu herder reading the Raika BCP.

Photo: Ilse Köhler-Rollefson

⁶ The Samburu BCP process is part of the Africa BCP Initiative which is supported by the ABS Initiative (funded by GIZ), the Open Society for Southern Africa and the Heinrich Böll Foundation.



Photo: Ise Köhler-Rollefson

Samburu and Red Maasai sheep.

tices for Red Maasai sheep. Methods included field visits, community awareness meetings, informal interviews with individual herders and other stakeholders, and herder focus groups. The findings illustrated the close interconnectedness of the Samburu culture with their sheep. But it also raised the communities' awareness of their breed's potential and scientific interest in their breed (Lekimain, 2009).

In August 2009, a LIFE Africa member from a prominent Samburu family travelled to the region to document local institutions and leadership structures (Lenyasunya and Wanyama, 2009). He organised community meetings to inform them about BCPs. He also asked community leaders to identify experienced herders who would be interested and willing to participate in drafting a Samburu BCP.

Then, in September 2009, a BCP-drafting support team composed of lawyers from Natural Justice (NJ), the League of Pastoral Peoples and Endogenous Live-

stock Development (LPP), the female Raika leader and the LIFE Africa member from Samburu travelled to Maralal. They held two workshops in two locations. Some 40 herders from different villages and other local stakeholders participated and discussed community identity and origin, cultural significance of breeds, relationships between ways of life, traditional knowledge and associated customary laws, the conservation of breeds and local biodiversity, and current challenges.

Back in their office, the NJ lawyers then drafted the BCP text. The draft was subsequently amended through the other members of the BCP support team and then translated into the local language.

During a follow-up workshop in 2009, the two LIFE Africa members went back to the communities to share the Samburu language draft with a group of selected herders. The herders discussed ways forward. Suggestions included using the protocol to educate young people, mobilise

their own and other communities and lobby for their rights. Their corrections and amendments were included in the final document before printing.

The Samburu BCP was launched on 28th May 2010 in Maralal through the deputy director of the Kenyan Livestock Production Service in the presence of more than 30 Samburu livestock keepers and officials from the Samburu Livestock Production Service.

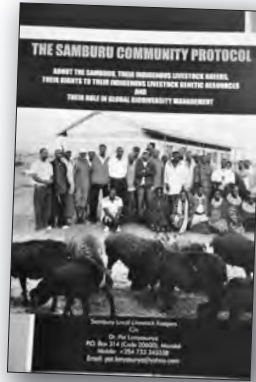
The Samburu were happy to see their protocol published and expressed eagerness to initiate conservation activities. Moreover, the deputy director has embraced the idea of biocultural protocols and is set to promote them further.

Problems and constraints

Unlike with the Pashtun and Raika, there are no local Samburu organisations to provide continuity to the BCP process and follow-up. At the time of writing, it is unclear to what extent the community has made use of the BCP document. However, efforts are underway by LIFE Network Africa to revive the interaction and to use the existing work as a starting point for a comprehensive project to conserve the Red Maasai sheep breed.

Conclusions

Biocultural protocols are an extremely useful tool for making visible the connection between communities and their breeds – a connection that continues to remain invisible to outsiders, including officials who are tasked with conserving animal genetic resources. BCPs provide the foundation and an essential first step for *in situ* conservation projects for animal genetic resources. They make clear that the ownership is with the communities. This is of great importance not just for conservation projects. In future, commercial interest in locally adapted breeds and their



The Samburu BCP cover.

adaptation traits can be expected to increase.

The idea behind BCPs is that they are a community-owned and driven process. The cases described here were catalysed by outsider organisations or people, who either had long-standing relationships with the community (Raika) or originated from them (Pashtun

and Samburu). BCPs cannot be a stand-alone measure and need to be embedded in a continuous long-term process directed at community empowerment if they are to be used to defend communities' rights. The biocultural community protocol document captures this process and the relationship between the community, its eco-system and outside actors at a particular point in time. The role of outside facilitators is to ensure that this happens in a truthful and comprehensive manner.

The meaning of the BCP document will vary tremendously. It will not only depend on the community, but also pressures exerted upon them. If a community is living happily, they will find it difficult to understand the rationale for the BCP and the process behind it. But this situation changes once a community comes under pressure from outside.

The Raika are experiencing a major threat to their way of life. In recent months – while this article was written – they have been informed that their prime natural resource base, the Kumbhalgarh Wildlife Sanctuary, is being converted into a National Park. Among other documents, they are submitting the BCP as proof of their legitimate claim to a role in the future management of the park. So even though the benefits may not be immediately apparent, we believe that BCPs are an important tool for securing the assets of livestock-keeping communities in the long term.

CONTACT DETAILS



Dr Ilse Köhler-Rollefson
Projects Coordinator
League for Pastoral Peoples and Endogenous
Livestock Development
Butibagh, Sadri 306702
District Pali, Rajasthan
India
Email: ilse@pastoralpeoples.org
Websites: www.ikrweb.wordpress.com
www.pastoralpeoples.org



Dr Abdul Raziq Kakar
President, Society of Animal, Veterinary and
Environmental Scientists (SAVES)
Applied animal scientist and freelance consultant
Kakar House, St. 7 Faisal Town
Brewery Road, Quetta
Pakistan
Email: raziq2007@gmail.com
Website: www.saves.org.pk
Our Pashtun BCP is available here:
www.saves.org.pk/pub/401.pdf



Dr Evelyn Mathias
League for Pastoral Peoples and Endogenous
Livestock Development
Müllenberg 5a
51515 Kürten
Germany
Email: evelyn@mamud.com
Websites: www.pastoralpeoples.org
www.mamud.com



Hanwant Singh Rathore
Director
Lokhit Pashu-Palak Sansthan (LPPS)
PO Box 1, Sadri 306702
District Pali
Rajasthan
India
Email: lppls@sify.com



Dr Jacob B. Wanyama
Coordinator
LIFE Network Africa Region
PO Box 38469
Nairobi 00623
Kenya
Email: jacob_wanyama@yahoo.com

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PART IV

Community
protocols and
FPIC: mining,
protected areas
and forest
partnerships



Sacred groves versus gold mines: biocultural community protocols in Ghana

10

by **BERNARD GURI YANGMAADOME, DANIEL BANUOKU FAABELANGNE, EMMANUEL KANCHEBE DERBILE, WIM HIEMSTRA and BAS VERSCHUUREN**

Introduction

The Centre for Indigenous Knowledge and Organizational Development (CIKOD) has been working with the Tanchara community in the Upper West Region of Ghana since 2003.¹ In 2004, an Australian mining company, Azumah Resources Limited, was granted permission by the Ghanaian government to prospect for gold in the Upper West Region. The possibility of finding gold attracted illegal miners to the area, scarring the land and polluting the streams with toxic chemicals used for gold extraction. Their activities also threatened the sacred groves in Tanchara – green clusters of indigenous trees and shrubs revered as sacred lands. Sacred groves are important sources of medicinal plants, and conserve soil and water supplies. Most importantly, they are home to the community's ancestral spirits, and play a key role in the community's spiritual life. Traditional regulations for the protection of the sacred

groves are enforced by the Tingandem, the spiritual leaders who are regarded as the true owners of land. They advise the Chief and the Pognaa, the Chief's female counterpart.

In 2010, in response to these threats to the sacred groves and water supplies – and for the first time in their history – a united group of ten Tingandem came together to protest against the mining activities. This article relates the events leading up to and following this protest, including how, with the help of CIKOD, the community was mobilised to recognise and document its institutions and assets, and work towards achieving its own development vision. Building on this work, the community developed a biocultural community protocol (BCP) as a tool to seek legal protection for its traditional knowledge and natural resources against the threat of gold mining (Natural Justice, 2009). The article draws out lessons for others developing and using

¹ CIKOD is a Ghanaian non-profit organisation. Board members include the Pro-Vice Chancellor of University of Development, the President of the National House of Chiefs, a Former MP for Nkoranza in the Brong Ahafo Region and a Queen Mother (traditional female leader) from Mampong Akwapim. CIKOD is coordinator of the ETC COMPAS network in Africa.



Photo: Bas Verschuuren, ETC COMPAS

Illegal gold mining affecting water streams.

BCPs to assert and defend community rights over natural resources.

Supporting endogenous development (ED)

CIKOD's approach to working with the Tanchara has been to help them strengthen their capacity for 'endogenous development', that is development driven by communities, building on their culture, knowledge, resources and institutions. Strengthening community capacity is complex and takes time because communities are diffuse, nebulous, social and cultural entities, with many diverse dimensions and groups. CIKOD believes that focusing on just one part of the community, for example youth, women or traditional leaders, is likely to generate conflict because some parts of the community are excluded. Strengthening ED for the benefit of the entire community means mobilising different interest groups, the traditional institutions and community-based organisations (CBOs). Traditional leadership, as an integral part of African society and one of the oldest institutions of

governance on the continent, needs to be integrated into the development process, whilst recognising that this may mean changing with the times to meet the challenges of today: transparency, gender equity, environmental conservation and empowerment of the poor.

A community organisational development process

When CIKOD began working with the Tanchara community, it facilitated a participatory process to enable the people to bring together information about their local/indigenous resources and assets, create a vision of their own development and develop action plans to achieve this vision, drawing on local/indigenous resources and other relevant resources from external sources. The steps in this process are outlined in Box 1. A key part of the approach was to understand and work within the communities' own worldviews, which underpin daily life and influence interactions with outsiders and outside knowledge systems (Box 2). Identifying the

communities' key assets – biological, natural, cultural, social and spiritual – was also an important prerequisite for community organisation and capacity building. This information was gathered by members of the community (Box 1).

The process has been successful in mobilising the community to work towards the vision they identified, and in enabling them to present their vision to external actors (government officials and development organisations), and request support. Since 2004, community forums (*durbars*) have been organised by the Chief every Easter and Christmas to review activities and present projects to these external agencies. Sons and daughters working outside the village have also been invited to contribute to the development of the village. In 2007, field programmes were agreed for revitalising sacred groves, strengthening traditional authorities (male and female), traditional crop varieties, organic farming and zero tillage (see CIKOD, 2010).²

Monitoring the community's capacity for endogenous development

In 2010 and 2011, community meetings were held in Tanchara to reflect on how their capacities for endogenous development had changed since 2003, when CIKOD first began working with the community (Figure 1). Scores were agreed through community discussions with representatives of the youth, women, traditional authorities, elders and Tingandem. The Chief's and Pognaa's capacity to mobilise the community had both substantially strengthened due to the recognition gained through the organisational development process. The women are now better organised to support each other and undertake farming as an economic activity, and their role and voices are increased, heard and respected in community meetings. Respect and understanding

Box 1: Community organisational development process

Preparation of CIKOD field staff: A staff retreat to discuss attitudes and knowledge for promoting endogenous development: how to work within the worldviews of the community? (see Box 2). Staff identified challenges and proposed ways to address them.

Awareness-raising and gaining the consent of the Tanchara community: Meeting between CIKOD and the Chief and elders to explain the approach, then a community meeting to introduce CIKOD to the wider community and gain prior informed consent (PIC).

Formation and preparation of the community team: Five people selected by the community (two women, three men). Discussion to identify indigenous institutions, traditional authorities, formal institutions (e.g. NGOs) and livelihood assets used by different groups. Checklist of questions developed in the local Dagara language.

Training the community team: Participatory rural appraisal (PRA) tools introduced, including focus group discussions, individual interviews, field observations, transect walks and resource mapping. The team role-played tools with the community, receiving lots of feedback, then agreed a timetable for visiting different sections of the community and reporting back.

Carrying out the community institutions and resource mapping (CIRM): Five days gathering information about the community's institutions and biocultural resources. All ten Tanchara sections visited, as well as the Tindana of each section, and the Paramount Tindana. Information gathered collated with help from a staff member from the University for Development Studies, and gaps in the data identified. CIKOD staff recorded some resources identified on video.

Reporting back: Information modified and verified at a community meeting. Report adopted as a community document.

Community visioning: Community resource map developed, then discussion using the map. Where was our community 10 years ago? Where is our community now? Where do we want our community to be in 10 years? Responses captured by CIKOD staff and presented to the Tanchara community as a vision statement.

Action planning: How do we use the resources identified to make this vision come true? What practical activities must we carry out? When do we want to implement these activities? Who will do what and how do we ensure we carry out our responsibilities (community contract)? Development activities then prioritised and time-frame and community contract developed.

² Zero tillage is a way of growing crops from year to year without disturbing the soil through tillage. It increases the amount of water and organic matter (nutrients) in the soil and decreases erosion. See: http://en.wikipedia.org/wiki/No-till_farming

Box 2: Learning about worldviews

Worldviews and concepts of life: The relationship of mankind to nature and the spiritual world: creation myths, the divine beings; the role of ancestors, sacred persons, animals, places and objects; the concept of nature; and relationships of cause and effect.

Indigenous institutions: How local institutions regulate community decision-making, the management of resources and experimentation with new practices; understanding roles, responsibilities and attitudes of indigenous institutions in experimentation and innovation processes.

Indigenous practices and use of knowledge: Important practices relating to the management of natural resources, agriculture and health. What are concepts and explanations for the practices used by the local population? And how do they relate to western explanations and concepts? How do people learn, teach, experiment, innovate?

Interaction: How do local or indigenous knowledge systems interact with outside sources of knowledge? What is the focus of education, research and extension, religion and health?

Changes in the worldviews of the local communities: Identify changes that are the result of external influences and changes that are a result of internal adjustments to ecological, technological, commercial, political or demographic change. To what extent is experimentation and learning influenced by, or mixed with, the western worldview? What are the contradictions or tensions: erosion of indigenous knowledge and indigenous institutions, creative adaptation, conflicts or parallel systems, underground knowledge?

Options that exist for endogenous development of local communities: What is the vision of success in terms of desired changes for ED? What are key capacities for revitalised ED? What strategies, tools and techniques can strengthen community capacity for ED?

Source: Edited version of 'Appreciating the diversity of worldviews', pp. 81-107, in: *Learning Endogenous Development, Practical Action* (2007). Online: www.compasnet.org

of the importance of biodiversity, the sacred groves and the Tingandem who guard the groves has also substantially increased. This growing capacity and confidence of the community in its ability to mobilise and negotiate with external agents was to prove vital when faced with the threat of gold mining on its land.

Box 3: Assets identified by the Tanchara community members

- **Biological assets:** threatened tree species, crop and animal species, medicinal herbs.
- **Natural assets:** clay deposits, natural water sources, raw materials for local crafts, natural sites for water collection.
- **Cultural assets:** traditional architecture, local crafts, traditional artefacts, indigenous technologies, traditional medicine in the community.
- **Social assets:** festivals, health centres, educational facilities, social centres, markets.
- **Spiritual assets:** shrines, sacred groves, forests, tree, water points.

The mining threat and the community's response

In 2000 the Ghanaian government granted rights to prospect for gold in Nawdoli, Lawra and Jirapa districts in Upper West Ghana. The communities in these areas were not informed or involved in this decision. Nor were NGOs such as CIKOD, who were working with the communities. The rights that were granted encouraged illegal gold prospecting from 2007, threatening the Tanchara's sacred groves. Naa Yaa-yin Niber, a traditional leader of Tanchara relates what happened next:

Our main concern [was] a mining company that [was] about to enter our community. I called a community meeting, so everybody would know about this mining issue. These days nobody wants to look like a fool, so I gathered my people together and now we are united and ready to prevent future problems.

The Tingandem formulated a statement protesting about the activities of the illegal miners and asking the government to safeguard their sacred groves and sites from both legal and illegal mining. All the Tingandem appended their thumb prints on this paper and asked CIKOD to send this to the appropriate authorities for their attention and action. CIKOD responded by facilitating discussions in the community,

Photo: CIKOD



Tanchara community meeting to discuss gold mining and the BCP.

Figure 1: Tanchara community self-assessment of changes in capacity, comparing 2003 and 2010

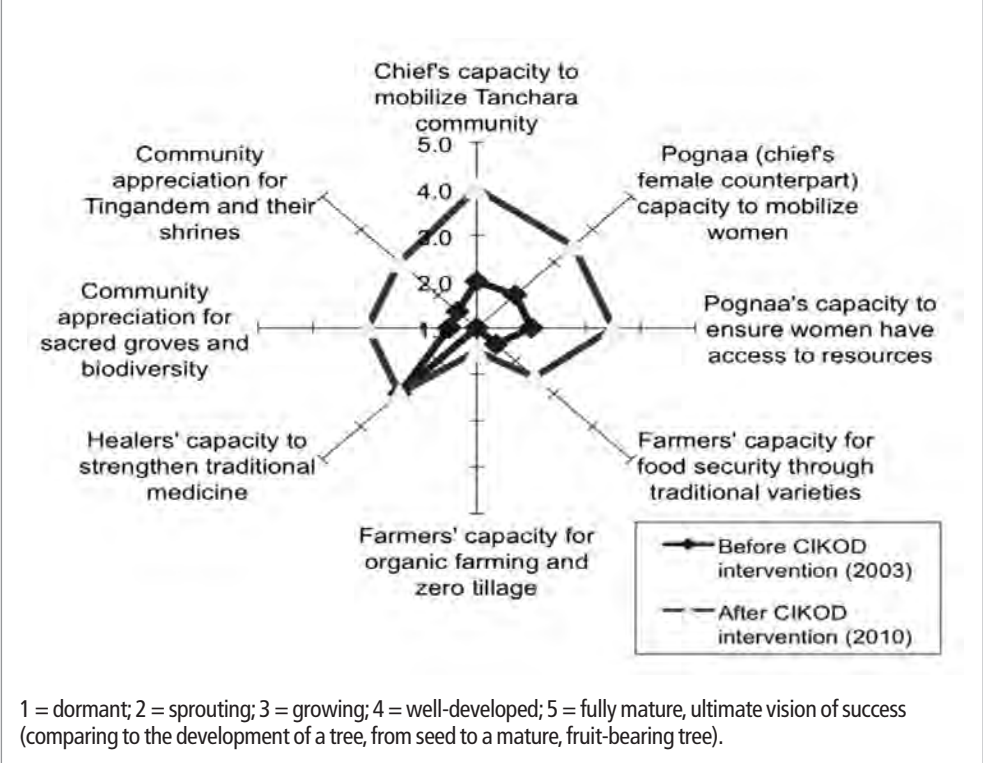




Photo: Peter Lowe

Naa Yaa-yin Niber and his council of elders.

in which it was agreed that the Chief should approach the Paramount Chief to discuss the gold mining problem. CIKOD undertook to do a study (in May and June 2010) of the impact of gold mining on the well-being of the communities.³ The study was discussed at an advocacy and validation workshop in June 2010, attended by the chiefs, the district assemblies and CIKOD. The district assemblies became involved because the gold mining threat is likely to affect the whole of northern Ghana.

Following the workshop, a regional forum on gold mining (July 2010) was organised by CIKOD, the district assemblies and the Upper West regional house of chiefs. The purpose of the forum was to assess the impact and agree on a joint statement to highlight strategies to deal with the situation. For the first time, the country representative of Azumah Resources Limited, the gold mining company, also participated. At the end of the forum a joint communiqué was issued, demanding that Azumah listen to communities, and calling for a public hearing to consider the current

and potential effects of their activities on communities.

Whilst all of this was happening, work was also going on to raise public awareness on the issue. A weekly local radio programme enabled community members to call in and voice their concerns. This had a serious impact on the gold mining company, which was unhappy with the negative publicity it was receiving.

Developing a biocultural community protocol

CIKOD also introduced the idea of developing a biocultural community protocol (BCP) as a tool for the Tanchara to negotiate with external parties and assert their rights. BCPs are tools to address conflicts facing communities and external users of the same area that share and use genetic and natural resources and associated traditional knowledge. A first draft of the BCP was drafted in April 2011 by a Canadian intern working for CIKOD. This drew on information gathered during the ongoing community development work, including mapping of the sacred groves, wetlands

³ This was funded by the Natural Resource and Environment Governance (NREG) programme of the Dutch embassy in Ghana.

and burial grounds, and traditional decision-making structures. The draft was then discussed with community groups – men, women, elders, youth and traditional leaders – to ensure that all parts of the community had a say. The draft documented the community's cultural values, vision for endogenous development, customary rights and responsibilities, and institutions and processes for PIC.

Currently (end 2011), the 'gold mining BCP' needs completion with information on legal rights. CIKOD has begun working with the Commission on Human Rights and Administrative Justice (CHRAJ) in Ghana to document community rights according to customary laws and international/national laws, so that this can be included in the BCP. The anticipated legal recognition of customary laws in Ghana, as promoted by the Convention on Biological Diversity (CBD) Nagoya Protocol (Article 12), will be a significant boost in the Tanchara's efforts to assert their rights. After its completion, the protocol will be signed by the Chief, the Pognaa and the Tingandem, and hopefully by the District Chief Executive and Paramount chief.

Following the communities' protests, gold mining by Azumah Resources has been postponed to 2013. This is a very significant achievement for the Tanchara community.

Lesson and challenges

The community strength developed through the community organisational development process laid the foundations for the development of the BCP. Taking endogenous development seriously means going at the pace of the community, especially the elders, and ensuring that traditional authorities are aware of their developmental roles and are accountable to the community. It is known that the gold mining company has tried to bribe other chiefs, bypassing the broader community's views and consent.

Whilst traditional authorities and

customary laws have been revitalised during this process, it is important to evaluate these laws and practices, and educate the community where these fall outside national laws or are detrimental to some sections of the community. In this case, this was part of the work of the lawyer from CHRAJ. For the process to be valid, it is critical to gather the views of all members of the community, not just the elders.

Documentation of the community's cultural resources and biodiversity by the community has been key to the community re-valuing these resources, which they had previously taken for granted, and has highlighted the communities' role as stewards of biodiversity.

Whilst an internally focused community organisation process involving research and visioning is essential for developing a BCP, the involvement or endorsement of local and national government is also needed if it is to be a strong tool for legal empowerment. The Tanchara community has been very successful in enlisting the support of local government structures and including all stakeholders in the process of mobilising and challenging the gold mining company from the very beginning.

The main challenges encountered in the BCP development process included:

- There is currently no legal backing in Ghana for customary laws and BCPs.
- Customary laws are not obeyed by the youth because of western religion and education.
- The community had no information on district assembly bylaws, national laws and international agreements that Ghana had signed in relation to community rights. (As noted earlier, CIKOD has brought in legal expertise to tackle this problem.)
- The community is still unclear about the importance of having a written BCP document for negotiation with other stakeholders. This is because the BCP as it stands is not a legally binding instrument; it depends on the goodwill of the stake-



Photo: Natural Justice

A 'rich picture' in which Bernard Guri of CIKOD explains how the biocultural community protocol is expected to contribute to sustainable community well-being.

holders. To address this challenge, CIKOD has introduced the concept of stakeholder platforms. As part of the BCP development process, research is being carried out by the University for Development Studies to identify the various stakeholders and their interests in gold mining in the community and to promote dialogue for acceptance of the demands in the BCP. This, it is hoped, will increase the credibility of the BCP and encourage stakeholder compliance with the demands in the BCP, even though the BCP is not legally binding.

Despite these challenges, the community has undoubtedly developed confidence and skills as a result of developing the BCP, but it is unclear if in future they will be fully able to negotiate on their own with a BCP document without external support. Although BCPs do not yet have legal recognition in Ghana, they can still be powerful negotiating tools if they are recognised by all the relevant stakeholders.

Ways forward

The postponement of gold mining to 2013 gives time for CIKOD and the communi-

ties to finalise the Tanchara BCP. Other potentially affected communities in northern Ghana will also be able to develop BCPs much more easily and quickly as relevant laws and bylaws will already have been clarified. These communities will also need a community development process. CIKOD is already using the same BCP tool to defend the rights of female sheanut pickers in their dealings with commercial buyers. It will build on the lessons learnt in the Tanchara BCP process.

From November 2011–September 2012, a new action research programme around BCP work in Ghana and Kenya will apply specific methodologies and tools for analysing power dynamics in multi-stakeholder processes (see Tips for Trainers, this issue). Local researchers will investigate how BCPs are empowering communities to negotiate their rights. They will look at ways of levelling out power and reconciling different interests. The outcomes of this research will then feed into other BCP processes.

In addition to this, CIKOD will be working with the community on develop-

ing a community strategy for the conservation of the sacred groves in partnership with the Sacred Natural Sites Initiative. The Tindangem, traditional leaders and the communities' youth will be making field exchange visits to other communities in Ghana that have successfully managed to protect their sacred groves. The process of developing a community strategy for the conservation of their sacred groves and resources has put into practice the communities' traditional knowledge and practices that are also part of their BCP. As the community will be developing its own conservation strategy for its sacred groves and biocultural heritage it will also be alerting the mining company and government actors to the international guidelines of the CBD, UNESCO and IUCN, specifically designed to assist external companies and institutions to work with sacred places (Wild and McLeod, 2008; Secretariat of

the Convention on Biological Diversity 2004).

The conservation planning process itself is based on the communities' own biocultural resources and will lead to a locally relevant conservation strategy. Together with CIKOD, the community will seek all information required in order to create an endogenous and informed planning process which may potentially also include new allies and stakeholders that support the conservation strategy. The envisioned outcome of this process is not just the conservation of the sacred groves but also to support the sustainable use of the community's natural resources together with other actors. The latter can be achieved through developing socio-economic activities that form alternatives to mining such sheanut harvesting, attracting eco-tourism and creating productive buffer zones around the groves.

CONTACT DETAILS



Bernard Guri Yangmaadome
Executive Director
CIKOD
PO Box CT4131
Accra
Ghana
Email: benguri@cikod.org,
bernguri@gmail.com
Website: www.cikod.org



Daniel Banuoku Faabelangne
Regional Coordinator
CIKOD
PO Box CT4131
Cantonments Accra
Ghana
Tel: +233 208332241
Email: fdanus@yahoo.com
Website: www.cikod.org



Emmanuel Kanchebe Derbile
Lecturer
Faculty of Planning and Land Management
University for Development Studies
UPW3, Wa Campus, Wa, UWR
Ghana
Tel: +233 244516896
Email: derbile_uds@hotmail.com

⁴ See: <http://sacrednaturalsites.org>



Wim Hiemstra
ETC COMPAS: Comparing and Supporting
Endogenous Development
The Netherlands
Email: w.hiemstra@etcnl.nl
Website: www.compasnet.org



Bas Verschuuren
Co-Chair, IUCN WCPA Specialist Group
Cultural and Spiritual Values of Protected Areas
Researcher and Coordinator, EarthCollective
Website: www.earthcollective.net
Coordinator, Sacred Natural Sites initiative
Website: www.sacrednaturalsites.org
Email: basverschuuren@gmail.com

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Defending our territory: the biocultural community protocol of Alto San Juan, Colombia

11

by TATIANA LÓPEZ PIEDRAHITA and CARLOS HEILER MOSQUERA

Introduction

The biocultural community protocol (BCP) of the collective territory of Alto San Juan was developed to strengthen the communities' collective rights and to formally recognise the cultural practices which contribute to maintaining biodiversity in the region. The territory is an historic and ancestral settlement of Afro-Colombian communities who practice traditional production practices for collective use. The protocol reflects the communities' holistic concept of territory and their relationship with natural resources. It documents the environmental issues that the community perceives to be of importance.

The collective territory covers an area of 54,517ha and 4,625m², and is located in the municipalities of Tado and Rio Iró in the Choco bioregion of Colombia. It is home to 30 communities who have their own culture, a shared history and their own traditions and customs which demonstrate and maintain an identity that distinguishes them from other ethnic groups. The local communities elect a representative who is

part of the larger inter-community organisational structure of ASOCASAN, the Alto San Juan Community Council. Under Law 70 of 1993, this council is the highest autonomous internal administration body in the Upper Basin of the San Juan River, and it is one which upholds the permanence of the local culture.

Representatives from different localities participated in developing the BCP. They agreed that illegal mining and the extraction of natural resources in the community forests were major concerns. They also identified cultural practices that help reduce the loss of habitats, and proposed synergies with key State institutions as a basis for relating with them during the implementation of development projects and research in the territory.

A challenge for local processes is identifying cultural mechanisms to mitigate problems caused by external agencies, as well as expressing values that the community wishes to be considered for its development. This article shows the actions taken by the Alto San Juan commu-



Photo: Gino Cocchiaro

The impacts of mechanised illegal mining.

nity to build a tool that articulates guidelines to ensure that any activity contributes to the community's own development model, and where the relationship between natural resources, culture, community and external actors constitutes the fundamental pillars of management. In the words of Wilson Murillo, Chairman of the Board of ASOCASAN:

In the collective territory, the afro-descendant communities practice traditional methods of production which sustain this generation and those to come.

Territorial threats

The collective land has rich flora, fauna and mineral resources which the community depends on it for its livelihood – directly (hunting, small farming, fishing, mining) – and indirectly (use of non-timber forest products and sale of surplus).¹

However, there are external pressures on and around the territory. Colombia's national development policy (2010-2014)

is based on the extraction of mineral and natural resources. By 2010, the State awarded 7,397 titles for open-cast mining in the Colombian Choco bio-geographic region, amounting to 844,000ha. Another 22,000ha were affected by illegal mining by armed groups operating outside the law, causing a loss of forest resources, drastic changes in land use and pollution of water sources. This also led to changes in the community's cultural values, through offers of financial payments to diggers for gold mining, and enticing young people to abandon their studies and values to work in the mines in inadequate conditions. It also brought new local markets for food that have led to a decline in traditional production practices.

Even though the State granted the right to collective ownership of the ASOCASAN territory, these rights are still being violated.² This is partly because the law for black communities is not fully regulated through proper implementing regulations, due to the growth in illegal extraction activ-

¹ Law 70 of 1993 recognises the traditional production practices and the right to collective ownership by black communities who have been occupying uncultivated land in rural areas adjoining the rivers of the Pacific Rim.

² INCORA Resolution 2727 of 27th December 2001.

Photo: Johanna von Braun



Mechanised illegal mining causes a loss of forest resources, drastic changes in land use and pollution of water sources.

ities and development projects that are unaware that the local internal management structure is a legal entity. The problems are exacerbated when the State does not facilitate the monitoring of illegal mining activities which lead to the progressive degradation of natural resources. In addition, the process of consultation is not properly conducted before development projects are implemented, and when consultations are done, they have no agreements and are not binding.

Also, the traditional practices that promote cultural and biological diversity are not sufficiently recognised by actors from outside the territory. This hampers the recognition of land rights; and the community lacks confidence in cultural safeguards when faced with major development projects or big businesses.

Community practices

The traditional production practices of the Alto San Juan community constitute an integrated management and production

system, which enhances the well-being of ecosystems. The rate of extraction of natural resources favours natural dynamics, taking into consideration different soils and species, and the timing and patterns of extraction. Traditional mining of alluvial gold is a comprehensive cultural production system that encourages family and collective work, the recovery of soil structure and the regeneration of vegetation cover. It also promotes food crops by avoiding metal contaminants.

To maintain these traditional techniques, ensure sustainable production and prevent habitat degradation, traditional mining families developed a community cooperative – *Ore Verde* (Green Gold). This promotes diverse production activities, responsibility for environmental issues, sustainable use of natural resources, market access at fair prices, the strengthening of endogenous development models and capacity building.³ It sets out ten criteria for the cultural values associated with mining, including the distribution of

³ Local development refers to the concept of **endogenous development**, a model that helps to strengthen the internal capacity of the local community to strengthen their culture and economy and maintain them over time.



Photo: Tatiana López

Working day in artisanal mining. 'Los socios del cerro' mine, Luis Américo Mosquera.

benefits.⁴ This community process was certified by the Alliance for Responsible Mining (ARM) as fairtrade and fairmined gold, due to its environmentally friendly process.

Traditional mining is an example of sustainable local development and is linked with traditional use and knowledge related to all aspects of biodiversity (flora, fauna, soil, lunar calendar, among others). Mining is a big priority as far as the government of Colombia is concerned, but other productive systems and cultural mechanisms which are important for endogenous development processes must be recognised and considered when actions are planned and implemented in the territory. As Carlos H. Mosquera, co-author of this article, resident of the Playa de Oro area and representative of ASOCASAN says:

We will continue to talk about local development so that outsiders understand our

reality and help strengthen our traditions and processes.

The biocultural community protocol

The Alto San Juan BCP is a management tool put together by the community. It encapsulates the ancestral nature of its occupation by the Afro-Pacific communities, who have achieved a harmonious coexistence with other indigenous groups in the region, coming to an agreement on the territorial limits of each ethnic group and on access to resources for hunting and forest extraction.

The protocol expresses the community's values and its relationship with natural resources. It proposes guidelines for dialogue with external actors to develop appropriate processes, setting out its commitments to the environment and to future generations.

To outsiders, the protocol communi-

⁴ See: www.greengold-oroverde.org/loved_gold/

Photos: Tatiana López



Recovery of degraded areas by artisanal mining.

icates the fact that community territorial planning, ancestral practices and the rights granted by law in relation to natural resource management should be recognised in development proposals, municipal planning processes and national policies, and in the State administrative office, so that the community can participate in decisions that affect its way of life.

The Alto San Juan BCP is also part of a regional process by black communities which promotes the recognition of the collective rights of ethnic communities in the territories; and counters any large-scale intervention processes which do not take the natural and cultural characteristics of the region into consideration. As defined by Wilson Murillo:

The territory is a life strategy for the defence of life, autonomy and cultural identity.





Photo: Carlos Ariel

Methodological process to identify problems associated with resource use.

The BCP contributes to this process and requires community management to achieve its positioning as a management tool for ASOCASAN.

Methodology

The development of the methodology began in August 2010. The document was disseminated in December 2010 and its revision finalised in April 2011. Participatory research was the methodological framework as it is a social process that contributes to processes of self-development that are continuous and dynamic. It entails a series of stages: research, analysis/diagnosis, programming, implementation and evaluation. These can be divided for ease of reporting but in practice often occur simultaneously. The Pacific Institute of Environmental Research (IIAP) has carried out community strengthening initiatives in the region to ensure continuous processes by communities. The BCP process identified the need to make links with government



Photo: Tatiana López

Prioritising issues associated with the use of resources.

entities and open spaces for participation in government territorial planning processes.

To identify issues and content of the BCP, two methodological components were used with different representatives of the communities to ensure representation of the largest number of community interests. One focused on Natural Justice's

Table 1: Summary of perceived problems

Resource	Traditional system	Significance	Problem
Gold, platinum	Artisanal mining	Cultural and economic	• Artisanal mining is not properly recognised nor regulated in the national regulatory framework. • The national mining regulations violate local dynamics as control mechanisms for the implementation and operation of mining companies are not applied rigorously. • Exploitative techniques of large-scale commercial mining companies infringe the ecosystem and social arrangements of the community, generating loss and changes in natural and cultural values of the population without generating compensating actions or sanctions.
Medicine, use of renewable resources	Traditional knowledge	Social, cultural, spiritual	• Traditional knowledge is not valued and is only noticed when the knowledge is lost, when holders of knowledge die and do not leave a legacy. • We need more research on traditional knowledge associated with our festivals, development of tools and instruments and crafts, these investigations must be made known to promote the well-being of the community. • In the past, researchers come to work and take the knowledge and information without ever returning to show the community the results of their work. • The investigations do not respond to our needs, ideas are brought from outside, the research benefits people outside the community territory of Upper San Juan.
Timber, sustainable and non-sustainable	Forest management	Cultural, economic	• There is a need for internal regulation of commercial use and logging. Interests of the timber trade and the arrival of outsiders violates community dynamics, generates loss of our forests and does not consider management to restore our territory. • Insufficient alternatives for forest income-generation that promote forest conservation, and make visible the cultural values associated with it.

experience in protocol development in different countries.⁵ This guided the identification of problems relating to certain resources, and cultural mechanisms, traditional norms and values which promote conservation. National and international rights were also linked to the community claims. The other component focused on the stages of intervention processes for endogenous community development. In this particular case, this referred to understanding the community's perceptions of their reality, the problems that require early intervention and particular scenarios

which are most affected, and subsequently identifying possible solutions and actions.

Three workshops were organised, and field interviews were carried out with artisanal miners in their working location. The workshops were attended by representatives of the communities of Carmelo, Playa de Oro, Angostura, Manungará, el Tabor, and the ASOCASAN community council. Participants included young people, women and men, among which were traditional miners, farmers, traditional doctors and teachers. This allowed a better representation of all community interests and

⁵ See Natural Justice (2010).

different perceptions of the issues. The interviews were carried out by IIAP, but all activities were accompanied by an ASOCASAN representative.

IIAP disseminated and agreed the proposal with the ASOCASAN major council (the individual community councils are 'minor' councils). Once validated, the methodological activities were developed in three general stages, in which the same group of people were continuously involved:

- Dissemination of the idea: initial exchange with the community to understand their perceptions of environmental problems and their expectations for the development of the BCP.
- Defining, using questions, issues relating to the community and its relationship with natural resources, problems and challenges. In this way, the most important resources are identified.
- Identifying the main problems perceived (pre-diagnosis). Facilitated by IIAP and Natural Justice, the community defined the most important resources, associated traditional systems and problems (Table 1).

With this information and with the community and the support of ASOCASAN, the content and structure of the BCP were jointly defined.

Drafting, development and dissemination of the final document

Activities in this phase involved integrating various legal frameworks with the aspirations that the community expressed in the workshops. This process was refined through consultations with community leaders. The final result was shared with community representatives.

The structure of the BCP and the associated national policy frameworks (Table 2) were arranged into two parts. The first expressed issues relating to the community and land in a language that reflected the local culture of the community. The second presented specific frameworks and case laws which support the rights and claims of the community in a more technical

language – to provide a reference during dialogue with external actors. The text was adjusted by representatives of the major council to ensure that the language was easily understood by the community.

The document was approved at a general assembly held by the community as an internal document for the major council, to be adjusted according to the communities' own laws and in light of changes in national law. This ended the formulation stage. As a first management step, it was proposed that the BCP be promoted to regional planning bodies and to the government environmental agency to generate synergies with key players in the territory as part of a new process.

Lessons learnt

The main lesson from the formulation process was that the existence of an organisational structure like ASOCASAN, which links all communities in the area, facilitates the stages of dialogue, diagnosis, the formulation of alternatives and follow-up actions. ASOCASAN not only links socio-economic welfare with food security, working to improve living conditions in harmony with nature – it also strengthens the communities' identity and autonomy.

The official participation of State representatives from the land planning and environmental departments is essential for the impact of the BCP, since this generates initial processes of dialogue that can then become instances of community participation in planning processes. Such participation is important to link community exercises of land use planning and natural resource management to municipal budget planning, so that municipal budgeting supports community initiatives and strengthens local processes.

The methodology for these types of BCP processes is varied and can be adapted to the specific context of each community. There is no single formula, only guidelines for developing these community processes. In planning BCP processes it is crucial to

Table 2: Content of the ASOCASAN biocultural community protocol

Topics	National legal framework
History of the community (where we come from, historical processes of occupation)	Law 70 of 1993
Definition of the community (who we are), how the community defines itself	
Governance structure (ASOCASAN)	Decree 1745 of 1995
Our relationship with the land and natural resources	Political constitution of Colombia Law 70 of 1993 Law 99 of 1993 Decree 1745 of 1995 Resolution of ASOCASAN
Our relationship with the mining resource	Law 70 of 1993 National code of mining
How we use forest resources	Decree 2811 of 1974
Traditional medicine (traditional knowledge)	Decree 309 of 2000
Challenges (final provisions)	
Commitments	
Our expectations for the future	

consider flexible timeframes since some stages may require more time than expected. The drafting process can be as time-consuming as the diagnosis stage. It is important to use simple language, but not to use too many local phrases that make it difficult for outsiders to understand.

A BCP should not be the ultimate goal, but rather should be part of a community management process which links community efforts to a specific purpose. BCPs should be linked to other management tools to help local processes. ASOCASAN currently has internal regulations for the use and exploitation of natural resources or regulations regulating community activities which, along with the BCP, contribute to the internal management of the territory.

The methodological activities (e.g. interviews) were mainly carried out by the organisations supporting the process (IIAP and Natural Justice) and although communication was constant, time did not permit

the sufficient generation of capacity in the community so that the community could take on these tasks themselves. This was due to the set timeframe for the project in the donor contract (nine months). However, the continual participation of representatives of ASOCASAN generated ownership of the content and usefulness of the BCP, an aspect that is crucial for negotiation processes for activities affecting the territory.

Regarding impact, being a new management tool, the BCP does not have any political positioning, due to a lack of awareness of its potential. This means that more must be done to give it greater recognition and to raise awareness among the environmental and municipal authorities of the importance of this type of community process.

As a community instrument, community protocols face barriers such as economic interests of unions (miners,

loggers) and political constraints (limited State capacity to ensure rights are respected, and regulatory frameworks which are inadequate or ambiguous), which hinder their subsequent implementation. It is therefore recommended to consider a phase of follow-up to the development of a BCP, until the issue is well positioned in government, or perhaps to start a region-wide process to support these initiatives to enhance their influence.

CONTACT DETAILS



Tatiana López Piedrahita
Consultant
Instituto de Investigaciones Ambientales del
Pacífico (IIAP)/Pacific Institute of Environmental
Research
Cra 83 cll 34 conjunto M Casa #36
Ciudadela Comfandi
Colombia
Email: taticologa@gmail.com
Website: www.iiap.org.co



Carlos Heiler Mosquera
Representative from the Board of Directors
Community Council of Alto San Juan
(ASOCASAN)
Cra 9ª N° 4-46
Barrio Reinaldo Perea-Casa de la Justicia
Colombia
Email: mcarlosheiler@yahoo.com.

NOTES

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Creating the Ulu Papar biocultural community protocol

12

by THERESIA JOHN, PATRICIA JOHN, LOUIS BUGIAD and AGNES LEE AGAMA

Background

Ulu Papar is a remote place in Borneo, located at the uppermost reaches of the Papar River in the District of Penampang, Sabah, Malaysia. The landscape is inhabited by about 1000 indigenous Dusun people, in nine small settlements. The natural environment is the source of their food, crafts, medicine, construction materials, recreation, cultural heritage, history and identity. Having managed their forests communally according to customary practices for generations, the community has a rich and deep cultural and ecological knowledge.

In 2010, the people of Ulu Papar came together to create a biocultural community protocol (BCP) – a document articulating the interests, rights and responsibilities of the Ulu Papar community in the preservation, management and utilisation of their territories and culture. The idea for the Ulu Papar protocol developed out of community concerns over three main issues: lack



Photo: Yassin Miki

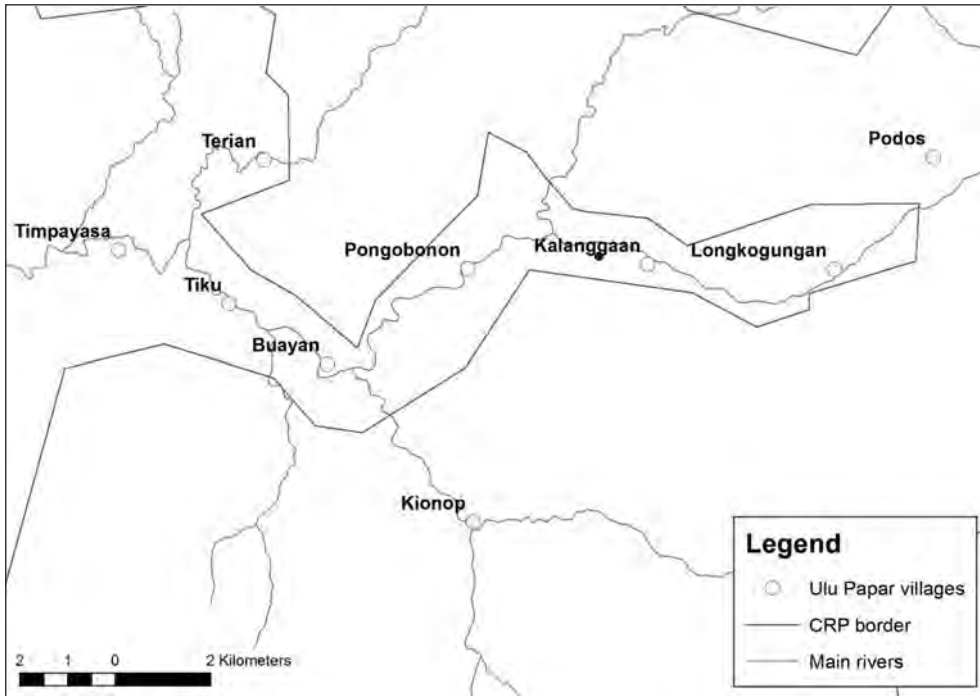
Panorama of Buayan village in the Ulu Papar valley.

of tenure security, conflicts with State-driven conservation and destructive development.¹

Background on land, resource and conservation in Ulu Papar

Indigenous Dusun people have inhabited the Ulu Papar landscape for generations. Oral histories affirm their presence since colonial times. Almost all villages have no

¹ The BCP process was initiated as part of activities under the Darwin Initiative projects in Ulu Papar, with the assistance of Natural Justice.



Map of Ulu Papar showing location of villages in relation to the Crocker Range Park (CRP) boundary.

road access, and the rugged and hilly terrain makes Ulu Papar a remote and difficult area to reach. Community members consider this area to be their ancestral lands and depend almost entirely on the surrounding natural resources and landscapes for survival.

Loss of customary lands in Ulu Papar began after Malaysia was formed in 1963 with the gazettelement of the Crocker Range Forest Reserve in 1969, followed by its conversion to the Crocker Range Park (CRP) in 1984. The remaining customary lands – a narrow strip along the Ulu Papar valley – were classified as alienable State Land. The Ulu Papar community has not been granted legal title over their customary lands, for reasons not explained by the authorities.

Conflicts surfaced when a large portion of Ulu Papar's customary lands were incorporated into the Crocker Range Park in 1984 without the community's participation or consent. Many people's daily livelihood activities, such as subsistence

swidden farming, hunting, freshwater fishing and gathering forest products, which have always been carried out within the park's boundaries, were considered 'unlawful', generating a bitter, 20-year conflict. Excision of customary lands from within the park was once considered but given the substantial area involved, it was felt that such an exercise would significantly impact on the conservation of biodiversity and ecosystems of the Crocker Range Park (Sabah Parks, 2006). As an interim measure, in 2006 the CRP Management Plan introduced the concept of community use zones (CUZs), designated areas inside the park where communities will be permitted to access and use resources and lands (with certain limitations) as a compromise to soften the conflict between the community and the park, with a view to exploring a mutually agreeable resolution in the longer term (Sabah Parks, 2006). Although this granted certain rights (on paper) to the people of Ulu Papar, many were not satisfied. CUZs would not confer the

Photo: Noah Jackson



Agriculture, a key livelihood for the UP community, is limited due to access restrictions to traditional agriculture sites.

community with legal tenure of customary lands inside the park, and it was unclear whether the CUZ areas could support their livelihood needs (Pacos, 2004).

In 2009, the Sabah Government began the process to nominate the Crocker Range Biosphere Reserve (CRBR), which is a designation under UNESCO's Man and the Biosphere Programme.² The CRBR would adopt the entire Crocker Range Park (1,400 km²) as the core zone for strict conservation. Areas adjacent to the boundary would form the buffer zone, where limited activities would be permitted.³ A transition zone would encircle the buffer zone, where conservation activities and mixed development, such as housing and commercial estates, roads and infrastructure, would be permitted. Ulu Papar falls under both buffer and transition zones, while the CUZ would be implemented as an exemption within the core zone. Poten-

tially impacting over 400 villages on the park periphery, the CRBR is still at a conceptual phase and community consultations are still preliminary.

Then in 2009, the Sabah State Government announced plans to build the Kaiduan Dam, to supply water to the capital. The project would impound 320ha of Ulu Papar as a catchment area and submerge the villages of Timpayasa, Tiku, Buayan and Babagon Laut (adjacent to Ulu Papar). The project met with public outrage when it claimed the Ulu Papar valley was uninhabited. Although the plans pose immediate and obvious contradictions to the government's plans to nominate the CRBR, the status of the dam project remains unknown. The Ulu Papar community vehemently oppose the dam. However, their complete lack of tenure security means they have no legal foundation for rejecting the proposed dam.

Collaborative research in Ulu Papar

In 2004, spurred by interest in Sabah Parks to find innovative solutions to the Ulu Papar conflict, a consortium of partners initiated a joint research project to investigate and document resource use patterns in Ulu Papar.⁴ A participatory action research approach was designed to build the capacity of indigenous community researchers to document the key ethnobiological resources important for community livelihoods and jointly monitor how they are used, managed and protected by the community (GDF, 2009).⁵ The term

² The UNESCO Man and the Biosphere (MAB) Programme aims to set a scientific basis for the improvement of the relationships between people and their environment globally. See: <http://tinyurl.com/unesco-mab>

³ Existing legislation in force on State lands may place limitations on communities in buffer zones, for example prohibitions on hunting and restrictions in watershed areas.

⁴ Led by the Global Diversity Foundation (GDF), Sabah Parks and the Ulu Papar community, and funded by the Darwin Initiative UK, this eight-year initiative has, over the years, included partners such as Pacos Trust, Universiti Teknologi Malaysia, Universiti Malaysia Sabah and the University of Kent UK.

⁵ Research to collect baseline data (e.g. locations of important areas, key resources important for livelihoods) was a necessary first step for communities to voice their concerns and expectations. The data amassed from this research is vital to building a convincing and realistic proposal to resolve access, use and tenure issues, understanding the resource use and cultural significance of the Ulu Papar landscape so that discussions could focus on practicable solutions and realistic expectations.



Photo: Ephraem Lompoduk

Community researchers update the location of gravesites on the Ulu Papar participatory 3D map.

‘resource catchment area’ was coined: the total area required to sustain community livelihoods in Ulu Papar, both inside and outside the park. Research results continue to inform the ongoing discussions within the community, and between the community and park managers on land-use planning and resource management, whether in the proposed CUZ, buffer and transition zones to the CRBR, community conserved areas or community-managed multiple resource use areas (Wong *et al.*, 2009).

An important outcome was the enriched capacity within the community to engage in conservation dialogue and action (Agama *et al.*, 2011). Over 300 young and elderly men and women from Ulu Papar villages have participated in research activities, as community researchers, collaborators, informants, workshop participants, field guides and hosts. Over eight years, more than 25 community researchers have been trained to work with their villages to map key resource areas and mark them on 3D models, conduct livelihoods assessments,

record oral histories, collect botanical specimens of useful plants, and produce a series of participatory videos that share the concerns of their community in their own words and using their own images. Conducted through fieldwork, workshops, community exchanges, training courses, expeditions and travelling roadshows, these activities yielded a significant amount of data on resource use patterns and cultural landscapes. The process has also facilitated discussions and information-sharing amongst community members and with outside agencies.

This collaborative initiative has been critical in promoting the role of the community in the conservation and management of Ulu Papar (Majid-Cooke and Vaz, 2011). However, many threats remain to their livelihoods, well-being and future. These include the lack of legal tenure of their customary lands, prolonged delays in CUZ implementation and lack of clarity on CRBR zoning, continued stand-off with the park and plans to construct the Kaiduan Dam.

Photo: Nick Lunch



Community researchers trained in participatory video.

The biocultural community protocol

To deal with these problems and ensure the recognition of Ulu Papar as an important site for the protection and promotion of biocultural heritage in Sabah, the community researchers complemented the ongoing broad range of participatory advocacy activities by launching a process to develop the Ulu Papar BCP in 2010 with the support of various partners. In this context, it was the participatory research and advocacy processes that provided community researchers with the techniques and experiences to draw on, in the process of developing the protocol.

The Ulu Papar BCP is a document describing the community, its members' way of life and culture, and the activities that sustain their daily lives, such as agriculture, hunting and harvesting forest and river resources. It elucidates the rights, responsibilities, interests and roles of the community in overcoming the challenges they face as well as their unique management and conservation approaches that are based on their *adat* (customary laws) and

culture. The protocol represents the product of consultations that have involved many community members in the process of thinking about and analysing their priorities as a united collective. In this way, it also embodies a framework guide to stimulate unity as they move to resolve the problems faced in each village.

Most importantly, and moving beyond village-level problems, the protocol represents a clear articulation of the community's aspirations in terms of future interactions with outside actors, including representatives of government agencies. In this sense, the protocol is a fundamental tool in any process where outside parties intend to obtain the community's free, prior informed consent (FPIC), and therefore represents the first step in a larger mechanism for engagement with outside actors, within the community, and with future generations.

The process to develop the Ulu Papar protocol was conducted through a series of workshops, trainings and discussions with community members and relevant parties

Table 1: Community consultations while developing the Ulu Papar protocol

Date	Activity	Place	Participants ⁶
1st–2nd March 2010	Centralised community workshop with Natural Justice and GDF	Buayan	61 people from the Ulu Papar villages of Buayan, Tiku, Timpayasa, Terian, Pongobonon and Kalanggaan (including three from GDF and two from Natural Justice)
10th–11th March 2010	Training course for community researchers with Natural Justice, Sabah Parks and GDF	Crocker Nature Centre, Crocker Range Park Headquarters in Keningau	34 people comprising community researchers from the Ulu Papar village of Buayan and the village of Bundu Tuhan Ranau, Sabah Parks naturalists, trainers from Universiti Teknologi Malaysia (UTM), Natural Justice and GDF
29th–30th March 2010	Centralised community workshop with GDF	Buayan	54 people from the Ulu Papar villages of Buayan, Tiku, Pongobonon, Kalanggaan and Timpayasa and GDF
3rd May 2010	Centralised community workshop	Buayan	32 people from the Ulu Papar villages of Buayan, Tiku and GDF
24th August – 6th September 2010	Ulu Papar Roadshow I	All Ulu Papar villages	93 people from the Ulu Papar villages of Buayan, Tiku, Timpayasa, Terian, Podos, Longkogungan, Pongobonon and GDF
10th–19th August and 18th–19th September 2011	Ulu Papar Roadshow II	All Ulu Papar villages	99 people from the Ulu Papar villages of Buayan, Tiku, Timpayasa, Terian, Podos, Longkogungan, Pongobonon and GDF
29th January – 10th February 2012	Ulu Papar Roadshow III	All Ulu Papar villages	71 people from the Ulu Papar villages of Buayan, Tiku, Timpayasa, Terian, Podos, Longkogungan, Pongobonon and GDF

(see Table 1). The first workshop, held in early March 2010, was a centralised event, where each village in Ulu Papar self-selected representatives to come to Buayan to participate in a joint discussion with the Global Diversity Foundation (GDF) and Natural Justice about ways to resolve the problems they face. During this workshop, participants agreed to collect information to develop the Ulu Papar biocultural community protocol, as a preliminary step in articulating the community's identity, way of life and their vision for a collective future.

A 'training of trainers' course, designed with expertise from Natural Justice (Box 1), was held to strengthen the capacity of

community researchers who played a leading role in designing and facilitating community consultations, compiling the information needed and polishing the text of the protocol. The course incorporated interactive workshop exercises, such as role plays, to review and follow-up the developments of the first centralised workshop in Buayan. These sessions aimed to explore in detail the legal approaches for supporting communities and conservation in relation to human rights and environmental laws at international, national and local levels. They also gave trainees the opportunity to better understand the diverse perspectives of the different stakeholders implicated in deciding the future of Ulu Papar.

⁶ Aside from GDF, Natural Justice, Sabah Parks and UTM trainers, the participants were all community members: men and women who live in Ulu Papar. Some were leaders, some were not, although all are Dusun; farmers, fisherfolk, hunters and gatherers of forest products.

Photo: Natural Justice



Group discussions at the first biocultural community protocol workshop.

Photo: Inanc Tekguc



Community researcher Theresia explaining the draft protocol to another community member.

Box 1: The Ulu Papar BCP training session 10th–11th March 2010

The first training session consisted of informative presentations, role play and group discussions:

i. Presentation on international legal instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Convention on Biological Diversity (CBD) that support indigenous peoples' rights to manage their resources

ii. Role-play: participants divided into three groups. In each group, five pairs of participants were given different 'stakeholder' roles. Each pair had 30 minutes to prepare a position and strategy based on a fictional scenario. They then returned to the group to negotiate and arrive at a consensual and constructive 'way forward', which included strategies such as developing a protocol, collecting more data, improving inter-agency communication, raising awareness amongst community members and conducting more training for community researchers. Then an overall evaluation discussion was held to comment on the negotiation process, explore the challenges involved in arriving at a group decision and distil lessons learnt for the community.

iii. Presentation on biocultural community protocols, drawing on the role-play to explore situations in which community protocols may be useful. This included a discussion in which concerns and questions from the community were addressed.

iv. Field update from the first Ulu Papar BCP workshop (see Table 1). Participants then carried out group discussions on the main themes of importance to the community (Kaiduan Dam, customary land inside the park, the need for improved education materials and buildings and for better local infrastructure, and the possibilities for tourism in the area).

v. Planning and next steps: in two groups, participants discussed priorities, strategies and short- and mid-term actions. They developed a six-month plan to facilitate community consultations and data-gathering to develop the protocol. This plan incorporated a selection of techniques, such as a collaborative data gathering expeditions to villages in the uppermost reaches of the valley, travelling roadshows, further training of community researchers in community outreach approaches, and interviews using participatory videos. They agreed that the plan should be evaluated and revised after six months. In the longer term, priority was placed on raising the profile of Ulu Papar as an important cultural landscape. Tentative plans included launching a Ulu Papar community and conservation campaign as the principal vehicle to structure the use of the protocol (along with the participatory videos, photography galleries and maps) to engage with government agencies and raise public awareness.

Following this, subsequent community workshops were held to flesh out the contents of the Ulu Papar protocol and seek feedback from all participants. Community researchers played a pivotal role in designing the community consultation activities that enabled them to compile information needed for the protocol, from workshops and discussions and drawing upon the significant corpus of data gathered during the Darwin Initiative projects to support the viewpoints asserted in the protocol. For example, geo-referenced maps were used to show locations of important resources and cultural sites, while ethnobiological data displayed in charts and graphs demonstrate the interrelationship between the community and the natural landscape they rely on. During the follow-up workshops, participants were given the opportunity to discuss with each other, give information and share their views on the framework draft protocol that was beginning to take shape.

In the earlier stages of drafting the protocol, participation was somewhat unsatisfactory due to remote locations of villages. Difficult journeys prevented community members from far-flung villages from attending. The community researchers decided to design and conduct a travelling workshop – which became known as the Ulu Papar Roadshow – to visit each of the villages, sharing the same information regarding the protocol drafting process in each, while collating feedback from all community members to finalise the draft protocol. To review the protocol text, community researchers chose to embark on a lengthy word-for-word process that examined each section and sub-section of the protocol with each of the villages they visited. Although tedious and demanding, the roadshow format permitted more women and elderly community members to participate in the consultation process, whilst also ensuring ownership and commitment from each village. At the end of each roadshow, the community researchers improved and revised the draft

text based on the views and comments collected from community members. In March 2012, after almost two years, the protocol was finalised and printed in Bahasa Malaysia for community members and researchers to disseminate (a digital English version has also been prepared).⁷

The protocol forms part of the backbone of the Ulu Papar Community and Conservation Campaign launched in 2011 to disseminate information about the importance of Ulu Papar as a biocultural heritage site for the State of Sabah. Activities conducted under this campaign include:

- roadshows that visit each Ulu Papar village to share the latest updates and enable community members to discuss the critical issues they collectively face;
- dialogues with government to raise awareness about the heritage value of Ulu Papar and the role of the community in the conservation of this heritage;
- the circulation of the Ulu Papar BCP as a document that represents the desire and

commitment of the Ulu Papar community to work together in preserving Sabah's biocultural heritage.

Overall, the Ulu Papar BCP, and the participatory process undertaken to create it, have helped the community articulate a common vision and aspirations for well-being. Most importantly, it has fostered a sense of solidarity among Ulu Papar people, giving them a belief in the future. These, however, remain early steps in the larger journey of equipping state governments to recognise and support indigenous peoples' rights to self-determination. As the Ulu Papar community researchers begin to use the BCP as a means of engaging with government agencies in Sabah, receptivity and reciprocity on the part of state actors remains to be seen. To bring their aspirations to reality, what was an intensive community process must now reach out and inaugurate constructive relationships with outside actors and government agencies.

CONTACT DETAILS



Theresia John
Ulu Papar Community Researcher
Email: theryjohn@gmail.com



Patricia John
Ulu Papar Community Researcher
Email: johnpatricia89@gmail.com



Louis Bugiad
Ulu Papar Community Researcher
Email: owescellis@gmail.com

⁷ Developing the protocol was not a full time task – villagers had to tend their farms, look after their families, participate in cultural and religious observances, etc. Developing the protocol also involved a lot of unaccustomed paperwork – often it proved useful to ‘take a breather’ and allow people the time to talk, reflect and the return to the document later.



Agnes Lee Agama
Regional Coordinator, Southeast Asia
Global Diversity Foundation
Email: agnes@globaldiversity.org.uk
Website: www.global-diversity.org

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NOTES

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Accessible technologies and FPIC: independent monitoring with forest communities in Cameroon

13

by JEROME LEWIS and TÉODYL NKUINTCHUA

Introduction

The equatorial forests of eastern Cameroon are home to many tens of thousands of indigenous Baka pygmies and other forest-dependent farming communities, mainly the Bantu. They are highly dependent on forest resources for their cultural identity and livelihoods: foods such as animal protein, vegetables and fruit, craft materials for tools and house building, medicinal and sacred plants. Due to their extreme poverty they are very vulnerable to changes that affect their access to forest resources (Abega and Bigombe, 2005). The State has maintained colonial laws attributing the nation's forests to their control despite local peoples' claims to the land. With the government's introduction of a National Zoning Plan in the early 1990s, indigenous and local communities (ILCs) found themselves with sometimes drastically reduced territories and large areas of their former land rented to outsiders such as timber companies, miners, safari hunters and conservation organisations, with exclusive rights over resources in these areas. With

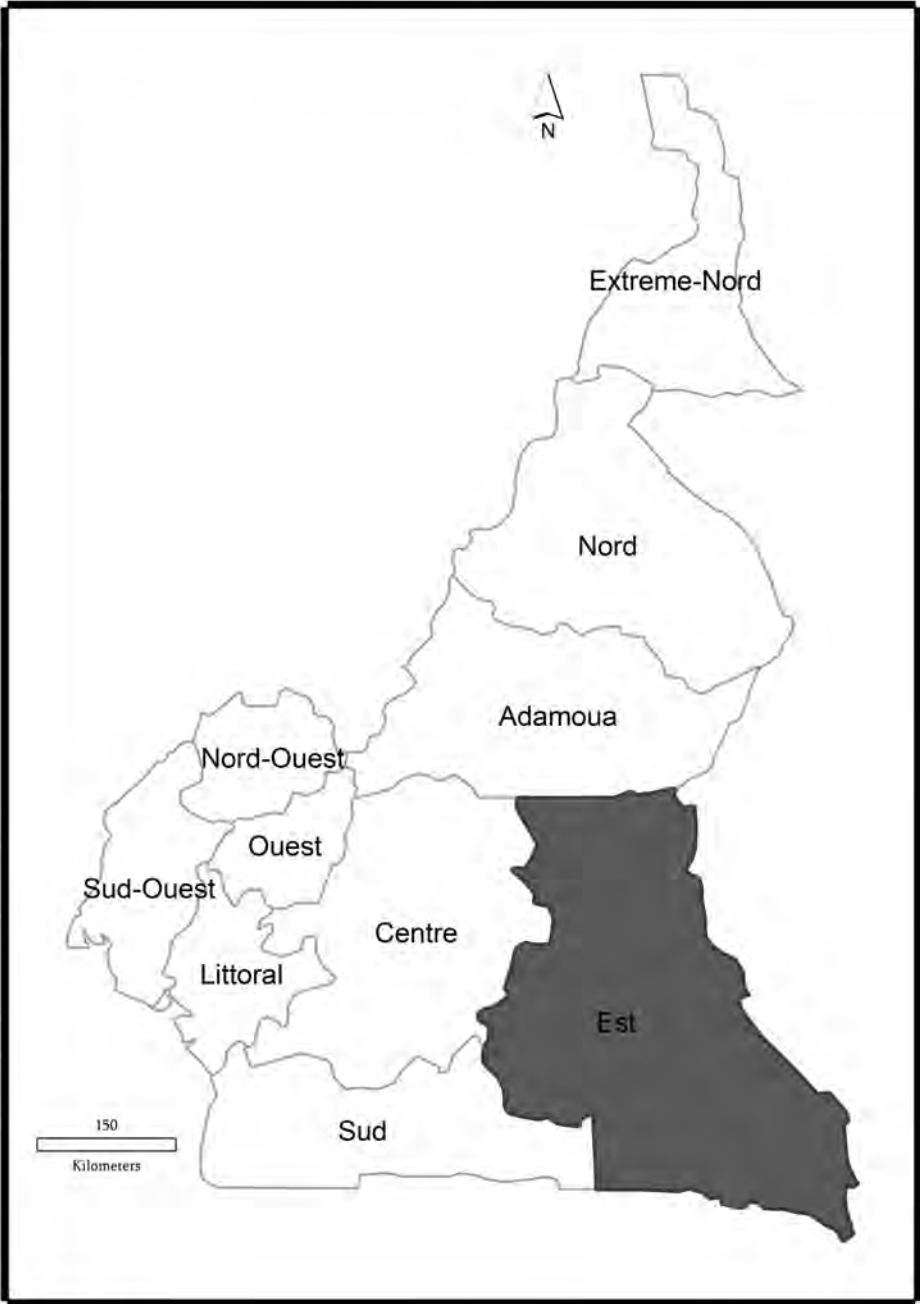
Box 1: Key problems facing forest dependent communities in Cameroon

- Substantial reduction of customary territory in the National Zoning Plan
- Expulsion from their customary territory in 'managed forests' (national parks, wildlife reserves, timber concessions, etc.)
- Restrictions on access to forest resources
- Weak communication between forest communities and other forest stakeholders concerning forest management
- Rapid and illegal logging
- Destruction of key resources during logging

often greatly reduced territories, and denied access to certain key resources, ILCs are increasingly vulnerable to hardship.

Cameroon's forests are subject to extensive legal and illegal logging by both artisan timber pirates and industrialised timber companies (REM, 2009). ILCs depend on many key tree species such as sapelli, moabi or ebony for fruit, caterpillars, medicines and oil. Until now, they have been unable to address this serious threat to their future. Noticing the link between weak governance and illegal logging, the European Union

East Region in Cameroon



Map 1: Eastern region, Cameroon.

(EU) initiated the Forest Law Enforcement, Governance and Trade (FLEGT) process in 2003 to address illegal logging in countries that export timber to EU territory (Brown *et al.*, 2009). EU-supplier countries must sign a voluntary partnership agreement (VPA) describing how they will improve FLEGT regulations. Cameroon began negotiating their VPA with the EU in 2006, signing the agreement in 2010.¹

Although detrimental to the country's economy and environment, illegal logging provides a few men with employment. But logging undermines forest-dependant people's long-term livelihoods, especially women and the elderly, who lose vital food and medicinal trees. Weak governance, poverty and ineffective local-level political structures allows most illegal loggers to work with impunity so long as local elites are assured an income.

Project aims, participants and approach

Participatory mapping is a key way for communities to assert their rights. Many projects run by NGOs and community-based organisations (CBOs) support ILCs in mapping their territories.²

The overall project objective was to support and strengthen the capacity of ILCs to independently monitor resource use, document their territory and present their findings to relevant stakeholders. ILCs welcomed the opportunity to participate. The project aimed to:

- improve forest governance through resource monitoring;
- effectively engage forest communities in key processes related to forest management;
- create an advocacy platform for dialogue between communities, CBOs and government institutions; and

Box 2: The role of civil society in the FLEGT process in Cameroon

Civil society's participation in the FLEGT process grew from an observer role to direct involvement in negotiations. They are now on the National Monitoring Committee established by the VPA, with six places out of 30. An important civil society contribution was to highlight the plight of forest dependent communities. As a result, the VPA stipulates that:

'In order to minimise any potential adverse effects of the FLEGT licensing scheme on the indigenous and local communities concerned, the parties hereby agree to assess the impact of this Agreement on their way of life' (VPA Cameroon-EU, Art 17-1).

- ensure government accountability to the FLEGT process.

This project was developed by a group of organisations already working on participatory mapping to establish a 'best practice' model for future environmental monitoring by ILCs. These included CBOs, NGOs, international organisations, and was led by a private company, Helveta Ltd, a UK-based software company with responsibility for timber traceability in Cameroon.³ Helveta wanted to develop a model for community verification to use in conjunction with their timber traceability system.

The project team included five groups of partners:

- Sixteen forest-dependent ILCs in south-east Cameroon. Project staff worked with Bantu and Baka groups separately to avoid discrimination. Communities collected data and led in presenting it to other stakeholders.
- Five CBOs implemented the methodology and trained community members in data collection, map reading and assisted with data management.⁴ They organised a network of project partners to support

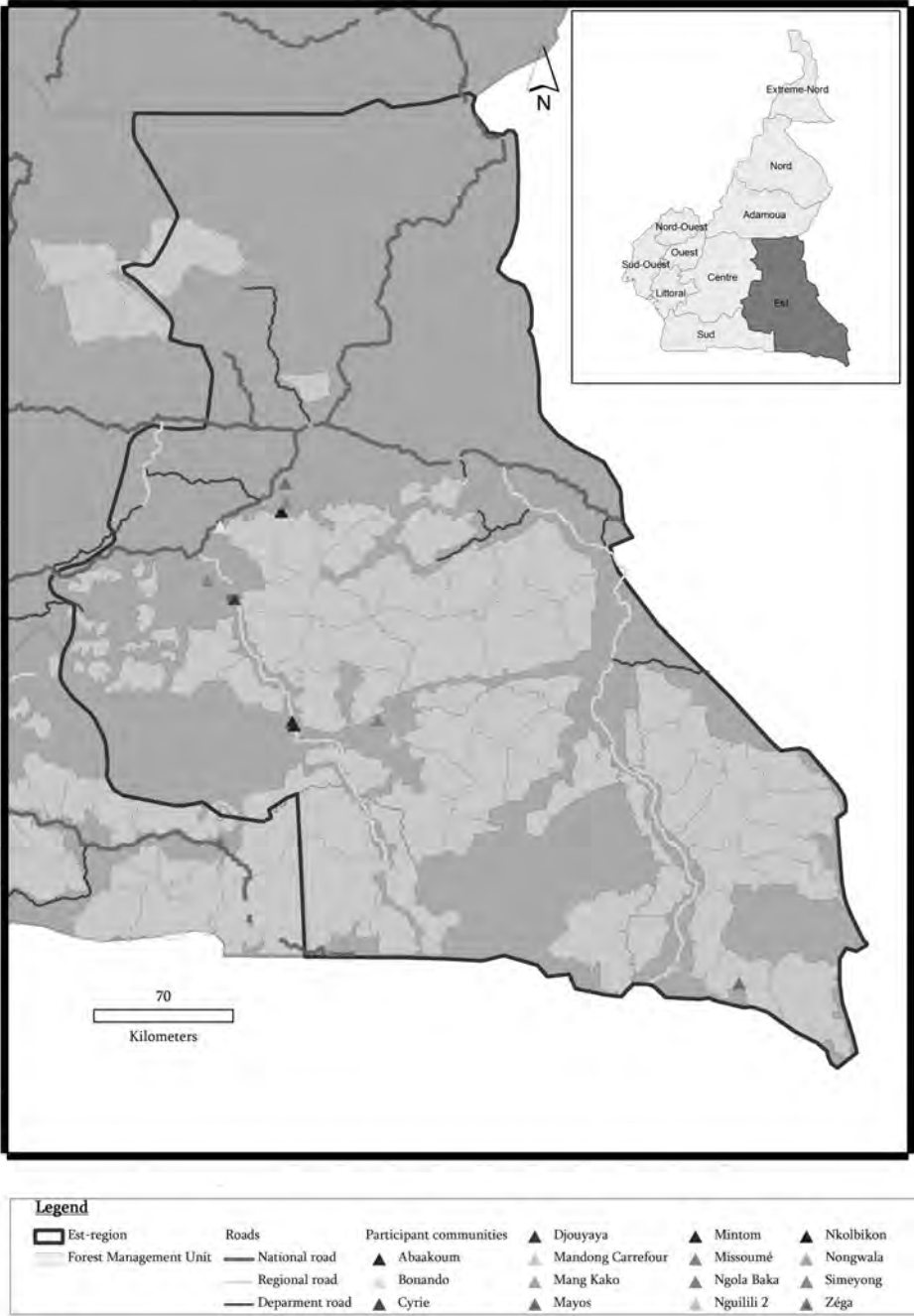
¹ See: <http://ec.europa.eu/environment/forests/flegt.htm>

² Lewis (2012) reviews a number of these.

³ Helveta and the Foreign and Commonwealth Office co-funded the project as part of the UK's contribution to improving forest governance in line with VPA/FLEGT. See <http://corporate.helveta.com/products.html?pgid=97> for more details.

⁴ Association des Baka de l'Est (ASBAK); Centre pour l'environnement et le développement (CED); Centre pour l'éducation et la formation pour l'appui aux initiatives de développement (CEFAID); Okani; Organisation pour la Protection de l'Environnement, la Recherche et l'Appui au Développement en Afrique (PERAD).

Projet de Renforcement des capacités des populations locales et autochtones pour le suivi indépendant des ressources forestières
Aire du projet et communautés participantes
Données collectées de Février 2011 à Avril 2011



Map 2: Participating communities.

communities to advocate for their rights. Each CBO accompanied between two to five communities.

- The British High Commission funded the first phase of the project.
- Helveta Ltd funded the second phase, provided project equipment, supervised the CBO's activities and securely stored the data collected. They also recruited staff to facilitate the overall project. Téodyl Nkuintchua, co-author of this article, managed the project over two years as a Helveta Ltd employee.
- John Nelson (Forest Peoples' Programme) and Jerome Lewis, co-author, (University College London) provided their expertise throughout.⁵

Project members considered the monitoring of logging activities by local forest people to be a key part of achieving better forest governance in Cameroon.

Challenges

The project ran from 2008 to 2011. In the second year, an independent evaluation showed that the technology worked well. But there was weak appropriation of the project by participating communities. Additionally there was an ethical dilemma: data was collected and maps produced, but since the communities had not formally given their consent for sensitive data about potentially criminal activity being shown to third parties, they could not be used effectively for advocacy. A second phase from June 2010 to September 2011 addressed these issues by instituting a free, prior informed consent (FPIC) process (Lewis *et al.*, 2008) and adapting community protocols (Bavikatte and Jonas, 2009) to strengthen the political organisation and participation of communities.

Despite its promotion in human rights law, FPIC is rarely applied in practice.⁶ To our knowledge, it had never been imple-

mented in industrial extraction, development or conservation activities in the Congo Basin. Given the tradition of top-down development and government interventions in this region, and the weak participation and appropriation of projects by ILCs (Abega and Bigombe, 2005), the project sought to develop a FPIC approach to enable ILCs to control the terms of their participation, strengthen their capacity to negotiate with third parties and engage in advocacy. The FPIC process aimed to ensure that project activities and their potential consequences were fully understood by the majority of the community before monitoring activities began.

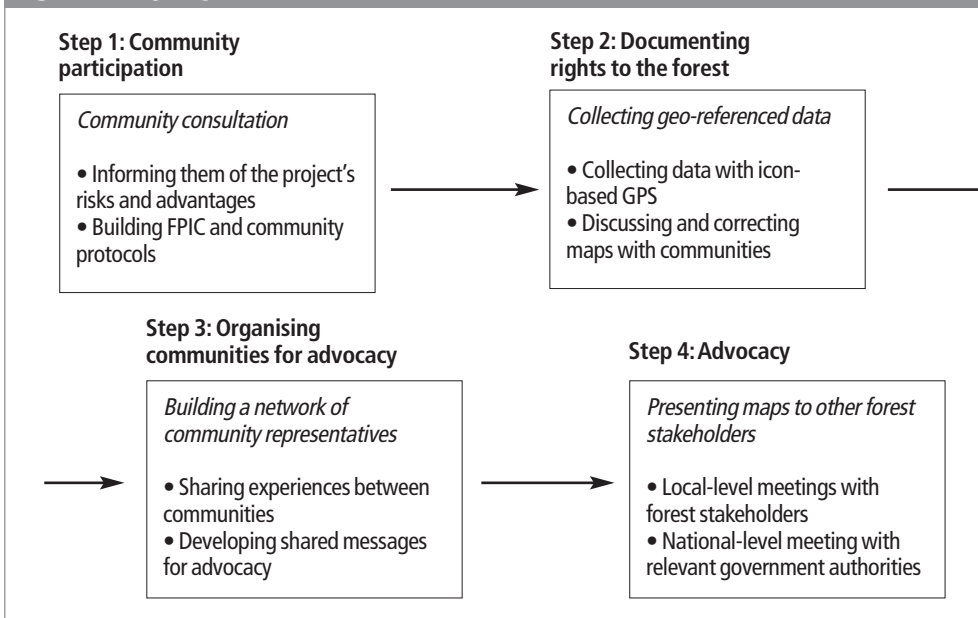
Process and methodology

The first step was to build effective partnerships within the project team. After some early problems, this became a priority requiring ongoing attention. Learning from and incorporating each other's perspectives in co-developing the methodology proved to be the most effective way of addressing this challenge.

CBOs began by visiting a forest community they thought might be interested in participating. After extended community consultations, the CBO checks that the information provided about the potential positive and negative outcomes of participating has been understood. Consent is then asked for, and either refused or given. If given, the community works with the CBO to develop a community protocol – a statement of what resources the community would commit, when and on what terms, and a timetable of activities to begin collecting accurate geo-referenced data on their resources and logging. The data is then used to make maps, which can be presented to whoever the community allows to view them. The overall process is shown in Figure 1.

⁵ Lewis (2007) describes the participatory methodology used to develop the software.

⁶ For information on how to implement FPIC, see Lewis, this issue.

Figure 1: Project process

Step one: Community participation

This crucial step establishes FPIC agreements and community protocols that are the basis for organising project activities. The standard approach was to inform the community a few days before the meeting, to gather in a place chosen by community, and to encourage women's participation. Where the Baka and Bantu shared the same territory, CBOs held meetings with each community separately.

To ensure **informed** consent, discussions began by exploring the project's objectives, advantages, risks and prospects in ways that community members could understand. These discussions went differently according to the ILC. The indigenous Baka communities have a non-hierarchical egalitarian social organisation where women and men have equal say in community decisions. In contrast, Bantu societies are hierarchical and male-dominated. Efforts had to be made to ensure women's points of view were taken into consideration, and to avoid elite capture. Similarly, Bantu and Baka had to be worked with separately to ensure the Bantu did not

marginalise the Baka during the discussions.

A key characteristic of FPIC agreements and community protocols is their dynamism: consent can be withdrawn, partially or entirely, and the protocol can be updated to change what data is collected, who fills the various roles, incorporate newcomers etc. From the start, communities were informed that they can give, refuse or withdraw their consent for the whole project or for certain activities, at any time.

Two FPIC forms were discussed and explained before being signed. One was for the consent of the community, the second for the consent of the individuals designated by the community to do the cartography. Community-nominated leaders signed the forms on behalf of the whole community. But since cartographers would be involved in time- and energy-consuming activities collecting data designated by the community, they signed as individuals.

The CBO then supported the community to develop a community protocol (CP), inspired by the biocultural community

Figure 2: The five levels of FPIC

Community free, prior informed consent form	
Statement (should be filmed if agreed by participants)	Stamp/sign to grant consent (YES). X to withhold consent (NO).
1. Q: What do you understand to be the purpose and the main objectives of the project entitled 'Enabling local and indigenous people to do independent monitoring of forest resources'? A: Does answer demonstrate understanding? • If not, explain again and in a different way until the answer demonstrates proper understanding. • If yes, then can ask representative to stamp/sign against the following statement: Statement: We understand and support the purpose and objectives of the project.	
2. Q 2.1: What do you understand will be the benefits of participating in this project? A: Does answer demonstrate understanding? • If yes, then can ask Q 2.2. • If not, explain again until the answer demonstrates proper understanding. Q 2.2: What do you understand will be the potential risks of participating in this project? A: Does answer demonstrate understanding? • If no, explain again until the answer demonstrates proper understanding.	
If an informed understanding of both benefits and risks is demonstrated, then ask representative to stamp/sign against the following statement: Statement: We have been informed and understand both the potential risks and the potential benefits of participating in this project.	
3. We agree to participate in this project by collecting data on customary forest use and timber exploitation.	
4. We agree to share data we have collected regarding timber exploitation with government officials and organisations participating in the project.	
5. We understand our right to withdraw fully or partially from the project at any time, and that we may insist on the deletion of all data that we have collected as part of the project.	

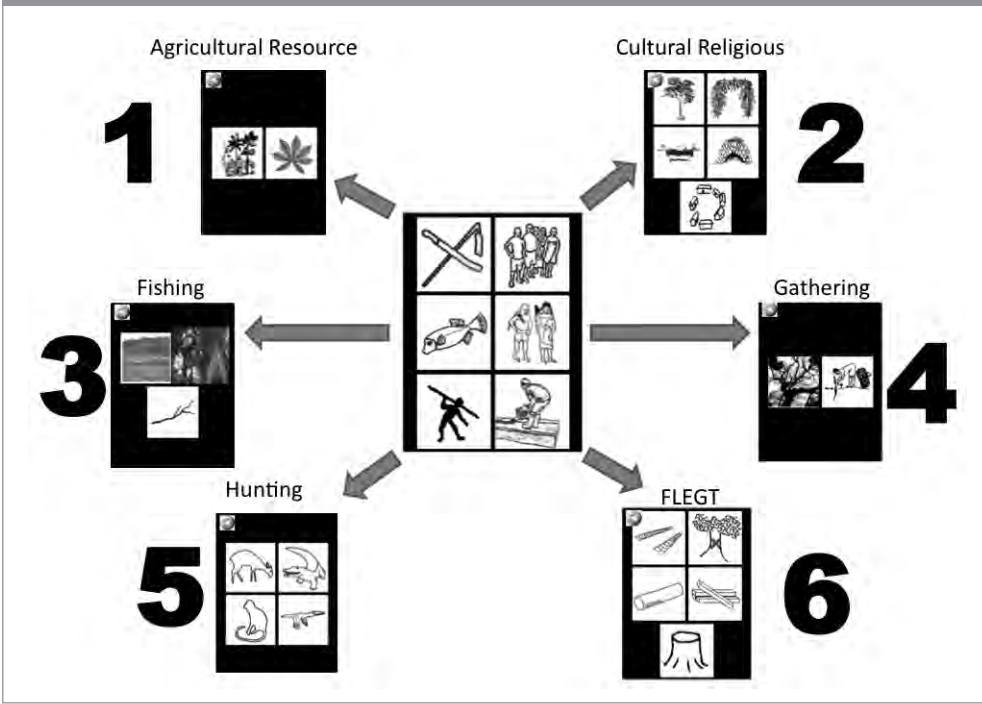
protocol approach, recently implemented in Asia and South Africa by Natural Justice and UNEP.⁷ The CP enabled communities to discuss and specify how they would participate, and to clarify roles and responsibilities. This was formalised in a simple two-page document – with images to help non-literate communities 'read' them – to determine the timescale for activities, what data would be collected and where, the names of cartographers, equipment keepers, and representatives for the advocacy

work after data was collected, as well as describing mitigating actions to address risks. Some ILCs appointed their 'team' easily. Others found it difficult due to many wishing to participate or internal rifts that required sensitive negotiation.

The process of elaborating the FPIC forms and community protocols is important. Most challenges facing project implementation by the community are discussed, and strategies to resolve them developed. Participating communities

⁷ To promote the Convention of Biological Diversity, UNEP supported research to develop biocultural community protocols. Bavikatte and Jonas (2009) offer a good example of this.

Figure 3: Overview of icon software



greatly appreciated that CBOs took time to train them in how to adapt these types of agreements to other partners. They also examined how to address possible positive and negative consequences of participation in the project. They reflected on their own institutional limitations, internal factions and overall organisational capacities, to decide the extent to which they required or desired supervision. Goodwill and self-organisation were more important than the demands and financial incentives usually given in other social mapping projects.

Step 2: Documenting rights to the forest

Next, the communities began resource monitoring by mapping their forest territory. Data was collected using an icon-based touch-screen unit connected to a global positioning system (GPS). The icons were developed participatively with communities to capture key resources and divided into six categories (Figures 3 and 4). The user-

friendly device is usable by non-literate or multi-lingual communities (Lewis, 2007) and allowed communities to appropriate the data collection process, addressing a frequent reproach made of social mapping initiatives, where communities simply assist an outsider technician in data collection.⁸

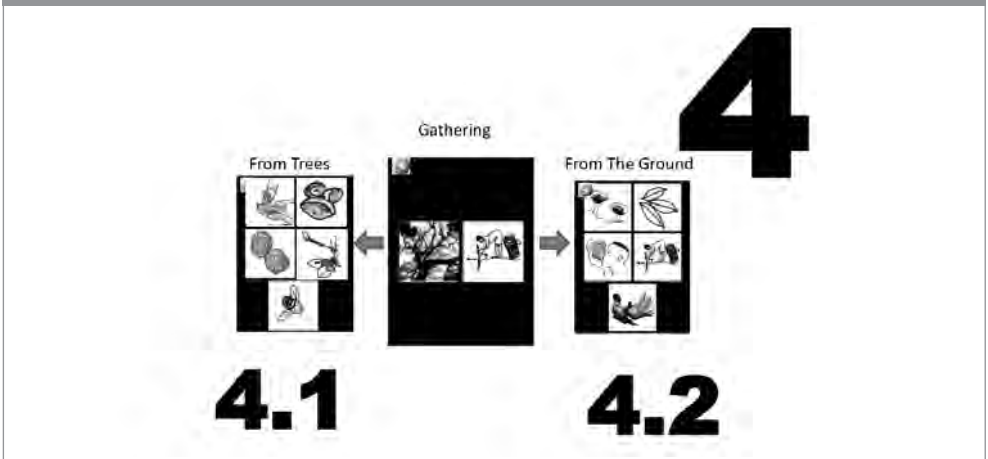
The data was then sent by Internet to a secure server held by Helveta. These records can only be viewed or copied by entities authorised by participating communities. CBOs and communities worked with a rough map for about three meetings until a final validated map was produced. To date, more than 75 maps have been produced.

Step three: Organising communities for advocacy

Project partners pooled their experiences of advocacy and capacity-building with forest communities to develop an advocacy strategy. They supported participating

⁸ A video summarises the process: www.youtube.com/watch?v=H3I8O2DRu7A

Figure 4: 'Gathering' choices



communities in presenting their maps to authorities with power to investigate illegal activities, and forest managers whose activities could be improved by better knowledge of local peoples' needs. For example, one logging company claimed that there were no indigenous people that used the forest in their concession. Community maps showed this was wrong.

The logging company changed its management plan to reflect this.

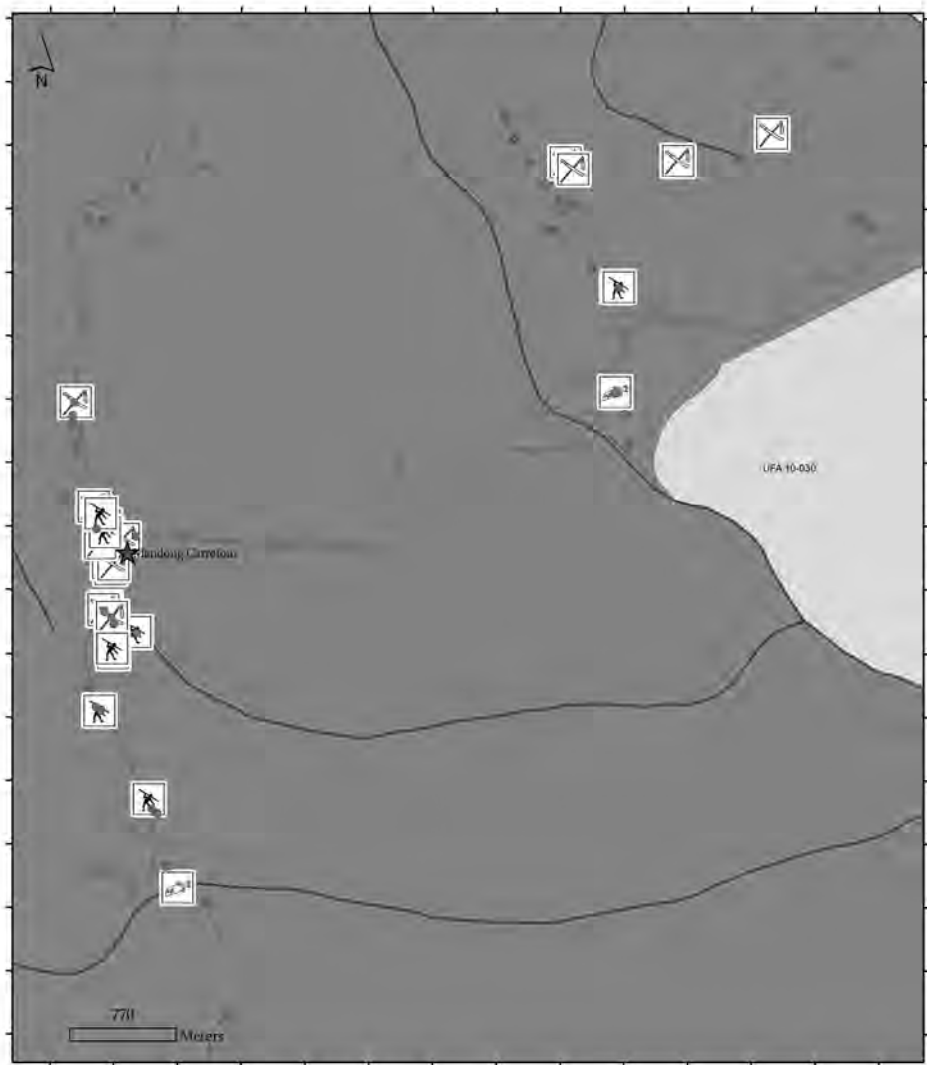
Participating in meetings with powerful outsiders is not easy for many rural people. To avoid intimidation, the advocacy work involved a series of stages, from local to regional to national level. Firstly, each community's cartographers joined a local group to attend local meetings organised

Photo: Téodyl Nkuintchua



Community cartographers during training learn how to use the icon-based GPS device.

Projet de Cartographie Communautaire au Cameroun
Données de cartographie collectées par la communauté de Mandong Carrefour
Février 2011 à Avril 2011



Légende

- ★ Mandong Carrefour
- ▲ Communautés voisines
- Exploitation du bois

Usage coutumier du terroir

Plantation



Point de pêche



Zone de chasse

UFA

Cours d'eau

Routes et Pistes

Pistes d'exploitation



Données collectées par la communauté Mandong Carrefour dans la région de l'Est avec la collaboration de l'Association des Baka de l'Est-Cameroun (Asbak) et Helveta Ltd.

Map 3: An example of a community-produced map.

by the CBOs to discuss the FPIC process and how well the community protocols were working. Discussion focused on issues raised at the beginning of the project, the nature of their consent in relation to different types of data they were collecting, and to discuss next steps.

Following local meetings, a regional meeting was organised for all community representatives. Local representatives worked with the CBOs to prepare the advocacy process. Communities identified the following as key points for the advocacy process:

- FPIC and community protocols must be central to all negotiations by government agencies or outsiders seeking to work with communities or on their land.
- Conflicts of interests between customary and logging uses of the same forest are widespread. All maps produced prove that logging activities overlap with community territory, even when this territory is far from legal logging areas.
- Relevant government officials should take action to investigate illegal logging activities communities identify.

Step four: advocacy to other stakeholders

These activities were focussed on local and national levels. As part of the FPIC process, CBOs helped communities to explore their legal rights and responsibilities as expressed in the Cameroonian Forest Act. They used a range of tools including illustrated picture books, focus groups discussions and oral presentations, focusing on the sections of the Forest Act most relevant to ILCs.

Each CBO also organised a meeting to present maps to local stakeholders including government representatives, other CBOs and NGOs, forest managers and interested parties. Communities presented their work and contextualised illegal logging in their area. Unfortunately, few local authorities acted on the project's

results. According to some CBOs and communities this is because they are implicated in illegal logging, and felt accused during the meetings. However, in one case, local forestry authorities were so impressed that they asked to keep the maps and work more closely with the communities in the future.

A national meeting was held with high level forestry ministry officials, NGOs, CBOs and international actors (British High Commission). Three community cartographers attended. They shared their experiences and how the maps had better informed them of what was going on in their territories. The meeting was short, but the ministry official welcomed the project as an important way to engage other parties in the FLEGT process. Participants expressed the hope that the system would become integral to the Cameroonian timber traceability system, and that the cartographers could become important in liaising with their communities to elaborate REDD+ projects in which Cameroon is increasingly engaging.⁹

Advocacy is ongoing through the project partners' networks and the project hopes to contribute to developing a replicable model of community-based sustainable forest management in the Congo Basin. The British High Commission in Yaoundé is committed to maintaining a long-term engagement with the Cameroonian government to act on project outputs, as part of the VPA signed between the EU and Cameroon to mark their commitment to FLEGT.

Strengths and challenges

During local and regional meetings, community cartographers were asked about the project's strengths and limitations at the village level. This section is mainly based on their analysis with special attention to FPIC and community protocols.

⁹ Reducing Emissions from Deforestation and Forest Degradation (REDD). See: www.un-redd.org

Project strengths

The results most valued by communities were their newfound sustainable forest management skills (mapping and monitoring), FPIC negotiations and community protocols, and a better understanding of their role in, and responsibility to, defend their rights to the forest. During FPIC sessions, such issues and concepts were extensively discussed, and key for effective dialogue with other stakeholders. Communities especially appreciated the FPIC process as a new and empowering tool: being explicit about their right to refuse makes discussions or bargaining with outsiders more equal.

The advocacy capacity-building has helped ILCs to understand how to present their issues. ILC representatives appreciated that the project made advocacy with government and other actors an integral part of the project process. Though focused on illegal logging, ILCs used the meetings with government officials to discuss other issues related to government-imposed restrictions on their land or their expulsion from some forests. Community participants reported that they feel more confident about claiming and asserting their rights despite the National Zoning Plan having ignored these. Their engagement has helped them to understand the Forestry Law and learn new skills and concepts to better understand their current situation.

While not the first mapping project for some participating communities, most people now understood what maps mean and what they can be used for: in particular, to resist others trying to exploit their territory and resources. Understanding the role of the icon-based GPS was central to making FPIC more concrete. Communities gave their consent hoping to direct a project, and they did so successfully, something to which they are unaccustomed. The project was also the first time many communities had used computers. More than 100 people were trained to use computers and 38 became specialist

community cartographers. Following their request, the project also provided certificates attesting to their new skills.

The protocol was also very useful to promote community organisation. Most eastern-region communities have weak political organisation (see Bahuchet, 1991). CBOs and other development partners see this as a key barrier to development. It is often difficult to attract more than just the chief to 'participate' in a project. Community protocols helped to address this major issue by facilitating the community to better organise their participation.

Challenges

FPIC processes and community protocols are powerful tools. But there are precautions. Though recognising how important the project could be in future, communities have developed long-term 'patron-client' relationships with CBOs. The first FPIC consultations were particularly difficult. Some ILCs granted their FPIC not because they understood the proposition, but because they trusted the people involved. Impoverished communities often agree to projects and activities that may be against their long-term interests. CBO staff had to be very careful not to raise expectations that community members would earn direct incomes from the project.

This raises ethical issues concerning the balance between compensating participants and ensuring neutrality when negotiating consent. CBOs decided not to compensate so that communities were not motivated by insignificant financial benefits. This partly explains why it was difficult to involve all community leaders in elaborating the community protocols, but this was advantageous where leaders who were more concerned with personal gain chose not to participate.

Some community members were engaged in conflicting activities: that of documenting illegal logging, while also assisting the loggers. Most communities

chose strong people with good forest skills to be their cartographers. These men had given their formal FPIC to participate. Yet sometimes they also earned money transporting planks from the forest for small-scale illegal loggers. Due to a strong sharing ethic, often these were not seen as opposed activities.

This challenge for CBOs was complex. Should they forbid these individuals from participating, going against community decisions? Or, ask the nominated cartographers to renounce an important income-generating activity? Debates raged over people's need for short-term benefits against long-term forest outcomes. Some CBOs suggested that cartographers be paid what they earned for carrying timber during the project. Others pointed out that projects are always short-term, compared to people's lives, and so awareness-raising about sustainable forest management should be reinforced. Others suggested that only people who never participate in illegal logging be involved, even if this went against the community's decision. A consensus has not been possible on these issues.

Women's participation was also limited. Out of 40 community cartographers only three were women. During advocacy meetings only one woman participated. Explanations included: too much time away from children; men would not allow their wives to join a male team; long distances to walk; communities tended to nominate men; there was only one GPS device per community. CBOs tried to address this in one village by asking women what they wanted to be mapped. With hindsight, it would have been better to have fewer communities involved so that two GPS devices were available per community, enabling women to form their own mapping groups. This principle was applied to deal with discrimination against the indigenous groups by local farmers, and should have been applied to avoid gender bias.

Sustaining these activities over the long term remains to be established. This project was designed to prove the concept and develop a model for community engagement in forest monitoring that could be integrated into national FLEGT monitoring and for timber traceability. However, much has changed institutionally and at the national level. While Forestry Ministry staff responded positively to the project process, they have expressed no plans to support its continuation. Similarly, it remains to be seen if the new leadership at Helveta still considers monitoring by ILCs as an integral part of their traceability system.

Communities have led the project but cannot currently directly manage their data without Internet access and electricity. Communities have a final map in their village, but communicating new possible uses for the data to them is only possible through CBOs. In future, we hope that data copies are also left with each community so that they can reconfigure it to support their claims in new contexts.

A last key challenge is the place of FPIC in Cameroon's legislation. The State still claims the forest as its own. If it approves timber companies, conservation organisations or mining companies with the right to extract resources from ILC's land, outsiders have no obligation to seek approval from ILCs, and in practice never do. Although ILCs intend to assert their right to give or refuse their FPIC to activities on their land, national legislation does not acknowledge this right explicitly despite its international obligations to do so. However, in certain domains such as the Forest Stewardship Council's forest certification scheme, FPIC is the standard timber companies must now achieve in their relations with ILCs.

Prospects for other projects

This project illustrates the advantages of applying a FPIC process in conjunction with community protocols to ensure that

communities understand the purpose and potential of project activities, and engage with them in a manner they consider appropriate and fair. The project shows that new technologies can be usable and relevant to local and indigenous peoples, and the advantage of participative software development, intuitive interfaces and testing prototypes *in situ* with the intended users. The collaborative approach and user-friendly technology allowed communities to appropriate the data collection process and understand the maps they had produced.

CONTACT DETAILS



Jerome Lewis
Lecturer in Anthropology and Co-Director of the
Environment Institute and Extreme Citizen
Science Research Group
University College London (UCL)
14 Taviton Street
London
WC1H 0BW
UK
Email: Jerome.lewis@ucl.ac.uk



Téodyl Nkuintchua
Anthropologist
Muséum National d'Histoire Naturelle
8 rue Francis de Croisset
Paris
France
Email: Nkuintchua@yahoo.fr

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14

Biocultural community protocols and ethical biotrade: exploring participatory approaches in Peru

by MARÍA JULIA OLIVA, JOHANNA VON BRAUN and GABRIELA SALINAS LANAO

Introduction

Madre de Dios, in south-eastern Peru, is rich in cultural and biological diversity. Yet the region struggles to find development approaches that are sustainable and respect the rights of its inhabitants. The Indigenous Forestry Association in Madre de Dios (AFIMAD) and Candela Peru, a company ethically sourcing biodiversity, are aiming to develop such sustainable livelihood opportunities for indigenous communities.¹ They are working together on the collection and transformation of natural products, primarily the Brazil nut, as well as collaborating on a new project involving the use of Ungurahui oil.² They are using this new project as an opportunity to strengthen and consolidate their relationship, improve mutual understanding and promote more balanced and inclusive exchanges of infor-

mation. With the support of two international organisations, the Union for Ethical BioTrade (UEBT) and Natural Justice, biocultural community protocols (BCPs) were identified and explored as an approach that could prove useful in enhancing dialogue and collaboration. UEBT promotes the 'sourcing with respect' of natural ingredients. Work on BCPs is part of its broader efforts to support good practices in companies committed to the ethical sourcing of biodiversity.³ For Natural Justice, work in Madre de Dios was the chance to link a process of rights affirmation with livelihood generation.⁴

This article provides a brief summary of this experience of using BCPs, describing how they were adapted for this particular context and drawing out some lessons for others wishing to develop them.

¹ Although this article refers to Candela Peru as a company, it was formed and functions as a non-profit association involved in commercial activities.

² Ungurahui is a palm tree native to the Amazon region. It bears edible fruits which are also rich in oil and can be used in cosmetics.

³ UEBT is a non-profit, membership-based organisation. See: www.ethicalbiotrade.org

⁴ Natural Justice is an international non-governmental organisation facilitating the legal empowerment of indigenous peoples and local communities. See: www.naturaljustice.org

Background

Work in Madre de Dios took place in mid-2011, and included a series of workshops held in July.⁵ The project aimed to determine how the concepts and methodologies of BCPs could be adapted and used as a tool to enhance the engagement of local actors in ethical biotrade (Box 1).

Generally speaking, communities use BCPs to affirm their rights over land, resources and traditional knowledge. They emerge from extensive internal reflection processes that encourage the community to consider their endogenous development objectives in the context of customary, national and international rights. The specific process and outcome of the BCP is adapted to the local situation.⁶

In Madre de Dios, BCPs were seen as a way to support communities in advancing their social, cultural and environmental expectations of their commercial relationships – particularly with Candela Peru. This included ensuring respect for the communities' biocultural heritage and monitoring progress towards ethical biotrade practices. Candela Peru, as a member of UEBT, is committed to working towards the ethical biotrade standard.

Methods and processes

Preliminary steps

The process began by recruiting a local facilitator, who was suggested by the project partners on the basis of her knowledge and experience with the topics and actors involved, and accepted by both AFIMAD and Candela Peru as a neutral, trusted and independent expert. The facilitator held consultations with AFIMAD and Candela Peru to determine interest in engaging in this process. Candela Peru saw the dialogue as an opportunity to improve their working relationship with AFIMAD. It also considered the dialogue as an opportunity to explain its own values and approaches to working with

Box 1: What is ethical biotrade?

Ethical biotrade refers to a set of business practices that respect social, environmental and economic criteria established by the ethical biotrade standard. The standard is internationally recognised and based on the objectives and principles of the Convention on Biological Diversity (CBD). Through a series of principles, criteria and indicators, it is a tool to support members of UEBT in the ethical sourcing of ingredients derived from biodiversity. It is also the basis for independent audits that measure progress towards ethical sourcing practices. The principles of the ethical biotrade standard are:

- Conservation of biodiversity
- Sustainable use of biodiversity
- Fair and equitable sharing of benefits derived from the use of biodiversity
- Socio-economic sustainability (productive, financial and market management)
- Compliance with national and international legislation
- Respect for the rights of actors involved in biotrade activities
- Clarity about land tenure, right of use and access to natural resources

Source: www.ethicalbiotrade.org

biodiversity and local communities, as defined by its membership in UEBT. The value of the process was initially less clear for AFIMAD, but they agreed to participate due to their interest in furthering their relationship with Candela Peru.

Following the consultations, the facilitator defined a procedure that would accommodate two critical phases:

- an internal reflection process involving representatives of AFIMAD and the communities that integrate with the association; and
- a dialogue between AFIMAD and Candela Peru.

Step one: internal reflection

The process of developing the AFIMAD BCP was organised in two separate workshops that brought together representatives – in most cases the presidents – from each community. Each workshop lasted two to three days.

⁵ Part of a joint project of UEBT and Natural Justice, funded by GIZ. See: www.giz.de/en/home.html

⁶ See www.naturaljustice.org and <http://biocultural.iied.org>.



Photo: UEBT

Representatives from AFIMAD communities discuss possible elements for their community protocol.

In the first workshop, participants read BCPs developed in different parts of the world and identified some common elements. They then considered how the protocols could help them to better respond to commercial proposals concerning forest resources, increase the government's recognition of their rights as indigenous communities, and communicate their views to other institutions and organisations. From there, they proposed and discussed elements to include in the BCP and agreed to share this preliminary document with their community and return with further input for the second workshop. Since they felt that they lacked detailed knowledge of their rights to land and resources, a study was commissioned from an independent lawyer specialising in indigenous legislation, in preparation for the second workshop.

The second workshop brought together two to three representatives per community from the AFIMAD board and forestry committees. The preliminary document was fleshed out, including expectations of engagement with companies on specific forest products, the communities' commitments towards conservation and use of biodiversity, and the process of engagement with communities. A legal report on national and international legislation supporting the communities' rights was also shared, discussed and incorporated in the draft document (see Box 2 for an outline of the BCP).

At the end of the workshop, participants evaluated both the process and the protocol. In addition to the advantages they identified at the outset, the participants considered the protocol could help to:

- foster discussions within the communities about what is currently being done and what could happen in the future;
- assist members in working together;
- provide clarity on ethical biotrade; and
- show how a commercial relationship should be structured in an ethical context.

The process of sharing and discussing the BCP has now begun, particularly with communities and external organisations that work with them and have expressed an interest in working with non-timber forest products. The protocol has also been shared with a group of local NGOs working with and supporting AFIMAD on different issues. The protocol will remain a living document, to be elaborated upon as the communities see fit.

Step two: dialogue between the communities and the company

Following the community reflection process, the Candela Peru team joined AFIMAD and community representatives in a dialogue aiming to define shared values and approaches to their working relationship. Each group explained their basic values and how they operated. Participants then jointly explored issues around ethical biotrade and the provisions of the ethical biotrade stan-

Box 2: The AFIMAD BCP

- **Who we are:** AFIMAD and its member communities.
- **Local governance structure:** how decisions are made by AFIMAD and its members.
- **Understanding of nature:** how communities view and value their surroundings, with a focus on the forest, their local ecosystem.
- **Use and conservation of forest resources.**
- **Current threats:** focus on threats to the forest and its components.
- **Vision for the future:** the communities' endogenous development objectives.
- **Rights:** summary of communities' rights according to international and national norms, such as land security, consultation and respect for traditional law (full details included in a separate annex).
- **Call to authorities and institutions:** the communities' requests and demands to local and regional government in relation to their rights, needs and concerns.
- **Framework for engagement with companies:** the communities' expectations in engaging with the private sector e.g. benefit-sharing, coordination mechanisms, community development.
- **Community commitments:** e.g. sustainable use and conservation of natural resources, responsibility and quality in their work with commercial organisations.

dard. They matched various issues to the corresponding principles of the ethical biotrade standard, which also helped to emphasise that both Candela Peru and AFIMAD envisioned their relationship as not just commercial, but a partnership working towards economic, social and environmental sustainability.

Based on the BCP and ethical biotrade principles, participants identified possible elements of a working relationship, in both an ethical context and as a conventional commercial interaction. Participants represented both types of relationships through role-play and then identified the elements featured in each. For example, the participants considered that in a conventional commercial interaction, companies are not interested in conserving forest resources or understanding how to appropriately engage with the community, while companies committed to ethical practices would be.

Representatives from Candela Peru and

the communities then separated to discuss internally how they could contribute towards improving their working relationship. They focused on identifying specific commitments, such as initiatives for more sustainable use and better exchange of information that each group could make in relation to the ethical biotrade principles. Participants then reconvened to discuss and feedback on each other's contributions. Identifying these specific commitments allowed participants to comprehensively understand the ethical biotrade principles, their role in promoting them, and to establish common goals as partners.

Participants then examined the key principles on which both parties wanted their partnership to be built. These included aspects such as transparency, trust, responsibility, honesty, good faith, open communication and clear information. Finally, participants defined next steps, based on their collectively defined principles and commitments. This included organising further workshops to address pending questions or concerns, including:

- the usefulness of developing a conflict management system;
- continued discussions of what constitutes a fair price; and
- the importance of more training on product collection and manufacturing practices.

Following the dialogue an agreement of principles and commitments was established between both parties. This document includes the principles on which their working relationship is based, the specific commitments of each party to advancing work under the ethical biotrade framework, and concrete next steps to follow up in the context of exploring future projects. The agreement is an internal document, held by both the company and the communities. It will also become a reference in the development and assessment of continuing efforts of Candela Peru, as a UEBT member, to implement the ethical biotrade standard.

As the Madre de Dios workshops closed, participants were optimistic about continu-



Photo: UEBT

Elements of the AFIMAD community protocol.

ing the dialogue process to strengthen their partnership.

Outcomes and lessons learnt

The work in Madre de Dios confirmed that BCP approaches and methodologies can be adapted to a range of contexts, including ethical biotrade. For AFIMAD, the reflection on goals and values has reaffirmed its significance within the communities and fostered ongoing and planned activities. AFIMAD was also able to reflect on how its economic activities fitted within its goals as a group of communities and as an association. As a result, it was able to communicate with Candela Peru much more assertively on issues such as sustainable resource use, negotiation processes, how they want the relationship between them to develop, and the sharing of benefits. The communities and Candela Peru are now better placed to understand and address each other's needs and concerns in the context of their current and future work. AFIMAD has also expressed its commitment to ethical sourcing practices.

The work has resulted in a highly adapted version of a BCP, renamed a 'biocultural dialogue' by project partners. In terms of content, the dialogue reflected the interest expressed by the communities in addressing not only community-level issues, as is usual in BCPs, but also their existing relationship with Candela Peru, other commercial relationships, and the ethical biotrade context. This meant that discussions were more focused than in 'conventional' community protocols, considering concrete challenges and opportunities. Yet it is important that the community reflection processes retain the core elements of 'conventional' BCPs, in order to ensure issues are discussed in the appropriate biocultural context and to provide a solid basis for ongoing engagement with the company.

One of these core elements is the participatory approach used in the workshops, which proved a valuable part of the process, allowing community representatives to discuss and jointly draft the content of the BCP. Nevertheless, the involvement of the wider community was quite limited, because

Photo: UEBT



Representatives from AFIMAD communities and Candela Peru discuss values and approaches important in their partnership.

of time and budget constraints.

In the dialogue between community and company, the participatory approach turned out to be fundamental. It promoted a more horizontal environment which helped to balance power by using methodologies that emphasised the value of all contributions. For example, sharing information in a simple and clear format was essential to ensure the informed participation of the communities. The role of an independent local facilitator, accepted by both parties, was also crucial. Nevertheless, there was limited participation of community representatives in the dialogue with the company. This was because the community presidents argued that the representatives chosen from each community were selected precisely to represent the communities on these issues, and so wider representation at the workshops was not needed.

Existing structures and relationships both within and between the communities, AFIMAD and Candela Peru were seen as minimising the negative impact of these shorter, less inclusive processes. However,

AFIMAD is aiming to widen input into the BCP, using the current draft as the basis for a more comprehensive and representative document.

Looking forward

Since the pilot project, AFIMAD has experienced resource constraints, which have limited dissemination of the BCP among the communities. This highlights the importance of sustainable financing for any BCP process. Similarly, widening the BCP to include broader interests and concerns will require the continued support of local facilitators or civil society organisations and additional fundraising. Work is ongoing to address these challenges.

There will be further discussions on both the protocol and the agreement of principles and commitments as part of the UEBT membership process. As a UEBT member, Candela Peru's annual reports include updates on their work towards complying with the ethical biotrade standard, and the company undergoes independent audits every three years to verify progress.

Conclusions

For UEBT, the positive feedback from both AFIMAD and Candela Peru confirms the synergies between ethical biotrade and rights-based approaches to community dialogue and engagement. These enhance collaboration between indigenous and local communities and companies working on the basis of ethical sourcing practices. These processes can advance compliance with ethical biotrade requirements such as transparent negotiations that are built on trust, long-term and sustainable partnerships, promotion of sustainable development at the local level, and respect for the rights of indigenous and local communities. Work will now focus on determining which specific aspects of the BCP approach and content are most relevant in the ethical biotrade context, as well as how these elements can be mainstreamed into the work of UEBT and its members.

Substantial work has been done to highlight the importance of community rights as key to ensuring conservation and sustainable use of biodiversity. For Natural Justice, it is clear that rights alone will not automatically lead to livelihoods generation. But using a rights-based approach as a basis for dialogue has demonstrated how such a process could not only affirm rights but very concretely strengthen the relationship between communities and a commercial company – who might otherwise be unlikely partners.

At a time where the demand by extractive industries for access to indigenous and local community land becomes ever more pressing, the generation of real livelihood alternatives is of utmost importance. The hope is that these types of alternative processes will be used more widely to facilitate processes that also affirm community rights.

CONTACT DETAILS



María Julia Oliva
Senior Adviser on Access and Benefit-Sharing
Union for Ethical BioTrade (UEBT)
Keizergracht 158
1015 CX Amsterdam
The Netherlands.
Email: julia@ethicalbiotrade.org
Website: www.ethicalbiotrade.org



Johanna von Braun
Natural Justice: Lawyers for
Communities and the Environment
Email: johanna@naturaljustice.org
Website: www.naturaljustice.org



Gabriela Salinas Lanao
ATINCHIK
Email: atinchik@atinchik.com;
gsalinaslanao@gmail.com
Website: www.atinchik.com

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PART V

Tips for trainers

How to implement free, prior informed consent (FPIC)

15

by JEROME LEWIS

Introduction

Negotiating FPIC is a process. It consists of informing the affected persons about planned activities and their impacts – both positive and negative – and verifying that the information provided has been understood, before explicit consent can be negotiated. If people refuse, their decision must be respected. FPIC focuses on harmonising and equalising relationships between groups of different power and means.

The key elements of the FPIC concept

Consent

Consent is required from people in situations where any externally initiated activity, by state agencies, private enterprises or NGOs, may impact on the lives and livelihoods of individuals and communities. This is particularly the case for activities that are likely to affect a people's ability to continue their way of living, to determine their own development or to maintain access to the natural resources necessary for their

economic livelihood and cultural traditions.

In most situations, the concept of consent differs between affected peoples and those proposing change. In Central Africa, for example, the notion often implies an ongoing negotiated relationship based on trust generated by regular, long-term exchange of information and goods and services. International understandings tend to focus on a permanently binding signed contract.

A compromise between local and international understandings can be obtained by ensuring that, if people give their consent, it is in a manner that is understood as contractual by both parties.

Free and informed

The exercise of free will is essential for any agreement to represent genuine consent. Communities must be able to accept, negotiate or reject a proposed intervention by third persons without any duress. Communities must have the possibility to refuse consent. Likewise, they must be able to withdraw their consent if the terms on

which it was negotiated are not respected. Their consent is only meaningful on these terms. Fair, non-coercive negotiations respected by all participants produce lasting and sustainable agreements.

Specific approaches and strategies that take into account socio-cultural and linguistic differences and literacy levels must be developed to fully inform people of both potential positive and negative consequences. These may include, for example, theatre techniques or site visits, rather than written documents. Before consent can be requested, it must be independently verified that the people concerned have properly understood information given.

Prior

Consent must be negotiated before people are affected by external actions. In situations where activities have already taken place before a FPIC process has begun, consent must be sought for any further activities once a FPIC approach is applied.

Prior engagement should enhance the success of projects by defusing potential conflicts and creating partnership opportunities at the beginning. The earlier an FPIC process is implemented the more lasting and sustainable the benefits for all stakeholders will be.

The eight key stages of a FPIC process

1. Strengthen institutional capacities

In order to ensure fair negotiations between parties, some institutional strengthening may be needed within the government body, private company or NGO so that it can provide appropriate support to the communities affected. This often requires creating a team with expertise in communication and in the languages, concepts and culture of all the parties involved. It may include people of confidence chosen by the affected peoples who can supervise the process of ongoing negotiation.

2. Develop communication and information strategies

Once the potential positive and negative

impacts have been identified, a key task for the communication team is to develop appropriate communication methods to ensure the widest possible participation of the communities without discrimination against any groups (such as women). The social and cultural context, languages, literacy level, political organisation and local styles of exchanging information, learning, discussing and negotiating must all be taken into account to ensure that information is properly transmitted and that the negotiation of consent is therefore viable and durable.

3. Create a participatory partnership and inform local communities

In order to create a participatory partnership, it is crucial that the affected peoples decide how they wish to represent themselves. They should also be offered appropriate support to ensure the internal flow of information, and be given the opportunity to explain how they make decisions concerning consent.

Based on this participatory partnership, the methods developed by the communication team should ensure the ongoing transmission of the information necessary for informed negotiation and the full participation of affected communities in the discussions and decisions related to their consent. These enable the state, private company or NGO to provide key information to the concerned population for the duration of the project. Such information should include project activities on the lands of the affected population, potential positive and negative impacts, and potential benefits to be realised, the process of negotiating consent, and the right to refuse consent or to re-negotiate it by, for instance, demanding protection of key resources or benefit sharing.

4. Carry out participatory mapping of land use

In order to decide of whom consent must be requested and to determine the potential impact of the proposed activities on communities, it is vital to document the land

usage and customary rights of affected populations. Based on this, informed negotiations can begin.

Mapping land usage must be conducted using a participatory approach together with the concerned communities. It can be done by GPS, but in the case of illiterate communities a GPS unit with an iconic user interface should be used. In situations where there are overlapping usages by different communities, both communities need to be equally consulted for their consent, rather than trying to attribute exclusive rights to one or other of the communities.

Through mapping, an accurate inventory of community resources as well as the economic and cultural activities carried out can be made (e.g. fishing zones, important food trees, sacred sites, cemeteries, hunting areas etc.). The mapping can also be extended to any information that could help the success of the project and the negotiations (wildlife movements, retention of carbon in the biomass, rainfall etc.).

5. Identify resources to be protected and negotiate compensation for any damages

Participative resource and land inventory mapping enable focused discussion with the communities concerning which measures can be put in place to protect their resources and activities. It also facilitates and informs discussions over compensation to be paid for intended or unintended damages caused by the activities of third parties.

6. Agree benefit-sharing

The uses that third parties make of the land and resources belonging to local peoples often generate benefits or wealth for the third parties while reducing the value of the area to the affected people or limiting their access to key resources. Affected peoples are entitled to a share of the benefits produced. Dams, for example, will create benefits alongside negative impacts for dozens of years. Therefore the benefits must be shared with the affected communities for at least as long as they are produced.

Such benefit-sharing is negotiated and may take different forms depending on the

context. It may mean delivering goods, money or services to local villages, associations or families. The choice depends on the wishes of the affected population, but must take into account the degree of inequality, clientelism and the management capacity of the groups concerned.

7. Record and formalise the process of obtaining consent

The steps and procedures for obtaining consent must be recorded in various forms, satisfying the understanding of consent for both parties involved (this may be a document for the company, organisation or administration and exchange of goods and services and holding appropriate ceremonies or celebrations for local communities).

8. Maintain the relationship on which the consent is based

Consent is a process relying on all parties being satisfied with their relationship. It is important to maintain the quality of this relationship throughout the negotiations and beyond. Once agreed upon, the obligations of each party must be respected so that good relations can be maintained.

If agreements are not honoured then affected groups have the right to withdraw their consent and activities should cease until either reparations are made and consent is given again, or the rupture is formalised and cessation of activities made permanent.

Advantages of FPIC

There are numerous advantages to applying FPIC for both the environment and the people involved. It enables the transformation of the management of land and resources in the project area to become more environmentally and socially responsible, and therefore sustainable because it is based on cooperation and equality. Important advantages are:

- The participation of local communities in managing their land and resources through fully recognising their rights.
- The establishment of ways for communi-

ties to control the use of resources on which their livelihoods depend.

- The protection of their resources and way of life.
- The redistribution and sharing of benefits derived from the exploitation of their resources.
- The facilitation of their own aspirations for their development.
- The prevention of conflicts between the local communities and other resource users.
- A general reduction of conflicts, and the development of partnerships between local communities and those using their land or resources.
- The increase in efficiency and sustainability of companies and government institutions thanks to these partnerships.

Challenges of FPIC

The implementation of FPIC requires efforts in terms of investment (time, resources and training) and poses certain challenges:

- Negotiations can last a long time if literacy levels are not taken into account, or if social inequality and corruption are high.
- The resolution of conflicts and the establishment of good relations are not guaranteed in the short term. The opening of a dialogue between different cultures in a

context marked by great inequalities may temporarily lead to increased tensions.

- Highly skilled negotiators are required to overcome the damaging potential of cross-cultural misunderstanding.
- Powerful local persons could manipulate and benefit from information transmitted to them at the expense of other residents, and damage the process in general.
- The participation of communities in the management of natural resources through FPIC does not automatically generate more sustainable management practices without specific agreements and control mechanisms.
- The amount, manner and administration of compensation and benefits must be negotiated with great care because, depending on the context, they may increase claims towards the state, company or organisation, stir jealousies between and within communities, and foster corruption.
- Ensuring the participation of the majority of the population may require careful strategies. Methods and special means must be established to facilitate and measure the participation of all directly and indirectly affected people, in particular marginalised groups such as women.
- State support for the right to say 'no' to proposed developments is difficult to assure.

CONTACT DETAILS



Jerome Lewis
Lecturer in Anthropology and Co-Director of
the Environment Institute and Extreme Citizen
Science Research Group
University College London (UCL)
14 Taviton Street
London
WC1H 0BW
UK
Email: Jerome.lewis@ucl.ac.uk

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Understanding and facilitating a biocultural community protocol process

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by HOLLY SHRUMM and HARRY JONAS

The Regional Initiatives on Biocultural Community Protocols have led to the development of a dedicated toolkit and website on biocultural community protocols.^{1,2} The toolkit is comprised of the following four parts:

- Understanding and using the toolkit
- Documenting and developing a biocultural community protocol
- Using a biocultural community protocol
- Reflecting, reporting and revising

The website contains further background information on key methods and tools, examples of protocols from around the world, and supplementary resources such as publications, films, and e-learning modules on legal frameworks. This article highlights a number of considerations from the toolkit about facilitating a protocol process.³

Key considerations before facilitating a biocultural community protocol

Before beginning the process of documenting, developing and using a biocultural community protocol, facilitators should have a solid understanding of how the community defines itself, cultural and internal dynamics, local institutions, and participation and representation. Considerations about how to facilitate a protocol process include understanding the role of the facilitator, managing expectations, timeframes and information, supporting community catalysts, and seeking agreement about roles and responsibilities in the protocol process.

These are not hard rules or step-by-step requirements, but could be considered good practice guidelines to adapt to the local context and the skills of the facilitator. They can be explored in a

¹ For more information on the Regional Initiatives on Biocultural Community Protocols, see: <http://naturaljustice.org/our-work/regional-initiatives/biocultural-community-protocol>

² See: www.community-protocols.org

³ Download the full toolkit at: www.community-protocols.org/toolkit

Box 1: Documenting, developing and using a community protocol

Overall, the process of documenting, developing and using a community protocol should:

- Be defined and controlled by the community
- Be empowering and rooted within the community's values and procedures
- Create a space for trust, respect, sharing, reflection and learning-by-doing
- Include the full and effective participation of as many community members as possible
- Encourage dialogue and learning between generations, between different groups in the community, and with other communities with shared heritage, resources or knowledge
- Value and build on the diversity of knowledge, skills and capacities in the community
- Emphasise the inter-linkages between social-cultural, material and spiritual well-being
- Increase awareness of relevant legal frameworks and clarity on how the community would like to engage with them
- Inspire community mobilisation around key issues
- Lead to tangible change in accordance with community plans and priorities

number of different ways, including through workshops, open-ended discussions with certain groups and focused meetings with community leaders (Box 1).

Contextualising 'community'

Ensuring clarity about who and what comprise the community is integral to the protocol process. Outsiders commonly use the term 'community' to refer to people living in a geographically defined space without much consideration of what joins them together or what may separate them. People generally know the boundaries of their own community and where another one begins. This understanding of boundaries is governed by relations between groups that are often historically determined. It is fluid and can change over time, particularly in the context of new threats or opportunities. Individuals can also have multiple roles, identities and alliances. Above all, the community must define itself and determine how to address external issues.

Cultural and internal dynamics

Culture plays a critical role in the protocol process and should help define the approach and tools that you use as a facilitator. Much like identity, it can only be fully understood and meaningfully conveyed by the community itself. If you are from an outside organisation, establish a working knowledge of the culture and internal dynamics, for example, by informally exploring key topics of importance to the community such as natural resource management practices, customary laws and values, perceptions of ownership and stewardship, traditional authorities and governance systems, gender and family structure, dance, music, folklore and spiritual beliefs. The aim is not to document them for the sake of it, but to eventually focus on the most foundational and pressing issues that the community would like to address in the protocol.

Every community has unique internal dynamics that are determined by relations between individuals and groups. Pretending that there are no politics or tensions may seem easier at the beginning, but is a short-sighted approach which is likely to backfire. Some degree of conflict is inevitable, especially when livelihood security and well-being are at stake. The protocol process should not be used as a tool to create divisions or to advance the political power of certain groups within the community. Above all, it should instill a sense of unity and common vision.

Local institutions and governance

Another fundamental aspect of a community protocol is who decides and how decisions are made about the community and surrounding environment. Also known as governance, this is a matter of power, responsibility, human relations, participation, legitimacy, transparency and equity. A comprehensive discussion about governance structures should feature strongly in the protocol process itself. Focus on exploring stories and

Box 2: Guiding questions about community institutions and governance

- How are important decisions made in your community?
- What are the core values that guide decisions?
- Who is involved in making decisions? Who is considered to be the community authorities?
- How can or do you participate in the process?
- Do you feel you have sufficient opportunities to voice your concerns and opinions?
- Would you like to change anything about the existing system or structure?
- How do community institutions relate to local government officials?
- Could you share an example of a good decision? What were the main factors that led to it?

personal experiences rather than allegations of the validity of decisions. In some situations, community institutions may not seem equipped to deal with new challenges. In other situations, long-standing community practices may be highly effective at dealing with new threats or opportunities. Assumptions either way should be withheld (Box 2).

Participation and representation

Participation and representation are essential to biocultural community protocols. As much as possible within the local culture and situation, the protocol should strive to include the full spectrum of perspectives, especially those of women, youth, the elderly and others who are often excluded from decision-making processes (Boxes 3 and 4). Although it is not possible to include every single person, a participatory approach contributes to building greater consensus and collective learning. It also helps people feel personally invested in the process, which increases potential for effective social mobilisation and tangible change. Conversely, a community protocol that has been developed with little consultation and without using any participatory methods would raise significant concerns about representation and legitimacy. It could also lead to feelings of exclusion, internal conflict and divisions, and ‘elite capture’.

Box 3: Guiding questions to enhance participation and representation

- Who should be involved in the different stages of developing a biocultural community protocol? What roles and responsibilities could they undertake?
- What social, cultural or political barriers affect different members of the community? How might they affect people’s capacity or willingness to participate in activities related to the protocol? How can these be accommodated in an attempt to facilitate broad participation and representation in locally appropriate ways?
- Are there certain times of the year, month and/or day that would be more appropriate for different people to be involved? Discussions and activities around the protocol should aim to work around the community’s schedules and routines, rather than vice versa.
- People respond differently to certain learning, documentation and communication styles. For example, some learn better through watching others, looking at text or listening, and others learn better through physical movement. How can discussions and activities around the protocol be facilitated in culturally appropriate, diverse and engaging ways?

Box 4: Accommodating different groups within the community

Guidance on accommodating different groups within the community such as women, youth, the elderly, and people with disabilities or behavioural challenges:

- Remain sensitive and patient
- Avoid appearing to be condescending or patronising
- Understand that each wants to contribute to community processes
- Have confidence in their abilities and unique contributions
- Ask in advance when they might be able to participate in activities such as workshops or data collection
- Hold separate meetings or workshops for specific people or groups
- Pay close attention to behaviour and levels of participation during community activities

Understanding your role as a facilitator

Facilitation can be challenging yet highly rewarding. It requires skill, sensitivity, flexibility, and willingness to learn and adapt to changing conditions (Box 5). The role of the facilitator in workshops, community meetings, group discussions and other forms of gathering includes, for example:

- drafting an agenda and list of participants to be invited;

Box 5: Qualities and actions of a good facilitator

- Be an active listener
- Play a supporting role
- Respect the local culture and traditions
- Maintain an atmosphere of respect and openness
- Foster trust and confidence
- Be consistent and clear
- Remain neutral and level-headed
- Keep up positive momentum
- Take notice of subtle changes in energy and tone
- Develop positive rapport with a range of community members
- Keep the broader objectives in mind and help focus discussions on key issues

- identifying key discussion points;
- securing logistics and materials;
- arranging for translation;
- setting the ground rules;
- following the agenda and time constraints; and
- keeping a record of discussions.

Seeking the support of community catalysts

In addition to your own role as the primary facilitator, you will require the support of other community members who demonstrate certain qualities such as:

- Leadership
- Sense of commitment to the greater good;
- Reliability
- Initiative
- Ability to work well independently and in teams
- Open-mindedness
- Flexibility
- Willingness to learn

These individuals could be considered 'community catalysts' or people who have the potential to inspire and create significant change. Although they may not necessarily serve as official representatives of the community, there are countless different roles that they could play, including facilitating workshops, presenting at local schools, contacting the media, or organising a delegation to visit a local government official. They should be comfortable with taking responsibility for

Box 6: Key questions for discussion with those involved in the protocol process

- What is the purpose of the protocol?
- What is our role? What does the process involve?
- What are the costs and risks?
- What are the benefits?
- How would it be useful to our community or group?
- How can we plan for and respond appropriately to unexpected opportunities or consequences?

a certain part of the process and reporting back to others involved, including yourself and the community leaders.

Managing expectations

One of the most important parts of facilitating a protocol process is to manage the expectations of those involved (Boxes 6 and 7). This includes individuals and groups both within the community and amongst external actors. Establishing a sense of realistic expectations at the beginning and throughout the process can help prevent disappointment and cynicism. It can also provide a mechanism for reflection and evaluation at different stages of the process.

Managing timeframes

There is no set rule or formula for how long it takes to 'do' a biocultural community protocol. The timeframe for the whole process of documenting, developing, using and reflecting upon a protocol will vary widely depending on the local context. Each part of the process could be affected by a range of factors and unavoidable circumstances, both positive and negative (Box 8). For many communities, a protocol is seen as an ongoing and evolving process that is part of their long-term plans and strategies. The protocol may thus have no clear 'beginning' or 'ending'.

As far as possible, the timeframe should be determined by the local situation and by the community's priorities and capacities. Although practical considerations such as available funds and human resources must be taken into account, timeframes should not be determined primarily by external interests or donor requirements.

Box 7: Key considerations and caveats to help manage expectations

- A protocol is not a panacea. There is no guarantee that all of the issues contained in a protocol will be sufficiently addressed or resolved.
- The likelihood of realising a community protocol is influenced by a wide range of factors. However, it is often most significantly affected by internal factors such as community cohesion, strong leadership and governance structures, and agency and initiative.
- Unexpected opportunities or consequences may arise that are directly, indirectly, or not at all caused by the protocol process.

Managing information

Facilitating a protocol process comes with the responsibility of managing a lot of information collected through workshops, meetings, interviews, desktop research and so on. As it will form the basis of the protocol itself, it should be documented and organised in a way that makes sense and is appropriate in the local context. Some information such as locations of sacred sites or potentially lucrative resources may be sensitive or confidential and require extra precautions. Being aware of how you would handle this responsibility from the outset may improve the overall process. Documenting the protocol process itself is also useful to help verify certain information to ensure accuracy, provide evidence of a particular outcome or agreement, and facilitate community validation of the consolidated protocol.

Box 8: Factors that may affect the timeframe of a protocol process

- Reasons for undertaking a protocol in the first place
- Agency, motivation and capacity for mobilisation
- Internal cohesion and clarity of leadership and decision-making systems
- Available resources (financial, human, time, material)
- Existing experience with key methods and tools
- Existing research or documentation of key issues that will be included in the protocol
- New development project, law or other external pressure that will significantly affect the community
- Natural disasters
- Illness or family losses
- Elections or changes in political administrations

Seeking community agreement for the protocol process

Drawing on the guidance above, ensure that the community is clear from the outset about the protocol process and about the role of the facilitator. First, the process should be driven by and for the community, with support from the facilitator. Even if there is a considerable amount of organisation and resources being invested, it is still the community's protocol and it is essential that they have ownership over the process. Second, ensure clarity on roles and responsibilities for various tasks, including documenting and consolidating the protocol. If certain community members or catalysts commit to key roles, it will become an initiative of the broader community, distinct from and larger than your role as facilitator.

CONTACT DETAILS



Holly Shrumm and Harry Jonas
Natural Justice: Lawyers for Communities and the Environment
479 Jalan Sang Kancil
Kota Kinabalu 88000
Sabah
Malaysia
Emails: holly@naturaljustice.org
harry@naturaljustice.org
Websites: www.naturaljustice.org
www.facebook.com/naturaljustice
www.community-protocols.org



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Using stakeholder and power analysis and BCPs in multi-stakeholder processes

by HERMAN BROUWER, WIM HIEMSTRA and PILLY MARTIN

Introduction

Many community protocols will be used by the communities in negotiations with other (usually more powerful) stakeholders, e.g. over proposed large-scale developments or mining or oil exploration on communities' lands. Similarly, FPIC processes involve negotiations with other stakeholders. These negotiating processes are often referred to as 'multi-stakeholder processes' (MSPs). In some cases there is a formal platform, or common space, that is collectively owned by all the stakeholders, where negotiations can take place. In other cases, the stakeholders do not all meet in one place but are still engaging in various ways. Analysing the interests of stakeholders and the power dynamics operating (whether a formal MSP process is in place or not) is very important in enabling communities to plan how to negotiate with these more powerful parties.

This Tips for Trainers discusses an action-research programme which is analysing power dynamics in MSPs and exploring how to strengthen the capacity of local communities to negotiate with more powerful stakeholders. The programme began in 2011 and includes 12 projects in nine countries.¹ Six Dutch NGOs, their southern partners and the Change Alliance are implementing the programme, funded by PSO, an umbrella organisation of Dutch development organisations.² Some of the action learning sites are already established multi-stakeholder processes (MSPs), whilst in other cases communities are pushing for such a space to be created.

The first part of this Tips looks at the methodological framework used in the action-research. The second part focuses on the efforts of local communities in Lamu, Kenya to claim their rights through a biocultural community protocol (BCP)

¹ A learning event is planned in 2012 to compare the findings amongst the participants, with support from an academic expert reference group.

² The Change Alliance is an emerging global network of organisations joining forces to increase the effectiveness of the multi-stakeholder processes in which they engage.

process, and to demand negotiations over a large-scale port development that has been proposed by the Kenyan government. It discusses how participatory tools such as stakeholder and power analysis are helping them in this. They are being supported by local researchers working as part of the larger action-research programme.

Why analyse power in MSPs?

MSP advocates often argue that, because of the interdependence of stakeholders in solving complex issues, MSPs create trust-based relations that enable the empowered and active participation of all stakeholders. However, the distribution of power, capacity and resources is generally imbalanced. Power differences are embedded in the social fabric of society and can be reproduced, or even reinforced, in an MSP. Even if participants are willing to engage in dialogue on an equal basis, there are still differences in the level of experience, access to resources and information. The MSP process itself will also generate new interpersonal power dynamics based on charisma, skills and persuasiveness, the ability to mobilise funds, seniority and many other elements.

However, failure to recognise power dynamics can result in some stakeholders dominating others. Less powerful stakeholders can be abused, overruled or excluded. Such dynamics prevent joint learning and innovative solutions which one would expect as outcomes of a good MSP. The outcome of such a MSP will not reflect the interests and needs of less powerful stakeholders, often those representing the grassroots level. So there is the need for a thorough understanding of power dynamics in MSP processes by the parties involved.

The action-research described here is intended to help address this. Local researchers are supporting the weaker stakeholders (communities) to analyse

power dynamics and learn together how to effectively engage with and influence processes that involve more powerful actors. Through this, communities should gain the confidence to engage more effectively with these more powerful stakeholders in the future.

Methodological framework

In order to ensure a coherent methodological framework for the 12 action-learning projects, seven research questions and seven action questions were agreed during a programme inception meeting in November 2011 (Table 1). Local researchers, facilitators from the Centre for Development Innovation, Wageningen University, The Netherlands, and conveners from the six Dutch PSO member organisations participated in this meeting. An accompanying menu of tools for stakeholder analysis and power analysis has been drafted to help local researchers select tools for their specific situations. The local researchers will conduct stakeholder analysis with local communities before entering into power analysis (Table 1 and Box 1).

Demanding a voice: the Save Lamu coalition

Lamu County is on the coast in northern Kenya. It has been a UNESCO World Heritage Site since 2001 and was declared a UNESCO Man and Biosphere Reserve in 1980.³ Lamu town is also the oldest and best-preserved Swahili settlement in East Africa. The people of Lamu are proud of their cultural and natural heritage: Lamu County is home to rare marine species such as sea turtles, sharks and dugongs. However, this has been threatened by the proposed Lamu Port and Lamu-Southern Sudan-Ethiopia Transport (LAPSSET) corridor project. This project would build a pipeline to deliver oil from South Sudan to a new refinery near Lamu town, build port

³ See: <http://tinyurl.com/unesco-man-biosphere>. Full URL: www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/man-and-biosphere-programme

Table 1: Research questions, action questions and tools

Research questions	Action questions	Tools
1. Who are the key actors involved? Understand the different degrees of power among MSP actors, their bases of power and the manner in which they use their power.	1. Are these the right actors? Do other actors need to join the MSP?	Stakeholder analysis: 1, 2, 3, 4, 5, 6, 7, 8, 9, 11 Power analysis: 6, 7
2. What are the interests/goals of the different actors? Actors have common longer-term objectives, but may have different interests and inter-dependencies which may be a source of conflict, strength or (in) effectiveness.	2. How can common interests be strengthened? How can different interests be overcome? What other options are available?	Stakeholder analysis: 1, 2, 4, 5, 7, 8, 9, 10, 11 Power analysis: 6, 7, 8, 9, 10
3. How is the problem framed and by whom? Actors in control of agenda-setting can exercise their power. Participatory and empowerment tools are needed to balance the level of influence of all actors in the MSP.	3. What is needed to strengthen the influence of the least influential? How can empowerment be promoted?	Stakeholder analysis: 1, 2, 4, 9 Power analysis: 6, 8, 9, 10
4. What are actors' key resources (e.g. material, immaterial, political, economic, social, institutional)? How does control over resources affect each actor's ability to exercise influence?	4-5. How can inter-dependence at the level of resource access and control be realised? Which capacities of which actors need to be strengthened?	Stakeholder analysis: 1, 2, 3, 4, 5, 6, 7, 8, 9, 11 Power analysis: 6, 7
5. What are the (resource) dependencies between actors? Different actors have different access and control over resources that determine their influence and their capacity to realise their interests.		Stakeholder analysis: 1, 4, 7, 8, 11 Power analysis: 2, 6, 8, 9
6. What are the decision-making rules? Understand the institutional dimension of the MSP. What are the rules? How and by whom are they set? How are they enforced, arbitrated and sanctioned?	6. What are the constraints in the decision-making process? Can governance agreements be changed?	Stakeholder analysis: 9 Power analysis: 1, 3, 4, 5, 6, 8, 9, 10
7. To what extent are different interests reflected in outcomes of decision-making? The decisions taken are an expression of the results of the power dynamics in the MSP.	7. How can decision-making be organised such that all actors benefit and see results that meet their interests?	Stakeholder analysis: 3, 6 Power analysis: 8, 9, 10

facilities to ship the oil from a giant tanker terminal, lay more than 1700km of new highways and railways to South Sudan and Ethiopia, and build three new airports and tourist resorts in Lamu, Isiolo and at Lake Turkana. It would also bring an estimated 1.2 million people to the area (an estimated tenfold increase), giving rise to fears that local cultures will be lost.

Different ethnic communities in Lamu

County came together in 2010 to form a coalition called Save Lamu, in response to the Kenyan government's plans, part of its Vision 2030.⁴ Although the planned infrastructure will have irreversible environmental, social and demographic impacts on what is a unique and politically sensitive area, State decision makers have not consulted the Lamu community as the key stakeholders, and no environ-

⁴ The different Lamu ethnic groups include the Bajun, Kore-Maasai, Sanye, Boni, Pokomo, Orma, Mijikenda and are represented by local leaders. See: www.savelamu.org

Box 1: Stakeholder and power analysis tools

Stakeholder analysis tools:

1. Rich picture
2. Problem tree analysis
3. Interest/influence matrix
4. Stakeholder characteristics and roles matrix
5. Spiderweb network diagram
6. Fast arrangement mapping
7. Stakeholder interests, roles and skills
8. Community institutional resource mapping
9. Institutional analysis
10. Four quadrants of change framework
11. Value chain mapping

Power analysis tools:

1. Power cube
2. Sources and positions of power
3. Expressions and faces of power
4. Spaces and levels of power
5. Power ranking
6. Net-map (tracing power and influence in networks)
7. Power matrix
8. Political analytical tool
9. Biocultural community protocol
10. Circle of coherence

Source: Brouwer *et al.* (2012).

mental impact assessment has been carried out.⁵

On the 25th January 2011, Save Lamu filed a petition with 1000 signatories from different villages in the Lamu archipelago. The coalition demanded that:

- the Government of Kenya (GOK) publicly shares all information on the proposed project with local communities;
- the GOK facilitates a comprehensive environmental impact assessment to be carried out by independent experts;
- a participatory process is undertaken with the local communities involved in the assessment of the impacts and planning of the proposed project; and
- the land rights violations against the indigenous Lamu communities are adequately investigated and addressed

before any further development plans are inaugurated.

The action-research in this case aims to support local communities in their efforts to persuade the government to accede to the demands in their petition.⁶ This entails trying to get powerful stakeholders to start negotiations on possible impacts in a peaceful manner, i.e. create an MSP. Save Lamu has been campaigning for this space to be created in various ways, including petitions, writing letters, demonstrations, legal action against ministries and use of the media. At the same time, 46 Lamu communities are claiming their right to give or withhold consent to the developments affecting them through an FPIC process as part of a BCP which will be finalised in 2012. Two BCP teams (Lamu East and Lamu West) were involved in developing the BCPs, based on visits to 46 villages in Lamu County. The BCP includes the histories, culture and values of the communities, their resources and how they use them for their livelihoods. They also cover their rights under the Kenyan constitution and in national and international laws.

An example of stakeholder and power analysis

The action-research has focused around meetings of the Save Lamu coalition. The first meeting was in February 2011 and a further five meetings are planned for 2012. During the early meetings, stakeholder and power analysis tools were used.

Stakeholder analysis: using the interest/influence matrix tool

The researchers first carried out a stakeholder analysis to identify all key stakeholders affected by the proposed port. The assessment of stakeholder power dynamics was done using the interest against influence matrix.⁷

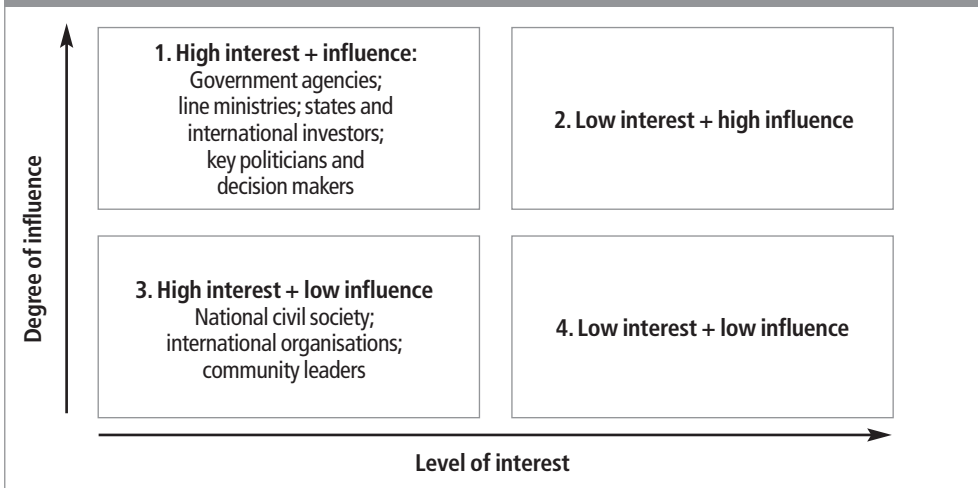
⁵ An environmental impact assessment is an assessment of the possible positive or negative impacts that a proposed project may have on the environment, together consisting of the environmental, social and economic aspects. Source:

http://en.wikipedia.org/wiki/Environmental_impact_assessment

⁶ The action researchers became involved in Lamu in October 2011 after developing a research proposal between ETC COMPAS, Save Lamu and Natural Justice.

⁷ See for example: www.odi.org.uk/resources/docs/6509.pdf

Figure 1: Interest–influence matrix, Lamu



The power of pro-LAPSSET stakeholders exceeds considerably the power of the community actors.
 Source: Goldsmith (2012).

Stakeholders were divided into six categories and graded according to interest and influence: high or low (Figure 1). Because all the stakeholders named are by definition already highly interested parties, the grading used only the influence axis. Stakeholders were categorised as being either high influence or low influence.

Power analysis: using the power house tool
 The power cube was discussed with members of the Save Lamu management committee, and representatives from the two BCP teams. The representatives included hunter-gatherers, pastoralists, farmers and fisherfolk, covering a wide range of interests. Pilly (one of the co-authors of this article), who is from Tana River, an area neighbouring Lamu, was the main facilitator. The dimensions of the power cube were written in English and Pilly translated the concepts into Kiswahili.

We first introduced the concept of power and its different dimensions: **forms, spaces and levels** of power (Figure 1).

• **Power forms** refer to visible, hidden and

internalised forms of power.

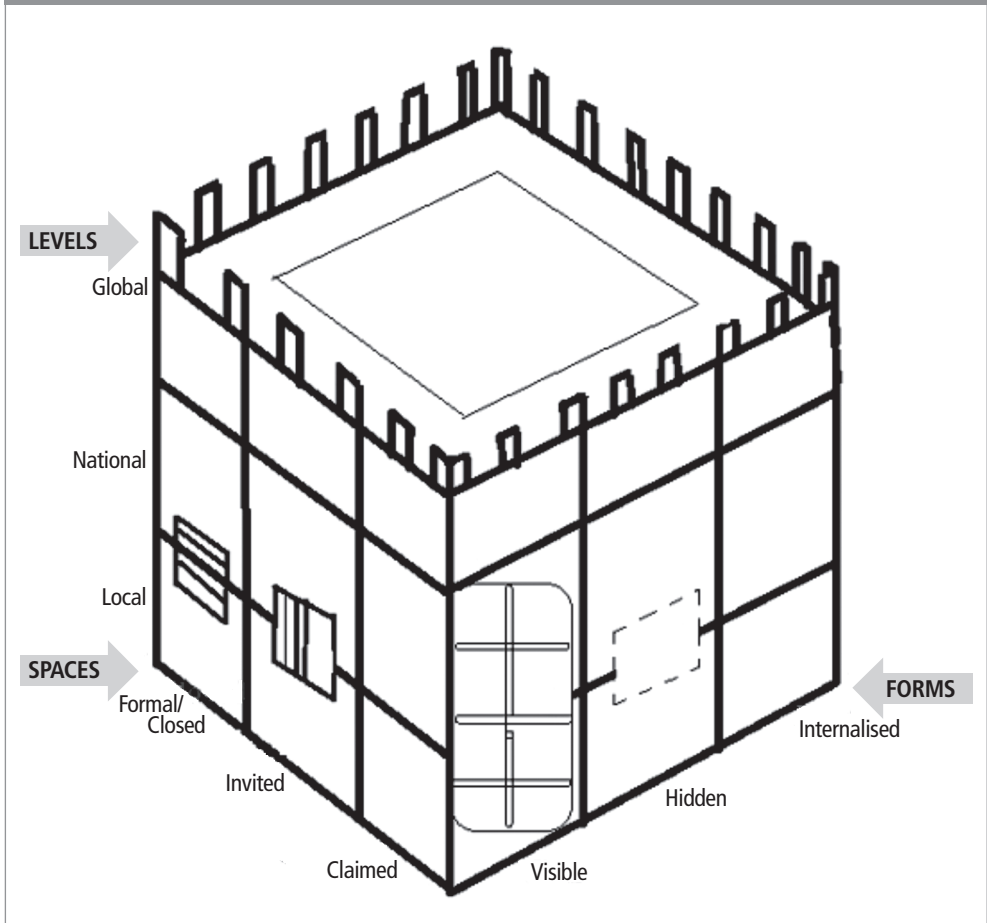
- **Power spaces** refer to potential arenas for participation and action – closed, invited or claimed.
- **Power levels** (local, national, global) refer to different layers of decision-making and authority.

To facilitate understanding, the power cube became a power house, using analogies of Islamic architecture in Lamu. People were asked how they would fit themselves and other groups involved in the LAPSSET project into the power house. This led to a very animated discussion. For example, in Figure 1:

- The door represents the **visible economic power** of the communities at local and national levels, and is a powerful symbol of Lamu culture.⁸
- The window represents **formal/closed power**, crossing the local and national levels, e.g. the GoK Vision 2030, which communities are unable to participate in.
- An example of **internalised power** is the BCP which communities have been developing. It is internalised because it reflects

⁸ Lamu doors are very ornate and unusual, and part of the Swahili architectural style. The door symbolises both Lamu culture and their economic power, because the doors are exported. They are made from mangrove trees, which grow in saline water. However, the mangroves, from which the doors are made, and which are also integral to marine-based livelihoods like wood trading and fishing, are threatened by the port.

Figure 2: The power house



their histories, cultures and customary governance of resources.

- People felt that elected local leaders had **hidden power** since they only have power when they talk to local people, but are not listened to at the national level. This is represented by a window with dotted lines.
- The half-open window represents **invited space** at local and national level. For example, the government created the Lamu Port Steering Committee, which Save Lamu members are now invited to participate in. However, they are not involved in agenda-setting.

Lessons and challenges in using the tools

The early meetings between the researchers and communities were as

much about finding common ground between the different groups in the Save Lamu coalition and trying to resolve internal tensions through dialogue as about developing strategies to fulfil their demands. People have different views of the history of the coastal strip, some valuing their Arab heritage, others seeing it as colonialism and slavery. The way in which the different societies operate also varies. Some are based on respect for elders, whilst others are more egalitarian. This creates tensions and mistrust between different groups, and makes it difficult to come to a unified understanding. Each group has its own way of doing things and this is a huge challenge in terms of developing a joint BCP to be used for advocacy purposes.



The Lamu power house.

Having a facilitator from the local area was important because four different Kiswahili dialects are spoken. But this sometimes led to a perception that some groups were listened to more than others. The facilitator was very aware of that and

made great efforts to ensure she was seen to be inclusive in bringing in different perspectives.

The meetings have also helped Save Lamu to strategise in terms of their relationships with other stakeholders. For

example, the coalition has been seen as anti the Kenyan government itself, rather than just its actions. They felt they needed to appear readier to compromise and to negotiate. The power analysis helped them identify spaces for action to change this perception. For example, the Port Steering Committee has been set up by the government to solicit views from the local community. This was initially an invited space, but is now moving towards a claimed space as three members of the coalition have joined it. As relations between government and the coalition have improved, local government officials (such as the district commissioner) have attended the fourth meeting of Save Lamu. There is now an open door policy with local government officials – Save Lamu can go to the government offices any time for discussions or to request information. This step is crucial as it helps in developing a formal MSP process.

The analysis also helped identify that it was important for Save Lamu to talk to the local media and put forward their point of view, as media coverage of Save Lamu has at times been quite negative.

Further analysis is needed to better inform future meetings and the advocacy strategy that will emerge out of them. After four Save Lamu county meetings, a regional and a national meeting are planned to coordinate and mainstream BCPs as an advocacy and dialogue tool to engage with powerful stakeholders. This meeting also plans to present the BCPs to other communities that might be affected by the LAPSSSET project, in the hope that they will be inspired to develop their own BCPs.

As one MSP researcher reports (Goldsmith, 2012):

It is naïve to expect one BCP by itself to make the government of Kenya and the international finance partnership be accountable to local communities' biocultural rights. Its influence will, in contrast, increase exponentially when it becomes part of a mosaic of BCPs covering all the LAPSSSET affected communities (and others indirectly involved) in Kenya. Bringing communities from Sudan and Ethiopia will raise that influence to another level.

The regional and national meeting will work towards that agenda. The interest/influence analysis will be repeated to enrich and expand the information generated by the meetings in Lamu County. The power house will also be revisited to monitor changes in power positions and rules for decision-making.

The Lamu communities decided in January 2012 to sue five Kenyan ministries because their right of access to information and their rights to a clean and healthy environment and to their land are being denied. The court case, the BCP and the pressure to begin a multi-stakeholder process are thus mutually reinforcing. It is not yet clear whether powerful stakeholders (Government of Kenya and politicians) will be ready to listen to the demands of concerned citizens and negotiate modifications that could make Lamu the greenest African port, and safeguard community rights to lands and livelihoods.

CONTACT DETAILS



Herman Brouwer
Centre for Development Innovation
Wageningen University
The Netherlands
Email: herman.brouwer@wur.nl
Website: www.cdi.wur.nl



Wim Hiemstra
ETC COMPAS
PO Box 64
Kastanjelaan 5
3830 AB Leusden
The Netherlands
Email: w.hiemstra@etcnl.nl
Website: www.compasnet.org



Pilly Martin
Independent researcher on peace building and
conflict resolution
Email: pillymartin@gmail.com

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IN TOUCH





Biodiversity and culture: exploring community protocols, rights and consent

RELATED RESOURCES

Biocultural community protocols: a toolkit for community facilitators

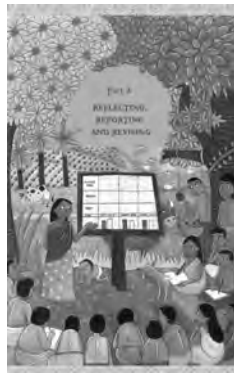
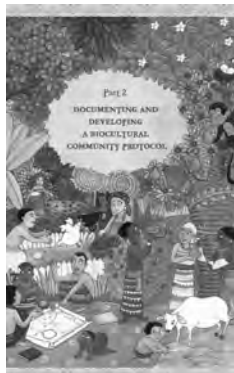
● *Edited by Holly Shrumm and Harry Jonas
Natural Justice, March 2012*

Biocultural community protocols can be used to support indigenous peoples and local communities to secure their territories, areas and resources and associated rights and responsibilities. This toolkit was developed through the Regional Initiatives on Biocultural Community Protocols with guidance and

input from other key partners from around the world. It is comprised of four parts:

- Part I: Understanding and using the toolkit
- Part II: Documenting and developing a biocultural community protocol
- Part III: Using a biocultural community protocol
- Part IV: Reflecting, reporting and revising

The toolkit is directed primarily towards facilitators from the communities themselves or from



supporting organisations with whom they have long-standing and positive relationships. It is intended for use alongside supplementary resources hosted on the community protocols portal (www.community-protocols.org). Please contact Holly Shrumm at holly@naturaljustice.org with any questions or feedback.

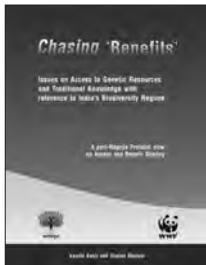
■ Available for free download at: www.community-protocols.org/toolkit

The balancing act: experiences with access and benefit-sharing under India's biodiversity law

● *Kanchi Kohli and Shalini Bhutani Kalpavriksh and Swissaid, India (forthcoming)*

This publication attempts to critically understand the experience of granting access to biological material/people's knowledge as well as determining benefit-sharing. While it draws from some of the discussions and examples from the pre-CBD phase, it locates itself in the coming into being of the Biological Diversity Act, 2002 in India and how its design and implementation has shaped the practice of access and benefit-sharing in the country. It also seeks to explore the relevance of ABS frameworks and the Nagoya Protocol to specific community realities in India.

■ For more information contact: kvbooks@gmail.com



Chasing 'benefits': issues on access to genetic resources and traditional knowledge with reference to India's biodiversity regime. A post-Nagoya Protocol view on

access and benefit-sharing

● *Kanchi Kohli and Shalini Bhutani, Kalpavriksh, 2011*

The word 'chase' implies pursuing with an

intent to catch. That was what biodiversity-rich countries were intending through an international regime on access and benefit-sharing (ABS) – hunting down 'bio-piracy'. The chase has been long and hard, lasting for over nine years. Amidst the fatigue of the last years, the text thrust in their faces at the finish line is hardly the prize countries like India were hoping for. So yes, there is a global Nagoya Protocol on paper under the Convention on Biological Diversity (CBD). But no, the pursuit is not yet over for provider countries of genetic resources. Neither is it the end of the pirating of their people's biodiversity-based knowledge. Catching their breath, both countries and communities have to look within as they chart their next steps for the road ahead. For the countries who are users of genetic resources, access continues while 'benefits' to communities remain illusory. This paper was prepared for the NGO Alliance on CBD (India) supported through WWF-India's CSO Initiative.

■ Available in Hindi and English. For more information and to order a copy, see: <http://tinyurl.com/d45sujb> or www.kalpavriksh.org



Biocultural community protocols – a community approach to ensuring the integrity of environmental law and policy

● *Editors: Kabir Bavikatte and Harry*

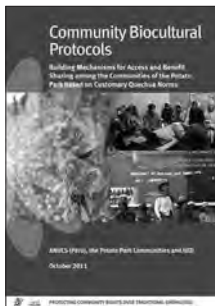
Jonas. Authors: Elan Abrell, Kabir Bavikatte, Harry Jonas, Ilse Köhler-Rollefson, Barbara Lassen, Gary Martin, Olivier Rukundo, Johanna von Braun and Peter Wood

UNEP and Natural Justice, October 2009

This book illustrates the application of biocultural community protocols to a range of environmental legal frameworks. Part I focuses on the Convention on

Biological Diversity (CBD) and access and benefit-sharing. Part II looks at other frameworks to which biocultural protocols can be applied by indigenous and local communities, including REDD, the CBD programme of work on protected areas and payment for ecosystem services schemes. Part III looks more broadly at the meaning of biocultural protocols for environmental law. According to the authors, the development of biocultural protocols is one way in which communities can increase their capacity to drive the local implementation of international and national environmental laws. Such a protocol is developed after a community undertakes a consultative process to outline their core ecological, cultural and spiritual values and customary laws relating to their traditional knowledge and resources, based on which they provide clear terms and conditions to regulate access to their knowledge and resources.

■ Online: www.unep.org/communityprotocols/PDF/communityprotocols.pdf



Community biocultural protocols: building mechanisms for access and benefit-sharing among the communities of the Potato Park based on customary Quechua norms

● *ANDES (Peru), the Potato Park communities and IIED, 2012*
The Potato Park communities in Peru are deeply committed to the conservation of biocultural resources, associated knowledge and indigenous rights, and undertook this research to further investigate the role of customary norms and institutions in the protection of traditional knowledge (TK) and resources. The development of a

biocultural protocol, in the form of the Inter-community Agreement for Equitable Access and Benefit-Sharing, is the result of their efforts. In addition to providing a valuable example of effective community-based protection of TK and genetic or biological resources in praxis, this initiative is also one of only a handful of examples worldwide of working models that stem directly from customary laws and norms.

Given the present international paucity of models that adequately value and protect indigenous and local community rights, biodiversity and customary norms and practices in relation to benefit-sharing and access to resources and knowledge – the present initiative may further serve as an example of best practice in relation to the implementation of the Nagoya Protocol.

■ Download the summary report at: <http://pubs.iied.org/G03168.html> and the detailed report at: <http://pubs.iied.org/G03340.html>



Protecting community rights over traditional knowledge: implications of customary laws and practices. Key findings and recommendations (2005-2009)

● *Krystyna Swiderska, Alejandro Argumedo, Yiching Song, Jingsong Li, Ruchi Pant, Heraclio Herrera, Doris Mutta, Peter Munyi, S Vedavathy IIED, 2009*

This folder provides a summary of the findings from this IIED project, including the results of six case studies, which involved participatory research with indigenous communities in China, India, Kenya, Panama and Peru, and policy analysis. The aim was to understand existing customary law

systems for traditional knowledge protection, access and benefit-sharing and sustaining TK; develop local tools for TK protection based on customary laws (such as community protocols and registers); and inform the development of TK policies at national and international levels. The project developed the concept of 'biocultural heritage' and used it as the conceptual framework for research. The folder also provides recommendations for international policy on access to genetic resources and benefit-sharing.

■ Online: <http://pubs.iied.org/14591IIED.html>



Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the Convention on Biological Diversity
Secretariat of the

Convention on Biological Diversity, 2011

This is the text and annex of the Nagoya Protocol, which was adopted after six years of negotiation at the tenth meeting of the CBD Conference of Parties on 29th October 2010, in Nagoya, Japan. The Protocol provides a strong basis for greater legal certainty and transparency for both providers and users of genetic resources. Specific obligations to support compliance with domestic legislation or regulatory requirements of the party providing genetic resources and contractual obligations reflected in mutually agreed terms are a significant innovation of the Protocol. These compliance provisions, as well as provisions establishing more predictable conditions for access to genetic resources, will contribute to ensuring the sharing of benefits when genetic resources leave a party providing genetic resources. In addition, the Protocol's provisions on access to traditional knowledge held by indigenous and local communities when it

is associated with genetic resources will strengthen the ability of these communities to benefit from the use of their knowledge, innovations and practices.

■ Online: www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf



Use it or lose it: protecting the traditional knowledge, genetic resources and customary laws of marginal farmers in southwest China

● *Jingsong Li and Yiching Song*

IIED and CCAP, 2011

This report provides the findings and lessons of the action-research project Protecting Community Rights over Traditional Knowledge: Implications of Customary Laws and Practices in Guangxi, southwest China. The project, which started in 2004, sought to explore customary laws, values and practices relating to plant genetic resources (PGR) and traditional knowledge (TK) with local communities; develop innovative practices and local tools for PGR and TK protection; and inform national policy and legislation. It builds on an ongoing participatory plant breeding (PPB) project in southwest China, which started in 2000, and worked on PGR conservation and improvement with breeding institutes and local farmers.

■ Online: <http://pubs.iied.org/G02787.html>

UN-REDD
P R O G R A M M E

UN-REDD programme guidelines on free, prior and informed consent (FPIC)

● *Forthcoming, 2012*

Indigenous peoples and forest-dependent communities are essential to the success of REDD+ given that the majority of the

world's remaining forests in developing countries are located in their ancestral and customary lands, where they have for centuries played a historical and cultural role in the sustainable management of these forests with relative success.¹ Inadequate mechanisms for effective participation of local communities in land use decisions could seriously compromise the delivery of both local and global benefits and the long-term sustainability of REDD+ investments.

Recognising the critical role of indigenous and local communities to the long-term sustainability and effectiveness of REDD+, the UN-REDD Programme has prioritised stakeholder engagement from its inception. Following a series of extensive consultations with indigenous peoples and local communities, the UN-REDD Programme developed guidelines on stakeholder engagement, which have since been harmonised with guidance from the Forest Carbon Partnership Facility (FCPF) on the same topic. These Joint FCPF UN-REDD *Guidelines on stakeholder engagement for REDD+ readiness with a focus on the participation of indigenous peoples and other forest-dependent communities* focus on principles for effective participation and consultation and concrete guidance on planning and implementing consultations.

■ Download the guidelines in English, Spanish and French: www.unredd.net/index.php?option=com_docman&task=cat_view&gid=1333&Itemid=53

Free, prior and informed consent in REDD+: principles and approaches for policy and project development

● *Center for People and Forests, 2012*

The right of indigenous peoples to give or withhold their free, prior and informed consent to proposed developments that may affect their customary lands is



recognised in the UN Declaration on the Rights of Indigenous Peoples, and is included in the safeguard policies of the European Bank for Reconstruction and Development.

Voluntary standards for REDD+ also require proponents to respect the right to free, prior and informed consent (FPIC). The Carbon, Community and Biodiversity (CCB) standard requires REDD+ proponents to respect the right of indigenous peoples and local communities to FPIC. Many governments, NGOs and businesses seeking to develop REDD+ pilot sites, demonstration activities or relevant policy are asking what they need to do to respect the right of communities to FPIC. To start to address this need, with funding from GIZ, the Center for People and Forests has just published a book for REDD+ practitioners that describes in practical terms the steps involved to ensure that REDD+ proponents respect the right of communities to FPIC. There are plans to eventually translate the book into the national languages in Southeast Asia. Future versions of the book will contain revisions and additional material, so your comments and feedback are warmly welcomed.

■ Online: www.forclime.org/images/stories/RECOFTC-GIZ_FPIC_in_REDD_2011.pdf



Biocultural diversity conserved by indigenous peoples and local communities – examples and analysis

● *Companion document to*

¹ United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+). See: www.un-redd.org

IUCN/CEESP Briefing Note No.10, 2010
 Indigenous conservation territories and areas conserved by indigenous peoples and local communities (ICCAs) are the subject of the IUCN/CEESP briefing note. This larger document provides the examples and analysis underlying the policy advice contained in the briefing note. The document can be read as a stand-alone document, as it describes the main concepts. Although their existence is as old and widespread as human civilisation itself, ICCAs have emerged only recently as a major phenomenon in formal conservation circles. International policies and programmes, notably those of the International Union for the Conservation of Nature (IUCN) and the Convention on Biological Diversity (CBD), encourage today all countries to recognise and support ICCAs as examples of effective governance of biocultural diversity. It is clear, however, that such recognition and support need to be carefully tailored, and cannot be improvised. The briefing note and this publication offer advice and resources for governments, civil society organisations, indigenous peoples and local communities engaged in collaboration, support and joint learning on ICCAs.



Adapting agriculture with traditional knowledge

● *Krystyna Swiderska*
IIED Briefing, October 2011

Over the coming decades, climate change

is likely to pose a major challenge to agriculture; temperatures are rising, rainfall is becoming more variable and extreme weather is becoming a more common event. Researchers and policy makers agree that adapting agriculture to these impacts is a priority for ensuring future food security. Strategies to achieve that in practice tend to focus on modern

science. But evidence, both old and new, suggests that the traditional knowledge and crop varieties of indigenous peoples and local communities could prove even more important in adapting agriculture to climate change.

Also available in Chinese (traditional and modern).

■ Online: <http://pubs.iied.org/17111IIED.html>



Protecting traditional knowledge from the grassroots up

■ *Krystyna Swiderska*
IIED Briefing, June 2009

For indigenous peoples round the world, traditional knowledge

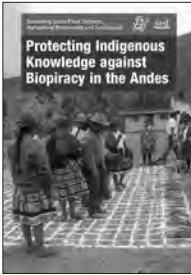
based on natural resources such as medicinal herbs, forms the core of culture and identity. But this wealth of knowledge is under pressure. Indigenous communities are increasingly vulnerable to eviction, environmental degradation and outside interests eager to monopolise control over their traditional resources. Intellectual property rights such as patents, however, sit uneasily with traditional knowledge. Their commercial focus wars with fundamental indigenous principles such as resource access and sharing. Local customary law offers a better fit, and findings in China, India, Kenya, Panama and Peru show how this pairing can work in practice. The research has identified common elements, and key differences, in customary law that should be informing policy on traditional knowledge and genetic resources.

■ Online: <http://pubs.iied.org/17067IIED.html>

Protecting indigenous knowledge against biopiracy in the Andes

■ *Alejandro Argumedo and Michel Pimbert*
IIED, 2006

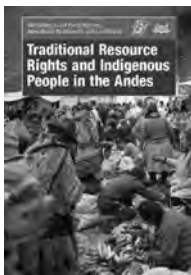
This paper presents the Indigenous Biocultural Heritage Register, an approach developed by Andean



communities in Peru in order to protect their knowledge against biopiracy and gain legal rights relating over their knowledge. The main objective of the register is to ensure

the conservation, protection and promotion of indigenous peoples' knowledge systems for sustaining their livelihoods and traditional resource rights. The Indigenous Biocultural Heritage Register, based on traditional Andean science and technology, also uses modern tools for collecting, documenting, storing and administering the contents of the register.

■ Online: <http://pubs.iied.org/14531IIED.html>



Traditional resource rights and indigenous peoples in the Andes

● *Alejandro Argumedo and Michel Pimbert*
IIED, 2005

Text and pictures are combined to highlight action-research with

indigenous communities on sustaining local food systems, diverse ecologies, rights, livelihoods and culture in the Peruvian Andes. Facilitated by ANDES (Quechua–Aymara Association for Nature Conservation and Sustainable Development) and IIED, this participatory action-research is actively developing an integrated model to protect traditional knowledge systems based on the conservation and sustainable use of the ecosystems in which indigenous peoples' knowledge and innovations thrive. The model builds on the Andean concept of 'working landscapes' and integrates indigenous people's own concepts of rights over their knowledge and resources.

■ Online: <http://pubs.iied.org/14504IIED.html>



Intellectual property tools for products based on biocultural heritage

● *Graham Dutfield*
Shaping Sustainable Markets Paper, IIED, 2011

Products developed by indigenous peoples and traditional societies, such as food crops and medicines, can protect biodiversity and provide an important source of income. This review explores the intellectual property (IP) tools of geographical indications, trademarks and rules of unfair competition for promoting these products, and protecting them from misappropriation, misuses and imitation, and assesses their potential to contribute to sustainable development.

Intellectual property law does not easily accommodate the collective interests of groups and communities. But particular forms of IP – such as geographical indications (GIs) and trademarks, which can recognise and support group rights – may be better suited to use by groups or associations of small producers and may help protect their biocultural heritage.

This legal review draws primarily on experience in Europe, where GIs and trademarks have been most widely used to date, but also includes experience from developing countries, such as India's recent experience with geographical indications. Some developing countries have already been able to benefit from geographical indications and trademarks. With careful design and use, these IP tools could promote products based on biocultural heritage and economically benefit indigenous communities and small producers.

■ Online:

<http://pubs.iied.org/16506IIED.html>



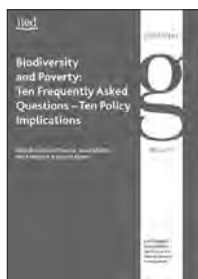
La voz de la semilla/The voice of the seeds (DVD)

● *Asevida Qolla Aymara, Paqualqu Asociacion para la Promocion*

Rural, Ceprosi and IIED, 2011
Spanish with English subtitles

This colourful 30-minute DVD was made with members of the indigenous Andean community in the Potato Park in Peru in conjunction with the Andean Altiplano Programme for Food Sovereignty. It shows the communities' relationship to their land and how their seeds are sacred to them. They discuss how they nurture biodiversity and view the GMO debate in Peru.

■ Watch on youtube (without subtitles): www.youtube.com/watch?v=rpwdKpAPQNs
For other videos from this programme and from IIED's research on democratising agricultural research see: www.excludedvoices.org/video



Biodiversity and poverty: ten frequently asked questions – ten policy implications

● *Dilys Roe, David Thomas, Jessica Smith, Matt Walpole and Joanna Elliott*

Gatekeeper 150, IIED, 2011

This paper is intended to stimulate discussion about the linkages between biodiversity, conservation and poverty reduction. What do we know, what do we not know, and what do we need to know? These ten questions provide a quick – hence simplistic – insight into a complicated and convoluted issue. We would therefore be very interested in your feedback. Are these the right questions? And the right answers? What else should

we be asking – and trying to answer – to better understand (and enhance) the biodiversity-poverty relationship? Please send your ideas to: pcplg@iied.org. To find out more about this subject visit the Poverty and Conservation Learning Group website:

<http://povertyandconservation.info/>

■ Online: <http://pubs.iied.org/14612IIED.html>



Association ANDES: conserving indigenous biocultural heritage

● *Alejandro Argumedo and Tammy Stenner Gatekeeper 137a, IIED, 2008*

The Association for Nature and

Sustainable Development (ANDES) is an indigenous NGO that seeks to defend indigenous rights to genetic resources, traditional knowledge and landscape character in Peru. It was established in 1995 with volunteer staff and no funding, and has grown considerably over the years. It now works with 39 indigenous rural communities, many of whom live in conditions of poverty or extreme poverty. It has successfully bridged traditional Quechua principles with modern organisational models to assert indigenous rights to heritage in practical terms by establishing a new form of protected areas known as Indigenous Biocultural Heritage Areas (IBCHAs). These are locally and sustainably managed through community associations; form the basis for local enterprise (agricultural and cultural eco-tourism); involve and benefit marginalised groups; unite communities; encourage participation by and negotiation with indigenous people; and create a model for future protection and development. The Potato Park was the first IBCHA, and brings six Quechua communities together to protect a 12,000 hectare area as a micro centre of origin of

the potato and other native Andean crops characteristic of Andean food systems. The approach also depends on close collaboration with formal and informal Quechua technicians in researching, training and developing adaptive management models for indigenous biocultural heritage – a ‘project’ rather than ‘service’ approach that works with local politics.

■ Online: <http://pubs.iied.org/14567IIED.html>



Banishing the biopirates: a new approach to protecting traditional knowledge

● *Krystyna Swiderska*
Gatekeeper 129, IIED, 2006

The livelihoods of indigenous peoples and the conservation of biodiversity worldwide depend on conserving and protecting traditional knowledge of the use and functioning of biological and natural resources. This traditional knowledge (TK) has helped develop the millions of farmers’ food crop varieties in use today, as well as a wealth of traditional medicines and techniques for sustainable agriculture and resource use. Yet this knowledge is rapidly disappearing. It is under increasing threat from both intellectual property regimes and economic globalisation processes which undermine traditional rural livelihoods. This loss is occurring despite the fact that the Convention on Biological Diversity (CBD) requires member countries to respect, preserve and maintain traditional knowledge, innovations and practices and encourage the fair and equitable sharing of benefits from their use. International and national policies have so far proved inadequate to protect traditional knowledge. The dominant paradigms of access and benefit-sharing and intellectual property rights fail to adequately protect TK

because they reflect western norms and laws, and focus narrowly on protecting intellectual rights. This paper describes how indigenous and farmers’ organisations are calling for more holistic approaches to protecting their rights to TK, bio-genetic resources, territories, culture and customary laws. These components of indigenous knowledge systems and heritage cannot be separated. A new framework for protecting TK, known as collective biocultural heritage, addresses biodiversity and culture together, rather than separating them; recognises collective as opposed to individual rights; and places them in the framework of ‘heritage’ as opposed to ‘property’.

■ Online: <http://pubs.iied.org/14537IIED.html>



Biocultural community protocols enforce biodiversity benefits: a selection of cases and experiences

● *Endogenous*

Development Magazine No. 6.

COMPAS, 2010

Community protocols need an endogenous development process – and endogenous development becomes stronger when legal frameworks are included. This issue of COMPAS Magazine is devoted to processes and legal frameworks relating to biocultural community protocols and includes information, resources and case studies from communities from Canada, Ghana, Guatemala and India.

■ Online: www.compasnet.org/blog/wp-content/uploads/2010/11/EDM-6.pdf

Global biodiversity outlook 3

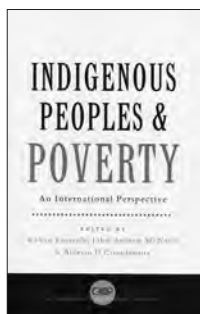
This is the flagship publication of the Convention on Biological Diversity. Drawing on a range of information sources, including national reports, biodiversity indicators information,



scientific literature, and a study assessing biodiversity scenarios for the future, the third edition (GBO-3) summarises the latest data on status and trends of biodiversity and draws conclusions for the

future strategy of the Convention.

■ Available to download in Arabic, Chinese, Russian, French, Spanish, English, Portuguese and Japanese: www.cbd.int/gbo3



Indigenous peoples and poverty: an international perspective

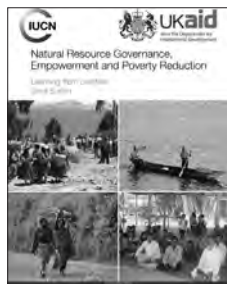
● Edited by Robyn Eversole, John Andrew McNeish and Alberto D. Cimaadamore
CROP (Comparative Research Programme

on Poverty), 2005

This book brings together two of today's leading concerns in development policy – the urgent need to prioritise poverty reduction and the particular circumstances of indigenous peoples in both developing and industrialised countries. The contributors analyse patterns of indigenous disadvantage worldwide, the centrality of the right to self-determination, and indigenous people's own diverse perspectives on development. Several fundamental and difficult questions are explored, including the right balance to be struck between autonomy and participation, and the tension between a new wave of assimilationism in the guise of 'pro-poor' and 'inclusionary' development policies and the fact that such policies may in fact provide new spaces for indigenous peoples to advance their demands. In this regard, one overall conclusion that emerges is that both differences and

commonalities must be recognised in any realistic study of indigenous poverty.

■ Available from Zed Books Ltd.,
7 Cynthia Street, London N1 9JF, UK
Online: www.crop.org/viewfile.aspx?id=98



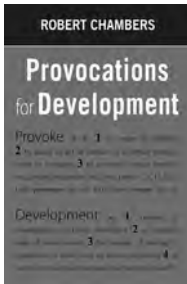
Natural resource governance, empowerment and poverty reduction: learning from practice

● Jordi Surkin
IUCN Social Policy,
2011

This document was developed through a review of existing project learning and other documents. It is divided into three sections. The first examines learning on various aspects of natural resources governance. This is followed by a section focusing more specifically on project implementation, planning and management lessons. Finally, it concludes with some suggestions on possible future niches for IUCN in the natural resources governance arena. This document aims to contribute to strengthening the natural resource governance work of IUCN and partners and provide valuable learning for institutions involved in governance.

■ Online:
http://cmsdata.iucn.org/downloads/dfid_governance_lessons_final.pdf

GENERAL RESOURCES



Provocations for development

● Robert Chambers
IDS, 2012

Do we use obscure words to impress our colleagues – or fashionable ones to win research

proposals? How do poor people define their poverty? How can we use aid budgets most effectively? Are many of our actions against poverty simple, direct and wrong? *Provocations for Development* is an entertaining and unsettling collection of writings that questions concepts, conventions and practices in development. It is made up of short and accessible writings by Robert Chambers, many from the past ten years and some from earlier, reflecting on the evolution of concepts like participation and of organisations like the World Bank. Besides provocations, there is mischief, verse and serious fun. The book is organised into four sections. The first, *Word play*, irreverently examines vocabularies of development and how words are instruments of power. The second, *Poverty and participation*, challenges concepts of poverty, presents empowering breakthroughs in the current explosion of participatory methodologies, and concludes with what can be done at the personal level. The third, *Aid*, is critical of past and present procedures and practices in aid and points to feasible changes for doing better. The provocations in the last section *For our future* touch on values, ethics, gender and participation, immersions, hypocrisy and paradigms, and sees hope in children. The final provocation invites readers to find answers to the question ‘what would it take to eliminate poverty in the world?’

Provocations for development will be enjoyed by development professionals, including academics, students, NGO workers and the staff of international agencies, as well as the wider public.

■ Available to buy from the IDS bookshop at: www.ntd.co.uk/idsbookshop/details.asp?id=1278



Principle 10: public participation in environmental decision-making (DVD)

● FIELD, 2011

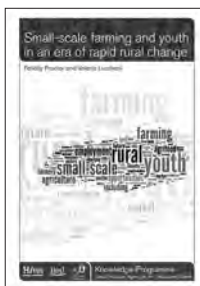
Poor people in developing countries often rely heavily on their immediate environment for their livelihoods. However, they are often underrepresented or absent from decision-making processes that affect their environments and the natural resources that sustain their communities. Principle 10 of the 1992 Rio Declaration on Environment and Development calls for public access to information, participation in decision-making and access to justice as key principles of environmental governance. Only when these principles are protected by the law and embodied in government practices can decisions be equitable, responsive to people's needs and environmentally sustainable.

The film *Principle 10: public participation in environmental decision making* provides a snapshot analysis of the principle's relevance in law and practice. On the basis of various interviews and research in Ethiopia, the 20-minute film reflects on some of the work under way to improve environmental decision-making, existing barriers and challenges. Version with Spanish subtitles forthcoming.

■ Watch the film at:

<http://vimeo.com/30856233>

For more information on this research visit FIELD's website: www.field.org.uk



Small-scale farming and youth in an era of rapid rural change

● *Felicity Proctor and Velerio Lucchesi*
IIED/HIVOS, 2012

This is the second in a series of papers from the Knowledge

Programme: Small Producer Agency in the Globalised Market. The paper focuses on developing and emerging economy regions of the world, providing an overview of trends in small-scale farming and agrifood markets, demographic changes and trends in employment – particularly that of youth. It reflects on the aspirations of rural youth and identifies some of the drivers and innovations that have engaged youth in agriculture – and which might help to inform and shape the future. It identifies some emerging policy implications that address small-scale farming and youth in an era of rapid change, including knowledge gaps which, if filled, could better inform the debate on the future of small-scale agriculture and on who will be the next generation of farmers.

■ Online: <http://pubs.iied.org/14617IIED.html>



High level policy dialogue between the Alliance for a Green Revolution in Africa (AGRA) and small scale farmers on the priorities and governance of agricultural research for development in West Africa

development in West Africa

IIED, APPG on Agroecology, CNOP, Kene conseils, Centre Djoliba, IRPAD, 2012

This photo story highlights key moments in a policy dialogue on agricultural research for development that involved small-scale farmers and representatives of the Alliance for a Green Revolution in Africa (AGRA). Over one hundred people participated in the policy dialogue. This

unprecedented event was chaired by the UN Special Rapporteur on the Right to Food and took place on 1st–3rd February 2012 in Accra, Ghana.

■ Online: <http://pubs.iied.org/G03349.html>



Putting citizens at the heart of food system governance

● *Michel Pimbert*
IIED Briefing, 2012

Establishing inclusive governance of food systems – where farmers

and other citizens play an active role in designing and implementing food and agricultural policies – is not just a matter of equity or social justice. Evidence shows that it can also lead to more sustainable livelihoods and environments. And yet, across the world, food system governance is marked by exclusionary processes that favour the values and interests of more powerful corporations, investors, big farmers and large research institutes. How can we tip the balance and amplify the voice and influence of marginalised citizens in setting the food and agricultural policies that affect them? This briefing describes six tried and tested ways that, when combined, can empower citizens in the governance of food systems.

■ Online: <http://pubs.iied.org/17125IIED.html>



Putting farmers first: reshaping agricultural research in West Africa

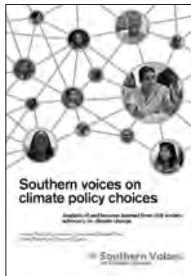
● *Michel Pimbert*
IIED Briefing, 2012

How agricultural research is funded, organised, controlled and practised

can have a huge impact on small-scale producers in the global South. In many countries, such research is driven by external funds, priorities and technological fixes, such as hybrid seeds, which can erode crop diversity. But food

producers across the world are beginning to raise their voices to ensure that agricultural research better meets their needs and priorities. This briefing explains how a series of farmer assessments and citizens' juries in West Africa has helped farmers assess existing approaches and articulate recommendations for policy and practice to achieve their own vision of agricultural research. In 2012, a high-level policy dialogue between farmers and the Alliance for a Green Revolution in Africa hopes to take this discussion to the next level and develop a shared agenda that can serve development and the public good.

■ Online: <http://pubs.iied.org/17122IIED.html>



Southern voices on climate policy choices: analysis of and lessons learned from civil society advocacy on climate change

● Hannah Reid, Gifty Ampomah, María Isabel Olazábal Prera, Golam

Rabbani and Shepard Zwigadza
IIED, 2012

This report provides an analysis of the tools and tactics advocacy groups use to influence policy responses to climate change at international, regional, national and sub-national levels. More than 20 climate networks and their member organisations have contributed to the report with their experiences of advocacy on climate change, including over 70 case studies from a wide range of countries – including many of the poorest – in Africa, Asia, Latin America and the Pacific. These advocacy activities primarily target national governments, but also international and regional processes, donors and the private sector.

Analyses and case studies show how civil society plays key roles in pushing for new laws, programmes, policies or strategies on climate change, in holding governments to account on their

commitments; in identifying the lack of joined-up government responses to climate change; and in ensuring that national policy-making does not forget the poor and vulnerable.

The report is the first joint product of the Southern Voices Capacity Building Programme, or for short: Southern Voices on Climate Change. The executive summary is available in English, Spanish and French.

■ Online: <http://pubs.iied.org/10032IIED.html>



Building climate change adaptation on community experiences: lessons from community-based natural resource management in southern Africa

● Nyasha E. Chishakwe,

Laurel Murray, Muyeye Chambwera
IIED, 2012

This publication, produced in collaboration with WWF Southern Africa, looks at how community-based natural resource management (CBNRM) can inform and contribute to climate change adaptation at the community level, specifically to community-based adaptation (CBA) to climate change. It provides a framework for analysing the two approaches at conceptual and practical levels.

Using case studies from southern Africa, the publication demonstrates the synergies between CBA and CBNRM, most important of which are the adaptation co-benefits between the two. While local incentives have driven community action in CBNRM, it is the evolution of an enabling environment in the region, in the form of institutions, policies, capacity and collaboration which characterises the scaling up of CBNRM to national and regional levels.

■ Online: <http://pubs.iied.org/10030IIED.html>

Events and training

EVENTS

Second meeting of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing (ICNP)

● *2nd–6th July 2012*

New Delhi, India

The ICNP will consider the following issues:

- the development of a programme budget for the biennium following the entry into force of the Protocol;
- the elaboration of guidance for the financial mechanism and resources mobilisation for the implementation of the Protocol;
- consideration of the rules of procedures for the Conference of the Parties serving as the meeting of the Parties to the Protocol;
- elaboration of the draft provisional agenda for the first meeting of the Parties;
- the need for and modalities for a global multi-lateral benefit-sharing mechanism;
- and
- continued consideration of items taken

up at the first meeting of the ICNP, as needed.

■ For more information see:
www.cbd.int/icnp2/



Participatory Learning and Action 65 launch at the side event at the Convention on Biodiversity's 11th Conference of Parties (COP11, 8th–19th October 2012), organised by IIED

and the CBD Secretariat

● *16th October 2012*

Hyderabad, India

An overview of the key lessons from *PLA 65* will be presented, along with some of the experiences reviewed in this issue. More information will be available on the IIED website nearer the time:
www.iied.org

■ For information on COP 11 see:
www.cbd.int/cop11

TheWorkshop2012

16th Praxis Annual Commune on Participatory Development

TheWorkshop2012: The 16th Annual International Commune on Participatory Development

● 5th–12th September 2012

Bengaluru, Karnataka, India

Organised by Praxis India, TheWorkshop provides a theoretical understanding of participatory approaches/tools as well as the opportunity to apply them in the field. It provides an opportunity to debate on and discuss relevant thematic issues. While the diversity and the wealth of experiences participants bring with them makes each workshop unique and unrepeatable, the workshop has followed a common learning programme over the last 15 years. This involves an introductory, common module on attitudes, behaviours and change (ABC), interactive classroom sessions in pre-selected thematic modules, field work, evening talks, film screenings and thematic group discussions.

The workshop objectives are:

- to provide an in-depth understanding of the principles, approaches and methods of participatory practices;
- to provide a forum for exchange of ideas and experiences;
- to inform participants of the latest innovations developed by practitioners from across the world;
- to create a worldwide network of trained PRA/PLA practitioners;
- to provide a hands-on learning experience through fieldwork; and
- to make the participants capable of using participatory methods in their thematic area of work.

Over the past 15 years, the workshop has attracted more than 1400 participants from 47 countries. Among them are policy makers, development professionals from INGOs, NGOs and CBOs, students and proactive individuals.

■ For more information see the RCPLA Network pages in this issue and see: www.theworkshop.in

TRAINING

MOSIAC Inc. training courses

Mosaic.net International, Inc. is a private consulting firm based in Ottawa, Canada offering innovative solutions to development issues. Development is a complex process requiring a wide range of skills and experience. Mosaic's network is comprised of partners from Latin America, Africa and Asia and they work locally and internationally.

Advanced results-based management workshop

● 30th July – 1st August 2012

University of Ottawa

*MOSIAC.net International Inc., 705
Roosevelt Avenue, Ottawa, Canada
K2A 2A8*

This workshop is designed for those who already have an understanding of RBM.

Stakeholder participation in planning, needs assessment, monitoring and evaluation using PRA/PLA and SARAR methods (in Spanish)

● 4th–9th February 2013

Tepoztlan, Mexico

Organised by Sarar Transformacion and Mosaic.net International, Inc.

■ For more information on these courses and to register see: www.mosaic-net-intl.ca/index.html

VIPP training courses

VIPP (Visualisation in Participatory Programmes) training of trainers and global action workshop

● 8th–12th October 2012

St. Ulrich near Freiburg, SW Germany

This workshop is for experienced trainers and facilitators to develop their training project, to try out new methods and tools,

to discuss with fellow facilitators and trainers and to join the global community of VIPP trainers. The workshop will be run by Maruja Salas, Neill McKee and Timmi Tillmann as members of the VIPP core group.

**Asian VIPP training of trainers –
advanced-level workshop**

12th–16th March 2013

Malaysia

■ For more information see:

<http://vipp.wordpress.com>

E-participation

ANDES – Association for Nature and Sustainable Development – Asociación para la Naturaleza y el Desarrollo Sostenible

www.andes.org.pe/en

ANDES works cooperatively with indigenous organisations at the community level to develop models of adaptive management of biocultural heritage that affirm the rights and responsibilities of communities and strengthen food sovereignty, health and local livelihoods. ANDES uses community development strategies based on the cosmovision and traditional values of the Andean culture, ensuring that its interventions are holistic, democratic, participatory and locally effective.

In recent years, ANDES has become recognised nationally and internationally in the field of indigenous rights over genetic resources, traditional knowledge and the protection and conservation of centres of origin of Andean native crops and the nature of the Andean landscape. ANDES is a pioneer in the promotion and

establishment of biocultural territories, based on an innovative strategy that combines conservation and sustainable use of agrobiodiversity and the landscape, the development of novel strategies of local livelihoods and poverty reduction. The Potato Park is the flagship project of this new conservation-development proposal.



Biocultural Heritage

www.bioculturalheritage.org

IIED's Biocultural Heritage (BCH) website is dedicated to promoting understanding and action to support the interlinked biological and cultural riches of indigenous peoples and local communities. Biocultural Heritage includes a wealth of biological resources

from genetic to landscape level, and long standing knowledge and practices that are vital for food and health security. The website is divided into four sections:

- **About BCH:** explores the functions of biocultural heritage in the context of climate change, and the nature of biocultural systems as complex dynamic systems.
- **Tools and materials:** provides information and examples of tools that can be used to protect these systems and related community rights: community biocultural protocols, registers, products, territories and partnerships.
- **Policy and practice:** reviews how the provisions of international and national laws support, or undermine, biocultural heritage, and how various organisations are supporting BCH in practice.
- **Outputs and partners:** provides reports, publication and short films produced by the project Protecting Community Rights over Traditional Knowledge: Implications of Customary Laws and Practices (2005-2009).

The website is updated regularly with relevant research, and will soon include information and outputs from a new EC project: Smallholder Innovation for Resilience.



Community protocols portal

www.community-protocols.org

This portal is administered by Natural Justice and contains comprehensive resources on community protocols, including: background and context; legal

reviews and e-learning modules on key legal frameworks; key publications such as reports, articles, books, magazines and journals; short films, slideshows and photo stories; networking opportunities; and links to existing community protocols from Africa, Asia-Pacific and the Americas.

■ Visit the page on legal instruments:

<http://tinyurl.com/cp-legal>

Full URL: www.community-protocols.org/toolkit/additional-resources/legal-resources/legal-instrument

See also on Facebook:

www.facebook.com/communityprotocols

COMPAS

www.compasnet.org

COMPAS (COMPARing and Supporting Endogenous Development) is a capacity-building programme to develop and mainstream endogenous development methodologies for strengthening biocultural diversity. It has field programmes with local partners in developing countries, and its work includes the development of community protocols.

Convention on Biological Diversity (CBD): the Nagoya Protocol on Access and Benefit-sharing

www.cbd.int/abs

The official CBD website on the Nagoya Protocol. The fair and equitable sharing of the benefits arising out of the utilisation of genetic resources is one of the three objectives of the CBD.

Democratising agricultural research: making excluded voices count in food and agricultural policy making

www.excludedvoices.org

This action-research programme, with IIED and partners, aims to identify and support processes that can help democratise the governance of food and agricultural research. Initiated in 2007, this project has become established in

four regions, with one country acting as host for each region: West Africa (Mali), South Asia (India), West Asia (Iran) and the Andean region in Latin America (Bolivia/Peru). The website includes videos arising from some of these in-country participatory processes.

Forest Peoples Programme

www.forestpeoples.org

The Forest Peoples Programme supports the rights of peoples who live in forests and depend on them for their livelihoods. It works to create political space for forest peoples to secure their rights, control their lands and decide their own futures. Recent reports include those on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Kalpavriksh – Environment Action Group

www.kalpavriksh.org

Kalpavriksh was established in India in 1979 and works on environmental awareness, campaigns, litigation, research and other areas. It has taken a position on a number of environment-development issues, more often than not confronting the State through measures ranging from protest letters to street demonstrations. The Kalpavriksh website is part of the BioDWatch listserve and the Campaign for Conservation and Community Control over Biodiversity.

Indigenous Peoples' and Community Conserved Areas and Territories (ICCAs)

www.iccaforum.org

ICCAs are natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means. The ICCA Consortium has been involved in a process to: deepen

the understanding of the ICCA phenomenon with respect to varying historical and regional contexts; identify and support field-based initiatives where ICCAs can be crucially safeguarded, enabled, strengthened and/or promoted in practice; and support consequent national, regional and international policy. This website includes a number of results and analyses generated by this process, as well as a wealth of downloadable publications relevant to ICCAs.

International Institute for Environment and Development blog: Community protocols can bring real benefits for communities and combat biodiversity loss

<http://tinyurl.com/cp-iiied-blog>

A blog post by Krystyna Swiderska, lead guest editor of this issue of *PLA*, providing some background on community protocols and outlining the participatory processes involved in developing an inter-community agreement with the Quechua communities.

■ Full URL: www.iiied.org/community-protocols-can-bring-real-benefits-communities-combat-biodiversity-loss

International Society of Ethnobiology (ISE)

<http://ethnobiology.net>

ISE actively promotes and supports the inextricable linkages between biological and cultural diversity and the vital role of indigenous and local peoples in stewardship of biological diversity and cultural heritage, which includes recognition of land and resource rights, as well as rights and responsibilities over tangible and intangible cultural and intellectual properties. The ISE is committed to understanding the complex relationships which exist between human societies and their environments. A core value of the ISE is

the recognition of indigenous peoples as critical players in the conservation of biological, cultural and linguistic diversity. The ISE Code of Ethics for research includes a set of principles including PIC, and is available online: ■ www.ethnobiology.net/code-of-ethics

IUCN Social Policy – governance of natural resources

<http://tinyurl.com/iucn-gnnp>

The IUCN Social Policy Unit works to deliver conservation and sustainable management of biodiversity and natural resources from the global to local levels. Under this agenda, one of its priority areas of work is to manage nature for human well-being and promote an understanding that conservation and livelihoods are inextricably linked. This project advocates for legal, policy and institutional changes that promote recognition and respect for the rights of poor and marginalised natural resource-dependent people. By empowering communities to hold officials, state agencies and local institutions to account and take responsibility for their own natural resource management, IUCN believes that its work will help secure livelihoods and bridge the institutional gap between conservation and human well-being.

■ Full URL: www.iucn.org/about/work/programmes/social_policy/governance_of_natural_resources_project

People and Parks

www.peopleandparks.com

The South African People and Parks Programme (P&PP) engages local communities in preserving protected areas and was borne out of the World Parks Congress held in Durban in 2003. The resource section of the website includes useful documents and electronic resources relating to conservation in South Africa and the programme.

Poverty and conservation – the information portal of the poverty and conservation learning group

<http://povertyandconservation.info>

The Poverty and Conservation Learning Group (PCLG) is a multi-stakeholder forum, coordinated by the International Institute for Environment and Development (IIED), for promoting dialogue and fostering learning on the links between biodiversity conservation and poverty reduction.

Tebtebba

<http://tebtebba.org>

Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) is an indigenous peoples' institution borne out of the need for heightened advocacy to have the inherent human rights of indigenous peoples respected, protected and fulfilled.

Tebtebba is a word used by the indigenous Kankana-ey Igorots of Northern Philippines, which refers to a process of collectively discussing issues and presenting diverse views with the aim of reaching agreements, common positions and concerted actions. Tebtebba's website includes links to other relevant websites.

The Potato Park – *Parque de la Papa*

www.parquedelapapa.org

The official site (in Spanish and English) of the Potato Park – an Indigenous Biocultural Heritage Area (IBCHA) in Peru.

The United Nations Environment Programme

www.unep.org/communityprotocols

The community protocol section of UNEP's website is a database of protocols developed by communities and other institutions to establish standards for engaging with communities regarding a number of activities. It provides various stakeholders with information, tools and resources to enable the culturally

appropriate interaction between a variety of stakeholders and indigenous peoples and local communities. It also links to the Traditional Knowledge Commons, an open source non-commercial research platform.

The United Nations Permanent Forum on Indigenous Issues (UNPFII)

www.un.org/esa/socdev/unpfii

The Permanent Forum is one of three UN bodies mandated to deal specifically with indigenous peoples' issues. The others are the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples. The Permanent Forum is an advisory body to the Economic and Social Council with a mandate to discuss indigenous issues related to economic and social development, culture, environment, education, health and human rights. Among other things, it seeks to promote implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIPs). The UNPFII produced some guidelines for FPIC in 2005, in relation to mining, which came out of a technical workshop.



The Union for Ethical BioTrade (UEBT)

www.ethicalbiotrade.org/resources

The resources section of the UEBT website provides several documents that may be of interest to readers. For example, it includes three case studies of benefit-sharing in practice, including one dealing with biocultural dialogues. The Ethical BioTrade standard also specifically addresses the issue of prior informed consent. Please find the direct links below:

■ Benefit-sharing in practice: biocultural dialogues

<http://tinyurl.com/uebt-bd>

Full URL: www.ethicalbiotrade.org/news/wp-content/uploads/UEBT.note2_BioCultural.Dialogue.BenefitSharing.2012.pdf

■ Benefit-sharing in practice: Talapetraka

<http://tinyurl.com/uebt-talapetraka>

Full URL: www.ethicalbiotrade.org/news/wp-content/uploads/UEBT.note3_Talapetraka.BenefitSharing.2012.pdf

■ Benefit-sharing in practice: Villa Andina

<http://tinyurl.com/uebt-villa-andina>

Full URL: www.ethicalbiotrade.org/news/wp-content/uploads/UEBT.note1_VillaAndina.BenefitSharing.2012.pdf

■ STD01: Ethical BioTrade Standard – 2012-04-11

<http://tinyurl.com/uebt-std01>

Full URL: www.ethicalbiotrade.org/news/wp-content/uploads/STD01-Ethical-BioTrade-Standard_2012-04-11_ENG.pdf

Visualisation in Participatory Programmes (VIPP) community of practice

<http://vipv.wordpress.com>

This community of practice was established by a core group of VIPP facilitators and trainers. It offers a space for exchange and consultation about facilitation for fellow facilitators worldwide. The members of the VIPP community of practice share the same practice of facilitation, even if they work in different fields. VIPP now has a Spanish website, where you can find details of the Spanish VIPP manual: www.vipp.es

RCPLA NETWORK

In this section, we update readers on activities of the **Resource Centres for Participatory Learning and Action Network (RCPLA) Network** (www.rcpla.org) and its members. RCPLA is a diverse, international network of national-level organisations, which brings together development practitioners from around the globe. It was formally established in 1997 to promote the use of participatory approaches to development. The network is dedicated to capturing and disseminating development perspectives from the South. For more information please contact the RCPLA Network Steering Group:

RCPLA Coordination and North Africa & Middle East Region: Passinte Isaak, Center for Development Services (CDS), 4 Ahmed Pasha Street, 10th Floor, Garden City, Cairo, Egypt.
Tel: +20 2 795 7558
Fax: +20 2 794 7278
Email: pisaak@cds-mena.org
Website: www.cds-mena.org

Asia Region: Tom Thomas, Director, Institute for Participatory Practices (Praxis), S-75 South Extension, Part II, New Delhi, India 110 049.
Tel/Fax: +91 11 5164 2348 to 51
Email: tomt@praxisindia.org
Website: www.praxisindia.org
Jayatissa Samaranayake, Institute for Participatory Interaction in Development (IPID), 591 Havelock Road, Colombo 06, Sri Lanka. Tel: +94 1 555521
Tel/Fax: +94 1 587361
Email: ipidc@panlanka.net

West Africa Region: Awa Faly Ba Mbow, IED-Afrique, BP 5579 Dakar Fann, Senegal. Tel: +221 33 867 10 58
Fax: +221 33 867 10 59
Email: awafba@iedafrique.org
Website: www.iedafrique.org

European Region: Jane Stevens, Participation, Power and Social Change, Institute of Development Studies (IDS), University of Sussex, Brighton BN1 9RE, UK.

Tel: + 44 1273 678690
Fax: + 44 1273 21202
Email: participation@ids.ac.uk
Website: www.ids.ac.uk/ids/particip

Participatory Learning and Action Editorial
Team, International Institute for Environment
and Development (IIED),
80-86 Gray's Inn Road, London WC1X 8NH,
UK.

Tel: +44 20 3463 7399
Fax: +44 20 3514 9055
Email: planotes@iied.org
Website: www.planotes.org

East Africa Region: Eliud Wakwabubi,
Participatory Methodologies Forum of Kenya
(PAMFORK), Jabavu Road, PCEA Jitegemea
Flats, Flat No. D3, PO Box 2645, KNH Post
Office, Nairobi, Kenya.
Tel/Fax: +254 2 716609
Email: eliud.w@pamfork.or.ke

News from the Asia Region: update from Praxis

Praxis – the Institute for Participatory Practices – is a not for profit organisation committed to mainstreaming the voices of the poor and marginalised sections of society in the processes of development. Based in New Delhi, with branches in Chennai, Patna, Hyderabad and London, Praxis works to promote participatory practices in all spheres of human development. Praxis carries out research and consultancies, and also engages in several self-funded initiatives to further the cause of development.

TheWorkshop2012

16th Praxis Annual Commune on Participatory Development

TheWorkshop2012

Praxis will be hosting its 16th Annual Commune on Participatory Development from 5th–12th September 2012 in Bengalooru, in the southern state of Karnataka, India. This year's theme is *Make Participation Count*. The format offers participants the opportunity to



learn about participatory methods during the first six days of classroom and out-of-class sessions and fieldwork, and attend modules to see how these tools,

methods and approaches work in different contexts. The thematic application modules this year include: project cycle management; public accountability; social return on investment and political economy analysis; disaster management; campaign, advocacy and networking; and a module to be evolved by the participants. Details are available at

www.theworkshop.in. For more information email: info@theworkshop.in

Praxis activities

Praxis launched the *Read aloud* series of participatory storybooks for children in the 7–12 age group. *Bala the bunny and other stories* tells the stories of characters whose right to voice their concerns and opinions about their own lives and livelihoods is muzzled. The stories have been adapted from real life case studies based on research projects undertaken by Praxis over the past 15 years. The book is available for purchase at:

www.praxisindia.org/?q=readaloud

The Praxis team has completed a study on the life and struggles of sanitation workers in Patna in the eastern Indian state of Bihar. The study, *A legacy of stench*, was released in March this year.

■ Online: <http://tinyurl.com/legacy-of-stench>

Full URL:

www.socialequitywatch.org/images/Files/the%20legacy%20of%20stench.pdf

Praxis organised the first consultation in the series *Whose Reality Counts?*, a platform for dialogue facilitated by Praxis to explore challenges faced by various organisations in weaving human rights and social justice into the core of evaluations and ways in which they been overcome. Gender, Sexuality and Development: *Whose Reality Counts?* focused on different programmes that measure interventions on gender empowerment with an emphasis on sexuality. Read more about the event at: www.praxisindia.org/?q=node/239

Work with sexual minorities and injecting drug users

Praxis is associated with a five-year programme measuring community mobilisation among female sex workers, men having sex with men, transgender people and injecting drug users in six Indian states (Nagaland, Manipur, Maharashtra, Andhra Pradesh,

Karnataka and Tamil Nadu). The aim is to enable an effective transition of the HIV/AIDS intervention programme from donors to the state and the communities themselves. The design was evolved with comprehensive inputs from members of the community. Data collection and analysis for the third successive year has been completed.

■ For more information about Praxis and its work, see: www.praxisindia.org. The Praxis YouTube channel shows videos of previous workshops as well as other films made by Praxis. See: www.youtube.com/PraxisIndia

News from the European Region: update from IDS

Research updates

The Participation, Power and Social Change (PPSC) team at the Institute of Development Studies has continued its work in tackling social injustice and promoting participatory research for social change. Through the first anniversary of the Egyptian uprisings, Mariz Tadros and others have been analysing why and how the Arab uprisings began and what this means for human rights and public policy. They suggest that citizen-led politics is being left out of the formal arena and that this will bear a cost not only in lives, but in emerging policies that will compromise people's rights, dignity and well-being. Other team members are involved in a multi-year programme called Mobilising Men to Challenge Sexual and Gender Based Violence in Institutional Settings which asks what can men do to work with women in challenging the institutionalised nature of this sort of violence?

Our work on 'unruly politics' (political actions that rupture the social and political order) has gained momentum. In the last year, we developed a framework for using an 'unruly' lens to better

understand the changing face of citizen action. Others have been working with a project in Bosnia and Herzegovina, using digital storytelling and participatory video to evaluate a ten-year governance programme. And building upon our work on the global financial crisis, we have continued to examine how the food, fuel and financial shocks affected poor people and how they have negotiated coping strategies in developing contexts.

PPSC blog

Last autumn our new PPSC blog was launched. Giving space and voice to our team and other collaborators, this site regularly posts informative, inspiring and provocative blogs that cover the full spectrum of our work. Since its launch the number of followers has been growing daily and the overall audience week by week.

■ For the latest on the PPSC's activities and critical thinking, sign up at: participationpower.wordpress.com

New publications

The team has produced a number of resources in recent months. Robert Chambers' *Provocations for development* was published in April by IT Publications and comprises an entertaining and unsettling collection of writings that questions concepts, conventions and practices in development. Patta Scott-Villiers' inspirational work with a group of



Ugandan youth who learnt to use action-research techniques has resulted in *Strength, creativity and livelihoods of Karimojong youth* (see www.pastoralists.org). The team has produced two recent IDS Bulletins: *Action research for development and social change*, edited by Danny Burns, came out

in March and *The pulse of Egypt's revolt*, edited by Mariz Tadrós, in December. Recent working papers from the team include *Women's empowerment revisited: from individual to collective power among the export sector workers of Bangladesh* by Naomi Hossain, and *Shifting power? Assessing the impact of transparency and accountability initiatives* by Rosie McGee and John Gaventa.

■ More information is available at: www.ids.ac.uk/go/bookshop.

Team members

The team has welcomed new member Jerker Edstrom who works on masculinities, HIV and AIDS, and returning member Jas Vaghadia. We are also pleased to have Naomi Vernon as part of the team, working on Community-Led Total Sanitation. After many years with the team, we are sad to say goodbye to Georgina Powell-Stevens who has moved on to work on a major new project elsewhere in IDS: we wish her well.

■ The above are just a few highlights from the team's work – for more information please see: www.ids.ac.uk/org
Sign up for our blog: participationpower.wordpress.com
Email J.Stevens@ids.ac.uk

News from the European Region: update from IIED

Launching PLA

As mentioned in the Editorial, IIED held a successful launch of PLA 64: *Young citizens: youth and participatory governance in Africa* at our new offices in Gray's Inn Road, following the launch of PLA 63: *How wide are the ripples? From local participation to international organisational learning* a few months' earlier, which had been co-organised with the Organisational Learning Network (OLN).¹ PLA 65 will be launched in

October 2012 at a side event at the Convention on Biodiversity's 11th Conference of Parties in Hyderabad, India. We hope to be able to continue to launch and promote future issues in this way, and establish ongoing informal learning networks to share ideas and lessons from articles published in PLA.



Panel on food security in Africa

The Pastoral and Environmental Network in the Horn of Africa (PENHA), in partnership with IIED, launched the Food We Want – Sustainable, Local, Fair project at IIED's offices in March. The event commenced with a discussion on Food Security in Africa: Critical Issues for Small Scale Producers led by three panelists: Michel Pimbert from the Agroecology and Food Sovereignty team at IIED, Micheline Ravololonarisoa, former Head of the Africa section of the United Nations Development Fund for Women (now UN Women), and William Lume, Director of the Centre for Inter-African Relations (CEFIAR), based in London. Both Michel Pimbert and Micheline Ravololonarisoa stressed that the majority of farmers in Africa are women, and that there is increasing participation by women in decision-making relating to agricultural practices. Michel Pimbert put forward the framework of food sovereignty and an agricultural production system that mirrors natural cycles of production as a sustainable model, and William Lume gave some historical background to the food security issue in Africa. The panel discussion ended with a question and answer session, followed by a presentation on the project itself by PENHA staff.

¹ See: www.bond.org.uk/pages/organisational-learning-network.html

- Read IIED's blog on the event at:
www.iied.org/agricultural-development-business-usual-not-option
- Read more on the Food We Want website:
<http://tinyurl.com/fww-launch>
Full URL:
www.foodwewant.org/eng/News/Food-We-Want-Sustainable-Local-Fair-colourfully-launched-in-the-UK
- For information on PENHA see:
www.penhanetwork.org

Democratising agricultural research

IIED and its partners have been facilitating an inclusive process of farmer deliberation on what kind of agricultural research small-scale farmers and food processors want (www.excludedvoices.org). This is being carried out in the Andean Altiplano of South America, South Asia, West Asia and West Africa. As part of this multi-regional process, a series of citizens' juries was held in Mali over the last six years. Their aim was to allow ordinary farmers and other food producers, both men and women, to present and discuss their priorities on the governance of agricultural research in West Africa, and make policy recommendations. The farmer jurors made over 100 recommendations after cross-examining expert witnesses. It was recognised that there was a need for diversity and an inclusive agenda that puts

Farmer specialists at the citizens' juries on Democratising agricultural research, Mali

small farmers at the centre. In the follow-up to this unique and deliberative process, West African farmers asked to have an open High Level Policy Dialogue with the Alliance for a Green Revolution in Africa (AGRA) and its main donors. This took place in Accra, Ghana in February this year, chaired by the UN Special Rapporteur on the Right to Food, Professor Olivier de Schutter. There were about 100 people present – among them 22 participants from AGRA, including its President, the President of ROPPA, 26 West African farmers (men and women), about 20 farmers from other regions affected by the first Green Revolution, and three indigenous peoples from Thailand.² There was a video link up with the All Party Parliamentary Group (APPG) on Agroecology at the UK Houses of Parliament, which enabled the participants in Accra to dialogue with staff from the UK Department for International Development, MPs and civil society members. Despite some technical hitches with the sound, the participants felt that the policy dialogue set an important precedent for policy-making on the governance of agricultural research for development in West Africa, bringing hitherto marginalised views of farmers to the table.

- Download the photo story at
<http://pubs.iied.org/G03349.html>. See also:
Democratising agricultural research for food



Photos: Khanh Tran-Thanh

² Le Réseau des Organisations Paysannes et de Producteurs de l'Afrique de l'Ouest (Network of Farmers' and Agricultural Producers).

sovereignty in West Africa at

<http://pubs.iied.org/14603IIED.html>

■ Read the IIED blog: www.iied.org/west-african-farmers-heard-uk-houses-parliament

Policy briefings

Two IIED policy briefings on the above research have been recently published – see our In Touch section for more information:

■ *Putting farmers first: reshaping agricultural research in West Africa*

<http://pubs.iied.org/17122IIED.html>

■ *Putting citizens at the heart of food system governance*

<http://pubs.iied.org/17125IIED.html>

IIED websites and blog

IIED launched its redesigned website in April – and over the next few months we will be updating and improving the *Participatory Learning and Action* pages. See e-participation for more information on the website below and others. We welcome your feedback!

■ Visit the new website: www.iied.org

■ Visit also our new blog page: www.iied.org/blogs

■ For updates on the Democratising Agricultural Research projects mentioned above see: www.excludedvoices.org

■ For policy updates, guidance and resources on biocultural heritage, see IIED's website: <http://biocultural.iied.org>

Staff members

We are pleased to welcome Barbara Adolph to IIED's Natural Resource Group. Barbara is coordinating and consolidating the Institute's work on food and agriculture. Barbara has worked in agricultural research and rural livelihoods for over 15 years, advising government agencies, research organisations and civil society organisations working in sub-Saharan Africa and Asia. Before joining IIED, Barbara worked as a consultant for Triple Line Consulting Limited and as senior scientist for the Natural Resources

Institute, the International Crops Research Institute for the Semi-Arid Tropics in India, and the University of Hohenheim in Germany. Barbara is a passionate advocate of participatory methodologies – and wrote an article in *PLA* (then *RRA Notes*) on farmers' participation in watershed management in South India. We look forward to working closely with her.

We are very pleased to welcome Barbara, but we are also very sorry to be losing another valued and well respected colleague, and another ardent supporter of participatory research – Michel Pimbert. Michel has been offered a Fellowship at the Rachel Carson Centre for Environment and Society at the University of Munich, where he plans to continue some of his long-standing work with partners. Michel joined the Sustainable Agriculture and Rural Livelihoods Programme (now the Agroecology and Food Sovereignty Team) at IIED 13 years ago, and has carried out some radical and groundbreaking action research with partners around the world, notably on the regeneration of food systems based on social and ecological diversity, and on more inclusive forms of citizenship. His recent work on democratising agricultural research culminated in the dialogue with AGRA and farmers in Accra earlier this year, as mentioned above. Michel has authored several articles in *PLA*, including in this issue, as well as numerous other publications promoting citizen voice and power-equalising research. Michel has continuously supported and inspired the *PLA* editorial collective – always warmly encouraging us in his distinctive style, and playing a key role on our strategic board. He will be greatly missed but, as he says, he will continue to be part of this community of practice, and we are delighted that he will remain on our editorial board. We wish him every success for the future and look forward to ongoing collaboration.

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- *Articles*: max. 2500 words plus illustrations – see below for guidelines.
- *Feedback*: letters to the editor, or longer pieces (max. 1500 words) which respond in more detail to articles.
- *Tips for trainers*: training exercises, tips on running workshops, reflections on behaviour and attitudes in training, etc., max. 1000 words.
- *In Touch*: short pieces on forthcoming workshops and events, publications, and online resources.

We welcome accounts of recent experiences in the field (or in workshops) and current thinking around participation, and particularly encourage contributions from practitioners in the South. Articles should be co-authored by all those engaged in the research, project, or programme.

In an era in which participatory approaches have often been viewed as a panacea to development problems or where acquiring funds for projects has depended on the use of such methodologies, it is vital to pay attention to the quality of the methods and process of participation. Whilst we will continue to publish experiences of innovation in the field, we would like to emphasise the need to analyse the limitations as well as the successes of participation. *Participatory Learning and Action* is still a series whose focus is methodological, but it is important to give more importance to issues of power in the process and to the impact of participation, asking ourselves who sets the agenda for participatory practice. It is only with critical analysis that we can further develop our thinking around participatory learning and action.

We particularly favour articles which contain one or more of the following elements:

- an **innovative** angle to the concepts of participatory approaches or their application;
- **critical reflections** on the lessons learnt from the author's experiences;
- an attempt to develop **new methods**, or innovative adaptations of existing ones;
- consideration of **the processes** involved in participatory approaches;
- an assessment of the **impacts** of a participatory process;
- potentials and limitations of **scaling up and institutionalising participatory approaches**; and,
- potentials and limitations of **participatory policy-making processes**.

Language and style

Please try to keep contributions clear and accessible.

Sentences should be short and simple. Avoid jargon,

theoretical terminology, and overly academic language.

Explain any specialist terms that you do use and spell out acronyms in full.

Abstracts

Please include a brief abstract with your article (circa. 150-200 words).

References

If references are mentioned, please include details.

Participatory Learning and Action is intended to be informal, rather than academic, so references should be kept to a minimum.

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Please ensure that photos/drawings are scanned at a high enough resolution for print (300 dpi) and include a short caption and credit(s).

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Resource Centres for Participatory Learning and Action (RCPLA) Network

Since June 2002, the IIED Resource Centre for Participatory Learning and Action has been housed by the Institute of Development Studies, UK. Practical information and support on participation in development is also available from the various members of the RCPLA Network.

This initiative is a global network of organisations, committed to information sharing and networking on participatory approaches.

More information, including regular updates on RCPLA activities, can be found in the In Touch section of *Participatory Learning and Action*, or by visiting www.rcpla.org, or contacting the network coordinator: Ali Mokhtar, CDS, Near East Foundation, 4 Ahmed Pasha Street, 10th Floor, Garden City, Cairo, Egypt.

Tel: +20 2 795 7558; Fax: +2 2 794 7278;

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Participation at IDS

Participatory approaches and methodologies are also a focus for the Participation, Power and Social Change Team at the Institute of Development Studies, University of Sussex, UK. This group of researchers and practitioners is involved in sharing knowledge, in strengthening capacity to support quality participatory approaches, and in deepening understanding of participatory methods, principles, and ethics. For further information please contact: Jane Stevens, IDS, University of Sussex, Brighton BN1 9RE, UK. Tel: +44 1273 678690; Fax: +44 1273 621202 Email: J.Stevens@ids.ac.uk Website: www.ids.ac.uk

65



NATURAL JUSTICE



Many rural communities in the global South – including some 370 million indigenous peoples – are directly dependent on biodiversity and related traditional knowledge for their livelihoods, food security, healthcare and well-being. But with the loss of biodiversity, valuable resources such as climate-resilient crops, medicinal plants and wild foods are being lost. Cultural diversity is being eroded at an unprecedented rate and with it, ancestral knowledge of how to use and conserve biodiversity.

This special issue of *Participatory Learning and Action* explores two important participatory tools that indigenous peoples and local communities can use to help defend their customary rights to biocultural heritage, natural resources and land:

Community protocols – or charters of rules and responsibilities – in which communities set out their customary rights to natural resources and land, as recognised in customary, national and international laws; and

Free, prior informed consent (FPIC) processes, in which communities decide whether or not to allow projects affecting their land or resources to go ahead, and on what terms.

The issue reviews the experiences of communities in Asia, Latin America and Africa in developing and using these tools in a range of contexts. It also looks at some government experiences of establishing institutional processes for FPIC and benefit-sharing. It identifies practical lessons and guidance based on these experiences and aims to strengthen the capacity of a range of actors to support these rights-based tools effectively in practice. It aims to provide guidance for those implementing the Nagoya Protocol and other natural resource and development practitioners, and to raise awareness of the importance of community designed and controlled participatory processes.

Participatory Learning and Action is the world's leading informal journal on participatory approaches and methods, drawing on the expertise of guest editors to provide up-to-the minute accounts of participatory approaches in specific fields. It provides a forum for participatory practitioners – community workers, activists and researchers – to share experiences, conceptual reflections and methodological innovations with others, providing a genuine 'voice from the field', and is a vital resource for those working to enhance the participation of ordinary people in local, regional, national and international decision-making, in both South and North.



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