

Considerations
for
Facilitators

Community
Protocols
Toolbox

1



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CONSIDERATIONS FOR FACILITATORS

Community
Protocols
Toolbox

Booklet 1

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CONSIDERATIONS FOR FACILITATORS

In general, the process of developing and using a community protocol¹ involves collective reflection and deliberation, good communication, working together to document information, legal empowerment, and social mobilization. In deciding whether and how to develop a community protocol, facilitators should keep several **elements** in mind that are relevant to these principles. These include the: **facilitator’s perspective; community background; process; outcome; and legal landscape.**

These elements are not listed in order of importance and there may be others to consider as well. The context of your situation will determine the relevance of each element and its related questions. Also, **some elements may overlap.** Where possible, this has been **highlighted.**

TOOLBOX USAGE TIP

This Booklet is organized according to the elements listed above. Similarly, *Booklet 2* on Participatory Methodologies and Tools follows the same organizational structure. For every element listed here there is a corresponding tool in *Booklet 2*.

In the next section, each element or sub-element is addressed through two categories: **context** and **questions**.

- **Context**

This category provides background and context for the questions, explaining why they are important and relevant.

- **Questions**

This category provides some open-ended questions relevant to the particular element that facilitators should consider before they embark on the process of assisting a community to develop a community protocol. The questions are designed to help the facilitator conduct due diligence to understand the context they will be working in as well as the challenges and opportunities that exist.

¹ For more information on community protocols, see discussion on Toolbox cover.

NOTE

It is beyond the scope of this Toolbox to provide “if-then” scenarios for each question. However, if the answers to these questions identify fundamental issues regarding the process, the facilitator may wish to address such issues before moving forward.

When other Booklets contain relevant information this will be indicated in a **Relevant Booklet** section.

Elements

1. FACILITATOR’S PERSPECTIVE

Because community protocols are by definition a community-led process, the perspective of the facilitator is a key aspect of the protocol process.

Context

The identity and perspective of the facilitator are critical to community protocol development and facilitators need to clearly understand their role in the process. In general, if the facilitator is from outside the community, it is important to identify community catalysts from within the community to drive the development of the protocol. Additionally, community contacts who have the authority to invite others (such as an external facilitator, lawyers, or other experts) to work with the community will be necessary. The facilitator needs to have a full understanding of the pace at which the community engages in decision-making, how the facilitator should interact with community members, community dynamics and other similar information.

Facilitators should have an awareness of how their own worldviews and mindsets can affect the process, and they should approach the process from the position that communities understand their own needs and priorities. The process of protocol development can often take a long period of time (i.e. several years) and involve extensive work, and facilitators need to be aware of this as they enter into the process.

Questions

- Is the facilitator from inside or outside the community?
- Does the facilitator have community contacts that will be involved in the protocol process?
- Is the facilitator prepared to gather information and ensure that it is shared with the community in a timely and organized manner?
- Is the facilitator prepared to work with the community on a long term basis in a spirit of mutual respect and understanding?

Relevant Booklet:

Booklet 2, Section 1: Tools 1 to 3

Booklet 3, Section 2: Common Elements in Community Protocols

Booklet 3, Section 3: Guiding Principles for Facilitators

Booklet 3, Section 4: How are Community Protocols Developed

2. COMMUNITY BACKGROUND

This category involves understanding several community-focused elements in the development of the protocol. This includes internal community dynamics such as political and religious dynamics. The Community Background element includes the following sub-elements:

- a) **identity of the community**, b) **community governance structure**, c) **purpose of the protocol**, and d) **other stakeholders**.

a. Identity of the Community

Context

The better the community can be identified, the more clarity there will be on the scope of the protocol. The identification of the ‘community’ for purposes of the protocol should be undertaken by members of the community. Facilitators, especially external ones, must approach the overall element of the community’s identity with sensitivity, since rigid definitions could exacerbate existing conflicts. For example, individuals within a certain geographic community may feel differently about mining activities – some might support a mine, while others might oppose it, even though they live in close proximity to one another.

Questions

- How does the community identify itself? Is it geographical, by customs, by livelihood, a shared history, or other factors?
- Who from the community will participate in this identification, and how will the facilitator ensure that the process is as inclusive as possible?
- Are there actual or potential divisions within the community that may affect the development of the protocol?

Relevant Booklet

Booklet 2, Section 2: Tools 4-7

Booklet 3, Section 5: Using a Community Protocol

Booklet 4, Section 1: Conceptualising the Community

b. Community Governance Structure

Context

*This element involves not only understanding the community's formal governance structure at a general level, but also the overall power dynamics in the community. Formal governance structures that are established along gender lines, for example, may not accurately reflect the full picture of how decisions are made, knowledge is shared, or of other influences in community decision-making. It is important for the facilitator to be able to work with the community to holistically map its governance structure in a way that accurately captures the various nuances of leadership. That process (and the process overall) should involve meaningful participation from all members of the community, including women, youth, elders and other potentially marginalized groups. (See also Section 3: **Participants**).*

Questions

- Who are the formal community leaders and what are their views (i.e. supportive, opposed) on the development of a protocol?
- Is the community leadership structured in a way that will involve community members to participate in a way that fulfills the spirit of a community protocol?
- Are there forms of hidden power within the community? How might such power affect the community protocol process?

Relevant Booklet

Booklet 2, Section 2: Tools 8 and 9

c. Purpose of the Protocol

Context

*The purpose of the community protocol—which can evolve as the process progresses—will influence the protocol's scope as well as the way it is developed. It is important to keep in mind that protocols are living documents, and their purpose can shift in focus and/or be broadened. One common use of protocols is for defensive purposes, that is to call on external actors to cease harmful activities that are already occurring or that have the potential to occur if plans progress unchecked. Alternatively, protocols can serve more proactive or aspirational purposes, which may involve seeking recognition of communities' ways of life and relationships with their territories and areas, or working collaboratively toward a tangible outcome such as a benefit-sharing agreement. Additionally, it is important to understand who within or outside of the community is suggesting the development of a community protocol and why. While external parties can provide support, the goals of a protocol process should be driven internally, within the community. (See also Section 4: **Uses of the Protocol**).*

Questions

- What does the community hope to achieve by developing a community protocol?
- What are the desired internal community development outcomes?
- Is the protocol directed toward any particular entity?
- Are there any external parties such as government agencies or organizations pushing for development of the protocol?

Relevant Booklet

Booklet 2, Section 2: Tools 10 and 11

Booklet 3, Section 1: Why Are Community Protocols Being Developed

Booklet 3, Section 2: Common Elements in Community Protocols

d. Other Stakeholders

Context

*If the protocol is in response to a particular project, the parties supporting that project (both inside and outside the community) may take issue with the development of the protocol. That dynamic will need to be taken into account in the process. (See also Section 3 **Participants**; Section 4 **Potential Consequences**). It is also important to consider the*

impact on the community if other stakeholders are included in the protocol process, especially if they are in positions of power vis-à-vis the community, or if their interests are different from the community.

Also, in relation to neighbouring communities, there may be different positions regarding an external development, such as a new road being built. A community protocol that may highlight the rights and view points of one community may inadvertently undermine the voices of neighbouring communities being heard and lead to conflict. These are potential dynamics that the facilitator should be aware of.

Questions

- Who outside of the community will be potentially impacted by or impact the development of the protocol?
- Might neighbouring communities be affected by the protocol, and might that affect inter-community relations?
- Should other stakeholders be included in the process?

Relevant Booklet

Booklet 2, Section 2: Tool 12

Booklet 4, Section 3: Identifying and Addressing the Stakeholder

3. PROCESS

This element explores the major issues to consider before engaging in the process of developing the community protocol. (For an in-depth discussion see *Booklet 3, Section 4: How are Community Protocols Developed?*) A process that has integrity is critical to developing a protocol that is representative of the community's views. The Process element includes the following sub-elements: a) **participants**, b) **meetings and documentation**, c) **timing**, d) **resources**.

a. Participants

Context

The participants are key to the integrity of the protocol process. The community's governance structure will often be very relevant to who within the community participates. The facilitator should strive to promote the fullest participation possible, including of women, youth, the elderly, and other often underrepresented groups. If differences in literacy and

language between the community and the facilitator are barriers, translation services may be required. Other methodologies, such as non-verbal techniques may need to be employed to ensure that everyone's voice is heard. (Non-verbal methodologies can be useful even if there are few literacy and/or language barriers. Often artistic methodologies can create safer platforms for people to express their real views than conventional verbal methodologies.) If external parties are going to participate in some aspect of the process, that form of participation will need to be taken into account (See also Section 2 **Community Governance Structure; Other Stakeholders**).

Questions

- Who will participate in the process?
- Are there marginalized or vulnerable groups in the community, and how can their engagement with the protocol process be ensured?
- Are there any literacy barriers? Are there language barriers?
- Will external parties be included at any stage of the development of the protocol?

Relevant Booklet

Booklet 2, Section 3: Tool 13

Booklet 3, Section 4: How Are Community Protocols Developed

Booklet 4, Section 1: Conceptualising the Community.

b. Meetings and Documentation

Context

It is important that as much as possible, members from within the community are responsible for documentation, consolidation and actual development of the protocol. The facilitator should take into account the logistics involved in capturing information that is brought forth in the protocol process. The facilitator should also determine how the community as a whole will stay engaged in the process given that in many cases there will be varying degrees of participation by community members in the process.

Questions

- Are there "community catalysts" who can drive the process within the community, including ensuring that inclusive meetings take place?

- How will you decide which issues to discuss, and in what order?
- How will discussions be facilitated in a culturally appropriate manner?
- How will the discussion and other information be documented?
- Who will consolidate the documentation and actually develop the protocol in a way that ensures community ownership of the material?
- How will the community approve the content of the community protocol?

Relevant Booklet

Booklet 2, Section 3: Tools 14 to 16

Booklet 3, Section 4: How are Community Protocols Developed

c. Timing

Context

*The timeframe of the protocol is heavily dependent on other elements of the process (See Section 2: **Community Governance Structure**; Purpose of the Protocol). One particularly relevant element is the purpose of the protocol. For example, if the purpose is to respond to a specific development project that is planned to break ground on a specific date, the timeframe might be influenced by the schedule of that project. The community's governance structure is also an important factor. A community with a stronger and generally representative governance structure would likely find it easier and faster to develop its protocol than one without, for example. However, regardless of how well the community is organized, protocol processes generally take a significant amount of time. Thus, the facilitator should help the community strike a balance between a process that is as inclusive and holistic as possible but also fulfills the purpose of the protocol within a timeframe that is relevant to the goals the community is trying to achieve.*

Questions

- What is the timeframe for developing the protocol?
- Is the community comfortable with the proposed timeframe?
- Are there any external factors impacting on the timeframe for development of the protocol? Is this likely to impact on the integrity of the protocol?

*Process
and Outcome
are closely related concepts
in the development of
community protocols.*

Relevant Booklet

Booklet 2, Section 3: Tool 17

Booklet 4, Section 2: Managing Timeframes

d. Resources

Context

Resources are essential to develop a community protocol. These include places where community members can meet, transport to get there, meals during meetings, tools to capture ideas, and time spent putting those ideas into a form that can be revised and eventually turned into an output. Resources will affect how many people can actually participate in the process and how long the process can continue. Resources are also necessary to using the protocol once it is developed, such as to hold events to draw attention to the protocol.

Questions

- What internal and external resources are required to develop a protocol?
- What resources are available to use the protocol once it is developed?
- Are there any organizations supporting the process? If so, for how long will they do so? How might their funding timeframes impact the development of the protocol?
- Are resources available for related activities, such as participatory mapping?

Relevant Booklet

Booklet 4, Section 2: Managing Timeframes

4. OUTCOME

*The outcome of the process includes more than just the protocol itself. Facilitators should also consider the results of engaging in the process, as well as how to ensure that there is follow up. The Outcome element includes the following sub-elements: a) **form of protocol**, b) **uses of the protocol**; c) **potential consequences**, d) **monitoring**.*

a. Form of the Protocol

Context

Process and outcome are closely related concepts in the development of community protocols. It is entirely possible to begin the process of developing a protocol without knowing what physical form it will take. At a certain point, once the form of the protocol is agreed, part of the process will need to be geared toward obtaining that form. For example, if the form of the protocol is a document, there could be a drafting committee, and people responsible for ensuring the drafting takes place. If it is to be a video, there will be other considerations to take into account, including resources needed. Additionally, the protocol's form will be dependent on many factors, including what is culturally appropriate as well as whether it is geared toward specific stakeholders.

Questions

- What will the physical form of the protocol be: e.g. a document, video, a different medium?
- Is the form culturally appropriate?
- Can the community easily understand and use the protocol for its intended purposes?

Relevant Booklet

Booklet 2, Section 4: Tool 18

Booklet 3, Section 5: Using a Community Protocol

Booklet 3, Section 6: Community Protocols in Practice

b. Uses of the Protocol

Context

The planned specific uses of the protocol can have an effect on the form that it ultimately takes. If the protocol will be used externally, it will need to take a form that external parties can understand. It may be useful to develop a separate form of the protocol if there is extensive documentation developed during the process and/or information that the community prefers not to share.

(It is important to note that while “uses” is shown here as a sub-element of Outcomes, processes that are part of the development of the protocol are often also useful and/or utilised to advocate or engage with external actors. This is also considered “using” the community protocol.)

Questions

- How will the community protocol be used?
- Will it be shown to external parties or kept as an internal resource?
- Are there parts of the protocol, such as maps of sacred sites or other information, that the community wants to keep confidential?
- Will it be used in litigation?

Relevant Booklet

Booklet 2, Section 4: Tool 19

Booklet 3, Section 5: Using a Community Protocol

Booklet 3, Section 6: Community Protocols in Practice

c. Potential Consequences

Context

*Developing a community protocol can raise issues of rights that could cause conflicts with the government, multinational corporations, or other parties involved in activities that are causing impacts to communities. It is important to understand and anticipate possible consequences and take them into account. It is possible that including external stakeholders in some elements of the process could reduce conflict, but that will depend on each specific situation (see also Section 2, **Other Stakeholders**).*

Questions

- What impacts will developing the community protocol have?
- Is the development of and/or use of the protocol safe in light of the existing political climate?

Relevant Booklet

Booklet 2, Section 4: Tool 20

Booklet 3, Section 5: Using a Community Protocol

Booklet 3, Section 6: Community Protocols in Practice

d. Monitoring

Context

The community protocol process is about more than just producing a physical output, such as a document or video (although that output is an important element). In general, communities will want to use the process and form of a protocol for a purpose, such as ensuring that

extractive activities are conducted in a manner that respects their rights, or to articulate appropriate processes of obtaining free, prior and informed consent. There should be a process in place to ensure that the results of the community protocol process are monitored, and the form of the protocol is regularly revised and updated to reflect the changing needs, priorities and interests of the community.

Questions

- Will there be processes in place to monitor and evaluate the results of developing the protocol?
- How will the community ensure that the protocol continues to maintain its relevance in the future?

Relevant Booklet

Booklet 2, Section 4: Tool 21

5. LEGAL LANDSCAPE

*This element encompasses the customary laws that govern the community, as well as the concept of legal empowerment. Legal empowerment embodies the principles that law should not remain a monopoly of trained professionals and that alternative forms of advocacy or dispute resolution (such as dialogues) are often more attuned to local realities than formal legal processes. The Legal Landscape element includes the following sub-elements: a) **customary law**, and b) **other legal frameworks**.*

a. Customary Law

Context

*Apart from communicating customary laws to outside parties through the protocol, customary law will also be an important aspect of who in the community participates in the development of the protocol, how meetings are run, and how the protocol is eventually used. It will be important to understand the community's customs to ensure that the protocol process is designed in a way that respects and incorporates them. It is also important to know whether those customs will allow for an inclusive and representative community protocol (see also Section 2: **Community Governance Structure**; Section 3: **Participants**).*

Questions

- What are the relevant customary laws that will govern the development of the community protocol?
- What are the relevant customary laws that will feature in the community protocol, such as how best to engage with external parties, or decision-making procedures within the community?

Relevant Booklet

Booklet 2, Section 5: Tool 22

Booklet 5, Sections 1-3: Legal Elements of the Community Protocol

b. Other Legal Frameworks

Context

There are many ways that communities can learn about and use the law through the protocol process. In developing the protocol, facilitators should encourage understanding and discussion of: sub-national, national, regional and international laws and policies and how they relate to the community's territories; the community's rights and responsibilities, as well as those of relevant external actors; ways to engage and influence these external actors in accordance with the community's customary laws; and access to grievance mechanisms, including formal legal support and alternative dispute resolution in cases of conflict or rights violations.

Questions

- What are the relevant national, regional and international laws, as well as policies (such as the UN Guiding Principles on Business and Human Rights, OECD Guidelines, Sustainable Development Goals, National Biodiversity Strategies and Action Plans, and other policy options)?
- Are there judicial and non-judicial grievance mechanisms available to communities?
- Who will build community capacity on local, regional and international laws and strategies?
- How will the community communicate their knowledge of the law in the protocol?

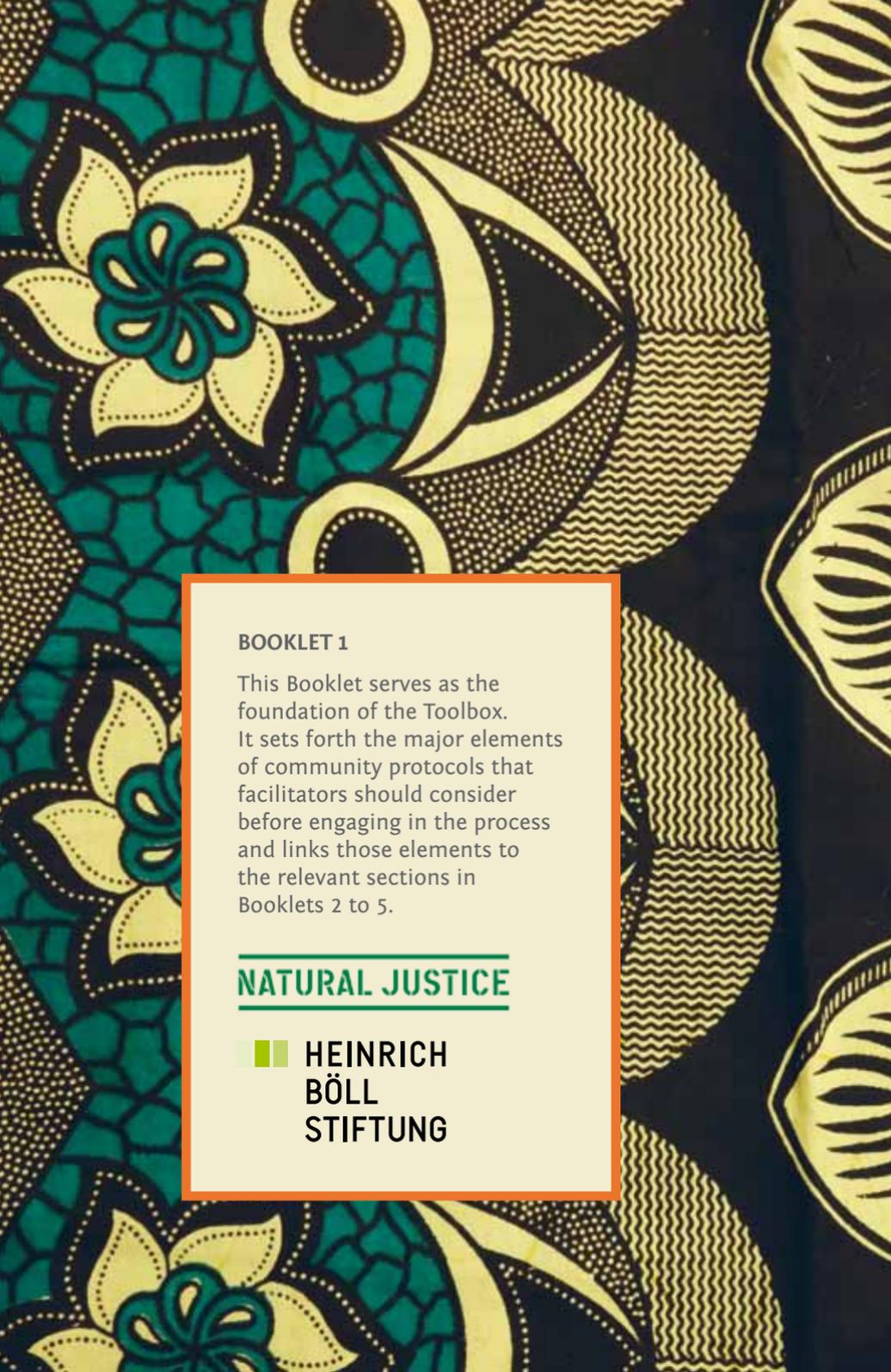
Relevant Booklet

Booklet 2, Section 5: Tool 23

Booklet 3, Section 5: Using a Community Protocol

Booklet 5, Sections 1-3: Legal Elements of the Community Protocol





BOOKLET 1

This Booklet serves as the foundation of the Toolbox. It sets forth the major elements of community protocols that facilitators should consider before engaging in the process and links those elements to the relevant sections in Booklets 2 to 5.

NATURAL JUSTICE

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