



Developing and Using Community Protocols

Community
Protocols
Toolbox

3



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DEVELOPING AND USING COMMUNITY PROTOCOLS

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Booklet 3

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DEVELOPING AND USING COMMUNITY PROTOCOLS

1. WHY ARE COMMUNITY PROTOCOLS BEING DEVELOPED?

Communities' customary rules and procedures regulating conduct and interactions between themselves and outsiders form an important part of customary law and are codified in many different ways such as oral traditions and folklore, dances, carvings, and designs. Nevertheless, communities' interactions with external parties have often been shaped by those parties and implemented in a top-down approach that disregards traditional laws. However, as legal norms have shifted over the last few decades to increasingly recognize and respect communities' rights, there is growing recognition of the potential usefulness of articulating communities' rules and procedures in forms that can be understood by others. As described in Booklet 1, the term "community protocol" is used here to refer to the articulation of such rules and procedures, although there are other ways of referring to the same concept.

Today, community protocols have been developed around the world by many different communities to address a variety of different challenges. For example, in Argentina, communities responding to lithium mining concessions granted by the government have developed a protocol to articulate processes that must be undertaken to appropriately ensure their participation and consent in decisions that affect them. The protocol identifies the community leadership structure that external parties must engage with when seeking to meet their FPIC obligations. In Kenya, the process of developing a community protocol has brought together over 35 community organizations in response to a massive development project. Many other communities in Latin America, Asia, and Africa have also developed protocols to address similar issues.¹

¹ For further information, please see www.naturaljustice.org. In addition, please refer to Natural Justice's blog (<http://natural-justice.blogspot.com/>) for more information on our ongoing work in each region.

2. COMMON ELEMENTS IN COMMUNITY PROTOCOLS

While the scope and form of a community protocol is entirely shaped by the community, it is possible to identify a number of common elements and characteristics of the process and outcome.

Oftentimes community protocol processes address one or more of the following elements:

- The community's identity, story of origin, and core values and norms
- Relationships between culture, language, spirituality, customary laws, resource use practices, traditional knowledge, and their territories and areas
- Customary institutions, decision-making processes, community-entry procedures and other aspects of self-governance
- Challenges and concerns and how the community would prefer to address them
- Locally defined development plans and priorities
- Specific rights and responsibilities in customary, national and international law
- Specific calls to actors

In so doing, the process may be aspirational, defensive or both.

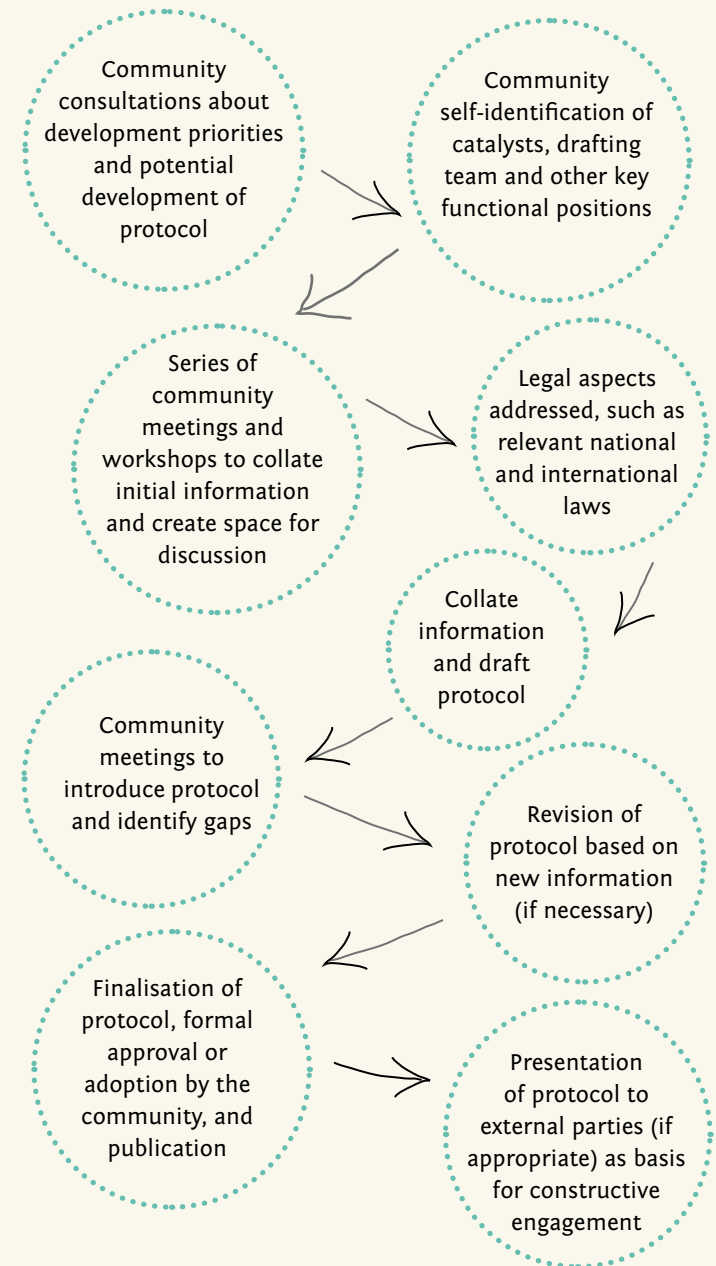
ASPIRATIONAL:

Where the community feels that external actions will bring opportunities (for instance, through employment or development of desired infrastructure), communities may unite to set out the ways they wish to engage with external actors, their rights to equitable sharing of benefits, their development priorities, and so on, to ensure it is done on their terms.

DEFENSIVE:

Where a community thinks that an external action is detrimental to their territories and resources, wellbeing and ways of life, or they are not being consulted with respect to a project, a community protocol may be used to defend their rights and to oppose the project, or to assert their rights with respect to consultation, consent, and other such procedural aspects.

Possible stages in a community protocol process



A protocol process often begins with discussions within the community as to whether or not a community protocol is needed as well as whether they wish to develop a community protocol. If they decide to undertake a protocol process, next steps often include the following (among others, and not necessarily in this order): initial self-identification to determine who shall be included in the process (i.e. who is the community for the purposes of the protocol); identification and training of a core group of community facilitators or researchers; participatory documentation of various kinds of information; a series of workshops to process information and develop joint understandings; and a number of meetings with the broader community for interim review and verification. The process may also include a legal empowerment process and, if appropriate, an introduction of the community protocol itself to the external actors as a means of using it for external dialogue. These different steps are shown in the diagram on the following page. It is important to emphasise that the community protocol process is not bound by a particular order and may omit certain stages, repeat others, and include additional ones; *it is determined by the community*. The following diagram is thus only exemplary.

IDENTIFYING THE 'COMMUNITY'

Who is the 'community' for purposes of developing a protocol? This can be a complicated question that involves a variety of factors such as geographic features, ethnic and tribal identities, livelihoods, and national borders to name only a few. Nevertheless, ensuring clarity about who and what comprise the community is integral to the process of documenting, developing, and using a community protocol. Above all, the community must define itself and determine how to address external issues. In some cases a 'community' for the purpose of a protocol may even combine a number of communities if they are affected by the same threat (e.g. a mine or infrastructure project) or groups from different villages who share a sense of community through a joint profession or common identity (e.g. traditional healers).

See Booklet 4.1 for further discussion on conceptualizing the community.

3. GUIDING PRINCIPLES FOR FACILITATORS

The following list sets forth some guiding principles that encompass the spirit of good process in developing a protocol. The table below is for ease of reference, but for a more in-depth understanding of the process, facilitators should consult *Booklet 1* (Considerations for Facilitators).

GUIDING PRINCIPLES IN A COMMUNITY PROTOCOL PROCESS

The development of a community protocol is a community endeavour that:

- Is empowering
- Is based on communities' values and procedures, while including the fullest and most effective participation of community members
- Promotes intra- and inter community dialogue, and intergenerational discussions
- Draws on the communities' own resources and resilience
- Further develops community collaboration on useful methodologies

... and focuses on and integrates:

- The values and customs relating to their collective biocultural heritage
- Current strengths, challenges and future plans
- Their rights at the international and national levels that support their ways of life and their corresponding duties

... to produce a protocol that is:

- Value laden
- Presented in a form that is most appropriate for the community while effectively communicating their key points to the relevant authorities / bodies ...

... towards:

- Respect for and realization of procedural and substantive rights and responsibilities
- Increasing their agency
- Improving access to information, participation and/or justice
- Improving dialogue with other communities or outside agencies
- Promoting local social, environmental and economic equity ...

... and where outsiders assist a community with any aspects of developing a protocol, they should engage the community with:

- Honesty
- Transparency
- Respect
- Social and cultural sensitivity to local processes and timeframes.

4. HOW ARE COMMUNITY PROTOCOLS DEVELOPED?

a. Facilitating a Community Protocol Process

Facilitation of a community protocol process requires skill, sensitivity, patience, flexibility, and willingness to learn and adapt to changing conditions.

Key qualities of a facilitator in the community protocol process

- 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 discussion on key issues
- Keep a record of discussions

Before beginning the documentation process, it is useful to reflect upon the questions set forth in *Booklet 1* with other community facilitators, catalysts, and leaders.

b. Facilitating a Workshop or Meeting

Workshops and community meetings are common methods of facilitating a community protocol process. It is the facilitator's responsibility to create the conditions for a productive and impartial process. Before the workshop or meeting, certain arrangements should be made in consultation with the local leadership and whoever is promoting the idea of a community protocol. There are also certain **tasks** and **roles** to fulfil during the workshop or meeting (see following page).

ARRANGEMENTS TO BE MADE BEFORE A WORKSHOP

Draft an agenda

This should be done through consultations with the community in advance.

Identify key discussion points

Discussions need to be focused and contained to key issues. It could involve a process of brainstorming and prioritization from a comprehensive list of topics. Try to find out if there are some topics that people think are important but are unwilling or unable to discuss openly and explore how else they could be considered.

Draft a list of participants to be invited

Who should be invited to participate will depend on the objective and agenda of the particular workshop and if you plan to hold additional ones at another time. It should also be done in consultation with all groups in the community to ensure adequate representation.

Secure logistics and materials

This includes considerations such as location, layout of the space or room, availability of space for small groups or breakaway discussions, reliable electricity source and data projection equipment (if required), pens or markers, paper, flip charts, recording equipment, food and refreshments, restroom facilities, and child care.

Arrange for translation

Accommodate languages that participants prefer to speak, including in written materials. If many languages need to be used, participants could work in smaller groups and later report back with translation assistance. Translation can take a long time, so consider this when planning timing and length of the workshop.

The role of the facilitator during the process is varied. For detailed methodologies of how to facilitate a workshop, see *Booklet 2*.

c. Supporting Community Catalysts

‘Community catalysts’ who can help to keep the process moving forward are critical to developing protocols. 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, and organizing a delegation to visit the local government official. They should be comfortable with taking responsibility for a certain part of the process and reporting back to others involved, including the external facilitator and the community leaders.

Many community catalysts will become obvious through discussions and meetings, although they won’t always be the most outspoken or vocal people. Community leaders can also help identify them, including through one-on-one discussions with the facilitator. If possible, they should be identified from diverse groups such as women, youth, and elders and not only from the families of local leaders or elites. Regardless of when they join, openly discuss the process to ensure clarity of roles, responsibilities, and expectations. As facilitator of the community protocol process, be aware that potential community catalysts may have, and pursue their own agendas (in terms of future political aspirations, with respect to status within the community as knowledge-holders etc.). This is not necessarily positive or negative – but it is important to be mindful of, as differing agendas can potentially skew community dynamics depending on who is chosen as a community catalyst.

d. Seeking Agreement on the Process

Drawing on the guidance above, ensure the facilitator’s role and the overall protocol process are clear to the community at the outset. As emphasised above, the process should be driven by and for the community. Even if there is a considerable amount of organization and resources being invested from outside sources, it is still the community’s protocol and they need to have ownership over the process and outcomes. Second, it is important to 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 the facilitator’s alone. This is crucial for the sustainability of the effectiveness of the protocol for the future. Further considerations are provided below.

SUGGESTIONS FOR SEEKING COMMUNITY AGREEMENT ABOUT THE DETAILS OF A PROTOCOL PROCESS

- Seek permission from the local government structure or traditional authority to hold consultative meetings.
- Use appropriate media to accommodate the local literacy levels. Use community halls, schools, clinics, and churches or places of worship to distribute information and hold meetings.
- Try to be as consistent as possible with information you provide.
- Consult as widely as possible within the community. This could include holding meetings with specific groups such as married women, youth, and male elders.
- Seek insights from CBOs, NGOs, and any other actors working with the community.
- Work with an initial group to outline and discuss a process for undertaking a protocol and rules of engagement.

e. Tools

A wide variety of participatory methods can be used to guide any step of the community protocol development process. For instance, a community may decide to use meetings, brainstorming, group discussions, various types of mapping and illustrations, assessment tools, audio/video and/or semi-structured interviews, role plays, and locally appropriate monitoring.

Booklet 2 sets out a comprehensive set of tools to guide workshops and meetings as part of developing a community protocol. Additionally, see Natural Justice’s *Biocultural Community Protocols: A Toolkit for Community Facilitators*³ for more information.

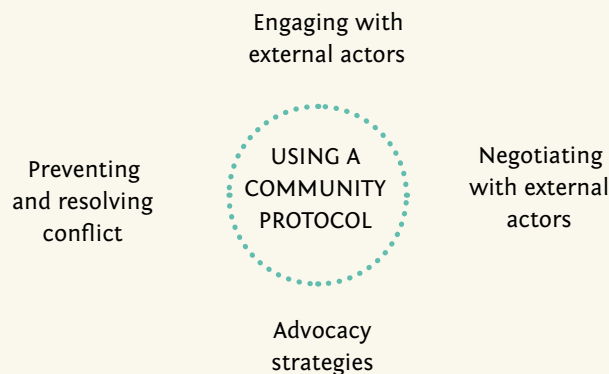
³ <http://www.naturaljustice.org>

5. USING A COMMUNITY PROTOCOL

There are a number of different ways a community protocol can be used by communities to engage with external actors (including government, investors, NGOs, and so on), within and between communities and in general advocacy strategies. The following sections outline different ways that community protocols have been or can be used.

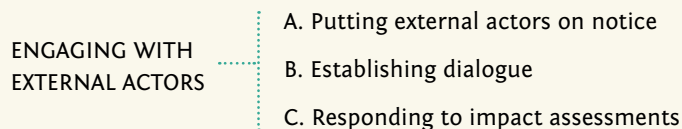
Note that it often takes time for a community to finalise its protocol. Accordingly, processes that are part of the development of the protocol are often also useful and/or utilised to advocate or engage with external actors. This is considered “using the community protocol”. So, when describing how a community protocol can be used, this speaks as much to the processes underpinning it, not just how a community protocol document itself can be useful.

Various possible uses of a community protocol



a. Engaging with External Actors

There are a number of ways communities can use their community protocol (or community protocol process) to engage with external actors:



i. Putting External Actors on Notice

One aspect of engaging with external actors is known as “putting them on notice”. This means informing external actors proactively that your community has developed or is developing a protocol, that you are aware of your rights (and their obligations) under national, regional, and international law, and/or that you are setting out specific recommendations or requests to which they need to respond or procedures to which they need to adhere. Putting key external actors on notice can be useful because it informs them proactively of your intentions and expectations, which can spur positive action and help prevent conflict. It can also encourage accountability and transparency of key actors in the public and private sector whose actions or inactions are affecting your community and territory. It can encourage external actors to familiarise or revisit their obligations with respect to your community in national, regional and international law and minimum voluntary standards.

There are a number of different ways to put key actors on notice. These include sending a letter by post, email or fax; arranging a meeting to deliver the community protocol and discuss it in person; and/or arranging a public hearing with government agencies, other stakeholders and media.

ii. Establishing Dialogue

Often communities and external actors (such as investors and companies) come from different worldviews when they begin to engage with each other. Companies’ understanding of the way communities engage with external actors (for instance, on the basis of their customary laws) is key for future interaction. Similarly, communities are in a better position when they understand the nature of extractive industries and their integrated rights in this context. The development of community protocols can assist in catalysing constructive dialogue and collaboration between communities and external actors. Dialogue (as opposed to negotiations) can be relatively informal and unstructured and often occur before formal negotiations take place. Protocols can be used to share information, establish a mutual understanding of different perspectives, and seek innovative ways to address a common concern or fulfil a shared vision. They can be useful to bridge very different worldviews and to create a more level playing field by providing space for communities to initiate the terms for engagement. Dialogue is more likely to succeed if those involved approach it with a positive attitude and optimism in the potential of collaboration.

The diagram below outlines key considerations that communities may wish to discuss before and during the process. If the dialogue turns into a negotiation process toward a binding agreement, please refer to the section below entitled “Negotiating with External Actors”.

Dialogues between community and external actors could involve the following elements:

EXCHANGE OF INFORMATION

- Sharing of respective contexts;
- Sharing of values and decision-making procedures;
- Sharing of expectations and commitments;
- Sharing of rights-related scenario.

WORKING TOWARDS AN UNDERSTANDING

- What is the common goal/objective of the dialogue;
- Where are possible challenges;
- Identification of relevant standards;
- The rules of engagement;
- Any capacity-building requirements.

MUTUALLY AGREED TERMS

- Agreements of principles of interaction;
- Specific commitments;
- Conflict resolution mechanism.

The following are some questions that communities may like to consider when thinking about whether or not to engage in dialogues with external actors:

- What external actors would you like to approach to engage in dialogue?
- What are their interests and personal or institutional agendas?
- What are our ultimate goals or aims that we would like to achieve through dialogue? Will dialogue achieve these goals or aims?
- What are our specific expectations towards the external actor?

- What are the key issues or plans that the community would like to discuss?
- Where should you have the dialogue? Will your community's participation be limited if the dialogue is held outside of the community?
- Who will participate on behalf of the community? How will the rest of the community provide input and feedback?
- How can we encourage an overall positive atmosphere and attitude that allows for creativity and innovation?
- How will the dialogue process be financed, especially if it will be an ongoing process?

iii. Responding to Impact Assessments

Impact assessment are intended to evaluate the potential impacts of a proposed extractives project on a range of stakeholders and factors, including nearby communities and the environment. They also provide recommendations to the project proponent as to whether or not the project should be implemented and, if so, ways to prevent and mitigate the likely impacts. Impact assessments can be an important way for communities to engage with external actors and participate in decision-making processes.

There are several different kinds of impact assessments including environmental, social, health, and cultural assessments. Some companies and research institutions also have well-established policies and procedures for conducting environmental and social impact assessments. Cultural and wellbeing impact assessments are not often used by project proponents, but should be advocated for or undertaken by communities themselves, given the interconnectedness of impacts on a community.

It is often difficult for communities to participate effectively in these processes. This is for a variety of reasons, including:

- Assessments are often conducted by professional consultants hired by the project proponents and supporters, which are usually government agencies and companies;
- Assessments tend to use Western scientific methods, sophisticated technology, complicated forms of analysis and technical language;
- Limited timeframes are given to provide comments on assess-

ments that are usually several hundred pages long and not provided in the language of the community likely to be affected;

- Assessments often don't consider social and cultural impacts of a project (including the customary laws, languages and uses of land and natural resources by communities); and
- If the consultants are hired by the same agency or company that is proposing the project, the impact assessment may be biased and not fully representative of communities' concerns.

As a response to these issues, some communities proactively develop and conduct their own impact assessments and attempt to engage with project proponents in multi-stakeholder dialogues and negotiations. The advantage of doing so is that it challenges the accuracy of impact assessments with a community's own factual evidence. Community protocols can add to this evidence in various ways, for example: by contesting the legality of an assessment based on a lack of adequate participation (with reference to the protocol's requirements for participation, consultation and/or free, prior and informed consent); by using community protocol processes such as the Community Health Impact Assessment Tool and others (see *Booklet 5* for more information) to dispute outcomes set out in the impact assessment, mapping to highlight the integrated impacts that a project is likely to have on an ecosystem or community visioning and development plans to put forward their own plans and hopes for development; and by mobilising communities to respond directly and/or seek guidance from experts.

Key Resources on Public Participation in Environmental Assessment Processes

A One-Stop Participation Guide: A Handbook for Public Participation in Environmental Assessment in Southern Africa (SAIEA, 2004) (available at <http://www.saiea.com/calabash/handbook/index.html>)

Guidebook for Evaluating Mining Project EIAs (ELAW, 2010) (available at <http://www.elaw.org/mining-eia-guidebook>)

b. Negotiating with External Actors

A negotiation is a discussion or dialogue that is aimed towards reaching an agreement. In the context of extractive industries and other in-

vestment projects, there are a number of different occasions whereby a negotiation may be necessary, for example:

- Setting out terms and conditions to adhere to when entering into and engaging with the community;
- Deciding where a project or activity can or cannot take place;
- Agreeing on monetary and non-monetary costs and benefits to be shared; and
- Amending agreements if there is a change in a project or activity that is likely to impact the community or their territory.

Although much can be gained through negotiation processes, communities are often at a disadvantage due to significant power imbalances. Take the time to find out information about the other parties involved and to consider your community's priorities and aims before agreeing to negotiate. Ideally, a community protocol can be useful in the preparation for negotiations because it can articulate the terms within which communities wish to engage (for example, who will negotiate on behalf of the community with what mandate, and any intermediate decision-making processes within the community that need to take place periodically throughout the negotiation) and it can help to mobilise and prepare the community to articulate their negotiable and non-negotiable demands in preparation. In addition, the processing of learning and engaging with their rights can enable communities to negotiate within the bounds of the law, for example, refusing to agree to unlawful terms of a negotiation.

Key Resources on Negotiating with External Actors

Negotiation and Mediation Techniques for Natural Resource Management (FAO, 2005) (available at <http://www.fao.org/docrep/008/a0032e/a0032e00.HTM>)

The ABC's of Negotiation: An Advocate's Guide to Negotiating with Providers to Improve Access to Health Care Services (Community Catalyst, Inc., 2004) (available at http://www.communitycatalyst.org/doc-store/publications/the_abcs_of_negotiation_febo4.pdf)

IBA Community Toolkit: Negotiation and Implementation of Impact and Benefit Agreements (Gibson, O'Faircheallaigh, and the Gordon Foundation, 2010) (available at <http://www.ibacommunitytoolkit.ca/index.html>)

i. Free, Prior and Informed Consent

An important aspect of both dialogue and negotiation is the ability for parties to say “no” to an offer put on the table. Free, prior and informed consent (FPIC) is an ongoing process whereby at any stage of a negotiation, mediation or dialogue, a community has a right to seek more information, say “no”, or withdraw entirely. It is recognised as a minimum standard in international law, and pursuant to the UN Declaration Article 32.2 applies specifically in the context of extractive industries: States shall obtain indigenous peoples’ FPIC “particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” Each aspect of FPIC is briefly defined (adapted from *Guide to Free, Prior and Informed Consent*, Oxfam 2010):

“FREE” is freedom from force, intimidation, manipulation, or pressure by external actors (government, company, middlemen, and so on).

“PRIOR” refers to having the ability to make a decision on a project or activity before the government allocates the land or natural resource for a particular use, before an investor conducts its activities and before any change in a project plan that is likely to impact upon the community.

“INFORMED” means that communities must be given all the relevant information in order to make a proper decision about whether to agree to the project or not. This also means the information must be independently obtained and in a language that a community can understand, and the community must have access to experts on law and technical issues if they so request.

“CONSENT” means that the communities involved have the right to say “Yes” or “No” to the project as a whole and at each stage of the project according to the institutions and decision-making process of the community’s choice.

Communities should not feel pressured or obliged to enter into or continue negotiations if the community does not want to. The onus is on the project proponent to provide as much information as needed for the community to feel ‘fully informed’.

REMEMBER:

FPIC needs to be sought at key decision-making points throughout the project. It reflects an ongoing relationship with the party obligated to obtain it and is not a one-off decision.

Key Resources on Free, Prior, and Informed Consent

Guide to Free, Prior and Informed Consent (Oxfam, 2010) (available at https://www.culturalsurvival.org/sites/default/files/guidetofreepriorinformed-consent_0.pdf)

Making Free, Prior and Informed Consent (FPIC) Work: Challenges and Prospects for Indigenous People (Forest Peoples Programme, 2007) (available at <http://www.forestpeoples.org/topics/civil-political-rights/publication/2010/making-fpic-free-prior-and-informed-consent-work-chal>)

Free, Prior, and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development (RECOFTC and GIZ, 2011) (available at <http://www.recoftc.org/project/grassroots-capacity-building-redd/training-manuals-and-guides/free-prior-and-informed-consent-redd-guidebook>)

Guidelines for Implementing the Right of Indigenous peoples to Free, Prior and Informed Consent (IBIS, 2013) (<http://ibissierraleone.org/publications/guidelines-free-prior-and-informed-consent/>)
Turning Rights Into Reality (Cultural Survival and Rainforest Foundation US, 2013)

Making Free Prior & Informed Consent a Reality: Indigenous peoples and the Extractive Sector (Cathal Doyle and Jill Carino, 2013) (available at <http://www.socialimpactassessment.com/documents/Consortium+FPIC+report+-+May+2103+-+web+version.pdf>)

c. Advocacy Strategies

Community protocol processes can inform a wide range of advocacy strategies that can be engaged concerning extractive industries or other large-scale infrastructure projects, some of which are discussed on the following page.

Potential uses of community protocols when engaging in advocacy

ADVOCACY STRATEGIES

- Raising awareness
- Using as evidence
- Engaging with national and international legal processes

Generally, communities engage in particular strategies to pursue specific desired outcomes. Strategies will be dependent on, amongst other factors, the type of remedy sought, the likely cost of the strategy, the availability of resources accessible to the community, the purpose of the strategy, and whether an ongoing relationship with the other party or process is desired. Community protocols are one of many tools that communities are using to mobilise and advocate for their rights and others' responsibilities. The community protocol process can complement other advocacy strategies that benefit from social mobilisation such as filing a complaint with an international grievance mechanism or strategic litigation.

Raising Awareness

Part of the strategy for putting a community protocol into practice may involve raising awareness within communities, between communities and amongst the broader public. Sharing the protocol can be an empowering process in itself by affirming collective identity, clarifying relationships between the community's livelihoods and the environment, and seeking support for the issues raised. Participatory methodologies such as film and photography can be combined with workshops and social media to convey key messages.

Within communities

It is unlikely that all members of a community are able to actively contribute to developing their protocol, so raising awareness about it is important to build broad interest and support. To build on internal cohesion, it is essential to ensure that the community is largely united throughout the process of using the protocol.

There are a number of ways to raise awareness within your community about the protocol and the issues therein. Suggestions for specific uses within the community are highlighted in the table below. When discussing which to use, consider different age groups,

ethnicities, and interests. Different forms of communication could be tailored to each and to the community as a whole.

Between communities

In the context of extractive industries, it is likely that issues that impact upon one community will affect other nearby communities. It is also likely that an external investor has worked in other communities, causing similar impacts. If this is the case, then a community's protocol may be relevant for other communities. It may therefore be useful to raise awareness of the protocol amongst similar or neighbouring communities and, where appropriate, collectively strategise or share ideas about the use of the protocol and other advocacy strategies in which they can engage together.

There are a number of tools that can be used to raise awareness about the community protocol amongst other communities such as exchange visits, peer learning experiences, community workshops, public forums, and meetings to discuss threats, issues and opportunities. Try to understand and respect any pre-existing relations, dynamics, or procedures that guide engagement between members or leaders of different communities. Furthermore, in specific cases the "community" for the purpose of the protocol may actually consist of more than one community if each is defined by certain criteria, such as livelihood. The purpose of the protocol is to build a common position on a certain matter or matters and to speak with one unified voice (for example, the various groups who are joining forces in a community protocol process in Lamu, Kenya in response to a deep water port and a coal plant; or the 33 communities on the same lithium reserve in Argentina who used the protocol process to outline their FPIC process).

Amongst the broader public

It may well be appropriate to raise the profile of a community protocol beyond the community level to the broader public. There are a number of ways that this could be done, for example: by individual or collective advocacy to key individuals, organisations, ministries, and/or investors; by engaging with journalists and mainstream media; or by promoting the protocol through an online petition or other forms of social media. If this is a potential strategy that a community wishes to consider, it may be wise to facilitate a discussion about the potential advantages/disadvantages.

COMMUNICATION TOOL

WHAT CAN IT BE USED FOR?

Printed or hand-made materials

posters, brochures, calendars, banners

- Put together a binder with key facts, information, and contact details about the community protocol process
- Hold a design competition
- Make a banner for use in community events

Social media

- Start a Facebook page or Twitter account to share updates about the protocol process
- Post videos and photo stories on YouTube
- Start an online petition

Maps

- Host a workshop to introduce or update mapping of the community's area
- Facilitate discussions between youth and elders about territorial boundaries and important resources
- Highlight the impact that an activity will have on an ecosystem, livelihoods etc.

Photography

- Organize a series of photography workshops and sharing sessions
- Encourage teachers to incorporate photography into their lessons
- Make a Photo Story or slideshow
- Hold an exhibition in the community hall, school, or with local officials

Video

- Document the process of developing and using the protocol with video cameras
- Work with local youth to edit the film and add narration and music
- Hold a community screening/ 'premiere'

Theatre or role plays

- Develop a role play or skit with the main people involved in the process of developing and using the protocol and perform it for the community

Radio or audio recordings

- Interview the main people who have been involved in the process of developing and using the protocol, as well as key community members
- Edit the interviews into a 'programme' that can be broadcast on radio

QUESTIONS TO CONSIDER

- Is there any sensitive or confidential information that should not be documented in written form?
- What equipment do you need access to (blank paper, sheet or canvas, pencils, markers, rulers, paint, adhesive tape, computer, printer)?

- Are there any concerns about online privacy?
- How could personal identities be protected?

- Are there any boundaries, locations, or sites that are contested or confidential?
- What equipment do you need access to (materials for sketch maps or 3-D models, satellite maps, GPS/GIS software, computer)?

- Are there any sensitive or confidential places or artefacts that should not be documented in photographs?
- What equipment do you need access to (camera, batteries, film or memory card, computer or printing station)?

- Do you have permission of the people in the film? Is there any sensitive or confidential information that shouldn't be in film?
- What equipment do you need access to (cameras, batteries, computer, projector, screen or white sheet, electricity)?

- Where would you practice and hold a theatre performance or role play (community hall, school, sports field, under a tree)?
- How would you involve community members who are outgoing?

- Who has an interesting story to tell?
- How would you encourage the person to share the story in an engaging way? Consider developing some guiding questions to ask
- How would you represent different perspectives (men, women, youth, elders)?

Potential advantages and disadvantages of raising public awareness about your community protocol

Potential Advantages

Public attention and interest in key issues

Attempts to reduce public's impact such as through more informed consumer choices

Public pressure on politicians and decision-makers

Tangible forms of support such as donations or human resources

Opportunities for engagement with external investors

Change in investor behaviour

Potential Disadvantages

Lack of control over the use of information

Inappropriate scrutiny of journalists

Unwanted presence of curious public or tourists

Inaccurate editing of stories or details

Tendency of mainstream media to sensationalise information

Increased attention from external investors to natural resources present

There are a number of ways and forms with which to raise awareness amongst the general public. A community could use some of the participatory methodologies used during the community protocol process to convey key issues and challenges, for example, by hosting an event that features participatory theatre, role plays, and local photography of key issues. The most common methods of raising awareness on key issues and challenges are through engaging with mainstream media tools such as press releases, press conferences, interviews, and gaining coverage in local and national newspapers, radio, and television. This can be challenging but can boost public awareness about the community's issues.

Resources

Media Coverage (KnowHowNonProfit) (available at <https://know-hownonprofit.org/campaigns/communications/media-coverage>)

How to Organize Media Events (About.com) (available at <http://marketing.about.com/od/publicrelation1/a/organizemedievents.htm>)



How to Write a Killer Press Release (Friends of the Earth, 2007)
(available at https://www.foe.co.uk/sites/default/files/downloads/cyw_64_press_release.pdf)

How to Write the Perfect Press Release for Journalists (journalism.co.uk) (available at <https://www.journalism.co.uk/skills/how-to-write-the-perfect-press-release-for-journalists/s7/a535287/>)

Using as Evidence

A community protocol – both in its final form as well as the participatory methodologies used to document and develop it – can provide useful evidence of the impact and challenges faced by a particular extractive activity or project. For example:

- The thorough engagement and completion of a Community Health Impact Assessment Tool not only enables the community to internally reflect on many different short-, medium- and long-term impacts a project or activity, but also provides evidence of these reflections that could form part of a response to an impact assessment, or counter an investor's claims that a project or activity will not have particular impacts.
- Mapping of a community's agreed governance structures and decision-making processes can provide evidence as to whether or not a community did engage in "participation", "consultation" or a process of free, prior and informed consent. If such engagements did not follow the community's protocol, it can be argued that meaningful community engagement did not occur.
- Mapping of a community's use of land and natural resources and documentation of the multiple values of particular environmental features (such as a water source, pastures for grazing, sacred sites, and so on) can provide evidence to dispel claims that land is "vacant" and therefore able to be used for an extractive or infrastructure project.

Advocating on a National, Regional and International Level

A community protocol and the participatory methodologies that formed part of the process can support advocacy at national, regional and international levels.

National Laws and Policies

Laws and policies that impact and are otherwise relevant to indigenous peoples and local communities, are developed through a range of governmental decision-making processes such as councils or multi-stakeholder committees. They are implemented by specific government agencies, often through a number of subsidiary bodies at the sub-national and local levels. Understanding and engaging with the relevant frameworks in your country is a very important part of effectively using a community protocol. *Booklet 5* discusses this in much greater detail.

International Laws and Policies

There are a variety of international processes that affect indigenous peoples, local communities, and their territories and areas (see the table at the end of this sub-section).

Whilst international processes can initially seem slow and far removed from the daily realities of community life, they can influence countries' laws and policies, which in turn directly impact communities at the local level. Engaging in international processes should be seen as a long-term investment that can yield potentially significant gains, particularly when these gains are actively used at the national and sub-national levels.

Key human rights intergovernmental and international processes and avenues for advocacy relevant to extractive industries and Indigenous peoples' and local communities' rights

FORUM	KEY PROCESSES, MEETINGS AND MONITORING MECHANISMS
UN Permanent Forum on Indigenous Issues	Session (annual)
Expert Mechanism on the Rights of Indigenous peoples	Meeting (annual)
Special Rapporteur on the Rights of Indigenous peoples	Individual communications Special reports Country reports
UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises	Forum (annual) Country visits
Special Rapporteur on the Situation of Human Rights Defenders	Individual complaints State report Country visits
Human Rights Committee	State reports Inter-state complaints Individual complaints
Committee on Economic, Social and Cultural Rights	State reports Individual complaints
Committee on the Elimination of all forms of Racial	State reports Early-warning procedures Inter-state complaints Individual complaints
Committee on the Elimination of Discrimination Against Women	State report

d. Preventing and Resolving Conflict

Intra-Community Conflict

In the context of extractive industries, which often involves tensions over natural resources and the possibility of benefits from external investors, the development and use of a community protocol may actually bring about intra-community conflict. This is more likely to occur if underlying tensions already exist or if the protocol is being used to address particular threats (see box below for examples). Understanding the nature of such conflict may help communities prevent and overcome it in practice. Conflicts are often due to differences (perceived or otherwise) between groups or individuals, for example, **differences in communication styles**, in **understanding of the issues**, and in **expectations of the process or outcomes**. Addressing these differences proactively and in culturally appropriate ways may help you reach an agreement more effectively.

Conflict with External Actors

Depending on the situation, many avenues can exist for addressing conflicts with external actors. These avenues exist in a range from informal dialogue to formal court proceedings. Each approach can have advantages and drawbacks, and it will be up to each community to decide on the approach they want to take.

Key Resources on Conflict Prevention

Alternative Dispute Resolution Practitioners' Guide (Centre for Democracy and Governance, 1998) (available at <https://www.usaid.gov/sites/default/files/documents/1868/200sbe.pdf>).

Conflict Management in Community-based Natural Resource Projects: Experiences from Fiji and Papua New Guinea (Overseas Development Institute, 2000) (available at <http://www.odl.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2738.pdf>).

Training Manual on Alternative Dispute Resolution and Restorative Justice (UN Office on Drugs and Crime, 2007) (available at https://www.unodc.org/documents/nigeria/publications/Otherpublications/Training_manual_on_alternative_dispute_resolution_and_restorative_justice.pdf)

6. COMMUNITY PROTOCOLS: TWO EXAMPLES IN PRACTICE

Community protocols (in form and in process) have had success in mobilising communities around issues and in establishing dialogue for particular communities, both internally and with external actors. It is important to acknowledge that the community protocol process has been instrumental in empowering and building capacity of communities to engage with external actors. Since community protocols can take some time to develop, successful dialogues have often taken place without the actual community protocol being finalised or presented to external parties.

Two examples of community protocols are described in more detail below:

- To engage within the community and with government agencies in Northern Ghana around a gold mine; and
- To guide planning for projects and dialogue with mining companies in Choco, Colombia.

Case Study: Sacred Groves and Gold Mines in Tanchara, GHANA

In recent years, the Tanchara community of the Upper West Region of Ghana has mobilised in response to a number of illegal gold mining operations. Attracted by the prospecting of Azumah Resources Limited, which received permission from the Ghanaian government to prospect for gold without informing or seeking consent from the Tanchara community, the activities of the illegal miners have posed serious threats to the community's land, soils, drinking water, social security, and sacred groves and sites. In response, the local spiritual leaders and caretakers of the land (the Tingandem) came together to protest the illegal activities and to call upon the government to safeguard their sacred groves and sites from mining, citing concerns of their lack of involvement in decision-making processes that have led to the mining and the lack of respect for their right to provide or deny free, prior and informed consent.

The Tingandem and broader Tanchara community have been developing a community protocol to assert their rights under customary,

national and international law. The Tanchara community has been using a number of endogenous development tools to strengthen local capacities and customary institutions and governance systems. They have also developed their own tool, the innovative Community Health Impact Assessment Tool, to conduct their own impact assessment and focus on community-determined values and priorities such as education, health, and other spiritual, social-cultural, and material aspects of their ways of life. Thus far, the process of developing a community protocol has been effective in engaging with government authorities on the impacts of mining in the area.³

³ For more information, see "Sacred Groves versus gold mines: biocultural community protocols in Ghana (Guri, Banuoku, Derbile, Hiemstra and Verschuren) in *Biodiversity and Culture: Exploring community protocols, rights and consent*, IIED Participatory Learning and Action 65, co-edited by IIED, Kalpavriksh, Natural Justice, COMPAS, and UEBT, 2012. See <http://pubs.iied.org/14618IIED.html>.

Case Study: Mining in the forests of Choco, COLOMBIA

In Choco, a region of Colombia, representatives of 30 Afro-Colombian communities developed a community protocol in response to mining of minerals, in particular gold, and the extraction of other resources in the community forests. In conjunction with a national policy making extraction of resources a central pillar of the country's development, communities witnessed a dramatic increase in mining, both legal and illegal, which negatively impacted forest resources, water pollution, cultural values and caused significant rifts within the local groups.

As a result, the community leadership association known as the Alto San Juan Community Council (ASOCASAN) developed a community protocol to provide guidance on activities taking place within their territories. The protocol was approved by the general assembly, which consisted of representatives of each of the 30 communities. The community protocol highlights, through numerous examples, the important role the environment plays in the cultural and material aspects of the communities' life. This includes the practice of traditional mining, which encourages collective work and recovery of the environment. The protocol has been used to set guidelines for appropriate means of dialogue with external actors and the considerations that must, by right of law, be taken into account in municipal planning processes, national policies, and administrative decisions, with the aim of including community representatives in all decisions that impact them.⁴

⁴ For more information, see "Defending our territory: the biocultural community protocol of Alto San Juan, Colombia" (Piedrahita, T. and Mosquera, C.) in *Biodiversity and Culture: Exploring community protocols, rights and consent*, IIED Participatory Learning and Action 65, co-edited by IIED, Kalpavriksh, Natural Justice, COMPAS, and UEBT, 2012. See <http://pubs.iied.org/14618IIED.html>.






BOOKLET 3

This Booklet provides specific information about how to undertake the protocol process and how to use protocols to engage with external actors and address conflicts.

NATURAL JUSTICE

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