



Training Workshop on Development of
Bio-cultural Community Protocols
A Report

June 2010
Bangalore, India

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When: 02 to 04 June, 2010

Where: Bangalore, India

Organized by: Foundation for Revitalization of Local Health Traditions

Facilitated by: Natural Justice

Supported by: UNDP Equator Initiative, ETC_COMPAS, UNU-IAS, UNEP

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The general discourse in this report is drawn from presentations and discussions that took place at the workshop. Photographs are courtesy Natural Justice and the royalty free image site www.sxc.hu.

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GLOSSARY

ABS	Access and Benefit Sharing
BCP	Bio-cultural Community Protocol
CBO	Community Based Organization
CBD	Convention on Biological Diversity
ED	Endogenous Development
FAO	Food and Agriculture Organization
FPIC	Free, Prior and Informed Consent
FRLHT	Foundation for Revitalization of Local Health Traditions
IAIM	Institute of Ayurveda and Integrative Medicine
ILO	International Labor Organization
IRABS	International Regime on Access and Benefit Sharing
NBA	National Biodiversity Authority
NRM	Natural Resource Management
PoWPA	Programme of Work on Protected Areas
REDD	Reducing Emissions from Deforestation and Forest Degradation
TK	Traditional Knowledge
UNCCD	United Nations Convention to Combat Desertification
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNU-IAS	United Nations University - Institute of Advanced Studies
WIPO	World Intellectual Property Organization

ABOUT PARTNER ORGANIZATIONS

Foundation for Revitalization of Local Health Traditions (FRLHT)

FRLHT is a knowledge institution with a vision to revitalize the Indian medical heritage. Its mission is to demonstrate contemporary relevance of Indian medical heritage by designing and implementing innovative programme on a size and scale that will have social impact. The three thrust areas of FRLHTs work are conserving natural resources used by Indian systems of medicine, demonstrating the contemporary relevance of traditional knowledge, and revitalizing social processes for transmission of heritage. FRLHT is a pioneer in endogenous research, training and development processes related to traditional health sciences.

FRLHT organized and hosted the workshop at its facility in Bangalore, India.

Natural Justice

Natural Justice is a South Africa-based NGO facilitating the legal empowerment of indigenous peoples and local communities. Natural Justice takes its name from the legal principle that people should be involved in decisions that affect them. Accordingly, it assists communities in engaging with legal frameworks to secure environmental and social justice. Natural Justice facilitates and conducts training programmes on bio-cultural community protocols for trainers as well as communities around the world.

Natural Justice was represented at the workshop by Mr. Kabir Bavikatte and Mr. Gino Cocchiaro.

UNDP Equator Initiative

The Equator Initiative is a partnership that brings together the United Nations, governments, civil society, businesses, and grassroots organizations to build the capacity and raise the profile of local efforts to reduce poverty through the conservation and sustainable use of biodiversity. It is administered by the United Nations Development Programme (UNDP).

UNDP Equator Initiative was represented at the workshop by Ms. Jennifer Laughlin.

ETC_COMPAS

COMPAS (Comparing and Supporting Endogenous Development) is an international network implementing field programmes to develop, test and improve endogenous development methodologies. Activities of the COMPAS network are related to Natural Resource Management, Education, Health and Systems of Governance. Partners in the COMPAS network are NGOs and Universities in Africa, Asia, Europe and Latin America. It is part of the ETC Foundation, the Netherlands.

COMPAS was represented at the workshop by Ms. Katrien van't Hooft and Mr. Bas Verschuuren.

United Nations University - Institute of Advanced Studies (UNU-IAS)

UNU-IAS is part of the network of research and training centres within the UNU system. The Institute conducts research, postgraduate education and capacity development, both in-house and in cooperation with an interactive network of academic institutions and international organizations. The thematic direction of its research concerns the interaction of social and natural systems. Its research combines the social sciences with physical and life sciences, and is aimed at the development of informed policy-making to address global concerns.

UNU-IAS was represented at the workshop by Dr. Suneetha M.S.

United Nations Environment Programme (UNEP)

The mission of UNEP is to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations.



EXECUTIVE SUMMARY

The workshop on training of trainers on Bio-cultural Community Protocols (BCPs) was an effort to build the capacity of members of indigenous communities, traditional healers, and Community Based Organizations (CBOs) to understand, train, develop and implement the concept of BCPs among their communities. BCPs are tools that facilitate culturally rooted, participatory decision making processes within communities with the aim of asserting rights over community managed resources and traditional knowledge. They enable conservation and sustainable use of biodiversity by ensuring that decisions regarding communally managed resources rest with the communities, who, as primary stakeholders have managed these resources over generations.

BCPs are an enabler of 'legal pluralism' where there is a coexistence of different kinds of legal systems, and therefore helps communities to be more autonomous. They set out clear terms and conditions to external stakeholders for accessing community resources and knowledge, and they are dynamic, participatory management tools where people are able to use, reuse, change and adapt according to their local circumstances and needs.

As a convivial tool, the process of developing BCPs must be a community driven exercise and they must be based on customary norms and

laws of communities. It is this aspect of BCPs that the training workshop aimed to address. The three day workshop was organized and hosted by FRLHT, facilitated by Natural Justice, and supported by UNDP's Equator Initiative and the Compas network in collaboration with UNU-IAS and UNEP. The participants included representatives of CBOs and traditional healers, environmental lawyers, economists, and activists from various countries around the world.

The workshop was intended to empower community members and representatives of CBOs with the knowledge and skills related to BCPs that they could then take to their communities, as well as use effectively to lobby at the national level. The workshop also presented the bigger picture of how the BCP development process can feed into processes undertaken at national and international levels, all of which must work in tandem for the aspirations of communities to be met. Various presentations demonstrated the links between BCPs and the process of Endogenous Development (ED), and communities' perceptions of well being.

The exercises undertaken at the workshop were very interactive in nature. The most important exercises were two scenario based role plays, and one group discussion.

The role plays were designed to impart the key skills of listening, multi stakeholder dialogue, participatory decision making, and conflict resolution, all of which are vital to the process of BCP development. While the first role play was based on a pre-defined scenario which had multiple stakeholders with conflicting interests, the second one required the participants to construct a scenario from a set of facts and then develop BCPs to address the key issues in that scenario. The two role plays took the participants through different situations that became progressively more complex and required them to address the key issues in those situations with collective experience and constructive debate. The results of the discussions and the BCPs developed were presented at the end of the exercise to the entire group.

The final group discussion was intended to bring out the strengths and the challenges that exist in real life situations in the specific fields of Traditional Health, Natural Resource Management, and Agriculture. The participants formed three groups based on their experience in either one of the three fields. They then discussed the strengths and challenges of that area, and how BCPs can aid in enhancing the strengths and addressing the challenges for them. The findings of each group was presented by a group representative.

In between the participatory activities, there were slide and video presentations that introduced participants to the concept of Endogenous Development and notions of well being held by communities, and experiences of various communities around the world in developing BCPs. These presentations were meant to link the theoretical and empirical bases of the BCP concept with the

skill development training.

The way forward from the workshop consisting of activities leading towards various international events on the CBD will need to include efforts that build the capacities of communities and enable them to demand their rights at those events. Apart from the local level initiatives, efforts will also have to be focused at the national levels. This is because the local voices that push governments in a certain direction will determine the positions that these governments take during the negotiations under the CBD. This will in turn feed back into the local level and lives of communities. But for all of these to happen, there needs to be concerted efforts to engage with communities, help them document and develop protocols based on customary laws, and to raise awareness and lobby with governments to recognize community protocols and customary laws. This will also address the dilemma and irony of the current situation wherein codified and published national legislation holds very little relevance to communities' lives, whereas their non-codified oral traditions and customary norms govern them.

In today's complex world where legal regimes are constantly infringing on communities' rights to their natural resources, there is massive displacement of people, destruction of ecosystems and erosion of traditional knowledge that has evolved over centuries. Only a multi layered approach that focuses on all levels of decision making - with processes and outcomes feeding into each other - will eventually help achieve the desired results in terms of better policies, livelihood security, equitable sharing of benefits, more autonomous communities, and enhanced well being.

INTRODUCTION

The United Nations Convention on Biological Diversity (CBD) which came into being in 1993 currently has 193 nations as parties to it. It is an international legal treaty with the three main objectives of conserving biodiversity, sustainably using biodiversity, and fairly and equitably sharing the benefits arising from the use of genetic resources and biodiversity related knowledge. While conservation and sustainable use of biodiversity are much discussed topics, of late there has been an increasing focus on Access and Benefit Sharing (ABS) provisions related to resources and traditional knowledge (TK) under the CBD. The ABS related protocols being negotiated requires that the consent of countries and communities must be obtained prior to the resources being accessed by external stakeholders, and benefits that may arise from their use must be shared back with them.

However, it ensued that in most cases communities were being excluded from decisions regarding the use of their resources and traditional knowledge because of an underlying assumption made by states that communities were inherently disorganized and lacked decision making systems in their governance. Having taken such a position, states would invariably make decisions on behalf of communities despite the emphasis on communities' rights over their resources in the CBD. Most states conveniently chose to ignore

the non-codified customary traditions and norms that governed the lives of these communities and managed and conserved their natural resources and traditional knowledge for centuries.

It is in this context that the concept of Bio-cultural Community Protocols (BCPs) emerged. As tools that facilitate participatory decision making on community managed resources, they affirm rights, help protect resources from being exploited, and define terms of engagement of communities with external stakeholders. Not only do BCPs recognize customary laws of communities, they are based on them. BCPs do not aim to amend or expand customary laws; they merely document and present these customary laws so that they can be recognized within the national and international legislations being framed today. Apart from echoing the voice of communities during the negotiations on ABS, BCPs will also outline the history, background and customs of the community.

Communities in South Africa, Kenya, India, and Malaysia were first introduced to the concept, and they began to develop BCPs within their communities. These efforts showcased the robust traditional decision making systems and processes that these communities possessed. The protocols were then presented at national and international events during negotiations towards ABS. Since

then, a number of formal resolutions have been passed in Africa, Asia and Latin America acknowledging the potential of BCPs as a tool to get governments to recognize community rights. BCPs now have a realistic chance of being recognized and becoming a part of the protocol on ABS in the CBD. The long-term vision for BCPs is that they will be recognized as legal instruments not just in the context of ABS, but in every multilateral environmental agreement and domestic environmental law that relates to community management of resources.

Being a community driven tool, BCPs can take on any mould depending on the priorities and needs of the community. This is significant given that there is strong apprehension in many quarters that the single minded focus on ABS provisions in the CBD negotiations would reduce community protocols to mere trade documents.

While it is well accepted that external stakeholders must obtain prior informed consent from communities before accessing their resources, and share benefits arising from their use in a fair and equitable manner, it must be kept in mind that the very existence of community resources and knowledge is not for commercial or trade purposes alone. Communities conserved their resources and passed down their knowledge for generations for various purposes relevant to their own culture and well being. This includes better agriculture, better mental and physical health, better quality of drinking water, better spiritual well being, etc. ABS is a very recent phenomenon which became necessary because many external entities that recognized the commercial potential of community resources and traditional knowl-

edge exploited them without consent or sharing of benefits with communities.

The Cultural Dimension

The need for the cultural element in BCPs becomes apparent when we examine the close linkages between the way of life of communities and the ecosystems within which they dwell. We find that the culture of communities have had an impact on the evolution of the ecosystem, and vice versa. So it becomes vital to conservation and preservation of resources that the culture of communities is also preserved. In this context, it is apt that the protocols are 'bio-cultural' protocols. The protocols will cover not only biological and material aspects of communities' lives, but also the cultural and spiritual aspects, and will establish the cross-linkages between each of these. Otherwise it would have very little relevance to the culture and way of life of people, especially the social and spiritual basis of people's lives. It will have relevance only to business and trade.

A key article around which a lot of negotiations are taking place during international events is Article 8(j) of the CBD. This article also recognizes the 'bio-cultural' nature of co-evolved ecosystems wherein people and the nature around them have adapted to each other and evolved together over centuries. Recognizing that people are integral to conserving and protecting these ecosystems, Article 8(j) confers on communities the right to their culture and way of life within the ecosystems. BCPs will lend extra teeth to communities and enhance their ability to use these laws to validate their positions on their culture, resources and traditional knowledge.



THE TRAINING WORKSHOP

The effectiveness of BCPs in enhancing the ability of communities to demand their rights, to defend themselves from exploitation, and to benefit from the fruits of their resources and knowledge hinges on the involvement of communities in developing the protocols in the first place. The very nature of BCPs as a convivial tool demands that the end users – the communities – are able to develop and modify them with independent efficiency.

The workshop was conceived to address that need, and to address the gap that exists in the understanding about the benefits of an effective interface document. It aimed to build the capacity of CBO representatives to help their communities develop effective protocols that, apart from setting the terms of engagement for ABS, can also amplify their voices in national and international negotiations on the CBD.

The intention was to highlight certain core principles that a BCP would contain, which could be applied to a variety of situations so that protocols can be effective. Further, the workshop would motivate community representatives to engage with their communities in an effort to pilot the process of BCP development, so that their effectiveness can be demonstrated to policy makers at major upcoming international events.

Given the open-endedness and flexibility that the process and outcome of BCP development should be accorded, the workshop did not aim to create a template for participants to take to their communities. It merely set out to impart certain essential skills that communities themselves could use within their context to develop their own protocols. As a tool that connects and brings people together, BCPs are developed locally using local resources, by going through an internal process of reflection on what communities want from it. Considering this, the workshop took a highly interactive and activity based approach to training so that participants could ponder with an open mind about the relevance of BCPs to the context and situation that their community was faced with. This allowed for a high degree of malleability so that the protocols would be appropriate to the situation of communities, only which they can leverage effectively in their interactions with external stakeholders. The design of the workshop modules took care of the fact that a BCP has to echo the community's voice, and it has to work within the community's context.

The Participants

The participants of the workshop primarily comprised of members of organizations representing various indigenous communities in different parts of the world. Also present were traditional heal-

ers and representatives of healers' associations, economists, lawyers, representatives of various international networks of community organizations like ETC Compas, CKS Asia and CKS Africa, and representatives of international development and research agencies like UNDP and UNU-IAS. The countries represented included India, Kenya, Tanzania, Ghana, South Africa, USA, Japan and the Netherlands. The participants' profiles covered a varied group of stakeholders most of whom worked directly with communities at the grassroots levels. These participants possessed the reach and proximity required to engage communities and work with them to guide them in developing community protocols.

A full list of participants along with organizations represented is given in Annexure I of this document.

Inaugural Addresses

The workshop was inaugurated in the presence of Dr. Darshan Shankar, Vice Chairman of IAIM; D.K.Ved, Director, FRLHT; and Dr. Nair, FRLHT. The brief inaugural ceremony was coordinated by Dr. Nair and Hari Ramamurthy of FRLHT. After the traditional lamp was lit marking the opening of the event, Dr. Darshan Shankar gave his introductory remarks.

Dr. Shankar touched upon some important principles that must be borne in mind during the discussions on ABS and TK. He said that while the most important and deserving users of natural resources were the communities that lived around these resources, the current debates in the CBD negotiations tended to give too much importance

to ABS. He stressed on the importance of using community resources and knowledge for the benefit of the communities. He went on to describe the relationships between the culture of communities and nature by explaining the etymology of two Sanskrit terms 'Prakruti' and 'Samskruti'. He explained how culture is derived from nature and maintained that there can be no culture without nature. He also touched upon the modes of knowledge transfer, and the history, pedagogical superiority and merits of the oral tradition of passing on knowledge. Dr. Shankar concluded by stating that community knowledge is an evolving and dynamic knowledge, that it must first be used for the benefit of the communities themselves, and that we cannot do justice to the knowledge by simply documenting it in a written form.

The full text of Dr. Darshan Shankar's inaugural speech is available in Annexure II of this document.

Dr. Shankar's speech was followed by an introduction to the research being done by UNU-IAS in the field of biodiversity, environment and sustainable development, especially issues related to implementation of the CBD principles by Dr. Suneetha. One of the focus areas for the research was the impact of bioprospecting activities and bioenterprises on communities' well being. The research looks at how these activities were meeting their different needs including food security, health security, tenurial rights, etc, and within the given context, the level of autonomy that communities have. The researchers realized that there were many good practices on the ground that could inform policy on measures to improve implementation, and conversely, despite their pro-

active practices, there were rights under the CBD that these communities were not aware of. Therefore they began to look at tools which would help generate awareness at the local level, and lend legal teeth to the communities' own ways of governance. Dr. Suneetha then briefly touched upon how they found BCPs to be a good tool to achieve some of these objectives.

After Dr. Suneetha's speech, Kabir Bavikatte of Natural Justice explained the background, and introduced the concept of BCPs. He briefly touched upon the history of the CBD negotiations, and spoke about how it was a site of struggle with many different interest groups fighting for different positions within it. He explained how the concept of conservation shifted from an approach that excluded people from ecosystems to that of the current thinking on co-evolved ecosystems.

Mr. Bavikatte touched upon the historical role of communities in conserving their natural surroundings and the provisions of the CBD that accords them the right to their resources and associated TK that they have developed over centuries. He also explained how communities were currently using TK as the thin end of the wedge, which when used to get an entry, opens up discussions on a host of other issues related to it and the rights on which it hinges.

Mr. Bavikatte spoke about the mantle that many states took upon themselves in the wake of the CBD negotiations to provide consent and make decisions on behalf of communities, passing a swathe of ineffective biodiversity legislations. In this context, indigenous peoples' representatives in national and international negotiations raised

their voices and asserted that they have certain systems, norms and customary laws which were oral traditions. But what they needed to make their message clear was an interface document like a charter that spoke about their background, history, culture, norms, representatives, and terms on which access would be provided and knowledge shared. This, he explained, was how BCPs came about.

Mr. Bavikatte briefly dwelt upon the convivial nature of BCPs and concluded by referring to Elinor Ostrom's Nobel Prize winning work on the governance of common pool resources and the eight design principles that the BCP development process can draw from.

Katrien van't Hooft and Bas Verschuuren introduced the Compas network, their work on Endogenous Development, and the material, natural and spiritual components of ED. They briefly touched upon the role of BCPs within the Endogenous Development process, and how it can help generate awareness among communities about their rights. They referred to BCPs as an interfacing document between national laws and a local understanding of what is right for them.

Patrick Muraguri from CKS Africa reflected on the role of traditional healers in African communities. He spoke about how the traditional healers cater to almost 80% of the population in regions where government healthcare does not even have access. He stressed on the need for communities to maintain their culture, follow their traditional systems and conserve their resources for their own well being.

Introductory Game

An introductory game that also served as an ice-breaker followed the inaugural session. The game, called 'The Speaking Stick' grouped participants into random pairs wherein they introduced each other and learnt basic facts about the other person's background, profession, some unique details and strengths. This continued for about 15 minutes, after which participants took the floor, introduced their partner to the others and spoke about what they learnt of that person. Each person had to continue speaking until they did the introduction to the satisfaction of their partner whom they were introducing. This continued until every participant was introduced.

Apart from being an interesting way of doing introductions, the game broke the ice between participants and even had some lessons for the development of BCPs. The listening skills that the game required are very important for anyone that is engaging with communities for a process such as BCP development. Each person had to listen to their partner with an open mind and without any prejudices or assumptions for them to understand and describe them in the best possible manner – skills necessary for the development of effective BCPs.

The First Role Play

The first participatory exercise undertaken at the workshop was a role play of a given scenario. The objective behind the role play was to initiate the participants into a process of dialogue, given a situation with multiple stakeholders and conflicting interests, and to arrive at a consensus to tackle

the situation. The exercise would impress upon participants the need to engage in constructive dialog for conflict resolution on sensitive issues.

The given situation had two communities living on an imaginary island off the coast of India, sharing their resources and knowledge. The island was an Indian territory, India being a party to the CBD. There were different stakeholders within the communities who had rights over its resources and knowledge including the leaders, elders and traditional healers. Other interest groups included the government which sought to exercise a degree of control over the resources through the local forest officials and the National Biodiversity Authority, and an academic researcher. The latter, an external stakeholder, wanted access to an endemic plant species which she believed had properties that could help treat tuberculosis. Her assumptions on the healing powers of the plant are based on the fact that the traditional healers in the communities have used the plant to treat respiratory tract infections. This traditional knowledge is of great value to the researcher and she sought the permission of the NBA to begin a process of engagement with the communities.

The scenario highlighted the complexities that communities faced in communicating what its values and rules were to an external stakeholder with little or knowledge about them. It also highlighted the complexity involved in decision making for the government authorities who had to oversee the process of engagement between communities and an external stakeholder. Ultimately, the scenario raised important questions about the complexity of understanding indigenous communities, their norms, their governance

structures and their ways of life. The full scenario is available in Annexure III of this document

The participants were divided into five groups. Each group was required to read, understand and internalize the scenario, and to develop or chart a plan of action on the way forward considering the interests of all stakeholders. Each person in a group would take on the role of one stakeholder and discuss the interest of that stakeholder. The participants were given about three hours to discuss the scenario and draw up their conclusions. At the end of the discussion each group presented their conclusion to the gathering, also highlighting the challenges that they faced in arriving at the conclusions.

Presentation of Role Play Discussions

Challenges

- The customary laws of the communities were not clear hence discussions often reached a deadlock.
- Since there were multiple stakeholders including two government agencies, there was a lot of confusion on each one's role in the negotiations
- There were dynamics that existed among various stakeholders within the communities
- The community members differed on the long term impacts of allowing an external stakeholder access to their resources
- It could not be established whether the plant species could be classified as endangered
- The communities were wary of the government taking over the entire process and excluding them from decisions that concerned their

resources and knowledge

- The communities were unsure about the intentions of the researcher and were apprehensive of getting their dues if they decided to part with their resources and knowledge
- There was the danger of research institutions and universities claiming patents on the products of research findings associated with TK, even though the fundamental knowledge was taken from a common pool. This became a point of much debate.
- There is a fundamental problem of translation across value systems. In traditional settings there are certain values and rules according to which knowledge is shared and disseminated. How would the TK be integrated into a value system to which it is alien?

Conclusions

Group 1

- The researcher should first directly approach the Traditional Healers' Association. The association will frame clear cut rules on outsiders' access to resources and TK through a consultative process with the two communities, and come up with resource and knowledge sharing agreements.
- The resource belongs to the state, whereas the knowledge belongs to the community. The researcher has to get the approval of the forest authorities to get access to the plant. She will engage with the Traditional Healers Association for access to the knowledge.
- If the forest authorities as well as the associa-

tion have agreed to provide her access to the resource and knowledge, she has to approach the NBA to get a final consent.

- The benefit sharing will be done as per the agreement between the researcher, the association and the forest authorities.

Group 2

- The researcher will approach the NBA who will brief the communities about the project being proposed.
- The communities will internally discuss and debate the merits and demerits of giving access and sharing knowledge with the researcher.
- There were differences in the opinions of the two communities about providing access and sharing TK. But it was decided that all the TK would be documented and it would reside in the custody of the community association. It was also decided that the association would develop the terms of access and benefit sharing.
- The role of the park authority is to protect the natural resource property rights.
- It was decided that access would be given and TK shared if the researcher could establish that her research was purely academic without direct links to a commercial agenda.
- The communities are not yet ready to consider the case of commercial use of their resources because they are not sure about issues of protection and sustainable use of an endemic plant species.

Group 3

- The researcher and the communities discuss

the project and build a good rapport.

- The communities are keen on using the plant for research that will feed into a commercial agenda. They are willing to share their knowledge for this purpose.
- The communities selected representatives from among themselves to form a council and negotiate the terms for ABS.
- The council decided to start a bio enterprise, and they framed rules for the governance of such an enterprise and included it within their customary laws.
- The council then entered into a contract with the researcher for providing access to resources, sharing of TK and the benefits, and defined the roles and responsibilities of each party in the agreement.
- The researcher also approached the forest authorities who have jurisdiction over the natural resources and obtained their permission to carry out the research.
- The NBA gave the final consent for the research to proceed after some due diligence. The NBA also encouraged the communities to document all their knowledge and claim patent rights.
- 30% of profit will be given to the community council to be shared equally between the two communities. 15% of profit goes to the Traditional Healers Association and another 15% goes to plant gatherers.
- 40% goes back to the researcher to be ploughed back into future research.

Group 4

- The TK is shared collectively by the two com-

munities.

- The government agencies will be kept out of all discussions with the researcher because they are likely to take over the whole process and exclude the communities from it.
- The communities agree to provide consent for research and documentation, but they are wary of the resources being appropriated by an external party.
- In terms of benefit sharing, the communities decide that it should go to three stakeholders.
- A percentage of the benefits go to the healers and another percentage goes into a community fund. A third share will be deposited into a healers' fund which can be used for the benefit of other traditional healers in the country.

Group 5

- The communities in this scenario were living in harmony until the researcher came along and presented issues alien to them.
- The communities engaged in intense debate. However they realized that outside influence on their way of life would result in infighting.
- The communities came to a mutual consensus that the proposal of the researcher could not be accepted. They also declined to provide any access for research purposes.
- The government agencies who were mediating between the researcher and the communities had no option but to pull back and inform the communities' decision to the researcher.
- When the researcher persisted, the communities finally agreed to give a few saplings of the medicinal plant to her, which she would multiply

organically. She agreed to pay compensation to a committee that would constitute of the forest authorities and the community stakeholders. This money would be utilized for protecting and safeguarding their ecosystem.

Discussion on Role Play Presentations and Establishing the BCP Links

The presentation on the role play scenario was followed by a moderated discussion among all the participants, where the facilitators introduced the concept of developing community protocols as a possible way forward. Although some groups were vehement that the researcher should not be provided access, it could eventually turn out that commercial benefits from research could lead to better income and employment opportunities if the resources are made use of wisely. However if the use of the plant is not regulated properly, the species could become extinct in a couple of decades given that it is endemic to that region.

The most important issue that the role play communicated was that of process. As was evident from the presentations, different groups came to different conclusions on what the way forward should be. In the same way, different communities in different parts of the world will come to different kinds of conclusions depending on their contexts and situations. The most important questions that cropped up were how the decisions would be made, and what was a just and equitable decision making process where the different stakeholders have a say?

In a scenario similar to this one, the outcome of the situation cannot be prejudged. There are no

right or wrong outcomes since different people, communities, and interest groups within communities make the decisions. But we can debate about the process of decision making because only a good process will lead to a good outcome. If the process begins at a community level then whatever be the outcomes, there will be a sense of content among the community members that their views had been sought and that outcomes were the result of a consensus among them.

The discussions during the role play tended to fork into two directions. One was a discussion on rights where there was a dilemma on who has the rights to the TK relating to the medicinal plant, and therefore who should make the decisions. Given that there were diverse stakeholders with diverse interests, pinpointing the rights of each became almost impossible. The other issue that came up was that of incentives - the kind of benefits that arise from research, both in terms of benefits for the larger humanity, and benefits that come back to these communities.

The key aims behind the protocols on ABS which are being negotiated at an international level are conservation and sustainable use of biological diversity. But the way it seeks to ensure conservation is through a delicate interplay of rights and incentives. For any transaction to be fair and equitable, the rights holders must have a say in how that transaction must be conducted and what are the terms and conditions based on which it will be conducted. So, fair and equitable benefit sharing is both an aspect of rights and incentives. The CBD aimed to incentivize governments by pointing out that they would benefit from their biodiversity, and therefore they must not engage

in short term development programmes that will cause the destruction of biodiversity. Rather, they should look at biodiversity as something that will benefit their people in the long run. Further, Article 8(j) confers on communities the right to their TK and way of life, recognizing their role in conserving their ecosystems over centuries.

Communities in different parts of the world used these rights, especially those related to TK, to open up discussions on a range of other issues including recognition for traditional decision making structures and customary laws. Much of the customary laws of communities are non-codified oral traditions, which is a key reason for the general lack of awareness and understanding about them outside communities. When external stakeholders want to access community resources, there are very little means for them to know what the customary laws are relating to that particular resource. In cases where the laws are not clear cut, community members come together and discuss, which by itself is a customary process of decision making reflecting its dynamic nature. The development of BCPs through a dynamic, internally driven process rooted in their values, customs and norms will serve as an effective interface tool that will articulate the voices of communities to outsiders.

By developing community protocols, communities are moving towards affirming their own way of life. It tells everyone else how they want to exercise their rights. It affirms their rights and customs, and provides clear procedures for obtaining FPIC.. With communities being an integral part of the process of developing protocols, the process itself becomes as important as the outcome.

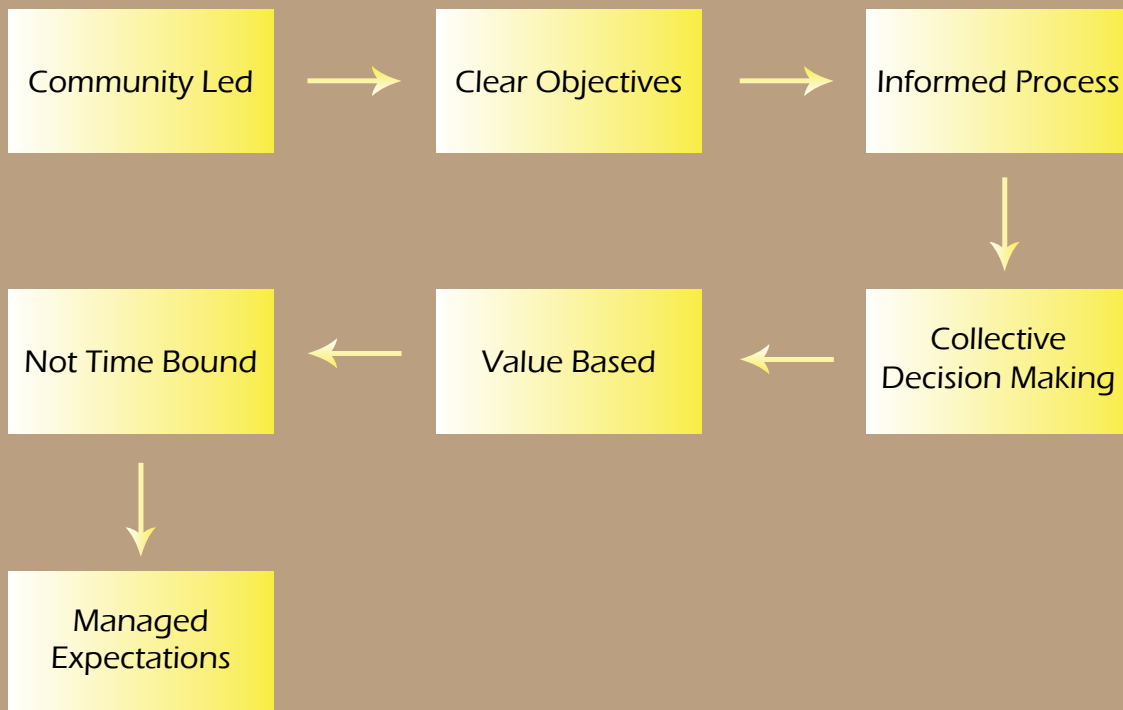
What is a community for the purposes of a BCP?

A community for the purposes of a BCP is a group of people who share resources and/or knowledge, and could have shared values, shared ethnicity, shared activity, common cause, or collective decision making interests.

(Extract from Presentation by Natural Justice)

What is a good process?

A BCP process should be community centric, listener focused, dialogic, and well being oriented.



(Extract from Presentation by Natural Justice)

The Second Role Play – Development of BCPs

The second role play, enacted on day two of the workshop, involved a much more intense discussion and debate than the first role play. The participants were given a set of loose facts from which they had to construct an elaborate scenario.

Unlike the first role play, the scenario was not clearly defined by the facilitators; rather it was left to the imagination of the participants to determine the facts of their narrative. This was because a set scenario may not resonate within the local contexts, and hence may not allow them to read into it their own challenges when addressing the situation.

The basic framework of the 'BCP Storyboard' involved a community that was seeking to develop BCPs. A list of issues and challenges that the community would need to consider in the development of the BCPs were also presented as part of the storyboard. The participants were expected to apply their imagination and experience to these set of facts and develop their own protocols.

The participants were divided equally into two groups. The groups were given the rest of the day to discuss, and then to develop and draft the BCPs. The process continued into the evening since the presentations were to be done the following morning.

The scenario set out the following stakeholders:

- The Malgudi Traditional Healers who belong to

different communities

- The Malgudi Conservation Society (A Community Based Organization)
- The Malgudi National Park Authority
- The Malgudi Municipality consisting of the adivasis, pastoralists and the NBA

Some members of each group were asked to take on the role of the community members and traditional healers, while others were asked to take on the role of CBO representatives helping to facilitate a BCP. The BCP would develop as a result of the interactions between the community and the BCP facilitators. The entire exercise consisted of three activities:

1. Information gathering - a consultative process that sought to address the fundamental questions of why the BCP, and what are the issues it will address
2. BCP Development – Focused discussions on the issues at hand, information gathering and consolidation, and research into supporting legal frameworks
3. Drafting of the BCPs – Within each group, a set of members produced a draft of the BCPs, which were then reviewed by the others, until a final draft emerged

The following were the issues outlined by the scenario which the role players needed to consider:

- The traditional healers wanted to regulate the use of their TK
- Adivasis, pastoralists and traditional healers wanted access to the National Park (Healers wanted access, but needed to consider the use of

the park by other communities as well)

- Park authorities wanted to regulate the access to the park and protect wildlife
- The Malgudi municipality had to implement ABS law
- The Malgudi Conservation Society (a CBO) wanted to secure rights of different communities and traditional healers
- The Government of India wanted to balance the rights of communities with conservation priorities

While developing the BCPs, the groups also needed to take into account other external issues that would come into play in a realistic situation.

The key aims for the representatives of the CBO were conservation, community rights and governance. They were concerned about the well being of the adivasi communities. There was a possibility of conflicting interests between traditional healers and other stakeholders, including other members of the communities, in their efforts to secure their rights over the use of forest resources. A key question that the groups had to address concerned the issue of who will form a community for the purposes of a BCP.

Other key dilemmas for the CBO were that there were other stakeholders with other interests in the region; and they had to find ways to support the traditional healers in developing the BCPs without creating conflict.

The CBO representatives, along with community members also had to decide their priorities in terms of community well being, food security,

health security, equity, autonomy to govern their resources, using their capacities and skills, and undertaking livelihood activities within their region.

The participants were expected to develop a document that would be more than a static statement of rights or responsibilities in terms of conservation. The BCPs were expected to describe the communities, their history, background, culture, customary norms and governance structures, and to be a document that represents their aspirations to external stakeholders.

The Course of Discussions

The discussions that ensued to build the scenario and develop BCPs threw up some intriguing and interesting points. The spiritual aspects of people's lives and the sacredness attributed to many natural resources turned out to be a point of much debate. Community members were mostly unwilling to allow any external party access those resources which they considered sacred.

Another aspect which came out during the discussion was the need for the CBOs to share a rapport and build the confidence of communities for them to be able to interact effectively, especially when it came to sensitive matters like sacred resources.

Many challenges were also thrown up during the course of discussions. There were issues and dynamics relating to community control of resources, confusion over the demarcation between community land and common land, and difficulties in understanding customary laws.

Endogenous Development & BCPs

Endogenous development (ED) is a process of community development based on the priorities, needs, principles and perception of well being of the local people. ED is founded on the principle of self-determination, and is a holistic process that takes into account the material, social and spiritual well-being of communities. It recognizes and builds on local identity and values that are present in the day to day activities of communities. Given that the nature of ED is driven by local strategies and values, the priorities, needs and criteria for development will differ from community to community.

BCPs are a potent tool to enable and enhance an endogenous approach to development. They represent a rights-based approach that supports communities' rights to self-determination and endogenous development. While enhancing the ED process, the development of BCPs in itself should be part of an endogenous process. It brings in legal muscle to the ED process and draws from its core principles. As a tool that facilitates the ED process, it strengthens the local identity, and enables access to local resources like land, water, plants and animals. BCPs also foster local initiatives and potential, and strengthen local forms of trade and commerce.

For communities, the process of developing BCPs can be an empowering experience as it makes them aware of the laws and conventions that underpin their rights to their resources and way of life. This will result in the empowerment of local communities in taking control of their own development process. Also, by promoting an endogenous approach to the management of natural resources and bio-cultural heritage, BCPs lead to increased biological and cultural diversity, reduced environmental degradation, and practices that conserve and sustain local resources.

(Summarized from presentations made by Katrien van't Hooft and Bas Verschuuren on 04 June 2010, and Endogenous Development Magazine, Issue 6, July 2010)

The Quality of a BCP

A BCP arises within an endogenous development process to realize a state of wellbeing. The quality of a BCP is determined by how closely it aspires towards social, material and spiritual wellbeing. This consideration should be integral to the process of development of the BCP, and its outcomes.

(Extract from Presentation by Natural Justice)

The development of BCPs also involved introducing the communities to some new concepts, which they found difficult to grasp. Therefore capacity building can become a difficult task, especially if it is compounded by a language barrier.

Within communities the caste system is still a divide, and practices like untouchability is sometimes enshrined in the customary law. Also, organizing and mobilizing all the communities as one unit is difficult, especially when they are divided along caste lines.

Another challenge was maintaining the confidentiality of TK, which the communities, especially the traditional healers, were wary of. In one of the groups, the CBO representatives were repeatedly shunted out by the community before they finally agreed that their TK could be documented, but with the condition that it would reside in the custody of the community elders.

There were also situations where multiple communities resided within the same ecosystem, but with different belief systems and notions of what is considered sacred. These cases required intense discussions among communities before they could arrive at a mutually agreeable way forward in dealing with external parties.

Presentation of the BCPs

The BCPs were presented by a representative of each group on the morning of the third day. Although the role play exercise was only intended to bring out work in progress that could be extended to a community in a real life situation, the documents that the participants brought out

were strikingly detailed given the time available.

The first group took the example of a real life fisher folk community that lived in coastal Tamil Nadu, north of Chennai. They developed the scenario based on the lives and culture of that community and documented their background, history, governance structure and customary norms. They described the TK that the community possessed, and then defined the decision making process that the community would follow when they had to make decisions regarding community resources. They also affirmed the rights accorded to them under the Indian Biological Diversity Act, Coastal Regulation Zone Act and the UN Convention on Biological Diversity.

The second group developed an imaginary scenario that consisted of ten communities sharing an ecosystem, practicing different traditional healing techniques. The BCP document outlined the common background and heritage of the communities and their healing practices. It described the communities' customary laws and their roles in conserving their ecosystem. It described their structures of governance and decision making. It also described the communities' terms of engagement with external stakeholders, and the reason why the communities decided to initiate the process of BCP development. It even provided some guidelines for establishing bio enterprises by community members.

The Concept of Well Being and Links to ED and BCPs

Well being has been broadly defined as an overall feeling experienced by people as a result of their various needs being met. It is a very perceptive and subjective concept, and hence, is not very clearly defined in set terms. In development economics, the Capabilities Framework developed by Nobel Laureate Amartya Sen and Martha Nussbaum has been widely used to describe the well-being of a community or social group whose members have made decisions within the “freedom given to them” and with the capabilities available to them. These include decisions on natural endowments like the ecosystem they live in, resources they have, their skills, knowledge, customary norms, and markets they interact with.

The decisions people make are directed towards achieving a state of well being by having certain needs met. Based on Abraham Maslow’s work on the Hierarchy of Needs, these needs can be classified into basic needs, safety needs, belonging needs and self esteem needs.

Basic needs comprise of necessities like food, shelter, health, energy, etc. The perception of what is ‘basic’ could differ from community to community, but these would form a baseline.

Safety needs deal with the level of safety and security a community feels. These include tenure rights to access resources and to live in their place of domicile; protection from natural calamities through insurance schemes, community funds, resource conservation, etc; and economic security by engaging in a range of livelihood activities or by building up savings.

Belonging needs deal with the human desire to be connected with a broader community along the lines of shared attributes like ethnicity, economic activities, interests or value systems. Indicators of belonging are affiliations to social groups, and social equity in terms of gender, caste, and other representations.

Self esteem needs are about the level of confidence communities have in managing their resources, activities, and in interacting with external partners. This can be captured through indicators like educational levels; confidence in articulating opinions, and entering into effective partnerships with external parties; level of autonomy over resources, governance structures and economic activities; and spiritual indicators.

A rapid research conducted by UNU-IAS and Equator Initiative Partners across 14 communities in different parts of the world revealed a number of facilitating factors that helped communities achieve key indicators (needs) that translate into well being. The research sample consisted of successful communities that were generally perceived to have reached a level of well being. The sustainable use of local resources and innovative application of customary laws for solutions to present day challenges were found to have helped communities in achieving many well being objectives. Other facilitating factors included autonomy in governing community resources, supportive macro-governance structures, good support from CBOs in enterprise development, access to good markets, and adopting of comprehensive long-term approaches for tackling challenges.

UNU, COMPAS, and UNDP Equator Initiative are currently working to test a well-being assessment framework at the community level which include cultural and spiritual indicators, addressing tangible values such as sacred sites, totemic plants and animals, roles of spiritual leaders, as well as intangible values such as ceremonies, language and recognition of religious and spiritual beliefs.

These initiatives enhance the empirical evidences that support the theoretical frameworks on which endogenously driven approaches to community well being are built. As a legal tool that aids and catalyzes the ED process, it can therefore be said that BCPs are an enabler of community well being.

(Summarized from presentation on well being made by Dr. Suneetha M.S. on 04 June 2010)

Sector Focused Group Discussion

A sector focused group discussion was facilitated following the BCP development exercise. The objective of this discussion was to highlight issues from the collective experience of participants pertaining to their specific sector or area of work. The participants were divided into three groups based on the sectors they worked in. Three sectors were identified and every participant was associated with one of them. They were Traditional Health, Natural Resource Management (NRM) and Agriculture.

The groups were then asked to do the following within themselves:

1. Identify the key strengths that communities and organizations in their sector possessed that would help them achieve a level of well being.
2. Identify the challenges that they would face when taking up an ED process.
3. Describe how they thought BCPs can be effective in helping them achieve their ED goals, and address the challenges that they faced.

The groups were given 45 minutes to discuss, following which a representative of each group presented findings to the entire gathering.

Presentation of Sector Focused Group Discussion

Group 1: Traditional Health

Strengths

- The local healers take care of the health needs

of entire communities

- Local healers and the community have an extensive amount of local knowledge related to health
- Utilization and conservation of natural resources
- Communities have organized themselves
- Customary laws related to the management of natural resources exist

Challenges

- Access to natural resources is constrained
- Erosion of TK
- Commercialization of healthcare
- Exploitation of traditional health systems
- Rights to practice as healers is not accepted/recognized at government level
- Scientific validation of TK is still lacking
- Low hygiene of local practices
- Increasing urbanization where people have no access to local resources for health needs
- Low awareness about value of local practices
- Depletion of natural resources
- Limited awareness about policies
- Communities do not lobby or have a say at government level
- Younger generation has little interest in traditional health systems due to low livelihood opportunities and modernization

BCP Links

- It will increase access to natural resources

- It will increase documentation of local knowledge
- It will enhance the confidence of the traditional healers and provide better organization and liaison opportunities with outside agents
- It will promote better recognition and officially confer on them the right to practice
- It will be an entry point for scientific valuation
- Awareness about policies will increase
- It will enhance communities' ability to lobby for more favorable policies
- It will increase livelihood options, thus encouraging younger generations to take up traditional health practice

Group 2: Natural Resource Management

Strengths

- The possession of TK, and presence of organized communities
- Structures and institutions of governance already exist
- They use resources sustainably since they have traditionally held the wisdom to do so
- Communities are cohesive and they respect each other
- They understand their well being needs
- There is a degree of social fencing

Challenges

- Conflicting interest between governments and communities
- Community consent is not sought for official resource mapping and zoning activities

- Sometimes national legislations conflict with customary laws
- Commercialization & land grabbing
- Mistrust between communities and other stakeholders
- Challenge relating to lack of knowledge on existing legislation
- Fragmented and uncoordinated legislation on natural resources

BCP Links

- They can be tools for negotiation
- They will help in self regulation
- They affirm territorial rights of communities
- They amplify the community identity
- They identify community resources
- They promote the participatory approach to decision making
- They help revitalize TK and practices
- They enhance community participation in resource management

Group 3: Agriculture

Strengths

- TK across broad range of topics including seed selection, processing, storage, climate, indigenous crop varieties, pest control, and vruksha ayurveda
- Safety nets are present to some level
- They have rights over their land and livestock
- Cultural capital – cultural practices are prevalent in farming communities
- There is a sense of social belonging

- There is a strong bonding within the farming community and strong links to others like pastoralists and livestock communities
- Feeling of self esteem & respect for motherland
- Financial inclusion of farming communities into the mainstream credit system
- Cooperative labour exchange in conventional farming ensures self reliance
- Seed sharing and grain sharing mechanisms are present

Challenges

- Large scale migration of people to urban areas
- Profitable alternative opportunities of income are available now
- Profitability of agriculture going down due to high costs and commercialization
- Climate change is a looming threat
- Natural risks are always around the corner
- Soil fertility is going down
- Farmer suicides are casting a pall of gloom on the community
- Government policies are not agriculture friendly anymore

BCP Links

- They can be effective tools to help communities understand their strengths
- They will help documentation of agriculture related TK
- They can be bargaining tool for rights
- They can revitalize TK
- They can sensitize communities on a range of

issues and obtain consensus

- They will help in providing direction to communities

Role of the CBO

A CBO facilitates a BCP process by raising critical questions, and providing the community with the relevant information and the necessary networks required to successfully develop and use a BCP.

(Extract from Presentation by Natural Justice)

Highlights of Discussions from Various Sessions

- What is an organic and participatory approach to developing BCPs? How can we avoid gate crashing the lives of the people of a community? We should not intervene without understanding their ways of life.
- What are the environmental benefits in the long run? Would the socio economic conditions of communities improve over a period of time? Communities tend to lose interest over time in conservation and sustainability when the productivity of crops and animal breeds are lower than when non-organic methods are used. Actual situation on the ground can be very different from what we envisage.
- Can we ensure livelihood opportunities for people when the focus is on conservation?
- How do we engage with every community to develop BCPs, given that there are so many communities in the country, each with their own unique situation and context?
- Can a BCP be just a shield where it protects the community? Or can it also be a sword which communities would use to go out and negotiate with people on their terms? Does it only have to be a defensive instrument? Or can it also be an instrument which allows the community to step outside their boundaries and exercise control over their resources outside community domains?
- The BCP will have limited value unless there is a vibrant community that seeks to guard or protect their way of life. But also, if that internal cohesion is not there, the BCP can become an aspirational document around which people come together based on cultural memories.
- What are the preconditions for a BCP? Is it something which anybody or any kind of community can do? Should there be a reason to do it? What if there is an existing governance system at the community level that is very robust and effective?
- How can we ensure that BCPs are embedded in a community endorsed process of endogenous development?
- Does documentation of TK put it into a public domain, or does the TK still remain linked with the right of knowledge holders who provide it?
- Do communities initiate a BCP process only when there is a commercial offer for their TK from an external party? Or it is done in the expectation that the commercial benefits will come? What happens when communities spend a lot of time to develop a BCP and nothing comes out of it?
- Should a BCP be an outcome, or should it be an open ended process?
- It should be clearly demonstrated how BCPs can be linked with soft law and advocacy strategies - strategies for having BCPs recognized at various levels.
- If the process is not time bound, is it not likely that it could drag on indefinitely? How long is a long process, and how short is a short one?



CONCLUSIONS & WAY FORWARD

The final session of the workshop was a moderated discussion on the way forward. The process of lobbying for recognition of community laws in national and international legislations had already gained momentum with a number of countries displaying their inclination for such a move. As mentioned earlier, this workshop was part of that process, and was an effort to build capacity at the community level in moving towards that goal.

Some of the community representatives who participated in the workshop had already begun discussions with communities they worked with for developing BCPs. Some others were involved in earlier BCP development initiatives. For these organizations, the discussions helped consolidate a lot of information and brought them in contact with many other communities which will help them enhance their work.

An important point discussed was the larger strategy going forward, and how this workshop and other similar ones would fit into that, so that community representatives and CBOs may relate to the broader picture. At the local level, more awareness needs to be raised about the uses and benefits of BCPs so that communities are motivated to implement them effectively. It can then be escalated to the government level as the voice of the people, and be used as a platform based on which we can start negotiations. The strategy

of how the protocols will be implemented and what we will do with it at different levels must be part and parcel of the process of developing the BCPs. That will also help address communities' apprehensions on undertaking the initiative in the first place.

The multi-layered approach can have multiple entry points too, as there are for any effort that leads to legal and social change. But the challenge is to make the necessary linkages between the efforts that are made at the local, national and international levels. Capacity building exercises similar to this workshop can serve to meet that end since they enable the process of taking the community level voices to national and international forums.

As was mentioned earlier, there is a lot of emphasis on ABS at the international level. But we may often find that ABS is not the biggest issue for many communities. More often than not, issues of protected areas or those relating to food security may be more important to communities. However, ABS can be used by communities in a strategic way to secure rights in international forums, and then be used as a platform to pitch for other rights related to ABS.

Communities and their representatives are also increasingly locking in soft law resolutions that aid their objectives with hard law conventions

and treaties between parties. This may be a slow process, but it is vital to connect the dots and see how these international conventions link up to national and local processes and vice versa. There are a number of conventions that are being negotiated, which have spaces where BCPs can be recognized. These include the Programme of Work on Protected Areas (PoWPA), ABS and the Working Group on Article 8(j), UNCCD, UNFCCC and UN-REDD. Other UN institutions like World Intellectual Property Organization (WIPO) and the Food and Agricultural Organization (FAO) are also discussing ways to develop sui generis mechanisms to protect TK.

To be recognized at the national and international levels, it is vital that there is a growing body of BCPs, as well as an increasing body of research work on them. If the numbers add up suitably, policy makers are more likely to take note and take concrete action on recognizing BCPs. To this end, as much as to form the terms of engagement on ABS and a defence against exploitation, a number of organizations have pledged to partner with communities in piloting BCPs.

Natural Justice is continuing to work with communities in Africa, Asia and Latin America to assist them in developing BCPs. The COMPAS network is already supporting processes in Ghana, Sri Lanka, Bolivia and Guatemala. The CKS Africa members along with CBOs in Kenya have decided to work with communities there in developing BCPs. A number of CBOs from India have also resolved to initiate the process with communities that they work with. Experiences from all these initiatives, along with past experiences are expected to form a chorus - if not a roar - at major forthcoming

events calling for change in the approach of international bodies and nation states towards the rights of communities to their knowledge, culture and ways of life.

ANNEXURE I

List of Participants at the Workshop

Sno	Name	Organization
1	Dr. Merlin Franco	Centre for Indian Knowledge Systems, Chennai, India
2	Dr. E.D. Israel Oliver King	M.S. Swaminathan Research Foundation, Chennai, India
3	Mr. Patrick G. Muraguri	CKS Africa, Nairobi, Kenya
4	Mr. Tetu Mating	Porini Association, Nairobi, Kenya
5	Ms. Gloria. P	National Institute of Medical Research, Tanzania
6	Dr. Suneetha M.S.	UNU - Institute of Advanced Studies, Yokohama, Japan
7	Mr. G. Sankar	Praja Abhudaya Samstha, Chittor, India
8	Mr. Bern Guri	Compas Network, Ghana
9	Mr. Bas Verschuuren	ETC Compas, Netherlands
10	Ms. Katrien van't Hooft	ETC Compas, Netherlands
11	Ms. Debjani Roy	IGNOU, Shillong, India
12	Dr. C.S. Rana	Herbal Research & Development Institute, Uttarakhand, India
13	Mr. Ahg Migmar	Kagyu Nalanda, Mysore, India
14	Ms. Chanda Pande	Independent Practitioner, Bangalore, India
15	Ms. M. Jayashree	Hundsaghatta, Karnataka, India
16	Ms. Vaishali Gawandi	Rural Communes, Mumbai, India
17	Mr. Asif Riaz	Ideaplus Consulting, Chennai, India

18	Mr. P. Ravindra Kumar	Advocate, Bangalore, India
19	Ms. Sally Sampath	Advocate, Bangalore, India
20	Mr. Purnendu Barik	Sambandh, Bhubaneshwar, India
21	Mr. Mallappa G.	PVPK, Tarikere, India
22	Mr. Gurusiddappa	Independent Practitioner, Bangalore, India
23	Mr. S. Subanathan	TNPS, Madurai, India
24	Dr. Jitendra Kumar	FRLHT, Banagalore, India
25	Mr. Fabian Marbaniang	Martin Luther Christian University, Shillong, India
26	Dr. Manoj Kumar Sahoo	Sambandh, Bhubaneshwar, India
27	Mr. Narendra Gujjar	JJVS, Udaipur, India
28	Dr. R.K. Deshwal	JJVS, Udaipur, India
29	Dr. John Suresh	PLANT, Chennai, India
30	Ms. Deeksha Sharma	GREEN Foundation, Bangalore, India
31	Mr. Gino Cocchiario	Natural Justice, Cape Town, South Africa
32	Mr. K.A.J. Kahandawa	CKS Sri Lanka, Badulla, Sri Lanka
33	Mr. Kabir Bavikatte	Natural Justice, Cape Town, South Africa
34	Ms. Jen Laughlin	UNDP Equator Initiative, New York, USA
35	Mr. John F. Kharshing	SPIKAP, Shillong, India
36	Mr. H. Carehome	Independent Practitioner, Jaintia Hills, India
37	Dr. Manjunath D.	FRLHT, Banagalore, India
38	Dr. Girish Kumar G.	FRLHT, Banagalore, India
39	Dr. Kumar S.K.	FRLHT, Banagalore, India
40	Dr. Prakash B.N.	FRLHT, Banagalore, India
41	Mr. G. Hariramamurthy	FRLHT, Banagalore, India

ANNEXURE II

Full Text of Dr. Darshan Shankar's Inaugural Speech

Good morning everybody. I think this workshop is a very important initiative, looking at what we are calling 'Bio-cultural Community Protocols'. We are all aware of the CBD, and the resolution of that convention which laid importance to not only conservation, but also sustainable use of biodiversity. The most important users of biological resources are communities who live around these biological resources. I think that is the context of looking at protocols relating to the knowledge of communities regarding biological resources.

Although there are people here from different parts of the world, I would like to share with you two key words that we have in our codified language called Sanskrit which will illustrate the importance of the term 'bio-cultural', and therefore what we need to do with these protocols. I will explain the etymology and breakup of two terms 'prakruti' and 'samskruti'. 'Prakruti' means nature. If we look at the etymology of this word and the root words, they are 'pra' which means 'from before' or 'from time immemorial', and 'kruti' means 'an ongoing process'. So 'prakruti' is then a natural process that has been going on from time immemorial. This stands in the context of our discussion on biodiversity which is a major manifestation of nature and something that has been there since time immemorial.

The other word 'samskruti' means culture. The root words are 'sams' and 'kruti'. The word 'sams' means 'modification' or 'reflection'. 'Kruti' again means 'ongoing process'. So we can derive that 'samskruti' is a modification of the ongoing process of nature and when you modify 'prakruti', you get 'samskruti'. What is implied is that culture is derived from nature, and without nature there is no culture. That is the basis of culture and these two key words show the relationship between nature and culture, the latter being a modification of the former.

So therefore when I see the word 'bio-cultural' as a key word in the context of community knowledge, it makes sense. Because the knowledge is not merely biological, rather communities have reflected on the biological knowledge and modified it, therefore making it bio-cultural in nature. For example in the biodiversity legislation in India, there is provision for something called People's Biodiversity Register (PBR). In hindsight, it may have been better to call it People's Bio-cultural Knowledge Register. We need not change the legislation to alter the name, but in terms of understanding, we understand that the nature of knowledge of communities about biological resources is really a cultural phenomenon. Therefore the term bio-cultural is very appropriate, at least for the purpose of knowledge and education.

What do we want to do with the bio-cultural knowledge and the documentation of it? Why are we creating protocols with it? What is the purpose of this documentation? I will tell you my opinion on the matter which may not be shared by all others in this gathering. In my view there has been too much of an emphasis on issues relating to ABS, and on what terms communities will provide access to their rich and diverse biological resources and knowledge.

I am not suggesting that we should not ignore this aspect, but in my view far too much emphasis has been given to this. It is only fair that commercial and research organizations that are keen on utilizing the knowledge of communities share the benefits they get with the communities that have given them the knowledge. But is this the only

purpose of documenting rich bio-cultural community knowledge? Was this the purpose for which this knowledge was, and is being currently used by communities? Why did the community develop this understanding about the local nature around them – the plants, animals, metals, minerals, waters, etc? Not only that, if you go into the cultural aspects you will find that they also knew about perhaps spirits that existed in that nature, although this is something that science does not recognize.

But the fact is that communities around the world have seen various kinds of non material and spiritual entities in nature. So nature, to communities all over the world is not only a physical nature; it is not only biological; but it is also spiritual. We have to recognize this spiritual dimension to nature. Communities also have their own understanding about the physical, biological and spiritual aspects of nature.

Why did communities reflect in this way, i.e., on the physical, biological and spiritual aspects of nature? They did so for their own use, not for the use of somebody else. They did it for better agriculture, better healthcare, better quality of drinking water, better mental and physical health, etc. They did it for various purposes that were relevant to their own lives and well being. So primarily the genesis or origin of community knowledge of biological resources was for the purpose of improving the well being and living of communities themselves. The business of providing ABS is a very recent phenomenon when some outsider recognized that the knowledge communities have can be made into to a commercial commodity or product. So therefore they wanted to get hold of that knowledge. Earlier, there were people who were stealing and exploiting that knowledge, but then communities and organizations concerned with justice around the world raised their voices against such practices. That is how the ABS regime came into existence.

But if the entire debate regarding community knowledge only focuses on ABS, then we have a problem with it. In this institution we believe that the knowledge should be put to use for the purposes that they were originally intended for. The primary purpose of the documentation should be to see for example, how we can improve our healthcare, food, nutrition, and agricultural practices for the well being of communities. Earlier we did not need to document this knowledge because there was a rich oral tradition of passing on by word of mouth. Word of mouth is a very civilized, intense and reliable way of passing down knowledge. The quality of learning is much superior when there is an oral tradition of transferring knowledge.

Today we are talking of documenting knowledge because we are not able to pass on all knowledge orally. Therefore we are looking to develop protocols. My word of caution would be that if circumstances demand that documentation is a convenient way of recording our traditions and knowledge, let us do so. But let us not carry it to the other extreme where we say that the only way to document, transfer, maintain and preserve knowledge is through documentation.

The rich tradition of oral transfer is pedagogically the best way of passing on knowledge down the generations. We have done this for thousands of years. It is incredible how the living and evolving knowledge has been passed down through the centuries in the field of healthcare. To give up the oral transmission route for a documented route would destroy a great learning tradition which existed in our community. While documentation is very convenient today, the oral tradition should not be lost sight of, because educationally and pedagogically it is an extremely rich tradition with track record of enormous success over generations.

To sum up, the key messages of my opening remarks to this workshop are that (1) ABS should not be the only focus of documenting community knowledge - the primary focus should be the utilization of the knowledge for communities themselves in creative ways; (2) while documentation is important, the oral transmission should not be ignored. I would like to conclude here although I could speak longer on this subject. I am very pleased that this initiative has been taken. I happen to be a member of the National Biodiversity Authority of India, the body charged with implementing the biodiversity act. I will certainly try to see that the content in our PBR should include the rich cultural knowledge of biological resources. Thank you.

ANNEXURE III

Scenario of the First Role Play

The Magge and the Nugge people are indigenous peoples living in the tropical jungles of the Kagge Mountains of Justiciana, an island in the Indian Ocean. Justiciana is off the coast of India and considered part of India. India is a party to the Convention on Biological Diversity (CBD).

The Kagge Mountains are in the Kagge Mountain National Park, which is controlled by the National Parks Authority. The Magge and the Nugge people live in the national park use many of the unique plants of the tropical forest for food, medicine and shelter. Healers amongst the Magge and Nugge are experts in the medicinal use of the plants in the Kagge Mountains. The leadership of the Magge people is the Council of Magge Elders and the leadership of the Nugge people is the Chief of the Nugge. While there have historically been conflicts over resource use between the Magge and Nugge people, the healers of both communities have always shared traditional knowledge and the sacred groves for medicinal plant collection under the rules of the Kagge Mountain Traditional Healers Association.

The Kagge Mountain National Park issues permits to all visitors to the park, according to the Wildlife Conservation Act. Professor Seema Rao of Bangalore University, Department of Botany, is interested in researching the medicinal use of the "Blue Hibiscus" a plant endemic in the Kagge Mountains. She has heard that the Magge healers have traditionally used the Blue Hibiscus juice in the treatment of respiratory tract infections. Professor Rao feels that this traditional knowledge will be of great value in the treatment of tuberculosis.

Professor Rao travels to Chennai and approaches the National Biodiversity Authority for permission to use the traditional knowledge of the Magge for research and possible commercial development. The National Biodiversity Authority has to consider the different interests before making a decision.

Divide your group into 6 stakeholders each representing a different interest. Spend the next 40 minutes discussing the different interests. The National Biodiversity Authority in each group should then present the final decision of the group along with the challenges in making this decision.

A) The Kagge Mountain National Parks Authority has the following questions:

- 1) The Magge people have no customary laws regarding ABS- Should the Parks Authority therefore give consent to Prof. Rao on behalf of the Magge people?
- 2) Since the traditional knowledge relates to a "Blue Hibiscus" a genetic resource under the control of the Parks Authority, what should the role of the Parks Authority be in any potential ABS agreement with the Magge?

B) The Council of the Magge Elders have the following questions:

1) Only the Magge healers know the traditional knowledge relating to the Blue Hibiscus and the healers belong to the Magge community and are answerable to the Council. Who should give consent for the access to the traditional knowledge?

2) Since this is the first time the Magge have been asked to provide their traditional knowledge for research purposes and there are no customary laws dealing with this, on what basis should the Council make a decision?

C) The Chief of the Nugge People has the following questions:

1) The traditional knowledge relating to the Blue Hibiscus is also shared by the healers of the Nugge people- Should the Chief of the Nugge People also have to give consent for its use?

2) On what basis will the Chief of the Nugge give his consent, since the knowledge belongs to the Nugge healers who have not revealed it to the Chief or the community?

D) The Kagge Mountain Traditional Healers Association has the following questions:

1) The traditional knowledge relating to the Blue Hibiscus belongs to both the Nugge and Magge healers and is used according to the rules of the Kagge Mountain Traditional Healers Association- Should the healers association give consent for the use of the traditional knowledge and benefit from its utilization?

2) The healers association does not have any rules regarding ABS. How should they decide on what basis to provide consent?

E) Prof Seema Rao has the following questions:

1) The research policy of the Bangalore University requires her to get the prior informed consent of the indigenous community in accordance with their customary laws for any use of traditional knowledge- how should she go about it?

2) The outcomes of the research could also be used for commercial purposes and the Bangalore University wants to ensure that individuals or groups in the community who claim to own the traditional knowledge do not later challenge the ABS agreement. How can she avoid such a situation?

F) The National Biodiversity Authority has the following questions:

1) Since this is the first possible ABS agreement relating to traditional knowledge in India, how can we develop a model that can be used when there are other users interested in the knowledge of the Magge and the Nugge?

2) How can this model ensure that those who are the legitimate holders of the traditional knowledge give the prior informed consent for the use of the traditional knowledge and how can the potential benefits be shared with them?

ANNEXURE IV

Presentation on BCP Process by Natural Justice

What is a community for the purposes of a BCP?

A community for the purposes of a BCP is a group of people who share resources and/or knowledge and could have: 1) shared values 2) shared ethnicity 3) common cause 4) shared activity 5) collective decision making



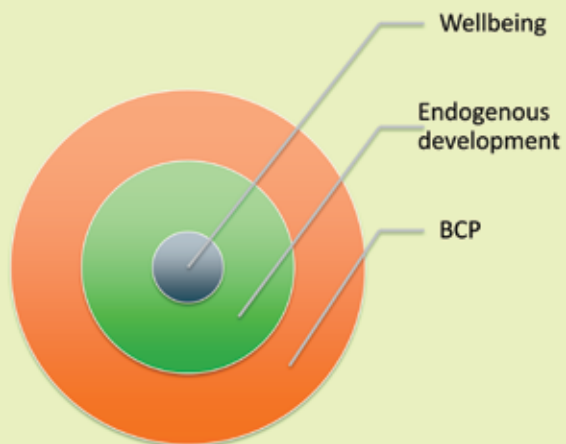
Triggers for a BCP

A BCP can be triggered either by an aspiration towards a biocultural goal (e.g. to engage with a bioprospecting opportunity) or a need to defend biocultural values (e.g. to secure traditional forest rights from being usurped).



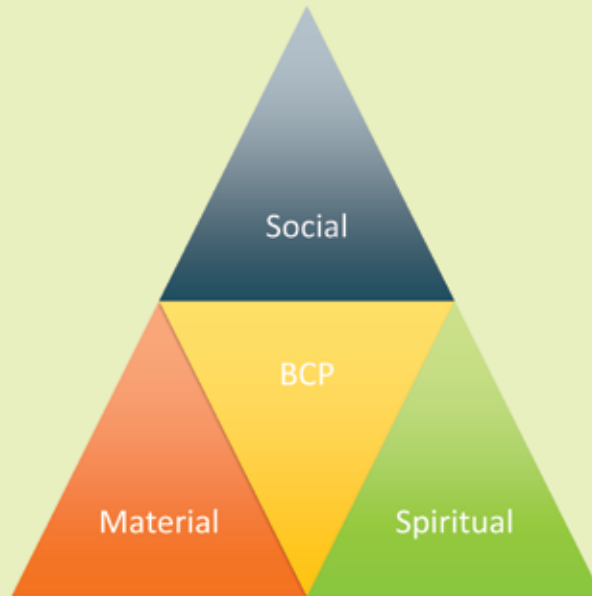
The Quality of a BCP

A BCP arises within an endogenous development process to realize a state wellbeing



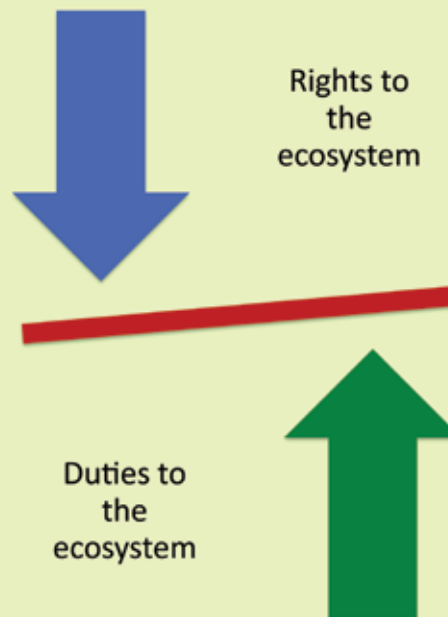
The Quality of a BCP

The quality of a BCP is also determined by how closely it aspires towards social, material and spiritual wellbeing. A consideration of social, material and spiritual wellbeing of the community should be integral to the process of development of the BCP and its outcomes



BCP: A Just Balance

A BCP is a just balance between the rights of a community to its ecosystem and its benefits and its duties towards nurturing this ecosystem



BCP: Tool of interface

BCPs are community developed tools that are rooted in an understanding of the external systems that impact them and strategically deployed to engage these systems to secure community wellbeing



Elements of a BCP

A BCP is a community led dialogue that seeks to effectively engage external stakeholders to secure the community's wellbeing

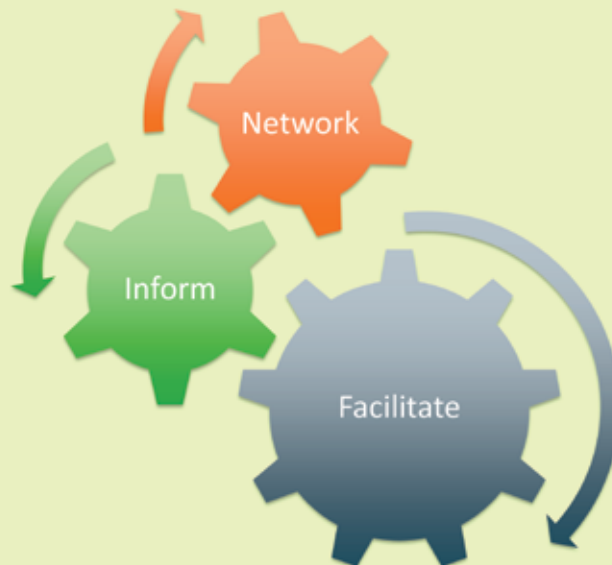



BCP: What is good process?



Role of the CBO in BCP development

A CBO facilitates a BCP by raising critical questions and by providing the community with the relevant information and the necessary networks required to successfully develop and use a BCP





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