

5

INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' LAND RIGHTS TOOLKIT

1

2

3

4



6

7

8

9

INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' LAND RIGHTS



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CONTENTS

- 4** Welcome to the indigenous peoples' and local communities' land rights toolkit!
- 6** Community-based natural resource management (CBNRM) of the pasturelands
- 10** Joint village land use planning
- 16** Strategies for fair recognition of customary land tenure and land use systems by government and private investors
- 24** Payment for ecosystem services
- 28** Strategies for conflict resolution between indigenous peoples and Criollo peasants
- 32** Mechanism for inclusive and accountable local land governance
- 36** Participatory mapping for customary forest use
- 40** Participatory land regularisation process starting with an agreement within the community
- 44** (3D) Participatory mapping
- 48** Implementing free, prior and informed consent



WELCOME TO THE INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' LAND RIGHTS TOOLKIT!

This toolkit gathers together information on ten tools that have been successfully used by members of the International Land Coalition (ILC) to promote, protect and strengthen indigenous peoples' and local communities' land rights. It is intended to facilitate mutual learning based on the good practices of specific ILC members.

The opportunity to share knowledge is one of the main benefits of being part of a network like the ILC. Use these tools, adapt them to your specific context, share them with your partner organisations and share with us your achievements and successes!

WHAT IS THIS TOOLKIT FOR?

This toolkit aims to provide information on a range of tools, intended to be effective at global, national and community level, depending on their features. One of the main characteristics of the tools is their adaptability to different contexts and areas of work. We aimed for these tools to be clear, replicable and, above all, useful in promoting and reinforcing indigenous peoples' and local communities' land rights. This toolkit contributes to knowledge exchange within ILC's membership.

WHAT'S THE STORY BEHIND THIS TOOLKIT?

The tools presented in this toolkit have been either developed or implemented by ILC members. The [Database of Good Practices](#) gathers the good practices shared by ILC members and partners around the 10 ILC commitments for people-centred land governance. It also includes good practices developed and implemented in the area of indigenous peoples' and local communities' land rights. This toolkit is the result of an analysis of these good practices to extract information about ten tools, selected for inclusion in this toolkit by using replicability as the key criterion. The selected tools represent three regions: Asia, Africa and Latin America and the Caribbean.

HOW TO USE THE TOOLKIT?

Each file describes the characteristics of each tool, its goal, the actors involved, the ILC members that have used it, the expected outcomes of the tool's use and a step-by-step practical guide to implementation. The stories at the end of each file summarise aspects of good practice connected with the tool's use by one or more ILC members. Tools can be adapted to different context or needs. By using the links available it is possible to access more information about each tool and get in touch with the ILC members that have used it.

COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT (CBNRM) OF THE PASTURELANDS

THE TOOL

Community-Based Natural Resource Management (CBNRM) of the Pasturelands is an emerging model for natural resource management that addresses environmental protection, social justice and rural economic development.

ITS GOALS

- Establishment of clearly defined **boundaries of pasturelands**.
- Establishment of **pastoralist communities and associations** with legal personality.
- Development of **local rules for pastoralist communities**
- Establishment of **land use monitoring systems**.
- Development of a **conflict resolution mechanism**.
- Determining and establishing scales for **compensation for use of pasturelands**.

ACTORS INVOLVED

CSOs, local NGOs, local indigenous communities, Government Departments and Ministries, local research institutions, Local Council.

ALREADY TESTED BY

JASIL (Mongolia)

<http://www.landcoalition.org/en/regions/asia/member/jasil>



FURTHER INFORMATION

Innovative contractual arrangement for community-based management of pastureland improves livelihoods and reduces degradation, Case study of ILC Database of Good Practices www.landcoalition.org/en/regions/asia/goodpractice/innovative-contractual-arrangement-community-based-management-pastureland-improves

EXPECTED OUTCOMES

- Restoration of degraded pasturelands.
- Environmentally friendly management of pastureland.
- Strengthened traditional livelihoods and increased income for families leading land based livelihoods.
- Strengthened traditional land management practices for climate change mitigation and adaptation.
- Science based approaches to management of pasturelands vis a vis the land's carrying capacity.
- Participatory demarcation of plots.

HOW IT WORKS

CBNMR is a **science based tool** for the management of natural resources which allows local government and herder communities to contract for seasonal use and management of pasturelands. The agreements aim to protect, conserve and expand ecosystems that generate environmental, economic and social benefits for the communities.

COMMUNITY- BASED NATURAL RESOURCE MANAGEMENT STEP-BY-STEP

1. COMMUNITY MOBILISATION AND FORMATION OF COMMUNITY ASSOCIATIONS

The first step is the informal mobilisation of community members into communities, associations, herders' groups, citizens' associations, partnerships for natural resources or water users associations. These associations may apply for legal personality as communities, associations or partnerships in accordance with the law. Legal personality enables the groups to enter into co-management agreements with the local government.

2. ASSESSMENT OF ENABLING LEGISLATION

In order to identify potential terms of the co-management agreements, there must be an assessment of all enabling and supporting legislation, frameworks and policies. Where there is a legal gap, government and local governments become important partners who may pass by-laws, enabling and supportive legal regulations.

Essential frameworks include: framework to facilitate migration during winter, payment of compensation by migrating communities to the hosting community and payment of higher taxation for migration into Special Protected Areas.

3. SELECTION OF ELIGIBLE COMMUNITIES

Communities and associations that participate in the pilot project should be selected on the basis of their willingness to test CBMR under different ecosystems. Ecosystems selected for the project may include forests, pasturelands, high mountain-steppes, mixed steppe-prairie and mixed forest-steppe ecosystems.

4. PARTICIPATORY DEMARCATION

The first step to allocating pasturelands includes the identification and grouping of people according to customary boundaries of ethnicity, clan or cultural differences. With the input of the local sub-district communities, land will then be demarcated in terms of physical features such as pasturelands, watersheds, mountains or valleys. The demarcations should be presented to the district level government offices for technical support and assistance in the allocation of pasturelands.

CONT.





FROM THEORY TO PRACTICE: THE EXPERIENCE OF JASIL

5. ALLOCATION OF PASTURELANDS

Allocations of pasturelands and the terms of the agreements are first discussed during an assembly or community meeting in order to gain community consensus. If the meetings are held at sub-district level, the decisions must be elevated to the district level assembly for ratification. After formalising the co-management contracts, pasturelands are then allocated to groups with legal personality by the local authority, depending on the land use policy of the sub-district, size of the herd, the carrying capacity of the pasturelands and the community's request for land.

To avoid degradation of pasturelands, certain herders' associations can be granted exclusive access to particular pasturelands for free during winter and spring when pasturelands are most vulnerable to degradation; and in summer and autumn, they may be accessible as a common pool resource.

6. CO-MANAGEMENT CONTRACTS

Three parties enter into a co-management contract: individual herders, groups or associations with legal personality and local government or sub-district government offices. Each party is assigned clear contractual obligations in terms of individual and community herd size and grazing practices. The sub-district administration is tasked with organising the long term movements of the livestock, provides training, restoration of pastureland, and monitoring of seasonal movements of the herds. The district level may be tasked with signing the co-management agreements, passing by-laws to regulate the contacts, improving the livestock breed and organising the long-term movement of livestock.

Through the pilot phase, traditional land use rights of herders and communities can be formalised and incorporated into co-management agreements with the local government. The co-management contracts are formalised with the district level governor.

Community-Based Natural Resource Management (CBNRM) of pasturelands was developed by JASIL to reduce degradation of pasturelands and to improve livelihoods of pastoralists on Mongolia. JASIL's experience showed that pastoralists are faced with the challenge of over-used and poorly managed public pasturelands. Furthermore, long-term management, prevention of degradation and restoration of public pasturelands was a challenge because Mongolian law prohibits allocation or long-term leasing of public land.

JASIL partnered with both the local communities and local government to make the project implementation phase effective. Through the tool, individual herder communities organised themselves into associations and communities with legal personality. Conversely, local governments passed regulations and guidelines on the use of pasturelands.

After analysing all enabling and supporting legislation and by-laws; and with community consensus, pasturelands were demarcated in a transparent and participatory manner, according to their physical features. Community demarcations can be used to incorporate indigenous knowledge into the land management plans. The CBNRM tool enabled herder families, local herders' associations and the local government to enter into long-term co-management contracts that govern seasonal use of pasturelands.

In the implementation process, JASIL was able to identify some regulatory gaps affecting the use of the tool. By understanding these regulatory gaps, JASIL was able to approach the district government offices for review of the compensation paid by incoming communities and highlighting the need for a higher compensatory land use tax for the use of Special Protected Areas during winter; actions that cause further land degradation. The review of the relevant regulations is reflected in the co-management agreements.

JOINT VILLAGE LAND USE PLANNING

THE TOOL

Joint Village Land Use Planning is a statute based tool that protects shared natural resources as part of village land use planning in Tanzania. It can be followed by the issuance of Group Certificates of Customary Rights of Occupancy (CCROs) to the users of the shared resource. Local village government and representatives, often with support from district land use planning experts and NGOs, are responsible for implementing the tool. Through this tool, all members of a village and/or clusters of neighbouring villages can reflect on their land resource needs and uses and develop inter-village land use agreements and natural resource management plans for shared resources.

ITS GOALS

- Recognition of **traditional land use and tenure systems** of local land users.
- **Participation of all local land users in land use planning** processes at local level.
- **Resolution of any village land use conflicts** that may exist.
- Protection of **shared resources** used by more than on village.
- Establishment of an association of users for the shared resource(s) who is then responsible for its management.

ACTORS INVOLVED

Village land use management committees, village council, village assembly, traditional leaders, district participatory land use management team, district council, National Land Use Planning Commission, sectoral ministries, NGOs, CSOs, international research institutes, intergovernmental organisations.

ALREADY TESTED BY

International Livestock Research Institute (ILRI) in partnership with Tanzania Natural Resource Forum, International Fund For Agricultural Development.

<http://www.landcoalition.org/en/regions/global/member/ilri>

<http://www.landcoalition.org/en/regions/africa/member/tnrf>

<http://www.landcoalition.org/en/regions/global/member/ifad>

FURTHER INFORMATION

Protecting shared grazing through joint village land use planning

<http://www.landcoalition.org/en/regions/africa/goodpractice/protecting-shared-grazing-through-joint-village-land-use-planning>

RELATED GOOD PRACTICES

Supporting communities of pastoralists and hunter-gatherers to secure land and sustainably manage resources

<http://www.landcoalition.org/en/regions/africa/goodpractice/supporting-communities-pastoralists-and-hunter-gatherers-secure-land-and-sustainably>

RELATED RESOURCES

Participatory Land Use Planning to Support Tanzanian Farmer and Pastoralist Investment
<http://www.landcoalition.org/en/resources/participatory-land-use-planning-support-tanzanian-farmer-and-pastoralist-investment>

Conservation and “land grabbing” in rangelands: Part of the problem or part of the solution?

<http://www.landcoalition.org/en/resources/conservation-and-land-grabbing-rangelands-part-problem-or-part-solution-0>

Securing rangeland resources of pastoralists in Tanzania through joint village land use planning
<https://livestocksystems.ilri.org/2017/02/22/securing-rangelands-resources-for-pastoralists-in-tanzania-through-joint-village-land-use-planning/>

Improving the implementation of land policy and legislation in pastoral areas of Tanzania

<http://www.landcoalition.org/en/regions/africa/resources/no7-improving-implementation-land-policy-and-legislation-pastoral-areas-tanzania>

Participatory rangeland resource mapping as a valuable tool for village land use planning
<http://www.landcoalition.org/en/resources/case-study-participatory-rangeland-resource-mapping-valuable-tool-village-land-use>

Village land use planning in rangelands in Tanzania

<http://www.landcoalition.org/en/regions/africa/resources/no-3-village-land-use-planning-rangelands-tanzania>

Rangelands: Securing pastoral women’s land rights in Tanzania
<https://cgspace.cgiar.org/handle/10568/89483>

Manual: Participatory Rangeland Resource Mapping
<http://www.landcoalition.org/en/resources/manual-participatory-rangeland-resource-mapping>

EXPECTED OUTCOMES

- Protected shared resources for use of villagers and secondary users.
- Village and inter-village land use management plans and agreements.
- Agreed and coordinated implementation of land use plans and agreements.
- Gender and social equitable participatory land use planning processes.
- Livestock mobility facilitated and livestock routes protected.
- Enforcement of by-laws.
- Registered village land boundary maps and deed plans for the villages.
- Issuance of Group Certificates of Customary Rights of Occupancy (CCROs).
- Digitised community rangeland maps, documenting community resources.
- Management plans developed and implemented.

The Joint Village Land Use Planning (JVLUP) tool aims to develop community agreements over land use, land use plans and issuance of CCROs for long term management of village land natural resources including rangelands.

JOINT VILLAGE LAND USE PLANNING STEP-BY-STEP

1. IDENTIFYING APPROPRIATE CLUSTERS OF VILLAGES WHERE JOINT VILLAGE LAND USE PLANNING COULD TAKE PLACE

Care is needed in identifying which villages could be suitable for implementing village land use planning. A set of criteria is established for this purpose. This can include limitations on the number of villages in a cluster (suggested as 3-5), the existence of shared resources such as grazing or water, a suitable environment such as livestock keeping, the lack of presence of unresolvable conflicts, and the level of commitment to invest in the process of villagers and local government. A landscape mapping of social and spatial data across potential intervention areas is recommended as a decision-making tool in this process.

2. COMMUNITY ENGAGEMENT AND AWARENESS RAISING

The JVLUP tool is explained to all community members in the villages where it is anticipated that the JVLUP will be supported in order to raise awareness of its utility and the implications of its implementation. The tool is consensus based, therefore the buy-in of all villages and their members is essential. In order to enhance the consensus building process, Village Assemblies constituted by community members, must be consulted on their resource uses, needs and priorities. Community meetings for discussion of the plans can be formal or informal.

3. ASSESSMENT OF ENABLING LEGISLATION

In order to ascertain the legal confines for establishing JVLUP, it is vital to assess all the enabling and supporting legislation and national guidelines. Since JVLUPs are statute based, it is essential to have knowledge and understanding of the enabling legislation. Furthermore, it is crucial to know which state offices have duties to register village land certificates, village land use plans and to approve the issuing of CCROs.

4. LAND MAPPING AND DATA COLLECTION

In order to understand all community resources, a participatory land and resource use mapping exercise of all rangeland resources must be carried out. Community members have knowledge of their land resources, and as such they must play a leading role in the land mapping exercise. It is advised that where joint village land use planning is taking place each village maps their own village resources at a joint village land use mapping meeting, so that discussions will be initiated on where shared resources are and how to protect them. The joint maps must be used to inform the land use plans and inter-village land use agreement.

5. DESIGN OF VILLAGE LAND USE PLANS AND INTER-VILLAGE AGREEMENT

According to the policy and legislation in Tanzania each village must produce its own village land use plan, before developing a joint village land use plan. It is effective and appropriate that these processes are carried out in parallel so one feeds into the other. As such the individual VLUPs are the foundation of the JVLUP and joint village land use agreement (JVLUA) and the latter informs the former. Village land use management committees (VLUMs) and a joint village land use management committee (JVLUM) will have been established to facilitate this process. Once agreement over land use has been made within communities for the individual VLUPs and across communities in reference to the JVLUP, these land uses will be digitally mapped. Here the district council VLUM team will play an important supporting role. Once maps are produced documenting the agreed upon land use, a JVLUA will be established for the shared resource and signed by the villages involved. This agreement will state that none of the villages in the agreement can change the use of the shared resource without the agreement of the other villages. All documentation including plans and agreement(s) are approved by the Village Assembly and later the relevant District Council and registered with the National Land Use Planning Commission and Ministry of Lands, Housing and Human Settlement Development.

To enhance participatory and inclusive planning, the JVLUP and JVLUA is developed through formal and documented community meetings – meeting minutes are an important record of the process and can be referred to should any disagreements arise at a later date. Bottom-up and participatory approaches to village land use planning allow community members to express their land use priorities, concerns and help develop a shared vision for land use into the future. It enhances local ownership of the program.

6. ESTABLISHMENT OF A JOINT GRAZING LAND COMMITTEE AND LIVESTOCK KEEPERS' ASSOCIATION

The next step in the planning process is to implement the plan(s) including the shared resources. In Tanzania where villages share a resource they should now develop a “natural resource management sector” plan for this resource. For a shared grazing area this would be a “participatory rangeland management” plan. To fulfil these administrative and management duties, the local community must establish a Joint Grazing Land Committee (JGLC) composed of members of all participating villages. The Committee is responsible for planning, management, enforcement of by-laws and coordination of activities under the land use plans and agreements based on a rangeland management plan.



FROM THEORY TO PRACTICE: THE EXPERIENCE OF ILRI

This plan should be developed with the support of relevant sectoral ministry – in this case the Ministry of Livestock and Fisheries, together with technical advisers on such as rangeland rehabilitation and improvement of productivity. The marking of the boundaries of the shared grazing area with signboards and beacons is an important step to help prevent encroachment of other land uses such as cropping into the area.

In addition, in the case of a shared grazing area the local communities must establish an inclusive Livestock Keepers' Association that will represent the interests of all families and households in all villages that have livestock, as the main 'owners' and users of the shared grazing area. In order to formalise the Association, the local communities must develop a constitution for the Association and officially register it.

7. ISSUING OF GROUP CCROS AND REGISTRATION OF SHARED GRAZING AREA

In order to protect the tenure rights of the Livestock Keepers Association who will 'own', use and manage the shared grazing area group CCROs will be issued to them by their relevant Village Councils. Each Village Council involved in a JVLUA will need to issue a group CCRO to the members of their village for the piece of the shared grazing area that falls under their jurisdiction. That is if there are 3 villages involved in a JVLUA for a shared grazing area, then there will need to be 3 group CCROs issued which combined cover the complete area. In addition, the shared grazing area can be registered with the Ministry of Livestock and Fisheries in a national register of grazing areas.

In Tanzania, ILRI, government agencies and other organisations partnered to support local livestock keepers in Tanzania to protect their shared grazing lands. The organisations facilitated the implementation of the Joint Village Land Use Planning tool (JVLUP). The tool was used in OLENGAPA, a grazing area shared by three villages, Orkitikiti, Lerug and Ngapapa.

In Tanzania, the Village Land Act No. 5 of 1999 (VLA) and the Land Use Planning Act No. 6 of 2007 (LUP Act) provide for the issuance of Certificates of Customary Rights of Occupation (CCROs) and village land use planning by local government, including the Village Council and technical committees, subject to the approval of the Village Assembly. The VLA grants power to Village Councils (VCs) and their institutions to prepare participatory village land use plans (VLUPs). The LUP Act provides for the formation of planning authorities, functions, and procedures of developing participatory VLUPs, approval processes, and grants power to VCs to prepare those plans. The Land Use Planning Act also provides for the establishment of a joint village land use plan and joint village land use agreement for the use of shared resources including grazing.

Although this facilitating process existed on paper, it had not been implemented. Through the process described above a joint village land use map and joint village land use agreement (JVLUA) was established across the three villages in order to protect a grazing area of 21,000 ha. This was later expanded in 2017 to include a fourth village called Engwangongare which expanded the shared grazing to 30,000 hectares.

ILRI and partners are now scaling-up the JVLUP process into new clusters of villages who share grazing resources. Once the grazing areas have been secured, ILRI and partners will support the development of participatory rangeland management (PRM) plans to improve the management of the grazing areas to be implemented by local communities as members of the Livestock Keepers Association.

STRATEGIES FOR FAIR RECOGNITION OF CUSTOMARY LAND TENURE AND LAND USE SYSTEMS BY GOVERNMENT AND PRIVATE INVESTORS

THE TOOL

A process for engaging government and private companies investing in local communities and on indigenous peoples' land for recognition of indigenous peoples and community land rights.

ITS GOALS

- Fair recognition of customary land tenure systems of indigenous peoples.
- Protection of **natural ecosystems** and sacred lands of indigenous peoples.
- Promotion of **free, prior and informed consent** of indigenous peoples in granting concessions over their land and natural resources.
- Protecting the **collective community land use and ownership rights** of indigenous peoples.

ACTORS INVOLVED

CSOs; local NGOs; Indigenous Peoples Organizations (IPOs), indigenous communities; Government Ministries and private investors.

ALREADY TESTED BY

AIPP (Indonesia)

<http://www.landcoalition.org/en/regions/asia/member/aipp>

CISEPA (Peru)

<http://www.landcoalition.org/en/regions/latin-america-caribbean/member/cisepa-pucp>



FURTHER INFORMATION

Mobilisation, mapping and legal action help indigenous community oppose mining activities
<http://www.landcoalition.org/en/regions/asia/goodpractice/mobilisation-mapping-and-legal-action-help-indigenous-community-oppose-mining>

Organisational strengthening and protection of land rights
<http://www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/organisational-strengthening-and-protection-land-rights>

EXPECTED OUTCOMES

- A defined investor engagement strategy.
- A defined government engagement strategy.
- A defined community engagement strategy.
- Recognition of collective land rights of indigenous peoples for long term community land use planning.
- Enforcement of free, prior and informed consent of indigenous peoples before engaging in the process of granting concessions to mining companies.
- Protection of the culture, religion and sacred lands of the indigenous peoples.
- Preservation of customary collective land ownership and uses.

HOW IT WORKS

Community, government and investor engagement strategies aim to create the necessary capacity within communities for the protection of indigenous and community land rights in the wake of mining investments by private companies.

HOW TO ENGAGE WITH GOVERNMENT AND PRIVATE INVESTORS STEP-BY-STEP

1. COMMUNITY MOBILIZATION AND CAPACITY BUILDING

Indigenous communities must be engaged with in order to ascertain their land use priorities and views about private investors in their communities. This can be done through local and customary authorities who are well respected in the communities. Through community meetings, indigenous peoples can be sensitized of violations of their land rights and their right to free, prior and informed consent.

The meetings also present an opportunity to develop community driven plans for enforcing and protecting the land rights of indigenous peoples and local communities. Furthermore, through these meetings, some members of the community can be selected to closely monitor and record the negative impact that mining activities of private companies have on local communities and the environment.

For effective community mobilisation and communication, AMAN, a country-wide indigenous peoples' alliance and a member of AIPP, used SMS Adat, an SMS service for quick information dissemination and mobilization of its members within the country and communities.

2. PEACEFUL PROTESTS

Peaceful protests can be used to draw public attention to violations of local communities' and indigenous peoples' land rights by extractive industries. They also put pressure on the government and investors to protect the collective land rights of indigenous peoples. Using peaceful protests, the indigenous communities blocked mining operations in their communities for numerous weeks in order to draw attention to the environmental pollution caused by mining activities. Furthermore, the mining companies were not fulfilling their corporate social responsibilities that included building a school, providing scholarships, and involving village heads in mine planning, management and supervision.

3. GOVERNMENT AND PRIVATE COMPANY ENGAGEMENT

Government is a major stakeholder in land governance and governance of extractive industries. As such, the success of interventions in the protection of land rights also hinges on effective engagement of government and ministries. With the support of AIPP, the indigenous communities delivered a collective letter of concern to the relevant state agencies.

4. TERRITORIAL MAPPING

For government engagement to be successful, there must be mapping of the land of the indigenous peoples, especially the land that overlaps with the area over which the mining concessions were granted. Where local government passes regulations to recognise the rights of indigenous communities, the indigenous communities must complement such government efforts by strengthening their own initiatives that prove that they own the land upon which mining concessions have been granted.

Indigenous communities must conduct their own land mapping initiative, which can be used to support the legality and legitimacy of their land ownership claim. Indigenous youth engagement is important, thus, they should be trained in land mapping. The Pagu indigenous youth undertook spatial surveys and territorial mapping; exercises that made it possible to have a clear record of the communities' customary territory, assisted in the elimination of ambiguities and laid a foundation for further lobbying.

5. JUDICIAL REVIEW

Judicial review ensures the enforcement of the rule of law and increases government's compliance with its constitutional obligations. Judicial review of the constitutionally flawed law which the government relied on in its decision to grant the concession strengthened the government and private sector engagement strategy of indigenous peoples. Where the case is decided in favour of the indigenous communities, it creates a legal basis for the indigenous communities to claim and enforce their collective land rights.





FROM THEORY TO PRACTICE: THE EXPERIENCE OF AIPP

In order to protect the sacred land of the indigenous peoples from the effects of expanding mining operations, AIPP developed a strategy and process for engaging with the government and private investors, as the major stakeholders in land use and management.

To mobilise communities and create awareness about the rights of indigenous peoples, AIPP engaged the indigenous communities through their traditional and customary structures. Approaching the community leaders strengthens the legitimacy of the initiative and gives the traditional leaders a sense of leadership. The engagement of all structures in the communities highlights and strengthens the effectiveness of community led initiatives.

Involvement of all major stakeholders makes the communication of grievances and requests for land protection more pronounced and effective. Through letters of collective concern directed to the relevant ministries, indigenous communities addressed their grievances against mining companies.

The communities held a march to the Ministry of Environment, the Ministry of Energy and Mineral Resources, and the National Commission on Human Rights to submit their demands and express their intention to take legal action against the mining company should they fail to provide redress to the communities for the destruction of their ecosystems and their livelihoods. They further demanded the review of the permit issued to the mining company. The indigenous communities thus laid a foundation for lodging a case for judicial review of sections of the Forest Law.

Protest action and demonstrations were used to connect the legal efforts with the engagement of both government and private mining companies. Engagement with private companies is difficult because they command financial and political power that indigenous communities lack. They are further strengthened by their quest to protect their financial gains. As such, indigenous communities can draw attention of investors by organising peaceful demonstrations. Demonstrations can put pressure on the investor companies and consolidate the requests of indigenous peoples for recognition of their collective land rights.

In partnership with other NGOs, AMAN lodged a petition for partial judicial review of the Forest Law that vested ownership of forest land occupied by indigenous peoples in the Government of Indonesia. The Indonesian Constitutional Court held that indigenous peoples' customary forests should not be classed as "State Forest Areas". This ruling legitimised the land claims of the indigenous forest dwelling communities and provided a legal foundation for indigenous communities to continue to engage with the government and private investors for reversion of their land.

To strengthen community involvement and to prove the customary and traditional land rights of indigenous peoples, AMAN initiated a participatory community land mapping exercise. Through this initiative, community members identified land that belongs to them but that the government granted to mining companies, and expressed their long-term land use plans. They also used monitoring and evaluation as a means of proving their land rights and strengthening their positions in advocating for the protection of their sacred land.

**FROM THEORY
TO PRACTICE: THE
EXPERIENCE OF CIPCA,
REPORTED BY CISEPA-PUCP**

In the highland community of Santa Catalina de Moza, Peru, years of neglect and apathy had led to a situation of bad governance, intra-community land conflicts and the misuse of natural resources. A change of leadership led to the reinvigoration of participatory processes, and the community set out to achieve its self-determination and the defence of the environment.

With the legal and technical aid of CIPCA and CISEPA, the community's new Board of Directors took a number of steps to consolidate the community's joint ownership and control of the land. Land titles were regularised, georeferenced and included in public registers; three conflicts over land were resolved; a document on Internal Regulations for the Use of the Land was drafted and approved by the community assembly; a Communal Statute of 121 articles was created through participatory processes and approved by the assembly; a project was drafted for the creation of a protected woodlands area managed by the community.

The participatory approach used by CIPCA and CISEPA have strengthened trust between them and the local communities. The local youth also gained technical experience through their close work with CISEPA and CIPCA's technical experts.



PAYMENT FOR ECOSYSTEM SERVICES

THE TOOL

Payment for Ecosystem Services is an alternative sustainable financial mechanism that engages indigenous peoples, local communities and urban populations in the stewardship of natural resources. Payment for ecosystem services (PES) sets up a reward system in exchange for environmental conservation. Traditional knowledge systems and cultures of indigenous peoples are integrated into and are used for ecosystem management.

ITS GOALS

- To promote the **conservation of natural ecosystems** and forest resources.
- To promote the use of **traditional knowledge and technology** to sustainably manage forests.
- Procurement of **ecosystem management services**.

ACTORS INVOLVED

CSOs; local NGOs; grassroots movements; local communities; traditional and religious leaders, local authorities, government officers, academic and research institutions, intergovernmental organisation.

ALREADY TESTED BY

Xavier Science Foundation (Philippines)
<http://www.landcoalition.org/en/regions/asia/member/xsf>



FURTHER INFORMATION

Payment for ecosystem services connects urban community with indigenous people
<http://www.landcoalition.org/en/regions/asia/goodpractice/payment-ecosystem-services-connects-urban-community-indigenous-people>

EXPECTED OUTCOMES

- Establishment of sustainable local ecosystem management regimes.
- Establishment of alternative sustainable financial mechanisms for financing ecosystem management.
- Locally managed ecosystems for climate change adaptation and disaster risk mitigation.
- Improved livelihoods through the provision of critical forest resources and products.
- Organised long-term land use plans that influence behavioural change.
- Biodiversity, wildlife and forest protection.
- Improved local capacity in ecosystem management through respect and integration of indigenous peoples' knowledge, religion and culture.
- Collaboration between rural and urban indigenous peoples in ecosystem management.

HOW IT WORKS

Payment for Ecosystem Services supports traditional conservation and expansion of ecosystems that generate services with environmental, economic and social benefits.

PAYMENT FOR ECOSYSTEM SERVICES STEP-BY-STEP

1. ASSESSMENT OF FEASIBILITY OF PES SCHEME

Before setting up a PES scheme, there must be a gap analysis to diagnose the problem and ascertain the feasibility of PES as a solution. Important considerations include determining land ownership, land use rights and geographic boundaries of the land upon which the PES scheme will be set up. Furthermore, it is important to consider options that are feasible for the particular landscape. Legal and technical requirements and limitations of the proposed PES project should also be considered.

2. IDENTIFY ECOSYSTEM SERVICE TO BE MANAGED

Identify an ecosystem service that is of value to at least one stakeholder. There must be demand for the service to an extent that potential beneficiaries of the service are willing to purchase it. Conversely, the sale of the service must be of value to the indigenous peoples who will serve as ecosystem managers. In order to assess the benefits of the PES scheme, potential trade-offs must be identified and fully assessed.

3. SOCIAL OUTREACH

A successful PES project should have the buy-in of local communities. As such, all stakeholders, particularly the communities, must be engaged to assess community

knowledge of the value of the project and to sensitise the beneficiaries of the value of the particular ecosystem service. Where service users lack knowledge about the environmental value of the ecosystem services being managed, there is a risk that they will not buy it. This places a burden on the ecosystem stewards who may not be rewarded for their services or the government, who has to supplement or subsidise payment to the ecosystem stewards.

4. IDENTIFY STAKEHOLDERS

During the project development phase, buyers or service users, stewards, knowledge providers and other actors must be identified. Service users include direct beneficiaries, organisations who purchase the service on behalf of a certain portion of the public or tertiary buyers who purchase services for the benefit of the general public. Stewards include community land owners, forest resource managers or groups of people who are organised to manage ecosystems collectively. Knowledge providers include research institutions, universities, government actors, environmental or forest statutory bodies, public authorities who might be in charge of administration of the PES project and any other actors with specialist technical expertise to facilitate the development and implementation of the project.

CONT.





FROM THEORY TO PRACTICE: THE EXPERIENCE OF XSF

5. LAND MANAGEMENT ACTIONS

For a PES scheme to be successful, land management actions that can secure an increase in the supply of ecosystem services must be mapped out and prioritised. There must be a relationship between the selected land management actions and the service that will eventually be sold. Cost effective and environmentally friendly management of natural resources can prevent natural disasters and avert the risk of reactive natural disaster interventions.

Other important considerations include a clear determination of the geographical scale of the project and its duration. This allows the project implementer to determine the amount of compensation to be paid to the land owners for use of their land.

6. INTERVENTION

Where the forest ecosystem management program aims to provide water, interventions must include planting trees, installing buffer strips and water catchments. The implementing communities must receive skills training in forest resources management, particularly in the use of technology for forest business planning, forest protection and budget allocation for purchasing seedlings and paying for planting labour.

7. MONITORING AND EVALUATION

The forest managers must be trained in the use of forest monitoring technology such as geotagging using GPS Status, GeoTag, and GeoCam. These technologies are essential for the effective monitoring of implementation progress. Regular reporting to stakeholders must also be established for transparency and accountability.

The PES in Mt Kalatungan was launched on May 2014 with the signing of the memorandum of agreement among various stakeholders including the sellers, potential buyers, the fund manager, private and public institutions and the agencies constituting the monitoring body. This project was initiated by the Department of Environment and Natural Resources (DENR), NGOs and the World Bank's Payment for Ecosystem Services Project.

Xavier Science Foundation, ILC Member, served as the fund manager acting as the intermediary between buyers and sellers.

To promote natural ecosystems as a climate change mitigation and adaptation strategy, XSF engaged the local indigenous communities to serve as forest managers and to use their traditional knowledge, culture and practices in forest management. In order to sustainably rehabilitate denuded forests, the project created a reward system for ecosystem stewards and engaged them in decision making processes. At the same time, they engaged all potential service users and partners in order to generate demand for the services. Potential service users include urban highland dwellers, corporations and government departments.

The involvement of all stakeholders in all stages of the project creates synergies and reduces trade-offs amongst stakeholders. Through the implementation of this project, it became apparent that community centred interventions

yield solutions as the indigenous peoples become more involved in project planning and implementation. The indigenous peoples who dwell at the foot of the mountains, in their capacity as forest managers began using traditional forest management techniques for conserving their ancestral lands. They reforested the denuded forest by planting endemic trees and Arabic coffee beans.

Information dissemination, education, and communication were also used to bridge knowledge gaps between ecosystem managers and ecosystem resource users. The youth sensitised the community about PES and its benefits using the local language. The youth were also tasked with documentation, community mobilisation and social marketing of the project. Their knowledge sharing efforts resulted in a strengthened sense of community ownership of the project.

To strengthen the community's knowledge and skills in the use of technology for forest management, business planning and monitoring of implementation, a team from DENR's Protected Area Supervising Unit conducted an orientation on geotagging using GPS Status, GeoTag, and GeoCam.

After three years of implementation of the project, 61 of the 127 hectares that were initially surveyed were successfully reforested with endemic Arabic coffee seedlings and endemic trees.

STRATEGIES FOR CONFLICT RESOLUTION BETWEEN INDIGENOUS PEOPLES AND CRIOLLO PEASANTS

THE TOOL

A strategy for resolving land ownership conflict between indigenous peoples and Criollo peasants in a bid to recognise the land rights of the indigenous communities based on their traditional land use and tenure systems.

ITS GOALS

- Fair recognition of customary land tenure systems of indigenous peoples.
- Implementation of national constitutional rights, international laws and international human rights laws.
- Promotion of free, prior and informed consent of indigenous peoples.

ACTORS INVOLVED

CSOs; local NGOs; local communities; Government Ministries and officials and regional intergovernmental organisation.

ALREADY TESTED BY

FUNDAPAZ (Argentina)

www.landcoalition.org/en/regions/latin-america-caribbean/member/fundapaz



FURTHER INFORMATION

Dialogue between indigenous peoples, Criollo settlers and the state resolves land conflict

www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/dialogue-between-indigenous-peoples-criollo-settlers-and-state-resolves-land-conflict

ADDITIONAL RESOURCES

Acceso a los Recursos Naturales en el Chaco Trinacional. Mapeos Participativos, Diálogos y Acuerdos Entre Actores Cuatro Casos de Aprendizaje.
www.landcoalition.org/sites/default/files/documents/resources/mapeo_participativo.pdf

EXPECTED OUTCOMES

- Fair access to land, water and forest resources.
- Formation of community organisations for the protection of land rights of indigenous peoples.
- Preservation and formalisation of indigenous peoples' traditional land uses.
- Use of regional courts to enforce the land rights of indigenous peoples.
- Use of negotiations to resolve land disputes.

HOW IT WORKS

Land dispute between Criollo communities and indigenous peoples were resolved through negotiations by grassroots organisations.

STRATEGIES FOR CONFLICT RESOLUTION BETWEEN INDIGENOUS PEOPLES AND CRIOLLO PEASANTS STEP-BY-STEP

1. IDENTIFICATION OF CONSTITUTIONAL AND INTERNATIONAL RIGHTS

The implementing member must consider all the constitutional and international human rights that seek to protect the indigenous peoples and their cultural land tenure systems. Where the law permits land regularisation in line with the customary practices of indigenous peoples and prohibits evictions, the implementer must rely on these laws to protect the land rights of indigenous peoples.

2. COMMUNITY MOBILISATION AND FORMATION OF COMMUNITY ORGANISATIONS

In order to represent the collective interests of the indigenous peoples, the local communities must form an organisation that will represent them in interactions with the government and any neighbouring community. The leaders of the organisation must be selected by the community and must champion the rights of the community members.

3. USE OF NATIONAL AND REGIONAL JUDICIAL SYSTEMS

If the government fails to respond to the community organisation's request for protection of their diverse tenure systems, then judicial relief must be sought. Local courts are courts of first instance; however, if they are stalling and causing frustration in the community, regional and international courts or commissions can be approached for relief.

4. NEGOTIATIONS

Where the in-coming community proposes negotiations, the indigenous peoples' community organisation must hear their proposal and consult with the indigenous community to get their instructions and free, prior and informed consent. Negotiations assist to settle a dispute that can go on for years before the court whilst the indigenous peoples continue to suffer landlessness.

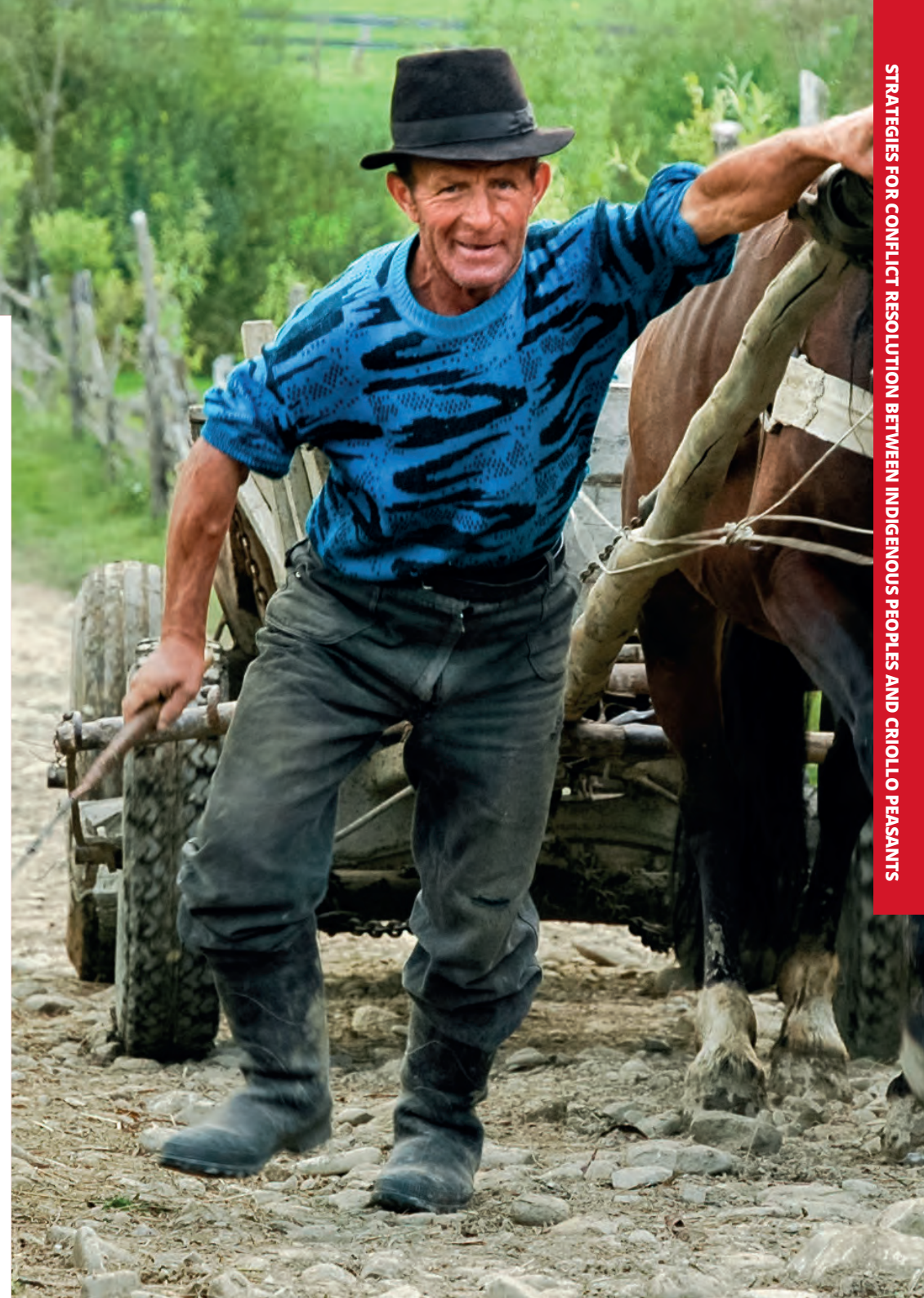
FROM THEORY TO PRACTICE



FROM THEORY TO PRACTICE: THE EXPERIENCE OF FUNDAPAZ

A decades-old conflict between non-indigenous ranchers and indigenous communities in Salta, Argentina has been resolved thanks to a negotiation mediated by FUNDAPAZ. The encroachment of the settlers into the indigenous territories led to conflict regarding not only the ownership of the land but also its use, seeing as the ranchers divided the vast expanse into plots and erected barbed wire fences that were incompatible with the hunting, herding and foraging of the communities that inhabited the area for centuries before their arrival. This problem was made even worse in the 1990's, when the provincial government kick-started an ambitious development project that did not consult the indigenous peoples of the area or consider their specific needs.

Through a participatory and democratic process promoted by FUNDAPAZ, which also supplied technical data and know-how, the ranchers and the indigenous communities worked out a deal which would allow each to retain ownership over a part of the land, putting an end to the conflict. 400,000 hectares of land were titled as communal property of the indigenous peoples, whereas the ranchers were awarded 243,000 hectares to divide into lots. The conflict was finally resolved, but obstacles encountered along the way evidence the importance of respecting FPIC and indigenous territories from the beginning, to avoid having to carry out long and drawn-out negotiations afterwards.



MECHANISM FOR INCLUSIVE AND ACCOUNTABLE LOCAL LAND GOVERNANCE

THE TOOL

Mechanism for inclusive and accountable local land governance is a tool for establishing and supporting intra-community land governance through accountability and participatory land governance.

ITS GOALS

- To strengthen participation of **local communities in the allocation of land** to investors.
- Promote accountability of **traditional leaders** to the local communities.
- Strengthen the capacity of local communities to **negotiate land deals**.
- Establishment of strong intra-community land governance **mechanisms to resolve land conflicts**.

ACTORS INVOLVED

CSOs; International NGOs; local communities; local traditional leaders and local private investors.

ALREADY TESTED BY

NAMATI Innovations in Legal Empowerment
<http://www.landcoalition.org/en/regions/global/member/namati>



FURTHER INFORMATION

Building resilient mechanisms for inclusive and accountable local land governance
<http://www.landcoalition.org/en/regions/africa/goodpractice/building-resilient-mechanisms-inclusive-and-accountable-local-land-governance>

ADDITIONAL RESOURCES

Namati and SDI (2013) Community Guide to Protecting Community Lands and Resources in Liberia
<https://namati.org/resources/liberia-community-guide-to-protecting-community-lands-and-resources/>

Namati (2016) Community Land Protection Facilitators Guide
<https://namati.org/resources/community-land-protection-facilitators-guide/>

EXPECTED OUTCOMES

- Communities have access to information on land investments in their communities
- Formation of a Land Governance Council
- Documentation of customary land rights
- Establishment of a participatory process for granting concessions over land belonging to communities
- Creation and enforcement of community by-laws
- Creation and enforcement of accountability mechanism.

HOW IT WORKS

This mechanism aims to incorporate accountability and participatory decision-making into traditional land governance and leadership structures. It also creates local communities' capacity to engage with potential local investors in order to protect them against prejudicial land deals.

MECHANISM FOR INCLUSIVE AND ACCOUNTABLE LOCAL LAND GOVERNANCE STEP-BY-STEP

1. COMMUNITY MOBILISATION

Sparse communities need to be mobilised in order to create a common goal of participatory land governance. Community members and community leaders must be trained in conflict resolution and sustainable resource use and management. This training is essential for creating an understanding of long term-land management within the community.

2. FORMATION OF COMMUNITY LAND GOVERNANCE COUNCIL

A Land Governance Council that promotes accountability, inclusive decision-making and compliance with community by-laws must be formed to provide a necessary check on the powers of community leaders. This Council must be democratically elected by the community members and must be independent and impartial.

3. DOCUMENTATION OF LAND RIGHTS

Community members must be assisted to consolidate and register their community or individual land rights. If there is a formal community land documentation process, the local community members must be assisted to register their land rights. NAMATI and the local community created an Interim Coordinating Committee that was responsible for leading the community through the documentation process.

The process of documenting land rights must be both reconciliatory and participatory. As such, communities should use their land dispute resolution mechanisms to defuse land conflicts, map and demarcate land. After demarcation, boundaries can be marked by planting boundary trees.

4. ASSESSMENT OF LEGAL DOCUMENTS

The process of assessing legal documents requires the identification of relevant laws that govern the granting of land concessions to investors. This includes national laws and community by-laws if applicable.

Other documents of importance include the legal agreements or Memoranda of Understanding entered into by community leaders on behalf of their communities and the investors. All the unfavourable provisions of the contracts must be highlighted.

CONT. ▶

5. FOLLOW-UP MEETINGS

Follow up meetings can be used to further assert the common position of the local communities regarding their land rights. These may involve further meetings with the investor companies to prove the potential adverse effects of their land acquisition.

6. PASSING OF BY-LAWS AND DEVELOPING AN ACCOUNTABILITY MECHANISM

In order to strengthen participatory land governance, the community must develop a community natural resource management plan and community by-laws that govern the administration and management of their land and natural resources.

Engaging and partnering with local government and policy makers can strengthen the process of creating an accountability mechanism. Accountability mechanisms are central to community land protection as they establish protocols and procedures to hold local leaders accountable and ensure community participation in decision-making. Policy-makers include the traditional local land governance structures and laws include community by-laws.

7. DEVELOPMENT OF ENFORCEMENT MECHANISM

In order to create an exhaustive mechanism for accountability, the project implementer must integrate new land governance mechanisms into existing local power structures. This means that the new mechanism will also apply to traditional leaders, community elders and other land governance bodies.

To existing community leadership, accountability and participatory decision-making processes may be unfamiliar. As such, strong working relationships between the Land Governance Council and traditional leaders are indispensable.

FROM THEORY TO PRACTICE: THE EXPERIENCE OF NAMATI AND SDI

NAMATI and SDI worked with local communities to promote accountability in community land governance and participatory decision making in the process of granting concessions to local private investors.

NAMATI and SDI mobilised communities who already had common grievances with the traditional decision-making structures. Such community meetings present an opportunity to sensitize community members of the adverse effects of land deals that the traditional leaders enter into without the involvement of communities in the decision making process. Following an assessment of the legal documents, it was ascertained that the land deals were not in favour of the local communities and that they would result in land loss and displacement of community members.

In traditional communities, decision making powers are delegated to the traditional leaders, as such, it is a challenge to convince community leaders to incorporate mechanisms for participatory decision-making and accountability.

Namati and SDI followed a participatory and all-inclusive approach in the development of a community development plan. Community development plans must address pertinent issues such as community land rights, decision making structures and accountability mechanisms.

Premised on the community development plan and the newly developed by-laws, the community was able to approach their local leaders and convince them that the land deal was not favourable to them. Through the engagement process, it transpired that the local leaders lacked full knowledge of the exact amount of the land that was granted to the investors. Based on the newly acquired information, the community leaders approached the local private investor and rescinded the land concession agreement.

PARTICIPATORY MAPPING FOR CUSTOMARY FOREST USE

THE TOOL

Participatory mapping of land for customary forest land use empowers indigenous peoples in claiming access to natural resources and to influence systematic spatial planning in their villages.

ITS GOALS

- Participatory customary forest land mapping.
- Decentralisation of spatial planning.

ACTORS INVOLVED

CSOs; local NGOs; grassroots movements; local communities; Government Departments

ALREADY TESTED BY

JKPP (Indonesia)
<http://www.landcoalition.org/en/regions/asia/member/jkpp>



FURTHER INFORMATION

Participatory mapping of customary forest use to influence spatial planning
<http://www.landcoalition.org/en/regions/asia/goodpractice/participatory-mapping-customary-forest-use-influence-spatial-planning>

EXPECTED OUTCOMES

- Strengthened implementation of existing laws at village, sub-district and district level.
- Development of formal processes for participatory customary forest land mapping.
- Development of a clear process of decentralisation of spatial planning.
- Creation of a customary forest land map.
- Strengthened capacity of communities to influence community development planning.

HOW IT WORKS

Participatory mapping for customary forest use is a process by which members of a community depict on a scaled map, what they collectively perceive as their territory, including all the salient physical, natural, and socio-cultural features of the forest territory. Customary forest land use maps are used as a basis for formulating socio-economic and spatial plans at sub-district and district level.

PARTICIPATORY MAPPING FOR CUSTOMARY FOREST USE STEP-BY-STEP

1. COMMUNITY MOBILISATION

Community members should be organised and mobilised through village gatherings and taught about the technicalities and purpose of participatory mapping. This process should also include trainings on spatial and stakeholder mapping.

2. PREPARATION FOR PARTICIPATORY PLANNING

Preparation for a participatory mapping exercise should include identification and engagement of community members who will be tasked with mapping. Time schedules of the process, community contributions and other logistics must be planned beforehand.

3. PARTICIPATORY MAPPING

The process of participatory mapping includes the collection of spatial data and community knowledge about the environment; sketching a scaled map; putting geomorphologic, natural and socio-cultural data on the scaled map. Field surveys should be conducted to verify and correct the maps. Subsequently, the community must ratify the maps and agree on boundaries.

4. CONSOLIDATION OF THE PARTICIPATORY MAPPING PROGRAM

Community focus groups should be formed and they should conduct discussions with the local communities, Sub-District and District Administration in order to sensitise the District Administration of the mapping exercise and its link to land uses planning. The District level spatial planning policy must be analysed with the view of understanding inconsistencies with the preliminary community maps and finding ways to create synergies between the two.



FROM THEORY TO PRACTICE: THE EXPERIENCE OF JKPP

JKPP, an ILC member worked with local communities to develop a customary forest land map to influence spatial planning in the Sekadau District, West Kalimantan, Indonesia.

In order to promote community led socio-economic development, JKPP engaged local communities to create knowledge about the use of participatory processes to develop forest land use maps. The project created knowledge about the technicalities, importance and purposes of customary forest land mapping.

To conduct cultural forest mapping, community members collected spatial and environmental data, created sketches of scaled maps and put geomorphologic, natural and socio-cultural data on the scaled maps.

JKPP created focus groups that conducted multi-stakeholder discussions with the local communities, Sub-District and District Administration with the aim of incorporating the land maps into district and sub-district spatial plans. Through these discussions, they analysed the community land maps and possible links to the district level spatial planning policy.

JKPP assisted in the formulation of socio-economic and spatial plans based on the cultural forest use maps in 11 villages. The plans included analyses of the relationship and interdependency between the villages' socio-economic development, infrastructure use, land use and access to natural resources. The consolidated plans were presented to sub-district and district government authorities and the communities for stakeholder consultation.

Both government authorities and the communities endorsed the community development plans. Subsequently, the spatial plans were publicly launched in the District and Sub-District.



PARTICIPATORY LAND REGULARISATION PROCESS STARTING WITH AN AGREEMENT WITHIN THE COMMUNITY

THE TOOL

This tool sets out a participatory process of land regularisation through the registration of family land ownership and land use contracts based on the customs and traditions of indigenous peoples.

ITS GOALS

- Participatory land conflict resolution.
- Creation of land ownership and land use contracts based on customary land tenure systems.

ACTORS INVOLVED

CSOs; local NGOs; local communities; Government Departments

ALREADY TESTED BY

Fundación Tierra (Bolivia)
<http://www.landcoalition.org/en/regions/latin-america-caribbean/member/ftierra>



FURTHER INFORMATION

Regularisation of community and privately-owned land
<http://www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/regularisation-community-and-privately-owned-land>

EXPECTED OUTCOMES

- Creation of individual and community land use and land ownership contracts.
- Resolution of inter and intra-community land disputes amongst indigenous peoples.

HOW IT WORKS

PARTICIPATORY LAND REGULARISATION PROCESS STARTING WITH AN AGREEMENT WITHIN THE COMMUNITY STEP-BY-STEP

1. DEFINING CONFINES OF PROJECT

There must be an identification of laws, by-laws, regulations and measures providing for the registration of land use contract in order to ascertain the legal confines of the potential project. All laws that permit a bottom-up approach must be identified and used because community-led initiatives have higher public support and better community adherence. In this case, the law allows for the formation of regional territorial entities of indigenous peoples to conserve their culture, custom, control their territories and exercise self-government.

2. COMMUNITY ORGANISATION

Community organization involves the participatory selection of a Committee of Land Registration and identification of government authorities who will be in charge of executing the land registration process. In partnership with the local communities, the local government must pass a resolution authorising the community-led land registration process.

3. CONSTRUCTION OF A COMMUNITY LAND INVENTORY

The land inventory is used to prove land rights of community members. In order to compile the inventory, the selected Committee of Land Registration must work with the local community members and members of adjoining communities to map and identify the land that belongs to the indigenous communities.

4. LAND MAPPING AND REGISTRATION

In a participatory manner, the Committee of Land Registration, indigenous and neighbouring communities must use a reconciliatory approach to resolve all land disputes and also update the property rights of each family in-line with the Boundary Compliance Act or any other relevant law.

5. FORMAL REQUEST FOR VALIDATION

Depending on the laws of the country, there might be a need to request formal validation of the updated land registry from the national government authorities. Government institutions have a technical and bureaucratic approach to land registration and may not have flexibility to accommodate social action. To overcome this obstacle, the government must be a project partner and should be informed of progress at all stages.



FROM THEORY TO PRACTICE: THE EXPERIENCE OF FUNDACIÓN TIERRA

In the highlands of Bolivia's La Paz department, conflict over land ownership within families has led to the extreme fragmentation of the community's lands into unproductively small parcels. Fundación TIERRA provided legal support and mediation to 200 communities, or about 18 thousand rural families, so that they could apply traditional solutions for collective land tenure and use according to their norms and practices.

Through a participatory and community-led process, the families participating in the initiative sought collective solutions, such as co-ownership of a parcel by multiple family members, and the designation of parcels for the use of the entire community. 95% of the conflicts within families were resolved through conciliatory solutions, presided over by the community assembly and its legitimate representatives. Indigenous youths, who have often been excluded from these collective decision-making processes, participated actively in the process. Significantly, in 85% of the cases where co-property was established, the rights of women were registered so as to leave no doubts regarding their access to and co-ownership of the land.



(3D) PARTICIPATORY MAPPING

THE TOOL

3D mapping is a tool for gathering location information that highlights the landscape of the area, including geographic elevations, slopes, boundaries, location of rivers, forests, degraded areas, sacred sites, and fauna in the territory. This tool is used for geo-referencing land belonging to indigenous peoples and local communities.

It is a tool of governance in indigenous territories, having the knowledge of the territory it is possible to have a full governance of the resources, zoning areas according to their land use.

ITS GOALS

- Participatory land conflict resolution.
- Participatory 3D land mapping and strategic planning.
- Implementation of national laws for the protection of land rights of indigenous peoples.
- Demarcation and titling of indigenous peoples' land.
- Preservation of collective property rights of indigenous peoples.
- To serve as a **geo-reference** to prevent invading settlers.
- Environmental monitoring of the territory.

ACTORS INVOLVED

CSOs; local NGOs; local communities. Territorial and communal indigenous governments, Regional Government.

ALREADY TESTED BY

CADPI (Nicaragua)

<http://www.landcoalition.org/en/regions/latin-america-caribbean/member/cadpi>

FURTHER INFORMATION

Participatory construction of 3D maps strengthens indigenous land management
<http://www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/participatory-construction-3d-maps-strengthens-indigenous-land-management>

EXPECTED OUTCOMES

- 3D maps.
- Identification of key landmarks.
- Implementation of national law.
- Demarcation and titling of land.
- Environmental monitoring.
- Territorial governance.

HOW IT WORKS

The aim of the tool is to create a land map that will contribute to the establishment of a community land monitoring and information system. This system is used by local and regional authorities to strengthen indigenous land management. It facilitates the design and implementation of strategic plans in indigenous territories.

(3D) PARTICIPATORY MAPPING STEP-BY-STEP

1. COMMUNITY ENGAGEMENT

The first stage should include meetings with community members and community authorities to sensitize them of the importance of the 3D mapping project in solving the problem of land loss and to explain the details of the work methodology. More importantly, the process allows for transparency, community initiative and compliance with the right to prior consultation with communities.

2. FORMATION OF WORKING GROUPS

The Community Assembly of people who are willing to participate in the mapping program must be told about the advantages of forming working groups that will facilitate the project. CADPI worked with local authorities to facilitate the process of selecting the working groups. The working groups have different tasks that include research, translation, identification of traditional medicinal herbs in the area, identification of denuded areas and gathering information on different communities.

3. DATA COLLECTION

In order to ascertain true ownership of disputed land, the working group in charge must research the history of the land. This includes the purchase or inheritance history of the land. If community land is being disputed, the working group must also investigate the origins of the community.

4. CREATION OF MAPS

After collecting data on land ownership and land use, the project implementer and the local communities must create scaled maps that reflect the physical features of the community. One focus group must be tasked with collection of materials that will be used to create the scaled 3D maps. Using these materials, 3D map representing the geographic elevations, boundaries, location of rivers, pipes, forests, vegetation, productive or degraded areas, sacred sites and fauna present in the territory must be created.



FROM THEORY TO PRACTICE: THE EXPERIENCE OF CADPI

The traditional territories in three indigenous communities (Sahsa, Waspam and Miguel Bikam) on Nicaragua's north coast were threatened by the arrival of settlers from other parts of the country. This resulted in conflicts over land use, which were exacerbated by extreme weather phenomena resulting from climate change. In order to protect their territories and lifestyles, the communities joined forces with CADPI (Indigenous Peoples' Autonomy and Development Center) and the organisation of indigenous women Wangki Tangni. Together, they produced 3D maps of the disputed territories, as well as self-government statutes and a systematisation of their traditional norms for the defence of the environment.

The participatory mapping, alongside the by-laws and environmental guidelines, allowed the communities to reaffirm their right to use the land according to their norms and practices, while at the same time providing them with a tool for contrasting the unwanted effects of climate change. These tools also serve as educational tools for students, researchers and the general public, and constitute the formal basis for indigenous self-government and self-determination in the region.

In the indigenous territory of Waspam, the implementation of this monitoring system served as the basis for the drafting of a strategic territorial development plan.

In the Regional Government of the North Caribbean Coast, the construction of a regional map facilitates the implementation of regional monitoring. In cases of emergency as a key coordination tool.



IMPLEMENTING FREE, PRIOR AND INFORMED CONSENT

THE TOOL

A tool for indigenous and local communities to enforce recognition of their customary land rights and their right to free, prior and informed consent by governments and construction or extractive companies working in their communities.

ITS GOALS

- Exercising **free, prior and informed consent of indigenous peoples** before government grants concessions over their land.
- Preserving the **cultural management of rain forests** occupied by indigenous peoples.
- Enforcing **co-management contracts** between government and indigenous peoples.
- Promoting **biodiversity conservation** through judicious exploitation of natural resources.
- Protection of the **cultural and religious land use rights** of indigenous peoples.
- Enforcing **international, regional and national laws** that protect the rights of indigenous peoples.

ACTORS INVOLVED

CSOs; local NGOs; local communities; Government Departments.

ALREADY TESTED BY

SATIIM (Belize); CONSEJO REGIONAL WIXÁRIKA POR LA DEFENSA DE WIRIKUTA (CRW) (Mexico)

MORE INFORMATION

Indigenous communities successfully claim right to free, prior and informed consent
<http://www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/indigenous-communities-successfully-claim-right-free-prior-and-informed-consent>

Defending Wirikuta ancestral lands from mining activities
<http://www.landcoalition.org/en/regions/latin-america-caribbean/goodpractice/defending-wirikuta-ancestral-lands-mining-activities>

EXPECTED OUTCOMES

- Recognition of the cultural practices of indigenous peoples.
- Enforcement of co-management agreements.
- Gaining free, prior and informed consent of indigenous communities prior to granting concessions over their land.
- Mining companies respect the sacred land uses of indigenous peoples.

HOW IT WORKS

The aim of the tool is to demonstrate how indigenous peoples' communities can undertake legal action and public campaigns in order to defend their customary land rights and their right to free, prior and informed consent.

IMPLEMENTING FREE, PRIOR AND INFORMED CONSENT STEP-BY-STEP

1. COMMUNITY ENGAGEMENT AND COALITION BUILDING

Communities can be influenced by different interests, including short-term benefits. In order to avoid divisions within the community, it is essential to build coalitions with other NGOs and institutions working in the field of indigenous peoples' land rights.

Formal and informal community meetings can be used to show evidence of the risks of oil exploration and exploitation in the National Park. If the communities are convinced that they want to enforce their right to free prior and informed consent, they can be made to sign a resolution through which they formally oppose oil drilling inside their territories.


2. LEGAL ACTION

The judicial system can be used to challenge administrative actions and omissions by the government and to enforce the free, prior and informed consent of indigenous peoples. As such, government's failure to consult indigenous communities and their failure to comply with the requirement for an Environmental Impact Assessment are equally challengeable before a court of law.

3. MONITORING OF MINING ACTIVITIES AND DATA COLLECTION

In order to challenge mining companies' actions, it is essential to create a database with updated information on mining activities in the communities. Data on drilling activities in areas that are designated for biodiversity conservation must be used to challenge their mining activities. The information should be used to sensitize communities of the adverse effects of the mining activities in their communities.





FROM THEORY TO PRACTICE: THE EXPERIENCE OF SATIIM

SATIIM worked with local communities and other NGOs to enforce the rights of free, prior and informed consent of indigenous peoples in the management of their natural resources. Governments tend to bypass the requirement of FPIC of indigenous peoples in granting licences and concessions in areas that customarily belong to indigenous peoples.

The indigenous peoples must create community movements that work to protect their rights when governments unilaterally grant licences and concessions over their land without their FPIC. These community movements can be tasked with documenting the actions of the mining companies in order to prove that their activities are affecting biodiversity conservation efforts in the customary rain forests.

The judicial system should be used to challenge the legality of administrative actions of the government, actions of mining companies and to enforce the free, prior and informed consent of indigenous communities. SATIIM used judicial review to challenge government's decision to grant concessions over rain-forests that they co-manage with the indigenous peoples, without their free, prior and informed consent and without conducting the prescribed Environmental Impact Assessment (EIA).

The court ruled in favour of the indigenous peoples and held that the granting of a construction licence without the free, prior and informed consent of the indigenous communities violated the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

In another case by SATIIM, the court found that the government had breached environmental law by granting concessions without conducting EIA, confirming that in-situ biodiversity conservation should be prioritised in indigenous peoples' communities.

Judicial review can thus be used to confirm that the establishment of a state does not diminish the land rights of indigenous peoples. The courts, in their capacity as guardians of the rule of law can be approached to enforce the right to free, prior and informed consent of indigenous peoples embodied in national, regional and international laws.

FROM THEORY TO PRACTICE: THE EXPERIENCE OF CWR

In Mexico's Sierra Madre Occidental, an indigenous-led struggle for the defence of sacred territories and the environment led to an international human rights campaign which eventually forced the national government to backtrack on its plans to exploit the region's resources without consulting its inhabitants.

Despite the fact that Wirikuta has been recognised by UNESCO as a sacred natural site, in 2010 the Wixárika (or Huichol) people discovered that the Mexican government had made 78 mining concessions to the Canadian companies Revolution Resources and First Majestic Silver. Faced with the threat of environmental catastrophe, the Wixarika Regional Council for the Defense of Wirikuta (CRW) joined forces with Mexican NGO's to launch a national campaign against the mines. The campaign soon became international, with the involvement of James Anaya, the UN Special Rapporteur on Indigenous Rights, as well as the International Union for the Conservation of Nature (IUCN).

Under pressure from the international community as well as national human rights bodies, the Mexican government called off all mining concessions in the municipality, including those that were not in lands officially titled to the Wixárikas. This is a landmark ruling because it sets a precedent for those cases in which mining concessions that are not strictly within indigenous-owned land but still have repercussions on the lives of indigenous peoples living nearby



International Land Coalition (ILC)

ILC is a global alliance of civil society and intergovernmental organisations working together to put people at the centre of land governance. The shared goal of ILC's over 250 members is to realise land governance for and with people at country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

ILC's Database of Good Practices

We've created a space where land rights practitioners can look for and find inspiration and solutions to the challenges they face on a daily basis. ILC's Database of Good Practices is where you can learn from ILC members and adapt methodologies and tools that we know work!

Visit the Database to learn, share and be inspired!

www.landcoalition.org/good-practices

