The African BCP Initiative 2011 - 2012:

Key Lessons Learned

Introduction

The African Biocultural Community Protocol (BCP) Initiative was launched at its inception meeting in !Khwa ttu, Cape Town, South Africa, in April 2011. Attended by a number of stakeholders within Africa, the Inception meeting was the launching pad for what has evolved into a solid network of non-government and community-based organisations, assisting communities to develop biocultural community protocols (or BCPs) across Africa. With initial in-person training and support from Natural Justice, CIKOD and ETC-Compas, supporting NGOs and CBOs were encouraged to support their communities to develop BCPs using their existing methodologies and resources, supplemented by periodic on-line assistance provided by Natural Justice at key strategic points of BCP development. This was a deliberate strategy to assess the existing strengths, weaknesses, opportunities and threats in BCP development across Africa. Much has been learned as a result of this process, culminating in a fruitful and productive review in Wa, Ghana in June 2012.

The African BCP Initiative and Multi-Stakeholder Processes Review Meeting was held from 18-22 June, 2012 in Wa, Ghana. The gathering brought together BCP Initiative community participants, partner NGOs and CBOs and supporters from across Africa and Europe to review the progress of the BCP Initiative. Participants represented communities and organisations from Ghana, Burkina Faso, South Africa, Ethiopia, Kenya, and Namibia to discuss their experiences in developing BCPs and the importance of implementing multi-stakeholder processes (MSPs) in BCP development. The review highlight numerous successes and challenges at the community level and saw the emergence of clear lessons for BCPs grounded in the experiences of these communities and supporting organisations.

This document seeks to distil some of the key themes and experiences that emerged as a result of specific inputs from community and supporting NGO and CBO experiences, as well as subsequent discussion. Specifically, it considers the existing strengths of the African BCP Initiative, BCP development, as well as lessons learned and opportunities of growth with respect to BCP entry points, the need for representative community leadership, needs for effective facilitation,

meaningful and guided BCP processes and products, access and benefit sharing, legal support, and monitoring. The recognition of key strengths and lessons will be vital for programme coordinators, supporting partners and communities in continuing their work and deepening their BCP processes, engaging in MSPs in the future, and for researchers and policy makers around Access and Benefit Sharing (ABS), Free, Prior and Informed Consent (FPIC), and the intersection of human rights and environmental conservation generally.

BCPs and the BCP Initiative

BCPs articulate community-determined values, procedures and priorities. They set out rights and responsibilities under customary, state and international law as the basis for engaging with external actors such as governments, companies, academics, and NGOs. They can be used as catalysts for constructive and proactive responses to threats and opportunities posed by land and resource development, conservation, research, and other legal and policy frameworks. Through the African BCP Initiative, communities have been supported in developing and using BCPs in west, east and southern Africa around issues including major infrastructure development, land rights, extractive industries, and conservation. The review meeting marked the end of the first phase of the Initiative.

Key Strengths

The first stage of the African BCP Initiative has identified a number of strengths in the formulation of the African BCP Initiative, and of individual partners supporting communities across Africa. The African BCP Initiative has utilised opportunities through networking and regional meetings to create a community of BCP practitioners across Africa, developing expertise and experience across seven countries, sharing community experiences in BCP development and effective endogenous development practices. The sharing of experiences amongst communities has led to skill-sharing and awareness-raising, developing good practice in BCP development and exploring different ways that BCPs can and have been used in different contexts and with respect to different issues. Communities across Africa have linked up where common issues have been experienced; and throughout the BCP Initiative, a network of communities, lawyers and supporting NGOs and CBOs is being developed, providing additional support for communities in each country. Throughout the eighteen months that the African BCP Initiative has been in existence, communities have become more aware of their rights under national and international law, with opportunities to advocate on their own behalf in international fora. Most importantly, the two communities that piloted simultaneous MSP processes with their BCP process shared their experiences with other African BCP Initiative partners, who emphasised the need to incorporate dialogues, negotiations and MSP processes with present BCP processes, to ensure greater integration of the views of less empowered community members and to provide further tools to engage with external stakeholders.

The strengths of the African BCP Initiative's first phase has led to an emphasis in the second stage on communication between BCP Initiative partners, within countries and across regions. Skill- and experiencing-sharing is an invaluable tool and this will continue to be strengthened.

Moving forward - Lessons learned and Opportunities for Growth

Entry Points

Identifying a clear objective for the BCP to address was often cited as a vital element in developing a successful BCP. Communities often face an array of challenges, but narrowing the focus of a BCP process to a specific issue or goal was seen as helpful and even necessary. This objective will vary from context to context. Identifying the objective through a community-led engagement should be done before the BCP process is initiated. In addition, marrying the BCP process with existing goals, projects and community engagements ensures greater momentum in BCP development.

As BCPs seek to represent a holistic set of community values and practices, articulating a clear point of focus was not always emphasised from the beginning. In cases where it was, community size and diversity had less impact on BCP processes. For instance, the community of Lamu, Kenya's clear emphasis on the need for community consultation, consent and a thorough environmental, social and cultural impact assessment before the construction of a mega-port is enabling a robust and unifying BCP process among a varied set of sub-communities and diverse identities and livelihoods. In Bushbuckridge, South Africa, the determination of a group of traditional health practitioners to assert their stewardship rights over the natural resources they have sustainably harvested and used in their practice for centuries brought cohesion amongst three different ethnic communities.

It was also noted that while the entry point must be defined, it need not be fixed. As the context shifts, community objectives may shift. As this happens, it is important that the BCP process be flexible to these developments and reflect the objectives of the community. For instance, the traditional health practitioners of Bushbuckridge have expanded their BCP to incorporate a Code of Ethics for members and now include a partnership with Kruger National Park for anti-poaching efforts in their work.

Representation

The input of the broadest sample of community members is the essence of a BCP process. Ensuring community ownership requires a balance of direct engagement through large-scale

meetings and workshops and the selection and direct involvement of community members able to represent community values and concerns. Whether facilitating the BCP process directly or in partnership with an outside organisation, representatives able to understand, articulate and contextualise community inputs is essential in guaranteeing the integrity of the BCP. In some cases, these representatives were selected directly by communities as part of the BCP process, in others 'traditional' leadership served this role.

In the BCP being developed around the conservation, sustainable harvesting and empowered marketing of the Shea nut, the officially recognised traditional leadership of the Dafiama community has worked closely with CIKOD in the facilitation process. This has eased community mobilisation, increased trust, and facilitated a relationship with relevant local government structures.

In Namibia, while the Khwe community BCP has not excluded the input of traditional leadership, the BCP process has been driven by community-selected representatives through the structure of the Kyramacan Association, a community-based organisation.

In Bushbuckridge, traditional leadership did not play a leading role as the community was defined by commonalities of practice (healers) rather than ethnicity or geography. The multi-ethnic membership of the healer-formed organisation also contributed to the decision to not be lead by traditional leaders.

Facilitation

NGOs or CBOs have an important role in facilitating BCP processes as they can and have worked to ensure the contribution of a broad, representative group of community members. The degree of detachment from direct community dynamics and ability to observe them can be an asset in targeting a broader segment of the community and in being sensitive to exclusions and holdouts. Organisations are often better able than community members to translate community values and practices into a form understandable by external actors, an essential function of an effective BCP.

For an organisation to effectively facilitate a BCP process, it is essential that it has meaningful experiences and connections with the community. The trust derived from these connections enables community members to feel comfortable in sharing their values, practices, aspirations and concerns. It also increases the likelihood that the organisation can identify and be guided by representative community leadership (as discussed above). The experience is also a prerequisite to understanding the broader context within which community values and practices are located and thus better understand the values and practices themselves.

In Sheka Forest, Ethiopia, MELCA, an Ethiopian NGO, has worked with the Shekacho community on various development projects over several years. This experience allowed them to identify community representatives to work in developing an initial BCP draft. They were then able to identify and invite over 60 community clan leaders to participate in a line-by-line review of the draft. They also used their connections to engage the local government to seek feedback on the draft and, following further community consultations, are seeking formal recognition of the document from the government-run Federal Institute of Biodiversity Conservation to maximise the BCP's legitimacy for external actors.

In Lamu, the BCP process has been facilitated directly by Save Lamu, a CBO established specifically for the purpose of BCP development. Natural Justice supported this facilitation by providing training for facilitators and in participating in some of the early community meetings.

Process vs Product

Participants engaged in extended discussions on whether BCPs are primarily useful for the empowering process of developing them or for the end product (the BCP itself). While the unsurprising conclusion was that both are helpful, the discussions around the strengths of both were enlightening.

On process, several strengths were identified. Robust BCP processes strengthen community confidence through their focus on identifying traditional values and practices which have and continue to positively ground and guide decisions. Encouraging communities to articulate these values and practices, and their significance, underscores their positive aspects and can reaffirm their value against the pressure to adopt external practices. They are also empowering as they emphasise the importance of community values and capacity in engaging external actors rather than treating communities. This endogenous development approach contrasts with empowerment approaches which merely teach community members 'skills' rather than illustrating to communities the immense capacity they already have. One participant referred to this as a form of 'self-discovery', of rediscovering community strength after histories of marginalisation have undermined awareness of these strengths.

Through these strengths of empowerment and self-discovery, the process can even be valuable in grounding and strengthening community members or representatives in engaging with external actors before a BCP has been drafted and released. For instance, Save Lamu has drawn extensively from the community meetings facilitated through the BCP process in engaging with local government despite the fact that the BCP text is still being drafted.

The value of the end product can be seen in two aspects. Firstly, it concretises the positive aspects identified above by physically embodying the empowering aspects of a community's culture and practices identified in the BCP process. Secondly, a community adopted BCP is a powerful tool for engaging with external actors. While these engagements have traditionally occurred on the terms of external actors, a BCP provides a platform with which community values are emphasised as the basis of any engagement.

The BCP not only resituates power dynamics, it also provides increased certainty for external actors. Especially in access and benefit sharing but across a variety of contexts, external actors have often struggled to determine how to engage and partner with communities. At a minimum, a BCP offers an external actor an understanding of community values that must be respected in any engagement.

ABS

BCPs gained their first formal recognition through Article 12 of the Nagoya Protocol on Access and Benefit Sharing (ABS) to the Convention on Biological Diversity. The ability of BCPs to provide certainty for external actors, discussed above, is a major strength for ABS processes. A further strength cited by participants is the education of community members on ABS. Most communities began BCP processes without any understanding of ABS. In BCP processes around ABS,

community-level trainings on ABS are integrated with discussions of values and practices that are supported by ABS. This increases awareness of ABS but also grounds communities to participate as empowered and informed actors in ABS negotiations.

The BCP of the Samburu community of Kenya engaged with potential biopiracy of the Red Maasai sheep breed, bred over centuries by pastoralists in east Africa to survive drought and disease. The BCP process reaffirmed the importance of the Red Maasai to the Samburu in the face of promotion of other breeds but primarily enabled the Samburu to articulate their stewardship relationship with the Red Maasai. While no ABS discussions have yet taken place, the possible biopiracy action has been paused, the Samburu have established their claim to the Red Maasai, and are well-positioned to engage with other communities with claims, potential users, and other stakeholders should an ABS process be initiated.

Legal Support

While the core value of a BCP process is in community mobilisation and empowerment, locating community values within the body of rights that give legal meaning to those values was reemphasised as an important element of a meaningful BCP by participants. The need for this support was identified in two areas: direct legal empowerment and legal assistance in drafting and using BCPs.

On legal empowerment, the BCP method of presenting legal frameworks through engaging processes that directly link practices and values to the protections of these frameworks continues to be a strength of BCPs. In each context, however, formal support will likely be required in identifying relevant legal instruments, translating them into easily understood language, and training facilitators in the instruments before they lead the training process.

Supporting communities to identify local, national and international laws and policies that affirm their rights will require formal legal support in each context. Leveraging the law in engagements with corporations or governments will also often require formal legal support. While Natural Justice has often played this role, the need to connect communities with national legal counsel was emphasised. Capacity in understanding and using emerging legal frameworks is still limited so providing capacity development for national lawyers, directly and through establishing networks of like-minded practitioners, was identified as a priority.

Monitoring

Though it was not discussed extensively, constant monitoring of developments during a BCP process and after a BCP has been developed was identified as necessary for ensuring meaningful BCPs. After a BCP has been finalized, monitoring should be based against the standard set by the BCP in terms of values asserted and rights claimed. It should also consider how relevant a BCP's areas of focus continue to be for a community. This monitoring should lead to action in more proactively implementing BCPs or in modifying them to reflect shifting community challenges and concerns.

Conclusion

The themes mentioned in this paper are in no way exhaustive of the range of matters that the BCP Initiative partners encountered during their processes of 2011-2012. They are however are a synthesis of the key matters confronted by the 8 communities of the African BCP Initiative. Further lessons will no doubt be raised as the BCP Initiative continues into 2013 and 2014.

As our partners continue the development and utilization of BCPs in their respective contexts we welcome further discussion and sharing of information with the aims of building best practice on BCPs and the capacity of the BCP Initiative partners.

We thank you all for your invaluable input and we look forward to our continued partnership in 2013 and 2014.