

# Biocultural Community Protocols (BCP)

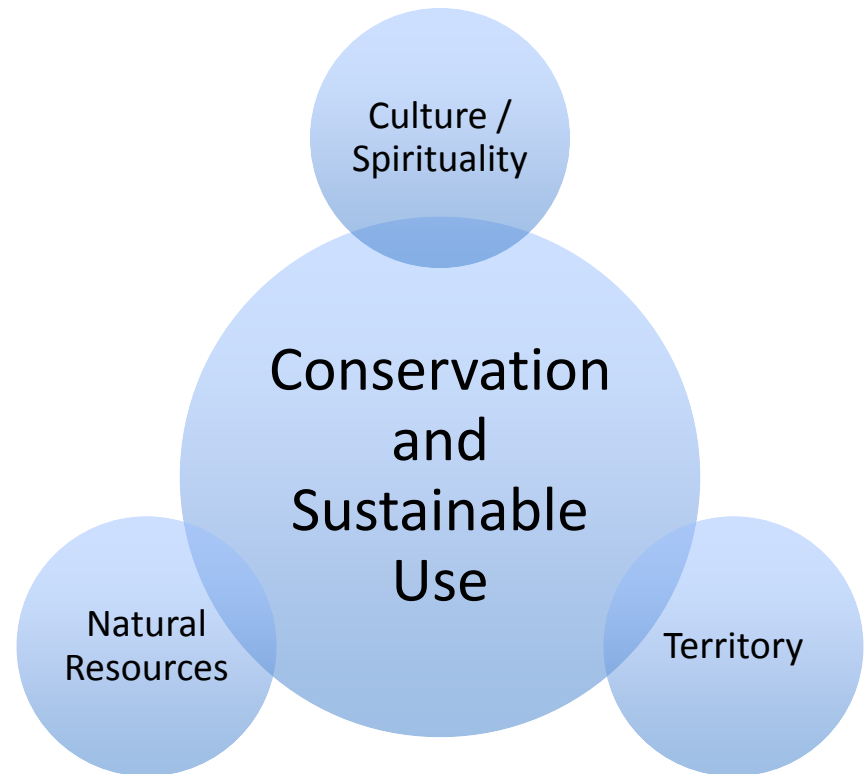
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Lawyers for Communities and the Environment

# What are BCPs?

- Instruments that have emerged in response to growing body of “bio-cultural rights” in nat & int’l law
- community developed tools, rooted in an understanding of these rights and deployed to engage gov and other stakeholders to secure community wellbeing
- Developed/adapted to address a number of key challenges

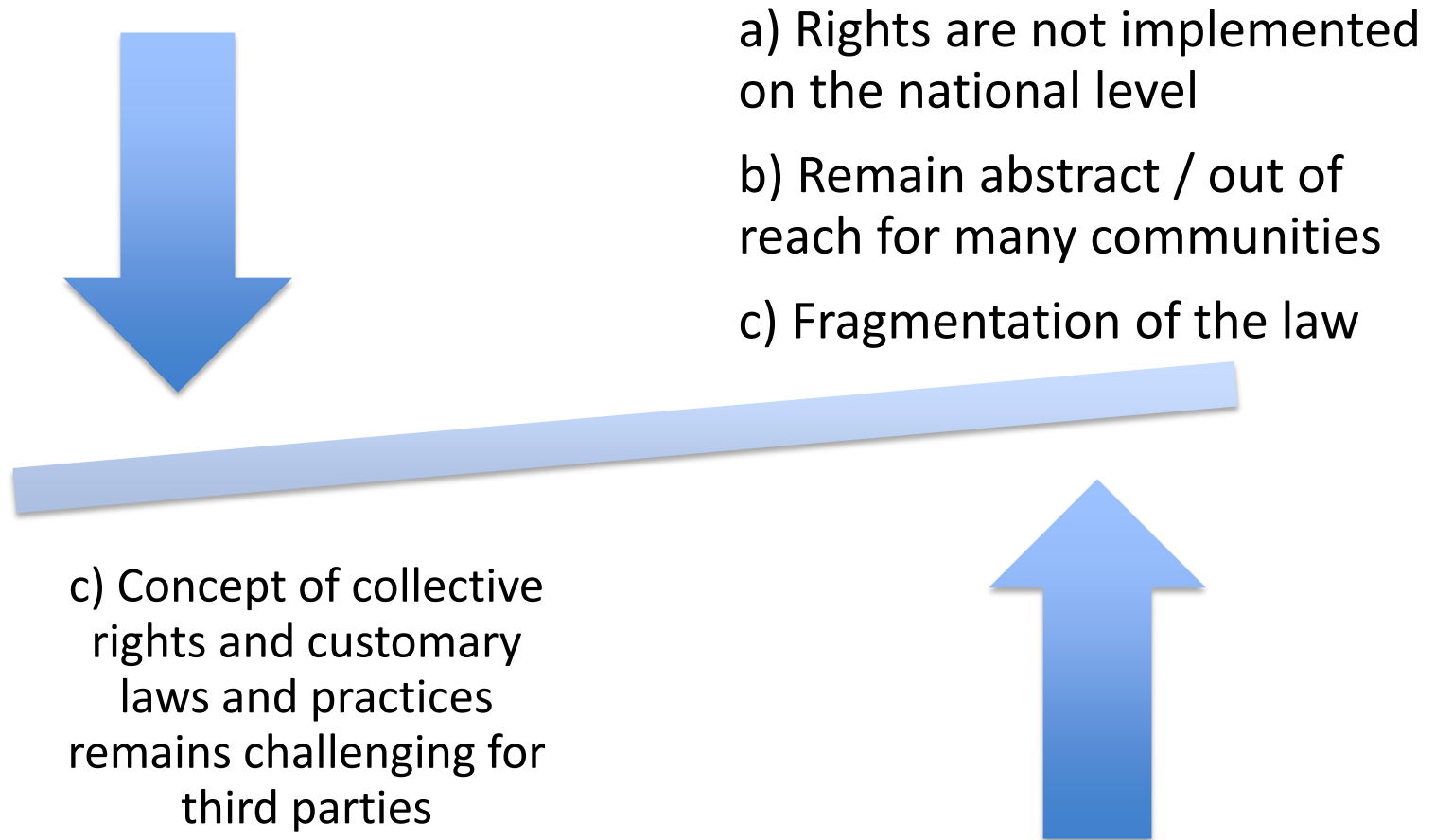


# Nagoya Protocol-

## Art. 12 – TK associated with genetic resources

1. In implementing their obligations under this Protocol, Parties shall in accordance with domestic law take into consideration indigenous and local communities' customary laws, community protocols and procedures [...] with respect to TK associated with genetic resources. [...]
3. Parties shall endeavor to support, as appropriate, the development by I(P)LCs, including women within these communities, of: (a) Community protocols in relation to access to TK associated with GRs and the fair and equitable sharing of benefits arising out of the utilization of such knowledge [...]

# Challenges of implementation



# Challenges: Fragmentation of the Law



# What are BCPs?

- Process:
  - participatory and reflective
  - affirming traditional innovations and practices in relation to local ecosystem
  - capacitation of national and international rights framework
  - Discussion of customary procedures in relation to national / international laws e.g. PIC, MAT or benefit sharing

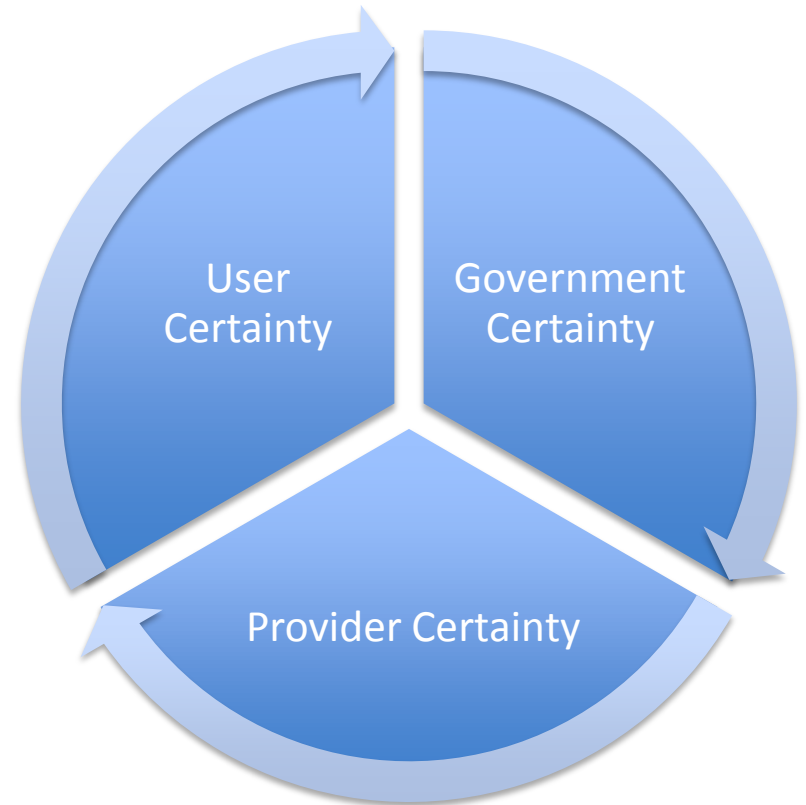


# Elements of a BCP

- Definition community and governance structure
- Values related to ecosystem / use of resources
- Spatial description of resources use (participatory mapping, GPS etc.)
- Problems faced by community
- Aspiration of community (can be very targeted)
- Obligations regarding use of biodiversity – often related to customary practices
- Relevant rights in national and international law
- Particular elements – FPIC, Benefit Sharing etc
- Contact details of identified point persons or committees

# Outcome – A tool of interface

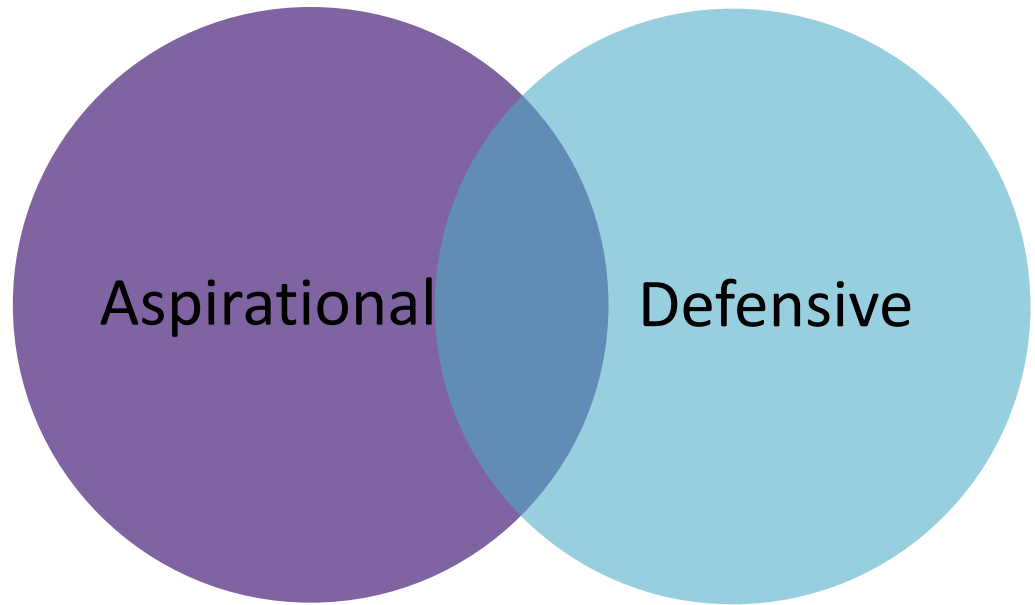
- Declaration of intent and self determination
- Legal / negotiation empowerment
- Clear mandate to community leadership
- Clarity of e.g PIC procedures for potential users
- Clarity for government decision makers about customary laws



## Triggers for a BCP

A BCP can be triggered either by an aspiration towards a goal (e.g. to engage with a possible future bioprospecting opportunity)...

...or a need to defend themselves as a result of some sort of external factors (e.g. to secure rights or respond to outside interest).



# Best Practice for BCP

## 1. Process:

- How did the BCP process emerge? Was the BCP process participatory? Who owns the BCP?

## 2. F(PIC):

- How was FPIC organised?
- Does the community understand F(PIC)?

## 3. Negotiation processes:

- contribute to the terms of engagement/  
influence the decision making process?

# Best Practice for BCP



## 4. Process and/or product:

- impact and empowerment

## 5. Key Steps in the process:

- Context specific?

## 6. Impact:

- Greatest Impacts seen by community

# Best Practice for BCP

## 8. Legal Recognition:

- What changes are needed to

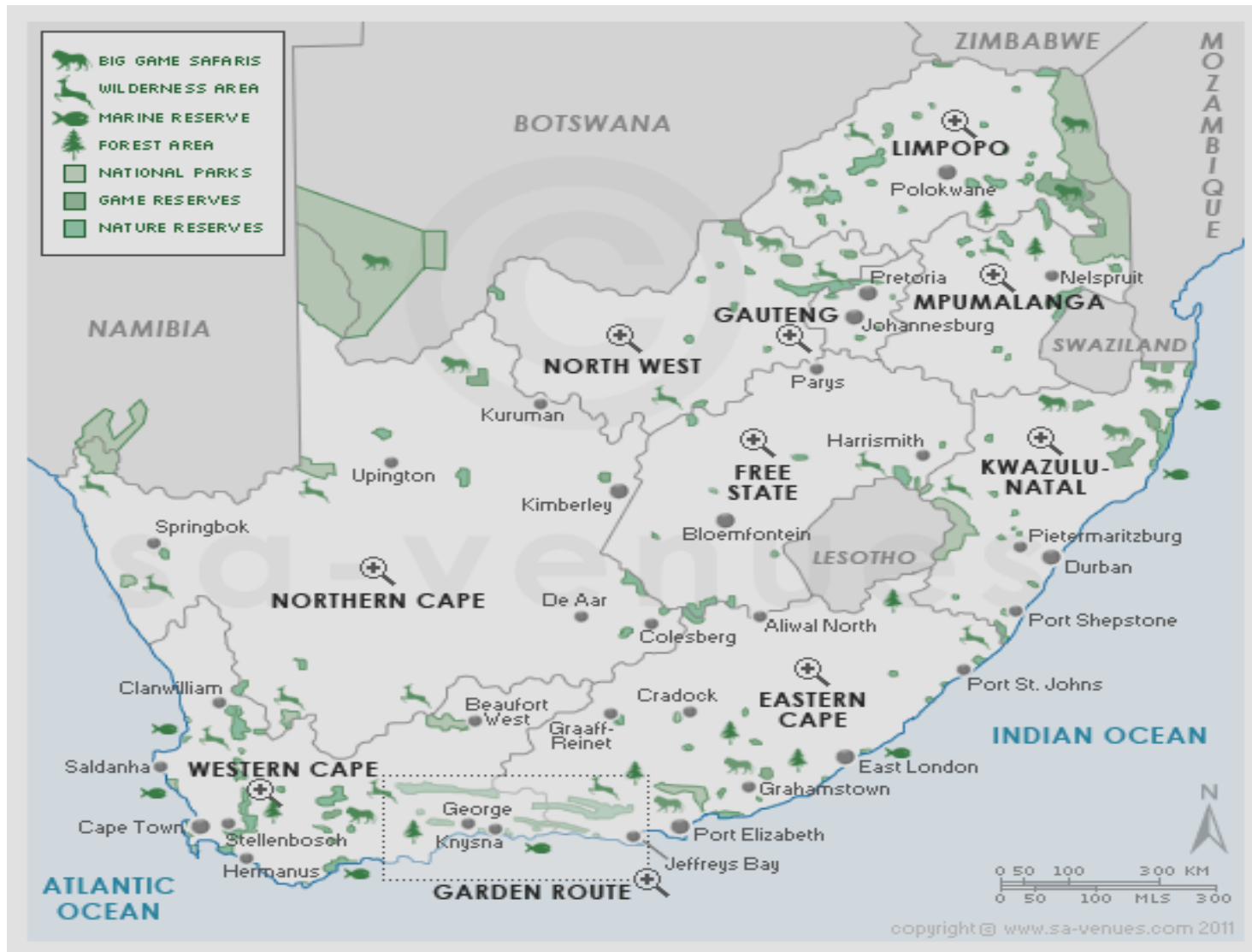
## 9. Challenges:

- Monitoring
  - Conservation and sustainable use
- Capacity/Funding
- Dialogues
- Prescribed/Flexible
- Involvement of local government

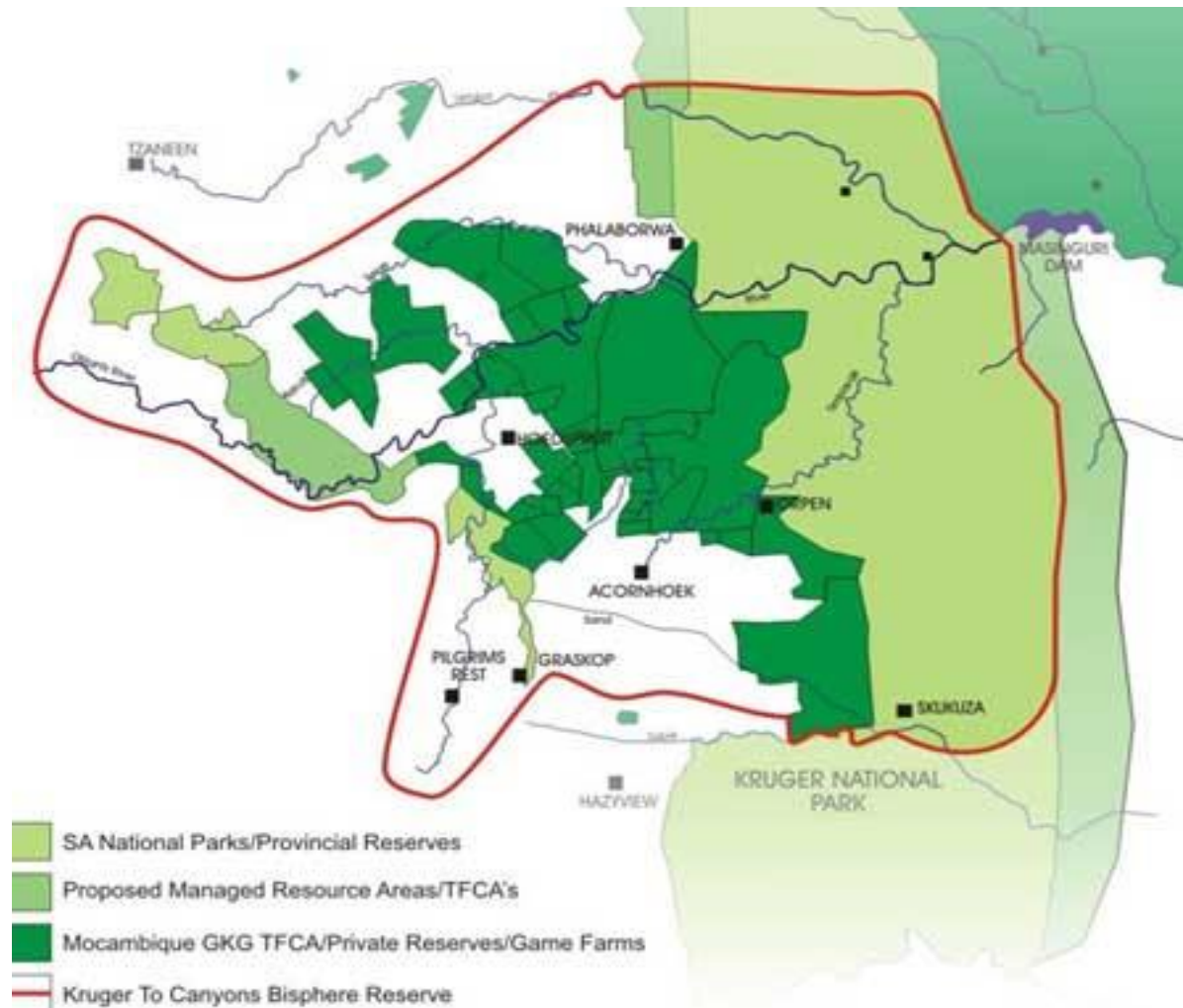
# Example – Bushbuckridge, SA



# Location



# Kruger to Canyons Biosphere Reserve (Stakeholders)



- Who are they
  - 300 healers
  - Different ethnic groups
- Customary laws
  - harvesting
- Problem
  - Biopiracy
  - Access to PA
  - Muti hunters
  - Lack of land

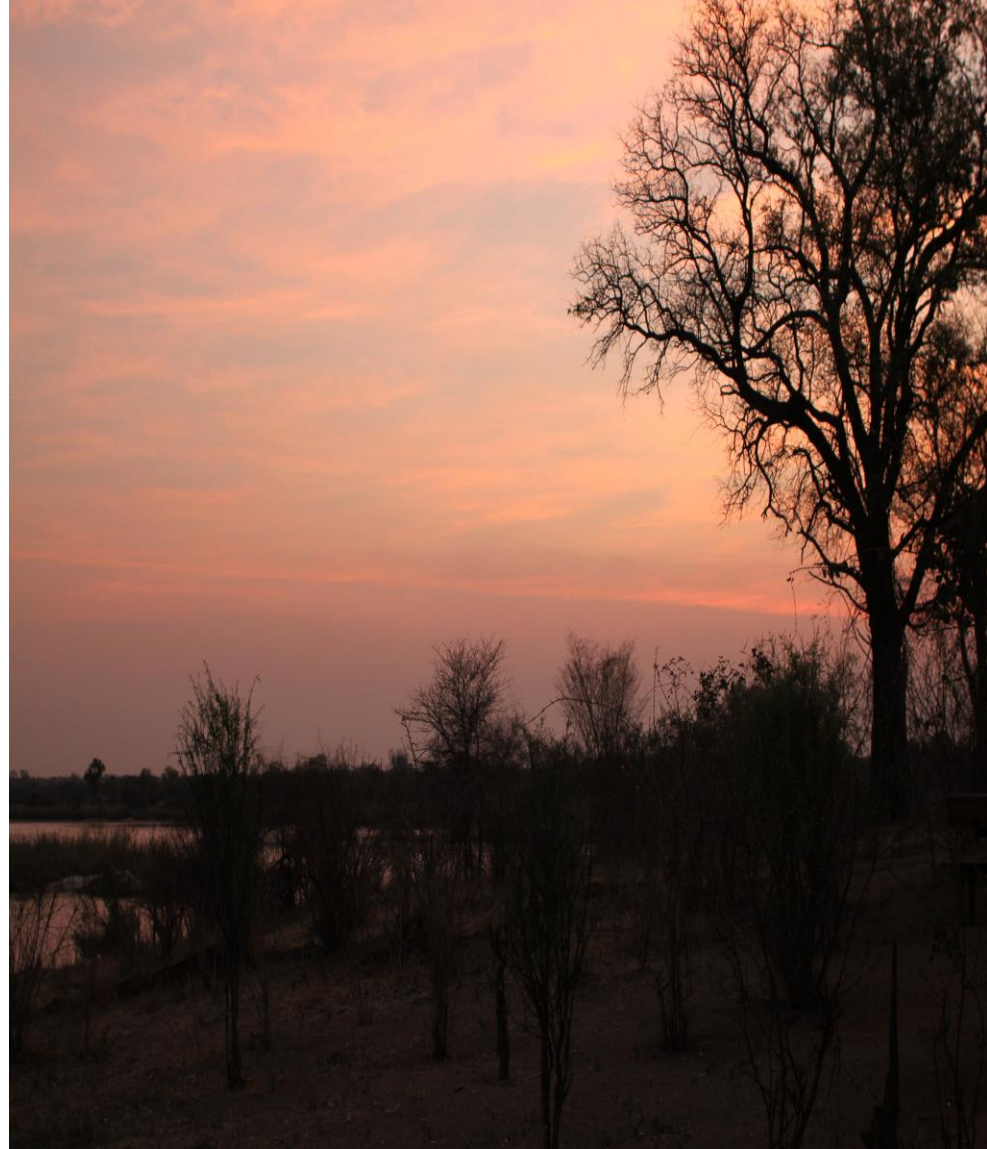


- BCP
  - Legal Capacity (FPIC and ABS)
- Governance: Kukula Traditional Healers Association (committees)
- Access to PA and Land
- Conservation/over-harvesting
- Recognition
  - Code of Conduct
- TK/ABS
  - Negotiation and Agreement with local cosmetics company



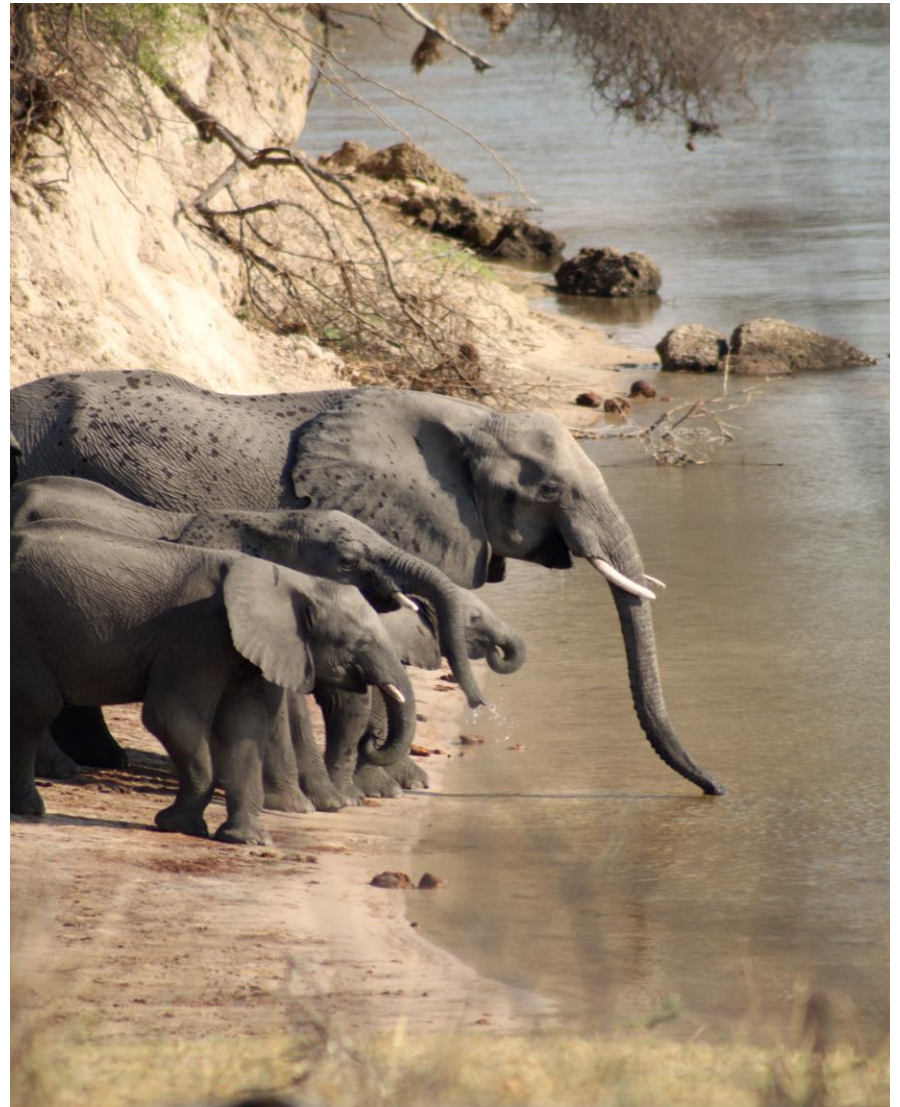
# BCP: Residents inside Bwabwata National Park

- Proclaimed Park/residents living inside
- Khwe community and others/6000 total
- Kyaramacan Association- residents organization/comanage
- Biodiversity and wildlife rich area
- Khwe way of life-resources



# BCP background

- Status
- Aspirational BCP
- Challenges
- Process
- Extensive external technical work around resources exist. Eg. high value plants
- BCP offered a community voice



# BCP process



# BCP process:

- Natural Justice invited
- Community consultations around BCP (2012/3)/ 12 villages
- Custodian committee formed : BCP
- 2013 CIKOD partners around ED methodology
- (resource and customary institutional mapping; visioning)
- Legal training with Namibian partners (LAC, MET)
- 1<sup>st</sup> Draft framework supported by MET /NJ



# resource management

## 1. physical resource:

- \* what do we get in the forest?
- \* where do we find our physical resource?
- \* do we have ~~power~~ access to these resource?

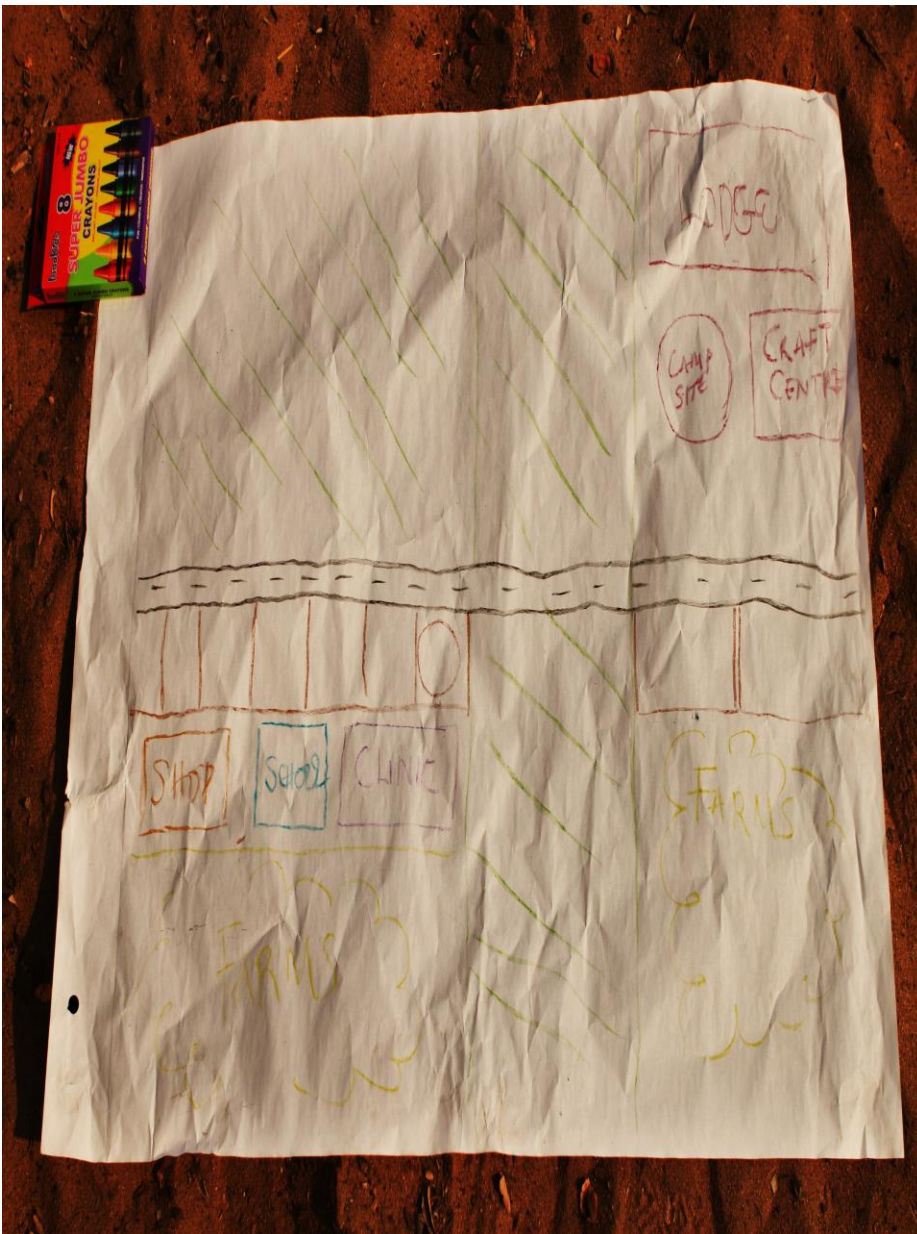
## 2. Spiritual resource:

- \* do we have spiritual places? / what are they?
- \* where do we find them?
- \* ~~Learn~~ Sacred place / where are they located?

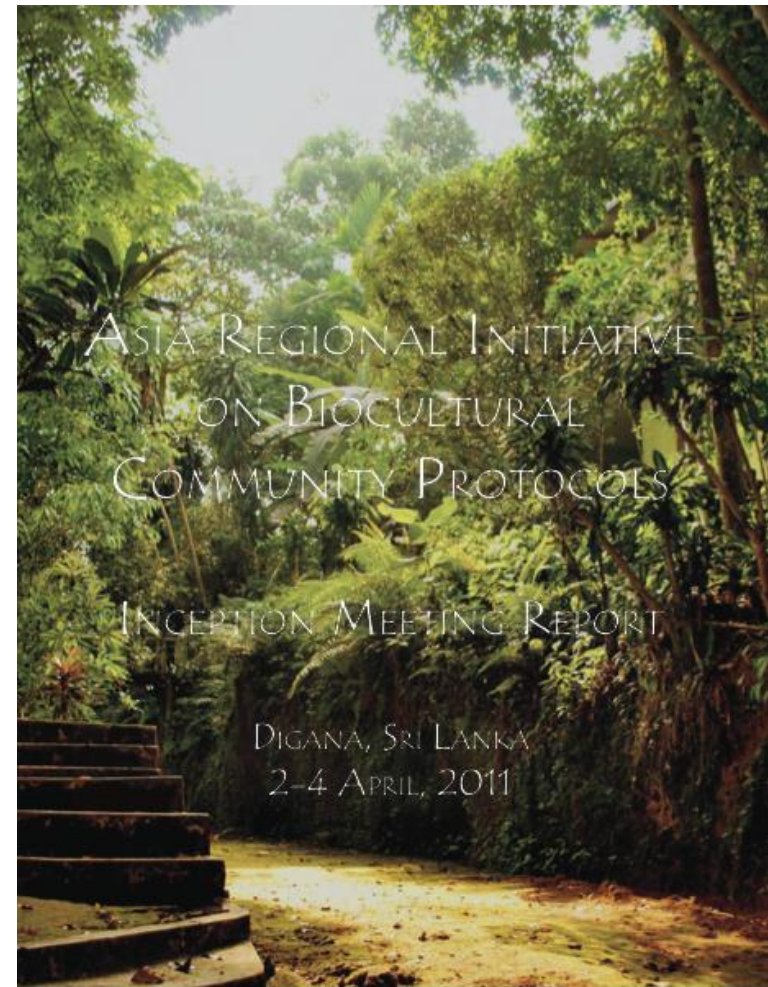
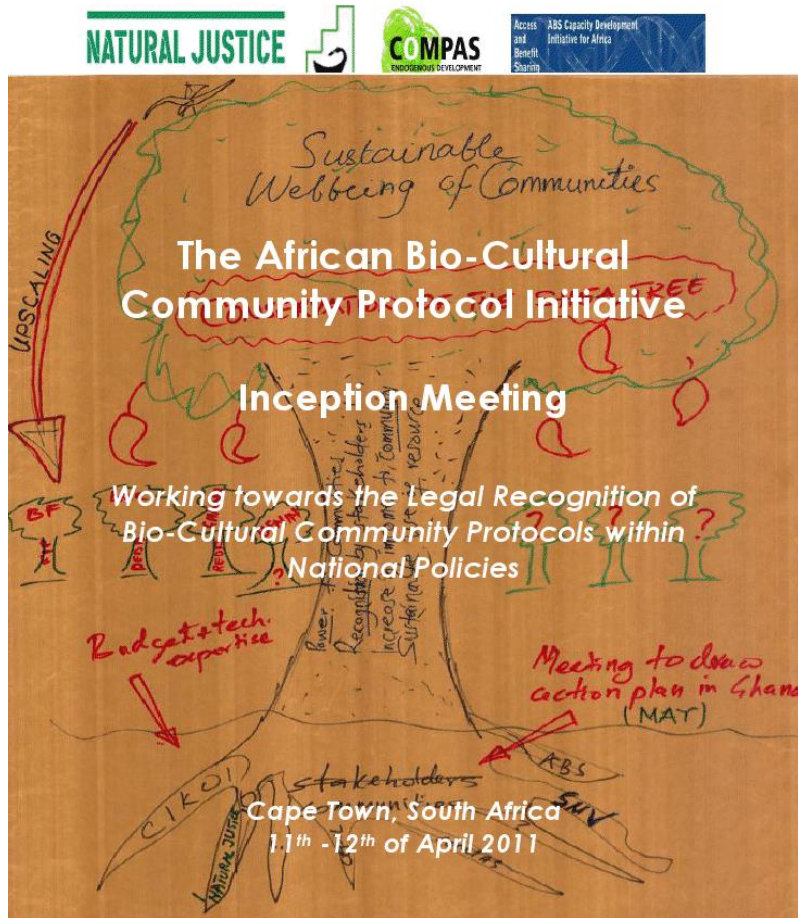
## \* socio-cultural social factors resources:

- \* what is Socio-Cultural practice do have?
- \*



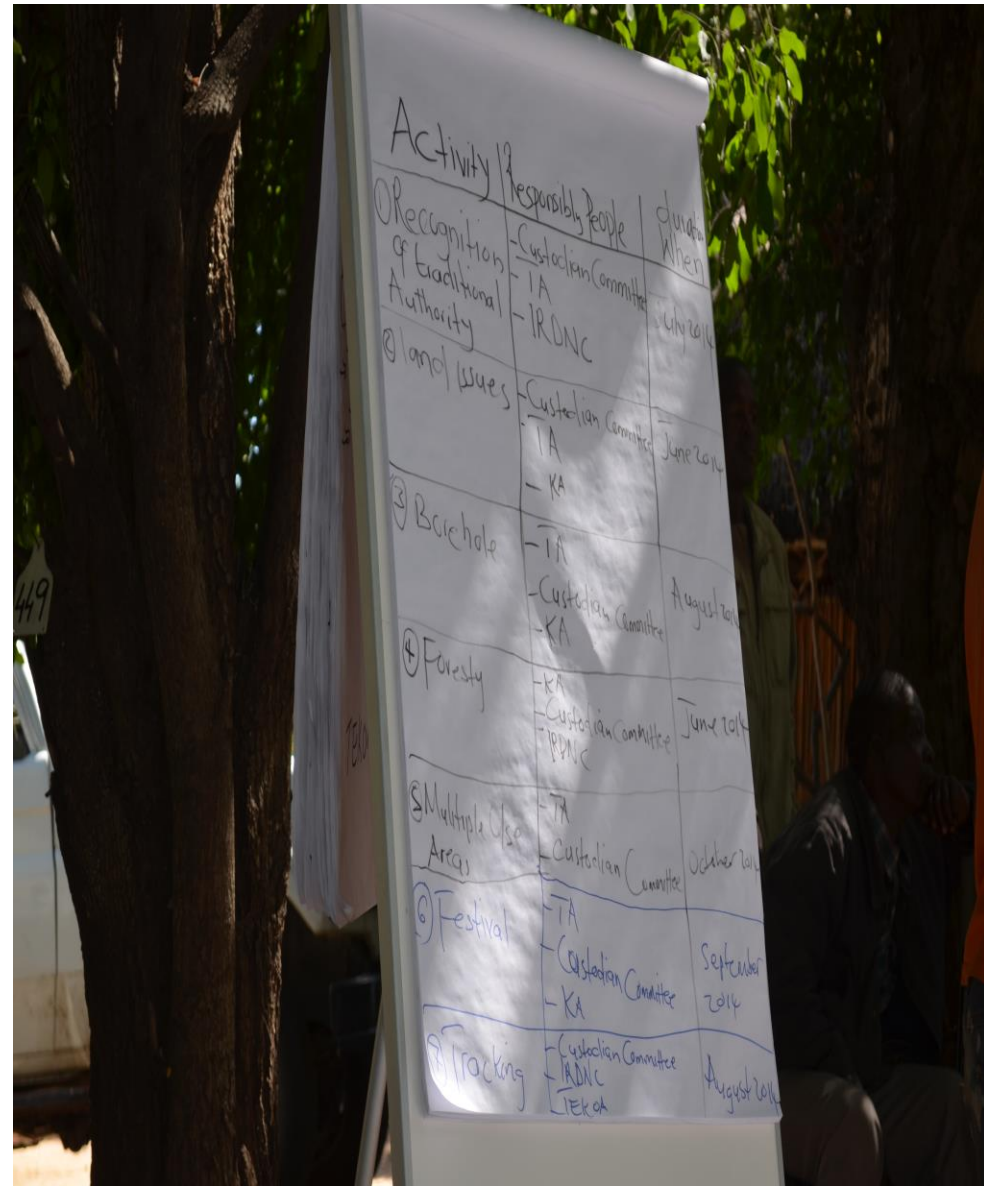


# BCP Initiatives



# Elements of BCP

- Identity / Who they are
- History to the region
- Governance structure
- Community values irt land, animals & biodiversity
- TK irt plants aspects
- Managing the environment
- Importance of inter-generational transfer
- FPIC
- Challenges they're facing to their way of life
- Legal section/ their rights



Activity	Responsible People	Duration When
1 Recognition of traditional Authority	- Custodian Committee - IA - IRDNC	July 2014
2 Land Issues	- Custodian Committee - IA - KA	June 2014
3 Birchole	- IA - Custodian Committee - KA	August 2014
4 Forestry	- KA - Custodian Committee - IRDNC	June 2014
5 Multiple Use Areas	- IA - Custodian Committee	October 2014
6 Festival	- IA - Custodian Committee - KA	September 2014
7 Tracking	- Custodian Committee - IRDNC - TEKOK	August 2014

# COMMUNITY PROTOCOLS

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Protocols developed by Indigenous peoples or mobile or local communities ("community protocols") are gaining recognition as a useful means by which a range of peoples and communities can engage with others according to their values, and on the basis of customary, national and international rights and responsibilities.

This website is intended for Indigenous peoples, mobile and local communities, their community-based and non-governmental organisations, governmental agencies, and researchers, among others, to:

- Provide information about community protocols;
- Share good practice about the development and use of community protocols;
- Highlight the questions that peoples and communities are raising about community protocols;
- Provide a range of resources relevant for the development and use of community protocols; and
- Act as a clearing house for protocols developed by Indigenous peoples and local communities.

## Latest News

### Save Lamu Nominated for Human Rights Award

Save Lamu, a coalition of Indigenous communities of Lamu, Kenya, has been working with Natural Justice to develop a biocultural community protocol (BCP) to call for transparency and participation in L...

### Submission to UN WG on Human Rights and TNCs

On 8 December, Natural Justice and the Centre for Indigenous Knowledge and Organisational Development (CIKOD) made a joint submission on 'Large-Scale, Industrial Methods of Extraction, Production, and...

### Conference on the Nagoya Protocol

Herry Jones (Natural Justice) attended a conference at the University of Edinburgh from 2-3 of December focusing on the Nagoya Protocol. Many of the attendees were integral to the negotiation of the p...



## Resources

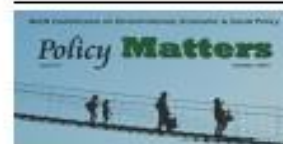
There are a range of resources to assist Indigenous peoples and local communities to develop and use protocols, including those related to indigenous development, wellbeing, legal empowerment, research, consultation and communication, advocacy and active and monitoring and evaluation.

[Find out more](#)

## Featured Publications



Bio-cultural Community Protocols: A Community Approach to Ensuring the Integrity of Environmental Law and Policy (Natural Justice and UNEP, 2008)  
[Read More](#)



Biocultural Community Protocols and Conservation Pluralism (IUCN-CEESP Policy Matters 37, 2008)  
[View More](#)

## Videos



Biocultural Community Protocols and Livestock Keepers (Moving Images, 2008)  
[Watch Video](#)

We are very grateful for the generous support of our main funding partners:



For more information, please visit our [Partners, Contributors and Funders](#) page.

Dankie.

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