

Biocultural Protocols

The Case of the Potato Park
Inter-Community Agreement for
Benefit Sharing

Biocultural Protocol

- Concept of “Biocultural Protocol” is derived from (collective/ indigenous) “Biocultural Heritage”
- Biocultural protocols provide parameters for discussion within and among communities and between communities and other actors

Biocultural Protocol

1. Intrinsic Elements

- Articulates “Rights of Pacha Mama” (Mother Earth)
- Reciprocity (Ayni) as the basis of exchanges
- Links to ecosystems and landscapes and recognises economies based on biodiversity and culture
- Intercultural practice (linking different cultures/economies under a respect-based process)
- Operate at various levels of the concept of “community”

Biocultural Protocol

2. Extrinsic elements

- Legal “coupled” systems (customary laws and positive law systems working together in a reciprocal, complementary and supportive way to achieve “equity” in BS)...provides for legal certainty
- Effective implementation of 10c, 8j and Nagoya Protocol
- Integrated approach to rights (TRRs)

Objectives of a Biocultural Protocol

- Articulate how indigenous peoples practice “conservation and sustainable use” of BCH (biodiversity) 10c
- Effective protection against biopiracy 8j
- Constitutes a process of community empowerment, maintenance of culture and introduction and collective thinking about new issues/emerging legal frameworks. UNDRIP
- Should lead to livelihood improvement by securing communities’ rights to their natural resources and traditional knowledge
- Emphasises dynamic and innovative nature of tradition

The Potato Park Biocultural Protocol for BS: Summary

- Background:
 - The PoPa and CIP Agreement
 - Type of BS arrangement:
 - Customary Laws and GR use
 - Time span
 - Written against oral
 - Collective nature of agreement
- Policy Relevance: 8j, 10c and NP

Context: The Potato Park

- Genetic resources and BCH
- The Agroecosystem: Ayllu
- The six communities are one
- Institutional and organizational structure
- Decision making processes
- National and local legal framework

The PoPa Biocultural Protocol for BS: Purpose and Primary Motivations

- A tool for regulating ABS associated to their traditional knowledge (in this case, specifically BS) according to their values and customary laws -- and reinforcing it with positive/statutory law.
- Bring together other stakeholders (such as researchers and commercial interests) through an intercultural practice
- “Coupled” law systems (indigenous and positive law systems) supports the continued and inter-connected nature of management of natural resources
- The protocol helps the community to implement the UNDRIP

Policy, legislative and Administrative Context

- Customary laws and national legislation
- Specific regulations used in the agreement
- Constraints

Objectives

- Strategic objectives
- Specific objectives
- Links to objectives of the CBD, ITPGRFA, etc

Process

- Complexity and social networks
- Participatory learning and action
- Emancipatory methodologies
 - S1: Identifying Actors
 - S2: Defining types of benefits
 - S3: Negotiating the agreement
- Customary laws and compliance

Content of the PoPa BCP

- Providers and beneficiaries
- Inputs and contributions
- Actions and responsibilities
- Rights and responsibilities
- Types of benefits (indicators and process)
- BS mechanisms (modalities)
- Policy and legislation

Chart 2: Application of criteria of rating participation in the Potato Park activities for purpose of redistribution of funds 2010

ACTIVITIES*	COMMUNITIES					Observations
	Pampa llacta	Paruparu	Amaru	Chahuay tire	Sacaca	
1. Participation in ordinary and extraordinary meetings of the directors of the Association of communities of the PdP	8	10	10	4	10	
2. Participation in different activities in the Potato Park.						
a. National Day of the Potato	7	10	8	8	8	
b. International Events	1.5	3	1.5	0	1.5	
c. Evaluation Workshops (CIP)	3	3	0	3	0	
d. Representation:						
1. march against GMOs (FAO) in Cusco	3	3	3	3	3	
2. Signing of CIP agreement renewal in Lima	3	3	3	3	1.5	
3. Participation in training workshops						
a. climate change	5	5	5	3	5	
b. validation and ratification of intercommunity agreement	3	5	4	5	5	
4. Participation in the agro ecotourims activities in each community						
a. role in Andean reception of visitors	2	2.5	2.5	1.5	2.5	
b. local guides	0.5	2.5	2	0	1	
c. gastronomy collective	0.5	1.5	2.5	0.5	1.5	
d. traditional dress	0	0	0	0	0	
5. Participation in the Conservation of Potatoes						
a. participation of Papa arariwa technicians	2	2	1	1	0.5	
b. participation of the community in planting	2	2	2	2	1	
c. participation in cultural labour (aporque, control and others)	2	2	2	2	1	
d. participation in the harvest	2	2	2	2	1	
e. traditional celebrations	2	0	0	0	0	
f. identification and community empowerment in conservation	2	2	1	1.5	1	
6. Participation in the economic collectives						
a. Medicinal plants	1	2	1	0	1	
b. gastronomy	0	1	3	1	1	
c. botanical gardens	0	1	1	0	0	
d. Papa arariwa (Potato Guardians)	3	3	2	0	0	
e. local technicians	3	3	3	1.5	1	
f. craft collective	0	1	2	1	3	
g. local guides	0	3	0	1	1	
h. video collective	1	0	0	0	1	
7. Initiatives for the betterment of the Potato Park						
a. community signs	0	2	0	0	0	
b. trails and roads	2	2	2	2	0	
c. camps	0	0	0	0	0	
d. maintenance of buildings and greenhouses	1	2	1	0	1	

Importance for policy, legal and administrative measures

- Impacts on Collective Biocultural Heritage:
 - Solidarity economy
 - Ecosystems goods and services
 - Genetic and species diversity
 - Landscapes
 - Agrobiodiversity and potato diversity
 - Expressions of folklore
 - Cultural and spiritual values

NAGOYA PROTOCOL	INTER-COMMUNITY AGREEMENT AND POTATO PARK
Objective of the Protocol (Art.1)	Contribution to the conservation and sustainable use of GR. Fair and equitable sharing of the direct and indirect benefits derived from the biocultural resources of the Potato Park. Transfer of technology.
Fair and Equitable Benefit-Sharing (Art. 5.2 and 5.5)	Example of framework for benefit sharing. Criteria developed to ensure that the monetary and non-monetary benefits derived from the Potato Park activities were distributed in a manner agreed upon all communities. Creation of Intercommunity Fund, Cultural Affirmation Fund and the Fund for Reinvestment for Sustainability.
Development of legal, administrative or policy measures (several articles)	Ordinances passed by the regional government of Cusco against biopiracy and GMO. Development of intercommunity decision making processes and structure.
Access to Genetic Resources previous informed consent of ILCs with the right to grant access (Art. 6.2)	Potato Park collection under the MLS of the ITPGRFA
PIC to access to TK associated with GR (Art 7) and PIC to access GR (Art.6.3)	Intercommunity governance system structure for decision-making has been strengthened. Stronger position to grant and negotiate PIC
Food Security (Art.8)	Assurance of survival and livelihood of communities. Access to adequate food and natural resources, free from adverse substances, and acceptable within the communities' culture.
Contribution to conservation and sustainable use (Art. 9)	Integrated in-situ-ex-situ model of conservation. 1345 varieties of potato in 2011. Restoration of local habitats and ecosystems, ensuring cultural survival promotion of local rights and sustainable use of GR.
Taking into consideration ILCs customary laws (Art. 12.1) Development by ILCs of Community Protocols, MAT and Model Contract (Art.12.3)	Key feature. The research, consultation and negotiation processes that resulted in agreement based on customary law. The principles of reciprocity, duality and equilibrium are the pillars of the agreement and the decision-making structure.

Information to potential users about their obligations Art.12.2	Provides example of a practical application of a benefit sharing agreement and a methodology to develop future agreement based on customary laws.
Customary use and exchange of GR amongst ILCs Art. 12.4	Free flow of resources among communities and their members.
Monitoring the utilization of GR Art. 17	Potato Park under the MLS of the ITPGRFA
Dispute Resolution (Art. 6.3.g, 7, and 18)	Intercommunity conflict resolution mechanism based on family, tradition and the community's General Assembly.
Model Contractual Clauses, best practices, guidelines (Art. 19 and 20)	Provides examples of best practice. The experience and methodology could be used in similar schemes to define benefit-sharing agreements. Clarifies the definition and representation of the beneficiaries of collective rights.
Awareness Raising (Art. 21)	The development of the inter-community agreement has shown that supporting community protocols can be a powerful tool for raising awareness of these issues amongst ILCs.
Capacity (Art.22)	Contribution to the construction of an Indigenous Governance Model and to the definition of sui generis system for the protection of TK and the role of customary law. Stronger capacity to negotiate MAT, develop and implement measures, legal and institutional development.
Technology Transfer (Art.23)	2004 Repatriation Agreement with the International Potato Center renewed. First community organization to make agricultural genetic resources available under the multilateral benefit sharing mechanism of the ITPGFA. Submission of potato varieties to the Svalbard Global Seed Vault in response to concerns about the long term in situ conservation of the varieties in the context of climate change in the Peruvian Andes

Lessons Learned

- Intellectual Piracy
- Transferability of the experience
- Practical implementation is possible

Sullpayki!

Gracias!

Thanks!