

# FPIC as Project Bonus: A New Paradigm in IP- Project Engagement

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## Why a New Paradigm in Indigenous Peoples-Project Engagement?

Because the world has changed since the first Indigenous Peoples Policies were formulated and FPIC has been adopted:

- 1982 World Bank OMS 2.34 “**Tribal Peoples** in Bank-Financed Projects”
- 1989 ILO Convention No. 169
- 1991 World Bank OD 4.20 on Indigenous Peoples: **from tribal to global**
- 2000 United Nations Permanent Forum on Indigenous Issues
- 2007 United Nations Declaration on the Rights of Indigenous Peoples: **FPIC**
- **2008-Today: MDB Indigenous Peoples policies incorporate FPIC**



## FPIC as Game Changer

- While “not a veto” FPIC does empower groups designated as Indigenous Peoples by giving them sole control over a valued commodity: their consent
- FPIC requires new paradigm of stakeholder engagement: continuing the paradigm shift from i) “safeguards (do no harm)” to ii) “meaningful consultation/BCS” and benefit-sharing to iii) a new FPIC-infused engagement strategy
- *N.B.:* Inclusion of FPIC in MDB policies increases value of a group being designated as Indigenous Peoples
- Likely to spur more demands from groups to be recognized as Indigenous Peoples

# Proposal for a New Paradigm: Based on Some Lessons Learned Implementing FPIC

## Consent Achieved / In Process

- **Upper Trishuli-1 HEP (UT-1; Nepal):** MDBs, 2018
- **Sakhalin Energy LNG (RF):** private, 2010 & 2015
- Upper Arun HEP (Nepal): WB+; just begun

## FPIC Initiated

- Weda Bay Mining (Indonesia): private, 2013-2016
- SMI Tampakan Mining (Philippines): private, 2012
- Abadi LNG Project (Indonesia): private, 2013-2015





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Nivkh community, on Strait of  
Tartary, Trambaus, Sakhalin, RF





Himalayan Hillside  
Village, Rasuwa, Nepal



## New Paradigm needs a New Stakeholder Engagement Strategy: the *IP Participation & Partnership Paradigm (PPP)*

- FPIC spirit as guiding principle with participation and partnership throughout the project lifecycle
  - from preparation through operations
  - from FPIC process, through Indigenous Peoples Plan (IPP) preparation through IPP implementation
- The Indigenous Peoples Plan (IPP) governance structure must be re-conceptualized to accommodate the FPIC spirit
  - Preparing IPP: Collaborative w/IP
  - Implementing IPP: governance, monitoring, evaluation with IP
- Tripartite IPP implementation: Indigenous communities, project, government



## The IP Participation and Partnership Paradigm (PPP)

- Ideally initiated early on in project planning the PPP can assist projects address effectively past and present contentious issues or challenges (through, for example, a Mitigation Matrix or a legacy issues document)
- For projects already under preparation the paradigm can act as a “reset button” to deal with simmering conflicts and misunderstandings
- A win-win-win for projects, indigenous communities, and local governments



# A New Paradigm: Building on Lessons Learned "Sakhalin Model" + *UT-1 Experience*

## Additional Elements

- 3 rounds of FPIC consultations, including FPIC mobilization
- IP Advisory Council from 1st FPIC Consultations onwards
- Working Group (WG) to co-prepare FPIC documents
- Capacity-building critical, during FPIC & IPP implementation
- FPIC Facilitator Organization (FFO)
- Bottom-up Needs Assessment & Legacy Issues review
- FPIC Facilitator

## Additional Documents

- **Consent Process Agreement (CPA)**: FPIC communities decide on the specifics of how the consent process will be played out and agree on this early in the FPIC process
- **Consent Set** of Documents (4 in 1, as appropriate)
  - A. Statement of Consent
  - B. FPIC-Standard Indigenous Peoples Plan (IPP)
  - C. Legacy/Outstanding Issues Agreement (as necessary)
  - D. Tripartite IPP Implementation Agreement



On Sakhalin, the “3 Partners” carried out the community consultations, led by the indigenous council head





## Nepal Village FPIC Mobilization by NEFIN (FFO)



## Initial Document: Consent Process Agreement-- *Defining Consent within Each Project Context*

- “How will we decide we’ve given our ‘Consent’?”
  - *Who will be authorized to grant consent?*
  - *What will be the process of considering the consent decision?*
  - *When will the process be conducted? And where?*
- FPIC Facilitator Organization (3<sup>rd</sup> party) manages the process
  - Discussion at local level and among interested parties; FPIC communities decide
  - Produces a written agreement, the CPA



A group of people, mostly men, are seated in a room with yellow walls and large windows. Many of them have their hands raised, indicating they are participating in a vote. The room has a white air conditioner on the wall and framed pictures. The text "Voting by Adibasi Janajati Advisory Council, Rasuwa, Nepal" is overlaid on the bottom half of the image.

Voting by Adibasi Janajati Advisory  
Council, Rasuwa, Nepal



# Consent Set of Documents before the “UT-1 FPIC & IPP Working Group”

*The documents on the table:*

- A draft of the Statement of Consent (“A”)
- A draft of the Indigenous Peoples Plan (“B”)
- A draft of an “Outstanding/Legacy Issues” document (“C”; issues not accommodated by an IPP)
- A draft of a “Tripartite IPP Implementation Agreement” (“D”; project, IP communities, local gov't)





# Carrying FPIC into the Project Future: the Indigenous Peoples Plan (“B”)

## Typical Sections

- Project Description
- Risks
- Mitigation Measures
- Proposed Benefits

## FPIC-Standard IPP Additions

- Local bottom-up needs assessment
- Co-preparation of IPP
- IPP Governance: IP predominant
- Mitigation Matrix (updated regularly)

**BONUS:** IPP becomes preeminent IP-project communication channel (during project implementation)





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At the Sakhalin consent meeting  
one community votes as a block  
against the majority





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In Nepal, Signing the  
Consent Statement ("A")

# Consent Achieved

- At the very spot aside the Trishuli River where the intake tunnel will be placed, the NWEDC CEO (r) receives the consecrated FPIC documents ("A, B, C, D") from the chair of the Adivasi Janajati Advisory Council (himself a former critic of the project), 2 November 2018





Tripartite IPP  
Implementation  
Agreement ("D"),  
Sakhalin 2015

*Company,  
Government,  
IP Council*





# Challenges & Lessons Learned





# FPIC Implementation Challenges

Bringing Senior Project Management on Board

Suspensions!

Bringing Local Government on Board

Suspensions!

Bringing Local IPOs/Communities on Board

Suspensions!

## *How to Build Trust*

- Between **IPO/FFO** and **MDB**
- Between **Project** and **IPOs**
- Between **IPO/FFO** and **Communities**
- Between **local govt** and **FPIC process**



# Keys to Success for UT-1

- **True Good Faith Negotiation (GFN)**



At critical moment(s), key concessions by all sides

- **Three GFN Partners**

- *FFO*: NEFIN (both national/local) as FPIC Facilitation Organization credible 3<sup>rd</sup> party
- *Company*: Senior management empowered middle management to negotiate & embrace outstanding/legacy issues
- *Community Representatives*: inclusive self-selection process: Advisory Council & WG

- **What made GFN possible?**



A few months of collaboration built on mutual respect & trust-building



# Lessons Learned

- ✓ **Gender issues** best tackled by local community if directly raised by facilitators
- ✓ Be aware of **Class, Caste, and Ethnic Cleavages; Political factions**
- ✓ **Embrace Legacy Issues:** good for short-run (FPIC) & long-run (Social License)
- ✓ Key roles of **IPO/FFO** and of **Senior Project Management**
- ✓ Interpret everything through **local culture**
- ✓ Keep **Involuntary Resettlement** issues separate
- ✓ **Infuse FPIC & PPP Spirit into the IPP**



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New Paradigm = Learning Curve

*So Capacity-Building is Critical*

For project  
developer  
social teams

For MDB  
social teams,  
if necessary

For FPIC  
communities

For IPOs  
involved





## Need for Process to be Culturally Embedded

*Local Communities Set the Tone: Respecting  
Spiritual and Social as well as Economistic,  
Bureaucratic, and Engineering Imperatives*



...частная конференция

**«О ПЕРСПЕКТИВАХ ДАЛЬНЕЙШЕГО  
ВЗАИМОДЕЙСТВИЯ В РАМКАХ ТРЕТЬЕГО  
«ПЛАНА СОДЕЙСТВИЯ РАЗВИТИЮ  
КОРЕННЫХ МАЛОЧИСЛЕННЫХ НАРОДОВ  
СЕВЕРА САХАЛЫ И ОКОЛОСТИ»**

26-27 июля  
г. Юхны

Nivkh Welcoming Call at Consent Meeting





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Tamang lamas  
consecrating the FPIC  
agreements



## FPIC as Project Bonus: Beyond a Requirement

A  
Comprehensive  
Risk-Reduction  
Strategy

- **Meets Present Needs (“A”):** Not only enables positive financing and administrative approvals—the immediate goals — but also:
- **Addresses the Past (a reset button; “C”):** Project embraces and addresses outstanding/ legacy issues
- **Prepares for the Future (“B, D”):** Provides Long-term Value for the Project, a mechanism in place—the FPIC-Standard IPP-- for maintaining Social License
- **WARNING!!** *Project has to keep up with Consent Set agreements or license could expire!*





## IP Participation & Partnership Paradigm:

*Is it Worth It?*

### Greater Inputs

- More time and resources up front

### Greater Returns

- Lowered social risks throughout the project
- Increased likelihood of effective social plans

For further discussion:

*Help Refine the Proposed New Paradigm, the  
Indigenous Peoples Participation and  
Partnership Paradigm (PPP)*



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