

17 FPIC as Indigenous Peoples’ empowerment tool

Case studies from Nepal and Russia

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FPIC as Key to a New Paradigm – Key Issues

Unequal power: legacy of Indigenous Peoples and development

The overwhelming bulk of the peoples labelling themselves or labelled by others as “indigenous” or “Indigenous Peoples” have been thrust into the unenviable position of marginalized, power and resource poor – and often despised – population groups. History – and by this I mean the actions of previous generations of Euro-American and other origin points of colonization and imperial conquest – has dealt them a low blow, leaving them struggling to survive in the parts of nation states not yet considered valuable enough to evict them from ([Bodley, 1990](#)). Military and strategic weaknesses – though certainly not moral, ethical, aesthetic, ecological or spiritual weakness – have rendered them at the mercy of powerful neighbors whose decisions may and often have decimated their populations and cultures.

Representing only a small fraction of the global population, Indigenous Peoples nevertheless contribute much to our species’ knowledge of the world – and ways of knowing. Yet, Indigenous Peoples are also among the most marginalized and vulnerable segments of the nations in which they reside – and thus are particularly likely to be affected by national development projects, even those well-meaning and aimed at their “development”. Furthermore, the mitigation measures and benefit programs devised for Indigenous Peoples often only add to their marginalization and to the threats to preservation of their identities. Not understanding Indigenous Peoples’ worldviews, their values and their social, spiritual and environmental perspectives, projects often needlessly disrupt the distinctive life aspects that they were hoping to preserve. The cultural chasms between project management and staff on the one hand and local indigenous communities on the other may lead to misunderstandings, mistrust and conflict ([Padel, 2016](#)).

The three-quarters of a century since the end of World War 2 has been marked globally by the concurrent rise of nationalism, decolonization and “international development”. In terms of a power dynamic the latter can be considered a carryover of the unequal relations characterizing majority nationality relations with its most marginalized co-nationals, those now lumped (or seeking to be so lumped) into the “Indigenous Peoples” category. For most of the 20th century, the plight of these marginalized peoples was fairly unmarked as the spotlight remained on the fate of the broad majorities of those new (and old) states experiencing independence and fitfully embarking on pathways to industrialization, commercialization, and deepening entry into the global market.

In the 1980s, groups of marginalized peoples in different countries suffering roughly parallel historical pasts of dispossession banded together in a global effort to make the world’s nation-states recognize what these “native” or “aboriginal” or “tribal” peoples saw as the great injustices meted out to their ancestors and themselves – and threateningly – to their descendants. Global NGOs (e.g., IWGIA) and global IPOs began to advance their agenda for recognition, restoration, and regeneration at forums like the United Nations’ Working Group at Geneva. This moved the global discussion away from the assimilationist/acculturationist paradigm that had previously emerged in the 1950s (e.g., [ILO, 1957](#)) to be more in line with the pioneer ILO Convention 169 which touts indigenous self-determination.

The context of Indigenous Peoples’ policy paradigm changes

There is a clear parallel in the struggles of the formerly colonized peoples of the 19th and 20th century worlds to free themselves from other peoples’ domination with the contemporary struggle of today’s “Indigenous Peoples” to carve out a self-defining space in national territories. The second shoe is dropping as the first two decades of the 21st century have dealt with a cascade of ever-increasing Indigenous Peoples’ small yet significant victories in forcing an emerging global recognition of the human rights and development potential of Indigenous Peoples worldwide. Ever since promulgation of that seminal international charters of Indigenous Peoples rights – ILO Convention 169 and the even more noteworthy “United Nations Declaration on the Rights of Indigenous Peoples” ([UNDRIP, 2007](#)) – the international struggle for the recognition of the rights of Indigenous Peoples to have a definitive say on projects that affect them, and more broadly to decide on matters that affect their lives and livelihoods, has slowly been gathering strength.

First among its peers, the European Bank for Reconstruction and Development (EBRD) has taken a leading role in addressing the impacts of its investment activities on Indigenous Peoples: its 2008 version of PR7 was the first multilateral

development bank (MDB) policy to apply the Free, Prior and Informed Consent (FPIC) principle to its Indigenous Peoples-affected projects and this broke the dam with the Asian Development Bank (ADB), the Inter-American Development Bank ([IAB](#)), the International Finance Corporation (IFC), and the International Bank for Reconstruction and Development/the World Bank (WB) all adopting the central demand of the Indigenous Peoples movement since the 1980s: that projects require the free, prior and informed consent (FPIC) of the peoples whose lands and resources they wish to use for activities the external forces deem “development.”

Thus from the earliest “Do No Harm” paradigm of the 1980s, to the early 21st century emphasis on sharing benefits, to today’s emerging “Participation & Partnership Paradigm” based on FPIC that calls on projects to invite indigenous communities to the table and to co-plan activities and programs that affect them, the status of the world’s Indigenous Peoples in the development context has gradually improved. Their critical position as the guardians of endangered ecosystems and of rich contributors to global cultural diversity has been recognized, ratified, and respected in document after document. An international corpus of guidelines, guidebooks, and protocols is emerging from the MDBs, NGOs/IPOs, and the private sector. Yet which peoples out of humanity’s thousands of groups of peoples are – or should be – considered “indigenous” and subject to the special protections and procedures of FPIC?

Who is indigenous? How can we tell?

Despite the current global provenience of the term, “Indigenous Peoples” is a term contested both internationally and within many nations. Multilateral development banks such as EBRD advise ([EBRD, 2020](#): para. 4) that the term “Indigenous Peoples” should be used “in a technical sense to refer to a social and cultural group distinct from dominant groups within national societies” and is applied to communities possessing four characteristics. This core definition could conceivably apply to a large number of groups but the specific attributes narrow the range of groups to which the policy applies. “This reliance on a ‘technical’ definition derives from the unsettled and contested definition of the very concept of “Indigenous Peoples” over the past few decades (EBRD, 2020: 3).” The term as currently used globally emerged out of a more narrow and historically bound reference to the *indígena* who peopled the Americas before the European conquests of the 16th and 17th centuries.¹ More recently, the term has morphed into a generic term to refer to, as [S. James Anaya \(2004: 3\)](#), former Special Rapporteur on the Rights of Indigenous Peoples phrased it, “living descendants of pre-invasion inhabitants of lands now dominated by others. They are culturally

distinct groups that find themselves engulfed by other settler societies born of forces of empire and conquest”.

Some people interpret this as the “salt-water test”, tying Indigenous Peoples’ status to European colonists travelling across the seas in pursuit of empire while others interpret the term more broadly applying it to situations wherever the relationships historically and socio-politically between majority and minority groups are roughly parallel to the “New World” experience. Which of the two approaches is the “true” arbiter of indigeneity?

(EBRD, 2020: 3)

Either interpretation is valid, although the latter is winning the day internationally. However, given the contested nature of the term, its historical provenience, and its lack of unambiguous and absolute markers, the MDBs have specified four diagnostic characteristics to help identify which project-affected groups should trigger application of an Indigenous Peoples policy. The four characteristics are an attempt to distill social attributes broadly representative of a wide cluster of peoples whose historical positioning and sociocultural characteristics place them in this category so that such groups may receive the special considerations guaranteed by Indigenous Peoples policies. The four characteristics are: (i) “self-identification as members of a distinct indigenous ethnic or cultural group and recognition of this identity by others” (EBRD, 2020: paragraph 4); (ii) “Collective attachment to ancestral lands and resources”; (iii) “Customary and Distinctive Institutions,” and (iv) “a distinct language or dialect, often different from the official language or dialect of the country or region.”

FPIC and the MDBs: a framework for paradigmatic change

The adoption of the FPIC principle opens the door for a significant change in the way development institutions and development projects interact with Indigenous Peoples communities. The policies themselves point the way by setting out a general framework of mutual respect and collaboration when the fundamental group rights of indigenous communities are placed at risk by development projects, well-intentioned or not.

FPIC as partnership

The MDB Indigenous Peoples’ policies that emerged over the past few years now recognize Indigenous Peoples as “potential partners in sustainable development both contributing to and benefiting from the planning and implementation of project-related activities” (EBRD, 2019: para 1). This vision of partnership is built on the principles of mutual respect, reciprocity, and realism whereby Indigenous Peoples, project developers – and hopefully also local governments and civil society – collectively join forces to work on behalf of their mutual interests. By

focusing on true participation – in project design, data gathering, planning, assessment, implementation, monitoring, evaluation, and grievance redress – project staff are envisioned as working closely with project-affected people to help lay the foundation for a long-lasting, inclusive, transparent, and sustainable relationship.

FPIC as meaningful consultation

Prior to their adoption of FPIC over the past few years, the MDBs stressed as an alternative to FPIC and UNDRIP, the principle of “free, prior, and informed *consultation*” – in effect the poor man’s version of FPIC. This alternative promised lots of consultation but eschewed any mention of *consent* – the bugaboo that the MDBs and their governing boards had worried would emasculate their near total control of the international development process by granting local indigenous communities a dreaded *VETO!* over projects the MDBs and project sponsors thought were in the best interests of the nations and the indigenous communities themselves. All MDBs now have strong provisions for consultation with *all* project-affected communities which they hope will form the basis for productive project and community interactions. “Meaningful consultations” must be carried out for all projects affecting local communities, whether indigenous or not, and additional consultation requirements have been added for indigenous communities – the most significant one being FPIC.

Triggering free, prior and informed consent

Yet, while FPIC has been added to the MDB Indigenous Peoples’ policies, the FPIC requirement is not total: any one of three circumstances must apply to indigenous communities affected by projects before meaningful consultations are carried a few steps further and the requirement to obtain such communities’ “free, prior, and informed consent (FPIC)” is triggered. Free, Prior and Informed Consent, like the term “Indigenous Peoples”, has no universally agreed upon definition. For EBRD,

consent refers to the collective support of affected indigenous peoples for the proposed project activities that affect them... It does not require unanimity and may be achieved even when individuals or groups within or among indigenous peoples explicitly disagree

(EBRD, 2020: para 13)

The three FPIC-triggering circumstances are: (i) Impacts on Customary Lands and Resources; (ii) Relocation of Indigenous Peoples from Traditional or Customary Lands; and (iii) Cultural Heritage Significantly Affected.

FPIC implementation: the Sakhalin model

In 2010, the Sakhalin Energy Investment Company, located on Sakhalin Island in the Russian Far East, embarked on an effort to apply the FPIC principle to a renewal of its Indigenous Peoples Plan, known locally as the Sakhalin Indigenous Minorities Development Plan (SIMDP).² The decision to do so – and thus become the first private sector project to carry out the FPIC principle³ – was done with the support and collaboration of their partners in carrying out the SIMDP, the local oblast (provincial) government and an elected council of indigenous representatives. The first SIMDP had been launched in 2006 for this LNG project and as its five-year mandate was coming to a close, preparations were necessary to plan out its renewal.

The First SIMDP had been called into formation following public protests by the leadership of NGOs and indigenous groups representing a good portion of the 4,000+ indigenous inhabitants of the island (out of a total of around a half-million people) who have been primarily living in the northern half of the island. Composed of the Nivkh (the majority), the Evenk, the Uilta, and the Nanaitso, these groups have been characterized by the State as “Small in Number Peoples of the North” and thus accorded special status in Russian Federation law. Prior to their enforced acculturation in the mid and late 20th century, the Nivkh relied on fishing and gathering of forest products (e.g., berries) for their subsistence, while Uilta and Evenk were renowned for reindeer-breeding and hunting. The Nanaitso were a small group brought over to Sakhalin after World War 2 as part of Stalin’s many population transfers. Even today, these occupations – particularly fishing – are quite important to Sakhalin’s indigenous communities. While the Sakhalin 2 LNG project did not cause any physical displacement of the island’s indigenous communities, pipelines carrying oil and gas from its offshore wells did traverse a number of traditional reindeer breeding grounds as well as dozens of salmon and other fish-spawning rivers and so triggered the “use of natural resources” FPIC requirement. After the protests, the Company decided to include all of the indigenous communities within the Plan – a generous gesture as the project facilities only touched on a minority of the community’s lands.

Implementing the FPIC principle for the Second SIMDP, however, meant inventing a process which fit local conditions, which incorporated the experience of implementing the first SIMDP, and which was in accord with the vague parameters of an FPIC approach as described in UNDRIP or the initial MDB policies which included FPIC. Over a period of six months, a Working Group composed of indigenous representatives, Company staff, and government employees worked together to plan and carry out an FPIC-compliant SIMDP preparation process. This process resulted in an overwhelmingly positive consent agreement, a triumph which was repeated in 2015 during preparations for the Third SIMDP (2016–

2020). Through these two FPIC processes the foundational parameters of a practical FPIC process was worked out consisting of the following elements.

Two rounds of consultations

We learned that the minimum number of consultations we could have with each community was two: the First Round, to alert the community to the FPIC process and planning for an Indigenous Peoples Development Plan (in this case, the SIMDP); and to receive initial input as to SIMDP content, and the Second Round, to present initial draft of the SIMDP and receive feedback for SIMDP revision. These are discussed in the subsequent sections.

An emphasis on capacity-building

Capacity-building is essential to a truly collaborative approach such as envisioned by a participatory paradigm because local indigenous communities may initially lack the experience or the technical skills to engage fully with project staff and others on decisions that will affect their lives significantly. Experience teaches that by engaging communities early on and from the bottom up (and by working with local Indigenous Peoples Organizations [IPOs] where they exist) a project can bolster such capacities and thereby be far more likely to establish true collaborative relationships based on principles of mutual respect, reciprocity in acceding to the desires of the other party, and realism in terms of what can be accomplished in the project context. Furthermore, by building participatory mechanisms into all Indigenous Peoples Plans (IPPs) and activities projects can increase the likelihood that the gains acquired during project preparation continue throughout the implementation stage.

An Indigenous Peoples' development plan with power-sharing

One relative novelty for an Indigenous Peoples Plan which emerged out of the consultation process was for there to be two distinct programs. One was more in the traditional development project mode, the Social Development Fund, which was comprised of education, health, sport, and cultural components. The other plan program was the Traditional Economic Activities Support Program which provided grants for families pursuing self-sufficiency (fishing and berry-gathering mostly) or developing business plans (also for the “traditional” activities based on fishing and gathering). A low-interest microcredit fund was also established under this program for indigenous businesses pursuing “traditional” economic activities. The five-year plan’s annual budget of USD 312,000 was evenly split – by the Plan’s Governing Board – between the two programs.

Development plans such as this one – if intended to be infused with the collaborative FPIC spirit – need to include a plan governance structure built around plan co-management by local community representatives, the project, and local governments. Decision-making for budget allocations, including project grants, should foreground indigenous representatives and their inputs. Development plans should also include an accounting of project-related mitigation measures to address social and environmental questions which linger even after a consent decision has been achieved and a development plan launched. Such a “mitigation matrix” should be reviewed and updated periodically by the plan co-implementers to keep ahead of project-related issues and prevent them from hindering Plan smooth implementation.

A consent assembly and a consent statement

Following the last round of village consultations the IPP was revised based upon community inputs which specified which social development fund components would be included (education, health, ethnic sports, art and cultural support) and which traditional economic activities would be included (business plan and self-sufficiency grants and a mini-credit program). Subsequently, a meeting of elected representatives of all the project-affected communities was held to discuss the revised plan and for which consent was being sought. A written “Consent Statement (CS)” which referred to the plan(s) and agreements resulting from the multiple rounds of FPIC consultations and negotiations was put to this assembly. Thus the end point of this FPIC process was for affected Indigenous Peoples’ communities to “arrive at a decision, in accordance with their cultural traditions, customs, and practices,” (EBRD, 2019: para 13) on the package of agreements. With a decisively positive decision achieved, the CS represented the final outcome of the FPIC process for the SEIC project and its SIMDP partners.

Tripartite governance

With consent achieved, an implementation agreement among the parties (the local communities’ representatives, the project, and local governments) spelling out each party’s responsibilities to carry out the agreements comprising the consent statement was signed and implemented.

FPIC implementation: a Nepali application

In mid-2018, the International Finance Corporation (IFC) approached the author to work with them as an “FPIC Specialist” to help achieve FPIC for the Nepali Upper Trishuli-1 (UT-1) hydropower project. By the fall of that year, an “Advisory Council”

of villagers unanimously granted consent not only for a package of documents including an Indigenous Peoples Plan but also for the project itself. It was the first time FPIC had ever been achieved for a hydropower project and the first time ever for a project in South Asia.

The project area – and the ten villages designated “FPIC villages” since they will be affected by loss of some access to natural resources and possible cultural heritage impacts – lie in Nepal’s central region, north of the Kathmandu Valley and not far from the Tibetan Chinese border. Perched on steep hillsides, the villages of the overwhelming majority of the FPIC householders are inhabited by members of the Tamang indigenous group who are mostly farmers following a Tibetan Lamaist form of Buddhism. Prior to our FPIC effort, local community members had expressed many reservations regarding likely project effects on their local environment and livelihoods and “struggle committees” had been formed to protect the local community against the “development” plans. At first glance, this was not seen as a likely venue to pioneer FPIC for Nepal and the hydropower sector.

Working with the Nepal Federation of Indigenous Nationalities ([NEFIN] the preeminent indigenous organization in the country) and with the project sponsor, the Nepal Water and Energy Development Company (NWEDC), however, the author and his collaborators built upon the “Sakhalin Model” to further refine a successful and practical approach to FPIC implementation. The key elements of these elaborations are listed in the following.

A consent process agreement

MDB guidance notes for Indigenous Peoples policies (e.g., [IFC, 2012](#): PS7: 12) recommend projects pursuing FPIC detail how the decision on whether to support the project and its proposed activities will be made and who will make it. For the UT-1 project, a Consent Process Agreement (CPA) was prepared which identified (i) how the representatives of the affected communities of Indigenous Peoples would be chosen; (ii) the agreed consultation process and protocols; (iii) the reciprocal responsibilities of parties to the engagement process; and (iv) agreed avenues of recourse in the event of impasses occurring, including external mediation. The CPA also defined what would constitute consent from the primarily Tamang Indigenous People of the ten project affected communities.

Implementing FPIC: the process of good faith negotiations

MDB Indigenous Peoples policies require projects to utilize “Good Faith Negotiations (GFN)” to obtain FPIC (e.g., IFC, 2012: PS7 Guidance Note paragraph 25). For the UT-1 Project, both the Company and the indigenous communities

conducted true negotiations with give and take and at times hard bargaining where the result was frequently in doubt. This “true” GFN process delivered a small but significant shift in the power equation between projects and indigenous communities. The UT-1 process innovations that enabled this outcome include the following.

- **Expanding and deepening affected communities’ negotiation role**

During the first round of consultations there was a discussion of who should represent communities in making FPIC-related decisions, including issues of appropriate gender and generational balance. Based on the outcome of these discussions, there was a selection of inclusive representation to an indigenous community FPIC/IPP advisory council (AC). This body was empowered to make decisions on behalf of all affected FPIC communities. So, in addition to having an all-communities body meeting at the end of the process (as was done in the Sakhalin case), this community-wide body was established at the start of consultations.

- **Supplementary assessments**

To ensure that all FPIC partners could participate on an equal footing and to ensure that the IPP truly reflected local communities’ needs, two assessments – supplementary to the formal Environmental and Social Assessment carried out by an international firm – were necessary.

- A capacity-building assessment of indigenous representatives and their FPIC partners (client, local government) for the IPDP/FPIC planning process, with appropriate responses as necessary.
- A Supplementary Needs Assessment (community mapping) and ascertaining of priorities to ensure bottom up input into the IPP and the CS.

- **Added third round of consultations at community level**

To ensure that all community members had an opportunity to review the changes made in the IPP and auxiliary documents, it was determined that a third round of consultations was necessary. At these meetings, each village discussed the final documents package and gave preliminary approval to the documents. The villagers were most interested in making sure that all of their expressed “needs” and “demands” were included in the final documents package in one way or the other.

- **Strengthening the consent statement**

Given the concern of many indigenous communities that once their consent had been granted (an irrevocable decision) the project might simply walk away from their CS pledges, it was decided to clarify in this implementation agreement the contractual responsibilities that the project would incur to carry out the commitments in the component documents of the CS.

Engaging a dedicated FPIC Facilitator Organization (FFO)

Given the often fraught relations between indigenous communities and development projects, it was decided that the project needed “qualified independent social experts” to facilitate the FPIC process and its documentation. For this role an organization seen as both independent and qualified to work with Indigenous Peoples communities – the Nepal Federation of Indigenous Nationalities (NEFIN) – was selected. NEFIN was a felicitous choice as it could command the trust of the most disempowered player in the FPIC drama – the local indigenous communities – while also commanding the confidence of the client and external observers.

NEFIN organized all three rounds of consultations as well as meetings of the Advisory Council and its Working Group. It also documented the process and conducted the supplementary assessments which fed into the IPP and its auxiliary documents. NEFIN, both at its national level as well as local, also ensured that discussions and documents were conveyed in the local Tamang language as well as Nepali (and English) and that meetings and ceremonies were all culturally appropriate. For this project that meant that all FPIC activities were spiritually embedded, showing respect for and embracing the Lamaist religious dimensions of indigenous Tamang life.

Addition of a Dedicated “FPIC Specialist”

The FPIC partners also felt that the author’s work as the international “FPIC Specialist” was a critical part of the effort to achieve FPIC. Independent of and parallel to the FFO, the main task of this role was to work closely with the FFO, the project and the lenders to ensure that the FPIC process stayed on track despite multiple potential pitfalls.

A “Demands Framework” document

Early on the consultations and supplementary needs assessment revealed that the needs and demands of the local communities could not all be met by one project’s IPP budget. The “wish list” of the communities for project support

included demands for new roads and basic infrastructure such as hospital, clinics, irrigation systems, and the like. Rather than ignore such expensive demands, the FPIC partners decided to take the concept of the mitigation matrix and expand it to address outstanding community-project issues which could not be incorporated into the limited USD 225,000 annual budget of the five-year IPP (which includes four benefits programs – Cultural Heritage, Social Development, Economic Development, and Capacity-Building – as well as some mitigation measures) but which the community wanted to retain as topics for future discussion with the project (and possibly local governments).

This enabled the project and the community, in collaboration with the local government, to prioritize which items could go into the IPP and which items could be set aside temporarily but not forgotten as all sides promised to continue collaborations on continued community development. Another benefit of this approach was to ensure that all previous misunderstandings or conflicts (“legacy issues”) between the communities and the project were raised and dealt with forthrightly and transparently, lowering significantly the possibility that they would return in the future to bedevil the project.

FPIC process integrated into IPP

The Advisory Council and Working Group set-up worked so well that it was decided to build into the IPP an ongoing role for the AC as an annual community review body for the IPP and its associated documents (the CS; the project implementation agreement of the Company, local government, and the communities; and the demands framework document). Furthermore, the WG – composed of project, government, and community representatives – converted to become the IPP’s Governing Board upon IPP launch post-Project financial closure. This guaranteed the FPIC principles extended beyond the life of the FPIC effort itself.

FPIC as foundation for the IPs participation & partnership paradigm

The participation & partnership paradigm

The Indigenous Peoples Participation and Partnership Paradigm (PPP) was derived from experience in achieving FPIC for these two projects. It encourages an approach to MDB Indigenous Peoples policy implementation that conceives of FPIC as foundational to establishing an ongoing framework of collaboration and joint engagement through an Indigenous Peoples Plan governance structure which guarantees ongoing community-project communication and interaction. 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) as well as future ones. For projects already under preparation the paradigm can act as a “reset button” which encourages all parties to comprehensively address legacy issues, current controversies, and future challenges. A win-win-win for projects, indigenous communities, and local governments.

Both of our FPIC case studies also brought home the need for flexibility and cross-cultural embeddedness. Just as indigenous communities are asked to respond to the bureaucratic and formalistic requirements of projects, lenders, and governments, so too must projects, lenders, and governments learn to accommodate – if not embrace – indigenous cultures’ ways. For both projects, affected community members eschewed the proffered “secret ballot” option for the consent decision and were adamant that their individual identities be recorded: either by raised hands (Russia) or signature (Nepal). For the Nepali project, the Tamang villagers included lamas and *bonpos* (shamans) among those to be included in each village’s group of ten representatives and when the Consent Statement was approved, a spontaneous celebration of Tamang songs and dance broke out even though agreement was only achieved at 2:00 in the morning. The next day – at the very site where the planned reservoir’s waters would enter a tunnel to the projected powerhouse – lamas and bonpos consecrated the FPIC documents as the Company’s CEO bowed his head to receive their blessings: Namaste!

FPIC as a project bonus

While some projects have dreaded carrying out an FPIC approach, experience has taught that projects would do well to embrace the FPIC requirement to build positive and long-lasting relations with their local communities and local governments in a spirit of participation and partnership. What might have been previously resisted as a project-complicating turn of events can develop into a multi-stranded bonus for the project that:

- Deals with the Past: through multiple rounds of stakeholder engagement, the FPIC process provides an opportunity to “press a reset button” by addressing any outstanding project “legacy issues” during the negotiations leading to an agreement.
- Deals with the Present: allows the project to come to an understanding with the local communities as to the impacts of the project, risk mitigation, benefits-sharing, and resolution of outstanding concerns/grievances culminating in an FPIC agreement.

- Deals with the Future: By building in an ongoing project-communities governance structure into the IPP and similar instruments, the project can carry over the good will and trust that the FPIC process might engender into long-lasting collaboration with local communities.

Thus, although consent (“the collective support of affected indigenous peoples for the proposed project activities that affect them”; EBRD, 2019: 62) can be granted or determined at only one point in time, it can nevertheless be the gateway to ongoing engagement. From an initial focus on mitigation and benefit distribution, an IPP can broaden into an indigenous community planned and managed development model. While FPIC as a process concludes with a yes or no decision, FPIC principles of transparency and collaboration can continue to infuse project-community interactions for the life of the project.

Participatory planning and implementation

The PPP emphasizes participation and capacity-building. Meaningful consultation and the pursuit of FPIC requires consultation and involvement with all sectors of indigenous society, from top officials to householders in potentially vulnerable circumstances. The IPP needs to be developed and implemented collaboratively both to increase the likelihood that FPIC will be achieved and to raise the probability that the plan will be appropriately designed and effectively implemented. The more community-level preferences are included in the IPP, the greater the likelihood for success on both these accounts. Such participation and consultation need to be built into the IPP itself so that changing project circumstances can be addressed as they come up throughout project implementation.

Capacity-building

In pursuit of sustainable development for Indigenous Peoples the IPP can serve a critical role, both during project preparation and implementation. Provision of technical support to communities engaging in GFN during the IPP preparation phase (legal and other advice) and then including indigenous community representatives in the IPP governance structure can go a long way to building capacity for self-management. IPP programs, components, or activities can and should make building human capital a key focus since such investments can continue to bring dividends even when the distribution of material goods (e.g., farming equipment or clothing supplies) is exhausted or social services (e.g., health and housing allowances) are expended. Furthermore, by building an active role for indigenous community members into IPP governance, the IPP can

encourage acquisition of skills and experiences which can serve members of these communities well in their future careers and lives.

“FPIC has opened a new door”

To many Indigenous Peoples confronted by “development” imposed by powerful outside groups, FPIC and the paradigm it presages – PPP – are often a welcome change from what they have known and heard about “development” previously. One indigenous activist, whose community was faced with the UT-1 hydro project described his experience in this way:

Before we were introduced to the FPIC process, our local Tamang community was not really involved in the project, although it had been in the works for 6 or 7 years. Local people could only see downsides and consequently few supported the project and many joined a committee to struggle against the project. But then we were informed about FPIC and through this new approach both sides began to recognize each other’s values and points of view.

When the project is in operation our water, forest, and land will be disturbed; our culture – our way of life – are dependent on nature and form the heart of our identity and thus will be at risk. But we learned how such risks can be lessened and negative effects mitigated through the use of the FPIC process, which is a give and take tool for Indigenous Peoples through which we can make compromises with project developers and via an Indigenous Peoples Plan co-plan our future.

With its principles of transparency, accountability, honesty, respect for our beliefs and lifestyle, and mutual commitments, FPIC has opened a new door for both the Project and our local indigenous communities for win-win success.

[\(Tamang, 2019\)](#)

All of the MDBs are careful to insist in their policy statements that FPIC does not convey a veto over projects to indigenous communities. Yet, this is somewhat wishful thinking, for if indigenous communities are resolutely opposed to a project, “what happens if we can’t convince them to grant consent?” as one government minister asked me. For every project requiring a positive FPIC decision, there was a stomach-churning period for project officials as the local community members prepared to declare their final judgement on the offers (IPP and associated documents) laid before them.

Notes

1. [The](#) Inter-American Development Bank uses precisely this reference as one of its defining characteristics for “Indigenous Peoples”: “*they are descendants from populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization*” (2006: 5).
2. [Throughout](#) the period of SIMDP implementation, the author has been serving as External Monitor for the Plans and special advisor for FPIC implementation.

3. [Note](#) that as the project was already under way, FPIC was being sought not for the project per se but the social development plan which shared benefits among the indigenous inhabitants of the island.
4. [The](#) budget for this first IPP was predetermined, based on redirecting general community development funds mandated by Nepali regulations for such projects. Later IPPs will be funded by project earnings.

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