

A New Paradigm in Indigenous Peoples-Project Engagement

Tunga Rai, Director, Climate Change Program, Nepal Federation of Indigenous Nationalities (NEFIN)

Greg Guldin, CCCS FPIC Specialist, presenting at:

“FPIC Practices and Capacity Building,”
a UNEMRIP Side-Event, Geneva

7 July 2022



NEFIN



Cross-Cultural Consulting Services, PLLC

2607 Western Avenue, Suite 610, Seattle, WA 98121, USA

+1-206-733-7762

info@crossculturalconsult.com

www.crossculturalconsult.com

A New Paradigm in Indigenous Peoples- Project Engagement is Needed. Why?

Because the world has changed since the first Indigenous Peoples Policies were formulated—Indigenous Peoples are more prominent and **FPIC** has been adopted:

- 1982 World Bank OMS 2.34 “**Tribal Peoples** in Bank-Financed Projects”
- 1989 ILO Convention No. 169: consultation, with the objective of achieving agreement or consent
- 1991 World Bank OD 4.20 on Indigenous Peoples: **from tribal to global**
- 2000 United Nations Permanent Forum on Indigenous Issues: FPIC key demand
- 2007 United Nations Declaration on the Rights of Indigenous Peoples: **FPIC**
- ***2008-Today: MDB Indigenous Peoples policies incorporate FPIC (e.g., WB ESS7)***

The Pre-FPIC Paradigms of IP- Project Engagement



1990s: “Safeguards” Do No Harm



2000s: Benefits as well as mitigation measures; “meaningful consultation/Broad Community Support”



2010s: MORE consultation (ICP)



But with FPIC, the game changes!

What's FPIC



Free



Prior



Informed



Consent

FPIC as Game Changer


While “not a veto” FPIC does empower groups designated as Indigenous Peoples by giving them sole control over a valued domain:

their consent




To achieve Consent,

- Must change the way you do business: old consultation methods and community development plans must give way to a new approach--more participatory to engage Indigenous Peoples as co-partners
- from the beginning of the FPIC process through negotiating FPIC agreements to implementing FPIC agreements
- Project-affected Indigenous Peoples need to be recognized as co-decision-makers at the table and need to be on board, so Good Faith Negotiation and new approaches are necessary



The New Approach? The Indigenous Peoples Participation & Partnership Paradigm (IP PPP): FPIC-Infused

- integrates an FPIC-approach to project-Indigenous Peoples interaction
- from project preparation (including a bottom-up needs assessment [community mapping])
- through Project implementation (including FPIC-standard Indigenous Peoples Plans (IPPs))



The New Approach? The Indigenous Peoples Participation & Partnership Paradigm (IP PPP):

Agreements

- (i) a definition of consent a priori
- (ii) a process for carrying out good faith negotiations between partners
- (iii) an ultimate statement of consent with associated documents

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

Consent Achieved

- **Upper Trishuli-1 HEP (UT-1; Nepal):** MDBs, 2018
- **Sakhalin Energy LNG (RF):** private, 2010, 2015, 2020

FPIC Initiated

- Standard Gauge Railway Project (Tanzania): IFC+; in process, 2020-
- Upper Arun HEP (Nepal): WB+; in process, 2020-
- Horn of Africa Highways (Ethiopia): WB; in preparation



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



Himalayan Hillside Village,
Rasuwa, Nepal



A New Paradigm needs a New Stakeholder and Rights Holder Engagement Strategy: Participation Enhanced During FPIC Process

FPIC Bodies Set Up

- Advisory Council (AC) of Indigenous Peoples representatives set up as highest authority for FPIC and community development plans
- Working Group, subset of AC, co-produces key documents/agreements along with project and local government

Key Elements

- 3 rounds of FPIC consultations, including FPIC mobilization, in the communities
- 3 rounds of AC and WG Meetings
- Capacity-building critical for Indigenous Peoples, project staff
- FPIC Facilitator Organization (FFO) oversees the process, conducting a bottom-up Needs Assessment & Legacy Issues review
- Designated FPIC Specialist keeps the process on track



A New Paradigm needs a New Set of Agreements: Partnership Enhanced During FPIC Process

- **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 (SC)
 - B.FPIC-Standard Indigenous Peoples Plan (IPP)
 - C.Legacy/Outstanding Issues Agreement (as necessary)
 - D.Tripartite IPP Implementation Agreement

If FPIC changes consultation:

- Then Indigenous Peoples Plans (IPPs)' preparation and implementation must change too: IP dominance on an Advisory Council and a Working Group (for FPIC) and a Governing Board for the IPP
- This addresses the old disconnect between intensive consultation prior to project launch and anemic or intermittent community development plan implementation
- So FPIC principles of inclusion, transparency, shared decision-making, community empowerment and cultural respect imbues entire project-community interface with the IP Participation & Partnership Paradigm



FPIC-Standard IPPs: Governance Reconceptualized

- Preparing IPP: Collaborative w/IPs
- Implementing IPP: budget allocations, monitoring, and evaluation with Indigenous Peoples predominating
- AC of IPs representatives continues as highest authority for IPP implementation and related agreements
- Post-FPIC, WG becomes the IPP Governing Board (GB)
- IPP Program Committees, all IPs, are decision-makers on Plan activities



16

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



In Nepal, Signing the Consent
Statement

Tripartite IPP Implementation Agreement, Sakhalin 2015

*Company,
Government,
IP Council*



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 from the chair of the Adivasi Janajati Advisory Council (himself a former critic of the project), 2 November 2018



Who does the Work?

Assemble a new Cast of Engagement Players

FPIC Facilitator Organization
FPIC Specialist

Community IPP Governance
Body Members

FPIC/IPs/IPP assigned project
staff

IPs Participation & Partnership Paradigm

Is it Worth It?

Greater Inputs

More time and resources up front

- 3 consultation rounds vs. standard
- FFO & FPIC Specialist
- IPP Governance costs: ongoing
- IPP probably more generous

Greater Returns

- Project meets lender policy requirements
- Lowered social risks throughout the project
- Increased likelihood of effective social plans
- Good PR for Project & Lenders: anticipates rising attention and awareness among all stakeholders
- Empowerment of Indigenous communities

////////////////////////////////////
Contact us please to

Help Refine the New Paradigm: the Indigenous
Peoples Participation & Partnership Paradigm
(PPP)



Cross-Cultural Consulting Services, PLLC

2607 Western Avenue, Suite 610, Seattle, WA 98121, USA
+1-206-733-7762

info@crossculturalconsult.com

www.crossculturalconsult.com