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COMMUNITY PROTOCOLS,  
TRADITIONAL  
COMMUNITIES, DAM BUILDING AND  
THE MUDURUKU PEOPLE

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## **Introduction**

Prior informed consent is a growing concern today for indigenous peoples and traditional communities in Brazil. The land they occupy, which is about 25% of the national territory and are among the best conserved in the country. In addition, those societies count today approximately 4,5 million people that are dependent to this land for their livelihood (Silva, 2009). These communities have very diverse social and historical backgrounds and their traditional knowledge of biodiversity is of significant value for the economic purposes of several technology-based sectors.

Within this context, community protocols became of special interest as they support the delineation of customary law to regulate interaction between communities and external stakeholders. One experience of a community protocol, which is emblematic for its innovation and scope is being developed in the Baillique Archipelago community, at the mouth of the Amazon river. A second experience, which we are to discuss further below, had the aim to interpose a local perspective and to act against a dam project by an indigenous people.

One of the conceptual origin of those protocols lays in the context of the commercial use of traditional knowledge on biodiversity that are held by traditional societies and communities. Consequently, they became concerned about their technical capacity to elaborate favorable prior informed consent terms on complex themes such as biodiversity uses. Hence community protocols are increasingly being pointed out as instruments of choice by such traditional communities to ensure consent is properly achieved.

Notwithstanding free, prior and informed consent concept being provided by several national and international legislations it still has to be implemented as to recognise the rights of traditional societies to live in their complex diversity.

## **Customary Laws and Community Protocols**

Human rights advocacy groups support the perspective that customary local rules and regulations constitute one of the major assets of traditional communities. These rules are invariably in operation in almost all traditional communities and are the basis for their internal governance. In this sense, the dispossession of territories and environmental assets go hand-in-hand with the loss of local consuetudinary law (Tobin, 2013). Therefore, they need to be organized in order to strengthen capabilities and reinforce local institutions.

One way to achieve that is through a community protocol that constitutes the systematization of operating customary law in a given community. More specifically, the objective of building a community protocol is to empower people and traditional communities with the expectation that they will feel prepa-

red to engage in a dialogue and negotiations with any external agent on equal terms, strengthening the community's understanding of their own rights and establishing the importance of conservation and sustainable use of biodiversity.

In this sense, the development of a community protocol is not necessarily a response to an outside threat but it becomes an instrument of community empowerment, management and control of their territory and natural resources (Booker, Makagon, Braun, Banuoku, & Ernst, 2014). Community protocols prepare communities to be proactive rather than only reactive to outside challenges.

Experiences with community protocols built in several countries brought a set of results that may be observed, including the acquisition of capabilities on technical topics. Among them, we can list:

1. Strengthening of communities's local institutions
2. Adoption of participatory bottom-up approach to engage in talks with external stakeholders
3. Identification of paths to access public policies aiming at strengthening the local inhabitants and increasing their income
4. Importance of building a dialogue with key official institutions such as public prosecutors, universities and social movements.
5. A broad view on stocks and natural resource management
6. Awareness of the shortage of natural resources and unsustainable use of species, deforestation, erosion, loss of traditional territories

### **The consultation protocol of the Munduruku people of the Tapajós River**

The Brazilian government, having promoted the building of the Belo Monte hydroelectric plant in the Xingu River and those of Santo Antonio and Jirau in the Madeira River, begin to produce technical plans to direct the bidding for a partnership with private companies to build new dams in the Teles Pires and the Tapajós rivers. The most relevant of them was the Sao Luiz do Tapajós hydroelectric dam, which would flood a region with pristine forests and 130 indigenous villages of the Munduruku ethnic group inhabiting the region.

According to the national legislation on environmental licensing and other instruments, such as the International Labor Organization's Convention 169, there are provisions that require the consultation of populations potentially impacted by such infrastructure projects. Accordingly, federal government representatives managed to organize formal meetings with local people. However, the access to the buildings where the discussions took place were restricted by

the use of police force. Thus, relevant social segments hadn't their voices listened. As expected, a report was prepared and presented by the government official, stating that indigenous and local communities were consulted. In addition, technical issues were not discussed and translated to citizens language, creating an insurmountable asymmetry of information.

Supported by the Federal Public Ministry and social movements, the Munduruku people succeeded in many occasions to postpone the bid. They organized in 2014, with this same supporting network of institutions a long internal consultation process involving more than 200 representatives of their 130 villages. The final meeting took place in one of the biggest of those villages and generated a document, they called "consultation protocol".

This document brought the Munduruku people views on the consultation process itself. Within it following points were highlighted in their terms:

1. About the place and an the ethics of consultation: "the government can not consult us only when it has already made a decision. A consultation should be prior to the meetings and provided in our territory."

2. On the timing of the consultation process: "When the federal government representatives comes to make consultations in our village, they can not land, spend a day and return home. They have to be patient with our people, they have to listen to us".

3. On their traditional knowledge: "The meeting should be in the Munduruku language. In these meetings, our traditional knowledge has to be taken into account, receiving the same status to the knowledge of the pariawat (non-Indians). Because it's us who have the knowledge about the forest, the fishes and the earth."

4. Regarding the independence of perspectives: "In order to have a consultation process really independent, we do not accept armed pariawat (non-Indians) at the meetings (unabbreviated: Military Police, Federal Police, Federal Highways Police, Army, National Security Force, Brazilian Agency of Intelligence)."

The actual importance of that seven pages document lays in the fact that it brought to light a legitimate perspective to be heard by society. It shows as well how traditional societies and in particular indigenous populations are displaced against decision making processes.

## **Closing remarks**

The implementation of the new legislations at the national and at the multilateral levels providing for the rights of traditional societies to be heard, brings to the forefront the debate on the need for traditional communities to be active agents against the main drivers of dispossession of environmental assets and their traditional territories. The way this would be done is posing a focus on local rules.

The building of protocols at the community level is one way to achieve this. The consultation protocol made by the Munduruku people to organize their struggle and interpose their perspective on the building of a large scale project shows that this process also brings awareness about other subject matter affecting their livelihoods.

Thus, those community protocols can be an important tool to empower communities to have a symmetric dialogue with external stakeholders, ensuring their right to be consulted is guaranteed, their local norms and traditional knowledge is respected, contributing in this way to the maintenance of their cultures and the conservation of environmental assets.

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