

# FORUM

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## COMMUNITY PROTOCOLS AS TOOLS FOR RESISTING EXCLUSION IN GLOBAL ENVIRONMENTAL GOVERNANCE

*Protocolos comunitários como ferramentas de resistência à exclusão no âmbito da governança ambiental global*

*Protocolos comunitarios como herramientas para resistir a la exclusión en gobernanza ambiental global*

### ABSTRACT

This paper analyzes the rise of the community protocol approach under the access and benefit-sharing (ABS) transnational governance arena, to understand how local initiatives translate a global environmental regulation. This paper contributes to the literature on transnational governance by showing how this is constituted by a series of translation processes and each time a concept is introduced in a transnational arena and then translated by a community or organization, it gains new forms and uses depending on the interests and experiences of the actors involved. However, the same concept used for the same goal by communities in different parts of the world led to different concrete outcomes, which points to the idea that the outcomes in translation processes are not only ongoing but also unpredictable. In addition, the cases illustrate that in the process of actively translating a global regulation, the local actors themselves also change. Finally, the emergent findings show how community protocols were translated to become translocal tools to resist exclusion in environmental governance through two main mechanisms: connecting goals and practices and (re)connecting social networks.

**KEYWORDS** | Transnational governance, translation, translocal resistance, local communities, access and benefit-sharing.

### RESUMO

*Este artigo analisa a ascensão da abordagem dos protocolos comunitários no âmbito da governança transnacional de compartilhamento de acesso e benefícios (access and benefit-sharing - ABS), a fim de compreender como iniciativas locais traduzem uma regulamentação ambiental global. Este artigo contribui para a literatura sobre governança transnacional ao mostrar como este fenômeno é constituído por uma série de processos de tradução e, cada vez que um conceito é introduzido em uma instância internacional, e depois traduzido por uma comunidade ou organização, adquire novas formas e usos, dependendo dos interesses e experiências dos atores envolvidos. Entretanto, os mesmos conceitos utilizados para os mesmos objetivos por comunidades em diferentes partes do mundo levaram a resultados concretos diferentes, o que aponta para a ideia de que os resultados nos processos de tradução não são apenas continuados, mas também imprevisíveis. Além disso, os casos ilustram que, no processo de tradução ativa de uma regulamentação global, os próprios atores locais também mudam. Finalmente, os resultados obtidos mostram como os protocolos comunitários foram traduzidos de modo a se tornar ferramentas translocais voltadas à resistência à exclusão no campo da governança ambiental, através de dois mecanismos principais: conexão de objetivos de práticas e (re)conexão de redes sociais.*

**PALAVRAS-CHAVE** | Governança transnacional, tradução, resistência translocal, comunidades locais, compartilhamento de acesso e benefícios.

### RESUMEN

*El presente artículo analiza el aumento del abordaje de protocolo comunitario según la arena de gobernanza transnacional de acceso y distribución de beneficios (access and benefit-sharing -ABS), para entender cómo las iniciativas locales traducen una norma ambiental global. El presente artículo contribuye a la literatura sobre gobernanza transnacional al mostrar cómo está constituido por una serie de procesos de traducción y cada vez que se introduce un concepto en una arena transnacional y luego es traducida por una comunidad u organización, gana nuevas formas y usos dependiendo de los intereses y experiencias de los actores involucrados. Sin embargo, el mismo concepto utilizado con el mismo objetivo por comunidades en diferentes partes del mundo llevó a diferentes resultados concretos, lo que apunta hacia la idea de que los resultados en procesos de traducción no son tan sólo constantes sino también impredecibles. Además, los casos ilustran que en el proceso de traducir activamente una norma global, los actores locales mismos también cambian. Por último, los descubrimientos emergentes muestran cómo los protocolos comunitarios fueron traducidos para convertirse en reglas translocales para resistir a la exclusión en gobernanza ambiental a través de dos mecanismos principales: conectar objetivos y prácticas y (re)conectar redes sociales.*

**PALABRAS CLAVE** | Gobernanza transnacional, traducción, resistencia translocal, comunidades locales, acceso y distribución de beneficios.

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## INTRODUCTION

Historically, the exploitation of natural resources and associated traditional knowledge has been contentious (Banerjee, 2003; Escobar, 1998). Take the generic case of a small community in the Amazonian forest that has, for time immemorial, utilized the oils of a seed for medicinal purposes. A multinational company becomes aware of such knowledge and, without the consent of the community, patents it. This new patent brings no benefit to the community, while also hindering this community's access to the plant. This story has been repeated over and over again in many communities all over the world (Ostergard, Tubin, & Altman, 2001). Cases with similar story lines have been reported in South Africa, for the Hoodia Gordonii plant, patented as an appetite suppressant (Wynberg, 2004), in Madagascar, for the rosy periwinkle plant, patented for its properties that combat certain types of cancer (Wynberg, Schroeder, & Chennells, 2009), and in India, with regard to the different applications of the Neem tree (Banerjee, 2003).

NGOs and indigenous peoples' networks have denounced the unfairness of such practice (Takeshita, 2001), labeling it biopiracy, or the misappropriation of traditional knowledge (Roehrs, 2007). In a more positive outlook, this practice has been labeled bioprospecting, or the exploration of biodiversity for commercially valuable genetic and biochemical resources (Reid et al., 1993). Irrespective of the label applied, there is evidence that the research for natural products is usually directed by existing knowledge, often directly from indigenous peoples or local communities (Robinson, 2010). This has been referred to as traditional knowledge, or the knowledge held collectively by communities in the current, previous and potential use of plants and animals (Bubela & Gold, 2012). It is estimated that between 25 and 75 thousand plant species are used for traditional medicine and only 1% of these are known to scientists and utilized for commercial purposes (Aguilar, 2001). Traditional knowledge plays an important role in the discovery of new leads for the development of drugs and also in the marketing argument for exotic products (Laird & Wynberg, 2008). However, few indigenous peoples have ever received any kind of benefit from these technological developments and some have even experienced further exclusion in being denied access to knowledge or plants that have become privatized (Wynberg, 2010). The public outcry of NGOs, indigenous peoples and local community networks has denounced the unfairness and the persistent inequality in corporate and indigenous encounters (Roehrs, 2007).

Access and benefit-sharing (ABS) initiatives are at the center of attempts to redress these situations (Morgera & Tsioumani, 2010). Used as instruments to achieve distributive

justice, ABS initiatives prioritize the consent of involved actors and the distribution of the benefits resulting from the exploitation of natural resources (Morgera & Tsioumani, 2010). In 2010, a transnational regulation, the Nagoya Protocol, was created to regulate ABS of genetic resources under the Convention of Biological Diversity (CBD). This protocol proposes the establishment of mechanisms to ensure prior informed consent and mutually agreed terms between providers and users, and a monitoring system to ensure international compliance. Benefits derived from ABS agreements on these grounds are assumed to play an important role in financing biodiversity conservation in developing regions of the world and in alleviating poverty in disenfranchised communities (Greiber & Moreno, 2012). However, critiques point out that ABS initiatives involving traditional knowledge usually fail because they adequately reflect neither indigenous community needs nor culture (Whiteman, 2009), especially in cases in which the actors are not included their formulation (Wynberg, 2010).

Interestingly, one of the safeguards included by these groups during the negotiations of the Nagoya Protocol was the recognition of local governance schemes known as community protocols (Bavikatte & Robinson, 2011). These local governance schemes take part of the broad constellation of regulations (Djelic, 2011) involved in governing ABS. Community protocols are based on local governance, which includes indigenous practices, customs and beliefs around the ways of dealing with biodiversity conservation and traditional knowledge transfer (Bavikatte & Robinson, 2011). This experience goes beyond having diverse voices at the negotiation table because it creates connections and learning opportunities for engaged participants to co-produce and implement policymaking. It can be seen as both a response to top-down approaches of environmental regulation and also as a form of resistance to current business and academic bioprospecting practices that often disrespect and disregard traditional communities. In this sense, this could be seen as an inclusive tool for the disenfranchised.

A close examination of the strategic practices of communities in the context of ABS governance points to the plurality of possibilities in a setting where no single actor can impose a unilateral solution. In this paper, I build on the sociology of translation literature to go beyond diffusion metaphors of "the global imposing itself to the local" (Escobar, 2008; Latour, 2005b). Global regulations indeed travel around the world (Djelic & Shalin-Andersson, 2006), but they only materialize when they are locally translated (Czarniawska, 2012). Translation is a transportation combined with a transformation (Latour, 1987), which entails the "creation of a new link that did not exist before and modifies in part the two agents" (Latour, 1993, p. 6). In that sense, not

only the practices of communities further concretize the Nagoya Protocol, but in the making of these initiatives, actors' ways of organizing are also modified. In this process, communities enable themselves to perform a form of translocal resistance, whereby they "forge a series of temporary coalitions with international and national groups in an attempt to promote some form of participatory democracy" (Banerjee, 2011, p. 233). These transnational assemblages, which refer to the multiplicity of local spaces and actors and their interrelationships in a global world, translate global regulations in transgressing and transcending what is already in the local (Banerjee, 2011). These processes are extremely relevant in transnational governance studies because they have the potential to change the local-global dynamics, but so far are not well understood.

In this article, I focus on the rise of the community protocol approach under the ABS environmental governance arena, to understand how local initiatives translate a global environmental regulation. To do that, I first briefly present the sociology of translations literature. Secondly, I describe the emergence of the concept and present three different implementation experiences in South Africa, India and Peru. I then examine these experiences to understand how these communities have been developing and making use of the community protocols. I finally discuss the findings in light of the contributions of the translation lens to the transnational governance literature. The contribution of this paper is to provide a more nuanced view of the processes of transnational regulation building by shedding some light on the mechanisms through which local initiatives recursively connect with such global arenas.

## ON THE SOCIOLOGY OF TRANSLATIONS

The sociology of translations literature has spread as a tool capable of investigating the processes and practices of organizing (Gehman, Treviño, & Garud, 2013; Nicolini, 2011). This analytical focus stems from its relational ontology, which flattens out dualisms and revisits agency as emerging from social and material relations (Latour, 2005; Orlikowski & Scott, 2008). Its original understanding of the nature of reality and knowledge is based upon the assumption that any form of social order is the result of active connections between actants regardless of the idea of pre-existing levels of reality (Nicolini, 2009). An actor or actant, in ANT language, is "any thing that does modify a state of affairs by making a difference" in some other's action (Latour, 2005, p. 71). This is not to say that things determine human action, but they can surely allow, influence or even block actions performed by other actants (Latour, 2005). As a result,

emphasis is given to the translation processes that sustain connections between the social and material worlds, instead of taking these connections for granted (Czarniawska & Hernes, 2005; Feldman & Orlikowski, 2011).

The source of inspiration for the first studies in this tradition was Michel Serre's notion of translation and the work on rhizomes by Deleuze and Guatari (Latour, 1999). Often used as a metaphor to explain the movement of management ideas and practices across organizations and nations (Czarniawska, 2009; Czarniawska & Hernes, 2005; Czarniawska & Sevón, 1996), translation entails the idea of transformation to account for how particular orderings are established (Latour, 2005). A chain of translation is the articulation of identities, interests and practices through the definition, association and negotiation among unrelated elements (Harrisson & Laberge, 2002). This idea entails a continuous effort of holding these pieces together and reconciling contraries (Gherardi & Perrotta, 2011; Latour, 1996).

In studies of globalization, more often than not, global and local interactions have been depicted as a process of compression of the world (Robertson, 1992). In contrast, the concept of translation helps us understand how these encounters produce opportunities of constructing something new and of changing what is translated but also the translator (Czarniawska, 2012, p. 27). It has been used to move away from the diffusion model of the institutional approaches and to draw attention to the way that ideas (norms, rules, practices), rather than moving along unchanged, are inevitably modified as they travel in space and time (Zilber, 2006). In an application of this theoretical lens, Maguire and Hardy (2009) have showed how each individual translation transforms the original source to acquire new interpretations that follow the actor's views and interests. The new translations may themselves be translated too, adding up to an ongoing process of translation.

## A BRIEF NOTE ON THE METHODOLOGY

Three illustrative cases were chosen based on interviews conducted with the three staff members that work with issues related to traditional knowledge at the Convention on Biological Diversity, the international organization hosting the Nagoya Protocol. These experts have pointed to the cases appearing in The International Institute for Environment and Development (IIED, 2012) publication as interesting and relevant illustrations of the application of this specific tool in the context of ABS in different parts of the world. Moreover, these experiences are featured in another key publication produced by United Nations Environment

Program (UNEP, 2013) where the CBD staff members also provided inputs and comments.

The illustrative cases are built based on information available in both these key publications (IIED, 2012; UNEP, 2013) as well as the actual community protocols created by the communities, in addition to pamphlets and newsletters. Although the secondary data used to describe the illustrative cases is very rich, a common shortcoming in this type of data is that the information made available may be influenced by the role and interests of the actors producing the material (e.g. the case studies were written in co-authorship between the NGOs and communities involved in the experience). To minimize this limitation, as part of a broader research program, the author conducted other six interviews with experts to understand the history and the impact of the community protocols locally and in global environmental governance discussions. Table 1 describes in detail the data sources.

Table 1. Data collection

Data source	Quantity	Pages
Documents		
Case study/ Articles	7	69
Community protocols	3	51
Meeting/ Project Reports/ Presentations	17	239
Policy briefing/Guides	6	526
Interviews		
Indigenous people and local communities	3	27
NGO	2	22
Government	1	12
CBD staff	3	31
TOTAL	41	977

For the data analysis, I started with first-order open coding of all documents (Strauss & Corbin, 1998). This method is well adapted to theory-building (Gioia, Corley, & Hamilton, 2013). A total of eight initial categories emerged from the data. I then created second-order themes by clustering the first-order descriptive codes according to their qualitative similarities, generating four different themes. In a final effort to abstract from these emergent themes, two mechanisms are proposed to understand how the local governance schemes interact with the global regulation on ABS. The mechanisms found in the coding process are common to all three cases because communities appropriated the tool locally in a similar way, even if outcomes were somewhat different.

## THE EMERGENCE OF COMMUNITY PROTOCOLS

Communities around the world have been developing and using a wide range of protocols, procedures, rules and practices to guide their interactions within their communities, between communities, with external actors, and with the environment for hundreds of years. The novelty of the emerging community protocol approach resides in the fact that it is a process of systematization of local practices and regulations that is recognized under a global regime, the Nagoya Protocol. Despite the hermetic dynamic imposed by the rules of procedures adopted in intergovernmental negotiations at the United Nations, the mobilization of many actors in the context of the Nagoya Protocol's negotiation resulted in the inclusion of a potential safeguard for protecting the rights of indigenous peoples and local community groups in local implementation (Bavikatte & Robinson, 2011). The Nagoya Protocol, in its article 12.1 requires countries to support the development of community protocols, a concept that is not well defined in the Protocol text.

The idea of inserting the concept of community protocol in the negotiations was promoted by an international NGO, Natural Justice. Since 2007, this NGO based in South Africa but with operations all around the world advocates conservation and sustainable use of biodiversity through the self-determination of indigenous peoples and local communities.

Community protocols were championed by the NGO Natural Justice. The concept was inserted in the final negotiations of the Nagoya Protocol, with a big participation of Natural Justice in lobbying with the African Group. The role of Natural Justice was as a catalyst and facilitator, because it is difficult for ILCs to articulate themselves in the global realm; they often need someone or some organization to facilitate the connection. Of course, customary use and laws already existed prior to the creation of the community protocols, but the idea was very ambiguous for Parties. (Interview 1, Convention on Biological Diversity staff member)

The idea of community protocols was not entirely new because some communities were already putting it into practice under different labels. This is recognized by Natural Justice's members directly involved in the Nagoya Protocol's negotiations, who also justified the need to create this new concept:

Natural Justice did not invent the term or the concept. Important work had already been done in

Latin America. I think the precursor of the concept was “Plan de vida”, applied in the Potato Park in Peru, where they started documenting certain information to plan for the future. (Interview 3, Natural Justice staff member)

I mean, we heard of communities in Latin America having developed protocols more like treaties and agreements between communities about how they would share resources, for example. And then we also knew that there was customary law being applied in Asia and elsewhere in terms of resource use and management. But this was really a new situation that we were looking at. We weren't just looking at an agreement between communities or traditional customary law in certain areas about resource use, but specifically we were looking at the situation where communities had to engage in negotiations with an external stakeholder, whether it is a government, whether it is a researcher or a business company. The fear of the African governments was that companies would come and create all kinds of ABS agreements with the communities and there would be no way of telling whether this agreement was done in a legitimate, consultative way or whether it was just an agreement it was done with one person of the community and now the company is claiming access to resources. We said: why not develop something like a community protocol where it is a protocol that is designed to assist in these kinds of negotiations. It was in this context that we presented the idea to the African Group. (Interview 4, Natural Justice staff member)

A former government delegate directly involved in the negotiations of the Nagoya Protocol confirms this version. When asked about how the concept emerged in the negotiations of the global agreement, the interviewee talks about the role of the NGO in lobbying African governments:

In the end, the African group pushed for the insertion of the text in the Nagoya Protocol, but this idea came from Natural Justice. At the time we had a legal advisor who also worked with Natural Justice and he had experience on the ground with communities that were trying to

implement different sorts of treaties. It seemed a good idea because Parties were concerned that communities are not homogenous and they do not have homogenous interests. So who in the communities are actually giving consent, and who is actually receiving the benefits? (Interview 6, former government delegate involved in the Nagoya Protocol negotiations)

Importantly, the indigenous peoples' group who were observers at the negotiations had internal disagreements about the value of introducing this concept. Within the Convention on Biological Diversity, the indigenous peoples' representatives organized themselves under an alliance, the International Indigenous Forum on Biodiversity (IIFB). The IIFB is a coalition of organizations that advocated for the rights of indigenous peoples at the negotiations of the Nagoya Protocol. Some were afraid that creating a document like a community protocol would have negative repercussions to communities because it is incompatible with their oral traditions. However, most agreed that it was better to have this option in the text rather than leaving for states to decide for the communities.

It took some time for some of us to warm up to the idea. Because our concern was we already had customary law, so why would we need something like the community protocol? The problem is that customary law is unwritten so even if ... so the party on the other side, whether it is the government or a company or researcher, would like to see something that is a little more clear, in which they know they are complying with. We had some concerns about writing something down and that could be held against the community. That is not to say that the community protocol cannot be changed, just because you write it down. It is something that the community can always revise and change as time goes by. Not everyone, but a lot of people in the IIFB saw value in it because we felt that would help us to get out of the deadlock in the negotiations... where countries were saying communities were not in the position to actually negotiate ABS agreements because there is no clarity about how resources will be shared and benefits will be shared and therefore the governments would have to speak on behalf of communities. (Interview 2, Indigenous

Peoples representative directly involved in the Nagoya Protocol negotiations)

After the concept was introduced in the Nagoya Protocol by Natural Justice, the NGO also did some work to promote implementation and created a community protocol toolkit proposing a methodology for communities. In addition, some communities also contacted them to ask for help.

Our involvement is almost always at the call of the community, but I remember at least one case where we proposed the creation of the community protocol because we knew a local NGO that was doing interesting work with pastoralist communities in India. We have no control over the actual content of the protocol, we only propose a methodology; that is why we created the community protocol toolkit. Some of the relationships we establish are long term, while other communities only get the information and create whatever they want. Usually we are approached by a community and we help them to submit a project proposal to a funding agency interested in community work. That is how they get the funding to finance the meetings and fieldwork that has to be done. (Interview 3, Natural Justice staff member)

More recently, the idea started to propagate among communities that were already doing some work to manage the relationship with outsiders or to ensure that prior informed consent is done in a way that is based on the values of the communities. In a way, the concept took a life of its own, detached from the work previously done by Natural Justice, and now it is traveling around the world and being appropriated by communities in different ways. In the quotes below, community leaders from different parts of the world describe how they are currently integrating the concept of community protocol in their own communities.

We saw that the Nagoya Protocol recognizes customary law and community protocols and we realized that what we have been doing in terms of agreements to protect and also socialize traditional knowledge of our local medicinal plants was a community protocol. We started to study and got in contact with people in other countries who are also implementing community protocols. (Interview 6, Representative of a

local community that is building a community protocol)

We realized that the Nagoya Protocol can be used as a tool of conservation of traditional knowledge. We researched on experiences all over the world and we saw that some of them are related to conflict mediation with the mining and logging sectors. We already had some experience with a certification process for our products, which required a socio-participatory process to determine the use of our land and resources. With this experience we saw an opportunity for us in creating a community protocol with our own methodology to respond to an internationally recognized instrument. (Interview 7, Representative of a local community that is building a community protocol)

We don't have a lot of resources so what we have been doing to make an impact locally is to invest our time and effort in building community protocols. We have experience in organizing capacity building workshops for the CBD and the Nagoya Protocol. Now we are finding ways of creating a methodology to implement community protocols in our communities. (Interview 8, Representative of an indigenous people community that is building a community protocol)

All in all, this is an important development within the CBD and the global environmental governance picture as a whole because it is something designed by the communities for the communities. In the next section, I present three experiences of already implemented community protocols developed in the context of ABS.

## ILLUSTRATIVE CASES OF COMMUNITY PROTOCOLS IN ABS

The examples describe how communities created these protocols with the purpose of securing access to the biological resources needed for their livelihoods, as well as ensuring equitable distribution of the benefits derived from the use of collectively held biological resources and traditional knowledge. A summary of the cases and the main sources of information is available on Exhibit 1.



## Exhibit 1. Summary of the cases

Communities/ Dimensions	CASE 1: Kakula Traditional health practitioners (South Africa)	CASE 2: Raika livestock keepers (India)	CASE 3: Quechua communities in the Potato Park (Peru)
Main information sources	1. Sibuye, R., Uys, M.-T., Cocchiario, G., & Lorenzen, J. 2012. 2. Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010. 3. African Bio-Cultural Community Protocol Initiative. 2011.	1. Köhler-Rollefson, I., Kakar, A., Mathias, E., & Rathore, H. 2012. 2. Asian Regional Initiative on Bio-Cultural Community Protocol. 3. Raika Biocultural Protocol. 2009.	1. Argumedo, A. 2012. 2. ANDES, Potato Park Communities, & IIED. 2012. 3. Acuerdo intercomunal Parque de la Papa. 2011.
Supporting organizations	K2C Management Committee (Public agency) and Natural Justice (international NGO)	Lokhit Pashu-Palak Sansthan - LPPS (local NGO) and Natural Justice (International NGO)	Asociación ANDES (local NGO) and IIED (international NGO)
Motivation	Over-harvesting leading to restriction of traditional healers in protected areas	Grazing rights loss in newly established wildlife sanctuaries	Need to create a mechanism to ensure equitable sharing of seeds and other benefits derived from the activities in the park
Process	K2C management committee engaged Natural Justice and formed a facilitator group along with 26 traditional healers. Consultations with wider community after the draft was developed by the facilitator group.	Natural Justice proposed LPPS (local NGO) to build the Raika Community protocol. Based on the research project developed by LPPS over 15 years, a draft document was shared and discussed with traditionalist community elders and revised.	The NGOs were conducting a research project to establish how community rights could be protected based on customary law. The communities were involved in adapting the project to their needs and concerns and were also engaged in data collection and the design of the protocol.
Outcomes	Creation of an Association (now with 320 members); Pooling of traditional knowledge; ABS contract with local company; Better access to protected areas; creation of a Code of Ethics; Recognition of the profession	Better interaction with government officials, especially the Forest Department; International recognition; Replicating effect in other pastoralist communities	Creation of a system to evaluate the contributions to equitably share the benefits of the park among the communities; Better guidance to external actors who want to engage with research in the park

### Case 1: Traditional Healers of Bushbuckridge

In September 2001, the United Nations Education, Scientific, and Cultural Organization (UNESCO) recognized the Kruger to Canyons (K2C) reserve under UNESCO's Man and the Biosphere Program: "Biosphere Reserves are designated regions throughout the world where internationally important ecosystems and protected areas lie adjacent to human settlements, and are established to promote solutions to reconcile the conservation of biodiversity and its sustainable use" (K2C website). This area, which spans more than four million hectares, encompasses key biodiversity hotspots and a huge diversity of ethnic backgrounds and language groups. Nevertheless, the over-harvesting of plants threatened the conservation of many species (Sibuye, Uys, Cocchiario, & Lorenzen, 2012).

In 2009, the K2C management committee invited the international NGO Natural Justice to present and discuss community-based approaches to ABS. Data were then collected through surveys on the different uses of biodiversity in the region

(Sibuye et al., 2012). With a view to developing a community protocol linking traditional methods of collecting plants to conservation, representatives of the K2C management committee held a preliminary meeting with a group of 26 traditional healers who were connected to a medicinal plants nursery project in the region (Sibuye et al. 2012). These traditional health practitioners live in the southern portion of the K2C Biosphere, the Bushbuckridge area, and have been faced with an emerging ecological crisis from the overharvesting of medicinal plants that further deepens their marginalization.

As traditional health practitioners we perform an important role in society, but it is a difficult one. We face three main challenges, namely: access to medicinal plants, benefit sharing from our knowledge, and discrimination. (Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010)

With the support of Natural Justice, this meeting discussed the healers' concerns regarding: the restrictions to access in these government-managed protected areas due to overharvesting; and also the fear of misappropriation of their traditional knowledge (Sibuye et al., 2012). The small group of traditional healers held regular meetings to share their views and to learn about ABS laws under the CBD and the South African Biodiversity Act. At these encounters, the actors had the opportunity to know each other better, and decided to build a formal organization of healers to better deal with the challenges identified. In the process of developing the community protocol, they formed the Kukula Traditional Health Practitioners Association (KTHPA) (Sibuye et al., 2012), responsible for engaging with other K2C stakeholders, including businesses and government, to co-ordinate the development and use of the community protocol. The group began with 80 members and currently has 320, primarily women (African Bio-Cultural Community Protocol Initiative, 2011).

In mid-2009, during a two-day workshop, a facilitation group formed by the KTHPA's executive committee, the K2C management committee and Natural Justice, developed guidelines to collect information from all members of the association (see Exhibit 2). The facilitation group drafted a community protocol based on the information collected and then presented it to the wider membership of the association, which revised and approved a final version (Sibuye et al., 2012).

### Exhibit 2. Methodology for community protocol building

- Building credibility, trust and mutual respect among traditional healers.
- Identifying the healers' concerns and values and ensuring they are fully understood by asking probing questions and reflections.
- Facilitating consensus among the healers by ensuring that all opinions are heard and considered.
- Making sure all participants are part of the process and ensuring they feel part of a shared vision.
- Capturing and reflecting to the group decisions that are owned by the healers.
- Ensuring participatory and fair practices throughout the process. Encouraging all members of the association to express their views and be involved.

Source: Adapted from Sibuye et al. (2012).

In terms of the impacts since the adoption of the community protocol, some of the members of Kukula decided to pool some of their traditional knowledge collectively in an example of traditional knowledge commons (Sibuye et al., 2012). More recently, they signed an agreement with a small local cosmetic company, Silk Collections,

and allowed research on the use of some of their genetic resources and associated traditional knowledge (Sibuye et al., 2012). The agreement forbids Silk Collections to communicate the traditional knowledge to any other party and ensures that should a cosmetic product be found viable, benefit sharing will be developed between the parties (African Bio-Cultural Community Protocol Initiative, 2011).

The relationship with government officials has also changed. On the one hand, the association was able to negotiate for limited access to protected areas due to the recognition that local healers are not responsible for extensive overharvesting (Sibuye et al., 2012). On the other hand, the association has also created a code of ethics for its members which aims to improve the consistency of service to clients and help members in the process of registering with the South Africa Department of Health as officially recognized traditional health practitioners (Sibuye et al., 2012).

### Case 2: Raika Livestock Breeders

The Raika community protocol of 2009 is thought to be the first community protocol ever completed by livestock keepers (Köhler-Rollefson, Kakar, Mathias, & Rathore, 2012). Lokhit Pashu-Palak Sansthan (LPPS), a local NGO that has been working with the community for over 15 years to document traditional knowledge about livestock keeping and genetic resources was approached by the international NGO Natural Justice in 2009 with the suggestion of establishing a community protocol. In May 2009, two Natural Justice representatives based themselves at LPPS headquarters to explain the concept, but also to and learn about the challenges faced by the Raika (Köhler-Rollefson et al., 2012).

The Raika are the largest pastoral community of western Rajasthan in north-west India and, at the time, they were facing problems related to their grazing rights. The Raika community has lived in the region for over 700 years rearing unique livestock and acting as custodians of the local environment, despite the challenging climate (Raika Biocultural Protocol, 2009). Over the last 60 years, the Raika have suffered as developments have eroded common property resources and restricted access to remaining areas due to factors such as intensified crop cultivation, new wildlife sanctuaries, population pressures, road building and land enclosures (Köhler-Rollefson et al., 2012). In 2003, the Raika lost grazing rights after a decision by India's Central Empowered Committee.

Our exclusion from the forests severely threatens our entire existence and the co-evolved ecological system of these biodiversity-rich areas that have been developed through generations of complex interplay between livestock, livestock keepers



and the local ecosystem. (Raika Biocultural Protocol, 2009)

A large amount of written documentation was already available under the project conducted by LPPS, including a description of the activities of these indigenous nomadic pastoralists who have developed a variety of livestock breeds based on traditional knowledge and who have grazed camels, sheep, goats and cattle in communal lands and in forests. The information was compiled into a draft document that was shared and discussed with community elders and revised accordingly (Exhibit 3). Later, LPPS translated and printed the document in Hindi, sharing it widely with the community and local government officials (Köhler-Rollefson et al., 2012). Later that same year, a Raika female leader was invited to present the community at international meetings of the CBD.

### Exhibit 3. Description of the content of the protocol

#### Raika community protocol

- Sets out our biocultural values and explains how we, the Raika, have developed and preserved unique breeds of livestock and traditional knowledge associated with them, and how our pastoral lifestyle has developed the co-evolved ecosystem of Rajasthan's forests which we have traditionally conserved and sustainably used
- Details our customary decision making process involved in providing free prior informed consent to any actions that relate to our grazing rights, animal genetic resources and associated traditional knowledge.

Source: Raika Biocultural Protocol (2009, p. 3).

In a workshop presentation about the case, one of the facilitators pointed to the fact that within the community there was a huge divergence between traditional pastoralists who wanted to maintain strong customary rules for selling and sharing animals and the younger community members who wanted to drive the community in a different direction (Asian Regional Initiative on Bio-Cultural Community Protocols [ARIBCP], 2011). What this tension unveils is that the “Raika” in this case were actually a sub-group and the protocol was built around the view of those who want to remain under traditional governance. Another point raised in this presentation was that the development of the protocol was conducted as an outside intervention by LPPS and Natural Justice. An implication of this is that the community is currently in need of a local lawyer to support the ongoing process of refining and using the Raika protocol, which has proved a very difficult task (ARIBCP, 2011).

In terms of outcomes, the Raika have used the document when interacting with government officials, particularly the Forest Department (ARIBCP, 2011). It has been useful for the Raika to have a written document in hand to illustrate their ways of life and rights in meetings with government officials. It has also been particularly empowering for Dallibai Raika, the woman from the community who has been traveling internationally to present the protocol and advocate for their rights (ARIBCP, 2011). Moreover, there has been a replicating effect. Many other pastoralist communities followed the idea and started drawing their own community protocols based on the Raika experience.

### Case 3: Potato Park in Peru

Six Quechua communities created the Potato Park in 2002 around the philosophy of Andean indigenous cosmovision: *Suma Causay*, which means “harmonious existence” or “a way of living together in community” (Argumedo, 2012). The park currently incorporates the communal land of the Amaru, Chawaytire, Pampallaqta, Paru Paru and Sacaca communities, covering a total area of 9000 hectares, with over 6000 residents (Parque de la Papa Website, 2014). The goal of the Potato Park has been to establish an alternative and inclusive development model that fosters cultural identity and biodiversity conservation.

The park serves as a genetic reserve, with 700 local cultivars and 410 varieties repatriated from the International Potato Centre (IPC) in 2004. In 2011, the Potato Park adopted an inter-community agreement for equitable benefit-sharing. The community felt the need to create a mechanism to ensure equitable sharing of seeds and other benefits derived from this agreement and from other economic activities in the park (e.g. tourism, handicrafts, gastronomy, agriculture, natural products) in order to prevent disputes amongst the communities (Andes, Potato Park Communities, & IIED, 2012). The inter-community agreement aims at building the “foundations for equitable and sustainable local economies based on biocultural goods and services, while building communities’ capacity to negotiate equitable agreements with third parties” (Andes et al., 2012). This agreement is an example of community protocol because it regulates the benefit-sharing activities among internal and external actors, but also because it is based on their customary laws (Andes et al., 2012).

The process of development of this protocol started 2-3 years before it was adopted, with the support of a local NGO, Asociación ANDES, and an international NGO, International Institute for Environment and Development (IIED). ANDES works cooperatively with indigenous organizations at the community level in developing models that affirm the rights

and responsibilities of communities and strengthen food sovereignty, health and local livelihoods. The Potato Park was one of the communities studied under a research project led by IIED: “Protecting Community Rights over Traditional Knowledge: Implications of Customary Norms and Practices” conducted in five developing countries with financial support provided by Canada’s International Development Research Centre (IDRC), between 2005 and 2009. The project undertook four major phases (Exhibit 4). Prior to even implementing the project, the NGOs obtained the free, prior, informed consent (FPIC) from the communities. Even if the research project had a pre-defined scope, the communities were involved in refining the project to their own needs and concerns.

#### Exhibit 4. Stages for developing the Potato Park Community Protocol

Developing the Potato Park community protocol

- Phase 1: Obtaining free, prior, informed consent from the community
- Phase 2: Identifying community norms and customary laws on benefit-sharing
- Phase 3: Consultation, discussion, revision and negotiation of the inter-community agreement
- Phase 4: Final consultation and validation of the inter-community agreement

Source: Based on Argumedo (2012).

In the second phase, the main objective was to identify and document customary laws and the underlying principles concerning access to biocultural resources and the equitable distribution of benefits within the Potato Park. Community members and the facilitators conducted this research through the establishment of small study groups. The communities identified three key Andean customary laws – reciprocity, duality and equilibrium – that should apply to benefit-sharing. In this phase, Asociación ANDES also trained 14 indigenous researchers representing each of the communities to jointly undertake the research project. (Andes et al., 2012)

In the third phase, the main objective was to expand community participation through the implementation of a consultation and revision process involving local authorities and community members. In the final stage, the newly trained indigenous researchers and ANDES staff validated the final document with the communities (Argumedo, 2012).

Since the establishment of the inter-community agreement, the communities have equitably shared the benefits from many activities centered in the conservation of native potato diversity and

the traditional knowledge associated to it (Andes et al., 2012). The communities maintain a system to evaluate the contribution given to the different activities of the park (Andes et al., 2012). The protocol also provides guidance to external actors who want to engage with research in the park. While the communities agreed to maintain the free flow of resources and TK amongst them, TK and bio-genetic resources can only be exploited by external actors with the prior informed consent of the six communities (Andes et al., 2012).

## EMERGENT FINDINGS: RESISTING TO EXCLUSION IN GLOBAL ENVIRONMENTAL GOVERNANCE

In the data analyzed for the three cases, the process of creating these protocols in a translation of the Nagoya Protocol at the local level enabled communities to resist exclusion in environmental governance through two main translation mechanisms (Exhibit 5): by connecting goals and practices and (re)connecting social networks. After presenting these mechanisms, I summarize the outcomes of the translation processes in the three different settings.

### Mechanism 1: Connecting goals and practices

In all three experiences, communities made the effort of connecting otherwise disperse dimensions of global and national environmental governance to their local reality while also examining their own environmental practices. The starting point of all the community protocol experiences presented was the awareness-raising about rights of communities under the global frameworks. The healers in South Africa and the nomadic pastoralists in India turned to the international NGO Natural Justice to learn about their legal rights. In the case of the Potato Park, a local NGO, Asociación ANDES helped in the process. Learning about the laws that support their ways of life helped the communities develop awareness to define their own development strategy.

The community protocols included articles from human rights law, the right to food, the FAO International Treaty and the CBD, which have been ratified by the national governments where the communities live. In that way the community protocols stress the point that they are helping national governments to implement internationally held commitments at the local level. With that, they also embed the global into the local reality.

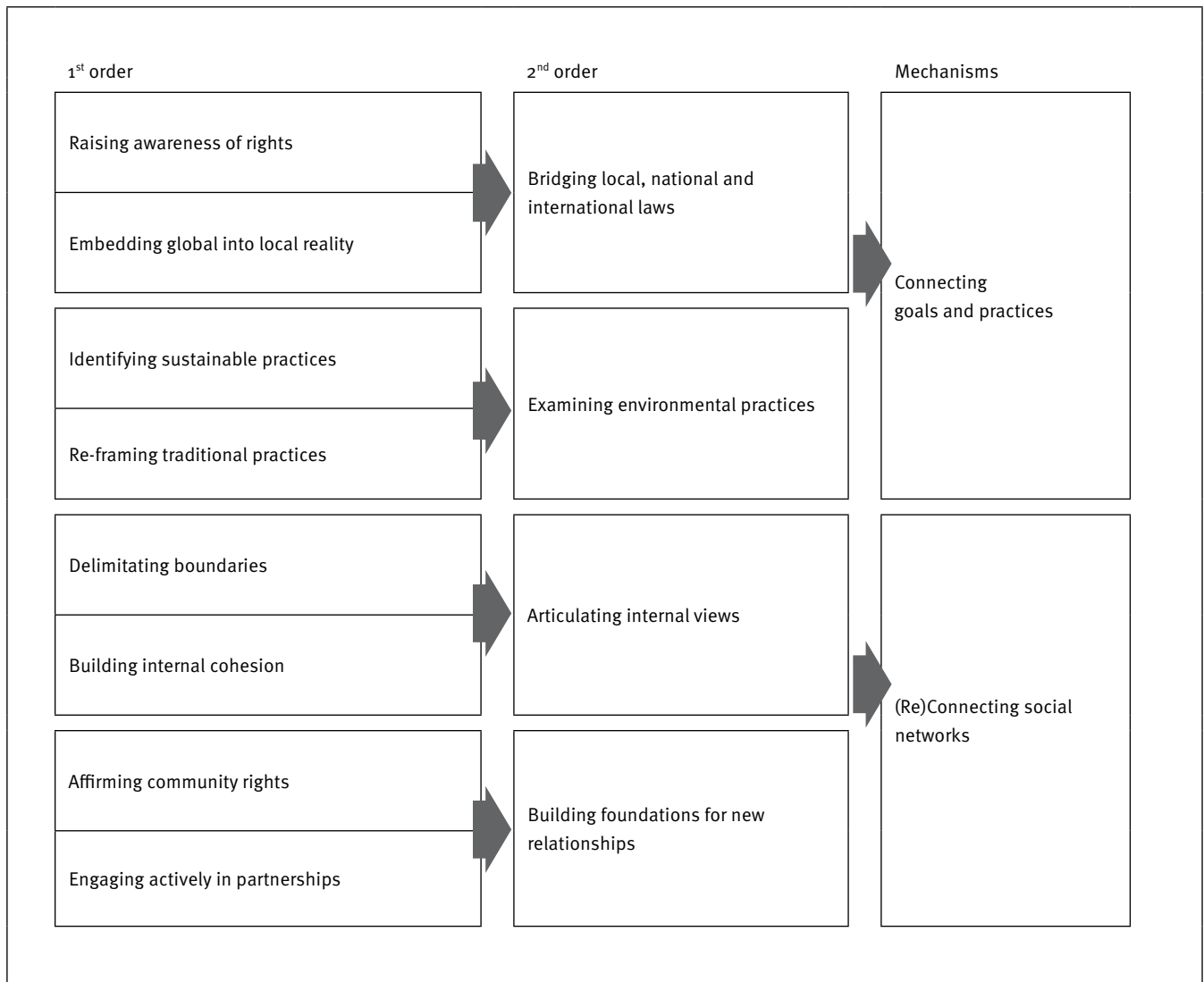
Quechua communities in the Potato Park do not wake up in the morning with the intention of imple-

menting the Nagoya Protocol. But their inter-community agreement and related practices which are based on customary laws contribute to the Nagoya Protocol and the CBD, and are implementing a number of provisions at the local level (Workshop of the ISE Global Coalition for Biocultural Diversity, 2012; Quote from Alejandro Argumedo).

The protocols also emphasize the spiritual, cultural and reciprocal relationships with nature. This holistic worldview is built upon the interconnectedness of all forms of life and is in opposition to understandings of life and knowledge as property. In examining their own ways of relating with nature, the communities were to recognize in their own practices what is externally labeled as sustainable practices.

We have rules linked to the seasons in which we can collect various plants, with severe consequences such as jeopardizing rains if they are transgressed. Because we harvest for immediate use, we never collect large scale amounts of any particular resource, tending to collect a variety of small samples. This inhibits over-harvesting. We protect biodiversity in other ways, such as guarding against veld fires and discouraging poaching of plants by muti hunters. These ecologically-based customary laws and methods of sustainable harvesting are passed on to our students, perpetuating our biocultural values. ([Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010](#))

### Exhibit 5. Emergent findings



The communities have also been able to re-frame their traditional practices under international and national frameworks governing environmental practices as a consequence of their increased awareness of sustainability discussions.

The animal genetic diversity [our animals] embody enables us to respond to changes in the natural environment, which are important attributes in the context of climate change adaptation and food security. Their genetic traits and our traditional knowledge associated with them will also be of use in breeding for disease resistance, and may provide us with other diverse economic opportunities under the forthcoming International Regime on Access and Benefit Sharing or a future International Treaty on Animal Genetic Resources for Food and Agriculture. (Raika Biocultural Protocol, 2009)

## Mechanism 2: (Re)connecting social networks

In the struggle to assert their rights, the experience of community protocol building enabled communities to connect and re-connect social networks. In doing this exercise, the communities had to define the boundaries of their groups to be able to articulate their views internally. Self-determination is a principle under Article 3 of the UN Declaration of the Rights of Indigenous Peoples that provides a community with the right of self-definition as a group that considers itself to be affiliated through a commonality (or commonalities) of subjective importance to the community. Each group decided to define community either based on landscape or common knowledge and activity, not necessarily on political, linguistic or ethnic criteria. In the case of the traditional healers in South Africa, despite the large geographical distances between Sepedi and Tsonga ethnic communities and their two separate languages, the process of developing a protocol has helped them to re-define themselves as a group with shared values and knowledge (Sibuye et al., 2012). Interestingly, the protocol document is written in English and the other 2 indigenous languages.

We are a group of over 80 traditional health practitioners (referred to here as healers) living in the Bushbuckridge area of Mpumalanga, which is in the North East of South Africa. Bushbuckridge lies on the Westerly perimeter of the Kruger National Park and falls within the Kruger to Canyons (UNESCO) Biosphere Region (K2C). The K2C is currently the fourth largest Biosphere Reserve in the world, and encompasses a very large array of

animal and plant biodiversity. It is also home to over 1m people, the vast majority of which earn among the lowest wages in South Africa. We are all from either Sepedi or Tsonga communities. (Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010)

Community Protocols also support relationships within a given community by building a common understanding of the current situation and establishing forward-looking goals. This is achieved by evocating common principles and beliefs but also through the process of in-depth discussions that allow for cohesion building (Argumedo, 2012).

The communities agree that benefit sharing will be fair and equitable, with the goal of promoting “Sumaq Kausay” or “Buen Vivir”, given that the collective interest of the communities excel over individual interests. (Acuerdo intercomunal Parque de la Papa, 2011)

Overall, communities have used their protocols to build new foundations for interactions with external actors. In building a clear statement of principles, communities have a document that can function as a basis of discussions to facilitate cooperation across knowledge systems (Andes et al., 2012). In this sense communities have affirmed their rights in their protocols, sending a clear message to researchers and bioprospectors planning to use their indigenous resources or traditional knowledge that they know their rights and intend to exercise them (Sybuye, 2012).

Our community should be engaged any time outside interests take decisions that may affect our livelihoods or relate to our breeds and associated traditional knowledge. For example, before any of our access rights to customary grazing areas are altered we must be consulted. Also, where researchers or commercial interests want to access our animal genetic resources and / or associated traditional knowledge, we must be given all relevant information with which to take a decision and we must be given time to discuss the issues within the community panchayat as our breed diversity and traditional knowledge are collectively held and their ownership does not vest in any single individual. (Raika Biocultural Protocol, 2009)

We know our rights under the National Environmental Management: [Biodiversity Act \(2004\)](#) and the Bioprospecting, Access and Benefit Sharing (BABS) Regulations (2004) and will require any users to whom the law and regulations apply to comply with the full extent of their obligations. ([Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010](#))

However, more than passively waiting for these external actors to engage with them, communities have also used the community protocol as a space to actively propose new connections with external actors.

Now that we are clear about the procedures for accessing plants from Mariepskop, we want to be recognized by the Department of Agriculture, Forest and Fisheries as both contributing to and benefiting from the region's biodiversity and work with the Department to establish a system that facilitates our access to the resources under its management. We call on the DAFF to instigate a process towards establishing such a collaborative partnership, and to explore the establishment of a medicinal plants conservation and development area on Mariepskop to increase the in situ cultivation of the most important medicinal plants. ([Biocultural Protocol of The Traditional Health Practitioners of Bushbuckridge, 2010](#))

The communities declare this as a GMO-free zone, committing to participate actively in generating protection policies against this type of technology. ([Acuerdo intercomunal Parque de la Papa, 2011](#))

## Outcomes of the translation processes

From the three illustrative cases presented here, the only case that concretely led to an ABS agreement with a business company was the one of the traditional healers in South Africa. The community protocol enabled the community to start engaging in a partnership with a local company, allowing research to be conducted on some of the Healers' traditional knowledge with the aim of developing various cosmetics. This can be seen as an experience where the Nagoya Protocol was effectively implemented at the local level.

However, even if the other experiences have not resulted in ABS agreements so far, they are all successful in their own terms

because the communities were able to create an instrument that translates the Nagoya Protocol locally ([Czarniawska, 2012](#)) in the sense that it potentially changes the role of indigenous peoples and local communities in negotiations with external actors for environmental governance. This is a key aspect highlighted by one of the experts:

The designation of leadership, who is going to negotiate, the community protocol clarifies how benefits are going to be shared, the different plans of the community. So the protocol might not necessarily have to end up to be something very solid. But once the protocol process has begun, then they have clarified internally a lot of issues that they wouldn't have clarified if they hadn't come together. (Interview 4, Natural Justice staff member)

All in all, despite the fact that a common concept was applied by these three communities in different parts of the world, the results were different in each case. For instance, in case 1 the traditional healers created an association, a code of ethics and with that they were able to get official recognition of the profession. In case 2, pastoralist communities improved their relationship with government officials and became a model for other communities. Finally in case 3, the community was able to create an internal system to share the benefits arising from the park activities while also creating standards for conducting research in the park.

## DISCUSSION AND CONCLUDING REMARKS

The translation perspective draws our attention to the situated and micro mechanisms by which ideas travel ([Czarniawska & Sevón, 1996](#); [Djelic & Sahlin-Anderson, 2006](#)). The studies in this tradition explore the active process involved in shaping ideas in different settings ([Sahlin-Anderson, 2000](#)) and how this is an ongoing process ([Maguire & Hardy, 2009](#)). Corroborating previous research, this paper shows how transnational governance is constituted by a series of translation processes and each time a concept is introduced in a transnational arena and then translated by a community or organization, it gains new forms and uses depending on the interests and experiences of the actors involved. In its current form, the concept of community protocol is being used by communities to resist exclusion in global environmental governance. Interestingly, this paper contributes to



this literature by showing that the same concept translated with similar mechanisms for the same goal by communities in different parts of the world led to different concrete outcomes, which points to the idea that the outcomes in translation processes are not only ongoing but also unpredictable.

Previous research has also showed that translators are purposeful in reflecting their own views and interests in the translations they make (Maguire & Hardy, 2009), which indicates a very strategic view of translation. This paper extends this idea by showing that in the process of actively translating the global regulation, the local actors themselves also change. The idea of community protocol itself emerged within some communities, even if under different labels, reflecting their individual visions. When the concept was introduced in a global forum and came back to the local level, communities had the opportunity to establish new relationships with other local and global organizations and transnational networks that presented them with a number of novel ideas and practices. Accordingly, in this process of traveling from local to global and to local again, community protocols made communities adapt their practices and relabel or rethink their own conceptions of the world. For instance, it urged communities to define the boundaries of their groups to be able to articulate their views internally, something that would not be necessary otherwise. In yet another example, communities relabeled their conservation practices as sustainable, accommodating a Western view of the relationship human-nature into their own worldview.

Finally, this paper contributes to reveal the mechanisms through which an idea that is re-translated from the global to the local level helps communities to resist practices that undermine their sustainability (Banerjee, 2011). The illustrative cases of application of the community protocol concept show a form of translocal resistance where new spaces of agency were created for these communities to overcome the constraints posed by unfavorable local relations with their national governments and business actors. Previous research has showed that civil society actors and institutions have developed far-reaching links between different actors in transnational governance in trying to achieve participatory democracy, whereby communities actively participate in decision-making about the issues that directly affect their well-being and sustainable development (Banerjee, 2011). The emergent findings show how community protocols were translated to become translocal tools to resist exclusion in environmental governance through two main mechanisms: connecting goals and practices and (re)connecting social networks.

On the one hand, community protocols interweave national and international diffuse goals and practices underlying sustainability discourses with customary law and traditional practices. In strategically connecting legitimate national and

international frameworks, the communities are in a position to hold outside actors accountable to their customary laws and to enforce the respect for their local sustainability principles and goals. In the Potato Park case, the principle of prior informed consent, fostered under the Nagoya Protocol and the ILO 169 convention, enables Quechua farmers to continue to freely grow food as long as they protect biodiversity. This means that the force of the community protocols rely on their connections to modern legal systems (Latour, 1993).

On the other hand, community protocols also make visible the ways of life, conservation practices and situation of communities, firmly re-constituting these communities as protagonists in their relations with nature but also with external actors. One could argue that much international and national environmental legislation is articulated in a way that further deepens inequality through its focus on economic valuation (Banerjee, 2003). However, community protocols hold the potential to confront inequality with an alternative model that prioritizes the well-being of communities and nature over the potential generation of profit for third parties. By gaining greater awareness of the prevailing, enabling and challenging external forces and by actively engaging in or resisting some connections with external actors, communities negotiate a new role in global environmental governance.

Importantly, local communities in different parts of the world have been engaging with transnational governance, by connecting themselves with transnational actors and treaties (Djelic & Quack, 2010). The cases presented here show how the bridging process between global and local arenas is most likely to be initiated by an ally, either a local or a transnational NGO. This dynamic points to the difficulty of communities to articulate themselves in the global realm and the need for a carrier (Djelic & Sahlin-Anderson, 2006) who imports the global concept into the local community. The carrier takes on a facilitator role, which may take different forms depending on the conditions of the community but also on the visions of the facilitator organization in how this bridging process should intervene in the local level.

In the three cases presented, none of the community protocol processes was initiated and executed by the communities themselves but by NGOs. In particular, in two of the three cases Natural Justice, the NGO championing the concept, played a key role in facilitating the process of community protocol building by proposing a methodology that was followed by communities. However, in the Peruvian case there was a special emphasis in local capacity building by engaging community members in the research team and creating a homegrown approach. Even though the data available does not explicitly show, it is fair to assume that the way in which communities are engaged in the process of

constructing their community protocols might affect the legacy for communities in terms of how well they are prepared to face the challenges of connecting themselves to transnational governance.

I point to three directions for future research to further develop the research agenda on the role of local communities in transnational governance. Firstly, there is a need to reveal the capabilities needed by communities to translate transnational rules in a way that is compatible with their local views and needs but also legitimate to the actors in the field. Given the power asymmetries between local communities and transnational actors, what capabilities do communities need to develop in order to produce translations that modify the conditions that lead to their marginalization? What kinds of tools communities can create to effectively perform translocal resistance? Secondly, while successfully learning to negotiate with external actors in transnational governance may be an important driver of sustainability for these communities, it may also lead to negative effects such as identity and autonomy loss. What are the risks of engaging with transnational processes? How can these risks be avoided by communities that want to resist marginalization but also strive to maintain their distinctiveness? Finally, there is also a need to go beyond the examination of local community mobilization at the local level to have a better understanding of the opposite translation movement. How may communities translate local concerns into global regulations? How can global regulations be more inclusive of these local needs and priorities? This research agenda would move forward the studies on transnational governance by providing a more nuanced view of the role communities in seeking new ways of participatory decision-making on the governance of global issues.

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