



Module 3: Conflict Resolution

In this module:

[Learn about conflict resolution, practices, and tools](#)

[Collaborate on a plan for resolving conflict that is culturally responsive — before conflict arises](#)

[Identify trusted mediators and other mechanisms](#)

[Respond to grievances and see resolution process through to completion](#)

Wenland Case Studies:
[3A. Conflict Resolution](#)

Introduction

This module offers a framework TNC staff and IPLCs can use in two scenarios:

- setting conflict resolution procedures and expectations at the beginning of a project
- building these procedures into existing IPLC relationships

This module is not just about risk management or preparing for worst-case scenarios. It reflects TNC's support for international law and standards on indigenous rights, where the right to grievance procedures and remedy is well-established.

Trusted conflict resolution procedures are necessary because they can throw light on issues or problems that might otherwise undermine an initiative's success. If concerns linger, trust and support could waver. Plus, conflict resolution, just like [Free, Prior & Informed Consent](#), is a relationship-building tool as much as

it is a risk-management tool.

Some degree of conflict between collaborators on initiatives is unavoidable. But when conflicts are addressed openly, quickly and respectfully, they are opportunities for collaborators to learn about each other, build trust and recommit to a shared future. Conflicts are also an opportunity for TNC to demonstrate its commitment to our Values, Code of Conduct and the Principles and Safeguards set forth in this guide.

Early on, well before a conflict arises, TNC staff and IPLCs should discuss how disputes will be handled and document their shared understanding in a Conflict Resolution Plan. Different situations will have different conflict resolution needs; the menu-based approach recommended in this Guide includes three mechanisms:

Conflict Resolution Mechanisms

Dialogue:

Respectful, mutual listening, quick on the heels of arising conflict, inclusive of all views;

Mediation:

A structured dialogue process, relying on trusted individuals or institutions; and

TNC's Ethics & Compliance Process:

A grievance procedure administered by TNC's Ethics & Compliance Office for alleged violations of our Code of Conduct or Principles and Safeguards.

In most cases, conflicts can be resolved through Dialogue or Mediation. The Ethics & Compliance Process is available to IPLCs for two reasons: (1) to affirm that TNC staff are held accountable for their actions; (2) to provide a different, perhaps deeper way to talk with TNC and get resources to investigate and resolve conflicts outside of the immediate project team.

In some cases, the three mechanisms will follow a logical progression and will be pursued in succession. You might move from Dialogue to Mediation to solve a conflict. But sequential exhaustion isn't necessary; the IPLC can go straight to TNC's Ethics & Compliance Process if circumstances warrant it. The three mechanisms are a menu of options that are available at any time.

Dialogue and Mediation mechanisms should be adapted to the standards and expectations of the IPLC, should include their methodologies and practices, and should be consistent with the Principles and Safeguards of the Guide. The Conflict Resolution Plan should be continuously revisited to keep it up-to-date with expectations, factual circumstances and learned experience.

Guidance is offered below for implementing the conflict resolution process in accordance with the Principles and Safeguards. TNC staff can also review the dilemmas presented in the Wenland hypothetical case study in this module.

Principles and Safeguards

The Introduction includes a discussion of all the [Principles and Safeguards](#) that apply to equitable partnership. Four are particularly important for conflict resolution:

Conflict Resolution Principles and Safeguards

Overarching Good Faith:

Assuming good intentions is perhaps the most important principle in resolving conflicts with IPLCs. Being honest, respectful and humble and demonstrating Integrity Beyond Reproach is critical.

Self-Determination:

A collaborative conflict resolution process builds trust, enhances dialogue and embodies TNC's commitment to supporting Indigenous Self-Determination and leadership on conservation outcomes.

Accountability:

Conflict resolution mechanisms are accountability mechanisms. Accountability isn't something to avoid or fear; it should be embraced as a chance to learn and improve. TNC won't get everything right on the first try. A commitment to accountability and responsibility can turn mistakes and misunderstandings into a platform for more solid partnerships.

Equity & Inclusion:

Conflict resolution procedures all over the world are marred by exclusionary and discriminatory practices. TNC's conflict resolution practice must demonstrate a thorough understanding of the impacts and legacies of the past. Only by acknowledging these injustices can we provide better access and resolve disputes in a more equitable and inclusive way.

Guidance

A good conflict resolution process keeps dialogue going, ensures transparency, and promotes equitable relationships between partners. The process need not be prescriptive or an administrative burden. Conflict resolution procedures demonstrate that TNC's work aligns with our Values, Code of Conduct and international law and standards. A mutually agreeable conflict resolution process is one of the most important ways TNC can respect and support the human rights of indigenous peoples and local communities.

Conflict Resolution as a Human Right

Having a reliable mechanism to resolve conflicts isn't just a risk-management tool or a Plan B if things go wrong. It is a human right.

IPLCs have faced generations of abuse, systemic oppression, and denial of rights. The harm is often compounded by institutional failure to act justly, be accountable, or listen to community concerns. Modern law elevates the right to grievance mechanisms, remedies and accountability measures to the status of a substantive right under international law.

United Nations Declaration on the Rights of Indigenous Peoples, Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

The right to procedural justice is also found in TNC’s Conservation by Design 2.0 Guidance Document. The commitment to conflict resolution emerges from the first of four key advances in CbD 2.0—People in Conservation—which states, “In all our work, we must ensure that vulnerable, disadvantaged, and marginalized people and communities (e.g., low-income communities, indigenous peoples, communities dependent on the local environment, racial and ethnic minority groups, women, children, the elderly) are not harmed and we incorporate social safeguards into project planning and implementation.”

Two social safeguard questions are especially relevant:

- Does the project comply with local and national laws, international treaties and conventions, and other relevant rules?
- Is there an accountability system that is transparent and accessible for primary stakeholders to share concerns or file complaints?^[1]

CbD 2.0 also recommends that teams working with indigenous peoples provide access to redress through grievance mechanisms that are accessible, predictable, transparent, effective, rights-based, respectful, appropriate, and responsive.^[2]

Similar commitments to accountability through grievance and conflict resolution are found in leading international frameworks and institutions, such as the International Finance Corporation, the World Bank, the United Nations Environment Programme, the Food and Agriculture Organization of the United Nations, the United Nations Development Programme, the United Nations Guiding Principles on Business and Human Rights, and peer conservation organizations.^[3]

Conflict Resolution as a Practical Tool

Conflict resolution procedures shouldn’t be a management burden. Done right, such procedures may allow TNC and the IPLC to focus more time and energy on the initiative itself. In the best-case scenario, everyone emerges from a dispute with a stronger sense of trust and commitment and feels that obstacles have been addressed quickly and overcome fairly.

Of course, not all conflicts will meet these ideals. But a well-framed Conflict Resolution Plan is flexible enough to address many different circumstances. The menu approach described below recommends intuitive, collaborative methods (dialogue), as well as more structured mechanisms (mediation). In situations where there’s less trust at the start, the existence of procedural guarantees might help (TNC’s Ethics and Compliance Process).

Step One: Develop a Conflict Resolution Plan

A Conflict Resolution Plan is an important part of how TNC respects IPLC rights, demonstrates accountability, and builds and sustains equitable relationships. The Conflict Resolution Plan is foundational to every initiative and should be included in the initial conversations recommended in the [Learning & Early Discussions Module](#). Deliberation and agreement on a plan should be part of any process described in the [FPIC Module](#).

TNC staff working on existing initiatives should assess past experience with conflict resolution. Then they should look for opportunities to raise the issue mid-stream during a project. TNC staff should take care to explain that this doesn't mean they're anticipating conflicts. Rather, it's being brought up as part of an evolving understanding of best practice.

To craft a plan, TNC staff can draw on their own experience, the experience of other TNC teams, and the guidance and resources in this module. Staff should also revisit the [Human Rights Impact Assessment](#) and FPIC process. The Conflict Resolution Plan should provide a clear path to addressing any concerns identified in these assessments and processes. IPLCs might have existing procedures and preferences that should be explored together and incorporated.

A discussion about conflict will help TNC and the IPLC learn about one another's values, expectations, and past experiences with disputes, which come up in any collaborative endeavor. But the deliberation process and the preparation of a plan need not be burdensome. If TNC and the IPLC are in agreement, a plan might simply describe the menu of options below and how they're accessed. It might include specifics, such as the names of trusted mediators agreed upon in advance.

TNC prefers to resolve conflicts without taking legal action. Still, there may be circumstances that result in litigation. If a lawsuit seems possible, consult the Use of Outside Counsel and Litigation SOP and contact TNC's legal team.

Dialogue

The best way to prevent misunderstandings from escalating to complaints is to enter into each relationship from a place of humble learning, respect and honesty. Keeping communication lines open enables TNC to see issues bubbling up and address them head-on. When trust and understanding are cultivated at the beginning of an initiative, problems are more likely to be resolved through discussion at the team level.

To learn and practice dialogue skills, see the [Diversity Learning page](#) on CONNECT and the Intentional Listening Resources and Indigenous Dialogue and Storytelling resources listed in the Tips & Tools section of this module. The [Learning & Early Discussions Module](#) also discusses relationship-building in detail.

Open dialogue should be part of any IPLC collaboration. But disputes can emerge from difficult circumstances or conflicting interests—and even parties accustomed to open communication may go to great lengths to avoid discussing these hard topics. The dialogue promoted in this guide is an intentional round of dialogue designed to address a specific conflict.

This means the logistics of the dialogue must be considered ahead of time:

- Are all the affected parties available to participate?
- Are parties informed of the subject matter ahead of time so they can prepare?
- Are we respecting IPLC timescales, needs and preferences?

- Are necessary learning resources available?
- Do the circumstances of the dialogue guarantee the physical and emotional safety of participants?

Attention to these parameters is important, but it doesn't need to signal formality. A dialogue characterized by informality and friendly relationships between working partners is a good recipe for success. Additionally, the principles of Overarching Good Faith and Collaborative Relationships require TNC to enter into dialogue prepared to listen and to take action on concerns. Otherwise, dialogue could end up generating cynicism or be dismissed as yet more talk.

Mediation

Mediation is a conflict resolution mechanism that increases the structure and formality of Dialogue. Ideally, its incorporation is grounded in a deep understanding and respect for existing cultural values and norms for resolving conflicts.

Mediation should rely on IPLC institutions and forums, and traditional ceremonies or practices designed by the IPLC, taking into account government or donor requirements (see [Key Issue: Is there a grievance mechanism mandated by a host country government or donor?](#)).

In some contexts, an external mediation process may be regarded as disempowering, in which case it should not be included in the Conflict Resolution Plan. But in others, having a trusted, third-party mediator available may be acceptable or even preferable. Mediation might create a deeper engagement, mutual understanding and compromise between parties, or it could help parties overcome initial mistrust. A mediation process should result in an outcome, such as a commitment to the mediator's recommendations.

Mediation is not arbitration, and the mediation contemplated by this guidance wouldn't be considered legally or even procedurally binding. Nonetheless, a mediator may make recommendations parties might not want to hear, but might be willing to hear, based on a prior commitment to the mediation process.

If using an outside mediator is acceptable, TNC and the IPLC should identify the person in advance. It might be an objective academic or professional individual or institution. When an outside mediator is chosen, their name and contact information should be included in the Conflict Resolution Plan.

TNC's Ethics & Compliance Process

As discussed in the [Introduction](#) to this module, in most cases, conflicts can be resolved favorably through Dialogue or Mediation. TNC's Ethics & Compliance Process ensures that TNC takes responsibility for its actions, and provides another way for an IPLC to raise a concern and access resources to investigate and resolve conflicts. (See [Appendix V](#) for more detail on the process.)

The Ethics & Compliance Process is a good mechanism for listening, answering questions or referring concerns back to TNC's program staff for clarification. When a complaint is received, the Ethics & Compliance Office may consult with program staff to get information or clear up a misunderstanding. Often a mutually acceptable remedy can be found, and the complaint can be resolved.

TNC employees or third parties can contact the Ethics & Compliance team anytime to submit a question or concern at the online [Helpline](#), www.nature.org/tnc Helpline. The TNC Helpline is available online and by

phone, text or mail 24 hours a day, seven days a week in multiple languages. Complaints can be submitted anonymously and will be treated confidentially to the extent possible, disclosed only to those with a need to know. When someone calls the Helpline, they will speak with a third-party agent who will document the complaint and forward it to TNC's Ethics & Compliance Team. When someone submits a complaint online, it goes directly to TNC's Ethics & Compliance Team (see [Code of Conduct](#)).

TNC's Ethics & Compliance process should be explained and information on how to access it should be translated into the IPLC's preferred language and distributed throughout the project area. If the IPLC does not speak one of the languages available through the Helpline, TNC may need to hire a translator to help file a complaint. Written complaints may be submitted in any language.

TNC's Ethics & Compliance Process should be presented as an option in the Conflict Resolution Plan at the beginning of a new initiative or as soon as possible in an ongoing partnership.

Measures to Guard Against Retaliation

Since conflict resolution by definition occurs in the context of discord, it might be accompanied by aggravation, frustration and sometimes aggressive and antisocial behavior. Retaliation against individuals who raise a complaint is a problem faced by institutions of all kinds at all levels. Fear of retaliation is a major deterrent to reporting problems, especially for groups who may have more to lose. As stated in our [Code of Conduct](#), TNC will not tolerate retaliation against individuals who ask questions or raise concerns about potential misconduct in good faith.

Anti-retaliation tools should be included in the Conflict Resolution Plan and may include:

- Procedures to allow for and protect anonymity
- Procedures to protect the confidentiality of sensitive information
- Procedures to preserve the physical and emotional safety of participants and the integrity of forums, including respecting legitimate needs of some individuals for physical distance from others
- Clear messaging from TNC and all initiative partners about zero tolerance for retaliation
- Warnings about the adverse consequences of retaliation

Key Issue: Is There a Grievance Mechanism Mandated by a Host Country Government or Donor?

TNC staff need to know whether there is a grievance mechanism required by either a host country government or a funder supporting the initiative. For example, IUCN and the Global Environment Facility of the World Bank require grantees to comply with each entity's grievance mechanism.

If a grievance mechanism is mandated, TNC staff should determine what types of disputes it applies to and whether the IPLC has consented to its use or is willing to. TNC's [Code of Conduct](#) requires compliance with local laws, which includes those requiring use of a grievance mechanism. Failure to comply with a mechanism imposed by one of TNC's donors would

constitute a breach by TNC of any funding agreement with the donor.

So TNC's starting point should be to seek out and comply with these mechanisms. The IPLC would likely be bound, as a citizen of that country, by a grievance mechanism required by a host country, but they would not be bound by a grantor's mechanism if they were not a party to the funding agreement.

If the IPLC agrees to use the required grievance mechanism, and it applies to disputes not resolved by other local agreements, the required grievance mechanism should be followed.

If the IPLC doesn't agree to use the required grievance mechanism, the initiative may need to be suspended while TNC gathers information about the reasons and circumstances for the IPLC's opposition. If TNC and the IPLC can't agree to comply with a mandated grievance process, the initiative might need to be terminated.

In some cases, TNC and the IPLC might be able to ask for a variance or accommodation from the government or donor. If an alternative grievance mechanism that addresses government or donor concerns is proactively proposed, it might secure government or donor buy-in, especially if it's culturally responsive, efficient, reduces administrative costs and results in positive outcomes.

Key Issue: Agreeing to Procedures



As we've discussed, TNC and the IPLC should understand and agree to conflict resolution procedures in advance. Addressing IPLC concerns early on will add legitimacy and usefulness to the procedures. Along with basic failure to consult, a hallmark of poor conflict resolution practice is an insistence by outsiders on using their own procedures, which may be unfamiliar to the IPLC. Then the outsiders are surprised if the IPLC either doesn't follow the procedure when conflicts arise or doesn't accept the legitimacy of the results. This leads to estranged relationships on top of the existing conflict, rather than the stronger relationships that come from a well-considered conflict resolution process.

The menu approach addresses this to some extent, by allowing an IPLC to set aside any procedures it doesn't like or understand. Additionally, the first two mechanisms recommended in this guidance—Dialogue and Mediation—are more concepts than formal procedures, which means they could be adapted into frameworks the IPLC prefers.

IPLCs have their own ways of conducting intentional dialogue and, in many cases, engaging a structured process and a third-party facilitator akin to mediation. It's valuable for TNC staff to learn about how an IPLC understands and engages these modalities, to the extent the IPLC is willing to share. Integrating TNC's and the IPLC's approaches can be a useful exercise in collaboration and trust-building.

More importantly, having a conflict resolution method that contains elements of an existing IPLC practice means they are much more likely to seek these solutions when conflicts arise, and it's more likely that any resolutions will have broad legitimacy within the IPLC.

Conflict resolution methods can be adapted in a number of ways:

For **Dialogue**, when a member of an IPLC wants to approach another member with a grievance, are there rules or customs in place that ensure mutual respect and enhance dialogue? Examples could range from the structural, like the use of nominees in the place of the aggrieved parties, to the ceremonial, such as the practice of sharing meals before or after a dialogue.

For **Mediation**, disputes and grievances might be addressed in non-adjudicative but intentional forums before IPLC governing bodies, elder councils or similar entities. Someone within the IPLC might often serve in the role of mediator for intra-community disputes; they may therefore understand the value of a neutral perspective, as opposed to the role of an advocate on behalf of the IPLC, which is an important but separate role.

A plan that provides for mediation facilitated by such an individual stands a much better chance of being relied on and respected, since the person brings credibility. There also might be a trusted outsider who has helped resolve disputes with outsiders in the past. Or perhaps there is a panel of trusted individuals from which the parties could select a mediator.

Any adjudicative dispute resolution methods used by the IPLC should get a close look. In many cases, using such procedures will carry an expectation that TNC or other parties will be bound by the decision of the IPLC institution and not consider it merely advisory. TNC should agree to submit to these procedures only when confident in our ability to comply with a binding decision. It's better to respectfully decline to submit to these decision-making procedures than to submit to the procedures, but then not be able to comply with the result.

IPLCs are typically understanding of an outsider's inability to fully submit to IPLC decision-making procedures. In some cases they may not even allow outsiders to use the procedures. But an agreement to use IPLC procedures is the highest expression of respect for Self-Determination and Overarching Good Faith. Even if this agreement needs to be restricted to certain types of disputes or circumstances, for example, following the exhaustion of other options, an agreement to submit to IPLC procedures is a valuable addition to a Conflict Resolution Plan.

Key Issue: Inclusion



The Conflict Resolution Plan should be well scrutinized for barriers to access for members of the IPLC, and adaptations and modifications should be made to address those barriers as much as possible. For example, women may be excluded from an IPLC's internal conflict resolution procedures. Even if the Conflict Resolution Plan includes women's participation, psychological or social barriers might preclude individual women from participating.

How can this be addressed yet remain consistent with the IPLC's exercise of Self-Determination?

Possibilities include the promoting of women's participation, the convening of separate forums or procedures to solicit views, or providing remedies to women community members. It is important to understand how and if the excluded groups want to participate in the conflict resolution process, as TNC staff risk imposing external perceptions, expectations or values if we don't see the full context.

Step Two: Implement the Conflict Resolution Plan

Template: Conflict Resolution Plan

[View the Conflict Resolution Plan Template](#)

When conflict arises, TNC staff must use the conflict resolution mechanisms set out ahead of time, in a manner consistent with the Principles and Safeguards—especially Overarching Good Faith, Self-Determination, Accountability, and Equity & Inclusion. Successful resolution doesn't depend on any single act, but hundreds of acts over the course of a conflict.

Implementation will depend on the circumstances, so specific guidance is hard to give in the abstract. Where there's uncertainty, staff should consult Legal Counsel, the [Global Indigenous Peoples and Local Communities Team](#) and the [Global Diversity, Equity & Inclusion Team](#).

Staff must stay on top of conflict resolution processes until all parties are satisfied that disputes are resolved. This is important for two reasons:

- The underlying conflict, which often stems from an important issue, could resurface in another, more contentious, form if it's not genuinely resolved.
- Disciplined follow-through increases the credibility of the Conflict Resolution Plan and TNC's trustworthiness as a partner.

Procedures must not be allowed to taper off without real resolution. This could give the impression that the conflict resolution process is a bandage to cover up the problem, rather than a robust information-gathering, problem-solving and relationship-building tool.

TNC and the IPLC should keep the following concepts in mind when implementing the Conflict Resolution Plan:

Conflict Resolution Concepts

Equity:

All parties should know how a concern can be raised and how each type of dispute will be managed. The process must provide access to information, advice and expertise needed to resolve conflicts on fair, informed and respectful terms. In some cases, TNC may need to provide additional resources, such as information, advice, or translation services.

Transparency:

Everyone is kept informed about progress and outcomes; decision-making, implementation and monitoring are transparent.

Mitigation and Remedy:

Adverse impacts should be addressed early on, preventing compounding the harm and the escalation of grievances.

Rigorous Follow-Through:

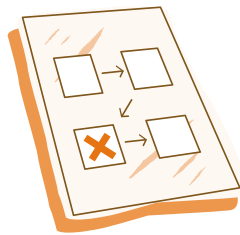
Although conflict resolution mechanisms should be efficient and timely, it may take patience,

time and energy to see them through. Sometimes conflict resolution occurs in the midst of fast-moving developments on the ground, and the process starts to feel stuck in the past. Other times, conflict resolution struggles to compete with other priorities, especially as the initial sense of urgency wears off. Follow-through should continue in good faith until the conflict is truly resolved.

Step Three: Continuously Revisit and Adapt the Plan

No Conflict Resolution Plan will be perfect from the beginning. It's likely that significant problems and obstacles will come up once the procedures in the plan are tested in practice. In most cases, this merely reflects reality rather than poor planning, but the response should be, in either case, a thoughtful and non-defensive process of learning and modifying the plan to meet newly understood challenges.

This process requires:



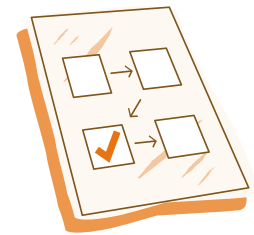
a) acknowledging flaws or insufficiencies in the plan that were revealed on implementation;



b) accepting them as problems and not trying to cover them up or justify them;



c) investigating causes and consequences;



d) developing responses, mitigation strategies and a process for adapting the plan in collaboration with partners.

Tools to be used in this process might include:

- An audit or review conducted by TNC staff or external advisors on a periodic basis or in response to any emerging problems or issues;
- Solicitation of participants' experiences, including procedures that allow anonymous feedback;
- Holding workshops after the initiative wraps up to assess how it went, or holding review conferences throughout the process to solicit views and brainstorm improvements. (See the [Monitoring, Evaluation & Adaptation Module](#) for more information on mechanisms such as pause-and-reflect meetings.)

Continuous efforts should be made to raise awareness about the existence, nature and accessibility of the procedures in the Conflict Resolution Plan. Conflict resolution tools are famous for not being used simply because no one knows about them, or for gathering dust until there is a crisis, when sentiments are high and it's hard to apply an unfamiliar process.

Broad community education about the methods available, as well as routine monitoring on whether the IPLC understands and agrees to the options, will help facilitate their adoption. This should be an ongoing, sincere effort and can be accomplished by mentioning the procedures regularly when checking in with the

Resources: Conflict Resolution



Links to the grievance mechanisms and accountability processes for the following agencies are found [here](#):

- African Development Bank
- African Development Bank
- European Bank for Reconstruction and Development
- Food and Agriculture Organization of the United Nations
- Inter-American Development Bank
- International Fund for Agriculture Development
- United Nations Development Programme
- United Nations Environment Programme
- United Nations Industrial Development Organization
- The World Bank Group
- Conservation International
- Development Bank of Southern Africa
- Ministry of Environmental Protection
- Environmental Protection of China
- International Union for Conservation of Nature
- World Wildlife Fund

Intentional listening resources

- [United States Institute of Peace – Active Listening](#): This resource includes a PDF for download on the core principles of active listening
 - Physical attention
 - Paraphrasing
 - Reflecting
 - Clarifying
 - Encouraging
- [Nonviolent Communication](#): This article outlines the four steps of nonviolent communication and provides examples. The four steps are:
 - Observe facts, rather than making judgments or exaggerations
 - Note feelings, rather than giving random thoughts or expectations
 - Uncover the desires behind your specific feeling
 - Make explicit requests based on these desires, not demands

The Nature Conservancy's [Policies and Procedures Manual, Reporting Suspected Violations of Law and Policy](#) (2017) provides "a mechanism for employees to raise good faith concerns regarding suspected violations of law on the part of the Conservancy, to cooperate in an inquiry or investigation by a court, agency, law enforcement, or other governmental body, or to identify potential violations of Conservancy Policy or procedure; and to protect employees who take such actions from retaliation."

Indigenous dispute resolution / "peacemaking"

The [Indigenous Peacemaking Initiative](#) is an initiative of the Native American Rights Fund, an organization focused on tribal justice issues.

- [List of resources](#)
- [The video on the "About" page above](#) explains the larger goals discussed in this module, i.e., using dispute resolution to address problems before they start, build community and create intercommunity dialogue.
- ["How Indigenous Voices Can Get Lost in Mediation,"](#) Rebecca Hiers (Nov. 2018).

Books on mediation

[Christopher Moore et al., The Mediation Process: Practical Strategies for Resolving Conflict](#)

Indigenous dialogue and storytelling

Jo-ann Archibald, [Indigenous Storywork](#) (2008). [A PDF version is hosted by the publisher](#)

Val Napoleon & Hadley Friedland, ["An Inside Job: Engaging with Indigenous Legal Traditions Through Stories"](#) (2014)

Other resources

["Practicing Cultural Safety,"](#) from [Towards a New Relationship](#), BC Association of Social Workers (2016)

3A. Wenland Case Study Conflict Resolution



The Wen have given consent for the permafrost stabilization initiative. They are also attracted to the annual conservation funding FrostLock has committed to provide, although FrostLock hasn't given a concrete figure — just a range.

[View Scenario](#)

Conflict Resolution Checklist

For the entire conflict resolution process

- Describe how TNC is building mutual trust, accountability and transparency with the IPLC
- Co-create a trusted conflict resolution process that's considered legitimate by all parties

Step One: Develop a Conflict Resolution Plan

- Determine if there is a conflict resolution process required by a government or funder and if the IPLC is willing to comply with it
- If the IPLC does not agree to use the required process, consider working together to propose an alternative process
- If there is no conflict resolution process required by the host country government or a funder, or if there is one that only applies to certain complaints, collaborate with the IPLC and agree upon culturally responsive mechanisms for resolving conflicts
- Agree upon a [Conflict Resolution Plan](#) with the IPLC that considers Dialogue, Mediation and the TNC Ethics & Compliance Process

Dialogue

- Learn about the IPLC's preferences and methods for dialogue
- Train TNC staff to build and practice dialogue skills
- Create a physically and emotionally safe environment for dialogue
- Allow time for a meaningful dialogue process; respect IPLC timescales, needs and preferences; and provide more information and resources as needed

Conflict Resolution Checklist (Continued)

Mediation

- If the IPLC is willing, discuss their preferred processes for resolving conflicts. Determine if the IPLC's existing process is appropriate for resolving conflicts when they work with outsiders
 - If TNC staff needs information or documentation beyond the scope of the IPLC's process, TNC may request the IPLC's help to get it
- Determine who will represent each party in the process and include their names in the Conflict Resolution Plan
- Discuss the IPLC's position on using outside mediators or facilitators for resolving disputes
 - If acceptable, identify trusted mediators or facilitators and include their names in the Conflict Resolution Plan
 - If using outside mediators or facilitators is not a standard practice or norm, discuss and document other options that both parties agree to use
- Determine how input from different social identities will be meaningfully incorporated in the process

TNC's Ethics & Compliance Process

- Explain TNC's Ethics & Compliance Process and how and when it can be accessed by TNC staff and partners (See [Appendix V](#) and www.nature.org/tnc helpline)

Step Two: Implement the Conflict Resolution Plan

- Ensure parties know about the Conflict Resolution Plan, and explain the mechanisms, processes and outcomes
- Provide measures to guard against retaliation
- Decide together how the conflict resolution process will be documented
- Consult with Legal Counsel, the Global Indigenous Peoples and Local Communities Team and Global Diversity Equity & Inclusion team if uncertainty arises
- If an adverse impact is identified, remediate it promptly and fairly to prevent compounding the harm and the escalation of the grievance

Conflict Resolution Checklist (Continued)

Step Three: Continuously Revisit and Adapt the Plan

- Carry out the conflict resolution process in good faith, including rigorous follow-through until parties agree the conflict is resolved
- Use the conflict resolution process to support continuous learning for TNC and the IPLC
- Revisit and update the Conflict Resolution Plan periodically, particularly when there are significant changes to the TNC project team, partners, work plan or budget

Documentation to Save

See [Documentation Module](#) for additional context and considerations for documentation

- A [Conflict Resolution Plan](#), including the menu of mechanisms available and records of how the plan was co-created and shared with the IPLC
- Documentation of each dispute, how it was processed and its resolution, including:
 - Who initiated the process (if not anonymous) and when, the nature of the conflict, who was involved and which mechanisms were used
- Outcomes of dialogue, mediation or other mechanisms, agreed-upon resolution and next steps
- Revisions or updates to the Conflict Resolution Plan based on experience and learning

Notes

^[1] [1] See the CbD 2.0 Guidance Document, Appendix C: Social Safeguard Questions and FPIC.
<https://www.conservationgateway.org/ConservationPlanning/cbd/Pages/default.aspx>

^[2] See the CbD 2.0 Guidance Document, Appendix D: Consideration of Human Rights in Conservation Projects: The Nature Conservancy's Approach.
<https://www.conservationgateway.org/ConservationPlanning/cbd/Pages/default.aspx>

^[3] See https://www.iucn.org/sites/dev/files/iucn_esms_manual.pdf (IUCN);
https://www.conservation.org/docs/default-source/gef-documents/20151115-accountability-and-grievance-mechanism.pdf?sfvrsn=92633125_2 (CI); and
<https://www.worldwildlife.org/publications/wwf-project-complaints-resolution-policy> (WWF).



Conflict Resolution



3A. Wenland Case Study

The Wen have given consent for the permafrost stabilization initiative. They are also attracted to the annual conservation funding FrostLock has committed to provide, although FrostLock hasn't given a concrete figure — just a range.

Detailed planning discussions proceed among TNC, FrostLock, the Wen and the Alban government.

Lets Say

Thoughts and Guidance

1

When TNC raises the idea of a Conflict Resolution Plan before moving into implementation of the project, Wen leaders say they're exhausted and they don't feel a Conflict Resolution Plan is necessary. Should TNC move ahead without a Conflict Resolution Plan?

This shows the importance of addressing Conflict Resolution early. A complex consultation process can easily generate frustration and conflict. Having a Conflict Resolution Plan could have helped ease some frustrations. Well-structured conflict resolution should be addressed in consultation and be part of informed decision-making. But respecting human rights is a continuous process, so it's not too late to turn to the development of a plan. TNC should advocate for more consultation on conflict resolution, with the goal of arriving at a mutually agreed-on plan. If the teams need extra time to do this, that's acceptable since it honors self-determination.

2

The Wen Councils are negotiating a Conflict Resolution Plan with FrostLock but insist that they don't need one involving TNC because of the high level of trust and collaboration they have with TNC. Should TNC agree?

A plan should not be seen as indicating a lack of trust. It's a method of building and maintaining trust, and clear expectations about resolving conflicts may be necessary to preserve that trust, and serve the larger principle of Accountability. So while it's a nice compliment, TNC should encourage having a Conflict Resolution Plan.

3

The parties have prepared a detailed Conflict Resolution Plan, but FrostLock says it should be exclusive—that is, by agreeing to the plan, the Wen communities waive their right to bring any complaints or grievances to any other institution or court. Should TNC raise a concern?

Yes. TNC should resist this proposal. Our objective, supported by the principles of Accountability, Equity and Inclusion, is to strengthen and expand rights, not weaken them. Given the nature of the project, the scope and severity of impacts ahead cannot be known. A Conflict Resolution Plan provides an initial level of consensus on how to deal with conflict in a healthy way. It is not a mechanism to limit liability or foreclose remedies. International practice strongly disfavors attaching waivers to remedy options.

4

Same as above, except FrostLock is only insisting that parties must exhaust the procedures stated in the Conflict Resolution Plan before accessing other options. Should TNC raise a concern?

Exhaustion requirements are disfavored, too, but not disallowed. A key consideration here is Free Choice. Does the Wen community fully understand the exhaustion requirement and why it might be useful, e.g., predictability, efficiency, the creation of a full record? If the Wen are being asked to agree to this just because FrostLock wants it, the principle of Free Choice may need to be revisited.

5

The Wen say that any disputes that can't be resolved in mediation must be submitted to the Wen Elder Councils for final, binding resolution. FrostLock's lawyers won't let the company expose itself to unknown or unfamiliar liability and they say they cannot proceed. What position should TNC take?

TNC should keep in mind the commitment to support IPLC self-determination. But exercising self-determination may not be entirely free of consequence. FrostLock may have a legitimate need to understand the consequences of an unfamiliar legal or quasi-legal process, and the Wen may not want to terminate the initiative. TNC should explore ways of working with FrostLock to understand the actual implications of Elder Council jurisdiction, and work with the Wen to find out how essential Elder Council jurisdiction is to Wen self-determination. A tailored Conflict Resolution Plan that submits some

categories of disputes to the Elder Councils but exempts others might be a possibility.

6

Same as the above, but a women's group from one Wen community objects, saying that since the Elder Councils are exclusively male, the mechanism will be used to disadvantage women.

Ideally a Gender Analysis was conducted during consultation using TNC's Guidance for Integrating Gender Equity in Conservation. That analysis would be useful at this stage for insights into gender equity. It may reflect some consensus within the Wen about the nature of gender equity and how to address it. TNC should not impose any values on the process by condemning or withdrawing from the situation. Instead, TNC should strive to understand and take a culturally responsive approach, returning to the principles that guided the Learning and Early Discussions process. Still, all the Principles and Safeguards are relevant to all parts of TNC's work, and there may be times when TNC will need to opt out of a process that entrenches or perpetuates inequity or exclusion.

Template:

Conflict Resolution Plan

This template is a starting point for developing the Conflict Resolution Plan described in [Step One of the Conflict Resolution Module](#) of the Guide. The Conflict Resolution Plan is foundational to every initiative and should be included in the conversations recommended in the [Learning & Early Discussions Module](#) and the [FPIC Module](#). TNC staff need to keep in mind that TNC's Code of Conduct requires compliance with any grievance mechanism mandated by a host country government or funder.

The preparation of a Conflict Resolution Plan need not be burdensome. Ideally, it will include the IPLC's preferred practices or aspects of those practices. If the IPLC and TNC agree, a plan might simply describe a menu of options for resolving disputes with outsiders and how those options are accessed. Some specifics, such as the names of trusted mediators, may be included if acceptable to the IPLC.

This template presents three possible scenarios and the key elements of a Conflict Resolution Plan. It also includes some questions for TNC and the IPLC to consider when designing mechanisms for resolving disputes. Agreement on the Conflict Resolution Plan should be documented in a culturally responsive manner, which may include signatures or initials on the plan, an exchange of emails, a show of hands at a meeting, a protocol or ceremony.

Content entered into this form **will not be saved** if filled out in a browser. [Learn more](#)

Initiative: _____

Time period: _____

Date: _____

Updated as of: _____

Approved by:

Organization or group:

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Scenarios

Scenario 1

There is a conflict resolution process required by a host country government or a funder and the IPLC **agrees** to comply with it.

[Attach documentation of the process that will be followed]

Scenario 2

There is a conflict resolution process required by a host country government or a funder, but the IPLC **does not agree** to comply with it.

[Attach documentation of the IPLC's decision to not comply]

1. In some cases, the IPLC and TNC may be able to ask for a variance or accommodation from the government or funder. If the IPLC **agrees** to work with TNC, both parties could collaborate on an alternative process that incorporates the IPLC's preferred procedures and reflects TNC's Principles and Safeguards.

The IPLC and TNC present the alternative process to the government or funder and document the result.

[Attach documentation of the alternative process and the government's or funder's decision]

2. If the IPLC **declines** to work with TNC on an alternative process, the initiative may need to be suspended while TNC gathers information about the reasons and circumstances for the IPLC's opposition.

3. If the IPLC **declines** to comply with a required grievance process, the initiative may need to be terminated.

[Attach documentation of the decision to terminate the initiative]

Scenario 3

There is no conflict resolution process required by the host country government or a funder, or there is one that only applies to certain complaints.

1. The IPLC **agrees** to collaborate with TNC on mechanisms for resolving conflicts that the IPLC considers culturally responsive and legitimate (see Key Elements of a Conflict Resolution Plan).

[Attach documentation]

2. If the IPLC **declines** to collaborate with TNC on mechanisms for resolving conflicts, the initiative may need to be suspended or terminated.

[Attach documentation]

Key Elements of a Conflict Resolution Plan

1. TNC staff learn and practice **dialogue and cross-cultural competency skills** for working with IPLCs. Specify training, workshops and other learning:

a.

b.

c.

2. The IPLC's preferred procedures and methods for resolving conflicts with outsiders:

a.

b.

c.

3. If TNC and the IPLC agree that Dialogue will be one of the conflict resolution mechanisms, specify:

a. Conditions that ensure parties are able to participate, including social identity groups

i. Frequency and timing of dialogue sessions: _____

ii. Place: _____

iii. Format: _____

iv. Language: _____

b. Methods for sharing information and ensuring all parties are aware of the subject matter ahead of time so they can prepare:

c. The IPLC's timescales and preferences for dialogue, for example, the use of nominees in the place of aggrieved parties or other cultural protocols:

d. Provisions to preserve the physical and emotional safety of the parties:

4. If TNC and the IPLC agree that Mediation will be one of the conflict resolution mechanisms, specify:

a. Institutions, forums and practices used by the IPLC for mediating conflicts, if they are willing to share this information:

i. _____

ii. _____

iii. _____

b. Conditions that ensure broad participation of parties, including social identity groups

i. Frequency and timing of dialogue sessions: _____

ii. Place: _____

iii. Format: _____

iv. Language: _____

c. Institutions, forums and practices used by the IPLC for mediating conflicts, if they are willing to share this information:

i. IPLC representative(s): _____

ii. TNC representative(s): _____

iii. Other parties: _____

d. Names of trusted mediators or facilitators the IPLC and TNC will call on if needed:

i. _____

ii. _____

iii. _____

4. Continued:

e. If using mediators or facilitators is not a standard practice or norm, specify other mechanisms that both parties agree to use, for example, elder councils or other non-adjudicative, but intentional forums:

[Attach documentation of other mechanisms]

i. _____

ii. _____

iii. _____

f. Additional information needed to deepen TNC's understanding or satisfy documentation requirements of an initiative or process:

5. Communication about **TNC's Ethics & Compliance Process** as one of the conflict resolution mechanisms:

a. See Appendix V and www.nature.org/tnc helpline

b. Notes on using TNC's Ethics & Compliance Process:

6. Measures to guard against retaliation:

a. Procedures to allow for and protect anonymity:

b. Procedures to protect the confidentiality of sensitive information:

c. Provisions to preserve the physical and emotional safety of participants:

d. Clear messaging from TNC about zero tolerance for retaliation:

e. Warnings about the adverse consequences of retaliation:

7. Communication about the Conflict Resolution Plan with all parties, including notes on how different social identities were supported in meaningfully participating

a. Frequency and timing of communications:

b. Place:

c. Format:

d. Content of the plan:

8. Documentation of development and implementation of the Conflict Resolution Plan

a. Records of how the IPLC and TNC created the plan:

b. Aspects of the conflict resolution process that TNC will document:

c. Aspects of the conflict resolution process that IPLC will document:

d. For each dispute, document:

i. Who initiated the process if not anonymous, and when _____

ii. The nature of the conflict _____

iii. Who was involved and which mechanisms were used _____

iv. Outcomes and next steps _____

9. Review and update the Conflict Resolution Plan

a. Dates for periodic reviewing and updating:

b. Dates of updates reflecting changes in the TNC team, IPLC or goals, work plan or budget of the initiative:

Questions to Consider for the Conflict Resolution Plan

2. Are the IPLC and TNC prepared to enter into dialogue and take action on concerns?
3. Are the IPLC and TNC prepared to remediate adverse impacts promptly and fairly?
4. Are the IPLC and TNC prepared to commit to the conflict resolution process until parties agree the dispute is fully resolved?
5. What are the risks and rewards to TNC for participating in an IPLC's conflict resolution process? Using IPLC procedures demonstrates the highest respect for IPLC self-determination, but TNC should agree to submit to any adjudicative dispute procedure only when confident it can comply with a binding decision.
6. How are the IPLC and TNC using the conflict resolution process to support equitable partnership, trust and continuous learning?
7. Once the conflict resolution process has been tested in practice, how will the IPLC and TNC improve it? Possible tools include an internal or external audit, feedback from participants or a post-initiative workshop.

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