

# HUMAN RIGHTS UNDER RSPO P&C

One of the key fundamentals to be a sustainable palm oil production is the acknowledgement and respect for human rights.



Certified growers must show commitment in improving the livelihood, social well-being and environmental standards for all stakeholders who live and work within and surrounding area of their oil palm plantations.



Certified growers must show that community land use rights are protected, and that Free Prior Informed Consent (FPIC) was carried out and established with no contest from local communities on the legal use of the **customary rights lands** that would be developed.



RSPO P&C incorporates the International Labour Organisation (ILO) Labour Standards which entailed fair pay, non-discrimination, safe working condition, rights to collective bargaining, and no child labour and all forms of forced labour.

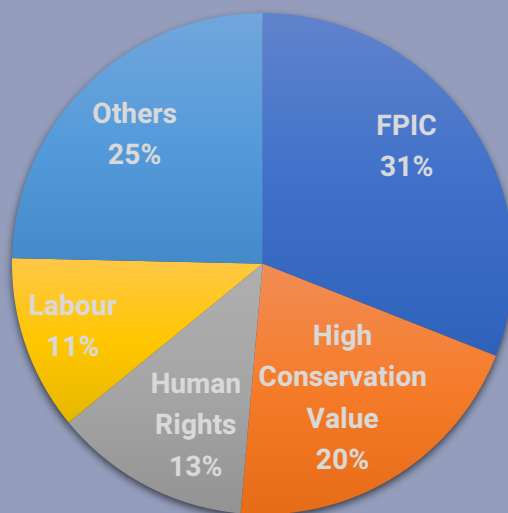
## Free, Prior and Informed Consent (FPIC)



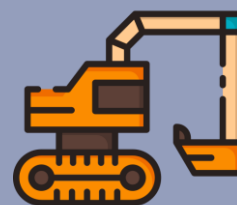
The lives of indigenous and local communities (ILC) are affected by the expansion of oil palm plantation.



Conflicts over customary land rights are one of the major issues that arise in the expansion of plantations due to lack of FPIC.



RSPO Impact Report 2018 shows that lack of FPIC was the highest number of type of complaints received between 2009 and 2018.



Because of this, RSPO improved its P&C 2018, making it **mandatory** for oil palm growers to perform FPIC before opening lands for development.

1

**Recognition**

FPIC is a process recognised by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Labour Organisation Convention 169 (ILO 169), and Malaysia is a signatory to these bodies.

2

**ILC's rights**

FPIC is an iterative and participatory process which allows the ILC the right to give or withdraw consent on any activity by external parties that may have an impact on them.

3

**Timing**

FPIC should be conducted prior to any activity or project. Implementing FPIC before starting a project or activity can avoid or minimise future conflicts.

# What is FPIC?

4

**Internal discussions**

In long-term project, there would be several stages when FPIC need to be conducted to obtain consent from ILC. ILC will conduct their internal discussions without influence from outsiders and reach a decision that is collectively agreed upon.

5

**Participation**

In the FPIC process, consultation and participation cannot be interpreted as consent, as both actions are merely acquiring information.

6

**Bribery**

There should not be any giving of token to communities for participating in the consultation or manipulation and bribing in obtaining agreement from communities.

**Free**

1

Free from force, coercion, intimidation or manipulation.

**Prior**

2

Consent prior to any activity of project is carried out. Communities must be given adequate time to discuss internally and to come with a decision that is collectively agreed upon.

**Informed**

3

Information must be given adequately, accurate and in language that can be understood by the community.

**Consent**

4

Communities have the right to give their consent or withhold consent.



# FPIC PROCESS

1

## First contact

External party wishes to engage with a village must meet with Village Chief (VC) or Chairperson of Village Community Mgmt. Council (CVCMC). External party told to prepare letter of intent to VC or CVCMC.



2

## VC/CVCMC inform community

VC or CVCMC inform communities about meeting with external party.

3

## First meeting

External party and communities

4

## Internal meeting

To decide to give or withhold consent or to request for more info

5

## Second meeting

External party and communities if more information is needed



6

## Internal meeting

Select representatives to continue discussion and negotiation with external parties

7

## Follow up meeting

Series of meetings to discuss rules, term & conditions, and result of participatory community mapping between external party and community representative(s). Witness by community.



8

## Internal meeting

Agreement by consensus on rules, terms & conditions, and community mapping that were decided on follow up meeting.

9

## Written agreement

Explained by external party to communities

10

## Internal meeting

To study Agreement

11

## Signing of Agreement

By all parties involved



12

## Implementation

13

## Monitoring and Implementation

# DECISION MAKING PROCESS



## 1. COMMUNITY MEETINGS

Usually, community meetings, predominantly attended by men, would make the decision. However, decision must be made by consensus, which means every level of the community must be involved.

## 2. WOMEN AND YOUTH

Women and youth who attended these meetings would be less vocal and would not form an opinion. A mechanism should be established to include their opinions.



## 3. IMPASSE

Sometimes, an agreement by consensus may not be attained after several rounds of discussions. The community may then decide whether to opt for further discussion or to decide on a voting process.

## 4. VOTING PROCESS

A guideline must be established and agreed upon before the voting process can take place. This includes the minimum age to vote and the number of votes needed to come to a decision.



## 5. INDEPENDENT PARTY/OBSERVER

The method of attaining the decision must be made known to an independent party or observer, as this allows them to understand how decisions are made and the validity of the process.

# LAND ISSUES



## ENGAGEMENT

Oil palm growers need to engage with the community to ascertain there is no overlap of ownership before proceeding with the clearing of land



## COMPENSATION

Where local people have legal, customary or user rights. They are compensated for any agreed land and acquisition and relinquishment of right, subject to FPIC and negotiated agreements

## ASSESSMENT

Oil palm growers need to conduct a social and environmental and HCV assessment.



## CUSTOMARY RIGHTS

Customary rights or also known as native customary rights are rights on land by the indigenous community.

Customary land rights are lands that have been occupied by the communities for generations.

## CUSTOMARY LAND PERMANENCE

- History and evidence of early settlement (burial ground, sanctuary)
- Structured settlements and cultural practices from generation to generation
- Life dependency on land

These became a concrete basis for indigenous peoples to maintain their customary land claims.

The rights of ILC on customary land cannot be taken away. In cases where lands should be developed, there must be proper consultation, and FPIC process must be conducted.

