



**Train the
Trainers**

TABLE OF CONTENTS

MODULE 1: RSPO OUTREACH PROGRAMME.....	5
What is the “RSPO Outreach Programme”?	5
What is Roundtable on Sustainable Palm Oil (RSPO)	6
How does RSPO operate?	7
How does RSPO certification work?.....	8
RSPO Principles and Criteria (RSPO P&C)	9
MODULE 2: CERTIFICATION.....	12
Introduction	12
A rise in the demand for certified products	12
Requirements for a certification process	14
Types of examples of some certification systems in Malaysia	16
Certification Standards Development and Implementation.....	17
The International Organisation for Standardization (ISO) identifies three categories of environmental labelling.....	19
Comparison of Regulation and Certification Tools to Influence Behaviour	20
The Role of Standards	20
RSPO Standards.....	20
REFERENCES.....	22
MODULE 3: HUMAN RIGHTS.....	24
Indigenous and Local Communities	24
What is FPIC	25
Land Rights	30
Customary rights	31
MODULE 4: WORKERS.....	34
What are the issues in the palm oil sector?	35

What rights apply to migrant workers?	36
The International Human Rights Framework	36
Why workers need union?	44
RSPO Human Rights Working Group (HRWG)	47
REFERENCES	48
MODULE 5: SMALLHOLDERS.....	48
Who Are We?	48
Independent smallholder supply chain	50
Issues and Challenges Facing Smallholders.....	51
What smallholder needs to know about RSPO Certification?	56
Introduction to Smallholder Certification	56
RSPO Smallholders Certification by the numbers	57
RSPO Definition of Independent Smallholder	58
Support programme for smallholders by RSPO	65
REFERENCES	68
MODULE 6: COMPLAINTS MECHANISM IN THE RSPO	70
Introduction	70
RSPO COMPLAINTS MECHANISM (from RSPO website)	70
REFERENCES	72
APPENDICES	74

LIST OF BOXES

A rise in the demand for certified products	12
Definition of standards.....	17
Stakeholder engagement.....	18
The ISO	19
The role of standards	20
Comparison of regulation and certification tools	20
RSPO Principal 4	30
Sabah Land Ordinance Part 1(15)	31
The Temuans vs Selangor govt.....	32
Conducting interviews	42
RSPO and the UN	45
Wilmar International	46
How dealers generate profits	51
The effect of rainwater	55
Complaint system familiarisation	71

MODULE 1

MODULE 1: RSPO OUTREACH PROGRAMME

Sabah Environmental Protection Association (SEPA) has been tasked to conduct the Roundtable on Sustainable Palm Oil (RSPO) Outreach Programme in Malaysia for 18 months.

What is the “RSPO Outreach Programme”?

This programme is to bridge the gap between Intermediary Organisations (IMOs) and the intended target audience (local and indigenous communities, smallholders, women’s groups and plantation workers).

It aims to create awareness and to improve the targeted audiences’ understanding of RSPO certification and its mechanisms.

Why?

In 2014, RSPO commissioned the Forest People Programme (FPP) to conduct an assessment on the capacity of RSPO to engage with communities impacted by oil palm development in 21 countries.

The findings from this assessment were that most communities and local IMOs lack knowledge of RSPO and its functions.

The study also raised other issues such as the lack of human rights for workers and communities, lack of Free, Prior and Informed Consent (FPIC) processes, and obstacle in the market for smallholders.

Based on these findings, it was recommended that an outreach programme should be carried out.

How?

To achieve the targeted results, this programme will;

- a. Build capacity among Intermediary Organisations (IMO) on RSPO certification systems through a series of training;
- b. Increase understanding of RSPO and its standards amongst targeted audience groups through workshops by trained IMOs;
- c. To build a platform for the intended audiences to access the RSPO systems; and
- d. To provide access for intended target audiences to give feedback and engage with RSPO.

What is Roundtable on Sustainable Palm Oil (RSPO)

RSPO is a non-profit initiative that was established in 2004 in Zurich, Switzerland.

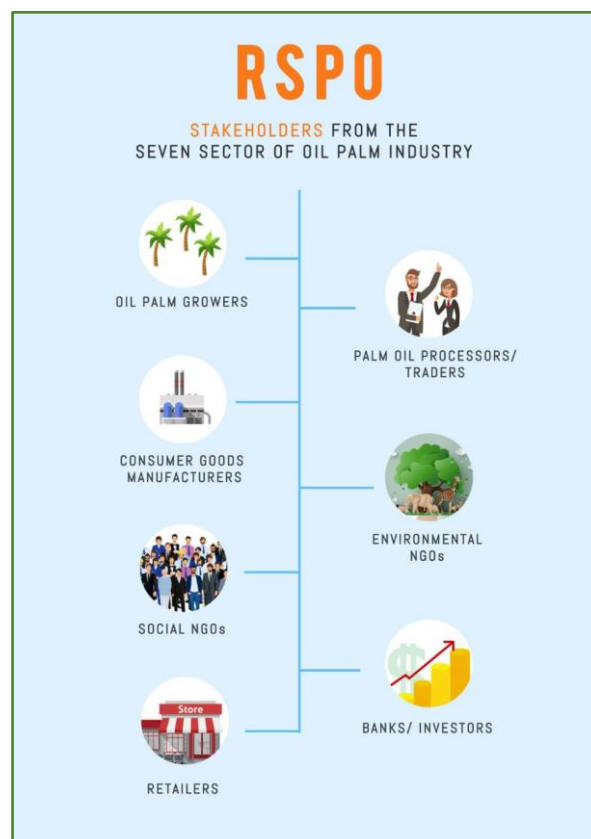
Its objective is to promote the production of oil palm in a sustainable manner and transform markets to make sustainable oil palm the norm.

Together with its members from the seven sectors in the oil palm industry, RSPO develops and implements global standards for sustainable oil palm.



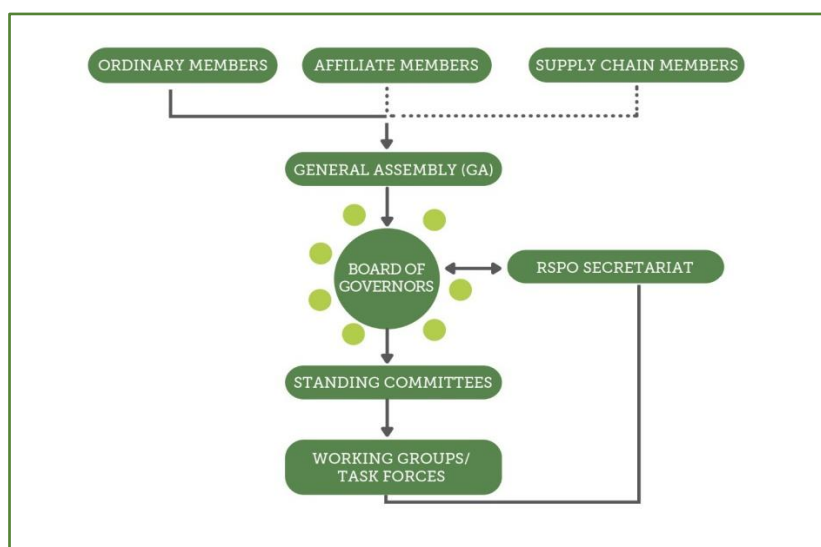
Source: RSPO website: <http://rspo.org>

The stakeholders from the seven sectors of the oil palm industry are;



Adopted from RSPO website: <https://rspo.org>

How does RSPO operate?



Source: RSPO website: <http://rspo.org>

RSPO is managed by a Board of Governors (BoG) composed of 16 members from the seven sectors. The BoG is supported by Standing Committees that oversee Standards & Certification, Trade & Traceability, Communications & Claims, and Finance.

Additional support is designated to, and provided by, Working Groups and Task Forces that focus on developing solutions to specific challenges. Decisions taken by the BoG, Working Groups and Task Forces are based on consensus. There are seven working groups and ten task forces which are currently active:

Working Groups	Task Forces
Peatland	FFB Legality & Traceability
Emission reduction	Compensation
Human Rights	Indonesia FPIC
No Deforestation Joint Steering Group	No Deforestation
Smallholders	Shared Responsibility
Biodiversity & High Conservation Values	Renewable Energy Directive (RSPO Red)
Jurisdictional	Assurance
	Indonesia HCV
	Financial Institutions Supply Chain Certification

RSPO Secretariat is in charge of the day to day operational activities. It is based in Kuala Lumpur and is supported by RSPO Liaison Offices based in Indonesia, Latin America and Africa with satellite offices in Europe and China.

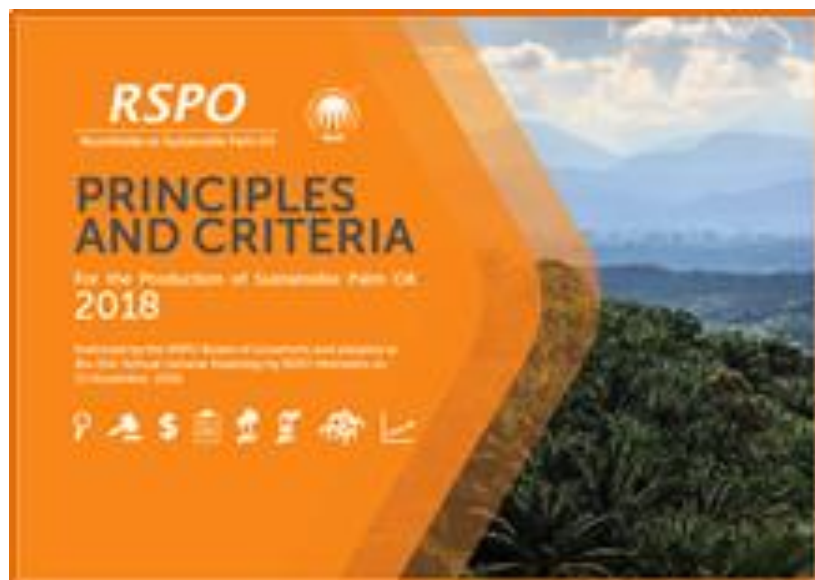
How does RSPO certification work?

RSPO certification is accepted internationally. As of 2017, 19% of oil palm produced globally is RSPO certified. RSPO has over 4,000 members worldwide that represent all the links along the oil palm chain. RSPO gives assurances to users that palm oil certified under its certification is produced sustainably.

To ensure the credibility of their certification, all palm oil producers under RSPO certification will go through strict verification according to RSPO principles and criteria by accredited certifying bodies. RSPO certification can be withdrawn if palm oil producers fail to meet the standards.

The RSPO certification systems are made of three key features i.e. certification standards, accreditations requirement and certification process requirements¹.

1. Standards: RSPO has set two certification systems
 - i. Certification for Oil Palm Growers and Mills
 - a. This is to ensure that oil palm is produced sustainably. Oil Palm growers and mills are audited against the RSPO principal and criteria. This certification is called “producer/grower certification” or Principle and Criteria Certification (P&C).



Source: RSPO website: <https://rspo.org>

¹. Source: RSPO Impact Report 2018

- ii. Certification for Supply chains
 - a. To ensure that crude palm oil (CPO) is sold as sustainable palm oil. All organisations that take legal ownership and physically handle RSPO certified sustainable oil palm products are audited against the RSPO Supply Chain Certification Standard.



Source: RSPO website: <https://rspo.org>

2. Accreditation Requirement: -
 - i. Ensuring that an Accreditation Body that undertakes accreditation of Certification Bodies is competent and produces a credible and consistent result.
 - ii. Ensuring the Certification Bodies that undertake certification is competent and produces a credible and consistent result.
3. Certification Process Requirement:-
 - i. The Certification Body conducts the process of establishing if the requirements of the standard have been met. The standards are;
 - a. RSPO P&C Certifications, and
 - b. RSPO Supply Chain Certification standards

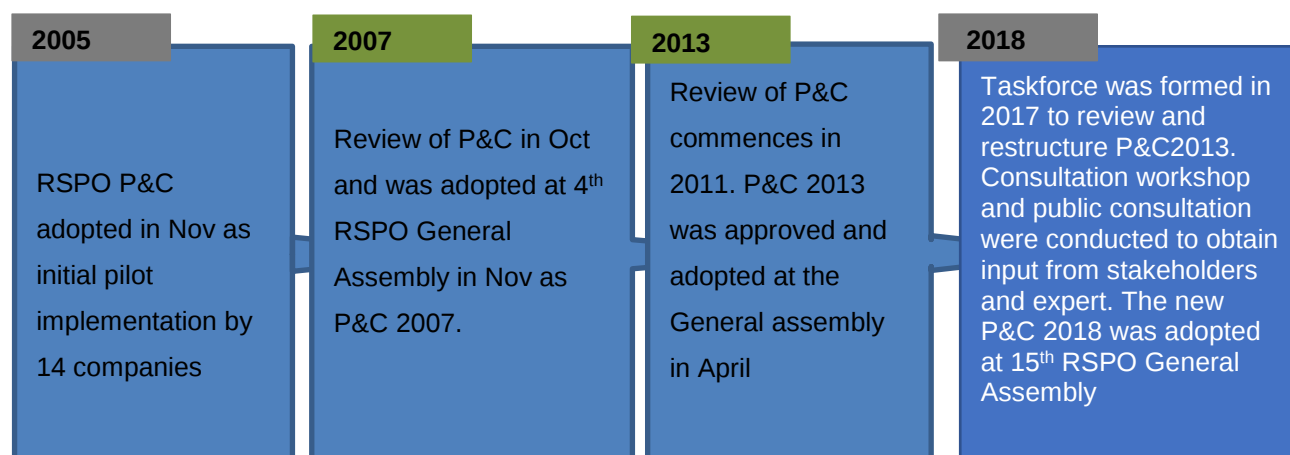
RSPO Principles and Criteria (RSPO P&C)

RSPO P&C sets the standards in the RSPO certification for oil palm producers. It is a generic document and can be adapted by different countries through the National Interpretations.

The first RSPO P&C was set for trial implementation in 2005 for two years. It was later applied as RSPO P&C 2007. After five years, it was reviewed and improved based on relevance and effectiveness to its members.

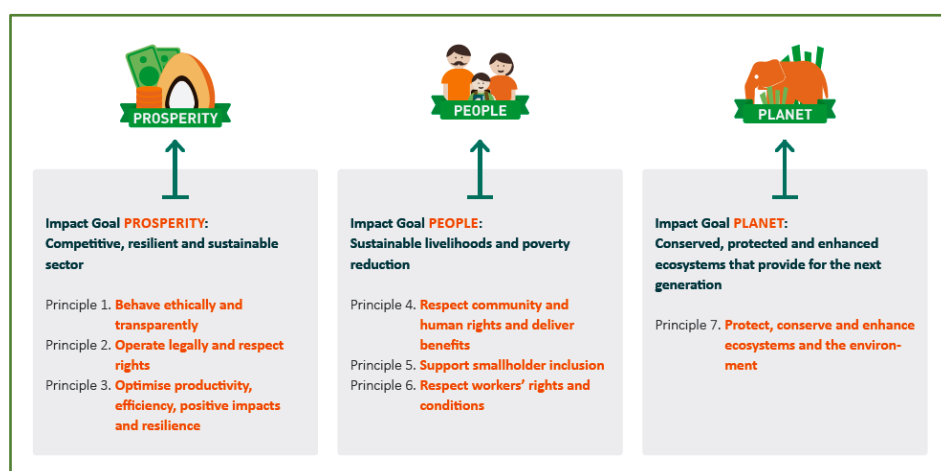
The RSPO P&C Review Taskforce and Steering Group conducted the review of the P&C. It was then endorsed by the executive board and accepted at the Extraordinary General Assembly by RSPO members on 25 April 2013. The RSPO P&C is reviewed every five years to ensure robust standards are imposed.

RSPO P&C Milestones



RSPO, with its commitment to making sustainable practices the norm in oil palm production, reviewed and enhance its P&C to deal with issues on the ground. In the revised P&C2018, a significant improvement has been made to include enhanced criteria among others on no deforestation, no planting on peat area, and reinforce the protection of human and labour rights.

RSPO has also segmented its seven principles to the three GOALS i.e. Prosperity, People and Planet. The segmentation provides clarity to its stakeholders on the RSPO standard.



Source: RSPO website: <https://rspo.org>

MODULE 2

MODULE 2: CERTIFICATION

Introduction

The idea for certification was to convene key partners, and the supply chains around timber, pulp and paper products and collectively determine the impacts of production on the environment, then develop standards to reduce those impacts.

Since then, certification programmes have proliferated. The Forest Stewardship Council (FSC) model was adapted, and many more were developed such as the Marine Stewardship Council (MSC); leading to RSPO (Roundtable Sustainable Palm Oil Organisation).

Over time, certification was found to drive social, environmental and economic improvements in specific commodity regions and targeted areas.

However, there was an apparent lack of evidence of broader, longer-term improvements. To date, very few certification programmes have standards that measure the reduced impacts.

There also appears to be tangential benefits from certification, and it was hard to attribute positive outcomes directly to certification. There is a requirement for more data to quantify the benefits. Certifications systems' administrators should collect information and conduct comparative analysis.

Certifications and sustainability standards are usually voluntary and assessed by independent third parties. Companies adopt sustainability (environment, social, ethical and food safety issues)

BOX 1

A rise in the demand for certified products

Companies have found that committing to sustainability can pay off.

30,000 consumers in 60 countries claims that 66% are willing to pay more for products or services from companies committed to sustainability (specifically on social and environmental aspects) – a rise of 55% in 2014 from 50% in 2013 (Nielsen Survey, 2015).

Consumers in Latin America, Asia, Africa and the Middle East are more aware of the needs in their surrounding communities and, are more likely to pay for sustainable products.

Consumers across regions, income levels and categories are willing to pay more for their values. Interestingly, people earning 20,000 USD or less are 5% more willing than those with incomes higher than 50,000 USD to pay more for products from companies committed to positive social and environmental impact (Nielsen, 2015).

Respondents said their purchases were partly decided on checking the labelling before buying, to ensure the brand is committed to positive social and environmental impact (Nielsen, 2014).

standards to demonstrate the performance of their organisation or products to cater to the buyers' needs. There are more than 500 of such standards.

A standard is usually developed by a broad range of stakeholders and experts in a particular sector and includes a set of practices or criteria for how a crop should be sustainably grown or a particular resource ethically harvested.

The standard might cover, for instance, responsible fishing practices that do not endanger marine biodiversity or respect for human rights and the payment of fair wages on an oil palm plantation.

Typically sustainability standards that are adopted then undergo a verification process (referred to as certification) to evaluate if the standards adopted are being complied with, as well as traceability process for certified products to be sold along the supply chain.

Certification programmes also focus on capacity building and working with partners and other organisations to support smallholders or disadvantaged groups to make the improvements needed to achieve the standards.

Corporations are increasingly being held accountable by consumers and society to reduce environmental damage and improve the livelihood of producers and workers, hence the shift from governmental to volunteer regulations of global good practices.

All sustainability standards refer to the three acknowledged pillars of sustainability (economic, social and environmental responsibility).

Clearly, sustainability has become big business.

Retail analysis showed sales of products that demonstrated commitment to sustainability grew faster than comparable products without these commitments. This shows how essential eco-labels are for consumers.

A Eurobarometer poll released in 2016 found that 64% of UK citizens would be prepared to pay an additional 5% or more for groceries that support people in developing countries, such as Fairtrade. This compares with an EU average of 50%, with respondents in Luxembourg, Sweden (both 80%) and the Netherlands (77%) most likely to pay more (European Commission, 2016; Jones, 2016).

An Ethical Markets Report in 2017 showed the value of ethical spending in the UK alone has grown to £81.3 billion GBP – the highest to date. Sales of ethical food and drink in the UK saw a 9.7% annual growth in 2015, while conventional foods struggled (Ethical Consumer, 2016).

Demand for sustainable fish in the UK multiplied (by nearly 37%) in 2016, surpassing the growth of free-range eggs and vegetarian products. The MSC's annual league table of sustainable fish retailers shows that Sainsbury's led the way, with nearly three-quarters of their wild-catch fish range carrying the MSC label (Ethical Consumer, 2016).

88% of Americans were willing to pay more for sustainable seafood that is responsibly sourced (Cargill Consumer Survey, 2017). Furthermore, consumers' willingness to pay for certified wild-catch seafood showed that interest in ecolabel seafood is growing worldwide (Vitale et al., 2017).

Certification programmes, standards and ecolabels have grown since the 90s and include issues such as labour, production processes to end-use impacts and recycling considerations. Terms like “fair trade”, “product take-back”, and “environmentally friendly” have started to play a significant role in marketing campaigns.

Certification is an effort to communicate information to purchasers (including business to business transactions). Nevertheless, although this is a useful tool in highlighting issues or attributes, it also creates a lot of confusion.

The International Social and Environmental Accreditation and Labelling (ISEAL) Alliance is an emerging body for different standards systems. It was developed in the late 90s for certification organisations to collaborate on various systems.²

When it comes to palm oil, there is a greater disconnect between sustainability and consumer action. However, in 2015, Rabobank forecast that global demand for palm oil certified by the Roundtable on Sustainable Palm Oil (RSPO) would double in five years (Rabobank, 2015).

One of the big drivers of demand for sustainable palm oil is EU biofuels policy, which has mandatory sustainability criteria – one of the ways to prove compliance with which is through certification. In addition, the 2017 Amsterdam Declaration – signed by the UK, Danish, Dutch, French, German and Norwegian ministers – called for fully sustainable palm oil supply chains by 2020. Although it is still unclear what this will mean in practice, it will likely provide another boost to certification (Dutch Ministry of Foreign Affairs, 2017).

Requirements for a certification process

Below are a few of the requirements needed for a certification process: -

1. The minimum requirement is to comply with the relevant national and international laws and conventions.
2. Should comply with ISEAL's Code of Good Practice for Setting social and environmental standards. (not necessarily a member)
3. The focus should be on minimising or eliminating environmental and/or social negative impacts (the use of high conservation values and priority areas for environmental and social aspects).

² <https://www.isealliance.org/credible-sustainability-standards/what-are-credible-sustainability-standards>

4. International Human Rights, land use, tenure and property rights that includes indigenous customary rights, minorities' rights, gender equity, workers' rights and the use of free, prior and informed consent.
5. Science-based and to include the latest scientific findings related to the issues the standards are trying to address as well as evolving legislation on human rights.
6. Provide transparency and in decision making and public reporting on its certification scheme. There should be no conflict of interest.
7. The certification scheme should have clear guidelines on non-conformity that includes effective measures.
8. Require independent third-party independent certification.
9. Require equitable stakeholder participation considering economic, social and environmental interest groups and provide means to have minority groups to be engaged in the process. Governance and decision-making should take into account the range of interest relevant to the subject matter either through consensus or by achieving balanced decision making.³
10. An accessible Complaints and Appeals mechanism.

NOTE TO TRAINER:

1. Show the video (Sustainability Standards to trust):

<https://www.isealalliance.org/credible-sustainability-standards/iseal-credibility-principles>

2. Conduct a group activity on types of certification that they know of in Malaysia – advantages and disadvantages and presentation

³ The International Standard Organization's definition for consensus is general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process seeking to take into account public consultations.

Types of examples of some certification systems in Malaysia

	Certification	Types	Advantages	Disadvantages
1	MSPO (Malaysian sustainable palm oil certification)	Mandatory	Controlled by the government and the industry.	Standards are based on existing laws that should have been implemented. NGOs were not involved in the development of the old standards. Have to pay to obtain standards.
2	SOM (Skim Organik Malaysia)/ MyOrganic (Malaysian Organic)	Voluntary	Malaysian Standard MS 1529:2015 Plant-based organically produced foods-requirements for production, processing, handling, labelling and marketing	Still not recognised by the International bodies. So, many Malaysian companies still need to conduct international standards.
3	MTCS (Malaysian Timber Certification Council)	Voluntary National Scheme	Controlled by the government and the industry.	The credibility of MTCS is being questioned under its MC&I 2002, audit reports on certified units based on satellite imagery indicate major issues ⁴ Not many NGOs involved

⁴ [http://www.aidenvironment.org/media/uploads/documents/A1963_Rubbery_Certification - A Critical Review.pdf](http://www.aidenvironment.org/media/uploads/documents/A1963_Rubbery_Certification_-_A_Critical_Review.pdf) and <https://www.star2.com/living/2018/03/14/can-logging-be-eco-friendly/>

Certification Standards Development and Implementation

In certification programmes, the process of standard-setting takes priority. Developing and agreeing takes a lot of time and effort. The eventual adopted standards rule the product.

This process is vital because certification is usually voluntary. Participants determine that it is in their interest to participate to ensure access to markets, to secure long-term contracts or to have a competitive advantage against other producers.

However, the standard-setting process is not always transparent, nor is it inclusive. Many certification programmes have been criticised either for being discriminatory or exclusive or for “watered down standards”.

Issues that have been raised on the standard-setting exercise are stakeholder engagement, flexibility, the credibility of standards, hurdles to implementation and compliance cost. Independent third-party audits were also questioned.⁵

These certification programmes are designed to be market-based interventions and not intended to target certain root causes of unsustainable practices (e.g. systemic corruption or hard-core poverty). Similar to nutritional labels, certification provides guidance in choices. A certified product or service bears a label that claims the product is sustainable according to those particular standards.

BOX 2

A **STANDARD** is a document that provides requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purpose. Standard is designed for **VOLUNTARY** use and **DOES NOT** impose any mandatory requirements.

It can be referred to in setting laws contracts, and regulations. **LAWS** and **REGULATIONS** may refer to certain standards and make **COMPLIANCE** with them obligatory.

⁵[https://www.frontiersin.org/articles/https://www.frontiersin.org/articles/10.3389/ffgc.2019.00013/full?utm_source=Email_to_authors&utm_medium=Email&utm_content=T1_11.5e1_author&utm_campaign=Email_publication&field=&journalName=Frontiers in Forests and Global Change&id=425005](https://www.frontiersin.org/articles/https://www.frontiersin.org/articles/10.3389/ffgc.2019.00013/full?utm_source=Email_to_authors&utm_medium=Email&utm_content=T1_11.5e1_author&utm_campaign=Email_publication&field=&journalName=Frontiers%20in%20Forests%20and%20Global%20Change&id=425005)

BOX 3

Stakeholder Engagement

The way that many certification programmes have developed is analogous to creating a new game, albeit based on and adapted from existing rules. Imagine a group deliberating for many hours about a game called “Save the World,” and then inviting the entire neighbourhood to play. They would like everyone to join in, but there are a few complications.

First, several of the others in the neighbourhood are frustrated that they were not initially invited to help decide on the rules. So they go off to invent their own game. Second, the game requires equipment that only some people have—the rest are forced to figure out how they might afford to play. Third, the rules are rather complex, and so for those who have played a similar game before it is not a problem, but many others are left to try and learn as they go, even though the rulebook is thin and not always accessible. Inevitably, there is cheating which undermines the game. Finally, and perhaps most frustratingly, the originating group intends to start playing this game in *everyone’s* yard throughout the neighbourhood. The game will not realise its full potential if confined to a single backyard, but they understandably meet resistance, confusion, and frustration as they have to go from backyard to backyard trying to teach the game. Some neighbours are asked to stop playing older games, others are eventually crowded out of their own yards as the new game takes hold.

This illustrates, in a nutshell, the key criticisms of existing certification programmes, including the claim that standards tend to be set without substantial input from diverse stakeholders. Conversely, involving a broad range of stakeholders often means pitting contentious viewpoints against one another—for voluntary mechanisms, this can mean resorting to less-stringent consensus-based goals. Many participants emphasised that certification networks are driven by politics and power—scientific knowledge has a place, but it is not the key driver. Instead, standard setting is often a political process that at best is *informed* by science. Additionally, certification programmes do not always transfer well across different climatic zones or ecosystems. Singapore established its own green building programme, Green Mark, in part because it considered the LEED **standard** inappropriate for tropical climates.

Most participants agreed that a multistakeholder, collaborative approach to third-party certification may be the most effective way to identify sustainable outcomes for certification programmes. Practically, this might mean an increasing reliance on public-private partnerships.

To that end, there is likely much to be gained from a better understanding of partnerships. One of the key lessons from existing multistakeholder partnerships is that engaging the right stakeholders at the outset is critical to long-term success (NRC, 2009). Failing to do so has resulted in programmes that mischaracterize **the** problem to be addressed, are vulnerable to competing efforts, and have difficulty scaling up. There are existing forums to hold these sorts of multistakeholder discussions. The American National Standards Institute (ANSI) hosts multistakeholder policy and position-related workshops and panels (e.g., a 2009 workshop Toward Product Standards for Sustainability) that are not intended to result in specific standards but are held to facilitate dialogs on issues of national importance and to potentially develop related recommendations.

BOX 4**The International Organisation for Standardization (ISO) identifies three categories of environmental labelling**

(UNOPS, 2009):

Type 1: Ecolabels (ISO 14024:1999)

These are independent, reliable labels that consider the criteria across the lifecycle impacts of products or services. Usually, the criteria are developed by a large number of stakeholders and are intended to be ambitious, guaranteeing that the labelled products have a reduced environmental impact throughout their life cycle. Examples include the European Union (EU) Ecolabel, Germany's Blue Angel and the Nordic countries' Nordic Swan.

Within Type 1 is a subgroup of schemes that certify a single product or criteria, therefore not covering the impacts across the whole life cycle. Examples include the Forest Stewardship Council (FSC) and Marine Stewardship Council (MSC). These do not qualify as Type 1 ecolabels, although such ecolabels sometimes use these labels to cover part of the supply chain. For example, the European Commission (2017) states that companies that have obtained FSC certification can use this to prove they meet certain criteria of the EU Ecolabel paper-based products certification.

Type 2: Self-declared environmental claims (ISO 14021:1999)

These are not awarded by an independent authority; rather, they are self-declared claims of environmental stewardship by industry. Companies develop their own label or environmental claim, knowing that consumers are increasingly aware of environmental issues and more likely to feel positive about a company that appears to be more sustainable than its competitors. These voluntary self-declarations are called 'environmental' or 'green' claims.

They might provide useful information, but unfortunately, are not always true, and are not subject to independent monitoring. For example, industry-led carpet certification scheme GUT has established a label for chemicals in carpets, but independent analysis showed that it restricts only 13 of the 59 identified hazardous chemicals (HEAL and EPHA, 2018, p.3).

Type 3: Environmental impact labels (ISO 14025: 2006)

These labels show qualified product information that is independently verified and designed to enable a comparison between different products. Type 3 labels do not assess a product's environmental performance; they only show the objective data, leaving evaluation to the buyer or consumer. There is significant organisational and administrative effort involved in Type 3 labels because they require exhaustive life-cycle data sheets, which are called environmental product declarations.

BOX 5**The Role of Standards**

The role of standards is to provide credible information about the sourcing, production and specific properties (for example, the absence of harmful chemicals) of products, while certification is responsible for verifying these standards to maintain credibility (Barry et al., 2012; Mori Junior et al.,

BOX 6**Comparison of Regulation and Certification Tools to Influence Behaviour**

National and international laws have failed to control wasteful and harmful effects of production. Certification programmes appear to increase transparency, accountability, public participation in decision making, legal use of natural resources, investment in economic and human development. (Parikh, 2003)

In the US, the emphasis on disclosure on the Toxic Release Inventory and market mechanisms for pollution control in the Acid Rain Controls in the 1980s and 1990s, where corporate behaviours were pressurised into disclosure by public demand.

RSPO Standards⁶**About the RSPO Principles & Criteria**

Sustainable palm oil production is composed of legal, economically viable, environmentally appropriate and socially beneficial management and operations. At the heart of RSPO certification are the RSPO Principles and Criteria for Sustainable Palm Oil Production (including Indicators and Guidance, revised November 2013), the global guidelines for producing palm oil sustainably.

⁶ <https://rspo.org/principles-and-criteria-review>

The Principles & Criteria are a generic document. Since countries differ in their laws for the same criteria, such as minimum wages for workers for example, and there are cultural and other differences, the Principles & Criteria are further adapted for use by each country through National Interpretations.

This crucial step not only allows for negating potential conflicts between an international standard and national laws, but it also provides for national-level stakeholder consultation. This consultation would translate to addressing key concerns at the local or regional level, giving specific points to unique situations and complementing national laws with a higher benchmark (where applicable) for the industry to achieve.

Buy-in to such a process is critical, and whenever the National Interpretation process takes place, such process is led by RSPO members operating in the involved countries, according to guidance provided in the RSPO certification system.

REFERENCES

<https://www.isealliance.org/credible-sustainability-standards/what-are-credible-sustainability-standards>

Walker, E. (2010). Dutch Timber Procurement Committee. Rubbery Certification – A critical review of the endorsement of the Malaysian Timber Certification Systems. Retrieved from http://www.aidenvironment.org/media/uploads/documents/A1963_Rubbery_Certification_-_A_Critical_Review.pdf

Cramb, R. and McCarthy, J. (eds.). (2016). *The Oil Palm Complex: Smallholders, Agribusiness and the State in Indonesia and Malaysia*. Singapore: NUS Press.

Commonwealth Secretariat, 'Eco-labelling: Challenges and opportunities for small states and LDCs', by M. Haynes, Trade Hot Topics Issue no. 95, 2012

Hansen, S. B., Padfield, R., Syayuti, K., Evers, S., Zakariah, Z., and Mastura, S. (2015). Trends in global palm oil sustainability research.

Foodnavigator.com, 'Nestlé UK goes Fairtrade with Kit Kat two-finger', 26 October 2012

Nagulendran, K., Padfield, R., Aziz, S. A., Amir, A. A., Rahim, A., Rahman, A., et al. (2016). A multi-stakeholder strategy to identify conservation priorities in Peninsular Malaysia

International Centre for Trade and Sustainable Development (ICTSD), (2012). 'Private voluntary standards: The instruments for a lasting trade policy in Africa?', *Bridges Africa Review*, Volume 1, Number 3

A. Blackman and J. Rivera, (2010). Resources for the Future, 'The evidence base for environmental and socioeconomic impacts of "sustainable" certification',

National Research Council 2010. *Certifiably Sustainable?: The Role of Third-Party Certification Systems: Report of a Workshop*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/12805>

Criteria and Guidelines on MPOB License Applications Revised Edition 2018

Schouten, G., and Bitzer, V. (2015). The emergence of Southern standards in agricultural value chains: a new trend in sustainability governance?

UNOPS (United Nations Office for Project Services), 2009. *A guide to environmental labels – for procurement practitioners of the United Nations system*.

Brad A. Delemare A, Hurley N, Lenikus V, et.al., (2018). *Changing Markets Foundation – The False Promise of certification (How certification is hindering sustainability in the textiles, palm oil and fisheries industries)*

www.rspo.org

<http://www.jsm.gov.my/>

MODULE 3

MODULE 3: HUMAN RIGHTS

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

Under the RSPO P&C, 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 also show that community land use rights are protected, and they must show 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 also 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.

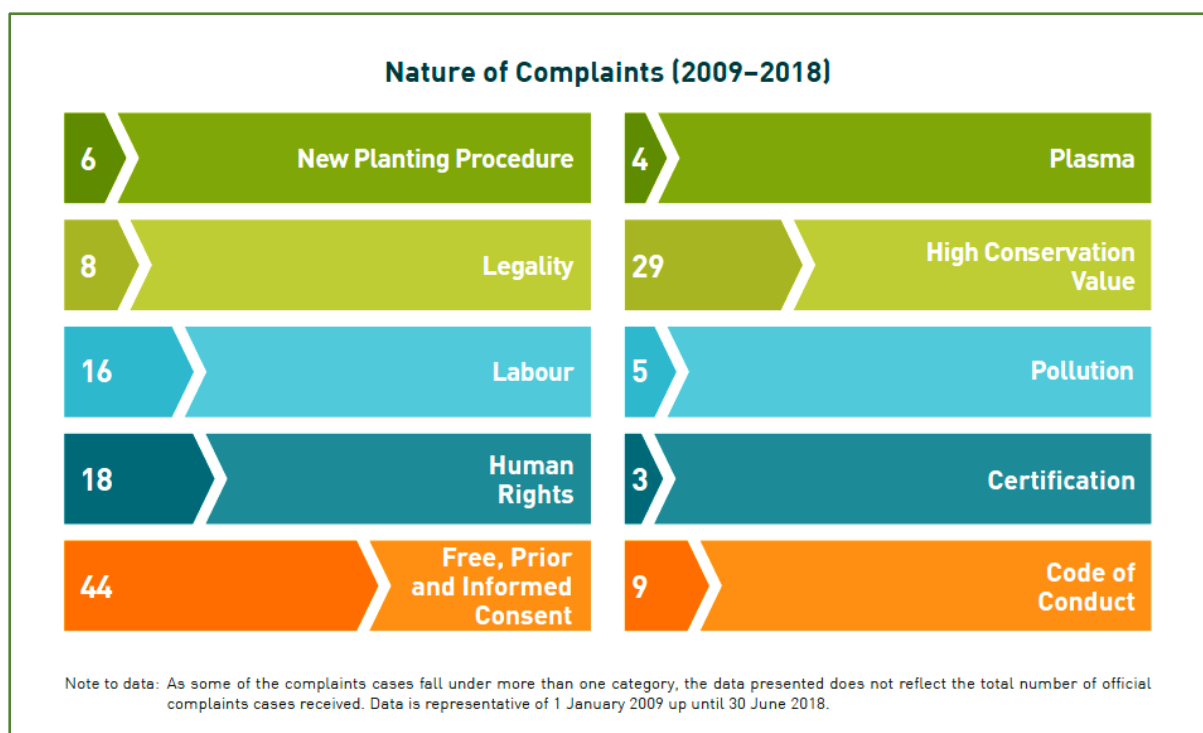
Indigenous and Local Communities

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

As more lands are cleared, ILC are losing their access to resources and customary rights. Conflicts over customary land rights are one of the major issues that arise in the expansion of plantations, and this is because no Free and Prior Informed Consent (FPIC) process was conducted with the affected communities.

Based on RSPO Impact Report 2018, complaints on the lack of FPIC was the highest number of type of complaints received from 2009 to 2018.

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



Source: RSPO Impact Report 2018

What is FPIC

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 all three bodies.

FPIC is an iterative and long process, not a one-off process. It is a participatory process, which allows the ILC the right to give consent or withhold consent on any activity by external parties that may have an impact on them.

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

In a long-term project, there would be several stages when FPIC would need to be conducted to obtain the consent from the ILC.

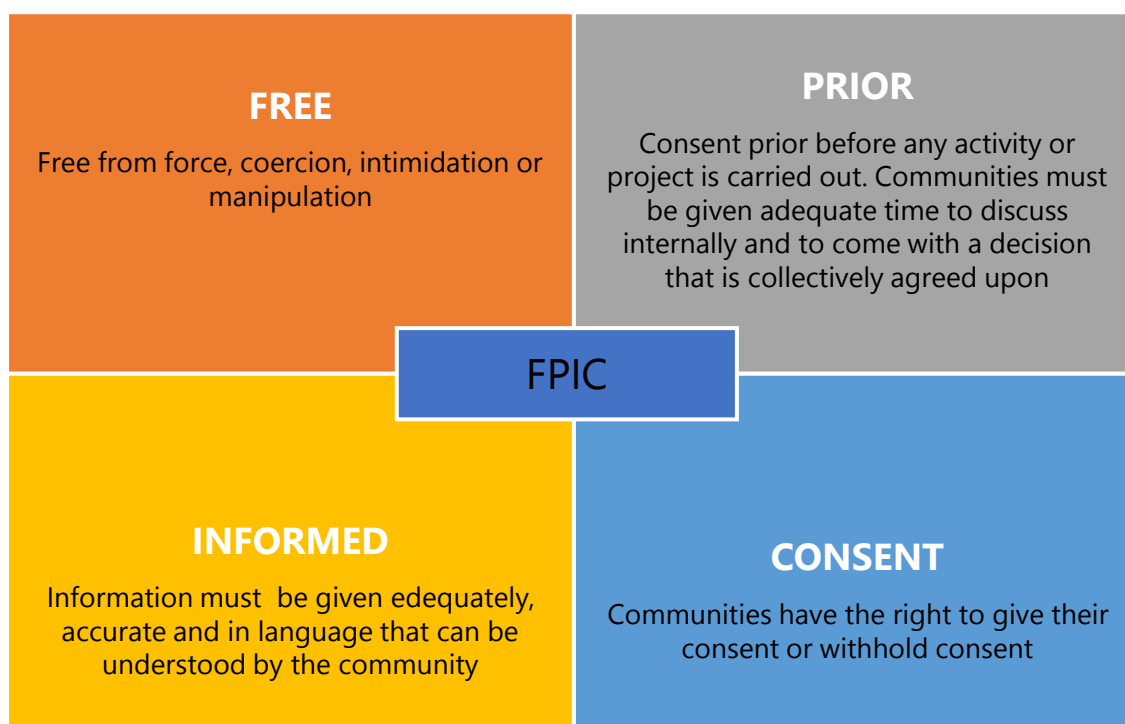
In all these stages, ILC will conduct their internal discussions without influence from any outsider and reach a decision that is collectively agreed upon.

The ILC can select their representatives in meetings or dialogues with any third party, and it need not necessarily be the village chief or chairperson of the village community management council.

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

Neither should there be giving of token to communities for participating in the consultation or manipulation and bribing in obtaining agreement from communities.

The diagram below elaborates on the meaning of FPIC.

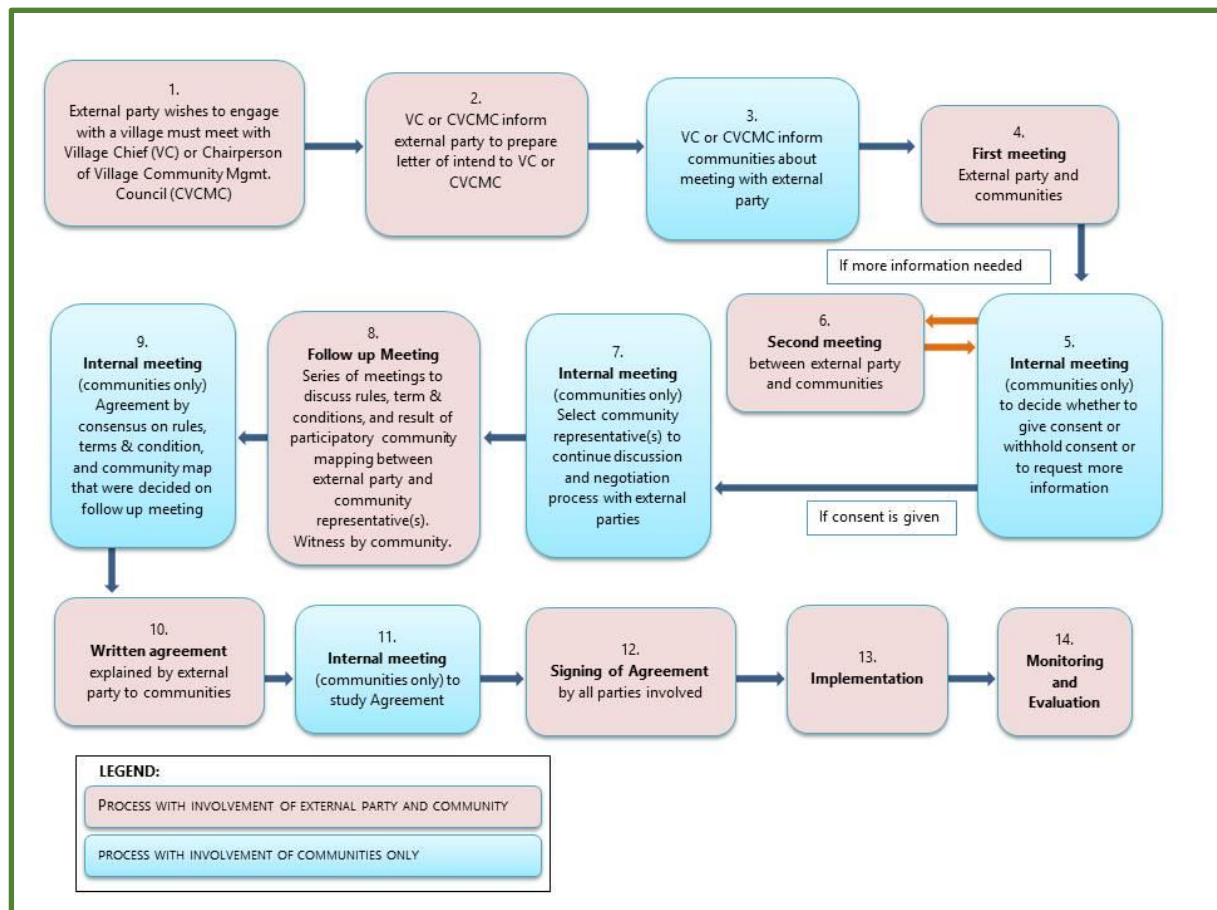


NOTE TO TRAINER

Show RSPO video - WHAT IS FPIC

The process below describes how an FPIC process has been defined by the Melangkap community. It specifies how an external party should obtain FPIC from them.

In this diagram, it also shows the actions needed and the stages where external parties are involved.



Adapted from Melangkap Protocol

Decision-making Process

A decision must be made by consensus, and to attain this, every level of the community must be involved.

Usually, community meetings, predominantly attended by men, would make the decision. Unless asked, the women and youth who attended these meetings would be less vocal and would not form an opinion.

Therefore, to ensure that decisions are formed by consensus and include the opinion of these women and youths, a mechanism should be established.

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

A guideline must be established and agreed upon before the voting process can take place.

The community must determine the minimum age to vote and the number of votes needed to come to a decision.

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 these decision-making processes.

NOTE TO TRAINER

Enforce understanding of FPIC by showing videos

1. **Rights in Action : Free Prior Inform Consent by AIPP**
2. **PADIATAPA by ELSAM**

Case of a Failed FPIC Process

Implementing FPIC on the ground can be a challenging and time-consuming process. In many instances, FPIC has failed because it was not conducted correctly, and groups that performed the process did not fully understand the FPIC principles.

Instead of conducting the process in a transparent manner, they withheld information, practised manipulation and coercion. Below are examples of failed FPIC processes.

1. Consent was withheld by the Telaga Community⁷

This article describes the rejection of FPIC concept by the Telaga community in Damples Subdistrict, Donggala District, and Central Sulawesi, Indonesia for the REDD+ project.

⁷ Source: *Konflik atau Mufakat* edited by Marcus Colchester and Sophie Chao

The socialisation of the FPIC concept was made by the Government of Indonesian and Central Sulawesi together with Central Sulawesi REDD+ working group.

During the socialisation, the representative from the Telaga community rejected the FPIC process to welcome the REDD+ project. The reasons for rejecting were;

- i. The government did not provide any information directly to the community but only through civil society organisation.
- ii. Fear of a repeat of a past incident, where the government did not conduct a consultation and obtain consent from the community when establishing The Forest Management into the community land area.

Refer to Appendix 2 for the case study

2. PT.Agrowiratama⁸

PT Agrowiratama, a subsidiary of Muslim Mas (RSPO member) was given a permit to clear land area for new planting procedure (NPP) in Sambas Regency, West Kalimantan.

The villages that were affected by the NPP are Mekar Jaya, Beingin and Sabung. PT Agrowiratama socialised the project and also conducted FPIC process, social and environmental assessment and HCV assessment.

The FPIC process that PT Agrowiratama conducted was a failure because;

- i. Not all communities were involved in the socialisation of the project and the FPIC process.
- ii. The communities were not given the full information.
- iii. HCV assessment report was not shared with the communities
- iv. No transparency as many information were not shared with the communities

Refer to Appendix 2(a) for the case study

⁸ Source: *Konflik atau Mufakat* edited by Marcus Colchester and Sohpie Chao

Land Rights

RSPO recognises the rights of ILC on their customary lands. This recognition is clearly stated in RSPO P&C2018, Principal 4, Criteria 4.7 and 4.8.

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

They also need to conduct a social and environmental assessment and HCV assessment.

BOX 7

RSPO Principal 4

Criteria 4.7 – Where local people have legal, customary or user rights. They are compensated for any agreed land and acquisition and relinquishment of right, subject to their FPIC and negotiated agreements, and

Criteria 4.8 – The right to use the land is demonstrated and is not legitimately contested by the local people who have legal, customary or user rights.

NOTE TO TRAINER

Show video of - IDENTIFYING RIGHTS TO THE LAND AND FPIC

Customary rights

Customary rights or also known as native customary rights (in Sabah and Sarawak), are rights on land by the indigenous community.

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

The Sabah Land Ordinance section 65 stated “*Customary tenure means the lawful possession of land by natives either by continuous occupation or cultivation for three or more consecutive years or by title under this Part or under the Poll Tax Ordinance* [Cap. 102.], or Part IV of the Land Ordinance, 1913 [N.B. Ord. No. 3 of 1913].*

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.

BOX 8

Sabah Land Ordinance Part 1 (15)

Customary Rights/Native customary rights shall be held to be –

- I. Land possessed by customary tenure;
- II. Land planted with fruit trees, when the number of fruit trees amounts to fifty and 12 upwards to each hectare;
- III. Isolated fruit trees, and sago, rotan, or other plants of economic value, that the claimant can prove to the satisfaction of the Collector were planted or upkeep and regularly enjoyed by him as his personal property;
- IV. Grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the undergrowth;
- V. Land that has been cultivated or built on within three years;
- VI. Burial grounds or shrines;
- VII. Usual rights of way for men or animals from rivers, roads, or houses to any or all of the above.

Source: Sabah Land Ordinance Cap 68

The case of **Kerajaan Negeri Selangor & ORS V Sagong Bin Tasi & ORS** sets a precedence that ILC have right over their customary land.

Summary

The construction of Kuala Lumpur International Airport in Sepang, Selangor has encroached into the land of Kampung Bukit Tampo. The land in dispute was a strip of approximately 38 acres, running through a gazetted aboriginal reserve that was taken to form part of the highway leading to the airport.

Sagong Tasi represented Kampung Bukit Tampo in this case. He and the other communities are Temuans and have been living in this area for generations and claimed that it is their ancestral land.

The Selangor State Government (1st defendant) contended that the land in dispute is state land and the State does not recognise that the community has rights over the land⁹.

BOX 9

The Court granted rights to the communities over their land based on several findings;

- i. The Bukit Tampo lands, including the land have been occupied by the Temuans for at least 210 years and the occupation was continuous until the acquisition.
- ii. The Temuans community had inherited the land from their ancestors through their adat
- iii. The Temuans who are presently occupying the Bukit Tampo are descendants of the Temuans who had resided there from the beginning and the traditional connection with the Bukit Tampo lands have been maintained from generations to generations and the customs in relation to the lands are distinctive to the Temuan culture, and
- iv. The Bukit Tampo lands, including the disputed land, are customary and ancestral lands belonging to the Temuans and occupied by them for generations.

⁹ *Malayan Law Journal Reports/2005/Volume 6/KERAJAAN NEGERI SELANGOR & ORS v SAGONG BIN TASI & ORS - [2005]*
6 MLJ 289 - 19 September 2005

MODULE 4

MODULE 4: WORKERS

This module focuses on the workers, mainly migrant workers in the palm oil industry and its relation to RSPO Principles and Criteria.

Over a decade ago, the palm oil industry was repeatedly linked to unsustainable production practices, including the destruction of rainforests, endangered species' habitat and loss of land by indigenous peoples and local communities.

By contrast, comparatively little attention has been paid to labour rights, even though rampant labour abuses, including poverty wages, child labour and human trafficking, are commonplace across the country.

According to MPOB, there were 451,507 labourers worked in the oil palm plantation sector in Malaysia in 2014.

Out of these, 78% or 352,330 were foreigners and worked mainly as fresh fruit bunch (FFB) harvesters and collectors. Oil palm plantations are dependent on foreign workers, notably from Indonesia followed by Bangladesh, Nepal, Cambodia and India.

Table 1: Number of the workforce in Oil Palm Plantations in Malaysia 2014

Job Category	Peninsular	Sabah	Sarawak	Malaysia
Field				
General mandore	4,953	4,288	2,668	11,909
Harvesting mandore	4,837	3,949	2,849	11,635
FFB harvester and collector	75,334	61,354	37,784	174,472
Field worker	58,293	62,035	38,875	159,203
Other field worker	21,784	25,077	13,167	60,028
Subtotal	165,201	156,703	95,343	417,247
Office				
Executive	4,500	2,725	1,969	9,194
Staff	11,149	7,451	6,466	25,066
Grand total	180,850	166,879	103,778	451,507

Source: MPOB, 2014

What are the issues in the palm oil sector?

There are widespread labour issues, the most serious and prevalent of which may include:

1. Child and family labour and insufficient protection with regards to young workers
2. A lack of personal protective equipment (PPE) against Health and Safety hazards
3. Opaque pay structures which may incentivise dangerous or unacceptable practices
4. Use of fixed short-term contracts and casual labour, potentially creating a vulnerable workforce
5. Poor hygiene and accommodation facilities
6. Passport retention is a widespread practice, particularly in countries with high levels of migrant labour. Management will often cite 'safekeeping' as a reason
7. Workers must have free access to their personal documents, or they could be considered to be in forced labour
8. The use of fixed short-term contracts and casual labour is widespread, leaving workers vulnerable to labour rights abuses



What rights apply to migrant workers?

The protection that exists in international law for migrant workers and members of their families include:

Fundamental human rights that apply to all migrants, regardless of their status, which are set out in the core international human rights treaties and under customary international law

International labour conventions and standards that provide basic protections for treatment and conditions at work, which apply to all workers regardless of their migration status

In general, States are obliged to ensure that migrants receive equal treatment and protection as nationals of the State.

The International Human Rights Framework

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) has become an international “standard of achievement for all peoples and nations” and is the foundation for the international human rights framework that has developed since 1948.

The UDHR declares that human rights are universal - to be enjoyed by all people, no matter who they are or where they live. The Declaration includes civil and political rights, like the right to life, liberty, free speech and privacy. It includes economic, social and cultural rights, like the right to social security, health and education.

The Declaration as a whole is not a legally binding instrument. However, many of the rights within the Declaration have acquired binding status either through their recognition within the framework of customary international law or through their incorporation into subsequent legally binding treaties.

Malaysia has ratified three of the treaties and agreement which includes the rights stated in the UDHR, which are:

1. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
2. Convention on the Rights of the Child (CRC)
3. Convention on the Rights of Persons with Disabilities

In a simplified form, UDHR can be shown as:

No one has the right to hold you in slavery. 	You have the right to seek asylum in another country if you are persecuted in your own. 	Every adult has the right to a job, a fair wage, and membership in a trade union. 
No one has the right to torture you. 	Everyone has the right to a nationality. 	You have the right to leisure and rest from work. 
You have a right to be recognized everywhere as a person before the law. 	All consenting adults have the right to marry and to raise a family. 	Everyone has the right to an adequate standard of living for themselves and their family. 
We are all equal before the law and are entitled to equal protection of the law. 	You have the right to own property. 	Everyone has the right to an education. 
You have the right to seek legal help if your rights are violated. 	Everyone has the right to belong to a religion. 	Everyone has the right to freely participate in the culture and scientific advancement of their community, and their intellectual property as artist or scientist should be protected. 
No one has the right to wrongly imprison you or force you to leave your country. 	You have the right to think and voice your opinions freely. 	
You have a right to a fair, public trial. 	Everyone has the right to gather as a peaceful assembly. 	We are all entitled to a social order in which we may enjoy these rights. 
Everyone is innocent until proven guilty. 	You have the right to participate in the governance of your country, either directly or by helping to choose representatives in free and genuine elections. 	Everyone's rights and freedoms should be protected unless they obstruct the rights and freedoms of others. 
You have the right to privacy. No one can interfere with your reputation, family, home, or correspondence. 	You have the right to social security and are entitled to economic, social, and cultural help from your government. 	No State, group, or person can use this Declaration to deny the rights and freedoms of others. 
You have the right to travel. 		

International Labour Organisation (ILO)

The ILO has established several conventions that outline and protect the labour rights of migrant workers. The ILO gives an equal voice to workers, employers and governments to ensure that the views of social partners are closely reflected in labour standards and in shaping policies and programmes.

The main aims of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.

There are subjects covered by International Labour Organisations that are relevant to workers in the agriculture sector, such as:

1. International Labour Standards on Freedom of Association

i. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)

This fundamental convention sets forth the right for workers and employers to establish and join organisations of their own choosing without previous authorisation. Workers' and employers' organisations shall organise freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliated with international organisations of workers and employers.

ii. Right to Organise and Collective Bargaining Convention, 1948 (No.98)

This fundamental convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organisations under the domination of employers or employers' organisations, or the support of workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations. The convention also enshrines the right to collective bargaining.

2. International Labour Standards on Wages

i. Minimum Wage Fixing Convention, 1970 (No.131)

Requires ratifying states to establish a minimum wage fixing machinery capable of determining and periodically reviewing and adjusting minimum wage rates having the force of law.

ii. Equal Remuneration Convention, 1951 (No. 100)

Lays down the principle of equal remuneration for men and women workers for work of equal value.

3. International Labour Standards on Forced Labour

i. Forced Labour Convention, 1930 (No.29)

This fundamental convention prohibits all forms of forced or compulsory labour, which is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The convention also requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced.

ii. Protocol of 2014 to the Forced Labour Convention, 1930 and Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

A new legally binding Protocol on Forced Labour, supported by a Recommendation (No. 203), aiming to advance prevention, protection and compensation measures, as well as to intensify efforts to eliminate all forms of forced labour, including trafficking in persons.

4. International Labour Standards on Child Labour

i. Minimum Age Convention, 1973 (No. 138)

This fundamental convention sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed.

ii. Worst Forms of Child Labour Convention, 1999 (No. 182)

This fundamental convention defines as a "child" a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children.

The convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

5. International Labour Standards on Occupational Safety and Health

i. Occupational Safety and Health Convention, 1981 (No. 155)

The convention provides for the adoption of a coherent national occupational safety and health policy, as well as action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions. This policy shall be developed by taking into consideration national conditions and practice. The Protocol calls for the establishment and the periodic review of requirements and procedures for the recording and notification of occupational accidents and diseases, and for the publication of related annual statistics.

ii. Occupational Health Services Convention, 1985

This convention provides for the establishment of enterprise-level occupational health services which are entrusted with essentially preventive functions and which are responsible for advising the employer, the workers and their representatives in the enterprise on maintaining a safe and healthy working environment.

iii. Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187)

This Convention aims at promoting a preventative safety and health culture and progressively achieving a safe and healthy working environment. It requires ratifying States to develop, in consultation with the most representative organisations of employers and workers, a national policy, national system, and national programme on occupational safety and health.

Malaysia has ratified several international human rights treaties, including:

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
2. Convention on the Rights of the Child (CRC)
3. Convention on the Rights of Persons with Disabilities
4. International Labour Organisation Core Convention (ILO)

In the case of ILO, Malaysia ratified **17 Conventions**, including Fundamental Conventions, Governance Conventions and Technical Conventions as shown below:

Fundamental Convention

Forced Labour Convention, 1930

Right to Organise and Collective Bargaining Convention, 1949

Equal Remuneration Convention, 1951

Minimum Age Convention, 1973

Worst Forms of Child Labour Convention, 1999

Governance Convention

Labour Inspection Convention

Tripartite Consultation (International Labour Standards) Convention, 1976

Technical Convention

Employment Service Convention, 1948

Protection of Wages Convention, 1949

Guarding of Machinery Convention, 1963

Minimum Age (Underground Work) Convention, 1965

Minimum Wage Fixing Convention, 1970

Maritime Labour Convention, 2006

Promotional Framework for Occupational Safety and Health Convention,
2006

Case Study 1 (Year 2016)

A research was conducted at one of the RSPO companies in Malaysia in 2016. A total of 48 migrant workers were interviewed.

To acquire further information, an additional visit was carried out a few months later to interview 15 more migrant workers. The migrant workers were from Indonesia, Nepal and Myanmar. They were interviewed individually, with none of the estate's management or other staff present.

Interviews were conducted in the worker's native language either in Malay, Bengali or Hindi. An external interpreter was used in interviews and recorded. In addition to interviews with workers, a locally hired researcher interviewed estate management at each investigated estate and examined various documents such as:

1. Employment contracts
2. Other agreements that workers and the corporation had mutually entered into
3. Its public policies
4. The minutes from worker committee and stakeholder group meetings and the official permits acquired by estates.
5. Visitation to the worker's living area was also conducted

BOX 10

Interviewer should try to organise interviews with workers off-site, away from estates or production plants in conditions where the worker can express his/her views as freely as possible

Outcome of the Research

1. Not all workers receive the minimum wage¹⁰

The monthly wages reported by workers varied from RM550-2000. The wages of workers, who were paid performance-based pay, were not at the level of the Peninsular Malaysia statutory minimum wage, which at the time of the research was RM900 a month or RM34.63 a day depending on whether the worker's salary was based on a monthly or daily wage. Three workers interviewed said that the wage they received was below the minimum wage. According to the company, the workers were given piece-rated work where wages are paid based on the workers' ability, productivity and quality of his/her work in compliance with Minimum Wage Order 2012 of Malaysia.

¹⁰ Minimum wages is a basic wages excluding any allowances or other payments. All local and foreign employees who have entered into a contract of service with an employer shall be entitled to receive minimum wages. (Appendix 1)

2. Problems related to passports still reported

According to the company, the corporation tries to hold on to workers' passports so the corporation can renew workers' visas and handle any other processes required by Malaysia's legislation on behalf of workers. The passports are also kept for safety and security reasons: renewal of lost, stolen or damaged passport is expensive and time consuming. However, those workers who had requested for their passports be handed over encountered problems. The workers were only given a separate letter signed by the company verifying their identity or a photocopy of their passport, or the worker's request for their passport was dismissed on the grounds that a passport could only be returned to a worker for important reasons as determined by the employer.

3. The right to organise and Freedom of Association restricted

In 2014, the company was found to limit the freedom of association of its workers. The Malaysian National Union for Plantation Workers (NUPW) reported that the company had prevented the union from accessing its palm oil estates. Additionally, the workers' employment contracts prohibited them from planning or taking part in industrial action. The company also used recruiters as a way of limiting the unionisation rate of its workers.

4. Contract and temporary workers still reported

Two of the estates from the company used the services of interim labour brokers. One of the interviewed workers was paid his wage in cash bypassing the company salary system, and he was not aware of the details related to this employment. His payslip was a handwritten note on a piece of cross-ruled paper, and he was unable to say what elements his wage consisted of or if he received compensation for such things as overtime.

5. Discrimination in recruitment, romantic relationships are forbidden

At the time of the research conducted, the company employment contract states the following (direct quote): "The Employee is prohibited to bring his family members, and also shall not engage in any romantic relationship and/or marry or intent to marry any Malaysian or any foreign worker during the period of his employment contract as per the Malaysian Immigration Laws". [The prohibition is a violation of international human rights standards, which guarantee men and women the right to privacy without interference and marriage without any limitation due to e.g. nationality \(Articles 12 and 16 of the UN Universal Declaration of Human Rights\)¹¹.](#)

¹¹ RSPO P&C 2018. The RSPO and its members recognise, support and commit to following the United Nations Universal Declaration of Human Rights and the International Labour Organisation (ILO)'s Declaration on Fundamental Principles and Rights at Work.

Why workers need union?

Under Principle 6, criteria 6.3 stated “The unit of certification respects the rights of all personnel to form and join trade unions of their choice and to bargain collectively. Where the right to freedom of association and collective bargaining are restricted under the law, the employer facilitates parallel means of independent and free association and bargaining for all such personnel”.

In which Union plays an important role by exercising collective bargaining that is closely linked to freedom of association.

Collective bargaining is a key means through which employers and their organisations and trade unions can establish fair wages and working conditions, and ensure equal opportunities between women and men.

Unions help ensure that working people earn decent pay and benefits and have a voice in our democracy system. Unions provide workers with a powerful, collective voice to communicate to management their dissatisfaction and frustration.

Unions negotiate better terms and conditions. All aspects of working life should be the subject of discussion and agreement between employers and employees under the protection of a trade union. Trained representatives of the union lead these negotiations on behalf of employees.

Union members tend to have better job security. Trade union members are more likely to stay in their jobs longer; on average, five years more than non-unionised workers. By being a union member, we are always part of something bigger and have the support of the union when you need it.

Unions fight for equal opportunities in the workplace. They stand for equal pay and treatment and against discrimination. Union workplaces are safer. Under the Malaysian's Employers and Employees relation, unions' representatives are part of the safety and health committee of the company. They will raise any issues and problems faced by workers in the workplace.

Unions offer legal services and advice. Malaysian Trades Unions Congress (MTUC) provides legal services and advice to workers who face issues and problems in the workplace.

NOTE TO TRAINER

**Show video – THE VOICE OF WORKERS
IN PALM OIL**

Protecting Human Rights in the Palm Oil Industry

RSPO has taken serious steps to ensure human rights element in the palm oil industry are protected, respected and remedied.

In fact, RSPO has dedicated Principle 6 on the Respect workers' rights and condition to ensure safe and decent working conditions to be complied by the industry.

The RSPO prescribes a list of criteria followed by indicators, which the participating palm oil sector companies are required to adhere.

This set of criteria in Principle 6 consists of the following:

- 6.1 Any form of discrimination is prohibited.
- 6.2 Pay and conditions for staff and workers and contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages (DLW).
- 6.3 The unit of certification respects the rights of all personnel to form and join trade unions of their choice and to bargain collectively. Where the right to freedom of association and collective bargaining are restricted under law, the employer facilitates parallel means of independent and free association and bargaining for all such personnel.
- 6.4 Children are not employed or exploited.
- 6.5 There is no harassment or abuse in the workplace, and reproductive rights are protected.
- 6.6 No forms of forced or trafficked labour are used.
- 6.7 The unit of certification ensures that the working environment under its control is safe and without undue risk to health.

BOX 11

The RSPO and its members recognise, support and commit to following the United Nations Universal Declaration of Human Rights

[\[http://www.un.org/en/documents/udhr/\]](http://www.un.org/en/documents/udhr/)

and the International Labour Organisation (ILO)'s Declaration on Fundamental Principles and Rights at Work

[\[http://www.ilo.org/declaration/lang-en/index.htm\]](http://www.ilo.org/declaration/lang-en/index.htm).

RSPO P&C 2018

NOTE TO TRAINER

Show video of – HUMAN RIGHTS PART 1 & 2

Since the creation of RSPO Principles and Criteria, many reports and researches were and is still focusing on environmental impacts from oil palm practices. Only in the past several years, exploitation in the palm oil industry is starting to emerge and reported publicly.

Many of the RSPO members were scrutinised with regards to labour exploitation and violation of workers' rights, and these reports can be found in the public domain, such as:

1. 2015

- i. Report released by Rainforest Action Network (RAN) exposing Kuala Lumpur Kepong's (KLK) role on Child Labour
- ii. The Wall Street Journal published an article on "The Palm Oil Migrant Workers Tell of Abuses on Malaysian Plantations" alleging Felda Global Ventures has violated its workers' rights. Felda's customers and partners such as Nestle, P&G and Cargill took the allegation seriously and demanded that FGV look into the matter and take the necessary corrective actions.

2. 2016

- i. Complaints were brought against palm oil giant Indofood over labour rights violation. As a result,

many palm oil buyers have cut ties with Indofood including Nestle, Musim Mas, Cargill, Fuji Oil, Hershey's, Kellogg's, General Mills, Unilever and Mars.

BOX 12

WILMAR INTERNATIONAL

The company began their 12 months period of analysing problems in North Sumatera concerning their labour practices to identify problems and to establish long lasting solutions. It is a collaboration between Wilmar International and Verite.

The scope of the verification included assessments of current labour and occupational health and safety policies, procedures and practices using internationally recognised standards including:

1. Roundtable on Sustainable Palm Oil (RSPO) Principles and Criteria
2. Palm Oil Innovation Group (POIG) Indicators
3. Wilmar's No Exploitation Policy
4. Free and Fair Labour Principles
5. Occupational Safety & Health standards used by:
 - i. International Labour Organisation (ILO)
 - ii. Occupational Safety and Health Administration (OSHA)
 - iii. World Health Organisation (WHO)

Outcome

Reduction of temporary workers

Wilmar has reduced the proportion of temporary workers in their plantations by converting temporary contract holders to permanent contract holders. These include workers whose blood tests showed a high chemical level in their blood. They were moved to other non-chemical handling jobs.

RSPO Human Rights Working Group (HRWG)

In 2014, RSPO Human Rights Working Group (HRWG) was formed to oversee the successful implementation of the **RSPO Principles and Criteria** and **associated Guidance**.

Furthermore, it also provides the RSPO Secretariat and RSPO members with a better understanding and supportive tools to effectively implement the **UN Guiding Principles on Business and Human Rights**.

The work of the HRWG is directly linked to the globally accepted UN Guidelines on Business and Human rights.

Under the RSPO, workers' rights slowly gain momentum as RSPO certified members are improving and changing their company policies to incorporate more protection towards their workers.

Many RSPO certified companies have publicly revealed the improvement and strengthening of their labour practices as shown in **Box 12**.

Nonetheless, there are still cases whereby RSPO certified companies have not improved or taken any steps to mitigate the social elements of their practices as shown in Case Study 1.

cont.

Policy Regarding Work on Official Rest Day

Previously workers, were allowed to work on Sundays and public holidays and were paid in cash by the end of the day. The company recognises that this informal system can be exploited and a potential hazard to the workers. Therefore, this informal system has been abolished. Workers now have the option of volunteering to undertake scheduled work that is available on Sundays and Public Holidays, with the statutory rest day and public holiday wage rate.

Improved and Standardised Payslips

The issue was that previous payslips was in English and was difficult to be understood by workers. Based upon review received, Wilmar has improved their payslips with better clarity on their pay, incentives and statutory incentives to reduce confusion. (Refer to Appendix 2 for example of improved and standardised payslip by Wilmar International)

Union Engagement - Facilitating better involvement of unions in decision making

Wilmar International recognises unions play a vital role in helping the workers understand their rights, and to help provide input to companies to improve work conditions. Currently, the company has forged a working relations with 2 unions.

Improving access to education

Wilmar International in Indonesia has established a programme to upgrade and modernise the schools around and in their oil palm estates by 2020. Wilmar is working closely with the Indonesian Education Ministry on this programme to ensure compliance of the Wilmar privately run schools .

Any allegations and complaints are taken seriously by RSPO and their supply chains.

REFERENCES

1. Asia Pacific Forum. (2012). Promoting and Protecting the Rights of Migrant Workers: The role of National Human Rights Institutions. Sydney, Australia, Retrieved from: <https://www.asiapacificforum.net/support/training/migrant-workers/>
2. Accenture for Humanity United. Exploitative Labour Practices in the Global Palm Oil Industry. Retrieved from https://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf
3. Saurin Siagan, Kartika Manurung, Pye, O. and Ramlah Daud. (2016). Workers in the Palm Oil Industry: Exploitative, Resistance and Transnational Solidarity. Stiftung Asienhaus, Germany. Retrieved from https://www.asienhaus.de/archiv/user_upload/Palm_Oil_Workers-Exploitation_Resistance_and_Transnational_Solidarity.pdf
4. RSPO. Principles & Criteria: For Production of Sustainable Palm Oil 2018. Retrieved from <https://rspo.org/>
5. RSPO. RSPO Policy on Protection of Human Rights Defenders, Whistleblowers, Complainants and Community Spokesperson. Retrieved from <https://rspo.org>
6. Lasimbang, H.B., Wen, T.T. & Wah, Y.L. (2016). Migrant workers in Sabah, East Malaysia: The Importance of legislation and policy to uphold equity on sexual and reproductive health and rights. Best Practice & Research Clinical Obstetrics and Gynaecology. (32), pg 113-123.
7. National Human Resource Centre. Sabah Labour Ordinance 1950. Retrieved from <https://wwwnhrc.com.my/sabah-labour-ordinance-1950>
8. National Human Resource Centre. HR Related Regulatory Requirements - Minimum Wages. Retrieved from <http://www.nhrc.com.my/minimum-wages>
9. Laws of Malaysia. Act 262. Trade Unions Act 1959. Retrieved from https://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act_262.pdf
10. Universal Declaration of Human Rights. Retrieved from https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
11. International Labour Organization. International Labour Standards Policy. Retrieved from [https://www.ilo.org/global/standards/international-labour-standards-policy/lang--en/index.htm](https://www.ilo.org/global/standards/international-labour-standards-policy/lang-en/index.htm)

MODULE 5

MODULE 5: SMALLHOLDERS

Who Are We?

In Malaysia, there are two types of smallholders, known as independent smallholders and schemed or associated smallholders.

According to Malaysia Palm Oil Board, schemed or associated smallholders are those under supervision of FELDA, RISDA, FELCRA and State Land Scheme whereas RSPO defines them as those who are structurally bound by a contract, a credit agreement or planning to a particular mill.

They do not choose which crop they grow, are supervised in their planting and crop management techniques, and are often organised, monitored or directly managed by the managers of the mill, estate or scheme to which they are structurally linked.

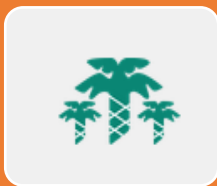
This module will be focusing on independent smallholders.

In general terms, **Independent smallholders** tend to be self-organised, self-managed and self-financed, and have more autonomy to choose how to use their lands, which crops to plant, and how to manage them.

They are not contractually bound to any particular mill or association, although they may receive support or extension services from government agencies (RSPO 2009). They tend to sell their crop to traders or directly to local mills and are free to negotiate to obtain the best price for their crop.

They may, therefore, have greater bargaining power, particularly where they form a well-organised group, although, in reality, the number of potential buyers for their crop may be limited (FSG 2010).

General Characteristics of Independent Smallholder Crop



Establishment

- seedlings sourced directly from private-nurseries
- development costs, e.g. land preparation, mostly self-funded



Maintenance

- self-harvested and maintained
- maintained by casual workers or contractors
- organised via dealership who maintains and harvests crop



Transport

- direct transport using own vehicle
- dealers organises transportation of fresh fruit bunches (FFB)



Point of Sale

- dealership
- direct to mill or mill appointed dealer

Establishment

The establishment of oil palm plantation by the smallholders are driven by various factors such as encouragement from the government, past crops that do not produce lucrative income, family heritage, environmental influences and favourable returns.

Maintenance

Some smallholders adopt self-harvesting and maintenance, while others use contract systems from independent individuals to manage the farm. They only receive net profits after deducting their maintenance, sales, fertiliser and crop treatment costs. This is due to a labour shortage, lack of knowledge regarding best practices and financial limitation.

Transport

Transporting fresh fruit bunches (FFB) within 24 hours after harvesting is a challenge for smallholders. Most smallholders do not own suitable vehicles of their own and have to rely on independent individuals or dealers to transport the fruits from their plantation.

Yield Production

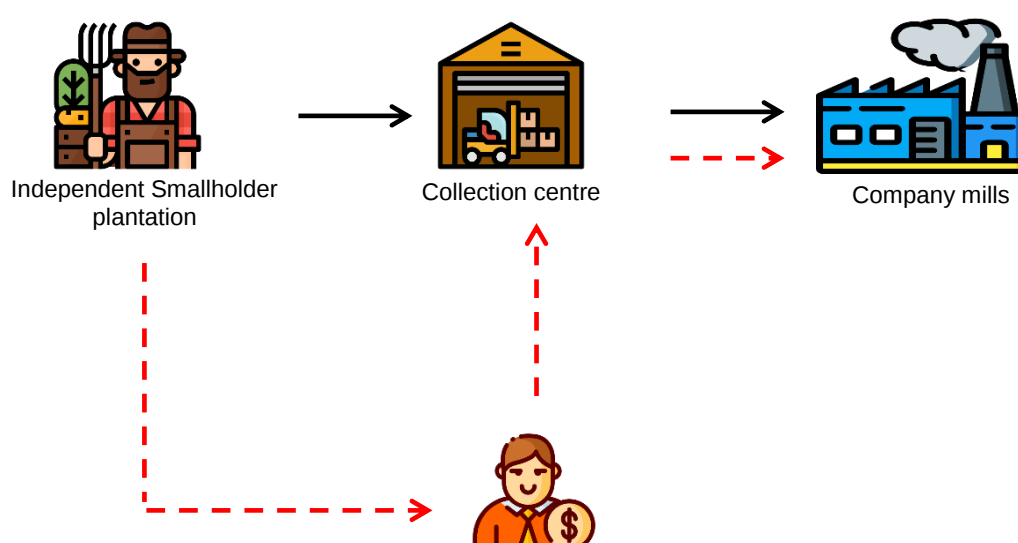
Smallholders' yields are generally lower than those of industrial plantations. One paper in 2012 reported that Malaysian smallholders produce an average of 17 tonnes of FFB per hectare per year, compared to the national average of 21 tonnes.

Point of Sale

The success of palm oil smallholders is on their initiative to increase their income and thus improve their standard of living. Typically, oil palm fruits will be harvested twice a month. However, sometimes they are picked three times a month, at every interval of ten days to avoid over-ripening of the fruits as they will decay.

Independent smallholder supply chain

The model below shows a simple supply chain for the independent smallholder, which includes collection centre as an aggregating point and company mills. The dealer plays the role of an intermediary between the collection centre and company mills.



Issues and Challenges Facing Smallholders

Independent oil palm farmers face several challenges. Since they are not part of an extension scheme, they receive limited institutional, technical and financial support and lack knowledge regarding best practices and new technologies.

In general, they receive limited external assistance in the form of training, credit services, seedlings or fertiliser, and are likely to be less productive and produce a lower quality crop.

Independent smallholders are unlikely to benefit from direct relationships with local mills. Often they rely on traders to purchase and transport their FFB to the mill and have no guarantees regarding the price that would be paid for their harvest.

BOX 13

How FFB Dealers Generally Generate Profits

FFB dealers generally adopt three techniques to generate profits.

1. Based on the differential rates between Oil Extraction Rate (OER) offered by the mills and the OER offered to the smallholders
2. FFB dealer does not offer a kernel extraction rate (KER) to the smallholders which is offered by the mills
3. FFB dealer charging the smallholders additional fees like transportation cost for sending the FFB from the smallholders' farms to their ramps and from their ramps to the mills, as well as other deductions such as fees for using the weighbridge and fees for the forklift.

Lack of Financial Support and Affordability to Seedlings and Fertilisers

Although support has been given through federal and state agencies for seed, fertiliser, insecticides and finance, not all smallholders are fortunate enough to receive it. Therefore, they have to issue significant capital for exploration, planting and periodic maintenance.

Dependency on dealers/middlemen

FFB dealers act as a middle sub-sector that links both FFB suppliers, i.e. smallholders and FFB receiver in the upstream level. Their role ideally includes:

1. To help the smallholders by sending their FFB to the mills usually within 24 hours to maintain the good quality of the fruits;
2. To separate the unripe from the ripe FFB harvested by smallholders;
3. To provide labour services for spraying, harvesting and fruit collection.

However, often, intermediaries acting as fruit brokers between farmers and mills charge exorbitant fees for their services or take a large chunk of the profits from farmers' oil palm sales.

Below is a scenario that exemplifies how smallholders often lose on their profit to go-betweens or dealers.

Scenario 1 (January 2008)

Table 1: Profit Generation by FFB Dealers

Item	Value of deduction	Gross profit (RM/t)	Total profit (RM/t)
The difference in OER offered by mills and offered to the smallholder	0.2%	3.60	3,654.00
Kernel extraction rate (KER) offered by the mills	5%	42.00	42,630.00
Transportation cost			
- from farm to the dealer's ramp	RM15.00/t	15.00	15,225.00
- from the ramp to the mill	RM20.00/t	20.00	20,300.00
Other deductions:			
- Fee for weighbridge	RM1.00/t	1.00	1,015.00
- Fee for forklift	RM1.50/t	1.50	1,522.00
Total gross profit (RM)			84,346.50
Total cost from the weight of FFB loss (RM)			3,400.00
Real total gross profit (RM)			80,946.50
Total gross profit for each tonne (RM)			79.80
Total cost (RM/t)			67.40
Total net profit (RM/t)			12.40
Total net profit in a month (RM)			12,586.00

Source: Ayat K. Ab Rahman, Ramli Abdullah, Mohd Arif Simeh & Faizah Mohd Shariff. (2009)

A dealer accepted an average of 19.00% OER from the mill, and later offered an OER of 18.80% to the smallholders.

The average price of FFB based on the OER offered by the mill was RM 340/t or RM 17.90 for every 1% of OER. Meanwhile, the dealer also accepted a 5% KER from the mill, valued at RM 42/t. In effect, the dealer received an original price of RM 382/t (RM 340 + RM42) in January 2008 from the mill.

Table 1 shows the profit made by the dealer in January 2008 when adopting all three techniques mentioned. Through option one, the dealer received around RM3.60 gross profit for each tonne of FFB collected. This is because the OER offered by the mill to the dealer was 19.00%, while he offered his smallholders a rate of 18.80%.

Therefore, there was a difference of 0.20%, representing a profit of RM 3.60 (RM17.90 x 0.20). The dealer also accepted a 5% KER offered by the mill (which the dealer did not offer to the smallholders). The dealer receives an extra profit of RM42/t.

For transportation fees, the dealer charged RM15 for each tonne of oil palm fruits collected from farm to ramp. At the same time, he also imposed an additional transportation fee from ramp to mill, which was RM 20/t. Lastly, the dealer deducted RM 1/t as a weighbridge fee and RM 1.50/t as a forklift fee.

Based on the calculation of profits shown in Table 1, the total gross profit generated by the dealer in question was RM 84,346.50 per month. To arrive at the net profit, there was another cost involved, i.e the cost FFB weight loss which is usually 1% out of total FFB collected in a month. This weight loss was valued at RM 3,400.00.

Therefore, the real gross profit became RM 80,946.50 for the month, which then gave a total gross profit of RM 79.80/t. Thus, the total net profit received by this dealer was RM 12.40/t (RM 79.80 - RM 67.40) of the FFB collected, or RM 12,586 a month (RM12.40 x 1015t).

From the scenario above, five elements of inefficiencies among the oil palm dealers can be identified.

1. Offering OER to the smallholders without following standard procedures

This is mainly due to high competition among themselves in their areas. Therefore, they usually fix the OER to be offered to the smallholders. This is to ensure that the price offered will be standardised among them. There were also dealers who have never attended any grading course.

If the dealers offer the same OER accepted from mills to smallholders, the dealers tend to mix FFB received from various smallholders at their ramps until there was enough to make a trip to mills. This meant that there would be several smallholders owning the oil palm fruits in a

trailer which would be of varying qualities. Thus, different OER should be offered to different smallholders. It is an unfair practice if the dealers only offered an OER to the smallholders based on the average OER the former received from the mills, especially for those smallholders who produced high-quality oil palm fruits. The study by Ayat K Ab Rahman et.al (2009) observed that the majority of the dealers followed this unfair practice.

2. Not offering KER to smallholders

The dealers did not declare the KER to oil palm smallholders. There are cases where middlemen or dealers opted not to inform smallholders of this information when determining the price of the FFB for smallholders.

This is because the dealers used the margin from KER as a fee for transportation. As a result, all smallholders were charged the same transportation fee which was not fair to the smallholders who were located closer. The distance from the oil palm holding for each smallholder to their dealer's ramp is different from one smallholder to another. The transportation fee for smallholders is supposed to be based on the actual distance of their oil palm farm to the dealer's ramp.

If KER was not declared to the smallholders, it would become a hidden charge for transportation imposed by the dealers on smallholders. The charge for transportation imposed from KER is not fair to smallholders especially during the times when the kernels fetch high prices. However, some dealers claimed there was no offer from the mill.

This situation usually happens when a dealer uses another dealer's account to send their oil palm fruits to the mills. This is because a dealer who has an account with a mill would use the extra boost in price from KER as his/her fee to other dealers who did not have accounts with the mills. Therefore, these particular dealers cannot include KER as an element to determine the price of oil palm fruits to the smallholders they service.

3. Dirty conditions at the ramp

Muddy and dirty conditions at the ramps cause inefficiency and reduce the quality of the FFB when sent to mills. FFB that contains a lot of mud and soil would affect the milling process. In addition, rainwater can also reduce the quality of FFB.

4. Delay in conveying FFB harvested by smallholders

The delay in sending FFB harvested by smallholders contributes to the quality of the fruits.

According to a study conducted, one of the reasons given was due to the lack of lorries to move FFB, especially during the weekends. Another reason was that during the rainy season, the job to transport FFB is difficult, especially for holdings located far from the main road and high probability for the lorry to get stuck in the mud which could result in breakdowns during the rainy season.

5. Conveying unripe FFB

Some dealers do not take the time to separate the ripe and unripe FFB received from the smallholders. According to the dealers, they do it due to high competition among them. The dealer also claimed that the smallholders would get angry if any FFB were left behind at their farms and that they threatened to sell their FFB to other dealers the next time around. Hence, the dealers were forced to accept unripe FFB.

This was to avoid losing their customers in the long-term. This element of inefficiency reduced the average OER offered to them as a result of the low OER offered by the mills.

BOX 14

The effect of rainwater

If the oil palm FFB gets wet, the water will penetrate the fruits, thus affecting the quality

What smallholder needs to know about RSPO Certification?

RSPO certification helps **smallholders** increase yields, penetrate international markets, improve their livelihoods, and reduce the risk of land conversion. **Certification** is a symbol of credibility and proof of sustainable practice in operations.

Benefits to Smallholders



Improved
management practices



Better quality
fresh fruit bunches (FFB)



Increased yield
and access to markets



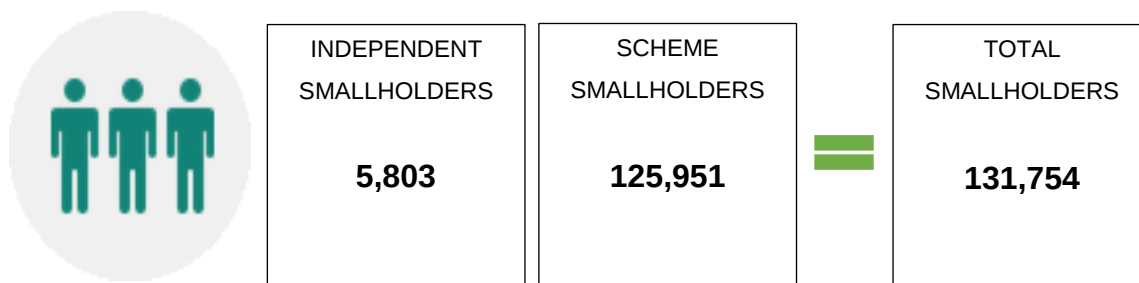
Introduction to Smallholder Certification

NOTE TO TRAINER

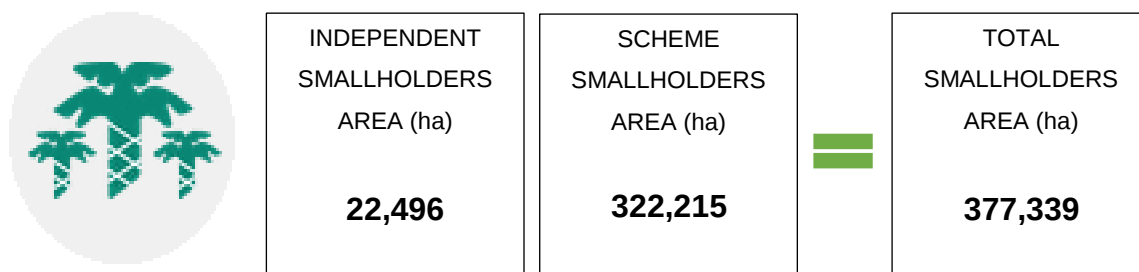
Show the video – **RSPO CERTIFICATION FOR SMALLHOLDER**

RSPO Smallholders Certification by the numbers

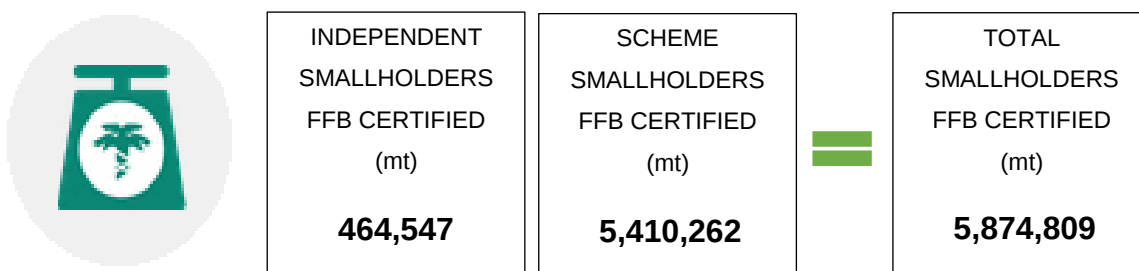
NUMBER



AREA



VOLUME



Source: Market Data, April 2019

RSPO Definition of Independent Smallholder

RSPO defines independent smallholder as



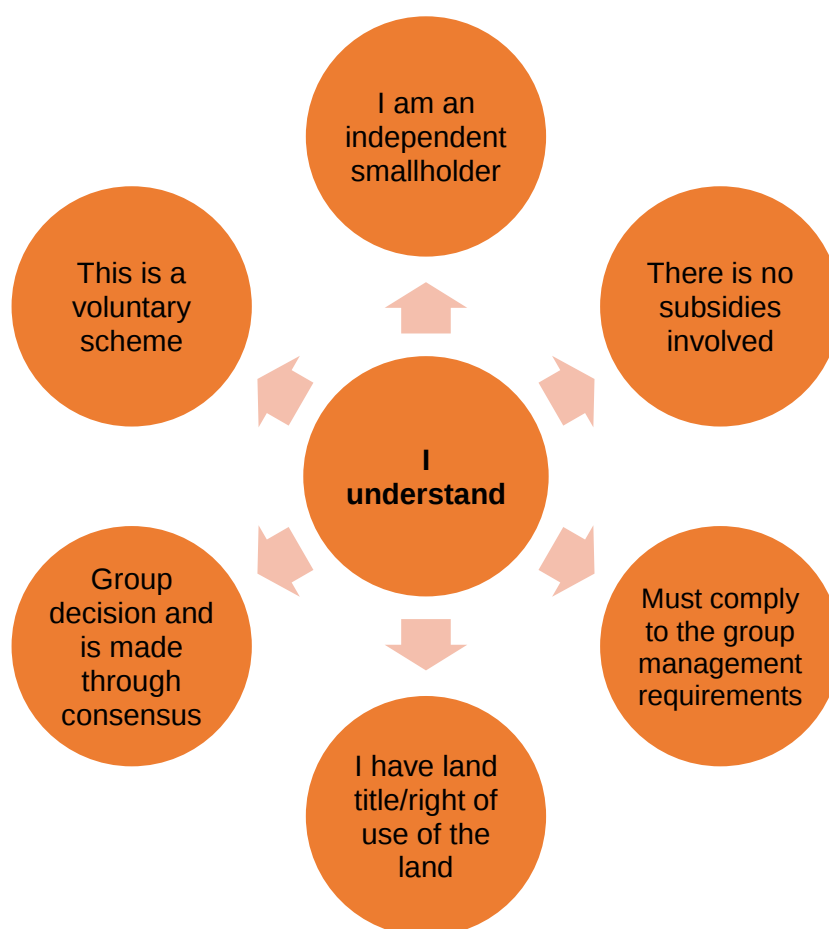
Farmers who grow oil palm, alongside subsistence crops, where the family provides the majority of labour and the farm provides the principal source of income, and the planted oil palm area is less than 50 hectares

Independent smallholders are characterised by their freedom to choose how they utilise their lands, type of crops to plant, and how they manage (being self-organised and self-financed).

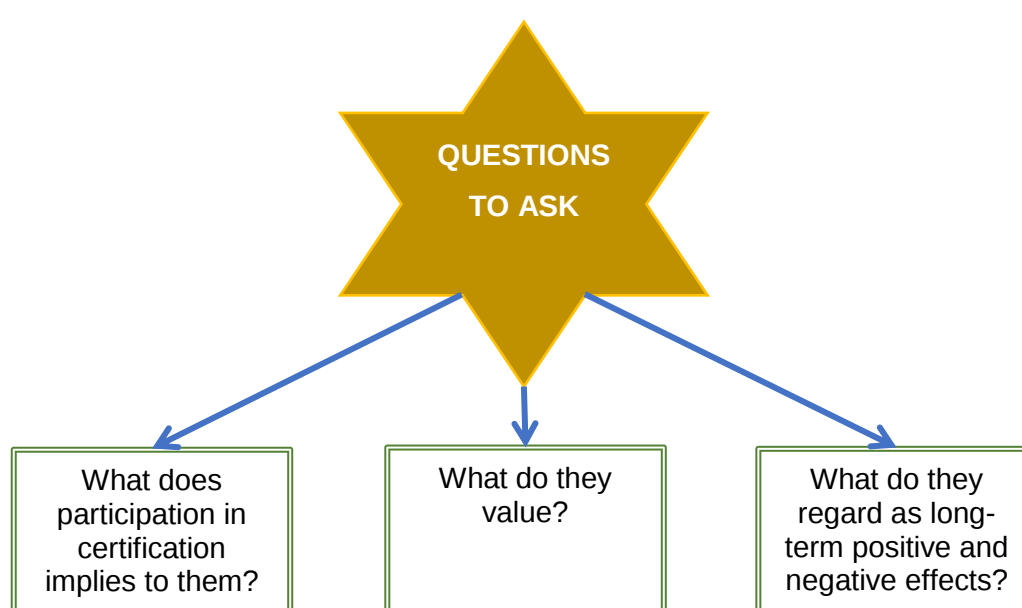
Am I an Independent Smallholder?

	YES	NO
I am NOT a scheme smallholder	√	X
The total size of my oil palm production areas is: ➤ smaller or equal to 50 ha if no threshold is defined in National Interpretation	√	X
I have enforceable decision-making power on the operation of the land and production practices	√	X
I have the freedom to choose how I utilise the land, type of crops to plant, and how I manage them (whether and how they organise, manage and finance the land)	√	X
I meet any further criteria relative to the applicability of this standard as provided in the National Interpretation in my country	√	X

I am a certified independent smallholder



What is a smallholder farmers' perspective?



What motivates smallholder to join Certification?

Smallholder motivation is required for successful implementation of certification. Smallholders are mostly driven by economic reasons to join certification projects.

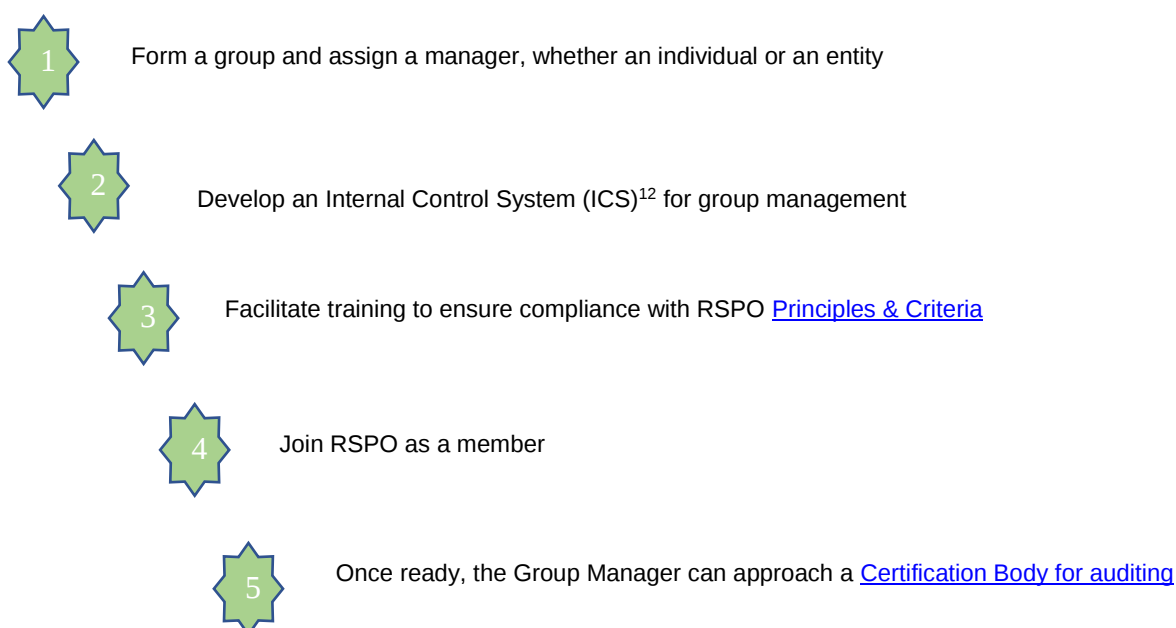
In addition to a price premium, they are tempted by the prospect of learning new things and improving their agronomic practices.

Other reasons to join include status, following a local community leader and fear to be left out.



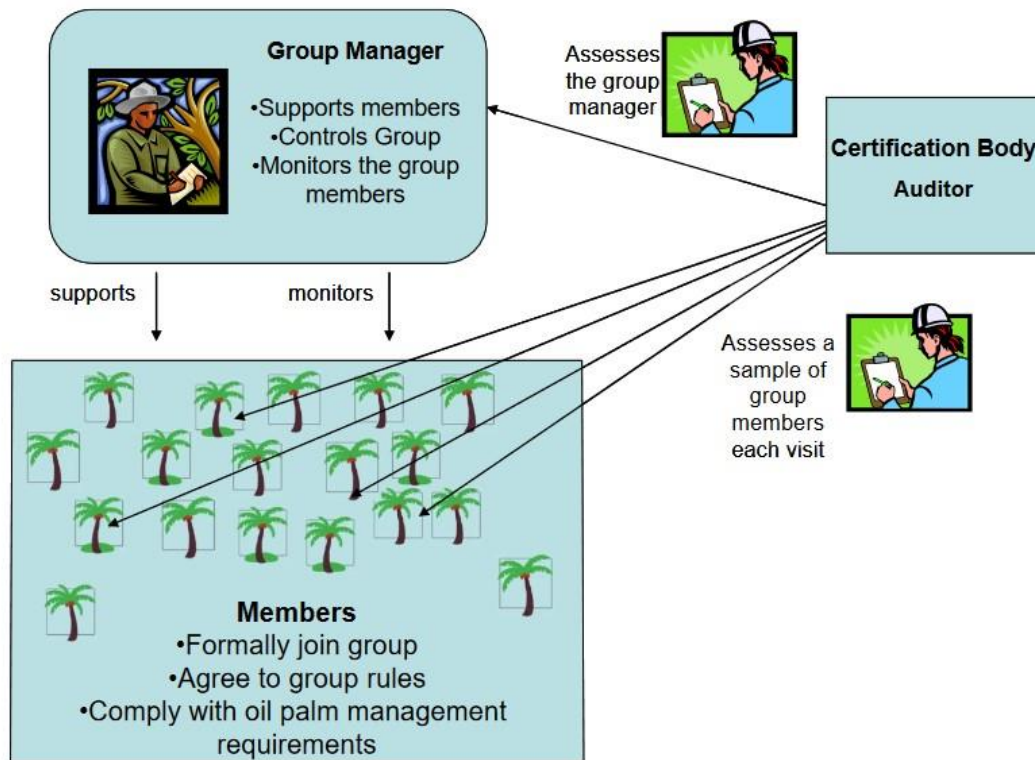
- Financial
- Marketing tool
- Better practices

Steps towards certification



¹² ICS is a documented quality assurance system that allows the external certification body to delegate the annual inspection of individual group members to an identified body/unit within the certified operator

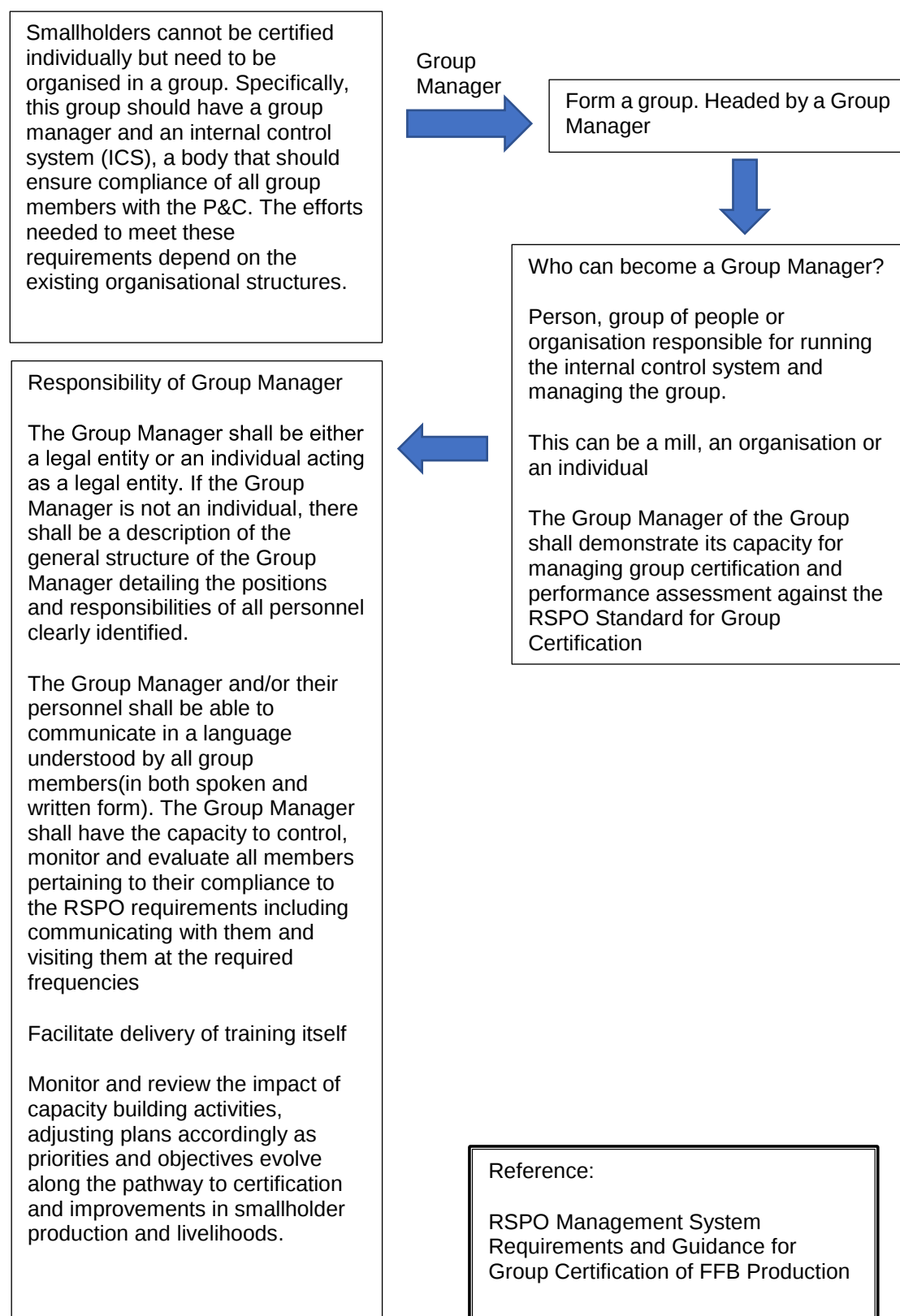
How Independent Smallholder Group looks like



Source: RSPO website: <https://rspo.org>

The functions of the independent farmer group are not only limited to supervision and knowledge sharing but also include activities such as coordinating plantation activities to gain benefits from economies of scale.

Smallholder organisational demands



Benefits of Participation in Certification

Certification potentially contributes to an increase of smallholders' financial capital and hence contributes positively to the livelihood outcomes (more income). Within this context, certification is particularly valued by the smallholders because participation increases the volume and quality of their production, which opens opportunities for a higher income.

Furthermore, understanding of Good Agricultural Practices encourages them to apply the right fertilisers at the right time and with the correct dosage, which also increases the productivity of the plantation.

1. Direct Effects

Direct effects are closely related to the new organisational structure, which provides the farmers with the necessary training to become certified. Therefore, these direct effects have already been visible or materialised from the first year of certification and can be identified as short term benefits. Farmers' organisations are trained by the certification facilitators (companies or NGOs) to better manage their business (including filing data), to better communicate with members, and to build business relationships with the company and input supplier. This contributes positively to farmer's social capital (e.g. increase opportunities for networks and relationships) and human capital (skills and knowledge). The majority of smallholders hold the view that the farmer organisation's staff is better trained and their services improved. They also feel that they have more opportunities to participate in the organisations.

2. Knowledge Transfer Improved

Smallholders are given training on Good Agricultural Practices to ensure methods are applied safely and sustainably to create better quality fruits. This is one of the requirements needed to be certified under the RSPO certification. Mills receiving fresh fruit bunches from the smallholders are also encouraged to educate and give training to their suppliers. In addition to that, it improves the relationships and collaboration between both parties.

3. Healthy and Safe Working Conditions

Smallholders receive sufficient information on the safe use of chemical pesticides and secure ways to deal with chemical waste. Also, they are introduced to healthy and safe working conditions, first aid, and ways to deal with a fire that, in turn, contribute to better health conditions. Additionally, smallholders get access to elements of physical capital such as safety tools (masks, boots, helmets, gloves and affronts), chemical storage systems, sanitary rooms.

NOTE TO TRAINER

Show the video – DISCOVER HOW RSPO
IMPROVES PRACTICES AMONG SMALLHOLDERS

A study on Sustainability Certification and Palm Oil Smallholders' Livelihood by Hidayat, Glasbergen and Offermans looks into what smallholders gain after being certified. The table below shows a summary of their findings.

Table 1: Benefits of certification on smallholders' livelihood

Assets	Direct	Indirect	Short Term	Long Term	Visible	Expected
Social Capital						
Strengthening organisation	√	√			√	
Increasing smallholders' trust in organisation		√	√			√
Increasing participation in organisations		√	√			√
Increasing connections and networking		√	√			√
Human Capital						
Increasing opportunity for training (improving knowledge and skill)	√	√			√	
Better health		√	√			√
Physical Capital						
Providing safety equipment and building chemical storage system, sanitary room, waste pond, etc	√	√			√	
Natural Capital						
Conserving soil and water quality		√	√			√
Protecting biodiversity		√	√			√
Financial Capital						
Increasing income		√	√		√	
Increasing credit access		√	√			√
Premium fee		√	√		√	

NOTE TO TRAINER

Show the video – THE STORY OF RUSMAN & THE
ENVIRONMENTAL BENEFITS OF SMALLHOLDER
FARMING SUSTAINABLY

Support programme for smallholders by RSPO

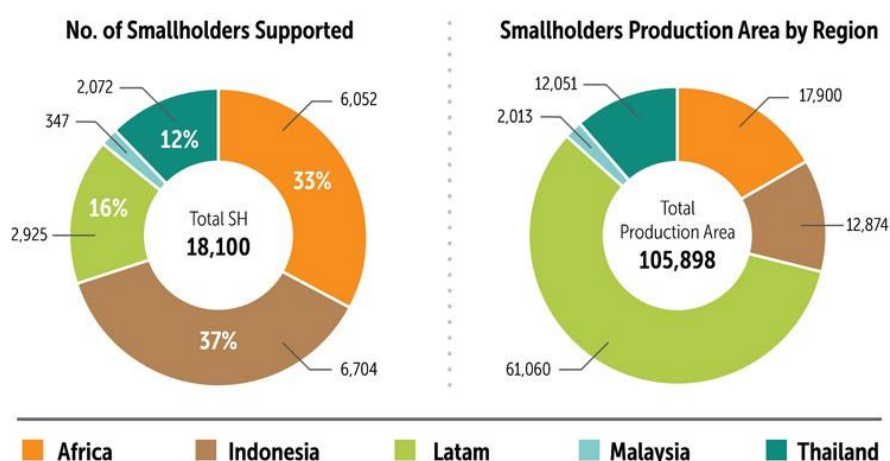
RSPO has established a support fund known as **RSPO Smallholder Support Fund (RSSF)** to overcome hurdles to Smallholder certification and to assist smallholders in getting RSPO certified, reducing cost implications through funding that could be used across three main categories:

1. Certification
2. Audit
3. Impact

From 2013-2018, RSSF received a total of 101 applications and has approved funding for 39 smallholder projects.

A total of RM 20.1 million was disbursed to smallholders during this period, 80% of which was utilised for Certification activities, followed by Impact activities (19%) and Audits (1%).

The RSSF has to date benefited 18,100 smallholders, who collectively manage a production area covering 105,898 hectares of land in Indonesia, Malaysia, Thailand, Africa and Latin America.



Source: RSPO website: <https://rspo.org>



How does RSSF work?

RSSF is funded from 10% of the revenue generated from the trade of Certified Sustainable Palm Oil (CSPO). The funds are used to support smallholders with the costs incurred for training, project management, High Conservation Value (HCV) and Social and Environmental Impact Assessment (SEIA), audit costs, as well as the tools and techniques to support smallholder development.

Who can apply for RSSF?

1. A legal entity or registered smallholder group
2. Those with sufficient experience in working with smallholders or group manager
3. Those wanting to support and promote the production of sustainable palm oil i.e NGOs, partners, etc

What can RSSF be used for?

1. **Smallholder Certification Project:** Up to 50% of the RSSF grant go towards the activities which assist smallholders in preparing for certification, e.g. the cost of Best Management Practices (BMP) training, the elaboration of a documentation system, or the cost of strengthening the smallholder group's management system, e.g. the internal control system.
2. **Smallholder Certification Audit Cost (one-off only):** 100% of the audit costs for all potential certification processes of independent smallholder groups, with the option to include one surveillance audit for each applicant. The funding **does not include** Pre-Audit Assessment.
3. **Smallholder Impact Project:** This refers to any project other than the projects and audit costs mentioned above. RSSF also supports initiatives to develop tools that help smallholders comply with RSPO certification. These can include mapping smallholder plantations, HCV assessments in high-risk areas, and smallholder participation in jurisdictional areas etc.

How to apply for RSSF?

The applicant needs to identify the type of funding required by downloading and complete the proposal template as listed below:

1. Request funding for the Smallholder Certification Audit Cost
2. Request funding for a Smallholder Certification Project
3. Request funding for a Smallholder Impact Project.

Information regarding RSSF and proposal templates can be downloaded from the www.rspo.org website under the Smallholder Hub.

NOTE TO TRAINER

Show the video – **RSPO SMALLHOLDER SUPPORT FUND**

RSPO Smallholder Engagement Platform

RSPO has provided a platform called RSPO Smallholder Engagement Platform to empower smallholder farmers and engaging them in sustainable supply chains.

The platform aims to connect smallholders with potential project partners, as well as to provide additional resources and support.

This platform gives an opportunity to smallholder groups who are looking to connect with a project partner or a market player looking to support a smallholder project. This platform can be accessed at <https://rsep.rspo.org/>

NOTE TO TRAINER

Show the video - **RSPO SMALLHOLDER
ENGAGEMENT PLATFORM'**

REFERENCES

1. IFOAM. (2004). Smallholder Group Certification: Training Curriculum for Producer Organizations. Compiled by IMO (Institute for Market Ecology) & Bioglobal, New Zealand.
2. Rosniza Aznie, C.R, Novel Lyndon, Yaakob, M.J., Mohd Azlan,A., Syahiran,M.D., et.al. (2018). Independent Oil Palm Smallholder's Challenges in Malaysia. International Journal of Academic Research in Business & Social Sciences. Vol. 8, No. 13. Special Issue: Community Development & Social Mobility, 68-75. <https://doi.org/10.6007/IJARBS/v8-i13/4810>
3. Ayat K. Ab Rahman, Ramli Abdullah, Mohd Arif Simeh & Faizah Mohd Shariff. (2009). Management of the Malaysian Oil Palm Supply Chain: The Role of FFB Dealers. Oil Palm Industry Economic Journal. Vol 9(1).
4. Azman Ismail, Siti Mashani Ahmad & Zuraihan Sharudin. (2015). Labour Productivity in the Malaysian Oil Palm Plantation Sector. Oil Palm Industry Economic Journal. Vol 15(2).
5. RSPO. Code of Conduct. Retrieved from <https://rspo.org/>
6. RSPO. Principles & Criteria: For Production of Sustainable Palm Oil 2018. Retrieved from <https://rspo.org/>
7. Bronkhorst E, Cavallo E, van Dorth tot Medler M-M, Klinghammer S, Smit HH, Gijsenbergh A, van der Laan C. 2017. Current practices and innovations in smallholder palm oil finance in Indonesia and Malaysia: Long-term financing solutions to promote sustainable supply chains. Occasional Paper 177. Bogor, Indonesia: CIFOR
8. Nia Kurmawati Hidayat, Glasbergen, P. & Offermans, A. (2015). Sustainability Certification and Palm Oil Smallholders' Livelihood: A Comparison between Schemed Smallholders and Independent Smallholders in Indonesia.

MODULE 6

MODULE 6: COMPLAINTS MECHANISM IN THE RSPO

Introduction

The reason why most good certification groups have a complaints mechanism is due to their commitment towards sustainability under the UN Framework and Guiding Principles on business and human rights that rests on three pillars (Protect, respect and remedy):

1. The state's duty to protect against human rights abuses by third parties, including business;
2. The corporate responsibility to respect human rights;
3. Greater access by victims to an effective remedy, both judicial and non-judicial.

Most Certification bodies and investment banks are required to have a Complaints mechanism within their system. How good this mechanism varies from group to group. RSPO has one of the better models due to it being tested and tried for many years, with huge improvements that were put in place in 2017 due to members who submitted complaints and followed the process through.

The initial grievance mechanism was very basic, and due to lack of procedural steps had a lot of problems. There was also an increase in complaints, and RSPO had to improve its grievance procedures and processes. The members put in a resolution to review the process and to improve the system due to unsolved complaints going on for many years. The whole RSPO grievance process had to be overhauled, and a new system was created in 2017.

RSPO COMPLAINTS MECHANISM (from RSPO website)

The Complaints System is a fair, transparent and impartial process to duly handle and address complaints against RSPO members. It is not intended as a replacement for legal requirements and mechanisms in force.

The purpose of the Complaints System

- 1) Provides a framework and mechanism for RSPO to address complaints against any RSPO members;
- 2) Ensures that any alleged breaches of specific RSPO Key Documents, including the RSPO Statutes, By-laws, Code of Conduct, Principles & Criteria for Sustainable Palm Oil Production, and Certification System, amongst others, are fairly, impartially and transparently resolved;
- 3) Protects RSPO's integrity.

Who can use the Complaints System

1. RSPO members
2. Non-members including affected communities (and their nominated representative), workers and/or other interested parties.

RSPO wants to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a complaints process on a fair, informed, and transparent basis. All parties to the Complaint shall, at all times, engage in good faith in the related processes and per the established procedures.

Mechanisms under the RSPO Complaints System

1. RSPO Complaints and Appeals Procedures
2. RSPO Dispute Settlement Facility.

What are the RSPO Complaints and Appeals Procedures

The RSPO Complaints and Appeals Procedures outline the necessary steps for handling complaints and appeals. Guided by the principles of accessibility, efficiency, impartiality, accountability and independence, the RSPO Complaints and Appeals Procedures complement legal mechanisms, providing an alternative channel to address violations of RSPO's standards, procedures, and codes, as established in its Key Documents.

BOX 15

1. Familiarise participants with the case tracker on the RSPO website.
2. Break into groups and each group to be given a case.
3. The group then fills up a complaints form using the breaches of the Principles and Criteria 2018.
4. Review the cases per group.

How to submit a Complaint

You may file a complaint online. Alternatively, you may download the Complaints form and send to complaints@rspo.org. Please read all relevant information before submitting a complaint.

Confidentiality

Transparency should be the rule, confidentiality the exception. Some information can be kept confidential if the complainant is fearful of any repercussions of making a complaint.

Information should be presented objectively, preventing judgement or favouring any of the parties.

How the Complaints and Appeals Procedures

Note: Go through the website and show everyone the links and how to access the site.

NOTE TO TRAINER

Go through the website and show everyone the links and how to access the site.

Complaint Form

Appendix 5 – Complaints Form to be handed out to all.

REFERENCES

<https://askrspo.force.com/Complaint/s/casetracker>

<https://askrspo.force.com/Complaint/s/>

APPENDICES

Appendix 1: UN Declarations

ORGANISATION	FUNCTIONS
United Nations Declaration on the Rights of Indigenous People (UNDRIP)	The Declaration is a comprehensive statement addressing the human rights of indigenous peoples. It was drafted and formally debated for over twenty years before being adopted by the General Assembly on 13 September 2007. The document emphasises the rights of indigenous peoples to live in dignity, to maintain and strengthen their own institutions, cultures and traditions and to pursue their self-determined development, in keeping with their own needs and aspirations. The adoption of the UN Declaration on the rights of indigenous peoples which has a positive impact on the protection of victims and, in this context, urge[d] States to take all necessary measures to implement the rights of indigenous peoples in accordance with international human rights instruments without discrimination...” (UN Office of the High Commissioner for Human Rights, <i>Outcome document of the Durban Review Conference</i> , 24 April 2009, para. 73).
The International Labour Organisation 169 (ILO 169)	The International Labour Organisation (ILO) is an agency of the United Nations dedicated to improving working conditions of the citizens of its member states. In 1957, the ILO developed and ratified Indigenous and Tribal Populations Convention, 1957 (No. 107), an international instrument dedicated to improving the living conditions of Indigenous peoples worldwide.

	In 1989, ILO Convention 107 was revised and renamed Indigenous and Tribal Peoples Convention, 1989 (No. 169). Convention 169 recognises Indigenous peoples' right to self-determination within a nation-state while setting standards for national governments regarding Indigenous peoples' economic, socio-cultural and political rights, including the right to a land base. The convention is law within the nation-states that have ratified it. The Convention calls upon the government to uphold these rights and to recognise Indigenous peoples' unique historical and socio-economic position within the state and their integral connection to their territories, and protects them against displacement.
The International Labour Organisation (ILO) Core Labour Standards,	The International Labour Organisation (ILO) is an agency of the United Nations dedicated to improving working conditions of the citizens of its member state. In 1998, the ILO produced the Declaration on Fundamental Principles and Rights at Work. In the Declaration, ILO member states agreed that they should all respect, promote, and realise core labour standards (whether they have been ratified or not). • The core labour standards consist of five standards, laid out in eight conventions: • Freedom of association and the effective recognition of the right to collective bargaining (Convention No. 87 & No. 98) • The elimination of all forms of forced and compulsory labour (Convention No. 29 & No. 105) • The effective abolition of child labour (Convention No. 138 & No. 182) • The elimination of discrimination in respect of employment and occupation (Convention No. 100 & No. 111)

Appendix 2: Masyarakat Telaga

ARTIKEL 1: MENGGUGAT FPIC KISAH PENOLAKAN MASYARAKAT TELAGA

Oleh Azmi Sirajuddin

Mengapa Menolak

Kampung Telaga yang terletak di Kecamatan Dampelas, Kabupaten Donggala, Sulawesi Tengah kembali menjadi tumpuan. Perkara ini bukan disebabkan tentang rencana festival tahunan Danau Dampelas (Danau Telaga), melainkan penolakan masyarakatnya terhadap konsep FPIC.

Pada awal bulan februari 2012, kerajaan Indonesia dan provinsi Sulawesi Tengah telah mensosialisasikan gagasan FPIC di Sulawesi Tengah melalui kumpulan kerja REDD+. Namun demikian, semasa sesi sosialisasi ini dijalankan di Kampung Sabang yang turut di hadir oleh ketua perkhidmatan hutan Sulawesi Tengah dan perwakilan masyarakat Telaga menyuarakan penolakan mereka ke atas konsep FPIC.

Terdapat dua sebab mengapa masyarakat Telaga menolak konsep FPIC iaitu yang pertama adalah masyarakat Telaga trauma terhadap proses penetapan kawasan pengurusan hutan (KPH) Dampelas-Tinombo.

Pada tahun 2009, kerajaan melalui Jabatan Perhutanan telah meluluskan seluas 100.912 ha sebagai kawasan pengurusan hutan (KPH). Perkara ini menyebabkan masyarakat Telaga terkejut dan ditambahkan lagi dengan tanda sempadan yang dibuat memasuki kawasan pertanian masyarakat Telaga.

Masyarakat Telaga adalah masyarakat tempatan yang sudah lama mendiami, mengusaha serta menguruskan tanah-tanah yang terdapat di sekitar hutan tersebut. Namun demikian, masyarakat Telaga tidak pernah dilibatkan bersama dalam proses membuat keputusan dalam penetapan kawasan pengurusan hutan (KPH).

Oleh sebab itu, masyarakat Telaga meragui niat baik kerajaan dalam setiap program pembangunan yang ditawarkan kepada mereka termasuklah Skema REDD+ yang telah dibawa masuk ke Sulawesi Tengah pada tahun 2010.

Kedua, masyarakat Telaga menolak konsep FPIC atas sebab prinsip yang terkandung dalam FPIC sendiri tidak dapat dipenuhi terutamanya konsep, 'consent', yang menekankan bahawa masyarakat mempunyai hak untuk menyuarakan keputusan atau pendapat mereka sendiri baik secara langsung

atau diwakili oleh pihak perwakilan. Dalam konteks (KPH) Dampelas-Tinombo, masyarakat Telaga merasakan mereka tidak diberikan ruang, 'consent', oleh pihak-pihak yang terlibat.

Kerajaan sendiri tidak pernah membawa mereka untuk ikut serta dalam perbincangan mengenai penetapan kawasan (KPH). Oleh sebab itu, masyarakat Telaga menyatakan pendirian menolak konsep FPIC untuk menerima Skema REDD+. Tambahan, maklumat mengenai REDD+ tidak pernah disampaikan secara langsung kepada kerajaan melainkan hanya diberikan dan dikongsikan kepada beberapa organisasi masyarakat awam sahaja.

Sama seperti dari kumpulan kerja pemantauan REDD+ Sulawesi Tengah. Justeru itu, masyarakat bimbang jika proses penentuan keputusan dalam Skema REDD+ yang dijalankan di Sulawesi Tengah juga akan ditentukan oleh satu pihak sahaja sama seperti penetapan (KPH) Dampelas-Tinombo.

Selepas Penolakan

Banyak tanggapan yang dapat dikaitkan dengan sikap masyarakat Telaga. Misalnya, ketua perkhidmatan hutan Sulawesi Tengah menjangka akan berlakunya provokasi di sebalik penolakan tersebut.

Kumpulan kerja pemantauan REDD Sulawesi Tengah adalah antara pihak yang dijangka akan membuat provokasi, namun demikian ia ditepis oleh Forum Pemerhatian Tano Dampelas.

Pihak UNREDD Indonesia mempunyai tanggapan yang lebih baik mengenai sikap masyarakat Telaga. Meski pun UNREDD Indonesia adalah pelaksana projek bagi, 'kesediaan REDD+' di Sulawesi Tengah. Hal ini disebabkan hasil perjumpaan antara kumpulan kerja pemantauan REDD Sulawesi Tengah dan perwakilan masyarakat dengan UNREDD Indonesia di Jakarta.

Dalam perjumpaan yang diadakan pada 27 Mac 2012, penjelasan daripada perwakilan masyarakat berkenaan dengan isu penolakan oleh masyarakat diperolehi. Penilaian ke atas sosialisasi konsep FPIC hanya dipersetujui selepas penerangan daripada perwakilan masyarakat diperolehi.

Bagi menangani pelbagai spekulasi berkenaan dengan pasca penolakan oleh masyarakat Telaga, kumpulan kerja pemantauan REDD Sulawesi Tengah telah membuat perancangan untuk mengadakan dialog yang mempertemukan semua pihak yang terlibat (perwakilan masyarakat Telaga, Ketua Perkhidmatan Hutan Sulawesi Tengah, kumpulan kerja pemantauan REDD Sulawesi Tengah dan juga UNREDD Indonesia).

Melalui perjumpaan ia diharapkan dapat membincangkan semula mengenai penolakan masyarakat terhadap konsep FPIC kumpulan kerja REDD+ Sulawesi Tengah.

Apakah ada alternatif lain?

Sepertinya, kita memerlukan alternatif selain daripada konsep FPIC atau Padiatapa, kerana apa yang disebut sebagai “penglibatan penuh dan efektif daripada pelbagai kelompok berkepentingan termasuklah masyarakat adat dan tempatan ditekankan dalam undang-undang antarabangsa.

Walaupun dalam perjanjian Cancun Mexico, dalam Artikel 72 tidak secara langsung menyatakan itu adalah FPIC. Tetapi mungkin ada pilihan lain yang boleh diguna pakai untuk memperolehi kesepakatan pelbagai pihak dalam Skema REDD+ Sulawesi Tengah.

Misalnya, konsensus tentang pembangunan karbon rendah berasaskan tiada penebangan hutan di Amazonia di mana pelbagai pihak yang berkepentingan di kawasan hutan Amazon di Brazil sepakat untuk menyelamatkan hutan dan mengurangkan pelepasan karbon.

Ini termasuklah peranan penting kumpulan masyarakat adat dan tempatan di Amazon. Walaupun pada akhirnya, konsensus itu diterajui oleh sistem kerajaan birokrasi Brazil yang menjadi isu elit di peringkat kebangsaan.

Sebenarnya, permintaan masyarakat Telaga adalah sangat mudah.

Menurut ketua kampung Telaga, Encik Ibrahim, masyarakat hanya mahu perbincangan bersama sebagai asas untuk membuat keputusan dan bukannya akur dengan keputusan yang sudah ditentukan di Jakarta mahupun di Palu.

Logik daripada permintaan yang sangat mudah dari masyarakat Telaga ini adalah proses untuk membuat keputusan sepatutnya melalui persetujuan masyarakat dan bukan ditentukan oleh satu pihak sahaja oleh kerajaan.

Oleh itu, dalam konsep FPIC yang mudah adalah perbincangan bersama adalah asas untuk mencapai kesepakatan atau keputusan dan bukan mengabaikan keterlibatan pihak masyarakat tempatan.

Konsep sedemikian lebih diterima oleh masyarakat daripada konsep FPIC kerana ini sudah sebatian dengan masyarakat sejak dahulu lagi.

Appendix 2(a): PT.Agrowiratama

Latar belakang dan kawasan kajian

PT. Agrowiratama adalah anak syarikat kumpulan Musim Mas dan merupakan anggota RSPO. PT. Agrowiratama merupakan syarikat pertama di Indonesia yang menjalankan Prosedur Penanaman Baru RSPO (RSPO NPP)¹³.

Bersesuaian dengan persyaratan NPP, syarikat memasukkan semua maklumat mengenai perancangan untuk memperluaskan kawasan perladangan di Sambas pada awal tahun 2011. Lokasi kajian adalah di Kalimantan Barat, Indonesia yang dikelilingi oleh deretan pergunungan dengan keluasan 147.307 km² dengan jumlah penduduk hampir empat setengah juta orang pada tahun 2010.

Lokasi penanaman baru PT. Agrowiratama terletak di Kabupaten Sambas dengan kadar penduduk setengah juta orang dengan luas sekitar 6.400km dengan 12 daerah kecil dan bersempadan dengan Sarawak (Malaysia) di sebelah utara, Kota Singkawang di sebelah selatan, Laut Natuna di sebelah barat dan kabupaten Bengkayang di sebelah timur.

Pada tahun 2008, sektor perhutanan menyumbangkan sekitar setengah dari PAD Kalimantan Barat dengan sekitar USD\$1.35 juta dari sektor pertanian dengan kadar pertumbuhan pelaburan yang menggalakan terutamanya dalam sektor perladangan kelapa sawit. Dalam tahun 2007 hingga 2008, 27% penebangan hutan di kawasan tanah gambut di Kalimantan Barat dikaitkan dengan perladangan kelapa sawit.

Jumlah keluasan tanah untuk rancangan perladangan Syarikat Kumpulan Musim Mas di Kabupaten Sambas adalah seluas 30.000 ha dan mempunyai empat ladang di Kabupaten Sambas iaitu PT. Agrowiratama 1, PT. Agrowiratama 2, PT. Mulia Indah dan PT. Musim Mas. Kawasan penanaman baru PT. Agrowiratama berada dalam kawasan Areal Penggunaan Lain (APL), sesuai dengan keputusan Menteri Pertanian dan Perhutanan No.259/KPTS-II/2000.

¹³ New Plantings Procedure (Prosedur Penanaman Baru) dirumuskan pada tahun 2010 dan mewajibkan anggota RSPO untuk memasukkan informasi dalam website RSPO mengenai perancangan mereka untuk membuka kawasan perladangan baru, bersama dengan ringkasan bagaimana mereka akan menjalankan Penilaian Nilai Konservasi Tinggi (HVC), kajian kesan dan proses yang akan digunakan. Di bawah prosedur ini syarikat harus memberikan masa dalam 30 hari untuk menerima komen mengenai perancangan mereka dan harus menunda penanaman sekiranya terdapat pihak yang membantah dengan bukti bahawa syarikat melanggar persyaratan RSPO di bawah prinsip 7 tentang, "penanaman baru". Tujuan prosedur ini adalah untuk memastikan bahawa syarikat menjalankan kegiatan perusahaan dengan cara yang betul, tidak membuka hutan primer atau wilayah dengan HCV, atau mengambil alih tanah masyarakat tanpa persetujuan. Di bawah sistem persijilan RSPO jika syarikat terbukti melanggar atau mempunyai konflik dalam perusahaan yang dijalankan bukan sahaja tidak layak mendapat persijilan tetapi semua syarikat yang dimiliki yang menjalankan perusahaan yang sama akan hilang kelayakan.

Sejarah, Penduduk dan Pemilikan Tanah

Sambas mempunyai sejarah yang panjang walaupun tidak direkod dengan baik. Bermula sebagai kawasan wilayah Kesultanan Melayu¹⁴ sehingga abad ke-15 dan dapat mengekalkan pengaruh dan masih mempunyai kuasa ke atas wilayah kesultanan walaupun kemasukan pengaruh belanda berlaku dalam pertengahan ke-19.

Pengaruh dan kuasa kesultanan (dipertahankan melalui satu dewan) di telah berakhir apabila Jepun masuk dan meninggalnya Sultan yang terakhir pada 1946. Pada tahun 1956, di bawah pemerintahan Presiden Sukarno dewan ini telah dibubar dan memberi kesan yang besar kepada masyarakat Melayu di Mekar Jaya.

Penduduk Kabupaten Sambas terdiri daripada pelbagai kelompok suku kaum dengan majoriti Melayu, Dayak dan Tionghoa. Rancangan penanaman baru PT. Agrowiratama 1 di Sambas, bertindih dengan tanah-tanah di bawah pentadbiran kampung Mekar Jaya, Beringin, Sabung dan Lubuk Dagang.

Majoriti penduduk di kampung Mekar Jaya dan Beringin adalah orang Melayu sementara penduduk kampung Sabung dan Lubuk Dagang majoriti Dayak dan selebihnya adalah Tionghoa. Penduduk di kampung Mekar Jaya yang ditemubual untuk kajian kes ini memberitahu bahawa mereka sudah berada di wilayah ini sejak tahun 1920 atau lebih awal daripada itu.

Dokumen pendaftaran tanah paling tua yang dimiliki oleh penduduk di kampung ini adalah pada tahun 1930. Masyarakat menyara hidup dengan menjalankan aktiviti penanaman padi sawah, perladangan gilir balik, memelihara ternakan, mengumpul hasil hutan (sayur-sayuran) dan menangkap ikan sungai. Ladang getah merupakan antara punca pendapatan selain daripada lada dan pokok buah-buahan. Terdapat juga, penduduk kampung berkerja di sektor industri dan perladangan yang berdekatan.

Sebelumnya ini, masyarakat tidak mempunyai masalah berkaitan dengan kekurangan tanah terutamanya di sepanjang sungai Sambas Kecil. Dari segi pemilikan tanah, secara tradisi individu yang membuka tanah dianggap sebagai pemilik dan mempunyai hak ke atas tanah tersebut. Oleh kerana itu, pemilikan tanah di Sambas adalah mengusahakan tanah dan juga pengakuan sosial di dalam masyarakat.

¹⁴ Keluarga kerajaan mengakui ada hubungan dengan Johor dan Melaka serta kahwin campur dengan kerajaan Brunei, Sarawak dan Pontian.

Keadaan geografi membuat penduduk kampung mempunyai tuntutan untuk membuka tanah baru atas sebab pertindihan. Perselisihan masih boleh diselesaikan secara baik melalui perbincangan bersama tetapi jika tidak dapat diselesaikan pemimpin masyarakat dari kampung sekitar yang mempunyai pengetahuan yang luas mengenai wilayah-wilayah dalam perebutan akan ikut serta untuk menyelesaikan masalah tersebut.

Walau bagaimanapun, di peringkat kampung tidak adat kuasa adat yang bertanggungjawab untuk memutuskan pertikaian tanah seperti terdapat di dalam masyarakat Dayak. Dalam masyarakat Dayak, penduduk Melayu yang menguasai hak ke atas tanah-tanah bekas ladang, bahagian dari hutan muda dalam kitaran pertanian gilir balik (hutan belukar) dan diketahui umum mengenai pemilikannya.

Jual dan beli tanah telah menjadi perkara umum dan banyak ladang-ladang getah terdaftar di pejabat pentadbiran kampung. Dengan biaya sekitar US\$12, pejabat pentadbiran kampung telah memberikan Surat pertanyaan Tanah (SPT) kepada pemilik tanah mengenai tanah yang mereka miliki. Meskipun, ini bukan sijil tanah yang rasmi, tetapi SPT diterima sebagai bukti bahawa penduduk memiliki hak untuk menggunakan tanah dan cenderung digunakan sebagai dasar untuk pembayaran cukai tanah.

Walau bagaimanapun, sistem pemilikan tanah telah berubah dari sistem sedia ada iaitu menggunakan adat istiadat dan kepercayaan, sejak SPT diperkenalkan. Tetapi pada masa kini, masyarakat diwajibkan mempunyai dokumen sebagai bukti pemilikan ke atas tanah mereka. Jika sebelum ini, hutan yang digunakan oleh penduduk untuk mengumpulkan hasil hutan dianggap sebagai milik kampung atau tanah milik Bersama.

Penduduk kampung dirujuk sebagai pengurus hutan yang bertanggungjawab mengurus kawasan hutan. Orang Melayu dari kampung Mekar Jaya mengakui bahawa hutan mengandungi kuasa ghaib tetapi mereka juga tahu bahawa masyarakat Dayak menganggap hutan sebagai tempat keramat.

Meskipun, orang Melayu berpendidikan tetapi dalam soal pembahagian tanah ia dilakukan secara adil kepada waris lelaki dan perempuan terutamanya di Mekar Jaya dan Beringin. Namun begitu, ada juga yang menjalankan pembahagian berdasarkan undang-undang Islam dengan memberikan separuh kepada ahli waris perempuan.

Dalam kenyataan, tanah cenderung dibahagikan oleh orang tua kepada ahli waris apabila mereka sudah tua berdasarkan siapa yang menguasai tanah-tanah tersebut dan juga dengan menjaga hubungan antara orang yang akan memiliki tanah tersebut.

Baru-baru ini, sempadan antara kampung tidak ditetapkan dengan jelas dan sempadan ini yang kemudiannya menjadi masalah apabila perladangan kelapa sawit muncul di daerah ini sebab tanah mulai mempunyai nilai dan semakin sempit.

Oleh sebab itu, sempadan antara tanah penduduk kampung tidak jelas dan berubah-ubah di mana tanah-tanah yang telah dibuka untuk ladang gilir balik, kebun getah dan kebun buah-buahan. SPT dibahagikan sehingga bercampur dan bertindih dengan kebun-kebun dari kampung sekitar sehingga sempadan kampung dipetakan semula secara saksama.

Sektor Minyak Sawit di Sambas

Menurut data yang diberikan oleh pejabat kerajaan ketika kajian ini dibuat tidak kurang daripada 240.000 ha tanah diberikan kepada 35 syarikat kelapa sawit. Kebanyakan syarikat masih dalam proses awal mendapat kebenaran, penanaman dan pengeluaran yang masih terhad. Hanya 52.000 ha sahaja kawasan yang sudah ditanami oleh kelapa sawit dan satu buah kilang yang memproses buah kelapa sawit menjadi minyak mentah dan minyak inti di wilayah Kabupaten Sambas.

Kilang yang kedua yang mempunyai keluasan ladang kira-kira 6.000ha hanya mulai beroperasi pada penghujung tahun ini (2012). Oleh sebab itu, Kabupaten Sambas kekurangan kilang untuk memproses semua buah kelapa sawit yang ada dan keadaan ini menyebabkan kualiti buah menurun serta menyebabkan kerugian.

Ini kerana ada juga buah kelapa sawit terpaksa dihantar keluar sekali lagi ke Kabupaten Pontianak yang jauhnya kira-kira 200km dari Sambas. Pegawai kerajaan yang ditemuramah secara sukarela berkongsi maklumat bahawa terdapat banyak masalah dengan pengembangan ladang kelapa sawit di kawasan tersebut dan daerah Sambas masih baru dalam menangani cabaran-cabaran berkaitan dengan perladangan kelapa sawit.

Pegawai Pemda Sambas, menerangkan bahawa terdapat dua masalah utama iaitu pembukaan tanah dikuasai oleh masyarakat dan satu lagi ada berkaitan dengan jenis perkongsian yang tidak diberikan kepada masyarakat sesuai syarat dan peraturan yang sudah ditentukan.

Sebahagian besar syarikat diakui tidak mematuhi undang-undang dan tatacara yang berlaku jika dibandingkan dengan syarikat yang menjadi anggota RSPO yang lebih relatif dan serius. Tetapi melalui data yang diperolehi syarikat anggota RSPO juga tidak sempurna dan masih terdapat konflik berkaitan dengan tanah.

Kerajaan mengakui bahawa tidak mengetahui kawasantempat tanah adat masyarakat. Kerajaan berharap (tanpa diawasi) syarikat terlebih dahulu menjalankan kajian tanah untuk memastikan tanah

yang mereka rancang untuk mendapatkan permit lokasi tidak bertindih dengan tanah masyarakat tempatan.

Konsortium NGO mempunyai realiti yang sama sekali berbeza mengenai susunan penanaman dan pelesenan dari pelbagai institusi kerajaan. BPN bersungguh-sungguh bahawa menurut peraturan BPN berkaitan tanah dan perladangan, syarikat tidak dapat menanam kelapa sawit atau mendirikan bangunan dalam konsesi sebelum syarikat memperolehi keizinan hak guna tanah usaha (HGU)¹⁵ atau hak guna bangunan (HGB) syarikat, walaupun BPN mengakui bahawa sering berlaku penanaman sebelum HGU dan HGB dikeluarkan.

Syarikat sawit menganggap mereka mempunyai hak untuk membuka dan menanam sebaik sahaja mereka memperolehi permit perniagaan perladangan.

Pertikaian-Pertikaian Tanah

Dua komuniti di daerah ini telah menolak ladang kelapa sawit untuk beberapa tahun sebelum Musim Mas menanam modal berkenaan perladangan kelapa sawit di daerah ini. Masyarakat Tengguli sangat terkenal kerana penolakan mereka tetapi dalam kajian kes ini didapati tidak banyak tanah yang diusahakan oleh penduduk Tengguli termasuk di PT. Agrowiratama.

Sementara itu, permit lokasi yang diberikan kepada PT. Agrowiratama berada di tengah-tengah kawasan kampung Mekar Jaya. Mekar Jaya sebelum ini membantah persaingan oleh banyak syarikat kelapa sawit untuk mengembangkan perladangan kelapa sawit di daerah mereka termasuklah PT Borneo Palma Prima.

Berikut ini adalah kronologi pertikaian tanah yang berlaku iaitu;

1. PT. Agrowiratama mendapat permit lokasi pada akhir tahun 2009 dan pada April 2010, mereka menjemput ketua kampung dari Mekar Jaya, Beringin dan Sabung dan tokoh bangsawan lain untuk melawat kegiatan perniagaan PT Agrowiratama di Pasaman, Sumatera Barat. Ini adalah peringkat pertama program sosialisasi yang diadakan oleh pihak syarikat.
2. Selepas sahaja lawatan diadakan, penduduk Mekar Jaya mengadakan perhimpunan untuk mendapatkan pungutan suara mengenai kegiatan perusahaan perladangan kelapa sawit yang dijalankan PT. Agrowiratama. Majoriti penduduk menolak perusahaan perladangan kelapa sawit tersebut. Pada 20 Mei 2010, penduduk bertindak mengadakan bantahan secara terbuka kepada pihak syarikat supaya tidak memasuki lokasi perusahaan di luar pejabat daerah tanpa persetujuan penduduk.

¹⁵ HGU-Hak penggunaan tanah

3. Pada 23 Mei 2010, penduduk menyatakan bantahan mereka kepada Parlimen Daerah Sambas yang kemudian berjanji untuk membincangkan kes itu. Akhirnya pada Julai 2010, kerajaan tempatan menghantar pasukan penyiasat untuk mengkaji bantahan masyarakat.
4. Pada November 2010, kerajaan tempatan juga menghantar satu pasukan ke lokasi yang disertai oleh pegawai syarikat untuk memeriksa sempadan pentadbiran yang tidak jelas antara kampung. Pegawai kerajaan yang ditemubual berhujah bahawa penetapan sempadan harus dijalankan oleh pasukan tinjauan lapangan yang menentukan sejauh mana tanah desa dan penggunaan tanah. Tetapi dalam kes ini, ia tidak dibuat dengan merujuk kepada tanah pertanian. Misalnya, bahagian timur Mekar Jaya hanya satu garis lurus dengan satu titik. Selatan sempadan antara kampung-kampung Mekar Jaya dan Sabung juga hanya mendapat tiga mata dan tidak berdasarkan penggunaan tanah. Penduduk Mekar Jaya menuntut ladang getah, bekas ladang tanah dan kawasan belukar yang dimiliki oleh petani dan kawasan hutan masyarakat tetapi tidak adil apabila terdapat beberapa tanah milik penduduk termasuk di dalam kawasan kampung Beringin. Ini mengakibatkan hak tanah mereka yang dipertikaikan di kawasan itu dan bahkan petani yang mempunyai SPT diberitahu bahawa SPT mereka tidak sah jika dikeluarkan oleh kampung yang salah.
5. Kampung Mekar Jaya menghadapi cabaran yang sangat berbeza dalam mendapatkan tanah mereka di barat sungai yang sama. Bermula pada tahun 2010, tidak lama selepas PT. Agrowiratama mendapat izin lokasi, keluarga Panji Anom (sering disebut sebagai pewaris), keluarga bangsawan dengan nenek moyang yang masih kerabat dekat Sultan Sambas memberitahu syarikat itu bahawa mereka adalah pemilik tanah (Lihat bagian analisis Hukum tuntutan tanah pewaris Panji Anom). Itulah sebabnya para wakil waris termasuk dalam sosialisasi PT Agrowiratama dan lawatan ke Sumatera Barat
6. Pada Disember 2010, kerajaan daerah mengeluarkan permit perniagaan perladangan (IUP) kepada PT Agrowiratama yang mengeluarkan sekitar 1.478 hektar tanah pertanian di kampung Mekar Jaya dari konsesi syarikat. Walau bagaimanapun, terutamanya di timur dan selatan kawasan-kawasan yang dikeluarkan diikuti sempadan desa yang baru ditubuhkan dengan Banyan dan Sabung sehingga meninggalkan sekitar 350-400 hektar tanah hak milik Mekar Jaya termasuk dalam konsesi syarikat. Tidak hanya itu, di sebelah Sungai Sekuan terdapat sekitar 1,000ha tanah yang dituntut oleh kampung Mekar Jaya untuk dimasukkan ke dalam IUP¹⁶, kerana tanah itu dituntut oleh keluarga Panji Anom.
7. Penentuan sempadan konsesi baru tidak terbuka kepada komuniti yang lebih luas. Apabila tidak pada Januari 2011, PT. Agrowiratama memasukkan maklumat mengenai laman web RSPO di bawah Prosedur Penanaman Baru (NPP) yang peta yang dilancarkan oleh Pensijilan Kawalan

¹⁶ IUP-Izin usaha perkebunan (Permit perniagaan perladangan)

Kesatuan menunjukkan had lama lokasi membenarkan bukan sempadan IUP. Maka apabila menyusul pengumuman NPP, NGO dan masyarakat Mekar Jaya menimbulkan bantahan dengan PT Agrowiratama karena informasi lama.

8. Pada bulan Februari 2011, keluarga Panji Anom mengeluarkan kenyataan awam mengesahkan tuntutan hak mereka, mengakui bahawa mereka telah menandatangani perkongsian dengan syarikat tetapi mereka mahu menghormati hak orang yang menanam tanah itu hanya untuk tanaman getah selama empat tahun (tawaran itu ditolak oleh Mekar Jaya yang juga membantah kesahihan hak keluarga Panji Anom kerana keluarga Panji Anom tidak pernah mengusahakan tanah ini dan tidak pernah mengadakan rundingan dengan masyarakat sebelum PT. Agrowiratama menerima konsesi di kawasan tersebut).
9. Pada November 2011, selepas rundingan antara Mekar Jaya dan keluarga Panji Anom tercapai, surat tulisan tangan ditandatangani dan keluarga Panji Anom yang mengakui hak penduduk kampung untuk semua taman getah mereka dan bekas kawasan yang telah diusahakan (belukar). Malangnya tidak ada satu perjanjian antara keluarga Panji Anom dan Mekar Jaya secara rasmi disokong oleh syarikat itu. Walaupun syarikat mengesahkan bahawa sejak Mei 2011 syarikat itu telah membayar pampasan secara berperingkat-peringkat kepada keluarga Panji Anom
10. Sementara itu, bantahan terus dibuat oleh penduduk Kampung Mekar Jaya dalam kegiatan perniagaan PT. Agrowiratama yang kemudiannya menghasilkan beberapa ceramah dengan kerajaan yang pada Mac 2011 mengeluarkan peta IUP. Pada mulanya ini dilihat sebagai kemenangan oleh penduduk kampung dan NGO dan kemudiannya jelas bahawa tanah itu telah ditutup (atau dipotong dengan lebih baik) kerana ia termasuk tanah dari wilayah timur dan selatan sempadan kampung baru sehingga tanah itu kekal konsesi syarikat itu tetapi juga termasuk semua tanah barat Sungai Sekuan yang dituntut oleh keluarga Panji Anom ke dalam IUP.
11. Pada masa konsortium NGO telah melawat lokasi dan didapati pertikaian tanah masih belum diselesaikan. Selain itu, NGO membuat perkonsian terperinci dari beberapa petani di Mekar Jaya yang mengeluh kerana sejak empat bulan lalu, PT. Agrowiratama telah mula menolak tanah mereka di sebelah barat Sungai Sekuan tanpa keputusan atau persetujuan daripada mereka. Mereka mengesyaki bahawa 200 ha telah ditolak, termasuk tanah yang ditanam dengan kelapa sawit (pelbagai tingkat umur) oleh penduduk kampung dan kawasan belukar. Masyarakat juga telah membuat laporan di pelbagai peringkat termasuklah kepada ketua kampung dan syarikat. Tetapi dalam beberapa kes, masyarakat ditawarkan ganti rugi atau pampasan tetapi ditolak oleh penduduk
12. Di sini harus diperhatikan bahawa syarikat-syarikat, golongan tempatan yang berpengaruh dan penilai bebas mengacu kepada mereka yang menolak rancangan syarikat perladangan kelapa sawit sebagai 'provokator', daripada menerima hakikat bahawa masyarakat mempunyai hak untuk mengumpulkan dan menyampaikan pilihan mereka sesuai dengan izin berdasarkan maklumat awal bebas dan telus

Analisis Undang-undang Tuntutan Tanah Ahli Waris Panji Anom

Dalam sebuah temuramah dengan ahli waris Panji Anom dan penguam mereka, dijelaskan bahawa di masa Sultan Sambas, pemilikan tanah oleh orang Melayu melalui proses yang panjang yang melibatkan pelbagai pihak bermula daripada permohonan kepada pemimpin kampung, kemudian kepada petinggi, selanjutnya kepada ketua wilayah sehingga kepada pangeran yang bertanggungjawab mengelola kekayaan dan tanah-tanah wilayah kesultanan.

Menurut keluarga Panji Anom tanah yang mereka tuntutan adalah warisan mereka sebagai karunia dari Sultan Sambas berdasarkan surat karunia dan wasiat pada tanggal 27 Rajab (Bulan 7 Kalender Islam) 1314H (1 Januari 1897) atas nama Pangeran Moeda Natakoesuma bin Sultan Aboebakar Tajoedin bin Pangeran Panji Anom Cakra Negara.

Surat karunia ini menjadi dasar permohonan pengesahan tanah yang dimiliki secara adat untuk dikomersialkan berdasarkan ketentuan Konversi dalam pasal-pasal tentang Ketentuan Konversi dan pasal IX ketentuan Konversi UUPA No.5/1960, L.N 1960-104). Permohonan diisi dengan surat Permohonan untuk Penegasan Tanah Milik Adat tanggal 2 Februari 1987 09/CNPA/I/1987 oleh Yayasan Cakra Negara Panji Anom.

Direktorat Agraria Kalimantan Barat bertindak balas bahawa permohonan konversi melalui surat 593.2/2699/Agr-87 tanggal 15 Julai 1987 adalah seperti berikut;

1. Sultan Sambas berhak memberikan tanah kepada rakyat, dan ini merupakan dasar untuk memberikan tanah oleh Sultan kepada Pangeran Panji Anom berdasarkan undang-undang yang sah dan boleh diwarisnya
2. Berdasarkan surat keputusan Menteri Dalam Negeri No. Sk.26/DDA/1970 tentang pengesahan Konversi Pendaftaran atas Tanah Milik warga Indonesia, surat karunia Sultan Sambas kepada Pangeran Cakra Negara Panji Anom dapat menjadi dasar hak-hak atas tanah tersebut di ditukar milik menjadi hak tanah berdasarkan Undang-undang Pokok Agraria (UUPA)
3. Proses penukaran dilakukan secara selektif dengan mempertimbangkan ketentuan mengenai tanah-tanah yang dikecualikan (Peraturan Kerajaan No.224 tahun 1961) dan barang milik pihak ketiga atas tanah yang dikecualikan.

Dalam kes tuntutan tanah yang dituntut oleh ahli waris Pangeran Cakra Negara Panji Anom, kerajaan secara tidak langsung mengiktirafkan pengakuan tuntutan tersebut, tetapi masih memerlukan tata usaha negara untuk mengakui kekuatan undang-undang penuh dan lengkap mengenai hak ahli waris ke atas tanah tersebut.

Selain itu proses penukaran penting untuk mempertimbangkan pihak ketiga yang terlibat dan tanah-tanah yang dikecualikan. Ahli waris Panji Anom mengatakan bahawa mereka telah mengelola tanah tersebut dan menanaminya dengan tanaman getah dan rotan tetapi diganti dengan tanaman pisang semasa pendudukan Jepun.

Di pihak lain, masyarakat melaporkan bahawa mereka tidak pernah mendengar mengenai ahli waris Panji Anom sebelum tuntutan baru ini timbul dan tiada bukti kukuh yang mana aktiviti pertanian yang dimaksudkan oleh ahli waris Panji Anom ditemukan.

Kedatangan PT.Agrowiratama menyukarkan keadaan apabila melakukan penolakan tanah di atas tanah-tanah yang mempunyai masalah pertindihan yang mana tiada kepastian pemilik tanah tersebut dan siapa yang mengusahakan tanah tersebut.

Kegagalan untuk memberi penerangan mengenai perkara siapa pihak yang berhak atas pampasan mengakibatkan khususnya kepada syarikat yang telah membayar ganti rugi kepada ahli waris Panji Anom secara berperingkat.

Pandangan Masyarakat Mengenai Proses FPIC

Mekar Jaya

Lokasi dari kampung Mekar Jaya terletak berhampiran Mensamat, dan sebelumnya di kuayan. Masyarakat kemudian memecah dan bergabung sebagai Kampung Mekar Jaya dengan tiga kampung; Mensamat, Kuayan dan Bantilan.

Jumlah penduduk seramai kira-kira 3,000 orang, kebanyakannya adalah orang Melayu, 29 orang Cina beragama Buddha dan satu orang cina beragama Kristian.

Hasil temubual di Mekar Jaya mendedahkan beberapa perkara iaitu;

1. Pemahaman mengenai RSPO atau FPIC

- i. Semua penduduk menyedari adanya kewujudan PT Agrowiratama, tetapi sangat sedikit dari mereka pernah mendengar RSPO atau proses FPIC. Walau bagaimanapun, PT. Agrowiratama berjanji akan menjalankan proses FPIC selaku sebagai anggota RSPO.

2. Permasalahan yang dihadapi oleh masyarakat Mekar Jaya

- i. Sesetengah ahli masyarakat mengatakan bahawa masalah yang mereka hadapi hasil daripada kehadiran syarikat-syarikat yang tidak dijemput adalah menyusahkan, tetapi masih terlalu banyak isu-isu tertunggak yang belum diselesaikan, termasuk penyitaan dan

pertindihan tuntutan hak tanah serta ketidakpastian antara penduduk mengenai tuntutan hak ke atas tanah secara sah mengikut undang-undang.

- ii. Penolakan dan bantahan Mekar Jaya ke atas syarikat kelapa sawit pernah berlaku sebelum kehadiran PT. Agrowiratama di Sambas. Oleh sebab itu, pada 20 Mei 2010, bantahan oleh masyarakat di Semayong diadakan sebagai bantahan masyarakat mengenai pelaburan PT. Agrowiratama di atas tanah mereka. Kira-kira 400 penduduk kampung mengambil bahagian dalam demonstrasi di Pejabat Daerah Sambas. Pada 23 Mei 2010, kampung Mekar Jaya menyerahkan satu kenyataan bantahan kepada Pemerintah Daerah Sambas dan pada bulan Julai 2010, kerajaan membahaskan permasalahan Mekar Jaya.
- iii. Sempadan dengan Beringin dipetakan semula pada bulan November 2010 (tanpa menggunakan senarai SPT dan hanya menggunakan tiga mata). Pada bulan Disember 2010, IUP PT. Agrowiratama dikeluarkan. Melalui sempadan baru ia telah memotong separuh tanah di Kampung Mekar Jaya dan sempadan di wilayah timur termasuk dalam kawasan kampung Beringin.
- iv. PT. Agrowiratama menjalankan 'sosialisasi', mengenai projek mereka melalui kajian perbandingan di Padang dengan menjemput ketua kampung dari Tengguli, Beringin dan Mekar Jaya pada tahun 2010. Namun demikian, tidak ada anggota masyarakat yang ikut serta dalam kajian perbandingan ini.

3. Perkongsian maklumat

- i. Isi dan hasil dari kajian perbandingan tidak dikongsikan sepenuhnya kepada masyarakat. Ketua kampung hanya memaklumkan keuntungan perusahaan perladangan kelapa sawit untuk masyarakat tempatan di Sumatera Timur dan tidak menyebut adanya peluang pekerjaan.
- ii. Maklumat yang disampaikan oleh ketua kampung kepada masyarakat adalah sangat terbatas dan menyebabkan ramai penduduk kampung menyatakan keraguan tentang cara pemimpin mereka menyampaikan pandangan dan keperluan masyarakat
- iii. Ahli masyarakat mendedahkan bahawa salinan dokumen yang berkaitan seperti peta penyertaan tahun 2010 yang dibuat bersama antara syarikat dan wakil masyarakat tidak diberikan walaupun masyarakat terlibat dalam pemetaan tersebut.

4. Pemahaman HCV

- i. Penilaian HCV dilakukan oleh syarikat perunding Aksenta. Beberapa ahli masyarakat menyedari penilaian ini tetapi kurang faham mengenai HCV. Perunding dan pentadbir PT. Agrowiratama memberikan maklumat mengenai HCV tetapi tidak terperinci dan hanya mengaitkan dengan sumber biodiversiti yang ada yang termasuk dalam kategori dilindungi, terancam dan hampir pupus.

- ii. Masyarakat tidak tahu bahawa perkara berikut seperti kawasan penting untuk memenuhi keperluan asas masyarakat setempat (contohnya sumber penghidupan, kesihatan-HCV5) dan kawasan penting untuk melindungi identiti tradisi budaya masyarakat setempat (nilai budaya, ekologi, ekonomi atau agama dalam data dengan kerjasama masyarakat setempat-HCV6) termasuk dalam kategori HCV
- iii. Ahli komuniti juga melaporkan bahawa mereka tidak termasuk dalam penilaian HCV, dan persetujuan daripada mereka tidak diminta sebelum penilaian dibuat. Mereka tidak tahu dengan jelas bagaimana mereka mengambil bahagian dalam penilaian itu, dan hanya mengetahui kehadiran HCV di atas tanah mereka dari tanda-tanda yang dipasang di pokok-pokok dan tebing sungai apabila penilaian selesai
- iv. Masyarakat juga tidak mengetahui jenis HCV di tanah mereka kerana papan tanda yang diletakkan tidak menjelaskan jenis HCV yang ada dalam kawasan tersebut.
- v. Masyarakat juga melaporkan tidak mempunyai satu salinan penilaian HCV

5. Maklumbalas PT. Agrowiratama

- i. Walaupun AMDAL dijalankan oleh Pemda, ahli komuniti melaporkan tidak pernah melihat atau diberikan salinan dokumen itu, walaupun dimaklumkan bahawa ketua kampung menyimpan salinan dokumen tersebut. Sesetengah ahli komuniti nampaknya tidak menyedari pelaksanaan penilaian sosial, kerana mereka tidak terlibat atau dijemput untuk bercakap mengenai proses AMDAL.
- ii. Apabila ditanya mengapa salinan dokumen seperti AMDAL dan HCV tidak diberikan kepada orang ramai oleh syarikat, wakil PT. Agrowiratama menjelaskan bahawa masyarakat tidak berminat dengan dokumen tersebut dan hanya mahukan maklumat lisan setiap pertanyaan yang diutarakan oleh masyarakat. Walaupun begitu, kenyataan ini ditolak oleh ketua kampung Mekar Jaya, yang menyatakan bahawa syarikat itu tidak menawarkan untuk memberikan salinan dokumen itu. Menurutnya, mungkin masyarakat tidak memahami segala hal tentang AMDAL dan HCV, tetapi sekurang-kurangnya masyarakat diberikan salinan atau diberikan kepada kepimpinan kampung jika tidak diberikan kepada masyarakat itu sendiri

6. Proses membuat keputusan

- i. Komuniti itu juga melaporkan masalah serius adalah disebabkan oleh ketiadaan penentuan batas dan peta penyertaan untuk kawasan perkampungan dan batas-batas hasil pengukuran berulang antara Mekar Jaya dan Beringin dalam kesepakatan antara masyarakat dan ahli waris. Laporan lampiran diputuskan sendiri oleh pemerintah daerah tanpa penglibatan syarikat
- ii. Masyarakat tidak jelas mengenai kawasan di lokasi sekarang kerana mereka tidak terlibat dalam proses membuat keputusan. Pertindihan antara tanah yang dituntut oleh masyarakat

setempat, waris dan syarikat dilaporkan oleh ahli masyarakat sebagai penyebab utama masalah. Kawasan tanah dipetakan seperti yang ditetapkan oleh kerajaan tempatan tidak termasuk beberapa kampung dan 200 ha bertindih dengan tanah yang dituntut oleh pewaris (mendakwa kawasan tanahnya sekitar 10.000 ha di Mekar Jaya, Sabung dan Lubuk Dagang)

7. Pemilikan tanah (sempadan dan tuntutan tanah)

- i. Sesetengah ahli masyarakat tidak menyedari UUPA 1960 mengiktiraf hak tanah berdasarkan warisan leluhur dan sejarah penggunaan tanah Masyarakat faham bahawa di bawah UUPA dan waris mempunyai alasan untuk menuntut hak tanah ini. Tetapi yang menjadi persoalan kenapa tuntutan oleh ahli waris hanya dibuat apabila syarikat sawit masuk.
- ii. Apa yang menarik ialah masyarakat membayar cukai di atas tanah yang dituntut, yang pada akhirnya ahli waris tidak pernah membayar cukai
- iii. Dalam satu mesyuarat, anggota masyarakat dari Mekar Jaya bertemu dengan kampung-kampung sekitar Beringin, Sabung dan juga dengan ahli waris untuk merundingkan sempadan yang difasilitasi oleh PT Agrowiratama dan Pemda, tetapi sempadan masih tidak sesuai dengan yang ditetapkan oleh nenek moyang mereka. Malah, selepas rundingan itu, sempadan yang ditetapkan antara Beringin dan Mekar Jaya untuk menampung tuntutan hak-hak pewaris telah memperburuk masalah yang menyebabkan sebahagian tanah di Kampung Mekar Jaya menjadi sebahagian wilayah Beringin. Terdapat laporan 5 hingga 7 orang di Mekar Jaya mendapatkan bagian tanah atau seluruh tanah mereka di dalam kawasan kampung Beringin yang diajukan kepada PT. Agrowiratama (kawasan ini menyebabkan masalah-masalah yang lebih besar, tidak ada pertimbangan di mana sempadan-sempadan ini, mengaakibatkan sempadan kampung berubah)
- iv. Menurut masyarakat, walaupun ada konflik tanah, PT. Agrowiratama tetap menolak tanah masyarakat kira-kira 100 ha tanah yang kini dalam perjuangan, tetapi mereka telah bersetuju dengan waris dan masyarakat tidak membenarkan ladang getah dibersihkan atau ditolak dan hanya untuk membenarkan pembersihan kawasan tanah hutan.

8. Keraguan ke atas kesepakatan yang dibuat

- i. Masyarakat khawatir bagaimana untuk memastikan kawasan tanah tidak mempunyai permasalahan. Walaupun dilaporkan bahawa ada satu kesepakatan bertulis disaksikan bahwa Pengurus Sumber Manusia PT. Agrowiratama yang menyatakan bahwa perusahaan tidak akan menolak kebun getah akan tetapi kesahihan dokumen tersebut dipersoalkan oleh beberapa anggota masyarakat (masyarakat tahu akan kewujudan dokumen tersebut tetapi belum pernah melihat)

9. Penilaian mengenai Mekar Jaya

- i. Pada masa ini, hak tanah ahli masyarakat di Kampung Mekar Jaya masih belum selesai. Pasukan penilaian dimaklumkan bahawa sekitar 3,000 SPT yang dimiliki oleh ahli masyarakat dan ditandatangani oleh ketua kampung, yang merupakan bukti untuk daftar tanah seseorang dengan BPN. Walau bagaimanapun, terdapat banyak kekeliruan di kalangan ahli masyarakat tentang sempadan dan sejauh mana tuntutan bertindih. Ahli-ahli masyarakat melaporkan bahawa ada peta SPT dan tuntutan tanah oleh waris kepada tanah tetapi belum melihatnya. Dalam setiap kes, konflik mengenai tuntutan hak antara komuniti dan ahli waris adalah yang paling membimbangkan komuniti, terutama kepada mereka yang tidak pernah mendengar tuntutan hak warisan sebelum ketibaan PT. Agrowiratama dan hanya mendengar tentang perkara ini pada tahun 2010 apabila kajian perbandingan dilakukan.
- ii. Peguam untuk waris dan beberapa ahli waris, proses menjelaskan status undang-undang tanah bercanggah sedang berjalan dan meliputi kawasan seluas 8.900 hektar
- iii. Menurut masyarakat, kini sekitar 1,000 ketua keluarga di kawasan ini mempunyai tuntutan tanah yang belum selesai, (tuntutan di luar kawasan dan juga dalam konsesi syarikat)

Beringin

Kampung Beringin berada dalam Kecamatan Sajad dan kampung ini terdiri daripada 4 kampung; Jambu, Segrunding, Salwa dan Sarang Burung (Mentawai). Berdasarkan data yang diperolehi dari pejabat kampung, jumlah penduduk adalah 2.202 (1/25 perempuan dan 1,077 lelaki) dan kira-kira 150 keluarga tinggal di kampung ini. Sebelum ladang sawit ada, majoriti penduduk berkerja sebagai penoreh getah.

Hasil daripada temuramah yang dijalankan bersama dengan ketua kampung didapati bahawa;

1. Masyarakat menggambarkan aktiviti PT. Agrowiratama dan proses sosialisasi bersama masyarakat merupakan perkara yang baik, walaupun masyarakat belum pernah mendengar istilah RSPO dan FPIC
2. Masyarakat memberikan gambaran bahawa proses interaksi antara syarikat dan masyarakat mengarah kepada hubungan yang membina dan masyarakat berharap ada manfaat yang diperolehi
3. Proses sosialisasi bersama masyarakat dibuat secara berulang-ulang oleh syarikat dan terdapat 2 pertemuan dilaksanakan yang menerangkan keuntungan kerjasama dengan syarikat. Dalam pertemuan ini, syarikat berjanji tidak akan menolak mana-mana kebun getah milik masyarakat

4. Hak masyarakat relatif diakui dan dihargai dengan baik
5. Tiada pampasan bentuk wang diberikan kepada masyarakat tetapi syarikat akan memberi sokongan pembangunan infrastruktur di kampung seperti jalan melalui hutan dan memberikan 90 karung simen untuk kerja pembangunan
6. Pembentukan Satuan Pelaksana (Satlak) yang bertujuan untuk memantau aktiviti syarikat dan laporan dari masyarakat kepada syarikat. Satlak bertanggungjawab untuk berkomunikasi dengan masyarakat untuk memperjelaskan sempadan tanah yang diusahakan oleh masyarakat seperti kebun buah dan getah. Satlak dianggotai oleh pemimpin kampung Beringin, wakil dari BPD, wakil pemimpin dari 4 dusun, 2 wakil masyarakat, pasukan perhubungan awal dan kajian serta PT. Agrowiratama.
7. Masyarakat menggambarkan istilah FPIC satu hak dan proses yang menyeluruh (satu proses yang terbuka dan tiada paksaan).

Dusun Setangga, Kampung Sabung

Kampung Sabung terdiri daripada dua kampung iaitu, kampung Sabung Setangga dan Sabung Sanggau. Kebanyakan penduduk Kampung Sabung adalah Dayak, terdapat juga pendatang dari Jawa dan Malaysia. Temubual dengan ahli masyarakat dari Sabung Setangga menyatakan pandangan yang sangat berbeza mengenai interaksi dan aktiviti PT. Agrowiratama dengan masyarakat. Berikut adalah hasil temubual dan dapatan maklumat yang diperolehi iaitu;

1. Terdapat ahli masyarakat menyokong hubungan dengan pihak syarikat tetapi ada juga yang mengutuk perundingan yang dijalankan.
2. Wawancara yang dijalankan menunjukkan kekeliruan di kalangan masyarakat mengenai sama ada Kampung Sabung Setangga berada dalam konsesi syarikat PT. Agrowiratama atau PT. Mulia Indah (salah satu daripada tiga konsesi Musim Mas yang bersebelahan). Ini menunjukkan bahawa pemetaan menyeluruh dan penyertaan tidak dilaksanakan untuk menjelaskan pemahaman ini.
3. Pola perkongsian jangka panjang seperti yang dipersetujui oleh beberapa ahli komuniti belum diterangkan dengan jelas kepada masyarakat, terutama fakta bahawa tanah plasma akan menjadi tanah negeri apabila HGU berakhir.
4. Kekurangan dokumentasi perjanjian dan keputusan yang dijalankan dengan syarikat.

Berikut ini adalah maklumat yang diperolehi daripada ahli masyarakat mengenai proses sosialisasi atau FPIC yang dijalankan oleh PT. Agrowiratama iaitu;

1. Hubungan antara Sabung dan PT. Agrowiratama adalah baik dan masyarakat sedang menunggu manfaat ekonomi daripada kehadiran syarikat. Menurut Pak Budi (seorang

pendatang dari Jawa), PT. Agrowiratama menjalankan sosialisasi di Sabung Sanggau, tetapi tidak di Sabung Setangga. Semasa aktiviti jangkauan, syarikat menjelaskan peraturan dan tempoh sah HGU dan sifat dan tujuan HCV, serta tidak akan menggantikan ladang getah masyarakat. Ia juga menyampaikan bahawa syarikat itu menghormati tempat keramat dan kuburan masyarakat dan tidak akan menyebabkan halangan bagi masyarakat untuk memasuki kawasan tersebut. Pengurus syarikat memberi maklumat bahawa penerangan mengenai kesahihan permit lokasi dan HGU ada diterangkan ahli masyarakat. Di samping itu, Encik Budi turut memaklumkan bahawa PT. Agrowiratama juga memberi pekerjaan kepada kaum perempuan dan menyediakan perkhidmatan kesihatan kanak-kanak.

2. Namun demikian, pandangan daripada En. Budi bertentangan dengan perkara yang diberitahu oleh ketua kampung Sabung yang baru, ketika ditemui oleh pasukan penyiasatan. Perbezaan pandangan antara kedua-dua pihak sangat jelas sehingga ketua kampung menghubungi En. Budi untuk mendapatkan penjelasan ke atas komen-komen beliau mengenai hubungan masyarakat dengan syarikat. Situasi bertambah tegang apabila ketua kampung Sabung yang baru bertanya berapa banyak dia telah dibayar oleh pengurus syarikat dan meminta dia untuk berhenti berbohong tentang keadaan masyarakat di Sabung.
3. Menurut ketua kampung baru Sabung, En. Jeksen memaklumkan bahawa PT. Agrowiratama memperolehi permit lokasi tanpa memberikan maklumat yang mencukupi kepada masyarakat Sabung mengenai aktiviti yang dirancang syarikat dan pelbagai potensi potensi syarikat baik sosial dan alam sekitar. Beliau turut menegaskan bahawa dia tidak pernah mendengar tentang RSPO atau FPIC, dan berulang kali mengatakan bahawa PT. Agrowiratama tidak pernah melakukan kegiatan sosialisasi di Sabung Setangga, walaupun pejabat syarikat itu terletak tidak jauh dari kampung Sabung Setangga (beliau mengakui bahwa sosialisasi mungkin dilakukan di Sanggau dan hubungan antara Sanggau dan PT Agrowiratama secara keseluruhan positif).
4. Apa yang jelas daripada maklumat yang diperoleh dari ketua kampung Setangga adalah tidak ada hubungan langsung dan persetujuan dari komuniti antara PT. Agrowiratama dengan masyarakat dari Setangga. Pengurus syarikat tidak pernah turun ke lapangan secara langsung; oleh itu komuniti menunggu syarikat itu datang dan menyampaikan projek mereka kepada masyarakat.
5. Hasil maklumat lain, ahli masyarakat khususnya dari Sabung Setangga tidak mengetahui mengenai PT. Agrowiratama dan sistem yang mereka lakukan dan menganggap syarikat ini membawa masalah.
6. Hal sebenarnya komuniti dari Sabung Setangga menunggu pihak syarikat datang untuk memberikan penerangan kepada masyarakat mengenai projek mereka tetapi hasil daripada kajian kes ini mendapati untuk sosialisasi di Sabung Setangga hanya dilakukan sekali sahaja.

7. Tidak ada pola perkongsian yang ditawarkan kepada masyarakat dari Setangga tetapi mungkin kepada Sanggau. Beliau tidak mengetahui sama ada pemetaan penyertaan telah dijalankan di Sabung, dan tidak pernah melihat satu salinan EIA. Encik Jeksen berkata bahawa dia telah bertemu dengan pasukan penilaian HCVA setelah mereka menyelesaikan penilaian mereka di Hotel Pantura, Sambas. Menurutnya, sekurang-kurangnya beberapa HCV yang dijumpai berada di kawasan yang bertindih dengan PT. Musim Indah dan kawasan itu berada di luar permukiman lokasi PT. Agrowiratama. Beliau berkata ini, mengakibatkan PT. Agrowiratama enggan membayar ganti rugi kepada masyarakat untuk mendapatkan akses dan penggunaan kawasan itu kerana ia berada di luar konsesi syarikat.
8. Pak Jeksen menegaskan bahawa pasukan penyiasat perlu melawat komuniti itu sendiri untuk mendengar pandangan mereka secara langsung. Perkara yang paling serius adalah bahawa ahli komuniti yang telah menerima corak Plasma yang ditawarkan oleh PT. Agrowiratama nampaknya tidak sedar bahawa tanah akan menjadi tanah Negeri selepas berakhirnya HGU. Mereka berkata bahawa syarikat itu secara lisan bersetuju dengan pola plasma tetapi tiada kontrak telah dibuat.
9. Wujudnya jurang dalam corak perkongsian yang diterima oleh ahli Sabung. Laporan sosialisasi mengatakan bahawa perkampungan Sabung meminta corak seksyen 50/50 dalam corak perkongsian, manakala wakil syarikat telah menjelaskan tentang pembahagian yang akan dilaksanakan adalah 80/20 yang memberi manfaat kepada syarikat

Halangan bagi Masyarakat Menyelesaikan Isu Tanah dan Penggunaan Hak atas FPIC

Terdapat banyak cabaran yang didapati oleh masyarakat berkenaan dengan usaha untuk menyelesaikan isu tanah mereka dan melaksanakan hak mereka seperti yang ditekankan dalam konsep FPIC. Berikut adalah halangan-halangan yang dihadapi oleh masyarakat iaitu;

1. Tuntutan pemilikan tanah oleh ahli waris yang menganggap tanah tersebut adalah milik mereka berdasarkan sejarah pendudukan dan penggunaan. Ramai ahli masyarakat terkejut sebab mereka tidak pernah mendengar sebarang tuntutan oleh ahli waris sebelum kehadiran PT. Agrowiratama dan tuntutan ahli waris masih tidak jelas adalah tuntutan dibuat sah secara undang-undang.
2. Sempadan wilayah dan hak adat masyarakat, ahli waris dan PT. Agrowiratama masih tidak jelas. Sekatan yang dibuat sebelumnya mengelirukan atas sebab Pemda membuat penentuan sempadan yang dilampirkan tanpa perbincangan terlebih dahulu dengan masyarakat yang menerima kesan. Pada hal, sepatutnya masyarakat menentukan sempadan tanah sebelum melakukan demonstrasi yang mereka adakah pada bulan Mei 2010; Kenyataan En.Udin (Seharusnya kami sudah menerangkan sempadan-sempadan sebelum menjalankan demonstrasi

menolak kelapa sawit, sebab pihak syarikat mula menolak dan membersihkan tanah kami. Pada masa ini, masyarakat mahu penjelasan mengenai tanah siapa dan di mana kawasan yang terlibat)

3. Masyarakat tidak mendapat maklumat dan informasi yang lengkap dari syarikat dan kerajaan mengenai perladangan kelapa sawit untuk membantu mereka memahami sebelum membuat keputusan.
4. Dokumen-dokumen penting tidak diberikan dan dikongsikan kepada masyarakat (contohnya HCVA atau kajian penilaian kesan sosial dan alam sekitar). Walaupun aktiviti sosialisasi sudah dijalankan oleh syarikat sebelumnya tetapi tidak mempunyai apa-apa manfaat. Di mana dalam sesi sosialisasi ini, syarikat hanya melibatkan ketua kampung dalam perbincangan dan tidak melibatkan semua lapisan masyarakat, yang pada akhirnya banyak kritikan dari ahli masyarakat kerana rundingan yang dibuat mengenai kawasan dan sempadan yang tidak memuaskan.
5. Tiada ketelusan antara syarikat dan masyarakat sehingga pada satu tahap terutamanya di kalangan masyarakat sendiri, seperti memperburukkan ketidakpastian tuntutan dan pemilikan tanah.
6. Fokus aktiviti sosialisasi yang dijalankan oleh syarikat hanyalah di peringkat kepimpinan kampung dan individu-individu yang mudah dipengaruhi untuk mendapatkan persetujuan
7. Perwakilan masyarakat juga kelihatan mempunyai masalah: sebagai contoh beberapa ahli masyarakat menunjukkan keraguan mereka mengenai anggota SATLAK adakah ia betul-betul mewakili masyarakat ataupun mereka dipengaruhi oleh syarikat kerana peranan yang ditunjukkan oleh SATLAK bukannya untuk mendapatkan persetujuan daripada masyarakat tetapi sebaliknya membuat rundingan persyaratan hubungan mereka dengan PT. Agrowiratama.

Perkara yang membimbangkan adalah masyarakat tidak sedar bahawa tanah mereka akan dikuasai Negeri ketika HGU berakhir dan ramai yang berfikir bahawa tanah akan dikembalikan kepada mereka seperti yang diharapkan.

Selain daripada itu, masyarakat juga tidak mempunyai salinan kontrak plasma mereka, yang diakui oleh ketua kampung yang mewujudkan ketakutan bahawa pada akhirnya PT. Agrowiratama akan mengambil alih tanah mereka.

Walaupun sosialisasi telah terjadi beberapa kali, nampaknya sosialisasi adalah rundingan tentang aturan hubungan antara PT. Agrowiratama dan masyarakat bukan usaha yang sebenarnya mencari kelulusan masyarakat. Sosialisasi disamakan dengan FPIC, tetapi pada masa itu ia lemah dan cuai dalam pelaksanaannya.

Dibuktikan dengan jelas bahawa tuntutan atas tanah digunakan di kampung-kampung untuk mempengaruhi keputusan ahli-ahli komuniti lain yang mungkin tidak setuju dengan PT. Agrowiratama, sebagai contoh mendapatkan persetujuan daripada individu-individu tertentu dan

mengabaikan persetujuan bersama adalah antara masalah, sebab kesan-kesan daripada kegiatan perladangan yang dijalankan oleh PT. Agrowiratama bukan dihadapi oleh individu tertentu sahaja tetapi dirasakan oleh semua ahli masyarakat.

Sebab jelas terbukti bahawa tuntutan atas nama (proksi) digunakan di kampung-kampung untuk mempengaruhi keputusan ahli masyarakat yang lain yang mungkin tidak bersetuju dengan kegiatan yang dijalankan oleh PT. Agrowiratama.

Satu informasi yang dapat disimpulkan dalam hal ini adalah setiap pandangan masyarakat tidak dapat diandaikan: hubungan dan kesetiaan individu dari orang-orang yang ditemuramah dengan syarikat mempunyai pengaruh dan prespektif yang kuat, dan kesukaran dalam memasuki di peringkat tertentu menunjukkan bahawa beberapa pelaku dari masyarakat mungkin telah cuba untuk mengelakkan pertemuan pasukan penyiasatan dengan semua lapisan masyarakat.

Ulasan Pelaksanaan FPIC oleh Syarikat

Pada 13 Jun 2012, kumpulan NGO telah menemuramah wakil PT. Agrowiratama untuk menerangkan proses mendapatkan permit operasi perusahaan yang dijalankan. Berikut ini adalah proses yang dijalankan oleh syarikat iaitu; pada tahun 2009, pihak syarikat memperolehi maklumat mengenai tanah dan kemudiaan diikuti dengan kajian penyertaan setelah syarikat mendapatkan permit lokasi.

Kajian di lapangan dijalankan oleh kumpulan perunding Aksenta yang telah mengunjungi kampung-kampung yang termasuk dalam lokasi perusahaan PT. Agrowiratama. Berkenaan dengan masyarakat yang tinggal di dalam konsesi perusahaan, wakil syarikat menyatakan bahawa struktur adat sebenarnya ada di Kabupaten Sambas tetapi struktur adat tidak kuat mengenai tanah adat seperti di tempat lain Indonesia, misalnya di Padang Sumatra Barat.

Mereka mengakui terdapat banyak masalah antara syarikat dan masyarakat, akan tetapi masalah-masalah tersebut dalam proses penyelesaian yakni melalui pengantaraan dan rundingan dengan pemimpin adat. Selain itu, mengikut wakil syarikat kajian sosial juga telah dijalankan bagi merekod penduduk yang tinggal di dalam dan berhampiran dengan lokasi perancangan ladang baru untuk penanaman.

Kebun-kebun lama yang sudah ditanami dan tanaman turut diambil data dalam kajian tanah. Proses pengambilan tanah didokumentasikan dalam berita pengukuran tanah (dihadiri oleh Satlak) serta sistem pemilikan tanah adat serta sempadan-sempadan tanah adat. Pemetaan penyertaan juga dimasukkan sebagai sebahagian daripada kajian pada tahun 2009.

Dalam catatan wakil syarikat, jarang ahli masyarakat mempunyai bukti yang rasmi mengenai pemilikan tanah yang sah. Wakil syarikat mengatakan bahawa keanggotaan Satlak ditetapkan melalui keputusan yang dibuat diperingkat kampung melalui surat persetujuan.

Satlak diletakkan oleh syarikat sebagai bukti bahawa mereka telah menerima wakil yang dipilih sendiri oleh masyarakat. Wakil syarikat juga meyakinkan consortium NGO bahawa ganti rugi berbentuk tunai dibayar kepada kampung-kampung yang kehilangan tanah akibat kelapa sawit, dan proses pembayaran ganti rugi turut didokumentasi.

Tidak ada MoU mengenai pemegang hak yang boleh menerima keuntungan, akan tetapi ada rakaman dari para penerima pembayaran ganti rugi. Syarikat juga melaporkan bahawa mereka menyimpan rakaman pemilik tanah, tetapi sempadan dan lokasi tanah adat menjadi masalah seperti dalam kes tuntutan tanah adat oleh ahli waris.

Penilaian HCV

Penilaian HCV oleh PT Agrowiratama dilakukan oleh perunding Indonesia, Aksenta pada bulan Jun 2010. Ia dilaporkan kepada perusahaan pada bulan Ogos 2010 dan kemudian direvisi dan dimuktamadkan pada bulan November 2010. Laporan HCV diberikan kepada pasukan konsortium NGO oleh PT Agrowiratama atas permintaan bagi memenuhi Prinsip RSPO 1 mengenai ketelusan.

Dalam penilaian HCV, tiada hutan primer dijumpai dalam kawasan perusahaan PT. Agrowiratama. Sebanyak 3% tanah gambut daripada tanah di permit lokasi. Penilaian HCV mendapati kawasan yang harus diuruskan untuk melindungi HCV 1, 4 dan 6.

Pendek kata, sisa-sisa hutan mengandungi spesies dilindungi, terancam dan hampir pupus (1), sungai untuk melindungi limnologi dan hidrologi (4) dan tempat keramat dan makam atau nilai budaya penting bagi penduduk setempat. Jumlah kawasan HCV adalah 984.4 ha atau sekitar 10.9% daripada jumlah kawasan permit. Pasukan memberikan lampiran peta terperinci sistem penggunaan tanah di kawasan permit syarikat. Kajian HCV menyimpulkan bahawa penanaman kelapa sawit mempunyai impak sosial yang penting terhadap keperluan asas bagi kemampanan masyarakat setempat.

Walau bagaimanapun, aspek yang mengejutkan dari penilaian ini adalah tiada penemuan kawasan sumber penghidupan masyarakat seperti yang terkandung dalam (HCV 5) seperti yang diterangkan oleh RSPO sebagai 'kawasan penting untuk memenuhi keperluan asas masyarakat setempat'. Pasukan penilaian HCV menjelaskan bahawa mereka tidak dapat menentukan kawasan sumber penghidupan masyarakat dan juga kawasan tanah yang mana akan dipilih masyarakat untuk diberikan kepada syarikat, (masyarakat belum memberi keputusan di mana kawasan yang akan dikekalkan sebagai kawasan sumber pendapatan dan ekonomi semasa.

Ini menunjukkan bahawa metodologi yang digunakan oleh pasukan penilaian HCV semasa membuat penilaian hampir tidak memberikan perlindungan terhadap keperluan asas dan keselamatan makanan masyarakat tempatan.

Cadangan dari Masyarakat

1. Mekar Jaya

Masyarakat dari Mekar Jaya telah berjuang selama 2 tahun untuk menyelamatkan hak mereka berkenaan dengan tanah. Bagi mereka apa yang menjadi keutamaan untuk menangani konflik tanah yang melibatkan 4 buah dan PT. Agrowiratama di Kabupaten Sambas adalah;

- i. Membuat pemetaan ulang dan penyertaan untuk mengenalpasti, mengukur dan menetapkan sempadan dan juga tuntutan tanah
- ii. Masyarakat Mekar Jaya menyuarakan mengenai keperluan pentingnya penerangan dan memastikan keabsahan melalui undang-undang tuntutan pemilikan ke atas tanah oleh ahli waris, sebab perkara ini telah menjadi faktor pertindihan tuntutan hak ke atas tanah yang sebelum ini tidak pernah berlaku. Apabila tuntutan ahli waris diselesaikan dan didapati tidak ada dan batal, masyarakat Mekar Jaya mahu seluruh kawasan dalam wilayah Mekar Jaya dilampirkan.
- iii. Masyarakat Mekar Jaya mahu tanah mereka dikembalikan dan diakui oleh syarikat, ahli waris dan kerajaan
- iv. Mengembalikan tanah yang dituntut oleh masyarakat seperti yang diungkapkan oleh ramai penduduk sebagai pemilikan tanah hak warisan secara turun temurun

2. Beringin

Walaupun interaksi antara masyarakat Beringin dan PT.Agrowiratama berjalan dengan baik tetapi masih ada cabaran yang menghalang kepada kesepakatan yang dibuat iaitu;

- i. Kesepakatan yang dibuat tidak terjamin kerana ia dibuat secara lisan dengan syarikat terutamanya berkenaan dengan manfaat yang diperolehi, pola perkongsian dan tidak ada dokumen bertulis yang diberikan kepada masyarakat oleh PT.Agrowiratama
- ii. Berkenaan dengan pemantauan dan pelestarian kawasan HCV yang dijumpai di Wilayah Beringin diletakkan di bawah tanggungjawab syarikat atas alasan masyarakat tidak berupaya untuk mengurus tadbir sendiri kawasan tersebut.

3. Sabung Setangga

Terdapat tiga cadangan yang dikemukakan oleh ketua kampung Sabung Setangga sebagai panduan bagi menjamin hak-hak tanah dan FPIC masyarakat dari Sabung iaitu;

- i. Aktiviti sosialisasi sangat penting untuk dusun setangga dan dengan itu syarikat perlu menjalankan sosialisasi bersama masyarakat dengan segera bagi mengelakkan berlakunya konflik di kemudian hari. Hal ini kerana pengetahuan dan maklumat yang diterima sangat kurang.
- ii. Mencadangkan agar PT.Agrowiratama menerangkan secara jelas berdasarkan undang-undang tuntutan pemilikan tanah ahli waris, tidak memberikan ahli waris preseden¹⁷ atas tuntutan pemilikan tanah, masyarakat yang telah membuka dan mengusahakan kawasan-kawasan tersebut secara turun temurun
- iii. Meminta agar PT. Agrowiratama tidak melakukan sebarang pembersihan kawasan (tanah) sehingga konflik tanah yang dihadapi diselesaikan bagi memastikan semua pihak bersetuju dan berpuas hati dengan keputusan yang dibuat

Cadangan dari Kerajaan

Berikut ini adalah cadangan yang dikemukakan oleh kerajaan iaitu;

1. Memperuntukkan dana yang lebih besar kepada pemerintah daerah Kabupaten Sambas untuk bertujuan supaya penilaian dan pemantauan secara menyeluruh dan komprehensif ke atas perusahaan peladangan kelapa sawit dilaksanakan termasuklah proses rundingan; perundingan dengan masyarakat setempat, penyelesaian konflik dan bantahan lain.
2. PT. Agrowiratama mesti mengemukakan laporan 3 bulan sebagai sebahagian daripada keperluan untuk permohonan HGU.
3. PT. Agrowiratama perlu memastikan kawasan bersih dan jelas, yang bermaksud bahawa konflik tuntutan hak tanah diselesaikan dengan adil untuk semua pihak yang terlibat.
4. PT. Agrowiratama memberi penerangan secara tepat siapa sebenarnya ahli waris keluarga Panji Anom yang menuntut hak tanah berdasarkan warisan.
5. PT. Agrowiratama, masyarakat tempatan dan keluarga Panji Anom perlu berusaha mencari penyelesaian yang paling mungkin dalam bentuk mengehadkan pemilikan tanah kepada 20 ha setiap ahli keluarga Panji Anom yang terlibat. Untuk tujuan ini, masyarakat harus membuat perjanjian kolektif mengenai batas maksimum pemilikan tanah dan membuat peraturan di peringkat kampung. Peraturan baru ini dikemukakan kepada agensi berkenaan di peringkat kecamatan dan kabupaten, untuk ditandatangani dan disokong oleh pemerintah kabupaten dan seterusnya didaftarkan oleh Lembaga Tanah Nasional.

¹⁷ Preseden bermaksud hal yang terjadi dahulu dan dapat dipakai sebagai contoh

6. Pengiktirafan yang lebih besar diberikan kepada penggunaan tanah yang aktif dan berterusan sebagai asas yang sah untuk tuntutan hak tanah, perubahan pada sempadan semasa tidak dapat mencerminkan realiti tanah masyarakat setempat sepenuhnya.
7. Pengiktirafan dan perlindungan HCV 5 melalui pembangunan mekanisme pemantauan dan pengurusan bersama oleh syarikat dan masyarakat, dan disokong oleh peraturan serantau.
8. Memasukkan HCV 5 di dalam peraturan perancangan ruang daerah Sambas dan juga di dalam peraturan daerah yang berkaitan dengan tanah masyarakat dan perlindungan kawasan sumber penghidupan masyarakat.
9. Maklumat mengenai HCV dikongsi dengan komuniti tempatan termasuk hasil kajian HCV, lokasi dan juga sempadan HCV.
10. PT.Agrowiratama perlu menyediakan aktiviti kesedaran dan latihan untuk masyarakat setempat mengenai sifat dan nilai HCV untuk melindungi dan mengekalkan kepelbagaian biodiversiti dengan lebih baik di kawasan tersebut, dan pada masa yang sama masyarakat masih boleh menjalankan aktiviti pertanian tradisional di kawasan tersebut.
11. PT.Agrowiratama perlu menyediakan salinan penilaian HCV kepada institusi kerajaan yang berkaitan (BPN, Agensi Penanaman Model Wilayah, Perhutanan dan Perladangan).

Cadangan dari Syarikat

Berikut ini adalah antara cadangan dari syarikat berkenaan konflik tanah yang berlaku iaitu;

1. Pejabat daerah bertindak sebagai penghubung atau pengantara apabila berlakunya konflik atau pertikaian tanah antara syarikat dan masyarakat
2. NGO bekerjasama dengan syarikat untuk menyampaikan maklumat dan membentuk pemahaman masyarakat terhadap aktiviti perniagaan syarikat dan kesannya (baik negatif atau positif)
3. Kerajaan berfungsi untuk meningkatkan ketelusan dan berkongsi maklumat dengan syarikat dan masyarakat setempat mengenai program pembangunan dan dasar (mesti telus mengenai program dan dasar pembangunan)

Kesimpulan

Secara keseluruhannya, kajian kes ini adalah satu percubaan untuk menjalankan proses sosialisasi atau FPIC oleh syarikat perladangan kelapa sawit yang merupakan anggota RSPO. Tidak dinafikan proses yang diterapkan dalam RSPO atau FPIC sendiri dijalankan oleh PT.Agrowiratama dalam rancangan perusahaan mereka di Kabupaten Sambas. Namun demikian pada umumnya yang diketahui proses yang dijalankan ini telah menimbulkan pelbagai pandangan dan spekulasi daripada tingkat masyarakat yang terlibat terutamanya di kampung Mekar Jaya dan kampung Sabung.

Hal ini kerana, apabila PT. Agrowiratama masuk ke wilayah ini banyak permasalahan yang dihadapi oleh masyarakat yang bukan sahaja permasalahan mengenai sempadan tanah jelas antara kampung (sempadan kampung dipetakan semula), pemilikan tanah serta tuntutan ahli waris Panji Anom ke atas kawasan yang sama dan selain itu juga berkaitan dengan permasalahan mengenai proses yang dijalankan oleh PT. Agrowiratama sendiri yang mengundang pelbagai pandangan dan kekeliruan daripada masyarakat.

Tambahan daripada itu, terdapat beberapa perkara yang diabaikan dan banyak kekeliruan sepanjang pelaksanaan sosialisasi atau FPIC terutamanya di peringkat masyarakat. Oleh sebab itu, di akhir penulisan kajian kes ini terdapat cadangan-cadangan daripada masyarakat, kerajaan dan juga syarikat untuk memperbaiki prosedur dan masalah yang sedang berlaku.

Appendix 3: Minimum Wages in Malaysia

HR Related Regulatory Requirements under Malaysia National Human Resource Center on Minimum Wages

Subject	Explanation
What is the definition of minimum wages?	Minimum wages are basic wages, excluding any allowances or other payments
What is the difference between 'wages' and 'minimum wages'?	'Wages' and 'Minimum Wages' are described under section 2 of National Wages Consultative Council Act 2011. The 'wages' has a similar meaning to 'wages' in section 2 the Employment Act 1955 or Sabah Labour Ordinance (Cap.67) and Sarawak Labour Ordinance (Cap.76) whereas the 'minimum wages' refers to basic wages only, excluding any allowances or other payments.
Who is eligible for minimum wages?	All local and foreign employees who have entered into a contract of service with an employer shall be entitled to receive minimum wages.
Who is not covered by minimum wages?	- Domestic servants (e.g. maids, cooks, guards, gardeners and personal drivers). - Apprentices who undergo training for a period of not less than two years.

The Minimum Wage Rate

MINIMUM WAGES RATE			
(As per Guidelines on the Implementation of Wages Order 2018)			
Monthly	Daily		Hourly
RM 1,100.00	6	RM 42.31	RM 5.29
	5	RM 50.77	
	4	RM 63.46	

Appendix 4: Example of improved and standardised payslip

PEMDAPATAN		(RP.)	POTONGAN		(RP.)
1. UPAH	Wages		BPJS KETENAGAKERJAAN (JKT)		50,000
UPAH POKOK (BP)		2,600,000	BPJS KETENAGAKERJAAN (JP)		25,000
- UPAH PANEN (PK)		0	BPJS KESEHATAN		0
- TUNJANGAN MASA KERJA		0	PPH-21		0
- TUNJANGAN JABATAN		0	IURAN KOOPERASI KARYAWAN		0
TOTAL UPAH		2,600,000	POTONGAN LAIN-LAIN		0
2. BANTUAN	Benefits		KORSESI PPH-21		0
BANTUAN		140,400			
PLN		0			
BEN		0			
TOTAL BANTUAN		140,400			
3. INSENTIF	Incentive				
PRORI / INSENTIF		0			
TOTAL INSENTIF		0			
4. UPAH LEMBUR	Overtime Wages				
5. RAPEL		0			
6. ADJUSTMENT		0			
TOTAL PENDAPATAN		2,740,400	TOTAL POTONGAN		75,000
			TOTAL UPAH YANG DITERIMA		2,665,400
HARI KERJA (K, KL)		26	SAKUR (HK)		0
HARI KERJA (RT)		0	CUTI HARI (HK)		0
CUTI (HK)		0	CUTI MELAHIRKAN (HK)		0
SAKIT (HK)		0	LEMBUR (JAM)		0.0
ISIN (HK)		0			
DIBAYAR OLEH:			DITERIMA OLEH:		

Post Employment insurance
Pension Insurance
Health insurance
Value added tax (VAT)
Monthly contribution for employee's cooperative
Other reduction
VAT revision

Absence (mandays)
Mentruation leave (mandays)
Maternity Leave (mandays)
Total overtime (hours)

COMPLAINTS FORM

The Roundtable on Sustainable Palm Oil (RSPO) is a not-for profit Association that has been established with the Vision of “***Transforming the market to make sustainable palm oil the norm.***” The RSPO Secretariat is responsible for administration and management of the activities of the RSPO in pursuit of this Vision.

While addressing sustainability challenges, not all situations follow standardized approaches and reach undisputed outcomes. This may lead to conflicting perceptions by different stakeholders, resulting in complaints which are addressed to the RSPO for resolution. **RSPO focuses on bilateral dialogue as the means to address and resolve complaints and grievances.**

In respect of any complaint, the form below must be filled up and submitted to the RSPO Secretariat.

PART A - COMPLAINANT DETAILS

1. Name of individual or organization	
2. Name of contact person	
3. Occupation / Position	
4. CONTACT DETAILS Postal address	
5. Email address & skype ID (if any)	
6. Phone number	BUSINESS: MOBILE:
7. Fax Number	
8. Preferred language (please tick ✓ on your option)	☐ English Language ☐ Bahasa Indonesia ☐ Bahasa Malaysia ☐ Others, please specify
9. Website	http://
10. Are you a member of RSPO or any of its voluntary groups e.g. Complaints Panel, Working Group, Task Force (please tick ✓ on your option)	☐ Yes ☐ No If Yes, please specify
11. Do you need any particular type of support in the complaint process	☐ Translation and interpretation

<i>(please tick ✓ on your option)</i>	☐ Communication with female staff ☐ Protection of identity from RSPO member (in case of safety concerns) ☐ Assistance with verification of the complaint (specify below) ☐ Information or capacity building about the Complaints System ☐ Others, please specify Remarks:
12. Please indicate on whose behalf you are submitting this complaint. <i>(please tick ✓ on your option)</i>	☐ Myself / My organization (specify below) ☐ Another individual or group of individuals (specify below) ☐ Village (specify below) ☐ Community (specify below) ☐ Others, please specify
13. If you are submitting the complaint on behalf of or jointly with other individuals, village, community or organizations, please provide the necessary documentary evidence. This should include proof of adequate process, consultation and agreement.	Please specify your role as the main complainant (e.g. liaising with communities, technical assistance, etc.) Names of individuals/organization and their roles as co-complainant: Primary contact person: Postal address:

	Email address: Phone number:
14. Are you being assisted by someone else who is not a party to the complaint; i.e. a legal representative, a non-governmental organization, a community development organization? (please tick ✓ on your option)	☐ No ☐ Yes, please specify: Name of organization: Contact person: Postal address: Email address: Phone number:

PART B – DETAILS OF THE RSPO MEMBER AGAINST WHOM THE COMPLAINT IS SUBMITTED

15. Name of RSPO Member / Parent company (mandatory) / Name of operating unit	
16. Name of contact person (optional)	
17. Occupation/ Position	
18. Contact Details Postal address	
19. Email address & Skype ID (if any)	
20. Phone number	
21. Fax Number	
22. Date of certification (if any)	
23. Other details that may identify the RSPO member	

PART C – COMPLAINT DETAILS

24. Date of submission (DD/MM/YYYY)	
25. Address and Location of complaint (please provide)	

<i>the district name, map and/or GPS coordinates, if possible)</i>	
26. Provide a summary of the complaint with key facts/issues in a chronological order.	
27. Specify which part of RSPO Principles and Criteria, RSPO Code of Conduct, or any other Certification and Supply Chain rules has been violated.	Please provide details, if possible.
28. Please describe the actions taken by you/your organization to resolve the issues with the RSPO member, if any.	Please provide a time line of steps taken to-date, indicating specific dates, locations and people present, responses received, etc.
29. List of other person(s)/organization(s) contacted by you/your organization in an attempt to settle the issues. Please provide any relevant documents.	
30. List of evidence attached with this form (e.g. maps, videos, audio recordings, reports, photographs, documents).	
31. Please state the desired outcome of the complaint(s).	

PART D – STATEMENT OF GOOD FAITH

In submitting this complaint, I/we: Fully understand and agree that the RSPO Secretariat will handle this complaint in accordance with the Complaints Systems components and the Complaints Procedure Flowchart.

2. Agree to have the RSPO Secretariat share the complaint with the RSPO member(s) concerned, subject to the request for protection of identity.
3. Agree to engage in the complaints process in good faith and to abide by the Code of Conduct for Complaints.
4. Confirm that the information provided above is to the best of my/our knowledge true.

Thank you.

Yours sincerely,

.....

(Signature or thumbprint)

Please email your complaints to: complaints@rspo.org

Or mail/fax it to

RSPO Secretariat Sdn Bhd

Unit A-37-1, Level 37, Tower A, Menara UOA Bangsar,
No.5 Jalan Bangsar Utama 1 59000 Kuala Lumpur, Malaysia
Tel: +603-2302 1500 Fax: +603 2302 1542

Regional Representative Office of RSPO Secretariat Sdn. Bhd

Sona Topas Tower, 16th Floor
Jalan Jenderal Sudirman Kav. 28, Karet, Setiabudi, Jakarta Selatan, Indonesia 12920
Tel: +62 21 2506 417 Fax: +62 21 2506 418

COMPLAINTS SUBMISSION CHECKLIST

Please complete this checklist prior to submitting your complaint. (Please tick ✓ on your option)

1. Details of Complainant	☐ Name ☐ Postal address ☐ Email address ☐ Name of legal representative, NGO, community development organization
2. Details of RSPO member	☐ Name ☐ Postal address ☐ Phone number ☐ Email address
3. Evidence <i>(please tick ✓ where applicable)</i>	☐ Complaints Form ☐ Summary and chronology of events ☐ Maps, location coordinates ☐ Photographs, video, oral recordings ☐ Permits, land titles ☐ Concession agreement ☐ Police report, Complaint letters to government departments and company ☐ HCV reports, other relevant studies ☐ Any other supporting documents
4. Assistance, Confidentiality and Undertaking <i>(please tick ✓ where applicable)</i>	☐ Assistance needed ☐ Confidentiality and protection of identity needed ☐ Code of Conduct for Complaints signed

CODE OF CONDUCT FOR COMPLAINTS

Introduction

The Roundtable on Sustainable Palm Oil (hereafter RSPO) is committed to ensure that all complaints are treated, fairly and in a transparent manner to ensure that the solutions reached are acceptable to all stakeholders. In order to facilitate the RSPO to reach such a solution, it requires that both parties to a complaint observe ethical behavior that accelerates the resolution process. Therefore, it is of the utmost importance that parties to a complaint adhere to this Code of Conduct.

All members and complainants are expected to read, understand and subsequently apply the standards of conduct outlined herein.

Good faith and timeliness

All complainants and members of the RSPO who are the parties to a complaint shall at all times behave in good faith and refrain from making statements prejudicial to the settlement of the complaint pending the investigation and resolution by the RSPO and the Complaints Panel. All parties to a complaint are required to attend to all information request in a timely manner and inform the RSPO and the Complaints Panel where they foresee a delay in submitting such requested information.

Monetary Gain

No parties to a complaint shall solicit any sort of business or economic opportunities from a member of the RSPO, who is the subject matter of a complaint. If a member is approached by any parties to a complaint which such a proposal, then the member shall inform the RSPO of the same immediately. All such details as reported by any party shall held in confidence by the RSPO. Sanctions can be considered by the Complaints Panel if the party is found to be in breach of this Code of Conduct.

Public Statements

If any party to a complaint intends to make a public statement in relations to a pending complaint, that statement must be shared with the RSPO and the Complaints Panel prior to its publication. This is intended to prevent any prejudicial statements that could possibly harm the on-going investigation and resolution of a complaint. All parties to a complaint are encouraged to refrain from making such statement until the complaint has been deliberated by the RSPO Complaints Panel.

Cooperation

All parties to a complaint shall upon official notification by the RSPO on the legitimacy of a complaint, must cooperate and abide by the decision of the RSPO at all times. If a party i.e. complainant, intentionally refuses to cooperate with the decision of the Complaints Panel to resolve the complaint, then the RSPO and the Complaints Panel has a right to bring the whole complaint to an end. However, the member shall continue to implement the decision of the Complaints Panel to the satisfaction on the Complaints Panel until it decides to close the complaint.

Intimidation

All parties to a complaint must refrain from intimidating any other parties, witness or communities with a view of preventing them from giving evidence or statements to the RSPO and the Complaints Panel. No party shall use the threat of violence or economic loss as a means to compel a party to withdraw a complaint.

Code of Conduct Declaration for Complaints

I....., acknowledge that I have received and read a copy of this Code of Conduct Statement, have understood all of its terms, and agree to abide by the provisions contained therein.

.....

[Name]

.....

[Signature]

.....

[Date]

