



**A manual on Free, Prior, and Informed
Consent (FPIC)
for communities impacted by
oil palm plantations**



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I. What is this toolkit?

This toolkit is for communities in Liberia who are being affected, or may be affected, by an oil palm plantation. Oil palm companies have been told by the government that they can expand their plantations across large parts of Liberia. This toolkit describes a right that can help communities living in these areas protect their land and their livelihoods from a company and the Liberian government. **This right – and the process that must be followed – is called Free, Prior, and Informed Consent, and is often abbreviated as just FPIC.**

This toolkit was developed by the Liberian NGO Save My Future Foundation, called SAMFU for short. SAMFU has been working in Liberia for 30 years and has been working in one of Liberia's largest oil palm plantations run by Golden Veroleum in south-eastern Liberia. SAMFU has developed this toolkit because it wants to help communities across Liberia know their rights and is giving to communities and NGOs across the country for use in their areas.

II. The basics of Free, Prior, and Informed Consent – also called FPIC

FPIC is a legal right communities have to make decisions about what happens to their land, their livelihoods, and their futures. It is a right that communities around the world have – whether they are affected by plantations, or dams, or big factories. In the case of an oil palm plantation, this means that the community should be able to make proper decisions about whether the company affects the community's land before it expands.

The key parts of FPIC are:

- **Free:** The community cannot be forced to make a decision by the company or the government. Communities cannot be intimidated by security or government officials, community leaders cannot be fired for making decisions that the company or government do not like, and community leaders cannot be bribed into supporting the company.

- **Prior:** The community must be given time to make its decisions. The company cannot go ahead with its operations before the community has made its decisions.
- **Informed:** The community must have enough information about the plantation to make a good decision. Because the plantation is so large, will last for so long, and will change the lives of community members so substantially, the community needs a lot of information if it is to make such an important decision.
- **Consent:** The company cannot go ahead with its operations if the community says no. The community also has the right to make decisions in its own way, with the voices of all community members – including women, youth, traditional leaders, and other groups – being involved.

FPIC must be respected by the government because it has signed international treaties and declarations. The most important of these are the Universal Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, and the 2016 Principles for Responsible Palm Oil Production in Liberia. When the government passes the Land Rights Law, it is anticipated that the law will re-commit the government to respecting FPIC rights.

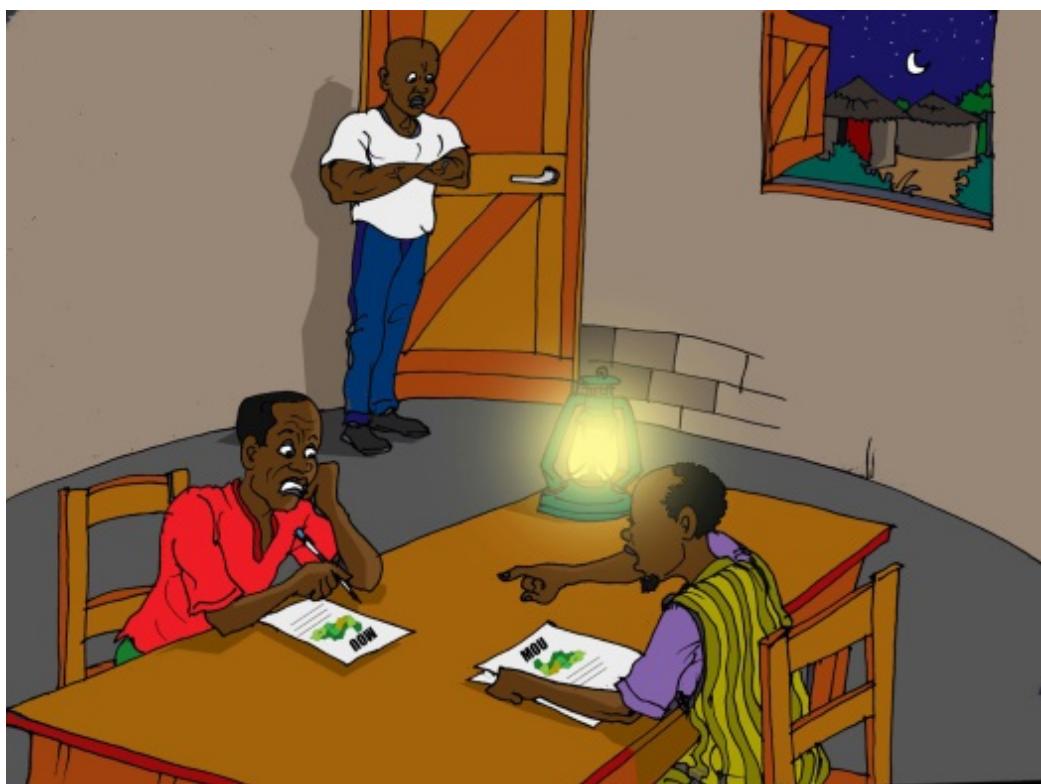
FPIC must also be respected by oil palm companies. Most of the companies in Liberia have promised to follow the Principles of the Roundtable on Sustainable Palm Oil, which requires companies to respect communities' FPIC rights.

III. How to make sure FPIC is respected – the process

It is common around the world for companies and governments to say they respect FPIC for a big project like a plantation or a dam that affects local communities. But when you ask communities they say they did not really have the chance to make a decision themselves. To make sure that this does not happen in Liberia communities need to think of **FPIC as not just a right, but also a process**. By following a process, and making sure that the company and the government follow a process, the community can spend time focusing on each part of FPIC and make sure they make proper decisions about what to do with their land.

Below we describe an FPIC process that a community can use. This process is just a suggestion, because the main point of FPIC is for a community to decide itself how it wants to make a decision. However, we believe that the below process will protect communities' FPIC rights, helping them to take time to make proper decisions about whether to give some of their land to a plantation company.

1. Refuse to talk to the company if you are being intimidated or if people are being bribed



It is your right to decide whether to negotiate with the company without anyone forcing you to do so – it is your right to make a **FREE** decision. Force can come in many forms, including:

- Police or company security officers intimidating people.
- Government employees being fired for not supporting the company.
- Community leaders excluding community members from meetings or refusing to listen to them in meetings.
- People taking bribes so that they push community members into making a particular decision.

If any of these things have happened, you have the right to refuse to negotiate with the company.

2. Make sure the company has not started work without your permission

If the company is already operating on your land but has not yet negotiated with you, your right to make decisions about your land is not being respected. These operations can include surveying your land or clearing it for palm oil. If these things are happening then you have the right to tell the company to stop. If the company does not stop then you have been prevented from making a decision about the company's operations **PRIOR** to them starting work and affecting your lives.

3. Talking within the community

If your community suspects, or if it knows, that the company wants to expand its plantation onto your land, it is a good idea for the community to have preliminary consultations with just community members. This will help you get organized, get the information you need, and help you decide whether you want to negotiate with the company without the process being dictated by the company or the government.

This is not to say you should not talk to the company at all – you will need to ask it for information. But it is a good idea to have plenty of conversations within the community without the company being present before you start negotiating with the company (and then throughout the negotiation period). If you would like to invite NGOs to some of these discussions there are NGOs that would be happy to join and help.

Below we have listed some things you should discuss within the community:

a. How should the community make decisions if it negotiates with the company?

Your community has the freedom to define how you will make decisions and how you will be represented if you want to negotiate with the company. Do you want all decisions to be made by the entire community or by a group of people you elect?

Are some topics so important that they must be decided by the entire community? If you want to elect a group of community members to represent you, who should be in this group?

However you set up your decision making bodies, these should follow your customs and practices. This said, it is a good idea to both seek consensus and to take into account the views of all community members including women and young people. This is because a large-scale plantation affects everyone in different ways.

b. Is the plantation good, bad, or both, and do you have the information needed to know this?



As with any big decision, the most important part of the decision to negotiate with the company is getting information that allows you to make a good decision. If the company is asking to control some or all of your land for decades, what kind of information do you need to know if it is a good idea, a bad idea, or a little of both? The FPIC right includes your right to obtain this information – it requires **INFORMED** consent. If you do not get the information you need, then your right has been violated and you can refuse to negotiate with the company.

Much of the information you will need should be provided by the company and the government, and you should ask for this from them. Some useful information can be provided by NGOs, and you should ask them also. Getting what you need may not

be easy, and once you get it the information may be complicated, technical, and take time to understand. You have the right, however, to obtain information in a way that is understandable, in your own language. And because the company's plantation will have such a profound impact upon your lives and those of your children, it is a good idea to take time and – if you need to – ask for assistance to understand it.

Exactly what information you need is up to you. However, we have some suggestions for information we think is necessary for making a decision about whether to negotiate:

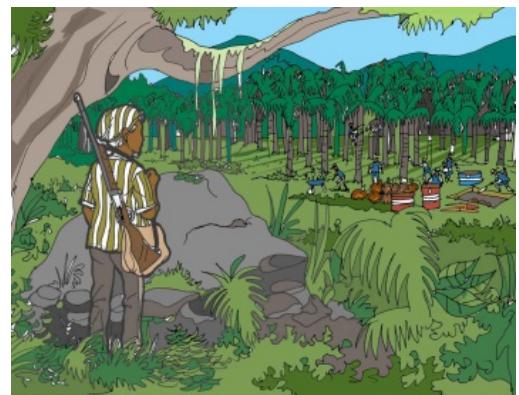
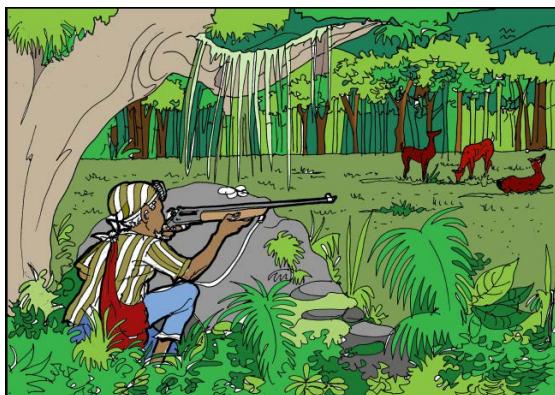
- Who is the company? Who is this company that wants to work in your area? Do they have plantations elsewhere in the world, have the people in those areas benefitted from them, and has the company kept its promises to other communities? Who owns this company and are they financially reliable? Who will you be able to contact someone in your area who has responsibility over the company?
- Why did the company come to your area? How did the company get its contract with the government, can you have a copy of the contract, and what does that contract say?



- What land might the plantation take? Exactly where on your land does the company want to be? To help you understand this, the company must work

with the community to make a **Participatory Map**. This map should show the community and the company where the community is, what it does with its land, and mark areas where – if the community later negotiates an agreement – the company cannot go.

- What kind of money will the company make and how much information will the company give you about this in the future, when it is operating? What kind of rent is the company prepared to pay the community to lease its land? What does the company already pay other communities in rent, and what do those communities think about it?
- Does the company understand that you own your land? Does it understand that if you allow it to use some of your land, it is only renting it from you?
- What will be the impact of the plantation on you and your livelihoods? This is a big question and you need answers about many impacts that the plantation will have. These include:
 - How many people are in the community and will be impacted?
 - Your farms. Where will you farm if the plantation comes? Will you be able to afford food if there are fewer farms and prices go up? How much will prices go up?
 - Your hunting and fishing areas. Will you be able to hunt and will you be able to afford to eat meat and fish when prices go up if the plantation comes?



- Your water. Will the plantation spoil rivers and make people ill?
- Chemicals. What kind of chemicals does the company want to use and what are their impacts on the land, water, and the community?
- Jobs. How many people will the company hire, for what kind of jobs, and for how long? Will this be enough to support families if there is less land left for farming and hunting?
- These questions should be included in an **Environmental and Social Impact Assessment** that the company must produce and give to you in a language that makes sense to you. The company must work with the community to write this document so that it includes the information you need. The company should also give you the final, full version of this document early enough that you can read and understand it before you decide whether you want to negotiate.



c. Does the community want to negotiate with the company?

After the community has received, understood, and discussed all of this information, it should decide whether it wants to negotiate with the company to rent some of its land to the company. **If the community decides not to negotiate then the company must respect this decision.** However, if the community decides it does want to negotiate then it should outline negotiating positions – what does the community

want and what is it not prepared to compromise upon? These decisions should be made by the community itself, with no interference by the company or the government.

4. Negotiating with the company



a. Important things to remember if negotiating with the company

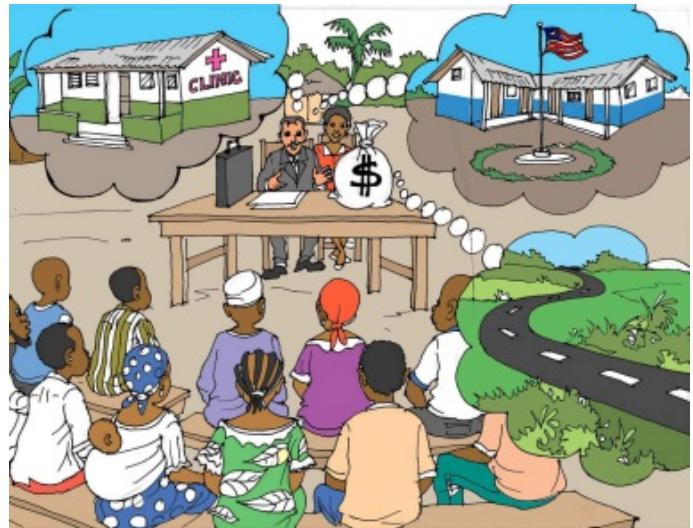
If your community has decided it wants to negotiate with the company then it should be aware of five main things:

- The company cannot operate without your permission. The community owns the land and the company can only ask to use it. This means the community has the ultimate bargaining chip.
- You have the right to negotiate and make decisions in the way that you have chosen, with the representatives you have elected or with the whole community.
- You define what a community is, not the company. The company cannot cut a community in half, negotiate with two communities together who do not want to be together, or negotiate with one community for land that is owned by a different community.

- The company is large and has a lot of experience, so **the community should seek outside help – for example legal advice – during negotiations.**
- The negotiations will be complicated and if you come to an agreement with the company, this agreement will last for many years. **So take time.**

b. What to negotiate

There are a large number of topics you can negotiate with the company that might be included in an agreement with the company. What you want to negotiate is up to you, but we have listed some important ones you might want to consider:



- How much of the land described in the Participatory Map and the Environmental and Social Impact Assessment does the community want to allow the company to use? How much of this land must be kept for the community's use?
- What can the company do on the land? What is it not allowed to do, including not using chemicals that pollute rivers or not putting the plantation on future farm land, hunting areas, and sacred sites?
- How many people will be employed directly by the company? What kinds of jobs? For how long? What kind of job security will there be? What other job opportunities does the company offer, such as buying things the community makes or grows?
- How much rent should the company pay you for your land? The land the company wants is owned by you and we think you should be paid rent for its use.
- What other things should the company provide for the community? Roads, concrete bridges, schools, clinics, scholarships? Be specific: where and when should each of these things happen? Will there be doctors, nurses and medicines in clinics? Will the school have teachers and equipment? Be clear that these are in addition to, not instead of rent.
- How long can the company use your land for?
- How long is this agreement good for? When do you want to renegotiate the agreement in case it turns out later you are unhappy with it?

- How much information do you need from the company about its operations? What kind of reports and meetings do you want, and how often?
- If the company violates the contract, how do you hold it accountable? Must it leave your land? How do you resolve disputes with the company?

c. The agreement should be a legally-binding contract

It is very important that the agreement with the company is a legally-binding contract – not a Memorandum of Understanding or Social Agreement. If it is not binding, then it is hard for you to make sure the government helps you enforce it if the company fails to do what it promised. For your agreement to be a legally-binding contract you should make sure the following things have happened:

- The commitments made by the company must be specific so a person can tell whether they have been kept or violated. For example, where exactly is the area where the company is allowed to operate? Where will concrete bridges be built and by what exact date?
- The contract should be a lease contract. The contract should explicitly state that you own your land and that the company is leasing it from you, and it should include the amount of money it is paying you in rent.
- The contract should be reviewed by an independent lawyer who works on behalf of the community.
- The contract should be notarized so the government must recognize it.

5. Making a decision about the agreement as a community

It is important to understand that just because the community has entered into negotiations with the company it does automatically lead to actually signing an agreement with the company. You have the right to say no to the company at any point before signing, and the company must respect this decision. **You have the right to withhold your CONSENT.**

When deciding whether to sign a negotiated agreement with the company the entire community should be involved. The agreement should be brought before the entire community and discussed in detail, over time, so everyone understands what it means. While the final decision-making process is up to you, we do suggest that

such a large decision be made through the consensus of the entire community. If some people dissent from the agreement then this is a sign there is not consensus and the community should consider further negotiations or rejecting the agreement.

6. Monitoring the company

If you sign an agreement with the company and it starts operating on your land then you need to make sure it does what it said it would do – you need to monitor it. This will include regularly getting information from the company and doing investigations to make sure it is operating properly.

You need to decide who is going to lead on this monitoring, including receiving information from community members who have concerns about how the company is operating. You can also ask for help from the government or NGOs to investigate problems you see.



Remember, if the company violates its agreement with you then you can cancel the agreement – **you have the right to take away your CONSENT** but you must do so in a legally robust way. Consult a lawyer or an NGO before you start to take this step.

This manual is intended for education and awareness purposes only. It has built upon the work of SAMFU's partners over the last decade and is indebted to the other organizations that have produced manuals which we have sought to build upon and strengthen.

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