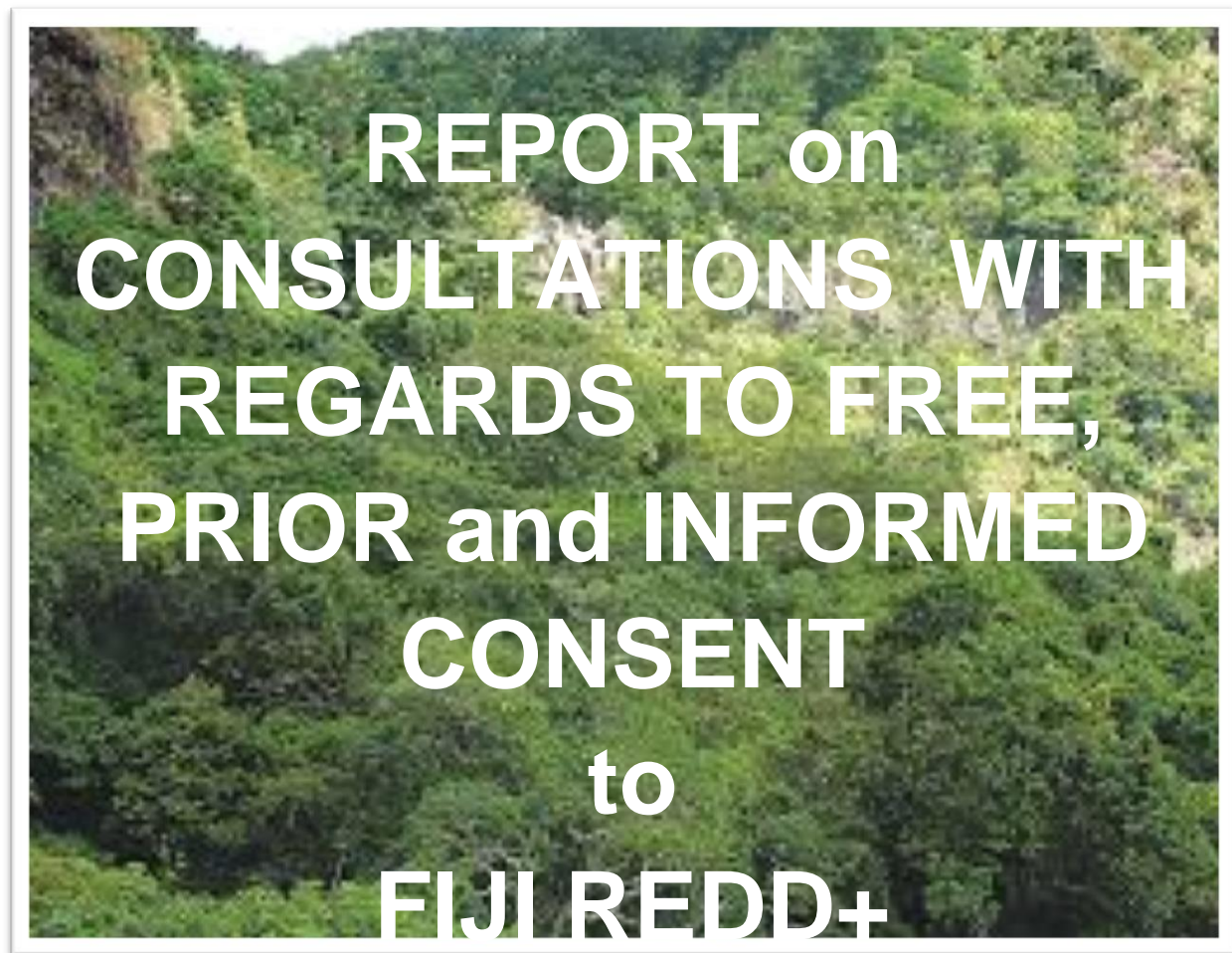
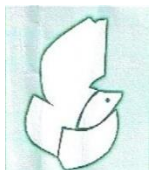


DRAFT



from the



**SOQOSOQO VAKAMARAMA
I TAUKEI**

24 April 2019

EXECUTIVE SUMMARY

- (i) This report is about the people's perception of Free, Prior, Informed Consent (FPIC). A review of existing legislation and policies was also necessary. The findings and recommendations for these activities are included in this report and, will contribute to developing an FPIC Guideline for the World Bank-funded Fiji REDD+ Readiness Project under the Ministry of Forest.
- (ii) The interpretations of FPIC adopted by most international organizations suggest that FPIC is not a one-off consultation and/or determined quickly by a check-list for verification. Rather, it is a process that is on-going until the end of the project
- (iii) A survey targeting indigenous Fijians, the iTaukei who now make up more than 50% of the population and own 87% of the land found the following interpretations and perceptions for FPIC: (1) *Galala* (2) *Ni se bera (ia, e soli na gauna me vakasamataka kina* (3) *Kila. Na cava ena kauta mai vei au?* (4) *Vakatulewa*. In this context, all the respondents interpreted Consent as a decision to be made and not an immediate *io* (yes) or *veivakadonui* (approval or consent).
- (iv) Probing into the social significance and implications of FPIC suggests that respondents found it was not too far different from their values of *veidokai* (to act with respect and humility), *veinanumi* (to be thoughtful of others). These values form the basis for most of their age-old customary practices which were necessary for social cohesion.
- (v) The significance and implications of these practices are found to be firmly based on both pre-Christian and Christian religions.

(vi) Recommendations from the review of legislations and policies include:

- Fiji to ratify the UNDRIP should FPIC attain a fundamental and priority area in Fiji. Once Fiji ratifies UNDRPI, then more emphasis will be placed on the existing rights contained in the Bill of Rights in the 2013 Constitution of Fiji in favour of Indigenous People. This is possible through Article 7 of the Constitution of Fiji.
- On Enactment of Forestry Bill 2016. Fiji should enact the Forestry Bill 2016 which would enable Fiji REDD programme to more effectively administer FPIC as it contains a good section on it.
- On Amendment to TLTB Trust Act. Introduce TLTB regulation. It is also further recommended that any reference to the obtaining of consent from TLTB should be amended by adding consent from the indigenous landowners as well.
- There should be an established focal point or administration for FPIC in Government. At the moment, the Ministry of iTaukei Affairs has presented itself as the focal point for government. However, it would be prudent to review this in light of the differing mandates of potential partners such as forestry, fisheries and land for example, and see, which government instrumentality can be the best effective go-to- administrator for FPIC.

(vii) In the context of partnership between indigenous and international organizations, the Drawa Community Block Facility Cooperative (DCBFC) with Live and Learn's Nakau programme appears to be working sustainably. Using a cultural appropriate governance structure in the form of a local cooperative which is regulated by the Department of Cooperatives to ensure accountability to its members. While simultaneously, Live and Learn facilitating with compliance, to enable DCBFC to ensure international certification for its carbon sale.

- (viii) Guided by the 2011 Monitoring Report of FPIC in REDD by The Centre for People and Forests (RECOFTC) and the German Agency for International Cooperation (GIZ), it appears that the 99 year-conservation lease by the Government for 88% of Emalu's forests does not appear to have been characterized by the principle of FPIC. Further probing found that the LOUs raised three issues of concern; (1) Delay in annual lease payments, (2) Non-clarity on the issue of the standing forests within the leased area, (3) Absence of the lease document signed in 2017. The situation in Emalu, although seven years later, could be cited as an example noted by the FPIC Monitoring Report when; *"...governments attempt to take advantage of the potential financial value of standing forest through REDD+, it is not clear how they will act. Will they attempt to resolve these disputes by recognizing the rights of indigenous peoples and local communities, as required by international instruments and law? Or will they try to assert state control over the land and the carbon stored on and in it? In the latter case, loss of access to forests and a denial of the right to a share of REDD+ benefits could have dire, long-term effects on the welfare and resilience of these communities..."*
- (ix) The Emission Reductions Program Document (ER-PD), under the Forest Carbon Partnership Facility (FCPF) Carbon Fund has provided a well documented and comprehensive framework yet, recognising the gaps that remain within. For example, the competing priorities of institutional/ministerial policies and their respective application found to be at a tangent with REDD+ principles.
- (x) Therefore, while Benefit-Sharing Arrangements might clearly articulate the strength and gaps of the institutions involved, it is evident from the ER-PD plus the recommendations in the legislative and policy review, and, consultation findings by the SSV that, administering FPIC will require an integrated approach within a workable framework, if it is to effectively harmonise with the UNDRIP.

ACRONYM

ANU	Australian National University
CMF	Christian Members Fellowship
CSO	Civil Society Organisation
DBFCC	Drawa Block Facility Community Cooperative
DPP	Director for Public Prosecution
EMA	Environment Management Act
ERPD	Emission Reduction Program Document
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
FAO	Food and Agriculture Organisation
FCEF	Fiji Commerce Employers Federation
FDB	Fiji Development Bank
FGD	Focus Group Discussion
FLMMA	Fiji Locally Marine Managed Area
FPIC	Free, Prior, Informed, Consent
FRA	Fiji Road Authority
ICERD	International Convention on the Elimination of Racial Discrimination
IFAD	International Fund for Agricultural Development
II	Individual Interview
ILO	International Labour Organisation
LMMA	Locally Managed Marine Area
LOU	Land Owning Unit
MoF	Ministry of Forests
MSG	Melanesian Spearhead Group
MTA	Ministry iTaukei Affairs
NGO	Non Government Organisation
NLTB	Native Land Trust Board
RKT	Roko Tui
REDD	Reduced Emission from Deforestation and Forest Degradation
SSV	Soqosoqo Vakamarama I Taukei
TLTB	Taukei Land Trust Board
TOR	Terms of Reference
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

GLOSSARY

Bulu	A place of waiting for the dead or purgatory, in the cosmology of the iTaukei society and in Christianity
Etesi	A place of waiting for the dead or purgatory in Christianity
Galala	Free
Io	Yes
Kila	Know or to be informed
Kila cake sara	To know well or to be better informed
Kila taumada	Prior knowledge
Kila vakavinaka	To know well or to be better informed
Lagi	Beyond the horizon or up in the sky
Vakatulewa	Decision
Vanua	Land, people and custom
Veivakadonui	Approval or Consent
Vuravura	Earth
Yaubula	Natural environment

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1.0 INTRODUCTION

This report presents the research findings of consultations with primary and secondary stakeholders in response to the Terms of Reference (TOR)¹ for the Development of a REDD+ FPIC Guideline for Fiji, between the Soqosoqo Vakamarama I Taukei (SSV) and the Ministry of Forests². Under this contract, there are two TORs with three deliverables each. The other, a Gender Guideline is being reported separately. The total contract price for six deliverables is F\$49,050 inclusive of direct taxes³. The main objective for this (FPIC) TOR was to ensure that effective and full participatory consultations were carried out with indigenous resources and rights owners in Fiji while carrying out REDD+ work⁴.

World experience reveals there is genuine concern for an increasing population of indigenous people at risk of losing their age-old heritage of natural resources and traditional livelihood because of intense industrial activities encroaching on their customary lands. In 2009, Fiji began to be actively involved with World Bank-funded REDD+ process out of similar concern to help maintain protect natural forests against deforestation and forest degradation. Furthermore, the Government through the Ministry of Forests (MoF) recognized that women were also primary users of forests. In 2010, the Fiji National REDD+programme was endorsed by the Government. In the same year, the SPC/GIZ Coping with Climate Change in the Pacific Islands Region (CCCPIR) partnered with the World Bank through the Forest Carbon Partnership Facility (FCPF) funding of US\$5.8 million for the REDD+ Readiness phase.

Free, Prior, Informed Consent (FPIC), a method of communication that assists with decision making is a specific right that pertains to indigenous peoples and is enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). FPIC is also protected under the International Labour Organisation (ILO) 169 which Fiji

¹ Appendix 1

² Deliverable 1 is the Inception Report, Work Plan and Consultation Plan. Deliverable 2 is this Comprehensive Report and Deliverable 3 is the Development of a Free, Prior and Informed Consent (FPIC) Guideline for Fiji under the Ministry of Forests, Fiji REDD+ programme.

³ See Contract Document, Grant No. TF 19204, Contract No. C.27 between MoF and SSV, signed 23/11/18

⁴ See TOR for FPIC Guideline, 3

ratified on 3rd March 1998. Hence the outcome of this report intends to contribute to the development of an FPIC Guideline necessary for the Fiji REDD+ Readiness⁵ strategy.

1.1 Soqosoqo Vakamarama I Taukei (SSV)

The SSV is representative of the Civil Society Organisation (CSO) platform and is tasked to undertake community consultations under REDD+. The SSV is the leading indigenous women's organization for ethnic Fijians, the iTaukei. It was founded in 1924 and is one of the oldest NGOs in Fiji, having been registered in 1968 under the Charitable Trust Act. The SSV is also the biggest NGO for indigenous people, the iTaukei. The SSV caters primarily to the socio-economic development of iTaukei women through its network from the secretariat, to the Provincial women leaders, to the district leaders, to the village leaders and vice versa. This structure is designed similarly to the local government provincial system that caters to the iTaukei and was introduced to ease indirect British colonial rule in the 19th century. While it has since evolved to harmonise with modernity, the role of iTaukei women however in development remains recognized through the SSV in local government under the Ministry of iTaukei Affairs. The SSV is the only Non-Government Organisation (NGO) that is represented in 1,171 village council meetings, 187 district council meetings and 14 provincial council meetings where it has formal recognition.

2.0 BACKGROUND

In Fiji as elsewhere in other parts of the world, investments are targeting lands governed by customary rights. Investors believe that customary land is not adequately recognised and protected under national laws, mostly because governments lack the capacity to enforce the law. In Fiji however, 19th century industrial era to early 20th century experience with investors necessitated the adoption of the Native Land Trust Act and the Native Land Trust Board (NLTB) was set up in 1940 to secure, protect and manage land ownership rights of indigenous Fijians including facilitation of commercial transactions⁶. The iTaukei, now make up more than 50%⁷ of the population and own

⁵TOR for FPIC REDD+Guideline refers.

⁶ Native Ordinance 1876 under Governor Gordon (Daurewa, 2013) and later, iTaukei Land Trust Act mandates the iTaukei Land Trust Board ultimate control over customary land.

87%⁸ of the land. While the iTaukei Land Trust Board (formerly NLTB) assures native landowners that their land is protected and secure⁹, in addition to which, the Ministry of iTaukei Affairs appears to have been harboring FPIC since 2014, past and recent experiences however reveal, some investments have contributed to environment damage to customary land despite the national law¹⁰.

While Fiji has ratified ICERD (1973) and the International Labour Organisation (ILO) Convention 169 (1998), it is not a part of the community of nations in the UN General Assembly which adopted the Declaration of the Rights of the Indigenous Peoples (UNDRIP) on 13 September 2007.¹¹ In 2016, a European Union (EU) funded monitoring exercise of indigenous institutions revealed that while the 2013 Constitution characterizes indigenous rights in its Bill of Rights as evidenced in Sections 26, 28 and 30, the Land Use Decree adopted in 2010 and housed by the Ministry of Lands however, has the potential to contradict this mandate because it implies that it also has control over how iTaukei lands are to be dealt with as might be evidenced in Nawailevu Village in Bua Province¹².

In Nawailevu, a scoping study in 2012 named Nawailevu Community Project initiated by the Bua Urban Young (BUY) with OXFAM funding, found that the Land Owning Units (LOUs) lacked awareness of the impact of mining. In addition, the LOUs understanding of the conditions under which their land was leased was different from the action of the mining company. As a result, the villagers suffered environmental damage, economic opportunity and loss of food source¹³.

In Vitogo district in the Ba Province in the Western Division, heavy rain in 2012, an earthquake and a cracked ground in Natubaibua Hill where the Fiji Pine Limited's pine plantation is in Vakabuli village caused a landslide as boulders, rocks, pine and

⁷ Assumed 50%+ based on 2007 census. 2017 Est. 0.9million, trading economics
com.fji+worldpopulationreview.com.countries = 918,757. Accessed 9/4/19

⁸ See <https://www.nltb.com.fj/faqs.html>. 87% or 1.5m hectare, State-land is 9% & Freehold is 8%. Accessed 12/4/19

⁹ See <https://www.tltb.com.fj>. Accessed 12/4/19

¹⁰ CCF monitoring report on indigenous institutions to the EU, 2016, and anecdotal evidence, Malolo

¹¹ See CCF May 2016, Monitoring Report on Indigenous Institutions by A. Daurewa & J. Daurewa.

¹² See Citizens Constitutional Forum (CCF) Monitoring Report to the European Union, A. Daurewa, 2016:41

¹³ Ditto

indigenous trees were uprooted and thrown down the hill. Much of the rocks landed in Vakabuli River which affected the normal flow of the water. Further down, the reservoir became full adding pressure to the dam part of which burst. River water filled with mud and silt overflowed into villages and settlements along the way and into the sea along the coastal villages. Poor planting practice by Fiji Pine Limited and lack of monitoring by the Ministry of Forest contributed to the cause for this massive damage affecting about 3,000 people in the Vitogo District¹⁴. Anecdotal evidence reveals that in 2018 and 2019 Malolo island villagers fought the environmental destruction from a planned resort development by Freesoul Real Estate. As a consequence, Fiji's Environment Department reportedly revoked the company's environment impact assessment.¹⁵

The Nawailevu village, Vitogo District and Malolo island experiences suggest that the Government's compliance and regulatory systems with regards to policies that aim to protect the environment might not be as effective as expected by the people.

3.0 RESEARCH METHOD

“..the primary role of Pacific research protocols is to generate knowledge and understanding about, and for, Pacific peoples and their environment...”¹⁶

3.1 Research objectives

The objective in the TOR reads: This assignment will ensure that effective and full participatory consultations are carried out with indigenous resource and rights owners and users in Fiji whilst carrying out REDD+ work. The Guideline will ensure that all FPIC principles are adhered to in this REDD+ Readiness phase and ERPD design and implementation phase which will in turn contribute to the development of a national REDD+ strategy and the design of the Emission Reduction Program. The objectives for the research were therefore developed out of consideration for the objective of this TOR and the seven specific tasks listed as methodology. The matrix below lists each task, source of data, the type of data collected and the team member responsible:

¹⁴ See <https://friendfiji.com/the-peoples-perception-in-the-vitogo-river-flooding/> Access 24/4/19

¹⁵ See <https://www.radionz.co.nz> Access 24/4/19

¹⁶ University of Otago. See <https://www.otago.ac.nz/research/otago085503>. Accessed 15/4/19

Table 1: Tasks, Source, Data Type and Responsibility

No	Specific Task	Source	Data Type	Team Member
1	Desk review of relevant FPIC reports in forestry & REDD, other materials & documents	Literature	Secondary	Lead consultant
2	Review of the FPIC Guideline prepared by other sectors in Fiji that contribute to FPIC	Literature	Primary & secondary	Legal practitioner
3	Identify policies and legislations already in Government that contribute to FPIC	Literature	Secondary	Legal practitioner
4	Conduct interviews, focus group discussions, consultation, workshops etc with key government personnel on the Central/Eastern, Western, Northern divisions with local communities, the private sector and CSO platform	Relevant government officials, private sector and NGO	Primary	Lead consultant
5	Conduct consultations with indigenous peoples land owners, mataqali, RKT and other indigenous organizations responsible	Communities & individuals	Primary	Lead consultant
6	Conduct field visits to the REDD+ Emalu pilot site as well as the REDD+ project site in Drawa	Emalu & Drawa	Primary	Lead consultant
7	Hold a national validation workshop to present results of the Consultation an draft FPIC Guideline document	Subject to REDD+ approval for 1-6	N/A	Lead consultant

Hence, the following research objectives and intention for each were designed to respond to the main objective and the specific tasks of the methodology in the TOR:

Table 2: Research Questions and Intentions

No	Research Questions	Intention
1	What does FPIC mean to you?	To interpret the forest-dependent people's perception of FPIC
2	Do existing policies and legislation enable the formal	To identify and explain policies and legislations already in Government that contribute to FPIC

	adoption of FPIC in relevant government agencies?	
3	If not, what would the best way forward be for FPIC's adoption?	List recommendations based on the people's concern and gaps in policies and legislation with regards to FPIC

3.2 Target Area

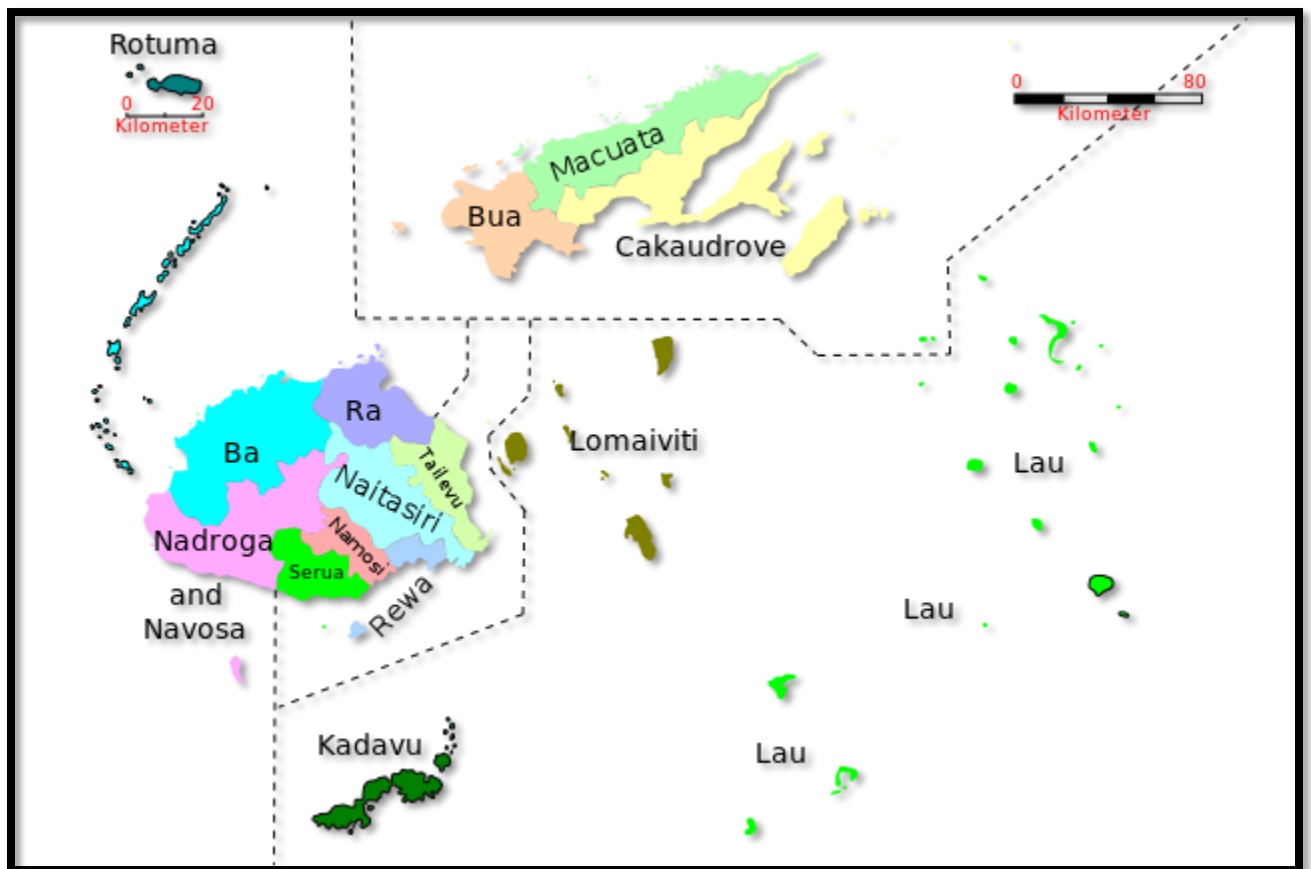
The research areas were identified as the two designated Fiji REDD+ sites (see 6 in matrix above); Dratabu Village in the Tikina (District) of Noikoro in Navosa/Nadroga province on Viti Levu, and, Drawa Village in the Tikina (District) of Wailevu West in Cakaudrove Province on Vanua Levu. ¹⁷Navosa district located in Nadroga province has become and remain with the largest indigenous i-Taukei population. It is a province with the third largest land area of 2634 km² with population density of 24 persons per km². This is a marginal increase from 1986-1996 census of 23 persons per km² ¹⁸. Nadroga province is divided into 8 districts: Baravi, Cuvu, Malolo, Vatulele, Malomalo, Nasigatoka, Ruwailevu and the district of Navosa that have a population of about 5,428 people. Subsistence workers in the province of Nadroga are three times higher than the national average. This can be reflective of the number of people engaging in farming activities who might not be unemployed.

Drawa belongs to the Tikina (District of Wailevu West) in the Cakaudrove Province. In contrast, its geographic location in the hinterland and easier access to and from the district of Dreketi and sometimes Labasa for employment and other social services deems it culturally part of Dreketi which belongs to Macuata Province. In Draubuta, data was collected via individual interviews with the heads of the five Mataqali and Yavusa who in most instances was the same person. The village nurse, the Pastor of the Christian Mission Fellowship (CMF) and the leader of the village-based SSV were also individually interviewed. Draubuta is one of several villages under the Tikina (District) of Noikoro. The Mata ni Tikina was interviewed by the group at the Keiyasi Government station which he was visiting at the time of our

¹⁷ See SSV July 2018 Report on Building Capacity for Fiji's Forest Dependent Indigenous Men & Women to actively participate in the Fiji REDD+ Readiness program, sub-Grant Agreement of SSV Trust Board & Tebtebba Foundation.

¹⁸<http://www.statsfiji.gov.fj/statistics/2007-census-of-population-and-housing>

arrival.¹⁹ Likewise, the Roko Tui Nadroga/Navosa. The District Officer who is based in the Keiyasi Government Station and is responsible for Draubuta was interviewed with the assistance of Eseta Tuinabua (SSV) on our return²⁰. In Drawa, the chief was interviewed individually but in the presence of his family most of whom contributed to the discussion. Focus group discussions (FGD) were held with the rest of the village and the Chairman and Treasurer of the Drawa Block Forest Community Cooperative (DBFCC). **Figure 1: Map of Fiji²¹**



Ref: Jaldouser - Own work, CC0,
<https://commons.wikimedia.org/w/index.php?curid=46024948>

¹⁹ 19 March 2019.

²⁰ 21 March 2019

²¹ See SSV July 2018 Report on Building Capacity for Fiji's Forest Dependent Indigenous Men & Women to actively participate in the Fiji REDD+ Readiness program, sub-Grant Agreement of SSV Trust Board & Tebtebba Foundation

3.3 Research approach, ethical guidelines, method and tools

A survey or questionnaire may not be culturally appropriate and therefore not likely to generate reliable data on perceptions of FPIC and other issues that might emerge as concerns to be considered in designing the FPIC guideline. Thus the research employed the Pacific Research protocols of the University of Otago, which recognises that the primary role of research is to generate knowledge and understanding about, and for, Pacific peoples and their environment. Furthermore, while Pacific societies and communities are extremely varied; values, ways of living and beliefs are therefore not uniform. There is commonality however in the following principles which helped guide this research; (1) Maximising benefit to human (2) Relationships (3) Respect (4) Cultural competency (5) Meaningful engagement (6) Reciprocity (7) Utility, by explaining clearly the subject and recognizing priority issue of concern (8) Rights (9) Balance (10) Protection (11) Capacity Building (12) Participation.²² The virtues of care, cooperation, respect and moderation are incorporated in these twelve principles which also form the ethical guideline for this research.

This research was able to incorporate gender perceptions of FPIC and issues of concern by consulting previous SSV reports on Capacity Building for the Fiji REDD+ readiness programme (2018), the SSV Special General Meeting report in December 2018 and the community consultations in Draubuta from the Gender expert and Drawa from the second Gender expert.

The policy review focuses on government sectors in Fiji instead of all sectors. In its response (Email of 4/3/19) to the questionnaire on FPIC, the Fiji Commerce and Employers Federation (FCEF) said that while it recognizes FPIC as a right recognized by international law, it was however not formalized. It recognises nevertheless that such practice and process is guided by the Ministry of iTaukei Affairs and other indigenous institutions where the Intellectual Property are protected or the consent for project or programme implementation at any local community. While FCEF does not have policies contributing to FPIC, it recognises the importance of this process for its reference to the

²² See <https://www.otago.ac.nz/research/otago085503>. Accessed 15/4/19

right of indigenous people to give or with-hold consent for any action that would affect territories or rights. Furthermore, some of the members of FCEF have businesses dealing with the indigenous communities and that such a policy on FPIC to be developed would be important to know and to understand. The following belong under the umbrella of FCEF; Mining and Quarrying Council, Manufacturer's Council, Tourism and Transportation Council, Women Entrepreneurship and Business Council and Young Entrepreneurship Council. Secondly, a review of other countries' guidelines was omitted because all the countries researched, that is, Vietnam, Norway and about two African countries attend FPIC from different angles. For example, in Norway where their FPIC recommended legislation amendments are more focused on prosecuting Norwegian companies that breach FPIC in other countries they are in.

Using mixed methods of data collection, primary and qualitative data were collected from primary and secondary stakeholders. Secondary data was sourced from reports of the SSV and the Emissions Reduction Programme Document (ERPD) which was in draft form in April 2019. Subject to the culture and nature of the community and/or organization, four methods of data collection were employed as follows; individual interviews, focus group discussions, participant observation and questionnaire. Questionnaires were sent to Government agencies because it was the preferred form of the government, as we were advised. Lastly, in accessing REDD+ policy architecture, the ERPD was consulted for the following; Drivers of deforestation and degradation, Strategic Options to address the Drivers, Reference emissions baseline, Forest monitoring, Measuring Reporting and Verification (MRV) System, Safeguard systems, Non-carbon benefits sharing and Feed-back grievance redress mechanism.

3.4 Data analysis

Data collected through the literature review, the legislation and policy review, key informant interviews, focus group discussions, personal narratives, participant observation were analysed thematically and triangulated to validate or expand on information provided through each research tool.

3.5 Limitations

As with most research, while this research has its limitations, attempts were made to address this with alternatives. Firstly, there was a lack of response from 23 (92%) of the 25 questionnaires that were sent out via email (1/3/19) by SSV to relevant Government agencies and CSOs including the Methodist and Catholic churches. The two respondents were the Taukei Land Trust Board (TLTB) and the Fiji Commerce and Employers Federation (FCEF). Alternatively, this was managed by direct consultations with some officials whose names are with-held. Secondly, an inadequate budget reduced the number of respondents in this research. The budget totaling F\$49,000 provided F\$27,000 in total fees for 3 experts (Gender, Human Rights Law & Policy and a Social Scientist). The balance of F\$22,000 was expected to pay for workshops, interaction with interest groups and travel. In its entirety, the allocation (\$22,000) was not adequate for the number of expected activities listed in the TOR. Furthermore, there was no budgetary consideration for the administration cost incurred by the SSV which is a community NGO largely dependent on a modest annual fee from its rural women members. Alternatively, this research consulted two 2018 SSV Reports to collect secondary data on community perceptions²³. Thirdly, of the 3 experts noted above, the Human Rights lawyer resigned for medical reason. Alternatively and within the limited time available, two lawyers shared the work because of their busy schedules. Furthermore, the level of fee offered to them was not an issue because their acceptance was out of care for the Lead Researcher with whom they are closely linked. As noted in their credentials above, both are experienced and the other, the son of the Lead Researcher had done similar work with the European Union-Funded Monitoring of Indigenous Institutions by the Citizens Constitution Forum (CCF) in 2016. The budgeted total consultancy fee for F\$27,000 was shared at 50% between the Gender expert and Social Scientist to cater for the cost of a second Gender consultant plus the Human Rights lawyer.

²³ A sub-Grant Agreement between the SSV Trust Board and Tebtebba Foundation, July 2018, "Building Capacity for Fiji's Forest Dependent Indigenous Men & Women to actively participate in the Fiji REDD+ Readiness programme and the SSV Special General Meeting which was also an Inception Workshop in December 2018.

Lastly, the TOR requires that this report includes a robust system and process for attaining request. This is not included in this report because of the recommendations (refer 7.0) which include political will if they are to be realized. However, an FPIC Guideline is being drafted minus the recommendations.

3.6 The Team

Alisi Daurewa was engaged to lead this research. She has a collective 37 years of financial and programme management experience including 9 years as the executive director of a national multi-sectoral and multi-donor development NGO. In the last 6 years, she has since undertaken numerous researches for international and national agencies on various development issues. Milinia Drova obtained her Bachelor of Law Degree and Professional Diploma in Legal Practice from the University of the South Pacific (USP). Ms Drova has 13 years as a legal practitioner having started her career as in-house counsel. She later joined private practice and also taught part time for first and second year law students with the USP. Ms Drova took time off from a busy and demanding practice for family reasons as well as for further professional development. Joseph Daurewa also obtained his Bachelor of Law Degree and Professional Diploma in Legal Practice from USP. He also has a Post Graduate Certificate in International Affairs and Diplomacy (USP). He has 12 years as a legal practitioner having started as a State Prosecutor for the Director for Public Prosecutions (DPP) Office in Fiji and then became the Legal Counsel for Fiji Audio Visual Commission. After which he became a State Counsel for the Department of Justice for Nauru. He is currently engaged in private practice in both Fiji and Nauru. Mr Daurewa was an invited Fellow of the Australian National University (ANU) the result of which, his first publication (Copyright Prosecution in Fiji) was published by Brigham University, Hawaii in 2012. The Soqosoqo Vakamarama I Taukei through Ms Eseta Tuinabua also contributed to the community consultations in Draubuta and Drawa.

4.0 LITERATURE REVIEW

FPIC has been described repeatedly as a “right” by among others; the United Nations (UN) Human Rights Committee, the UN Committee on Economic, Social and Cultural Rights, the UN Committee on the Elimination of Racial Discrimination, the UN Expert Mechanism of the Rights of Indigenous Peoples and the UN Permanent Forum on Indigenous Peoples. Although others²⁴ argue it is not just a right but an organizing and mobilizing process.

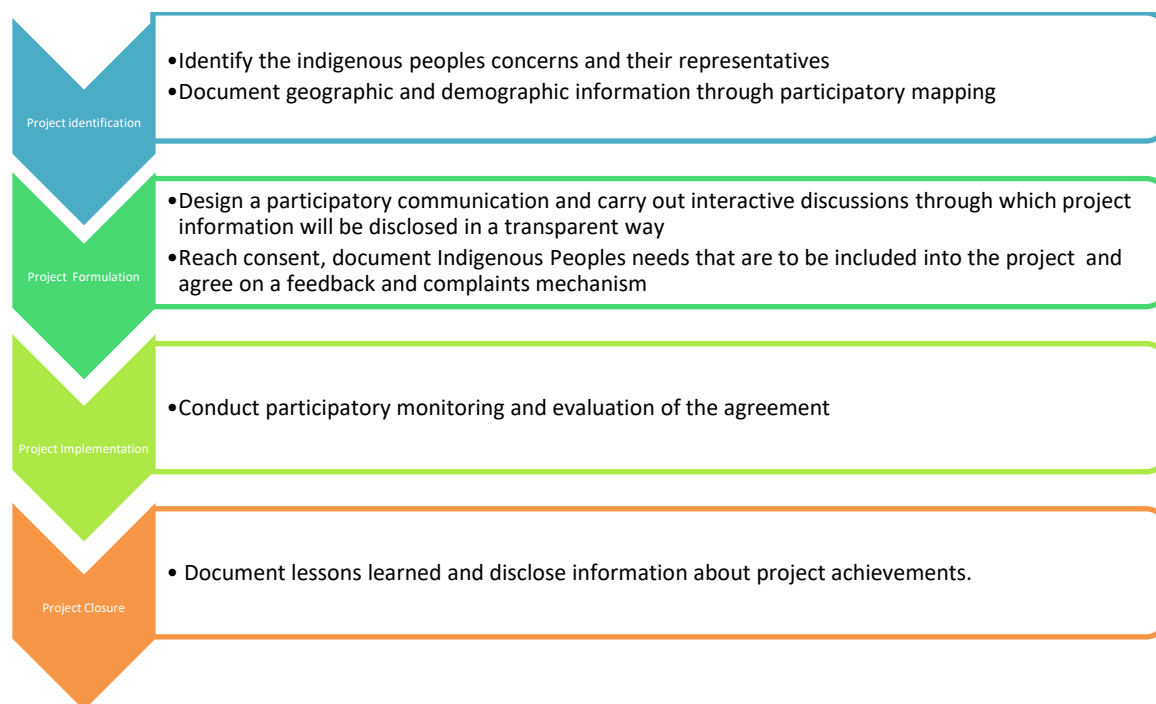
The International Fund for Agricultural Development (IFAD) is guided by member countries experiences and promotes the application of FPIC in two scenarios; investment projects that may have an impact on the land access and use rights of rural communities and projects targeting indigenous peoples or rural areas that are home to indigenous and tribal peoples and ethnic minorities. The borrowing governments however are responsible for seeking FPIC which follows IFAD general policies and procedures. In seeking FPIC, IFAD poses the questions, why, where and when. In this regard, IFAD recognises FPIC as a process not only before the project approval at the designer phase but also during the implementation phase depending on the nature of the project and at what stage of the project cycle, specific benefitting communities are identified together with specific investments and activities to be undertaken in each community.

Out of recognition for the critical role of indigenous peoples and other forest-dependent communities to the long-term sustainability and effectiveness of REDD+, the UN-REDD Programme has prioritized stakeholder engagement from its inception. Guided by a series of consultations with indigenous peoples and other forest-dependent communities, the UN-REDD Programme developed Guidelines on stakeholder engagement which have since been harmonized with guidance from the Forest Carbon Partnership Facility (FCPF) on the same topic. The UN-REDD Programme has found this necessary because it focuses on principles for effective participation and

²⁴ See <https://www.womin.org.za>, Accessed 7/4/19

consultation and concrete guidance on planning and implementing consultations. The UN-REDD guidance recognises the right of indigenous peoples living in voluntary isolation to have exercised their rights to effective participation and consultation and as a result of their condition, decided to withhold their consent and choose not to enter into consultations. This decision should therefore be respected and all contact avoided.

The Food and Agriculture Organisation (FAO) of the UN manual for FPIC aims at project practitioners. The manual is rooted in a human rights based approach, designed to assist development organizations to respect the right to FPIC when developing and implementing projects affecting Indigenous Peoples. FPIC is recognized as an on-going process. While FAO recognises the need for human and financial resources and time, the six steps identified are participatory in nature suggesting the close involvement of the community concerned throughout the life of the project. The following 6 steps fall under project identification, project formulation, project implementation and ending with project closure. The following refers:



As in the previous organizations, FAO's design for FPIC is an on-going process but it appears to assume that the project is the life of the community without much regard for the community's priorities. The time and effort in the 6 steps above suggest full-time commitment which hopefully, the community will have the time to dedicate to.

Oxfam's Guide to FPIC is less technical than the others above. Unlike FAO which appears to demand the active involvement of the community for a project it did not introduce, the 7 steps in Oxfam leave the onus on the community to dictate its terms as follows; Step 1, find out who is developing the planned project. Step 2, request information from the project developers. Step 3, hold discussions within your community. Step 4, community negotiations with the project developers. Step 5, seek independent advice. Step 6, make decisions as a community. Step 7, on-going communications with the project developers.

WWF's Working Paper (January 2014) refers to FPIC as the right of indigenous people to give or withhold consent to actions that will affect them, especially actions affecting land, territories and natural resources. Using case studies from Peru, Indonesia and DRC, WWF recognises that practical methodologies for FPIC are still evolving and need to be specific to local cultures and contexts. Furthermore, that there is a general set of procedures to ensure that rights to FPIC are respected and supported.

Conservation International (CI) recognises community as a critical component of FPIC as FPIC is a collective process, rather than an individual process. Therefore, FPIC is a

Legal rights are those rights written into international, national or regional law, often based on Western concepts and norms. Customary rights are de facto rights that have been established through a long tradition of customary practice. Although not necessarily written into legislation, customary rights are widely practiced and accepted. In general, legal and customary rights often coexist, especially in former colonial countries or countries with recognized cultural or religious minorities or Indigenous people. This system of dual recognition is called legal pluralism. In other instances, legal and customary rights may conflict.

fundamental building block for successful projects and community partnerships. Suggesting therefore that understanding current local context and legal and customary rights is crucial.

CI adds, it is important to recognize that traditional decision-making structures or processes

may or may not be formally recognized by the government but if they do

In many cases, traditional decision making structures do not adequately allow for women's involvement often resulting in outcomes that place additional burden on them. Ensuring that women participate in decision making is fundamental to the long-term sustainability of conservation projects, since women represent over 50% of the world's environmental stewards and in many cases, use natural resources more frequently than men. Whenever possible, it is advisable to discuss their issue with the community and devise culturally appropriate solutions that give women a voice while still respecting traditional norms.

exist, CI recognises and respects them. Women's participation in the decision making process for example is not always visible. However, ensuring that women's participation is included is necessary to sustain the project because they are primary users of natural resources.

Cameroon's operational guidelines for obtaining FPIC in REDD+ initiatives is comprehensive as it includes a compliance mechanism. There is a set of criteria for each of the four principles (free, prior, informed, consent). From a monitoring perspective, these tools which self-evaluate the user help to ensure all instructional steps are followed. In Fiji, organizational project and, evaluation and research reports of NGOs (FRIENDS, Live and Learn, Pacific Center for Peace Building, Social Empowerment and Education Programme, and the Soqosoqo Vakamarama I Taukei) for example, reveal characteristics of FPIC are necessary for community engagement and project sustainability. In summary therefore, the interpretation of FPIC adopted by the organisations discussed above suggest that FPIC is not a one-off consultation and/or determined quickly by a check-list for verification. Rather, it is a process that is on-going until the end of the project. Furthermore, that in the context of FPIC, recognition must be given to primary users of natural resources even though in some instances, they might not necessarily be a part of the traditional decision making process. It is in this circumstance, as CI advocates, that cultural appropriate tools of engagement are applied to necessitate progress with the process of FPIC.

5.0 LEGISLATIVE, POLICY and FPIC REVIEW

“Free, Prior and Informed Consent (FPIC) is one of the most important principles that Indigenous Peoples believe can protect their right to participation. It is embedded in the right to self-determination. The duty of States to obtain Indigenous Peoples’ FPIC entitles Indigenous people to effectively determine the outcome of decision-making that affects them, not merely a right to be involved.”

--UN Expert Mechanism on the Rights of Indigenous Peoples

1.0 INTRODUCTION

- 1.1 This paper will be identifying policies and legislations already in Government that contribute to Free Prior Informed Consent (FPIC).
- 1.2 It will first explore relevant policies and legislations in land. It will then explore relevant policies and legislations relating to self-determination, consultation and participation in decision making. The paper will then explore relevant policies and legislations in traditional knowledge and expression of culture (artistic expressions etc).

2.0 LAND:

2.1 iTaukei Lands Act [Cap 133] (formerly referred to as the Native Lands Act)

The essence of this Act is that native land or iTaukei land (“indigenous land”) shall be held by native Fijians according to native custom as evidenced by usage and tradition.

2.2 iTaukei Land Trust Act Cap 134 (formerly referred to as the Native Land Trust Act)

- a.) The following sub-paragraphs will identify particular sections of the Native Land Trust Act that imply or express elements of FPIC.

b.) Section 9 states:

No native land shall be dealt with by way of lease or licence under the provisions of this Act unless the Board is satisfied that the land proposed to be made the subject of such lease or licence is not being beneficially occupied by the Fijian owners, and is not likely during the currency of such lease or licence to be required by the Fijian owners for their use, maintenance or support.

(emphasis underlined)

This section of the named legislation states that indigenous land can be leased or licensed but only if the land is not being beneficially occupied by the indigenous landowners. The essence of this section implies that FPIC albeit not mandatory, is a relevant consideration when the Board decides whether the subject land is being occupied by the indigenous landowners for their benefit. In the High Court case of *Ramode v ITaukei Land Trust Board* ([2011] FJHC 783) the Court commented on landowners' consent as follows:

*"[16] I also have no doubt that there are issues to be tried. Some of these I had raised with counsel during the hearing. For example, is it correct that the **landowners consent** was not required for the issue of the licence over the lease land?*

Both lands are owned by the landowners, in this case the plaintiff, and that is not disputed. It does not seem logical that consent is required for the reserve land but not the lease land.

In the end ultimately, the plaintiffs are the true owners. Secondly, the Board is only the trustee. If the beneficial owners think that the trustee is not acting in their best interests, surely this Court can stop the trustee's acts. And, to say that the landowner's consent is not required seems to me to suggest that the Board always knows best."

In another High Court matter of *Ratabua v iTaukei Land Trust Board* ([2015] FJHC HBC222.2011), the Court stated that:

"4.15 In my judgment, the iTLTB has the discretion to lease native land, in the best interests of the landowners. The Board needs to consult the mataqalis, to satisfy itself, if the land is "beneficially occupied by the .owners" and "is not likely (to)be required by (them)",as provided in section 9 of the relevant law. Clearly, there is no requirement to obtain the consent of the majority of the landowners."

From the above two cases, it is apparent that the courts of Fiji have recognized that although Section 9 of the Native Lands Trust Act does not require consent from the indigenous landowners when leasing or licensing land, the Board still needs to actively consult landowners and in the process decide whether a purported lease or license would be beneficial to the landowners. This c) Section 17 (1) states:

The Board may, upon good cause being shown and with the consent of the native owners of the land, exclude either permanently or for a specified period any portion of land from any native reserve.

The consent of the landowners is a vital consideration in the alienation of reserved land. This is clear from section 17(1). It is mandatory. Without it, the board may not de-reserve. The form of consent required is set out under the Native Land (Miscellaneous Forms) Regulations 1965 where it states:

"Form of Consent of native owners

2. The consent of native owners to any matter or thing in respect of which such consent is required to be given under the Act or any regulations made thereunder shall be given in such manner as evidenced in such form as the Board may consider appropriate and such consent shall be deemed to have been given if a majority of the adult native owners shall have signified their consent." (emphasis added)

In the case of Ratu Neumi Leqataka & Others v Native Land Trust Board & Others (HBC341J of 2005S), the Court stated:

.....The answer to the specific issue as identified by the court to be addressed, can only be in the negative. In other words, the board while accepting and implementing the Thompson recommendations, had not given them their full legal effect, by its failure to comply with the requirements of the Act, specifically ss 15 and 17. It is the conclusive finding of this court therefore that the land recommended in the 1958 Thompson Report to be excluded from the reserve claim of Yavusa Salatu, namely the 100 acres presently occupied by the Fulton College, should be native reserve for the purpose of the Native Lands Trust Act, and therefore any dealings on it requires the consent of its native owners. It follows from this finding that the board must now act to rectify the situation. (emphasis added)

This case authority exemplifies FPIC in that it is needed when deciding whether a portion of land is to be excluded from a native reserve.

Other case authorities talk about individual consent of the indigenous landowners. One of the cases, that is Serupepeli Dakai No1 &Ors v NLDC,(1983)29 FLR 92 at page 99 jettisoned the argument that individuals are entitled to be consulted by the Board, before it exercises its statutory powers of granting leases of native land as follows:

This is clearly not so – the Board alone has the power, and any consultations prior to authorizing leases may have been merely a public relations exercise and have lead, as Kermode, J believes, to a mistaken belief by individual members that they are entitled to be consulted.(emphasis added)

d) Cullinan J agreed with the following passage from the judgment of Kermode J(as he then was):

The consent of any mataqali as a unit is not legally required to any Act that the Board can legally do under the Act unless the Act specifies that consent of the native owners i.e. the land owning mataqali is required. Individual members are not owners and their consent is not required. (emphasis added)

- e.) The iTaukei Land Trust Act does not contain expressed FPIC related provision which details how consultation is to be done with indigenous people. Nevertheless from the existing provisions of the iTaukei Land Trust Act it can be implied that some elements of FPIC are demonstrated when TLTB deals with indigenous landowners. The highlighted provisions seem to suggest that information is transparently and objectively offered; process is free from coercion, bias, conditions, bribery or rewards; meetings and decisions take place at locations and in the iTaukei language; and all members of the landowning unit are free to participate. All these are elements of FPIC.²⁵

3.0 FORESTRY

- 3.1 The forestry legislation relating to FPIC has developed over time. The following will show the relevant provisions in the current relevant legislation, the Forestry Decree 1992. It will then show Government's intention of incorporating FPIC provisions in a newly proposed legislation, the Forestry Bill 2016.

3.2 Forestry Decree 1992

Section 6 (1) states:

6.-(1) *The Minister may, upon recommendation of the Forestry Board, declare any of the following classes of land already reserved for another public purpose to be a forest reserve¹ or a nature reserve:*

(a) unalienated State land;

(b) land leases to the State;

(c) unalienated native land, with the prior consent of the owner of the land and of the Native Land Trust Board. (emphasis added)

As previous paragraph 2.0 demonstrated, the essence of FPIC appears to be limited when TLTB is involved as the controllers and administrators of indigenous land. However Section 6 demands not only the consent of TLTB but of the owner

²⁵<https://www.uncclearn.org/sites/default/files/inventory/un-redd05.pdf>

of the native land, which is indigenous landowners. This Section 6 shows that the indigenous landowner's consent is needed before Government can declare their land a forest reserve or a nature reserve. This establishes the importance of preference and intended purpose that the indigenous landowners may have for that particular land that is earmarked for reserve purpose.

Section 10 states:

10.-(1) A license relating to native land which is part of a forest reserve, if no provisions for royalties are made or royalties envisaged at a rate lower than that prescribed, shall only be issued with the prior consent of the Native Land Trust Board. (emphasis added)

The notable omission in Section 10 is the prior consent of the indigenous landowners. Only the consent of TLTB is needed. Therefore if a licensee is given consent by TLTB in addition to meeting other requirements, the licensee can then, for example, under Section 9 fell timber in a forest reserve; The same forest reserve, which initially needed the prior consent of the indigenous landowners, to be determined as such, as per Section 6 above.

In the case of *Tiva v Native Land Trust Board* [2007] FLR 40, Tiva is an indigenous landowner who took TLTB to Court because TLTB refused to grant a licence to him to log the mahogany under the Forestry Decree 1992. At the end, the Court decided in favor of Tiva and granted him the license to log the mahogany on his land. The Court went further by stating:

"The Defendant (TLTB) cannot grant a lease or a license unless it is satisfied that the land is neither beneficially occupied by Fijian owners nor is it likely to be required by Fijian owners for their own upkeep during the currency of lease. The Court agreed with the Plaintiff's submission that the Defendant (TLTB) place the interest of the landowners ahead of that of any third party including the state."

The above case may not expressly state FPIC however it demonstrates the importance of protecting the interests of indigenous landowners and their interest in as far as forestry is concerned.

3.3 Forestry Bill 2016

The Forestry Bill 2016 was prepared in Parliament but was not tabled and discussed²⁶. The Bill contains REDD Plus provisions²⁷ that focuses on reducing emissions from deforestation and forest degradation.

When determining whether indigenous lands are to made forest reserve or nature reserve, the Bill has a similar provision as Section 6 of the Forestry Decree 1992 in that the consent of indigenous landowners are required. Further to this, there is a standalone provision in Section 30 of the Bill which focuses on indigenous customary rights. It states:

30.—(1) Subject to the terms and conditions of a licence by the Conservator under this Act or lease and the provisions of subsections (3), (4) and (5) nothing in this Act shall be deemed to prohibit or restrict on— (a) iTaukei reserve the exercise of any rights established by iTaukei custom to hunt, fish, or collect fruits, vegetables, wood and other plants and animals; or (b) alienated iTaukei land, with the consent of the lessee of such land, the cutting or removal in accordance with iTaukei custom of forest products which may be necessary for the purposes specified in paragraph (a). (emphasis added)

4.0 SELF-DETERMINATION, CONSULTATION AND PARTICIPATION IN DECISION MAKING:

4.1 FPIC is an important standard Indigenous people can use to claim their rights to self-determination, consultation, and participation in decision-making. Governments and corporations can no longer ignore these principles.

²⁶ Phone Interview with Ms. Jeanette Emberson on 17th April 2019, Deputy Secretary General of the Parliament of Fiji.

²⁷ 33.—(1) Any person setting up or seeking to implement projects, programs and activities in the Fijian forest sector that involves the transfer of forest carbon property rights, under the Clean Development Mechanism, REDD or REDD+, shall be required to— (a) make an application in writing to the Conservator prior to the— (i) implementation of the project, program or activities; (ii) settlement of any contractual arrangements between buyers, sellers or brokers of carbon units; and (iii) actual transfer of carbon property rights in a carbon market transaction; and (b) ensure compliance with the Fiji REDD+ Policy

Under current international law, governments are obligated to consult Indigenous communities before any development affecting their lands and resources takes place, and even more broadly, any decisions directly affecting Indigenous Peoples and their self-determination require their consultation and consent.

Participation is about remedying centuries of denying Indigenous Peoples access to decision-making that was happening without their voice at all. This is a way to make sure that the states recognize they have an obligation to actually bring Indigenous people to the table and listen to them.”

4.2 Fiji Parliament:

Section 72 of the Constitution: Petitions, public access and participation

- *(1) Parliament must –*
 - (a) conduct its business in an open and holds its sittings and those of its committees, in public and*
 - (b) facilitate public participation in the legislative and other processes of parliament and its committees.*

As outlined under the **Constitution of the Republic of Fiji** and further elaborated under the **Standing Orders of the Parliament of the Republic of Fiji**, Parliament and its Standing Committees must be open to the public, including the media, unless in exceptional circumstances when the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable.

Parliamentary committees are small groups of members of Parliament who work together to investigate and consider issues on behalf of Parliament. They are able to meet with people and call for documents to assist them in their work. They usually report their findings to Parliament and can make recommendations

for changes to laws and administration. Parliament must officially respond to the recommendations made by Committees.

4.3 Standing committees in the Parliament of the Republic of Fiji

There are six standing committees of the Parliament and their functions are to –

- Examine Bills referred by the Parliament;
- Examine subordinate legislation tabled in Parliament;
- Scrutinise the operations of government departments;
- Consider petitions and papers presented;
- Review international treaties and conventions ratified by the Government; and
- Perform any other functions and duties as conferred.

The six standing committees are –

1. [Standing Committee on Economic Affairs;](#)
2. [Standing Committee on Social Affairs;](#)
3. [Standing Committee on Natural Resources;](#)
4. [Standing Committee on Public Accounts;](#)
5. [Standing Committee on Foreign Affairs and Defence;](#) and
6. [Standing Committee on Justice, Law and Human Rights.](#)

Apart from the Standing and Select Committees, Parliament can also set up Special Committees to look into a particular issue of national concern. These are set up as the need arises and have a very specific mandate .**[Article Extraction: Parliament of Fiji]**

5.0 ENVIRONMENT, TRADITIONAL KNOWLEDGE AND EXPRESSION OF CULTURE (Artistic expressions, etc)

5.1 Environment:

a.) Fiji Locally Managed Marine Areas Network:

Communities, assisted by NGOs and government ministries, are now developing a network of locally managed marine areas (LMMAs) within their traditional fishing grounds. The goal of each LMMA is to ensure both a healthy ecosystem and community, with abundant marine and fish stocks, and sustainable fisheries. This bottom-up approach of marine management results in sustainable development in coastal communities, and encourages better understanding of customary management in socioeconomic terms. Fiji LMMAs are being extended throughout the country. The process begins with a request from the community, which identifies the issues and plans the actions. Communities are thus fully involved in the *qoliqoli* monitoring and management plan, which can include long-term tabu areas, reduction of licences and banning of destructive fishing measures. **[Article Extraction: Fiji Locally Marine Area Network: Website]**

Partners include: Fiji Government (Fisheries, Environment, Tourism, Indigenous Affairs). NGOS, Local Communities (Traditional Land Owners), Academic Institutions etc.

b.) Environment Management Act [EMA]:

This analysis of the Fiji Environment Management Act shows that consideration for the operation of custom and tradition has been made a part of process of the statute.

The operation of custom permitted in this formal legislation, actually takes place outside the framework of the statute through the operation of “exemptions.”

The Fiji Environment Management Act identifies activities that will be exempt from environmental assessments, and among those are traditional land use activities and traditional or customary structures.

(EMA Part 1: Interpretation clause)

"landowner" means the registered proprietor of any land, or of any estate or interest in it or proprietor of any lease or sublease and includes the mataqali or other division or subdivision of Fijians having a customary right to occupy and use any native lands;

"sustainable development" means development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs, and implies using resources to improve the quality of human life within their carrying capacity;

"traditional land-use activities" means the use of customary or traditional methods, practices and materials to enhance the occupation or use of land granted through the customary land tenure system, but does not include those activities requiring the substantial use of machinery and explosives and other modern methods or plastics, electricity, petrochemicals, metals, concrete, and milled timber or other modern materials;

"traditional or customary structure" means any dwelling or other building constructed with traditional materials or a combination of traditional and modern materials or the use of traditional or customary methods or a combination of traditional or customary methods and modern methods, but does not include-

(a) any permanent dwelling, building, sea wall or shore protection works produced by modern methods or from modern materials; or

(b) a structure built on a significantly larger scale than those built

historically;

In addition to the above, the following statement was made by the University of the South Pacific:

The Environment Management Act does protect against any proposals that “could challenge or contravene established customary controls over the use of natural resources,” through the requirement that only the EIA Administrator can approve such a proposal.

An “approving authority”^[134] includes a “statutory authority, local authority or person authorised under a written law to approve the proposal.” It is the tier two level which should make clear that also included as an approving authority as a “local authority” might be a Village Chieftain, giving final approval of an environmental impact assessment which threatens cultural resources to the Village Chieftain. [Article Extraction: USP]

EMA, Part 1(2):

"approving authority", in respect of a development proposal, means a Ministry, department, statutory authority, local authority or person authorised under a written law to approve the proposal.

The sort of issues or concerns that may be legitimately raised in relation to any development proposal include, but are not limited to:

- *Environmental impacts of the development - including any impact on Fiji's oceans, fisheries, mangroves or other natural resources*
- *Social impacts of the development*
- *Economic impacts of the development - this could include economic fishing rights*

- *Cultural impacts of the development including any rights that may be lost or affected by the development - this will have particular significance in the case of development that could affect fishing rights over qoliqoli areas.*
- *Particular concerns relating to the development site for example is it important culturally, biologically or unique for some other reason?*
- *Public health and safety concerns*
- *Any conflicts that could arise in relation to competing interests for the site*
- *How any adverse impacts of the development could be reduced*
- *How any proposed use of the site could conflict with another use of the site or its resources.*
- *How the development could contradict or negatively impact any international commitments that Fiji has made.*

The proper management of all agricultural lands, forests, water catchments, minerals and developed areas so as to ensure their appropriate, orderly development and the continued availability and productivity of valuable natural resources.

The conservation, protection, preservation and enhancement of important aspects of the Fijian environmental inheritance for their natural, cultural, educational, scientific, recreation and tourism uses and values. **[Article Extraction: James Sloan]**

5.2 Protection of Traditional Knowledge and Expression of Culture (artistic expressions etc.):

a.) The Melanesian Spearhead Group Framework Treaty on Traditional Knowledge (TK) and Expressions of Culture (EC) [2011]

Key Objectives:

- (i) Strengthening the cooperation and collaboration of MSG Members in the field of TK and EC with a view to promote sustainable development and contribute to the improvement of livelihoods in the MSG and the smooth and gradual integration into the world economy.
- (ii) Exploring the setting up of appropriate intra-MSG cooperation and collaboration arrangements in the field of TK and EC comprising a mutual recognition and enforcement regime founded on uniform national legal systems of protection.
- (iii) Promoting cooperation in the field among government agencies as well as among the private sector.
- (iv) Consultations on the development of MSG Members' TK and EC with a view to creating standards and practices which are consistent with international standards.**[Article Extraction Michael Leslie Blakeney University of Western Australia]**

There are about 20 Articles setting out guidelines on the protection of TK and EC including elements of Free Prior and Informed Consent on Indigenous rights to their TK and EC.

Further Reading:

[Article Extraction: Fiji Sun]

The MSG Leaders highlighted that the signing of the Treaty marked a symbolic and historical development for the MSG members as it attempts to protect traditional knowledge holders and owners against any infringement of their rights; and protect MSG expressions of culture against misappropriation, misuse and unlawful exploitation.

The leaders added that the MSG is founded on the principles of respect for and promotion of its Melanesian cultures, traditions and values and for its defence and promotion of independence as the inalienable right of indigenous peoples of Melanesia.

The key provisions of the Treaty include:

- (i) Conferring on the owners and holders of the exclusive rights to authorise the exploitation of their traditional knowledge and expressions of culture.
- (ii) Conferring of the rights of owners of traditional knowledge and expressions of culture to conclude user agreements (involving a benefit sharing arrangement providing for equitable monetary or non-monetary compensation to the traditional owners) as approved by the Competent Authority.
- (iii) All access, authorisations, assignments or user agreements granted in respect of protected traditional knowledge or expressions of culture shall be granted in writing, otherwise they shall be of no force or effect.
- (iv) Ensuring that the protection to be extended to owners and holders of traditional knowledge and expressions of culture and include the fair and equitable sharing of benefits arising from the commercial use of their knowledge and expressions of culture;
- (v) Ensuring that any person using traditional knowledge or expressions of culture shall acknowledge the owners and holders of that knowledge or those expressions, indicate the source and, where possible, the origin, and use of such knowledge and

expressions of culture in a manner that respects the cultural values of its owners and holders;

- (vi) Fostering co-operative and collaborative activities including activities to enhance the protection and enforcement of traditional knowledge and expressions of culture, such as Cross border measures cooperation; and Networking of judicial authorities and enforcement agencies;
- (vii) Ensuring that accessible and appropriate enforcement and dispute resolution 2/21/2019 Traditional knowledge treaty | Fiji Sun 2/2 mechanisms, sanctions and remedies are available where there is a breach of the provisions relating to the protection of traditional knowledge and expressions of culture; and
- (viii) Ensuring that judgments of courts of competent authority of a MSG Member shall be enforceable in all signatory countries.

Review of the FPIC Guidelines prepared by other government sectors of Fiji

1.0 INTRODUCTION

- 1.1 This paper focuses on the FPIC guidelines that exist. It will be reviewing the FPIC guidelines by other government sectors of Fiji. Finally, it will propose recommendations that Fiji needs to consider when looking at the existing legislations, policy and guidelines relating to FPIC.

2.0 GOVERNMENT SECTORS OF FIJI

2.1 FPIC

“FPIC is a specific right that pertains to indigenous peoples and is recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)”¹

UNDRIP is the relevant international instrument that contains the essential ingredients of the specific right of FPIC. Together with the legal ingredients is the binding responsibility that a member country to the UNDRIP will possess to ensure that these legal ingredients are strictly adhered to. Fiji however is yet to ratify the UNDRIP. Therefore, Fiji is not bound to create the necessary mechanism that will allow the realization and promotion of FPIC in its government sectors as a specific right for indigenous people. Nevertheless, Fiji has begun introducing FPIC through the following sectors as a concept that is to be recognized. This is a development.

2.2 Ministry of iTaukei Affairs (MTA)

MTA appears to have introduced FPIC in 2014 as a concept that intends to strengthen community and government partnerships when pursuing developments in the provinces.²⁸

“Free, prior and informed consent (FPIC) is a right recognized by international law a principle that the Ministry is adamant in incorporating in

²⁸<http://www.parliament.gov.fj/wp-content/uploads/2017/02/MTA-AR-2014-audited-June-19-2015.pdf>

all development projects and programmes. FPIC principle argues that communities must be provided with all information regarding a programme; before they can freely decide on their next action. As we move towards sustainable development, the principle becomes more imperative for the iTaukei community.

...Recognizing the rights of all iTaukei to freely give or withhold their consent to any decision that will affect their lands, territories or livelihoods will be the gist of the MTA FPIC Framework.”²⁹

Subsequent to the above 2014 report though, the writer was not able to locate reliable information about the implementation and progress of FPIC in the MTA’s works.

2.3 The Fiji Roads Authority (FRA)

FRA is a body corporate governed under the leadership of a board that is responsible for planning, developing and maintaining Fiji’s \$11billion road infrastructure. The infrastructure primarily consists of approximately 7600km of road, 1200 bridges, 9000+ streetlights and 47 jetties³⁰

The FRCA also appears to promote FPIC in its processes before roads that traverse indigenous lands are actually built. The relevant guideline is titled FRA’s 2017 Land Acquisition and Resettlement Framework. The said framework dictates that where consultation is to be conducted with the indigenous landowners of an area earmarked for a public road, FRA:

“...provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of

²⁹ Ibid

³⁰ <http://www.fijiroads.org/about-us/>

*all relevant views of affected people and other stakeholders into decision-making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation measures. This follows the principles of free, prior, and informed consultation (FPIC).*³¹

Like the review of FPIC above for MTA, the writer was also not able to identify any online source that talks about the progress of the implementation of the above FPIC elements in the arena of FRA.

2.4 Fiji Development Bank (FDB)

FDB had just introduced their Gender Equity and Social Inclusion Policy and Action Plan for 2018-2021. This guideline provides how FDB intends to promote FPIC in Fiji.

Being charged with the responsibility of providing finance and advisory services to the development of agriculture, commerce and industry³², the Action Plan stipulates that FDB will ensure the free, prior and informed consent (FPIC) of stakeholders prior to any project intervention involving the use of land and/or marine areas or resources³³.

Given that FDB has just introduced this guideline last year, it would be premature to expect any progress report on the implementation of the guideline.

2.5 Apart from the above statement contained in the report by the Ministry of iTaukei Affairs, FRA's framework and FDB's action plan, there does not appear to be any other formal source of information accessed online.

3.0 RECOMMENDATIONS

3.1 Fiji to ratify UNDRIP

³¹http://www.fijiroads.org/wp-content/uploads/bsk-pdf-manager/FIJ_TIISP_LARF_Update_Nov2017_105.pdf

³²<https://www.fdb.com.fj/about-us/>

³³<https://www.fdb.com.fj/wp-content/uploads/2019/02/FDB-GCF-GESI-Policy-and-Action-Plan-BOARD-APPROVED.pdf>

Should FPIC attain a fundamental and priority area in Fiji, it is recommended that Fiji should ratify UNDRIP. Once Fiji ratifies UNDRIP then more emphasis will be placed on the existing rights contained in the Bill of Rights in the 2013 Constitution of Fiji in favor of indigenous people. This is made possible through Article 7 of the Constitution of Fiji.³⁴

3.2 Amendment to TLTB Trust Act

Section 9 of the TLTB Trust Act is to be amended by including obtaining indigenous landowners consent to TLTB's consent before a license or lease can be issued. This will ensure that the indigenous people are not only consulted but also have their FPIC obtained before a particular license or lease is issued.

3.3 Introduce TLTB Regulation

Fiji should introduce subsidiary legislation that focuses on the elements of FPIC. These elements of FPIC are comprehensively canvassed by the United Nations.³⁵ By formalizing these elements that need to be satisfied by TLTB whenever indigenous landowners are consulted, there will more representation of indigenous people during consultations.

3.4 ENACTMENT OF FORESTRY BILL 2016

Fiji should enact the Forestry Bill 2016 as it contains a good section on FPIC. It is also further recommended that any reference to the obtaining of consent from TLTB should be amended by adding consent from the indigenous landowners as well.

³⁴ Article 7 of the Constitution of Fiji—(1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority may, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter.

³⁵ <https://www.unclearn.org/sites/default/files/inventory/un-redd05.pdf>

3.4 Formal Focal Point of FPIC

There should be an established focal point or administration for FPIC in Government. At the moment, MTA has presented itself as the focal point for government, however with issues through forestry, fisheries, land etc. it would be prudent to review this and see which government instrumentality can be the go-to administrator for FPIC.

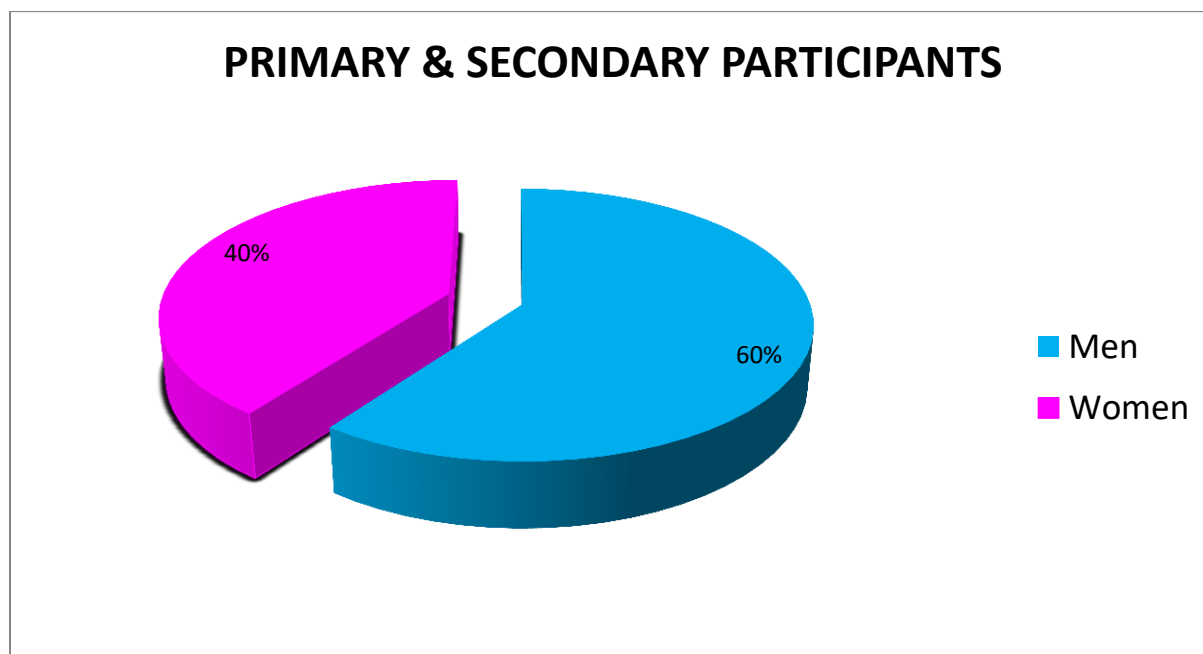
6.0 RESEARCH FINDINGS

6.1 Primary and Secondary Data

- Data on people's perceptions with regards to FPIC, their environment and other issues of concern were collected from of 860 Indigenous Fijians. This included; 133 primary data and 727 secondary data from literature review. Of this total (860), there were 518 or 60% male respondents and 342 or 40% female respondents. The respondents included chiefs, subsistence farmers and fishermen, women (rural and urban), business owners, religious leaders, REDD+ project site managers, young people (youngest being 15 years old)
- About 117 respondents participated in focus group discussions, 96% of whom were women and 4% men.
- The list of interviews totaled 33; 17 via focus group discussion and 11 were individually interviewed. By gender; 69% men and 31% women.
- Twenty-five questionnaires were sent to relevant government ministries, the churches and the private sector. Only two responses (8%) were received; the Taukei Land Trust Board (TLTB) and the Fiji Commerce and Employers Federation (FCEF). However, a second government agency chose to be anonymous. FCEF's response is included in Section 3.3 (Research approach, method, tools and ethical guidelines).
- Secondary data was accessed from the SSV's 2018 report on Building Capacity for Fiji's Forest Dependent Indigenous men and women to actively participate in the Fiji REDD+ Readiness program. This was a sub-Grant

Agreement between the SSV Trust Board and Tebtebba Foundation under the Forest Carbon Partnership Facility programme. Data collected contributed to the people's perception of their environment.

Figure 2: Participants by Gender



6.2 The iTaukei view of the land

To be able to have some understanding of the iTaukei's relationship with land, one must appreciate the age-old cosmology of their ancestors as explained in the iTaukei Trust Fund Board 2015 report on Somate (death rituals)³⁶. The ancestors believed in a supreme spiritual power which lived above earth in *Lagi* (heaven). *Vuravura* (earth) was the source of creation and *Bulu* or *Etesi* (purgatory) was the state for purification before the spirit settled on a paradise version of its original village³⁷. With earth as the process for creation, through totemism, they believed in eternal life. That plants and creatures preceded them on earth. Laws were therefore regulated by customary practice relating

³⁶ By Alisi Daurewa, 2015)

³⁷ Personal email communication with Rev Iliesa Naivalu, 16/9/15 & Catholic Archives, In iTaukei Trust Fund Board (TTFB) Report on Somate (2015) by A. Daurewa.

to man's responsibility to his kin and to his *yaubula* (environment) including land. The ancestors believed that the dead was the judiciary which judged when the law was broken³⁸. In explaining the iTaukei view of the land, the Reverend Ilaitia Tuwere (2000:33-35) explains that *vanua* has a literal meaning and a symbolic meaning. Both are inextricably tied together. Symbolically, land is a means of livelihood. Land is synonymous with motherhood. Nowadays, despite the advent of Christianity in the 19th century, totemism is still respected as a culture for some in parts of Fiji, particularly amongst the hill tribes of Viti Levu (of which Emalu is a part) and Vanua Levu (of which Drawa is a part). Furthermore, while the economic value of land has evolved from religion to cash economy in modernity, land as nurturer in iTaukei psyche appears to be still relevant even in the 21st century as evidenced in the following finding from the women's focus group discussion in Draubuta:

- *the land as mother is symbolized in the customary practice of the people who freely access land not necessarily belonging to them for food and medicinal purpose;*
- *respect for creature and fauna is symbolized in this instance through cooperation where people freely plant banana trees in the forests as food for wild pig hunters and also for the animals, regardless whether it is their land or not.*

6.3 The People's interpretation of FPIC

A Fijian translation of FPIC by a Fijian linguist³⁹ is; Free=Galala, Prior = Ni se bera (ia, e soli na gauna me vakasamataki kina), Informed = Kila, Consent = Veivakadonui. As the findings reveal however, the communities also have their own translated version of FPIC which they used during the consultations.

6.3.1 People's perception of 'Free'

³⁸ 19th century Wesleyan missionary, Rev Lorimer Fison in TTFB report on Somate (2015) by A. Daurewa.

³⁹ Email 2/1/19 Mrs Losalini Tugia.

- most respondents perceive 'free' as being galala in not only at the initial stage of the decision making process but as an on-going necessity throughout the life of the project.
- we must be free from coercion.
- space is given for example, meetings to discuss the issue. And we must think through carefully about what to discuss on the issue.

6.3.2 People's perception of 'Prior

- most respondents perceive 'prior' as kila taumada.
- that they must be advised of the intention of the potential investor and the purpose for the development.
- that they must be advised of the volume of natural resource (soil, forest, water, gravel, mineral expected to be used by the investment.
- and the question to ask is, why us?
- that protocol must be observed. For example, that the chief who might not necessarily belong to the land owning unit (LOU) should be informed as tradition would dictate. To not acknowledge this could contribute to misunderstanding and potentially, conflict
- knowledge before hand and ensure leadership is informed before hand in the culturally appropriate manner.
- we must know the purpose for the development.
- we must be prepared for questions.
- we must meet often at village level on the issue.

6.3.3 People's perception of 'Informed'

- most respondents perceive 'informed' which is kila cake sara vakavinaka as a process that must extend to the rest of the village, the tikina (district) and the province.
- that the potential developer must dedicate resources to include time and consultations, plus education and awareness (including samples) for development.
- they must be shown an example of the project to be undertaken by the investor and/or a sample produced.

- *implications whether good and/or bad should be clearly communicated to the forest-dependent community.*
- *active listening. Ensure that the information is understood fully before conveying it to the others.*
- *we must know what will be done.*
- *we must not be fooled by words alone but be sure it is evidenced-based.*

6.3.4 People's perception of 'Consent'

- *all the respondents perceive 'consent' as vakatulewa which means decision and not io which is yes; (this uniform response appears to follow the analogy that a decision is made only when subject to consideration of all the pros and cons or, as warrior tribes would term it bukinadruadrua(water-tight plan) which is translated as tying two-double-hulled huge canoes.*
- *decision is made only when the information received is clearly understood. And that respect is given to the informed decision.*
- *we must be fully informed first on the intention of the project.*
- *we must consult each other first.*
- *whatever the decision must be for the sake of our heritage (natural resources).*

6.4 The People's pressing issues of concern

Emerging issues of concern that are likely to have implications on the project were raised by both Draubuta and Drawa villagers: The following refer:

6.4.1 Draubuta – Environment damage and Relocation

As a consequence of the February 2019 landslide in Draubuta Village (where REDD+ designated Emalu land is), gross environmental damage has resulted in; 3 damaged and loss of housing, water supply is no longer regular, river water has become murky with silt, sand and rocks from the hill, where the site of the construction is. Some trees have been uprooted. Some parts of the village remain green while other parts have become sandy.



Further probing found; questions were raised on the effectiveness of regulation by the relevant government authority. See **Figures 3 & 4** above. And; **5, 6, 7, 8 & 9** below on damage to Draubuta.



While the Government assisted with rehabilitation along with social rehabilitation gifts from the Fiji Red Cross, the cause for the damage however has yet to be determined. In the meantime, Draubuta has



been asked by the Government to relocate because landslide and flooding will continue, exacerbated by climate change. Meanwhile the Fiji Road Authority (FRA) and Lomanitoba (the contracted company by the Government) have yet to confirm a response.⁴⁰ The villagers of Draubuta

are concerned as evidenced in the consultations.⁴¹

6.4.2 Emalu – concern with uncertainty and delay in payment by the Government

According to the Community representative for Emalu⁴², the uncertainty and delay in payment of lease and royalty money to Emalu due from the Government appears to have caused some distrust of the Government not only by

The Fiji REDD+ project for Emalu began in 2009. Draubuta village consists of 32,000 acres. Of which 18,096 acres belongs to Mataqali/Yavusa Emalu. This equates to 56.55% belonging to Emalu and the remaining 43.45% belonging to the rest of the Land Owning Unites (LOU) in Draubuta village. In 2017, 16,000 acres was leased for 99 years by the Fijian government. This equates to 88.42% total Emalu land. The lease is categorised as a Conservation Lease. The lease payment for 2017 was paid in 2017. (Respondent No.7, 20/3/19)

⁴⁰ Refer Respondent No.13, DO Keiyasi 21/3/19 and Draubuta village nurse a draubuta and other villagers 20/3/19

⁴¹ Refer Respondent No. 10, 20/3/19

⁴² Refer Respondent No. 7 on 20/3/19 in Appendix 22. Note he is not LOU for Emalu but related to Emalu.

Draubuta but at district⁴³ and provincial level as it was a subject for discussion in the last Nadroga/Navosa Provincial Council meeting. The Roko Tui noted⁴⁴ that while Emalu's issue was discussed as a grievance, it is yet to be registered as a grievance.

6.4.3 Emalu – women's concern with non-accountability by the Trust

Figure 10: Emalu chief surrounded by SSV team



There appears to be some internal distrust within Emalu LOUs where it is alleged, two of the women members raised their concern with the project for its lack of accountability and transparency directly with the Prime Minister at the recent (March 2019) Fiji REDD+ awareness programme in Sigatoka⁴⁵.

6.4.4 Drawa – Ease of Accessibility

⁴³ Question raised by forest owners and users at a workshop: (1) Who is selling? (2) Who will pay the loan? Both questions were overlooked by the facilitator (Vilisi). The questions raised by Semi Neicula, Mata ni Tikina for Noikoro of which Draubuta is one of the 9 villages administered by him, were raised out of the concern with several REDD+ activities including workshops and hotel accommodation for participants including both officials and resource owners and users with little materializing at the level of the owners. (Interview 19/3/19 at Keiyasi Government station, 19/3/19)

⁴⁴ Meeting 19/3/19 at Provincial Office in Sigatoka

⁴⁵ Personal communication with Fiji REDD+ official on 19/4/19 at Holiday Inn, Suva

Like Draubuta, Drawa is challenged with ease of access to the market, school and health services. During the rainy season, the poor condition of the road becomes life threatening. (Figure 10 refers). This makes it necessary for school children starting from Year 1 to board with relatives or at the school during the school week. They return to the village for the week-end. This arrangement necessitates the parent or guardian to accompany the child/children to help look after them with cooking their meals, washing of their clothes and supervision.



6.4.5 Rural to Urban Push (migration)

This occurs for several reasons but mainly, lack of ease of access to social services like markets, education and health. Both Draubuta and Drawa are experiencing this phenomenon. Draubuta thought the solution to build a better road to reach Sigatoka Town would solve their problem. But this has resulted in environmental damage to the village as discussed in 6.4.1 above, allegedly caused by poor monitoring by the relevant government agency. Draubuta is now being encouraged by the Government to relocate. Similarly, as discussed in 6.4.4 above, Drawa's road condition is poor. This



was raised during the team's community consultations in Drawa, (and evidenced by the team's own experience of a near-accident on its way to Drawa in March 2019). As a result of the difficulties experienced by the people, most of the families have moved away and now residing in settlements nearer to areas where schools and health centres

are easier to reach. Consequently, the population in Drawa has decreased as people are continuing to re-locate elsewhere. When the team visited in March 2019, the village appeared to consist only of the chief and his extended family. (Figure 11 above: Drawa chief and some members of his family with SSV team).

6.4.6 Lack of capacity of the land owning units in Emalu

The effectiveness (or otherwise) of awareness and other type of training was apparent during the community consultations. While Drawa was reasonably informed about the project the same could not be said for Emalu. It is likely, the governance and project management system each has chosen might be the cause. Drawa works with Live and Learn and not only provides empowerment training but has also included FPIC triggers in its monitoring system. Emalu on the other hand appears to be totally dependent on the Community representative. Reports on meetings and financials were not available, although the Community representative maintained he had some records.

6.4.7 Immigration

By virtue of their landownership right to urban land which is leased out for Government and other development, overcrowding can be an issue of concern. Some years ago, coastal villages near Sigatoka town were considering using their kinship ties with landowners in Navosa (of which Emalu is a part) to relocate to.⁴⁶

6.4.8 Comparison Draubuta vs Drawa

Community consultations in Draubuta and Drawa in March 2019 on FPIC revealed the following comparison between a Government-managed project through the nominee of Emalu LOUs (who is not an LOU for Emalu) and the co-operative established with the assistance of NGO Live and Learn in Drawa. Based on consultations and observation, the following table attempts to illustrate the comparison between Draubuta and Drawa under the thematic areas of; economic, governance and social:

Table 3: A comparison between Emalu and Drawa

Type	Emalu	Drawa
Registered	Trust Fund	Drawa Block Facility Community Cooperative
Partner	Government	Private via NGO Live and Learn

⁴⁶ Lead Researcher on issues in from consultations in the coastal villages of the Cuvu District, 2002-2009.

Standards/International Certification	Not developed yet	Plan Vivo via Live and Learn International
Regulator	Not developed yet	Department of Cooperative
Governance	Unclear whether LOUs met because there were no record of meetings. It appeared as if the manager only met with the Emalu chief (who is a relative) but there was no indication of timeliness	Annual meetings are held as regulated by the Department of Co-operatives to ensure accountability, transparency and effectiveness
Financials	Received 2017 lease money with 2018 and 2019 outstanding	Received first sale of carbon and dividends shared
	Royalty is outstanding	Lease is not fully paid to the LOUs, awaiting further sale to pay in full
	The financial record was not made available when the Lead Researcher asked the manager for details	Financial records were accessible. Regularly audited by the Department of Cooperatives.
		The villagers sell honey to DBFCC @ \$13 per kilo, which is one of the highest thus far. In the last 3 quarters, \$7,300 was earned by the villagers. In March 2019, 110 kilos were bought totaling F\$1,430 per family between 6 to 7 households for Drawa Village. This sale takes place every 3 months.
Livelihood	Alternative livelihood has been withdrawn	Alternative livelihood via beekeeping is progressing with the villagers benefitting
Social	All the 4 tribal chiefs in Draubuta expressed their sympathy for Emalu. They said there was no physical evidence of the wealth of Emalu – if any	Drawa chief and family concerned with lack of regular information from the management of the co-operative. Both do not live in the village and live in Labasa town
	Challenge to easy access is a contribution to lack of regular visit to Draubuta by the manager who lives in Sigatoka town. Likewise visiting the 6 sisters LOUs, neither of whom lives in Draubuta	Challenge to easy access has contributed to mass migration to other villages/settlements nearer the schools and market leaving only the chief and his extended family in Drawa village
	Likewise the Nadroga/Navosa	As a consequence, the village-based members appeared to be mis-informed

	Provincial Office and the Mata ni Tikina for Noikoro (District representative under which, Dratabu belongs)	on some issues – eg. Project vehicle driven by the Chairman was alleged to be bought with project money when it was instead, donated by the NZ Government through the facilitation of Live and Learn
	Membership of the Trust is limited only to LOUs for Emalu. This can be exclusive and might invite envy when financial benefit is received	Membership of the Drawa Block Facility Community Co-Operative extends to both LOUs and non-LOUs. The LOUs receive rental of lease money paid by the DBFCC in addition to dividend received from carbon sale. All have the opportunity to earn money for their Alternative Livelihood Beekeeping project

6.4.8.1 Explanation for Table 3 – Comparison between Emalu and Drawa

Figure 12: DBFCC Office in Drawa Village



Overall, the LOUs in Drawa appear to be progressing compared to Emalu. Drawa's partnership with Live and Learn contributes largely to this success. (See [Figure of DBFCC office in Drawa](#)).

Furthermore, it was apparent from discussion with the

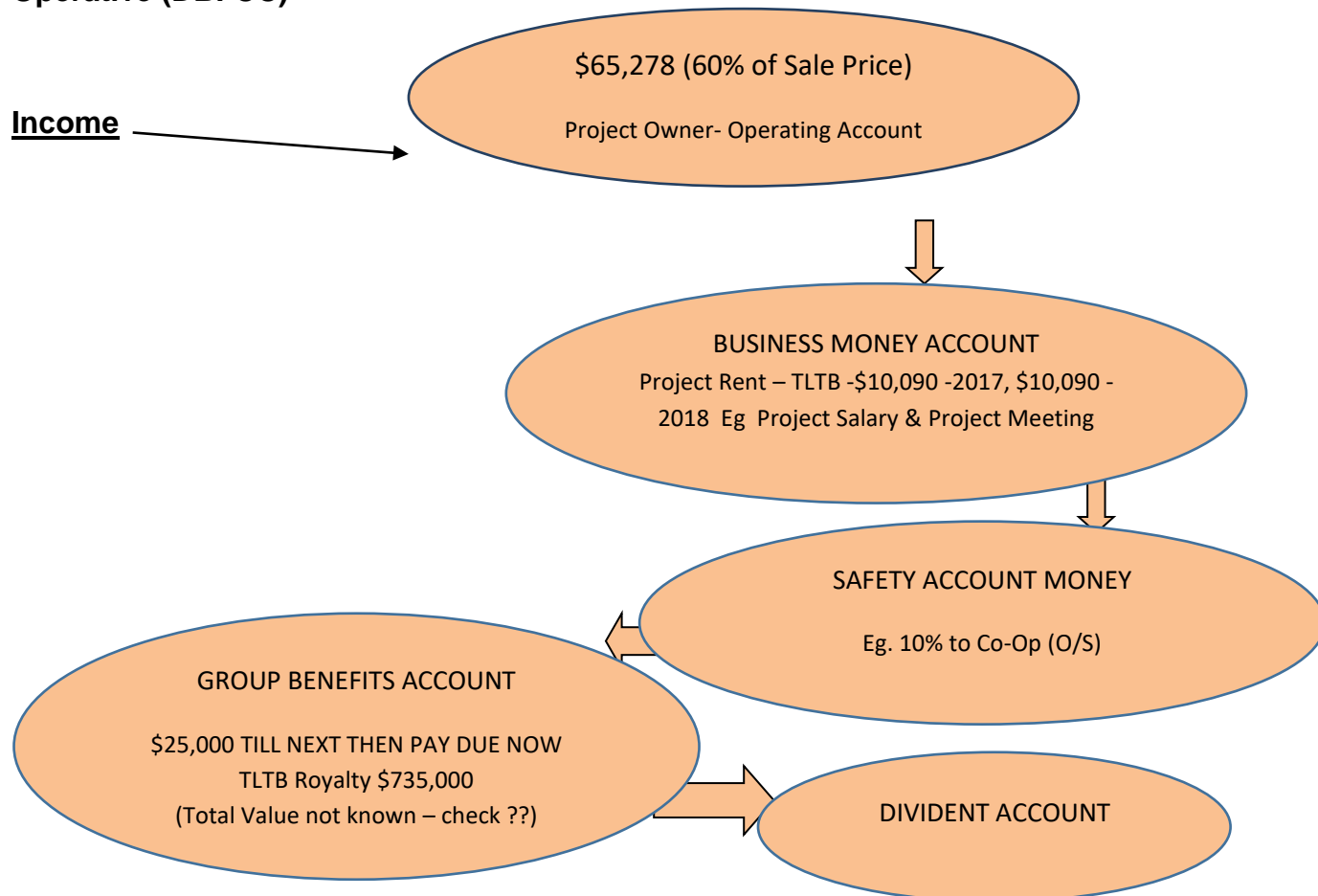
Treasurer and Live and Learn office in Fiji that capacity building through empowerment for those directly involved with the project has been on-going. They came to meet with the Research team, well prepared with their files including records for any verification that might have been necessary.

There are international requirements under REDD+. For example, as in to sell a product, Live & Learn adopted the Plan Vivo standard. Plan Vivo standard determines that landowner/project owner does not receive less than 60%. This recognises that the buyer will always want security. The 2nd is PES (Payment for Ecosystem Service). This is the name of the agreement between the Live & Learn Fiji as Coordinator and Drauba as the Project owner. Quarterly reports are made internally which are then sent to international partners – Live & Learn International and EKOS. There is self-monitoring mechanism within this agreement where they meet annually (called Annual Management Meeting) to review the project in accordance with PES, where necessary changes are made using the FPIC process. Live & Learn works towards decreasing its share (40%) to increase the share of the landowner/project owner. (L&L, Jan'2019)

While Live and Learn through its Nakau programme currently takes 40% of the sale (which is 20% each of L&L International and L&L Fiji), it also intends to reduce the percentage of its share of the sale as the project progresses and DBFCC evolves to being more independent off L&L⁴⁷. Overall, the co-operative system is regulated by the government to ensure it adheres to the stipulated policies which are characteristic of good governance. The Trust Account (of the Emalu) in Draubuta however is exclusive and does not appear to be accountable to anyone.

⁴⁷ Interview Respondent 1 (January 2019, L&L) and Respondent 18 (March 2019, DBFCC)

Figure 13: Carbon Benefit Flowchart for Drawa Block Facility Community Co-Operative (DBFCC)



6.5 Finding from selected chapters of the ER-PD

The Emissions Reduction Programme Document (ERPD) has provided a well documented and comprehensive framework within which, the process of FPIC and community issues of concern raised in the REDD+ Readiness programme in 2018 and the FPIC consultations in 2019 can be accommodated. For example, Chapter 10 on Displacement (pages 155-158) while recognising drivers of deforestation or degradation might also provide an avenue through which the consequences of the land slide in Draubuta could be addressed (see 6.4.1 and 6.4.2 above). Secondly, this chapter also suggests strategies to sustain long-term integrated landscape management and strengthening forest governance and law enforcement, both of which, respond to community concerns for lack of knowledge in addressing irresponsible logging and

burning and, the consequence of poor planting practice. Thirdly, Chapter 11 on Reversals (pages 159-165) offer additional support to the mitigation facility. Fourthly, the carbon rights addressed in Chapter 14 on Safeguards was well discussed in the consultation workshop facilitated by Conservation International (CI).⁴⁸ There were three choices between the various options for ownership of carbon rights. Option 2 which championed the landowner's right to own the carbon in the forested portion of their land appeared to have received the support of CI, and Indigenous Institutions represented in the room. Fifthly, Section 14.3 (pages 203-209), the Description of the Feedback and Grievance Redress Mechanism (FGRM) recognises grievances that are likely to arise. The inclusion of such a redress system will be most beneficial in addressing some of the issues of concern raised earlier and hopefully, there will be room for expansion to enable its own evolution as issues not identifiable now are realised later. Sixthly, Chapter 15 (pages 210-217), Benefit-Sharing Arrangements clearly articulate the strength and gaps included in the matrix (Table 15.1, page 211-212). Lastly, ER-PD 4.2.1 (page 44) explains Fiji's complex system of natural resource management rules and regulations across a number of government agencies when addressing Governance, institutions, policies and cultural characteristics. Furthermore 4.2.2 (page 45) admits that in relation to governance, Fiji has not fully instituted robust participatory mechanisms and coordination across and within sectors, organizations and groups. For example, the limited coordination among agriculture, forestry and fisheries sectors has resulted in mixed messages over the same land areas and resources. While one institution focuses work on the sustainable management conservation of forests and carbon stocks, the other may be working towards extracting the maximum yield for a lucrative market. The balance and trade-offs between these decisions is not well understood and has not been adequately measured. Overall, there appears to be a necessary need for a workable structure to be inclusive of FPIC and other cultural appropriate tools to enable an effective and functioning Fiji REDD+ programme

⁴⁸ Suva Holiday Inn, 19/4/19

6.5.1 Benefit Sharing, the REDD Monitoring Report and Emalu

According to the 2011 Monitoring Report from the Centre for People and Forests (RECOFTC) and the Germany Agency for International Cooperation (GIZ) which looked at FPIC in REDD, governments are also interested in benefiting from REDD raising crucial questions about whose forest it is (and who owns the carbon stored in the forest – which may not be the same as who owns the forest). The Report adds that, as governments attempt to take advantage of the potential financial value of standing forest, through REDD+, it is not clear how they will act. Will they attempt to resolve these disputes by recognising the rights of indigenous peoples and local communities, as required by international instruments and law or, will they try to assert state control over the land and the carbon stored on and in it? The Report cautioned that in the latter case, loss of access to forests and a denial of the right to a share of REDD+ benefits could have dire long term effects on the welfare and resilience of these communities⁴⁹.

Coincidentally, interviews with Emalu tribal chief and community representative found that of the total 18,096 acres of *mataqali* land, 16,000 or 88% was leased as a Conservation Lease for 99 years in 2017 by the government (refer 6.4.2 above). Deeper probing found that it appears the principle of FPIC was not applied. For example, there is confusion as to why the payments due for annual leases (2018 and 2019) were outstanding. Furthermore, there is no clarity on the value of the standing forests, which the respondents said should be paid to Emalu LOUs. Moreover, Emalu is yet to receive a copy of the conservation lease document.

7.0 CONCLUSION and RECOMMENDATIONS

7.1 Conclusion

In summary, community consultations involving men, women and youth representing Fiji's fourteen provinces including the two designated sites (Emalu in Draubuta, Navosa and Drawa in Wailevu West, Cakaudrove) under the Fiji REDD+ readiness programme

⁴⁹ [https://redd-monitoring.org./2011/03/10/free-prior and informed-consent-in redd/](https://redd-monitoring.org./2011/03/10/free-prior-and-informed-consent-in-redd/)- Accessed 1/6/19.

reveal, a grave concern for an increase in threat to the survival of their customary lands because of; poor development practices, inadequate monitoring to ensure compliance by relevant government agencies, changing weather patterns and their own limited knowledge with regards to addressing these phenomena. Further probing found that the concept of FPIC was not foreign to them because by tradition, it characterizes *veidokai* (to act with respect and humility), *veikauwaitaki* (to act with consideration), *veinanumi* (to be thoughtful of others) and *veivukei* (to be helpful). These virtues are the essence for much of their customary practices rooted in their ancestral cosmology which appears to harmonise with the Christian teaching of responsible stewardship of the environment.

Research question 1 asks the question; what does FPIC mean to you? In response, the people's interpretation of FPIC (5.3) will help formulate the FPIC guideline for Fiji.

Research question 2 asks the question; do existing policies and legislation enable the formal adoption of FPIC in relevant government agencies? This is addressed in 4.2 pages 15 to 37.

Research question 3 asks; if not, what would the best way forward be for FPIC's adoption? This is addressed in 7.0 Recommendations.

On another but related point, the TOR requires that this report includes a robust system and process for attaining request. This is not included, given the recommendations below.

In summary, the legislative and policy review, and, literature review including the ERPD document plus the consultations on FPIC have brought to the fore, some issues that need further consideration. While the Fiji REDD+ Readiness programme appears to be moving along with progress, there are at least four diverse levels that need addressing to enable an effective execution of the programme.

Legislation and policies need to be established to set the boundaries within which FPIC can be a facility that is not only limited to the initial preparatory part of the project but must be recognized as an on-going necessary process. Furthermore, this becomes more necessary given the relational reality of the various government agencies that engage with the iTaukei and their natural resources. The Ministry for iTaukei Affairs for example while appears to have been harboring FPIC since 2014, might be more effective if it is a part of a central FPIC monitoring body because of the multi-stake nature of Fiji REDD+.

Secondly, as mentioned earlier (5.4.3), Fiji has a complex system of natural resource management rules and regulations across a number of government agencies. This complexity has not fully addressed a harmonizing governance facility that can actualize a robust participatory mechanism and coordination across and within sectors, organizations and groups. As a consequence, conflicting institutional activities to achieve economic yield is the reality on the ground.

Thirdly, ER-PD 4.2.2 (page 45) also recognises that at community level, not all stakeholders understand the supporting traditional social structures, including the various hierarchies of customary leadership within landowning units and the complex social linkages amongst families and LOUs in different contexts. Given this lack of understanding, it is difficult to ensure comprehensive consultation, effective benefit sharing arrangements and community support as pertains to forest tenure.

Fourthly, Fiji REDD+ Readiness has identified Fiji's 3 biggest islands as designated sites; Viti Levu, Vanua Levu and Taveuni. It needs however to recognize that past and recent experiences of gross environment degradation has led to a distrust in the government's compliance system by the people, in particular the iTaukei. This was evident in the consultations. The meeting of about 100 women in the Soqosoqo Vakamarama's Special meeting in December 2018 highlighted the unfortunate state of Nawailevu bauxite mining by overseas investors in the Bua Province. In this regard, the women questioned the role of local government officials and where their

loyalty stood. The discussions included the limitation of women married into a village to the decision-making process. Similarly this is noted by the ER-PD 4.2.2 (page 45). In Draubuta, as has been mentioned above, the people clearly sympathise with Emalu and question the transparency of the Government. In Drawa, they expressed their preference to work with an NGO like Live and Learn. They accepted the division of the sale of their carbon given Live and Learn's contribution to the project. They believed that they would receive less if they partnered with the Government. They also hailed their kin from Dogotuki district in the Macuata province for having declined a potential investment for lack of trust. To manage these perceptions and their issues of need to ensure the Fiji REDD+ Readiness is given the support it rightfully needs, the Ministry of Forests might want to consider the recommendations in the next chapter.

7.2 Recommendations

The legislative and policy review recommend the following:

(i) Fiji to ratify UNDRIP

Should FPIC attain a fundamental and priority area in Fiji, it is recommended that Fiji should ratify UNDRIP. Once Fiji ratifies UNDRIP then more emphasis will be placed on the existing rights contained in the Bill of Rights in the 2013 Constitution of Fiji in favor of indigenous people. This is made possible through Article 7 of the Constitution of Fiji.⁵⁰

(ii) Amendment to TLTB Trust Act

Section 9 of the TLTB Trust Act is to be amended by including obtaining indigenous landowners consent to TLTB's consent before a license or lease can

⁵⁰ Article 7 of the Constitution of Fiji—(1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority may, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter.

be issued. This will ensure that the indigenous people are not only consulted but also have their FPIC obtained before a particular license or lease is issued.

(iii) Introduce TLTB Regulation

Fiji should introduce subsidiary legislation that focuses on the elements of FPIC. These elements of FPIC are comprehensively canvassed by the United Nations.⁵¹ By formalizing these elements that need to be satisfied by TLTB whenever indigenous landowners are consulted; there will be more representation of indigenous people during consultations.

(iv) ENACTMENT OF FORESTRY BILL 2016

Fiji should enact the Forestry Bill 2016 as it contains a good section on FPIC. It is also further recommended that any reference to the obtaining of consent from TLTB should be amended by adding consent from the indigenous landowners as well.

(v) Formal Focal Point of FPIC

There should be an established focal point or administration for FPIC in Government. At the moment, MTA has presented itself as the focal point for government. However with cross-interests through deferring ministerial mandates for forestry, fisheries and land for example, it would be prudent to review this and see which government instrumentality can be the go-to administrator for FPIC.

⁵¹<https://www.unclearn.org/sites/default/files/inventory/un-redd05.pdf>

FPIC as an on-going process

- (vi) FPIC is not limited to the preparatory stage of any project that involves the iTaukei and their natural resources and that it is recognized as an on-going process.

Community –friendly carbon sharing system

- (vii) As evidenced in the consultations, the co-operative system appears to better serve the interest of both LOUs and non-LOUs (as opposed to the Trust account system) for cultural and compliance purposes. As a means to contributing to social-cohesion through the co-operative system, non-LOUs can also participate in the carbon-benefit sharing as a member who will earn dividend from the sale of carbon. The co-operative system therefore appears to better harmonise with the communal culture of the iTaukei. The Trust account on the other hand is exclusive only to the LOUs. Secondly, the co-operative is regulated to comply with the Department of Cooperative's legislation and policies. There is therefore a monitoring mechanism in place which ensures accountability to the members of the co-operative. Thirdly through Live and Learn's Nakau Programme, the Drawa Community Block Facility Cooperative is compliant to international certification standard with regards to the sale of carbon.

Traditional protocol

- (viii) The Ministry of Forests should pay courtesy calls to the provinces in Vanua Levu and Viti Levu during their respective Bose Vanua (not the Provincial Council) to traditionally introduce Fiji REDD+ if not already. For in the tradition of the iTaukei, it would be common courtesy.

Address ease of accessibility

- (ix) Ease of access has always been and remains an issue of concern to the people to help them cope with their own challenges which are often overlooked because they do not talk about them, unless asked.

Public awareness

- (x) Awareness programmes using the media to promote Fiji REDD+ and its components would be cost-effective.

Sustainable knowledge

- (xi) Fiji REDD+ might consider exploring the option to institutionalize aspects of the project in the education system by consulting the Ministry of education.

The ERPD

- (xii) The ERPD has provided a well documented and comprehensive framework within which, the process of FPIC and community issues of concern raised in the REDD+ Readiness programme in 2018 and the FPIC consultations in 2019 can be accommodated. For example, Chapter 10 on Displacement (pages 155-158) while recognising drivers of deforestation or degradation might also provide an avenue through which the consequence of the February 2019 landslide caused by the road construction can be addressed;
- (xiii) The carbon rights addressed in Chapter 14 on Safeguards was well discussed in the consultation workshop facilitated by Conservation International (CI).⁵² There were three choices between the various options for ownership of carbon rights. Option 2 which championed the landowner's right to own the carbon in the forested portion of their land appeared to have received the support of CI, and Indigenous Institutions represented in the room. There were however, concerns raised; whether migration would be considered for its likelihood to change the physical and social landscape of designated REDD+ areas given that inaccessibility will continue to be a cause for movement away from the villages as long as this is not addressed. Alternatively, immigration could contribute to an increase in population. The Lead Researcher recalls that this was an issue of concern for villagers in coastal Nadroga which are heavily populated with employees of the tourism sector. About more than 10 years ago, some villagers were considering using

⁵² Suva Holiday Inn, 19/4/19

their kinship ties with their relatives in the hill tribes to relocate to because of over-crowding. The other concern is a governance issue. While some LOUs might have the capacity to manage their income from the carbon sale, experience and observation reveal that more often than not, those entrusted to manage the funds on behalf of the communities do not always conform to good governance characteristics espoused by ESCAP for lack of capacity. This can therefore contribute to conflict through distrust and lack of understanding which can effectively, threaten the sustainability of the REDD+ project in the respective community. Fifthly, Section 14.3 (pages 203-209), the Description of the Feedback and Grievance Redress Mechanism (FGRM) recognises grievances that are likely to arise. The inclusion of such a redress system will be most beneficial in addressing some of the issues of concern raised earlier and hopefully, there will be room for expansion to enable its own evolution as issues not identifiable now are realised later;

- (xv) Chapter 15 (pages 210-217), Benefit-Sharing Arrangements clearly articulate the strength and gaps of the institutions included in the matrix (Table 15.1, page 211-212). However for the record, recent discussions during the validation workshop for benefit-sharing arrangements by Conservation International revealed the fundamental question; who owns the carbon? This question was raised out of the perception that there was likely to be an alternative interpretation of the current legislation which recognises the landowner as owner of the carbon. However, in the context of the age-old belief system of the iTaukei with regards to its relationship with natural resources, it is difficult to understand otherwise.

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Article 7 of the Constitution of Fiji— (1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority may, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter

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¹ Ibid

¹<http://www.fijiroads.org/about-us/>

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A forest reserve is an area of forest set aside and preserved by the government as a wilderness, national park, or the like. (<https://www.infoplease.com/dictionary/forest-reserve>)

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[Accessed 1/6/19](#)

FIJI REDD+ and SOQOSOQO VAKAMARAMA TAUKEI
FPIC Consultations – Primary Data - LIST OF PEOPLE INTERVIEWED

No	Date	Name	Designation	Contact	F/M
1	24/1/19	Rosie Langi	Live and Learn	L & L	F
2	19/3/19	Semi Kuru	Roko Tui Nadroga/Navosa	9904162/se mi.kuru@gov net.gov.fj	M
3	19/3/19	Semi Neicula	Mata ni Tikina – Noikoro	Korolevu	M
4	20/3/19	Lemeki Toutou (69)	Liuliu Mataqali/Yavusa Emalu	Draubuta	M
5	20/3/19	Aminio Nioko (80)	Liuliu Mataqali Naqio/Yavusa Mota	Draubuta	M
6	20/3/19	Joave Ratuva (73)	Liuliu Mataqali Narogairua/Yavusa Koroivabeka	Draubuta	M
7	20/3/19	Aporosa Dromalu (64)	Liuliu Mataqali Rarakavidi/Yavusa Rarakavidi	Draubuta	M
8	20/3/19	Laitia Leitabu (47)	Project Manager	9054415	M
9	20/3/19	Mereseini Naola (40)	Village Nurse	Draubuta	F
10	20/3/19	Tevita Qica	CMF church minister	Draubuta	M
11	20/3/19	Mereseini Seniloli	Consultant – Gender	8072394	F
12	21/3/19	Joana Gaso	Liuliu Soqosoqo Vakamarama	Draubuta	F
13	21/3/19	Jovesa Naqarikau	District Officer, Keiyasi	8931688	M
14	25/3/19	Timoci Ratusala (88yrs)	Chief, Yavusa Drawa	Drawa	M
15	25/3/19	Titilia Kenona (55yrs)	Niece of chief	Drawa	F
16	25/3/19	Maopa Tuilevu (52yr)	Chief's daughter	Drawa	F
17	25/3/19	Semi Madigi (33yrs)	Chief's grandson	Drawa	M
18	26/3/19	Peni Maisiri - FGD Nayacalevu	Chairman DBFCC	Labasa	M
19	26/3/19	Jeremaia Lotawa– FGD	Treasurer DBFCC	Labasa	M
20	26/3/19	Snr FGD (8)	Senior villagers	Drawa	2F+6M
21	26/3/19/	Youth FGD (3)	Young men	Drawa	3M
22	20/3/19	Luse Qereqeretabua	Draubuta& Drawa	Draubuta	M
23	19/4/19	Ulai Baya	Consultant	REDD+	M
24	N/A	Name withheld	N/A	N/A	M
		Tot = 33, F8, M25	FGD17, 13M, 4F	II16, 11M, 5F	

Triangulation of FPIC Issues

SSV	Emalu	Drawa	Others
Why us?	Government does not follow FPIC	Free – no coercion	FPIC should be an on-going process
All voices (youth/women) should be heard at all levels – village, tikina, province	Land has been leased for 99 years but yet to receive the lease document	Prior – meetings as many times possible to understand clearly	Not beginning and ending with consent at TLTB etc
What for? Intention must be made clear and why?	Lease for 2018 & 2019 not paid to date	Follow protocol and ensure chiefs are informed first	Ministry of iTaukei Affairs has always adopted FPIC – not new – 2014
Estimate volume of soil, water, forest, gravel, mineral expected to use	Royalty on standing trees not paid to date	Ask as many questions possible to better understand	FCEF – respect FPIC because members also deal with indigenous peoples. But no policy on FPIC
Dedicate time for consultation/education and awareness	Alternative livelihood programme withdrawn without explanation	Consideration for the protection of the environment is paramount	Live and Learn – FPIC contained in the Nakau programme with Drawa and other communities
Show sample/example of planned development	Easy access to market, hospital & schools is limiting	Decision will be based on that	
Explain the implications – what will it do to us? What will it do for us?		Consent is not yes but decision to be made or <i>vakatulewa</i>	
Consent is subject to the decision, not yes		Easy access to market, hospital & schools is limiting	

A SNAPSHOT OF THE FINDINGS FROM THE SSV'S WORKSHOP ON REDD+ FPIC and GENDER GUIDELINES

Venue: Soqosoqo Vakamarama ITabukei, Nabua, Suva

Date: 12 December 2018

Duration: 45 minutes

Participants: SSV members of 14 provinces in Fiji

Method of Data Collection: Focus Group Discussions

Methodology: Community appropriate tools of engagement to increase vocal responsiveness from the women present. Women were firstly divided into each of the 3 confederacies; Kubuna, Burebasaga kei Tovata. Then they were divided between senior and youth. Then, they were further divided between provincial leaders/chiefs and the rest of the members. Overall, 8 groups were formed. This enabled lively discussions and much interaction. After which, each group was asked to report on their response to the question (as follows).

Findings

Question: Someone is interested in using your land for development. What would you look for, from this inquiry/proposal?

- Key question – why us?
- All voices in the vanua should be heard and must be inclusive of women and young people, at all levels in local governance – village, district and provincial;
- Potential developer must clearly explain purpose/intention for development. The volume of natural resource (soil, forest, water, gravel, mineral expected for use);
- Potential developer must dedicate resources to include time and consultations, plus education and awareness (including samples) for development;
- Implications (good and bad) should be made clear to the forest-dependent community;
- Consent is not yes – it is subject to the decision to be made

No	Group	Free	Prior	Informed	Consent
1	Cakaudrove		Why us? Detailed information on company and the	Process for informed decision to include time for internal and	Respect the decision (yes/no)

			relevant government agency What entails our decision?	thorough consultation Education on value of natural resources being sought from the potential developer	
2	Youth	Ditto	Ditto	Ditto	
3	Veimataqali	All voices in the vanua be heard especially women & youth	Ditto What is your intention?	Effect on natural resource – volume of soil	
4	Tailevu/Naitasiri/L'viti	Women to be included in all consultations & at all levels		Ditto + legal implications	
5	KdvNadro		Ditto	Ditto	
6	Lau		Ditto	Awareness at village/district/provincial level	
7	Ra	Ditto	Detailed ID, Intention etc	Awareness for all Advice from developer/relevant govt agency	
8	Bua/M'cta		Implication (good/bad) Clarity – type of development ? What does this entail?	Awareness to include sample for development	

FIJI REDD+ and SOQOSOQO VAKAMARAMA TAUKEI

Secondary Data sourced from SSV July 2018 report on Building Capacity for Fiji's Forest

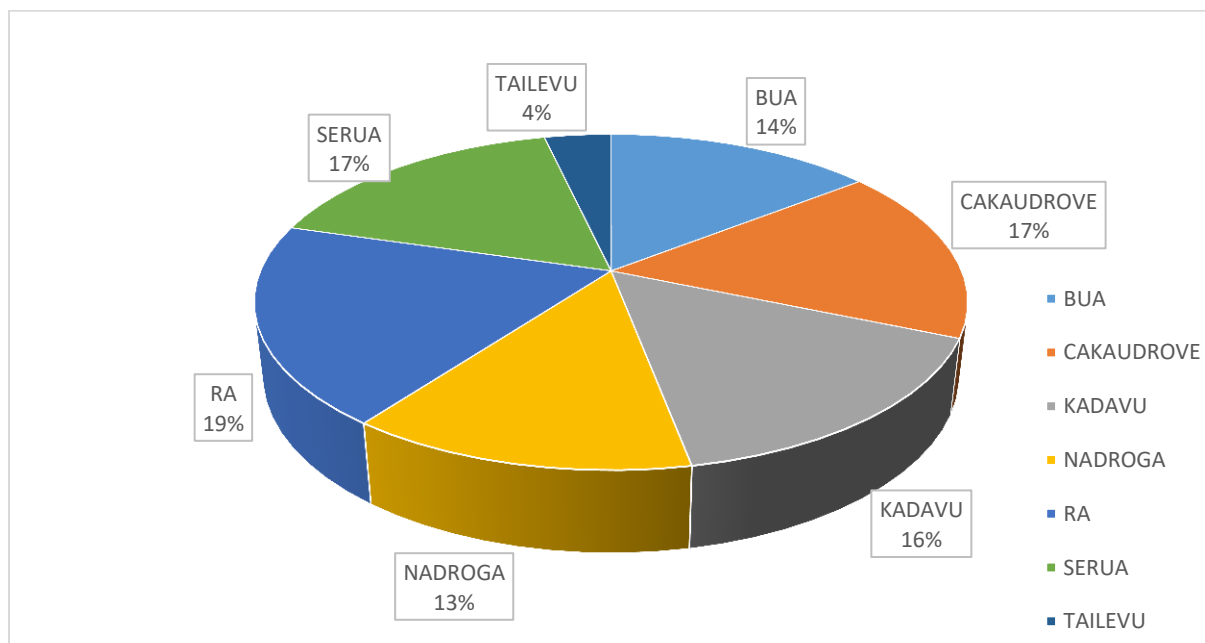
Dependent Indigenous Men & Women to actively participate in the Fiji REDD+ Readiness

Participants: Total = 727 (497 or 68% M, 230 or 32%F). Navosa (Nadroga/Navosa) = 519 (415 or 80%M, 104 or 20%F), Dreketi (Macuata) = 130 (78 or 60%M, 52 or 40% F) 78 SSV members (Bua, Cakaudrove, Kadavu, Nadroga, Ra, Serua and Tailevu provinces)=78 (4 or 5%M, 74/95%.

Method of Data Collection: Questionnaire

Issues of concern

- Reliant on their forest for food, shelter, medicinal plant, shelter for animals, birds and plants including totem creature and/or plant;
- Change in weather. Heavy rain cause land slide. Life threatening flood is regular;
- Extreme dry spells cause draught. Water source dries up as a consequence. Animals die including root crops and vegetables;
- Poor land management practice – irresponsible logging, burning – ecosystem is affected. Trees are damaged and uprooted;
- Lack of knowledge to deal with drastic changes in unpredictable weather pattern. Rural people feel frustrated;
- Accessibility is affected as roads get damaged and hardship increases.



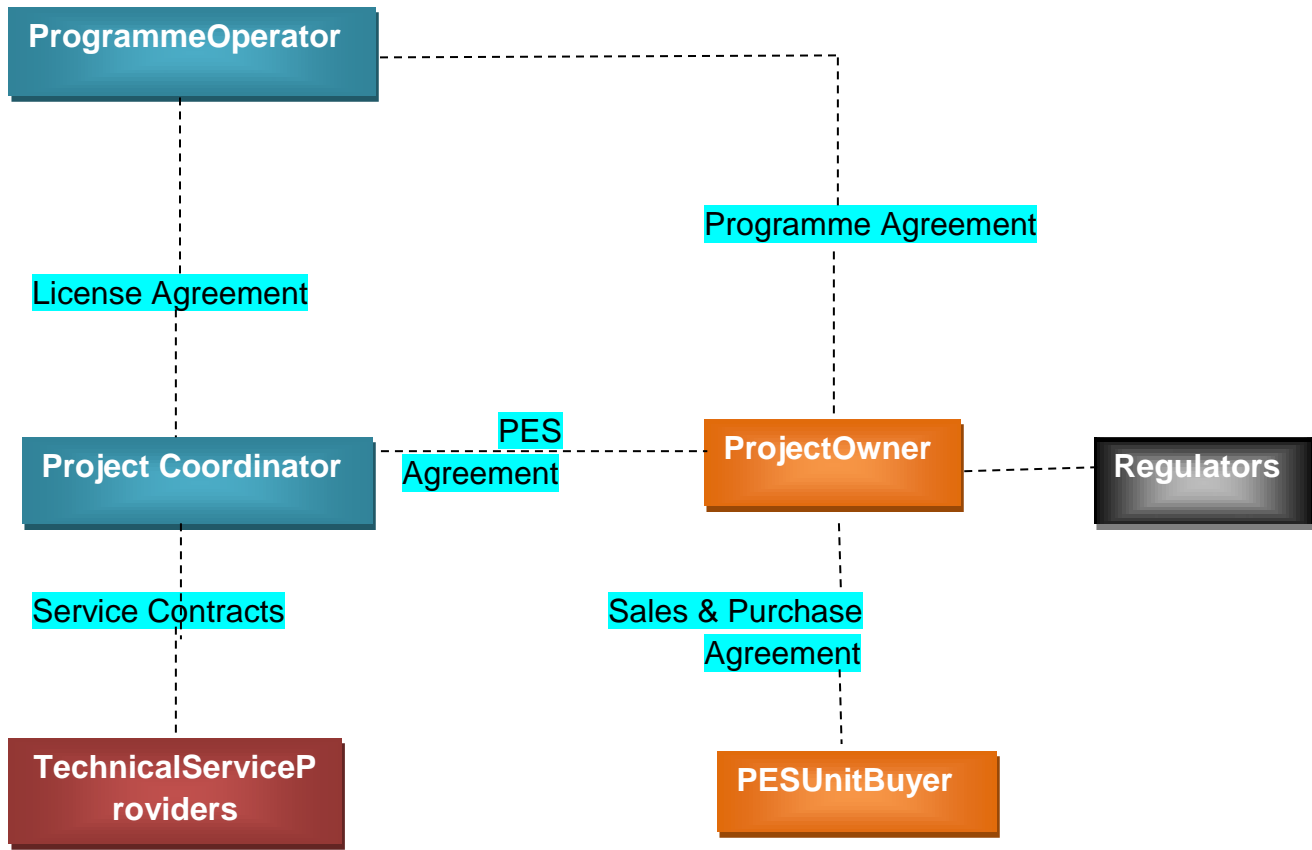
FPIC TRIANGULATION OF DATA
REDD+ Readiness Programme
SSV Women (Bua, Kadavu, Serua, Tailevu)
Challenges

Co-Operation	Hardship	Environment	Leadership	Substance Abuse	Gender
No-cooperation Disconnection	Financial & too many tasks. Church financial burden & Too much fundraise	Ignorance of impact of rash logging and burning Telephone	Difficult to access Government	Yaqona	SSV not heard in village meeting No SSV soli
Relationship issues	Unreliable power & Telephone	No care	Neglect from chief. Chief & wife do not listen to the village		Women don't speak in village council
Poor communication Plans clash	Education and Costly transport	Poor qoliqoli – climate change	Hard to mobilise		Less mats for Somate & Less knowledge with mat weaving
Little respect Protocol not followed Pride	Need care for babies and pregnancies		Selfish leaders & Distrust on convey of message		Not enough women for labour & less women in the village to help with obligation
Changing mindset Individualism Less honest speaking	Family care disturbed by village commitment		Leadership conflict divides people		Less plantation & Increase stealing from plantation
Envy, Ignorance, lazy & Poor time management			Weak leadership Poor decision making		Women not given support to be effective in the village
No support from others only Catholic & Methodist					

LIVE AND LEARN - REDD+ Project

Interviewer	Alisi Daurewa
Method	Individual Interview
Name	Rosie Langi,
Date	Thursday, 24 th January 2019 @ 2pm to 3.13pm
Programme Operator	Live & Learn International – NAKAU Programme & EKOS
Project Coordinator	Live & Learn Fiji
Project Owner	(1) Drawa Village, Dreketi District, Macuata Province, Vanua Levu
About the Project	There are international requirements under REDD+. For example, as in to sell a product, Live & Learn adopted the Plan Vivo standard. Plan Vivo standard determines that landowner/project owner does not receive less than 60%. This recognises that the buyer will always want security. The 2 nd is PES (Payment for Ecosystem Service). This is the name of the agreement between the Live & Learn Fiji as Coordinator and Drawa as the Project owner. Quarterly reports are made internally which are then sent to international partners – Live & Learn International and EKOS. There is self-monitoring mechanism within this agreement where they meet annually (called Annual Management Meeting) to review the project in accordance with PES. Where necessary changes are made using the FPIC process. Live & Learn works towards decreasing its share (40%) to increase the share of the landowner/project owner.
FPIC Triggers	(a) Mandate to continue project(accept a decision/plan), (b) Delay a decision or plan pending further information, (c) A request to change the decision or plan before continuing, (d) The Project Owner opts out of the project.
	Indicators that FPIC has been adopted are; (a) Business Registration Certificate via the cooperative system which harmonises with the cultural management system for Drawa village. (b) And through-out different stages of the project, measures to safeguard the PO or landowners are in place. Examples; (1) community's business model and governance structure. (2) Land boundary determined. (3) Conflict resolution procedure is in place (4) Benefit sharing is determined.

Live & Learn – Nakau Programme Legal Structure



Explanation for the Diagramme and Some Issues for Clarification

- Illustrates the governance structure
- Which is also the consultation process
- While the outcome of the structure is noted, it is unclear how the structure is realized.
- For example, who are the project owners?
- Is there space for women and young people to contribute to the discussion?
- Do women and youth contribute to the decision making process?
- If so, how are these affected – that is, women and youth participation?

**FIJI REDD+ and SOQOSOQO VAKAMARAMA TAUKEI
DRAUBUTA CONSULTATION FOR EMALU REDD+
19 TO 21 MARCH, 2019
FINDINGS**

INTRODUCTION

This report responds to Objective (3.0) of Deliverable 1⁵³. The report presents the findings of consultations with primary stakeholders, the resources owners of Mataqali and Yavusa Emalu. The consultations also included secondary stakeholders (other users at Draubuta Village) and relevant Government officials within Noikoro Tikina (District) in the administrative province of Nadroga and Navosa in the western division.

METHODOLOGY and METHOD OF DATA COLLECTION

While the Inception Report (Deliverable 1) planned to be guided in this research by the eight characteristics of good governance⁵⁴ proposed by ESCAP, the research approach adopted instead, the Pacific research protocols of the University of Otago⁵⁵, the principles for which are listed in the following matrix and how they were realised:

No	Principles	Realised
1	Maximising benefit to human	FPIC will empower land owning units (LOUs) & users
2	Relationships	Individual interview adopted out of consideration for tabu-relationships in the village to enable the respondents to participate with self-confidence
3	Respect	Individual interview was adopted out of respect that sensitive issues like land and custom were discussed
4	Cultural competency	Researchers are ethnic Fijians who spoke the language and observed customary practice of the land
5	Meaningful engagement	Individual interviews enabled in-depth talanoa
6	Reciprocity	Cash & gift in kind to the respondents in Draubuta
7	Utility	Activity is useful for developing the FPIC Guideline
8	Rights	Recognition for the damage to the village caused by

⁵³ Inception Report, Work Plan and Consultation Plan on the Development of a Free, Prior and Informed Consent (FPIC) Guideline for Fiji under the Ministry of Forests, Fiji REDD+ programme.

⁵⁴ 8 characteristics; accountability, consensus oriented, effectiveness & efficiency, equity & inclusiveness, responsiveness, rule of law, participation and transparency. See Daurewa, A (2013:84:86), USP, Suva

⁵⁵ Pacific Research Methodology – <https://www.otago.ac.nz/research/otago085503.pdf>. Accessed 7/3/19

		road development
9	Balance	Villagers & officials (primary & secondary) stakeholders
10	Protection	Validation of the data was made at the end of each interview when their respective responses were read back to them for their approval.
11	Capacity building	Eseta Tuinabua (SSV) assisted to build her capacity in method of data collection adopted in this research
12	Participation	Respondents included LOUs & Users, men & women, young & old, church, chiefs and government officials

RESPONDENT NO: 1 RKT

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAUBUTA

INTERVIEWER: Alisi W Daurewa FPIC Consultant, BI Mereseini Seniloli(1st Gender Consultant), Adi Luse Qereqeretabua (2nd Gender Consultant), Eseta Tuinabua (SSV)

DATE: 19/3/19

NAME: Semi Kuru

AGE: Nil

GENDER: Male

DESIGNATION: Roko Tui Nadroga/Navosa

CONTACT: semi.kuru@govnet.gov.fj and/or 9904-162

ISSUES

- Wanted to know whether SSV Nadroga/Navosa were involved with the team's visit to Draubuta. *SSV/Eseta explained the circumstance which was explained in part in the letter of introduction handed to the Roko Tui at the meeting;*
- AD undertook to furnish him with relevant SSV issues arising from her FPIC findings. *Emailed Roko Tui on 22/3/19 & acknowledged by him on 22/3/19;*
- Of the total registered chiefly seats under the iTaukei Land and Fisheries Commission, only 5 (33% or a one third) have been confirmed;
- Aim to increase this number by 2019;
- There is no registered dispute or grievance in Draubuta/Emalu;
- Informally, there is grievance with regards to the REDD+ project in Emalu.

RESPONDENT NO: 2 MNT

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa FPIC Consultant, BI Mereseini Seniloli(1st Gender Consultant), Adi Luse Qereqeretabua (2nd Gender Consultant), Eseta Tuinabua (SSV)

DATE: 19/3/19

NAME: Semi Neicula

AGE: Nil

GENDER: Male

DESIGNATION: Mata ni Tikina (MNT), Noikoro

CONTACT: Korolevu Village

BACKGROUND

He has been MNT for 6 years and is from Korolevu, the principal village in the district and/or vanua Korovabeka. Noikoro is the biggest district in Navosa with 9 villages including Draubuta. In Draubuta, there are 4 yavusa under vanua Korovabeka; Mota, Emalu, Navuakoro, Rarakavid. Each have their own land. Emalu has the biggest land but is less dense than the other 3 yavusa land. Logging began as a business activity by Europeans in the 1970s. A dispute arose. Chief of vanua Korovabeka closed access for Emalu via Namosi and within the Noikoro district. Emalu originated with 2 ancestors. One went and settled in Wainimala while the other was adopted by Rarakavid. which is a Yavusa under the vanua of Korovabeka. Emalu then asked to use the land it is currently on. He believes that unless Emalu follows the right protocol of consulting with Korovabeka via Tui Noikoro through its guardian at Draubuta, Radakavid, then the REDD+ project will better progress at Emalu. As Draunimasi (youngest) – when elders are trying to resolve an issue, and once the Draunimasi speaks, it is accepted that this would be the end of the discussion for the youngest is deemed the wisest.

ISSUES

- The position for overall chief of Korovabeka (or Noikoro district) has yet to be confirmed. This has also contributed to limitations in the governance of the vanua Korovabeka (district Noikoro), the overall effect of which, decisions cannot be made without a chairperson. Earlier in 2019, at a meeting with regards to this issue with the iTaukei Land & Fisheries Commission (under the Ministry of iTaukei Affairs), Commissioner Vananalagi made the decision that Nagudruvolili (currently Semi Neicule, MNT), on behalf of Korovabeka, decide and install the Tui Noikoro. Preparations are currently underway;
- In 2013, MNT raised 2 questions with REDD+ at a workshop in Nadi as follows (1) Who will be selling carbon in Emalu, the Government or LOU? (2) Who will pay the loan for monies spent thus far on the project including the workshops where the officials and LOUs and users participate? The REDD+ facilitator (Vilisi) did not answer any of the questions. Since then (2013) the MNT has not been invited to any REDD+ activities;
- At the 2019 Bose ni Yasana, the question was raised as to what was happening to REDD+ given that it was 10 years ago in 2009 when the project was mooted in the Province?;
- The meeting was informed that the Government had leased land in Emalu and that there was a 1st payment made for F\$150,000+.

:

RESPONDENT NO: 3 Emalu

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)

DATE: 20/3/19

NAME: Lemeki Toutou (69) **GENDER:** Male

DESIGNATION: Liuliu ni Tokatoka, Mataqali, Yavusa Emalu

NO. OF HOUSEHOLDS: 8 (6 female headed) **CONTACT:** Draubuta Village

BACKGROUND

Before, Emalu was under Yavusa Rarakavidi. This changed in 1914 during the Veitarogi Vanua when Emalu came under Korovabeka. After REDD+, Emalu land has been leased for 99 years to the Fijian government. The land is big with a small population of one family – with Toutou and his siblings. Signatories to the lease were; Toutou, his younger brother (who is a Catholic brother in Tutu Marist Center, Taveuni) and 6 sisters. Agreement; (1) 7 days after signing, money would be released (2) Royalty would be paid (3) Carbon credit. Response from Government; (1) Money was not received until after 3 years. LOUs including children 18+ received F\$900 each. (2) Royalty - nothing received (3) Carbon credit –not started. As far as Toutou is concerned, there is no dispute with Emalu. First settled in Muanivatu, then Naloka, Naduta and now Draubuta. Village was called Draubuta during the time of Apolosi R Nawai (Viti Kabani) when some of our men were in Tailevu as part of Viti Kabani. They returned and re-named the village which is now under vanua Koroivabeka. Fiji REDD+ - 7,347 acres of Emalu Mataqali land. We chose Laitia to manage the project for us, because he is well educated and is closely related to us.

ISSUES

- REDD+ not keeping to its promise – with regards to our initial agreement; (1) Delay in the 1st payment from 7 days to 3 years (2) No royalty payment (3) Don't know what is happening with the carbon credit.
- Head of Emalu (mataqali & yavusa) Lemeki Toutou (69) was informed with what REDD+ would do to his people but there appears to be little feedback including indication of timeliness as follows; 99 years lease (since 2017) by Government for carbon; (1) receipt of F\$130,000 within 7 days of signature to agreed terms and conditions of the lease (money was received months afterwards. To date Emalu does not have the certificate of confirmation of lease of 16,000 acres of their total land of 18,096 acres which is 56.55% of total Draubuta village land), (2) Royalty payment – no payment thus far (21/3/19) ,(3) Carbon credit (yet to materialize). Hence inadequate policy without regulation deprives Emalu of respect for their human right (Emalu & Project Manager individual interviews 20/3/19).

RESPONDENT NO: 4 - Mota**SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU****INTERVIEWER:** Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)**DATE:** 20/3/19**NAME:** Aminio Nioko (80)**GENDER:** Male**DESIGNATION:** Liuliu ni Tokatoka Nadurusila, Mataqali Naqio, Yavusa Mota**NO. OF HOUSEHOLDS:** 3 including 1 that is female-headed**CONTACT:** Draubuta Village**BACKGROUND**

Ancestor Tunaniela from Nakauvadra had 2 children; Sakoca and Rainima. Sakoca begot Mataqali Mota. Rainima begot Mataqali Navunirewa. We left Nakauvadra and our ancestor Sakoca settled in Nailaga (Ba). There were 5 children. The 1st child, Sauduadua (Tokatoka Natobuniga) went to Lau. The 2nd child is Navunilagi (Tokatoka Nacobowale) went to Vanua Levu. Vutago (Tokatoka Wainivesi), the 3rd remained in Nailaga. The 4th Nasalilai (Tokatoka Naqaiqai) went to Yasawa. The 5th Naqorosara (Tokatoka Seniniu) had land in Ba. He begot the Bati for Tui Nawaka. And Lewatuqwaqwa (yalewa qase) ko Lewa Tunabua went to Vanuakula in Naitasiri province. The 3rd went to Navosa (Draiba village). He assaulted his wife (who was still nursing her newborn) for refusing sex, and was banished to Naduta (old village). Relocated to Ralokaloka (now Draubuta). Influence of men involved in Apolosi R Nawai/Viti Kabani, changed the village name to Draubuta, a village in Tailevu. In 2000 went to reunite with kin in Nailaga. It was emotional because the Navosa kin was assumed to be dead. Their old mataqali (Seniniu) had given land in Lololo for pine plantation. They were well received by the Tui Ba. And reconciled with their kin in Nailaga. Natawarau land is under reserve. Their return to Nailaga is still being discussed. While the Tui Ba is supportive of their return, their mataqali in Nailaga is not as keen. They meet their cultural obligations to kin in Nailaga.

ISSUES

- Sympathise with Emalu. No wealth seen.

RESPONDENT NO: 5 – Navuakoro or Korovabeka

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)

DATE: 20/3/19

NAME: Joave Ratuva

AGE: 73

GENDER: Male

DESIGNATION: Liuliu ni Tokatoka Korotabua, Mataqali Narogairua, Yavusa Korovabeka, Liuliu ni Koro Draubuta.

NO. OF HOUSEHOLDS: 11

CONTACT: Draubuta Village

BACKGROUND

Cavuti – Koroivabeka, Emalu, Naqwaqwa, Ulucavu. Liuliu Korolevu, Tikina Noikoro. Old village is Nakoro. Ancestor Draunimasi (gone), Mataqali Naruarua. Nabosewale is older. Mataqali Narogorua. Yavusa Korovabeka. Currently not confirmed as chief, but Roko Tui has confirmed that he is the rightful holder of the title.

ISSUES

- Concerned that Emalu's money is used for village meetings over the years with nothing evident in Emalu's living standard.

RESPONDENT NO: 6 - RARAKAVIDI

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)

DATE: 20/3/19

NAME: Aporosa Dromalu

AGE: 64

GENDER: Male

DESIGNATION: Liuliu ni Tokatoka Naocotabua/Veisiqiani, Mataqali Rarakavidi, Yavusa Rarakavidi

NO OF HOUSEHOLDS: 19

CONTACT: Draubuta Village

BACKGROUND

Four villages/settlements thus far. 1st Munavatu, 2nd Galoka, 3rd Naduta, 4th Ralokaloka/Draubuta. Our role is veitaqomaki (to protect). From Wainimala then returned to Draubuta for Emalu (land). Rarakavidi brought the people back to Draubuta.

ISSUES

- Many years, still no money;
- Trees were planted. Money given to the village.
- First lease –nothing given.

RESPONDENT NO: 7 – Community Rep

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT - EMALU

DATE: 20/3/19

NAME: Laitia Leitabu

AGE: 47

GENDER: Male

DESIGNATION: REDD+ Landowners & Landusers Community Representative

CONTACT: 905-4415

BACKGROUND

The Fiji REDD+ project for Emalu began in 2009. Draubuta village consists of 32,000 acres. Of which 18,096 acres belongs to Mataqali/Yavusa Emalu. This equates to 56.55% belonging to Emalu and the remaining 43.45% belonging to the rest of the Land Owning Unites (LOU) in Dratabu village. In 2017, 16,000 acres was leased for 99 years by the Fijian government. This equates to 88.42% total Emalu land. The lease is categorised as a Conservation Lease. The lease payment for 2017 was paid in 2017.

ISSUES

- Since 2009, tree planting has been a regular activity during the rainy season from April to November. The planters from the village are paid a wage for their work. However, the people have stopped cooperating with the Ministry of Forests (MoF) which supplies the seedlings because they have not been paid. Tree planting has stopped.
- To date, the lease title has not been issued. The delay is with the Solicitor General's Office. The government system is bureaucratic and not customer-oriented. Before the process was efficient with only 2 institutions involved.

- Beginning with the Ministry of Forests and ending with the Taukei Land Trust Board (TLTB). Now, the Solicitor-General's Office is also involved, increasing the number of institutions involved from 2 to 3. The Ministry of Forests has paid the lease (2017), yet the lease title is not issued;
- While the lease payment for 2017 was paid in the same year, the lease payments for 2018 and 2019 have yet to be paid;
- The royalty on the standing trees has also, not been paid;
- To save the forest, an Alternative Livelihood programme was introduced to discourage the LOUs and Land Users from using the forest as a source of income and to look for other avenues, through which to earn money. Beekeeping and other initiatives were introduced. However, this has now stopped. No explanation for the withdrawal of this programme was given by the Fiji REDD+;
- They are not visited regularly and perceive Fiji REDD+ as uncaring;
- Despite their understanding with Fiji REDD+, in 2015, Emalu accepted mining exploration. This has yet to begin;
- If Fiji REDD+ comes now, 100% of Mataqali Emalu will disqualify the project because they no longer trust the Government including MoF;
- Currently, it takes 1 hour to walk from Draubuta with another 3 hours to reach Nukuilau. Plus another 3 hours from there to Sigatoka.

RESPONDENT NO: 8 – VILLAGE NURSE

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant

DATE: 20/3/19

NAME: Mereseini Naola

AGE: 40

GENDER: Female

DESIGNATION: Nasi ni Koro (Village Nurse)

NO OF HOUSEHOLDS: 79 but 87 with extended families.

TOTAL POPULATION: 325

CONTACT: Draubuta Village

BACKGROUND

Served as the Nasi ni Koro for 13 years so far. She is married and is from Navitilevu.

ISSUES

- Treatment include few cases of Non-Communicable Disease (NCD)
- Nil treatment yet for domestic violence – not common
- Teenage pregnancies appear to rise. 2018 = 1, 2019 = 3 so far

RESPONDENT NO: 9 – CHURCH

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant

DATE: 20/3/19

NAME: Tevita Qica

AGE: Nil

GENDER: Male

DESIGNATION: Minister for the Christian Mission Fellowship(CMF)

NO OF HOUSEHOLDS: 5 households in Draubuta, 3 in Nakoro and 5 in Navitilevu

CONTACT: Draubuta Village

BACKGROUND

Talatala Qica is from Nadi in the Ba Province. He began his mission 10 years ago in Draubuta. Navosa connects to Namosi, Serua, Ba and Naitasiri. Navosa area is referred to as; ‘Bula ena Vosa’, meaning their word is their bond. Mota (bati). Bosewale (wale), Navunavuga (Taukei).

ISSUES

- In the 1990s, they joined others in the Methodist Church’s Vakabula Vanua programme where activities included abstaining from yaqona etc in the first week of the month. But they did not continue. Since then, marijuana smoking seems to have increased in the village;
- Chief of the district/vanua (Korovabeka or Noikoro district) has yet to be installed as Tui Noikoro;
- People do not respect you for what you know, but for how much you care. If you lie then you do not care.

RESPONDENT NO: 10 – GENDER MS

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT - EMALU

INTERVIEWER: Alisi W Daurewa (FPIC Consultant)

DATE: 20/3/19

NAME: Bulou Mereseini Seniloli

AGE: N/A

GENDER: Female

DESIGNATION: Gender Consultant to SSV

CONTACT: 807-2394

BACKGROUND

Ms Seniloli is one of two consultants contracted by SSV to undertake the gender component under the requirement of the Fiji REDD+project via a Terms of Reference for gender. For this interview, she facilitated a focus group discussion (FGD) for the women, while Adi Luse Qereqeretabua, who assisted her in this consultancy, facilitated the FGD for the men.

ISSUES – general (ranked by priority with 1 as highest)

1. School is too far. Solution is to build their own school;
2. Land slide. Solution is to save the land;
3. Limited financial source. Solution is to look for business;
4. Road is bad. Solution is to repair the road;
5. Animal damage. Solution is to care for plantation;
6. Inadequate leadership and care. Solution is to include women in the committees.

EMALU LAND – ACCESS and CONTROL

No	Resource	Access	Control
1	Wai vaka Viti	men	Men
2	Kau vuata	women	Women
3	Kau ni vale	men	Men
4	Manumanu (vuaka, beka, nanai, soqe, ganiviti, yavato)	men	Men
5	Sasalu ni wai dranu (duna, ura, kai ni vatu, beli, sowene, sakali, drava)	women	Women

- By custom while people know the owner of the land, it is accessed and used freely;
- Out of cooperation, for convenience, people freely plant banana trees in the forests as food for wild pig hunters;
- Men repair houses and spend money on cigarettes while women spend money family need like uniform, food;
- Grievance redress mechanism at village level for Draubuta is still oral. The outcome of the village meeting (Bose Vakoro) is raised at the district meeting (Bose ni Tikina) by the Turaga ni Koro. The outcome of the district meeting is taken to the Provincial Council office by the Mata ni Tikina where the Assistant Roko responsible for Noikoro District (under which Draubuta belongs) ensures it is typed nicely, appropriate for the presentation to the Nadroga/Navosa Provincial Council meeting by the district representative (Mata ni Tikina).

RESPONDENT NO: 11 – SOQOSOQO VAKAMARAMA (SSV)

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant

DATE: 21/3/19

NAME: Joana Gaso

AGE: 60

GENDER: Female

DESIGNATION: Liuliu for SSV

CONTACT: Draubuta Village

BACKGROUND

Married to Mota but is from Korolevu, the principal village of the Noikoro district.

ISSUES

- Challenging to mobilize support. Only 50% of the women are active in the SSV women's activities;
- Accessibility. SSV Nadroga/Navosa HQ is not visible;
- Therefore, SSV village-based as in Draubuta do not have access to their HQ to assist where necessary with funding options etc.

RESPONDENT NO: 12 – DO

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – EMALU

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)

DATE: 21/3/19

NAME: Jovesa Naqarikau

AGE: N/A

GENDER: Male

DESIGNATION: District Officer, Keiyasi

CONTACT: 893-1688

BACKGROUND

Government assisted with rehabilitation on after the landslide during the making of the road. As a result, the Ministry of Health helped immunize children. Red Cross provided cooking utensils, blankets, tents, tarpaulin and food including tinned fish.

ISSUES

- Draubuta did not listen to advice on their choice of site for the road construction. They were warned. They were advised by Government officials of the risk in their choice. The old road was recommended instead.
- They were also told that the 'new road' would limit Government's access to the 2 villages currently accessible via the old/current road.
- But they chose to take their grievance to the Prime Minister in 2018. Hence, Lomanitoba was contracted to build the new road.
- Lomanitoba admitted its error. Now working with Fiji Road Authority (FRA) to minimize damage.
- Draubuta has been asked to relocate because the land-slide and flooding will continue.

RESPONDENT NO 13: Gone Turaga na Railevu, Noemalu

METHOD: Individual Interview via Telephone

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAUBUTA

INTERVIEWER: Alisi W Daurewa

DATE: 8/4/19

NAME: Ratu Rusiate Qereqeretabua

GENDER: Male

DESIGNATION: Liuliu ni Tokatoka Noemalu, Mataqali Noemalu, Yavusa Noemalu

CONTACT: Narokorokoyawa Village, Wainimala District, Naitasiri Province

BACKGROUND

This interview was necessary as it can have implications on Emalu and therefore the REDD+ project. Prior to the consultation team travel to Draubuta Village which houses the Emalu land, Adi Luse Qereqeretabua of the Gender Guideline Consultancy team shared that by origin she was from Emalu, although her family is now the leading chiefly house of Noemalu District in the Naitasiri Province. A week later, during the course of the consultations for Emalu, the Mata ni Tikina (MNT) for Noikoro District under which Draubuta village belongs explained that the original ‘owners of Emalu land lived in Narokorokoyawa Village in the Wainimala District in Naitasiri Province. Furthermore, that the current LOUs for Emalu were not the traditional chief/owner for Emalu. He confirmed that the land now called Emalu was called Mavuvu after Adi Luse asked. She did not tell the MNT of her origin. According to Ratu Rusiate Qereqeretabua⁵⁶, the land Emalu by origin called Mavuvu belongs to the Yavusa Noemalu of which his family is the leading chief. In the past, as a result of a war in Navosa, two brothers parted. The older brother took his tribe, called Yavusa Noemalu to Wainimala where they settled in what is now Narokorokoyawa Village and with 5 other villages belong to the District of Wainimala. His title is; Gone Turaga na Railevu. Whilst they were in Narokorokoyawa, one of their men was murdered. His wife and children left and settled in her village The

⁵⁶ Telecom Interview with AD, 8/4/19

younger brother who stayed behind belongs to Yavusa (or tribe) Koroivabeka in Noikoro District. The title is Taukei Koroivabeka. In 1912, during the time of the country-wide registration of Fijians into the Vola ni Kawa Bula (VKB), the chief at Noikoro (Nadroga/Navosa) was asked to claim Emalu but deferred to his older kin in Noemalu (Naitasiri) a register of social kinship ties necessary for land registration. Later when Ratu Sir Lala Sukuna visited Noemalu and was asked by the chief to register ownership of Emalu, he was told he could not because he now belonged to the province of Naitasiri while Emalu was in the province of Nadroga/Navosa. A descendant of the man who was murdered years earlier in Noemalu (referred to above) claimed instead the chieftainship for Emalu. Currently there are on-going consultations with the iTaukei Land & Fisheries Commission because Noimalu who claims to be the rightful owner is seeking recognition for its ownership of the land called Mavuvu, now called Emalu. In the process, Noemalu has performed the customary practice of *boleilesu* to Noikoro as confirmation for their intention to challenge the iTaukei Land & Fisheries Commission which has excluded them as LOUs for Emalu. In addition, Noemalu acknowledged Noikoro for looking after Emalu with the ceremony of *vakavinavinaka* or gratitude. The *Kerei ni Qele* or request for land was performed by Noemalu to Noikoro as a part of a series of necessary practices which began in 2010 to ensure relationships are maintained. .

ISSUES

- While much of Emalu land has been leased by the Government (16,000 of 18,000 acres), through the Fiji REDD+ programme, it must take into consideration, the likely implications should Noemalu's concern be recognized by the iTaukei Land & Fisheries Commission.
- Furthermore, that Noemalu's concern is recognized by the overall chiefly *vanua* of Noikoro, under which Draubuta Village which includes Yavusa Emalu belongs.
- After the team presented their *I sevusevu* to Draubuta, the village in response presented a *sevusevu* to the group. During the ceremony, only 2 people were designated to drink. The first was given to Adi Luse (member of our group) as the sister of the chief of Noemalu while the other was the head of the Yavusa

Koroivabeka (of Noikoro) who was present at the ceremony. This suggested that all the yavusa within Draubuta village knew who Adi Luse was and her position within the vanua of Noikoro under which Draubuta is one of its villages.

FIJI REDD+ and SOQOSOQO VAKAMARAMA TAUKEI

DRAWA CONSULTATION FOR REDD+

25 TO 26 MARCH, 2019

FINDINGS

1.0 INTRODUCTION

This report responds to Objective (3.0) of Deliverable 1⁵⁷. The report presents the findings of consultations with primary stakeholders, the resources owners of Yavusa Drawa. While letters of request for consultation were sent by SSV to relevant government agencies, there was no response by the time of our departure from Suva to Vanua Levu on Tuesday, 25th March.

2.0 METHODOLOGY and METHOD OF DATA COLLECTION

While the Inception Report (Deliverable 1) planned to be guided in this research by the eight characteristics of good governance⁵⁸ proposed by ESCAP, the research approach adopted instead, the Pacific research protocols of the University of Otago⁵⁹, the principles for which are listed in the following matrix and how they were realised:

No	Principles	Realised
1	Maximising benefit to human	FPIC will empower land owning units (LOUs) & users
2	Relationships	Individual interview adopted out of consideration for tabu-relationships in the village to enable the respondents to participate with self-confidence
3	Respect	Individual interview was adopted out of respect that sensitive issues like land and custom were discussed
4	Cultural competency	Researchers are ethnic Fijians who spoke the language and observed customary practice of the land
5	Meaningful engagement	Individual interviews enabled in-depth talanoa
6	Reciprocity	Cash & gift in kind to the respondents in Drawa
7	Utility	Activity is useful for developing the FPIC Guideline

⁵⁷ Inception Report, Work Plan and Consultation Plan on the Development of a Free, Prior and Informed Consent (FPIC) Guideline for Fiji under the Ministry of Forests, Fiji REDD+ programme.

⁵⁸ 8 characteristics; accountability, consensus oriented, effectiveness & efficiency, equity & inclusiveness, responsiveness, rule of law, participation and transparency. See Daurewa, A (2013:84:86), USP, Suva

⁵⁹ Pacific Research Methodology – <https://www.otago.ac.nz/research/otago085503.pdf>. Accessed 7/3/19

8	Rights	Recognition for the existing partnership between Drawa and International NGO, Live & Learn (L&L). That their situation was different from Emalu. Unlike Emalu which is represented by one of their own, Drawa has for several years worked with GIZ/SPC and later L&L. The outcome of the trainings was evidenced in the way the respondents reacted to the discussions.
9	Balance	Villagers – primary stakeholders. Government officials (secondary stakeholders) did not respond to SSV's earlier request for consultation.
10	Protection	Responses were discussed over again after the interviews. Issue of concern raised by chief was conveyed to DBFCC. Because of their close relationship, they were of course affected and via their responses to FPIC discussion undertook to have their matter sorted.
11	Capacity building	Eseta Tuinabua (SSV) assisted to build her capacity in method of data collection adopted in this research
12	Participation	Respondents included LOUs, men & women, young & old and chief.

3.0 FINDINGS

DATA TRIANGULATION - DRAWA COMMUNITY ISSUES

Drawa is a village in the Wailevu West district of Cakaudrove Province.

NO.	RESP	ISSUE	TYPE
1	1	Poor road. Affects sickness, education, market etc	Accessibility
2	1	Accountability/transparency from DBFCC	FPIC
3	1	Refused to bow-down to pressure for land to be leased for 99 years. When this was reduced to 30 years, he said it was either 30 years or nothing.	Governance, FPIC
4	2	Live & Learn needs to be more transparent so that shareholders can be better informed	Transparency, FPIC
5	3	Know and understand the concept of FPIC	FPIC
6	4	Know and understand the concept of FPIC	FPIC
7	5	Know and understand the concept of FPIC	FPIC

- Strong leadership
- Poor accessibility via road threatening population in Drawa
- FPIC should be an on-going method of communication at all levels and between different partners – Drawa vs DBFCC, DBFCC vs Live and Learn

RESPONDENT NO: 1 : Drawa chief and his household

METHOD: FOCUS GROUP DISCUSSION (FGD)

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAWA

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Adi Luse Qereqeretabua and Eseta Tuinabua (SSV). **Observer:** Isimeli Loga Lavetiviti (SSV Logistics)

DATE: 25/3/19

NAME: Timoci Ratusala (88), Titilia Kenona, daughter (55), Maopa Tuilevu, niece (52), Semi Madigi, grandson (33).

GENDER: Male (2), Female (2)

DESIGNATION: Liuliu ni Tokatoka Nake, Mataqali Navunicau, Yavusa Drawa

NO. OF HOUSEHOLDS: 7 with 2 female-headed. About 50% of the total is youth

RELIGION: 6 H/Households are Methodist while 1 household is Jehovah's Witness.

MAIN SOURCE OF INCOME: Yaqona, vudi (plantain), banana and dalo

CONTACT: Drawa Village, Tikina Wailevu West, Cakaudrove Province

BACKGROUND

By origin, the ancestors of the current occupants have always lived in Drawa until they shifted to Savusavu (within Cakaudrove) where they lived till the time of British Colonial Administration state chief, Ratu Sir Lala Sukuna who facilitated their return. The women of Drawa are known to be so beautiful that they are still referred to as *Kalokalo Volasiga* (Beautiful Star). But they were blatant cannibals and certain sites in Drawa are evidenced of this. Davui Vatu is symbolic of a conch-like stone. It is blown as an announcement that a bokola (captive) is here and that those who participate in the ritual must come to assemble. On another rock, the head of the captive is measured and the body examined whether it is worthy to eat. If too skinny, it is fattened till the time is right. Nearby are bamboo trees used as sharp knives. The trees remain at a certain height for ease of reach by the people. (*The SSV REDD+ group managed to capture the Davui Vatu in several photographs*). There is also Vuaka Vatu. Legend has it that the pig went to war. As the warriors began preparing the pig to share, enemies arrived and the pig turned to stone. When Christianity, the people became fervent Christians. An ancestor

called Tuinilotu (chief of church) would monitor the people with a stick to ensure everyone went to church. If not, there would be a village judiciary for a special court hearing for anyone who dared not to attend church. Currently, the people living in Drawa now is the extended family of the chief, Timoci Ratusala and his siblings, whose ancestor did not partake in cannibalism while those who did became *kawaboko* (extinct). The rest of the family and members of 6 mataqali (Navunica, Nakalounivuaka, Nadugumoimoi, Bakibaki, Vatucucu & Dranudrawa) under Yavusa Navunica live in the 4 other villages of; Lutukina, Batiri, Narailagi and Vatuvonu. The people in Dawa village are subsistence farmers. Most of them are Methodists with a few Jehovah's Witnesses. They earn much of their income from the sale of their produce at Labasa market. The cost of a return transportation via a truck to and from Labasa market is about \$200. The SSV team left Natovi at about 6.30am and arrived in Nabouwalu Jetty (Bua Province) at about 11am on Tuesday (26/3/19). In the SSV vehicle it took an hour and a half to reach Drawa Village in Wailevu West District (Cakaudrove Province). Drawa is accessible from Dreketi District (Macuata Province). Drawa is about 16,000 acres of land with virgin forest and river. Initially, GIZ/SPC took a stock count of the standing trees for the purpose of logging as an income generation project. A cooperative was established then. But Live and Learn partnered with Drawa (from 2011 to 2016) which began trading as Drawa Block Forest Community Co-Operative (DBFCC) which leased 100 acres for 30 years in 2017 for carbon credit.

ISSUES

- Accessibility is their main issue of concern. As a result of poor road and limited telephone/internet connection; accessing education, health service, the market and the choice of manager for their village project are challenges for the people living in Drawa;
- The half-graveled road to and from the main road from Dreketi District (Macuata Province), leading from Nabouwalu Jetty (Bua Province) to Labasa town (Macuata Province) is not only inadequate but dangerous to drive on when it rains because it becomes muddy and soft. *Through the Gender consultation (*

- 26/3/19) with Adi Luse Qereqeretabua, the young men were challenged and agreed to take responsibility via the solesolevaki (communal co-operation) customary practice to begin improving the road via the income they receive from the sale of their yaqona & other produce;
- Only one house has access to the telephone and WI-FI connection;
- From Kindergarten to Year 8, the children board at Lutukina village up the road where they have kinship ties called it has its own primary school, Lutukina District School. The children are accompanied by parents/guardians who are rostered to change every one month and three weeks. They leave Drawa on Sunday and return on Friday or Saturday;
- After Year 8, some choose to drop out of school while some progress to Armhadiya Muslim School for secondary level education;
- Young women complete their education and work in urban towns and city. There was only one resident in the village in comparison to nearly thirty young men at the time of this interview;
- Young men blame hardship in accessibility to their reason for remaining single, although most of them have had secondary school education;
- Role of Live and Learn and the Co-Op are helpful. But the Co-Op is not consistent with updating those living the village. They are often in the dark;
- When the chief was asked by DBFCC to lease the land for 99 years, he refused and reduced it to 30 years. When there was insistence, he told them, it is either 30 years or nothing at all.

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAWA**RESPONDENT NO: 2** : Drawa Block Forest Community Cooperative (DBFCC)**METHOD:** FOCUS GROUP DISCUSSION (FGD)**INTERVIEWER:** Alisi W Daurewa, FPIC and Eseta Tuinabua (SSV).**DATE:** 26/3/19**NAME:** Peni Maisiri Yacalevu, and Jeremaia Lotawa (chief's grandson)**GENDER:** Both male**DESIGNATION:** Chairman and Treasurer of DBFCC**CONTACT:** C/- Live and Learn. They both live in Labasa.**BACKGROUND**

Drawa has 5,245.12 hectares of land much of which is virgin forest. On 15/1/2011, 1,542.29 hectares of this land was reserved for lease (till 15/1/45) for the purpose of carbon credit, by the Drawa Block Forest Community Co-operative (DBFCC) for 30 years. There are two Yavusa with members resident in the 5 villages of; Drawa, Lutukina, Naraillagi and Vauvonu are involved. Navunica with 6 mataqali (Navunica, Nakounivuaka, Bakibaki, Nadugumoimoi, Vatucucu and Dranudrawa) and, Toanikua with 2 mataqali (Toanikula and Nakase). But later, 2 of Navunica (Vatucucu and Dranudrawa) pulled out because they were frustrated with the delay in the project operation. Their seats were given to the women and youth of Drawa. So the membership of the Board of DBFCC has 8 seats, representative of the 6 mataqali members, the women and the youth. During the interview, the level of involvement of the two representative groups (women and youth) was not clear. International NGO Live & Learn (L&L) DBFCC has contributed in a big way to ensuring the governance structure of DBFCC is secure. For under the Fiji Cooperative regulation, DBFCC is accountable to its members and, the Cooperative Department. Money earned thus far (2018) through one sale of 6,300 tonnes of carbon received by DBFCC from L&L is F\$65,278. This is supposed to be 60% of the total sale price as agreed to with L & L which receives 40%, (at 20% each for international and local L&L) of the sale price.

Furthermore, in line with the Cooperative legislation, the members (LOUs and Non-LOUs) receive 1% in dividend per person, per share. This totaled F\$20,700 and is administered through the Taukei Land Trust Board (TLTB) after DBFCC made the payment in 2018. In addition, TLTB has billed DBFCC with F\$735,000 in Royalty, to be paid to the LOUs. The DBFCC has asked for part-payment as it has yet to earn money from more carbon sale. F\$25,000 is therefore deposited into their Bank A/C awaiting more carbon sale, to make their first Royalty payment to TLTB for the LOUs. The Treasurer advised that he was meeting the overseas buyer later this week on Thursday, 28/3/19. He plans to ask the buyer what the total sale of the carbon was (oral interview with AD, 26/3/19). The 3rd payment is the 2017 Lease for F\$10,090 and for 2018 with the same amount, totaling F\$20,180 paid to TLTB to administer its payment to the LOUs. The 10% owing to the Co-Operative (called Safety Account Money) is yet to be paid, pending financial affordability. As an alternative livelihood initiative, beekeeping was supported by NZAid via L&L. A vehicle and beeping equipment were supplied at 48 kits per village in the 5 participating villages. L&L provided the training. The villagers sell honey to DBFCC @ \$13 per kilo, which is one of the highest thus far. In the last 3 quarters, \$7,300 was earned by the villagers. Last week, 110 kilos were bought totaling F\$1,430 per family between 6 to 7 households for Drawa Village. This sale takes place every 3 months. The diagram below illustrates the framework for the private sale of carbon by DBFCC through L&L:

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAWA**RESPONDENT NO: 3** – FGD – Older men and women of Drawa**INTERVIEWER:** Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)**DATE:** 26/3/19**GENDER:** 6 Male and 2 females**CONTACT:** Drawa Village, Wailevu West, Cakaudrove**BACKGROUND**

The group was asked for its interpretation of Free, Prior, Informed and Consent (FPIC). This was translated to the Fijian language as; Galala, Kila taumada, Kila cake sara vakavinaka kei na Vakatulewa. The aim for this question was to gauge their Knowledge, Attitude and Practice of FPIC:

English	Response	Fijian	Sau ni Taro
Free	When space is given (eg meetings) to discuss the issue (2) Think through carefully about what to discuss on the issue	Galala	Kena soli na galala ni lewe ni vanua – me vaka na bose (2) Meda vakasamataka vaka vinaka na veika e mai bosei
Prior	The people must know the purpose for the development (2) Be prepared for questions (3) Meet often at village level on the issue	Kila Taumada	Meda kila rawa na lewe ni vanua na veika e mai vakayacori (2) Meda tu vakarau ena veitaro kece sara e dodonu meda mai tarogi kina (3) Bosebosevata vakoro
Informed	You must know what will be done (2) Don't be fooled by words alone but be sure it is evidenced based	Kila cake sara vakavinaka	Mo kila sara vakavinaka na veika e dodonu me vakayacori (2) Mo kua ni rawai rawarawa ena vuku ni veitalanoa ka sega ni laurai na votu kana – e loma ni koro
Consent	Be fully informed first on the intention of the project (2) Consult each other first (3) For the sake of our heritage (natural resources)	Vakatulewa	Me matata veikeda na veika kece ena mai vakayacori ena loma ni noda vanua (2) Veivosaki rawa (3) Me maroroi na I yau bula

Result:

Respondents know what FPIC is in the context of their situation. Their attitude and practice with regards to FPIC is evidenced in the responses.

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAWA**RESPONDENT NO: 3 – FGD – DBFCC****INTERVIEWER:** Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV)**DATE:** 26/3/19**GENDER:** 2 males**CONTACT:** Drawa Village, Wailevu West, Cakaudrove or C/- Live and Learn**BACKGROUND**

The Chairman and Treasurer were asked for their interpretation of Free, Prior, Informed and Consent (FPIC). This was translated to the Fijian language as; Galala, Kila taumada, Kila cake sara vakavinaka kei na Vakatulewa. The aim for this question was to gauge their Knowledge, Attitude and Practice of FPIC:

English	Response	Fijian	Sau ni Taro
Free	Free from coercion	Galala	Dodonu ka sega ni vakasaurawarawataki
Prior	Knowledge before hand, and ensure, leadership is informed before hand in the culturally appropriate manner	Kila Taumada	Kila taumada. Vakasavui tukutuku ka vakaliuci ko ira era veiliutaki
Informed	Active listening and ensure information is understood fully, before conveying it to the others	Kila cake sara vakavinaka	Rogoca ka sa matata na I tukutuku ko qai vakadewataka
Consent	Decision is made only when the information received is clearly understood. And that respect is given for the informed decision	Vakatulewa	Vakatulewa ena kena sa matata na I tukutuku. Ia, me rokovi na dodonu ni tamata, ka vakatulewataki e dua na ka ena noda sa kila vakamatata e dua na I tukutuku

Result:

Respondents know what FPIC is in the context of their situation. Their attitude and practice with regards to FPIC is evidenced in the responses.

SOQOSOQO VAKAMARAMA – FIJI REDD+ PROJECT – DRAWA

RESPONDENT NO: 5 – FGD – youth

INTERVIEWER: Alisi W Daurewa, FPIC Consultant, Eseta Tuinabua (SSV) and Adi Luse Qereqeretabua, Gender Consultant

DATE: 26/3/19

GENDER: 3 males

CONTACT: Drawa Village, Wailevu West, Cakaudrove or C/- Live and Learn

BACKGROUND

By the time of FGD with the young men, most had left to prepare for our departure by checking the condition of the road that afternoon. Besides it was getting dark and we needed to leave soon. So, three young men were left behind to respond to the question on FPIC. This time, we could only converse minus the paper work with charts etc, again, because we were under-pressure to begin our preparation to leave that afternoon before it got too dark.

ISSUES DISCUSSED

- They had the right to say no to development proposals which they felt would deprive them off sustaining their natural resources – in this case, unique virgin forests by international standard;
- They must not depend on government and take responsibility for their development. Therefore, practise the custom of *solesolevaki* (communal cooperation) to fix their road.

QUESTIONNAIRE ON THE PROCESS OF FREE, PRIOR and INFORMED CONSENT (FPIC)

Fiji National REDD+

This questionnaire from the Soqosoqo Vakamarama ITaukei (SSV), which has been commissioned by the Government, seeks your cooperation to contribute to the aim of this project, to develop a REDD+ FPIC Guideline for Fiji and, to develop a REDD+ Gender Guideline for Fiji. The SSV has engaged two consultants to respond to each of the guidelines (FPIC and Gender). Alisi Daurewa is the consultant for the FPIC Guideline, of which this questionnaire is a component. Bulou Mereseini Seniloli is the consultant for the Gender Guideline. The Fiji National REDD+ Programme was established in 2009 with the Ministry of Forests as the lead implementing agency. The Ministry of Economy is the lead finance agency. In December 2010, the Fiji National REDD+ Policy was endorsed by the Government. Fiji is also supported by the SPC/GIZ Coping with Climate Change in the Pacific Islands Region (CCCPIR) and the World Bank through the Forest Carbon Partnership Facility (FCPF). The Fiji REDD+ programme is overseen by the National REDD+ Steering Committee which coordinates and facilitates the implementation of a multi-sectoral approach to the REDD+ agenda. The aim of the Fiji National REDD+ Programme is to implement the National REDD+ Policy which has the overall effort of reducing levels of deforestation and forest degradation and helps to maintain and protect natural forests. **FPIC** is a participatory consultation process that allows indigenous peoples to give or withhold consent to a project that may negatively affect them or their land. **FPIC** is protected under the International Labour Organisation (ILO) Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007.

The SSV would therefore be grateful if you could complete this questionnaire and return it to the following: awdaurewa@gmail.com and/or etuinaua1@gmail.com by 22 February 2019. Best wishes for 2019 and vinaka vakalevu for your time and effort.

Signed.....Adi Finau Tabakaucoro, General Secretary,
Soqosoqo Vakamarama ITaukei. Date: 14 February, 2019

FPIC Guideline Questionnaire (4 Questions)

Q1 Does the legislation (or canon law or other relevant law), under which your work is mandated contribute to FPIC?

Q2 If so, please name the relevant piece of legislation.

Q3 Does your Ministry/Institution/Organisation have policies that contribute to FPIC?

Q4 If so, please name the policy (ies) and describe the process used.