

OBTAINING FREE, PRIOR and INFORMED CONSENT FOR REDD+ INITIATIVES IN FIJI

***A Guideline, including Principles
and Process***

JULY 2019



*"Give us a better future,
protect our forest."*

Adi Finau Tabakauco, President,
Soqosoqo Vakamarama I Taukei

Acknowledgements

The document- ***‘Obtaining Free, Prior and Informed Consent for REDD+ Initiatives in Fiji: A Guideline, Including Principles and Process’***- was developed by the Soqosoqo Vakamarama I Taukei, Fiji’s biggest indigenous NGO, acting on behalf of the Civil Society Organizations (CSO) Platform, under the supervision of the Fiji REDD+ Programme in the Ministry of Forests.

Significant contributions were made by five forest-dependent tribes of Emalu, Mota, Koroivabeka and Rarakavidi in the village of Draubuta, Noikoro District in the province of Nadroga/Navosa on the island of Viti Levu and, Drawa in Drawa village of Wailevu West district in the province of Cakaudrove on the island of Vanua Levu.

In addition, the Christian pastor at Draubuta and local government officials; Mata ni Tikina for Noikoro, Roko Tui Nadroga/Navosa and the District Officer based at Keiyasi Government Station also made notable contributions.

Members of the Soqosoqo Vakamarama I Taukei (SSV) from Fiji’s fourteen provinces made significant contributions at the FPIC Inception Workshop in a Special General Meeting in December 2018.

The contributions from the Fiji Commerce Employers Federation, Live and Learn, Ministry of iTaukei Affairs, the iTaukei Land Trust Board and other REDD+ activities such as validation workshops by Conservation International were also valuable.

Vinaka beka vakalevu

Preface

This is a practical guide for obtaining Free, Prior and Informed Consent (FPIC) of indigenous Fijians, the iTaukei and local communities during the development and implementation of REDD+ initiatives (project, programmes and activities) in Fiji.

The guide aims to set up, in a culturally appropriate participatory manner, an operational framework that REDD+ project developers and promoters in Fiji may adopt in seeking FPIC with the iTaukei and local communities around a potential REDD+ activity or project area before and during the implementation of a REDD+ activity or project.

The guide contains the fundamental principles underlying FPIC and the process or procedures to ensure that FPIC is incorporated into all REDD+ initiatives. These principles and processes may also be applied to other non-REDD+ projects such as land use planning and natural resources management where planned activities are likely to affect the customary land of the iTaukei and local population in Fiji.

The guide was developed by the Soqosoqo Vakamarama I Taukei (SSV) which commissioned Social Safeguard Specialist, Alisi Daurewa. The entire project was undertaken by the SSV in consultation with the National REDD+ Steering Committee and Fiji REDD+ partners. The guideline was informed by an FPIC orientation report which included a literature, legislative and policy review of FPIC and its applicability to Fiji, and results of consultations involving:

- An FPIC Inception Workshop with about 100 women leaders of the Soqosoqo Vakamarama, an avenue through which, women's perceptions of FPIC were captured;
- Consultations with indigenous resource and rights owners and users and local government officials from five tribal groups in two of three designated REDD+ areas for Fiji- Emalu (Draubuta village, Noikoro district, Navosa, Viti Levu) and Drawa (Wailevu West, Cakaudrove, Vanua Levu);
- Contributions received from the Fiji Commerce Employers Federation, Live and Learn, and Government ministries and agencies including the iTaukei Land Trust Board;
- Furthermore, through the SSV's 2018 report on Building Capacity for Fiji's Forest Dependent Indigenous peoples, the perceptions of 727 people (60% men and 40% women) on their environment SSV's 2018 report on Building Capacity for Fiji's Forest Dependent Indigenous men and women totaling 727 was consulted to ascertain their perceptions of their environment; and
- Literature, anecdotal evidence and other REDD+ activities.

Guideline users are:

- The government of Fiji (through the Ministry of Forest and other Ministries)
- Statutory bodies such as the iTaukei Land Trust Board which is responsible for the development of Indigenous Fijian customary land;
- Local government offices including the Provincial Administrators under the Ministry of Rural and Maritime Development and the offices of the Roko Tui of the 14 provincial councils under the Ministry of iTaukei Affairs;
- Land owning units (LOUs);
- Indigenous communities including the Turaga ni Koro of 1,171 villages;
- Local communities and Advisory Councilors;
- Development partners, civil society and private sector agencies, NGOs, religious bodies;
- REDD+ initiative promoters;
- Other actors involved in the REDD+ process in Fiji.

This is a living document, and is therefore, subject to revision. It will require update as and when necessary after acquisition of new knowledge and experience on seeking FPIC within the REDD+ process of Fiji. These revisions will enable the document to be adapted according to the evolving legal framework and the national regulations. The fundamental principles of free, prior and informed consent, however, will remain unchanged.

Acronyms and Abbreviations

CBD	United Nations Convention on Biological Diversity
CERD	Committee on the Elimination of Racial Discrimination (CERD)
CCCPIR	Coping with Climate Change in the Pacific Island Region Committee on Economic, Social and Cultural Rights (CESCR)
FAO	Food and Agriculture Organization
FCEF	Fiji Commerce and Employers Federation
FCPF	Forest Carbon Partnership Facility
FPIC	Free, Prior and Informed Consent
GIZ	German Society for International Cooperation
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
LLEE	Live and Learn Environment Education NGO
MTA	Ministry of iTaukei Affairs
REDD+	Reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries
SEEDS	Fiji Sustainable Economic and Empowerment Development Strategy
SEEP	Social Empowerment Education Programme
SPC	Pacific Community
SSV	Soqosoqo Vakamara iTaukei
TLTB	iTaukei Lands Trust Board
UNDRIP	United Nations declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change

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Definition of key terms

<i>iTaukei</i>	Indigenous Fijian
<i>itovo, vakarau, ivalavala</i>	culture, customary practice
agreement by consensus	rather than approval or consent, consensus is culturally appropriate in iTaukei society
local partner	Fijian community or business in partnership with an overseas investment company or organization
mixed community	community of different ethnicities
<i>Mataqali</i>	land owning unit and is also the 3 rd strata from the bottom in a conical structure of a classical iTaukei society
<i>Vanua</i>	land, people and customs
<i>Veidokai</i>	to act with respect and humility
<i>Veikauwaitaki</i>	to act with consideration
<i>Veinani</i>	to be thoughtful of others
<i>Veivukei</i>	to be helpful
<i>Veiwekani</i>	Relationship
<i>Vinaka vakalevu beka</i>	Thank you respectfully. Common in parts of Fiji.
<i>Vola ni Kawa Bula (VKB)</i>	Register of social kinship ties to help ascertain landownership and chiefly titles
<i>Turaga ni Koro (TNK)</i>	elected or nominated administrative head of a village. Usually acts as the secretary in the presence of the chief at the village meeting

1. FUNDAMENTALS

1.1 Understanding Free, Prior and Informed Consent

1.1.1 Legislative and Policy Framework on FPIC

Free, Prior and Informed Consent (FPIC) refers to the right of indigenous people to give or withhold consent to actions that will affect them, especially actions affecting their lands, territories and natural resources. FPIC is a principle enshrined in the United Nations declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 (adopted by the General Assembly on 13 September 2007) and promotes the individual and collective rights of indigenous peoples to self-determination. The UNDRIP includes provisions recognizing the duty of states to secure FPIC from indigenous peoples. Article 32 in particular states:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

“The right to free, prior and informed consent is embedded in the right to self-determination. The procedural requirements for consultations and free, prior and informed consent respectively are similar. Nevertheless, the right of free needs to be understood

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.

Articles 33 and 34 further provide the right of indigenous peoples to determine the structures and select the membership of their institutions in accordance with their own procedures and to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

The UNDRIP, the Convention on Biological Diversity (CBD) and the International Labour Organization Convention 169, are the most comprehensive international instruments promoting the right of Indigenous Peoples to self-determination.

Tables 1 and 2 outline the links between FPIC and the relevant international treaties ratified by Fiji and national legislative and policy framework.

TABLE 1: INTERNATIONAL TREATIES RATIFIED BY FIJI AND LINKS TO FPIC

Convention	Year ratified	Links to UNDRIP/ FPIC
United Nations Convention on Biological Diversity (CBD), 1992	1993	The CBD reinforces indigenous and local community rights in regards to biological resources, benefit-sharing and the protection of cultural knowledge. Subject to its national legislation and as far as possible and appropriate, State parties must obtain the “approval and involvement” of persons with traditional knowledge, innovations and practices when this knowledge is used outside of the indigenous or local community- Article 8. This convention is supplemented by the 2002 Bonn Guidelines, which emphasize indigenous and local community rights and provide guidance on implementing certain provisions of the CBD; the Akwe: Kon Guidelines, a set of voluntary guidelines for conducting cultural, environmental and social impact assessment procedures on indigenous and local community lands, sacred sites, and waters; and Nagoya Protocol on Access and Benefit-sharing requires countries to take measures to ensure the prior, informed consent of indigenous and local communities.
ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)	1998	The Convention requires governments to consult with indigenous peoples about legislative or administrative measures that may affect them directly, establish means for full and free participation of indigenous people at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them and uphold their rights to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development, and participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.
International Covenant on Civil and Political Rights (ICCPR), 1976	2018	Article 27- In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1976	2018	<p>Article 15- The States Parties to the present Covenant recognize the right of everyone to take part in cultural life and will take steps to achieve the full realization of this right which shall include those necessary for the conservation, the development and the diffusion of science and culture.</p> <p>The Committee on Economic, Social and Cultural Rights (CESCR) expanded on free, prior and informed consent in general comment No. 21. In its interpretation of cultural rights, the Committee outlined that the right to participate in cultural life includes the right of indigenous peoples to restitution or return of lands, territories and resources traditionally used and enjoyed by indigenous communities if taken without the prior and informed consent of the affected peoples. It called on States parties to “respect the principle of free, prior, and informed consent of indigenous peoples in all matters covered by their specific rights” and to “obtain their free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk”</p>
International Convention on the Elimination of All Forms of Racial Discrimination, 1969	1973	<p>The principle of non-discrimination in FPIC is also relevant to CERD. In its 1997 General Recommendation No 23 on indigenous peoples, the Committee on the Elimination of Racial Discrimination (CERD), called on States parties to ensure that indigenous peoples have equal rights to participate in public life and stresses that no decisions relating directly to indigenous peoples are to be taken without their informed consent. With specific reference to land and resource rights, the Committee called for restitution in situations where decisions have already been taken without the prior and informed consent of the affected indigenous peoples. It also highlighted the obligation of States to ensure that the right of indigenous peoples to free, prior and informed consent is respected in the planning and implementation of projects affecting the use of their lands and resources.</p>

TABLE 2: NATIONAL LEGISLATIVE AND POLICY FRAMEWORK IN FIJI AND LINKS TO FPIC

Legislation or Policy	Links to FPIC
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.

iTaukei Land Trust Act Cap 134 (formerly referred to as the Native Land Trust Act)	<p>Section 9: No native land shall be dealt with by way of lease or license under the provisions of this Act unless the Board is satisfied that the land proposed to be made the subject of such lease or license is not being beneficially occupied by the Fijian owners, and is not likely during the currency of such lease or license to be required by the Fijian owners for their use, maintenance or support.</p> <p>Section 17 (1): 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.</p> <p>The consent of the landowners is a vital consideration in the alienation of reserved land. It is mandatory. Without it, the board may not de-reserve.</p>
The Native Land (Miscellaneous Forms) Regulations 1965	<p>The Regulations states: “The consent of native owners to any matter or thing in respect of which such consent is required to be given under the Act (iTaukei Land Trust Act Cap 134) or any regulations made there under 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.”</p>
Forestry Decree 1992	<p>Section 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 reserve 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.</p> <p>Section 10.-(1) A licence 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.</p>
The Forestry Bill 2016 (to be tabled)	<p>The Forestry Bill contains REDD+ provisions Section 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.</p> <p>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. Section 30 focuses on indigenous customary rights:</p> <p><i>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).</i></p>

Fiji REDD-Plus Policy: Reducing emissions from deforestation and forest degradation in Fiji (2011)	<p>The Policy Preamble states that the Government of Fiji recognizes <i>“that the vast majority of Fiji’s forests are owned by Fiji’s indigenous people and therefore the knowledge and rights of indigenous peoples shall be guaranteed, as defined under the Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention for the Safeguarding of the Intangible Cultural Heritage (UNCSICH), and other international instruments on rights of indigenous people.”</i></p> <p>Fiji REDD+ Policy Statements include:</p> <p>5.1 SAFEGUARDS: The following will be ensured for all REDD-Plus initiatives and projects in Fiji:</p> <ul style="list-style-type: none"> a) protection of and respect for the knowledge and rights of indigenous peoples (as stated in UNDRIP and UNCSICH and other international instruments); b) full and effective participation of indigenous people and other relevant stakeholders; c) equitable distribution of benefits to rights owners; d) consideration of gender issues in all phases of decision-making and implementation; e) no conversion of natural forests but will reward the protection and conservation of natural forests and their ecosystem services, and will enhance other social and environmental benefits; f) that these initiatives and projects complement and are consistent with the objectives of the Fiji Sustainable Economic and Empowerment Development Strategy (SEEDS) and relevant international conventions and agreements. <p>5.3 SCOPE OF REDD-PLUS ACTIVITIES: The following activities are eligible for inclusion in a national/sub-national/Project scale Fiji REDD initiative:</p> <ul style="list-style-type: none"> a) reducing emissions from deforestation via forest protection and improved forest management; b) reducing emissions from degradation via forest protection and improved forest management; c) afforestation/reforestation; d) forest/energy sector linkages (biomass electricity generation); e) forest/agriculture linkages (biomass residue/biochar); f) combination linking afforestation/reforestation with REDD. <p>5.5 GOVERNANCE: Through the Fiji REDD-plus programme, a transparent multi-stakeholder governance structure will be developed. The governance structure will be capable of:</p> <ul style="list-style-type: none"> a) ensuring the participation and consultation of all relevant stakeholders in REDD-Plus activities; b) delivering efficient and effective decisions; c) enhancing donor and buyer confidence; d) using existing structures and, where possible, modifying them to suit the implementation of the Fiji REDD-Plus Programme; e) standing up to an independent, external, expert third party review
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1.1.2 Key Elements in Free, Prior and Informed Consent

“...if indigenous peoples are to benefit from payments through REDD, that will involve changes to the way that indigenous peoples and local communities manage their forests, otherwise there will be no difference from business as usual...”

Monitorina Report on FPIC in REDD, GIZ and RECOFTC, 2011

FPIC is important in the context of REDD+ because of potential changes in resource uses that could significantly impact the substantive rights of indigenous peoples and where relevant, other forest-dependent communities.¹ For example, reducing emissions from deforestation will require changes in how the land is used. Depending on how they are carried, these changes may support or undermine the rights and livelihoods of indigenous peoples and local communities.²

“..Respecting the right to FPIC cannot be reduced to a process with boxes that can be ‘ticked’ as they are completed. The right of indigenous peoples to give or withhold their consent to developments that affect their territory is part of their collective right to self determination, which includes the right to determine what type of process of consultation and decision making is appropriate for them...”

Monitoring Report on FPIC in REDD, GIZ and RECOFTC, 2011

There is also the risk of government policies such as restrictions of activities causing deforestation, recentralizing resource management and conserving native forests, negatively impacting the rights and livelihoods of indigenous communities, and disrupting local structures and management systems. FPIC engages indigenous and local communities to contribute to forest stewardship and enables communities to prevent negative impacts and shape REDD+ initiatives.

“...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 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...”

Monitoring Report on FPIC in REDD, GIZ and RECOFTC, 2011

FPIC recognizes the right of indigenous peoples to be treated as the owners and managers of their customary territory, and recognizes their varied histories,

¹ Guidelines on Free, Prior and Informed Consent, UN-REDD Programme, UNDP, FAO and UNEP, 2013.

² Free, Prior and Informed Consent and REDD+ Guidelines and Resources, WWF, 2014.

institutions, and approaches to resource management. FPIC guarantees them a decisive voice at every stage of the planning and implementation in development projects that affect them.

At the initial stage, communities should be informed of the project intention and what they have to gain and/or lose from it. The intentions of the project developer, including the government should be made known clearly to the people, and the implications of such an arrangement. Men, women, youth, children, elders and vulnerable members of the community must be included in the series of consultations using culturally-appropriate tools of engagement. The people must be given the opportunity and as much time as culturally appropriate, to participate in the decision making process, as their collective right.

FPIC is not a linear process that ends with the signing of an agreement by the community. FPIC is a right that requires the project developer to undertake an ongoing process of communication with indigenous communities, throughout the duration of the project, involving several levels of consultation.

Best practice in REDD+ is to seek consent at multiple stages, for example, at the outset of assessments and planning for a project to project design, and for any contractual agreements. The FPIC processes are therefore repeated and 'no project' options should be built in at each of these stages in case consent is not secured. The elements of good governance and effective communication are essential to an FPIC process.

WHY FPIC MAKES GOOD BUSINESS SENSE

- When businesses get it right, achieving consent can benefit both the community and the project.
- The business risks of going forward with a large- scale project in a community without its acceptance can threaten commercial or financial viability of the project.
- Community opposition can arise from impacts that are generated at any stage in the project cycle. As a result, FPIC must be on-going.
- Addressing issues of community concern before the project begins is likely to be more successful and cost- effective than responding to community opposition later on.
- Failing to achieve community consent harms the reputation of the project developer and other stakeholders such as shareholders, financiers and governments, who may be adversely affected by conflicts arising from the failure to achieve community support for a project.
- Consultations that do not resolve a community's reasons for opposition are more likely to run into potentially costly and disruptive conflict.

Source: Sohn, J (ed), Development without Conflict: The Business Case for Community Consent, World Resources Institute, 2007.

THE EIGHT ELEMENTS OF GOOD GOVERNANCE

1. **Rule of Law:** Good governance requires fair legal frameworks that are enforced by an impartial regulatory body, for the full protection of stakeholders.
2. **Transparency:** Information should be provided in easily understandable forms and media; that it should be freely available and directly accessible to those who will be affected by governance policies and practices, and resulting outcomes; and that any decisions taken and their enforcement are in compliance with established rules and regulations.
3. **Responsiveness:** Good governance requires that organizations and their processes are designed to serve the best interests of stakeholders within a reasonable timeframe.
4. **Consensus-Oriented:** Good governance requires consultation to understand the different interests of stakeholders in order to reach a broad consensus of what is in the best interest of the entire stakeholder group and how this can be achieved in a sustainable and prudent manner.
5. **Equity and Inclusiveness:** The organization that provides the opportunity for its stakeholders to maintain, enhance, or generally improve their well-being provides the most compelling message regarding its reason for existence and value to society.
6. **Effectiveness and Efficiency:** Good governance means that the processes implemented by the organization to produce favorable results meet the needs of its stakeholders, while making the best use of resources – human, technological, financial, natural and environmental – at its disposal.
7. **Accountability:** Who is accountable for what should be documented in policy statements. In general, an organization is accountable to those who will be affected by its decisions or actions as well as the applicable rules of law.
8. **Participation:** By both men and women, either directly or through legitimate representatives, participation is a key cornerstone of good governance. Participation needs to be informed and organized, including freedom of expression and assiduous concern for the best interests of the organization and society in general.

1.1.3 Defining the Elements of FPIC³

³ Adapted from the Guidelines on Free, Prior and Informed Consent, UN-REDD Programme, UNDP, FAO and UNEP, 2013.

At the core of FPIC is the right of the peoples concerned to choose to engage, negotiate, and decide to grant or withhold consent, as well as the acceptance that the project should not proceed or engagement ceased should the affected peoples decide that they do not want to commence with the project, do not want to continue with negotiations and withhold consent to the project.

FPIC	GUIDING PRINCIPLES
<p>Free</p> <p><i>Consent is given voluntarily and free from coercion, intimidation or manipulation</i></p>	<p>Process that is self- directed from the community from whom consent is being sought, without coercion (force, intimidation, threat), expectations or timelines that are externally- imposed:</p> <ul style="list-style-type: none"> - The indigenous communities determine the process, timeline and decision- making structure; - Information is transparent and objective and made available at the request of indigenous communities; - Process is free from coercion, bias, bribery or rewards; - Meetings and decisions take place at locations, times and in the language selected by the indigenous communities; - All community members are free to participate regardless of gender, age or social standing.
<p>Prior</p> <p><i>Consent is sought sufficiently in advance of any authorization or commencement of activities</i></p>	<p>Refers to a period of time in advance of an activity or process when consent should be sought, and also the period between when consent is sought and when consent is given or withheld:</p> <ul style="list-style-type: none"> - Time is provided to understand, access and analyse information on the proposed activity. The amount of time required depends on the decision- making process of the indigenous communities/ rights-holders; - Information is provided to the indigenous communities/ rights-holders before activities are initiated, at the beginning or before the start of an activity, process or implementation phase, including conceptualisation, design, proposal, execution and evaluation; - The decision- making timeline established by the indigenous communities/ rights-holders must be respected as it reflects the time needed to understand, analyse and evaluate the activities under consideration in accordance with their own customs.

<p>Informed</p> <p><i>Engagement with the communities and information provided prior to and as part of the on- going consent process</i></p>	<p>Refers mainly to the nature of engagement with the indigenous communities and the type of information provided prior to seeking consent, and as part of the on- going consent process. Information should:</p> <ul style="list-style-type: none"> - Be accessible, clear, consistent, accurate, constant and transparent; - Be delivered in appropriate language (indigenous language) and culturally appropriate format (videos, pictures, oral presentations, ‘talanoa’). For example, it will be helpful to share an example of the proposed project with the use of video to help put the proposed development activity into context; - Be objective and cover both positive and negative potential of REDD+ activities and consequences of either giving consent or withholding consent; - Be complete, covering the range of potential social, financial, political, cultural and environmental impacts, and include scientific information with access to original sources; - Be delivered in a manner that strengthens and does not erode indigenous cultures; - Be delivered by culturally appropriate personnel, in culturally appropriate locations and include capacity building of indigenous trainers from the rights-holders communities; - Be delivered with sufficient time to be understood and verified; - Reach the most remote, rural communities, women and the marginalized; - Be provided on an on-going and continuous basis throughout the FPIC process.
<p>Consent</p> <p><i>The collective decision made by the rights-holders and reached through the customary decision-making process of the affected indigenous communities</i></p>	<p>Consent should be sought and granted or withheld by the rights-holders according to their unique customary decision-making process. Consent is:</p> <ul style="list-style-type: none"> - A freely given decision that may be a ‘YES’ or a ‘NO’, and may include an option to reconsider if the proposed activities change or if new information relevant to the proposed activities emerges; - A collective decision determined by the affected indigenous communities in accordance with their own customs and traditions; - The expression of rights to self- determination, lands, resources, territories and culture; - Given or withheld over specific periods of time for each distinct stage or phase of REDD+. Consent is not a one-off process.

1.1.4 Determining if FPIC is needed

The checklist below should assist agencies to appraise whether their REDD+ programmes or activities will require an FPIC process.⁴ The list is not exhaustive, however, it is useful that users of the Guideline take note of these requirements of free, prior and informed consent when establishing REDD+ activities. The proposed REDD+ activities should always be checked against disaggregated customary landowners to include men, women, youth, marginalized and vulnerable groups.

Checklist for Appraising whether an Activity will require FPIC	Yes/No
1. Will the activity involve the relocation/resettlement/removal of men, women, youth, marginalized and vulnerable groups of an indigenous population from their lands?	
2. Will the activity involve the taking, confiscation, removal or damage of cultural, intellectual, religious and/or spiritual property from men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
3. Will the activity adopt or implement any legislative or administrative measures that will affect the rights, lands, territories and/or resources of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community (e.g. in connection with development, utilization or exploitation of mineral, water or other resources)?	
4. Will the activity involve mining an oil and/or gas operations (extraction of subsurface resources) on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
5. Will the activity involve logging on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
6. Will the activity involve the development of agro-industrial plantations on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
7. Will the activity involve any decisions that will affect the status of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community's rights to their lands/territories or resources?	
8. Will the activity involve the accessing of traditional knowledge, innovation and practices of men, women, youth, marginalized and vulnerable groups from indigenous and local communities?	
9. Will the activity involve making commercial use of natural and/or cultural resources on lands subject to traditional ownership and/or under customary use by men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
10. Will the activity involve decisions regarding benefit sharing arrangements, when benefits are derived from the lands/territories/resources of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?	
11. Will the activity have an impact on the continuance of the relationship of the men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community with their land or their culture?	

Note, if any of the activities above are marked YES, then FPIC is required!

⁴ Adapted from UN-REDD FPIC Guidelines

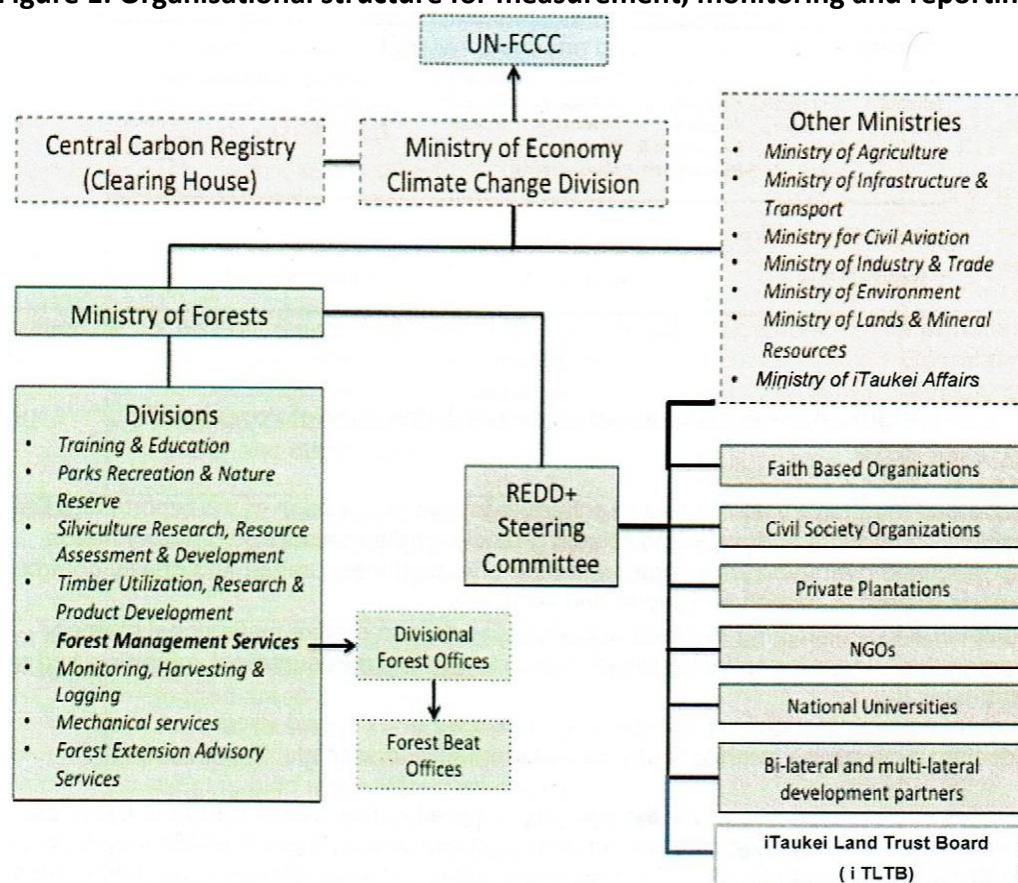
1.2 The Fiji Context

1.2.1 Background to REDD+ and FPIC in Fiji

In 2009, Fiji began to be actively involved with World Bank-funded REDD+ process to help maintain and protect natural forests against deforestation and forest degradation. In 2010, the Fiji Government endorsed the National REDD+ programme, supported by SPC/GIZ Coping with Climate Change in the Pacific Islands Region (CCCPIR) and the World Bank through the Forest Carbon Partnership Facility (FCPF) funding of US\$5.8 million for the REDD+ Readiness phase.

The authority for the National Forest Monitoring lies with the Ministry of Economy, Climate Change Division which is also the focal point for the United Nations Framework Convention on Climate Change (UNFCCC) and the biennial update reports (BUR). The Ministry of Forests is responsible for the overall management of Fiji's National Forest Management System which enables reporting on information relating to greenhouse gas emissions and removals from forests as well as safeguards and biodiversity. These two Ministries inform and consult a range of stakeholders including the REDD+ Steering Committee representing a cross section of civil society and business interests, and other government Ministries.

Figure 1: Organisational structure for measurement, monitoring and reporting⁵



⁵ From the Ministry of Forests, Republic of Fiji, Forest Carbon Partnership Facility; Carbon Fund. ER-PD, 9.2, p143, December 2018

1.2.2 Institutional and Implementation Arrangements

“...the principles of consultation and consent together constitute a special standard that safeguards and functions as a means for the exercise of indigenous peoples’ substantive rights...”

***Report of the Special Rapporteur on the rights of indigenous peoples,
supra note 12***

The administration of the Fiji government’s REDD+ programme is divided into 4 main divisions- Central, Eastern, Northern and Western. The Ministry of Forests is the lead agency and national REDD+ focal point in Fiji and in charge of overall REDD+ coordination and implementation. The Conservator of Forests approves all REDD+ Project proposals and activities after consulting with the REDD+ Steering Committee. The REDD+ Steering Committee (SC) provides the administrative oversight of the ER Programme.

The REDD+ Steering Committee⁶

ORGANISATION	ROLE AND RESPONSIBILITY
Ministry of Economy	National focal point for UNFCCC and lead negotiator in international climate change meetings. The MFAIC supports the Forestry Department (FD) in lobbying for Fiji’s REDD+ agents in international meetings, provides international policy support and helps establish relationships and networks with other countries. Both the FD and MFAIC are engaged with REDD+ financing and technical development partners.
Ministry of iTaukei Affairs	Responsible for developing and promoting policies to ensure good governance and welfare of the <i>iTaukei</i> . This Ministry strives to ensure that the rights and interests of the <i>iTaukei</i> are safeguarded in the REDD+ process.
iTaukei Land Trust Board	Custodians of <i>iTaukei</i> land in the country. Almost 90% of land in Fiji is customarily owned. The Board provides guidance on the use of <i>iTaukei</i> land and represents the interests of <i>Taukei</i> landowners on land dealings.
Department of Environment	National focal point for the Convention on Biological Diversity (CBD). This is the lead agency in ensuring biodiversity is protected and monitored at the national level.

⁶ Source: Ministry of Forests, Republic of Fiji, Forest Carbon Partnership Facility; Carbon Fund. ER-PD, 6.1, p84-85, December 2018

Ministry of Lands and Mineral Resources	Looks after State land including mangroves. This Department hosts the Land Bank where landowners can “deposit” their land to be invested by the Department on their behalf. The Ministry provides guidance on the use of State land and on land deposited in the Land Bank. The Ministry is also responsible for regulating the exploration and development of Fiji’s mineral petroleum and other related non-living resources of the country.
Department of Agriculture	Lead agency for the agricultural sector and is the national focal point for UNCCD. The Department guides the development and implementation of agriculture policies and incentives to support REDD+ strategies. Given that agriculture is the main cause for deforestation in Fiji, the department plays an important role in addressing this issue.
Ministry of Provincial Development	Responsible for administering government activities at the Provincial level. The Provincial Administrators are close to the ground and will support the coordination and monitoring of REDD+ pilot site activities.
Representatives of non-governmental organizations carrying out REDD+ activities	Contribute to the development of national-scale M&E, provide inputs into guidelines on safeguards, ensure compliance of national procedures, contribute to exchange of experiences and lessons learnt, facilitate community engagement, ensure good governance and transparency and represent the interests of various social groups. The NGOs in the committee are Conversation International and Live and Learn Environmental Education.
Private forestry sector (timber industry)	Plays an important role in reducing forest degradation and in the implementation of the Fiji Harvesting Code of Practice.
Fiji Pine Limited	A public enterprise and one of the largest plantation industries in Fiji. The company will support and identify opportunities for REDD+ activities pertaining to plantations.
Fiji Hardwood Corporation Limited	Owns majority of the mahogany plantations in Fiji. The company will support and identify opportunities for REDD+ activities pertaining to plantations.
REDD+ iTaukei resource owner representatives	Ensure that landowner rights and interests are addressed as most of Fiji’s forests are owned by indigenous communities.
Department of Women	Looks after women’s interests and is the responsible agency for the National Gender Policy.
Ministry of Youth and Sports	Ensures the representation of youth interests. Coordinates a country’s largest network of youth groups – from rural and urban areas.

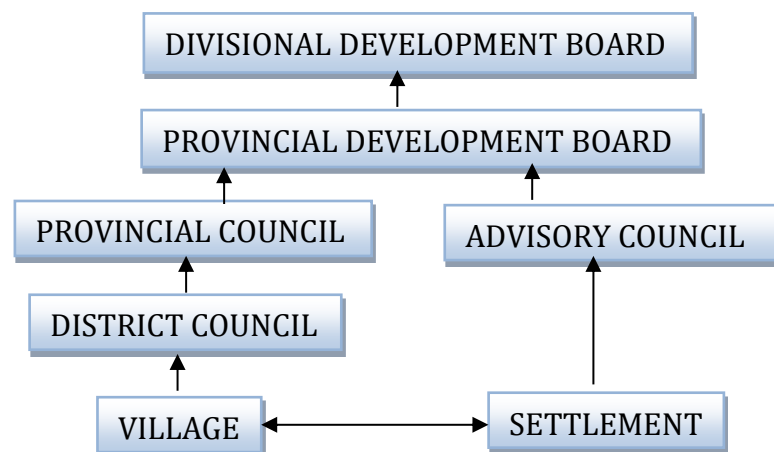
1.2.3 The Indigenous People in Fiji

Early signs of habitat reveal Fiji was occupied about 3,000 years ago.⁷ The cosmology of the ancestors of the iTaukei included *lagi* (beyond the horizon or above in the sky), *vuravura* (earth) and *bulu* (underworld or purgatory). Their values were manifested in their culture. Much of their customary practices still evidenced in some areas today suggest they lived in harmony with nature. Totemism for example is still observed where creatures and plants including trees are treated with respect by their respective clans or tribes.

Competing immigrant groups in the 17th century introduced hierarchical rule and tribalism. British Colonial indirect rule in the 19th century formalized a conical structure for ease of administering its economic framework. While the structure has since been modified under the Ministry of Fijian (now iTaukei) Affairs, the People's Charter for Change, Peace and Progress established an integrated development structure at the administrative Divisional level under the Ministry of Rural and Maritime Development in 2008, to improve service delivery.

Sevusevu is an introductory protocol where the visitor(s) present yaqona on their arrival to those they are visiting. Practice ensures that the members of the community are aware of the presence of the visitor(s) among them.

The following figure illustrates the current structure:



⁷ Excavation work by the University of the South Pacific and the Fiji Museum in 2002

20 THINGS ABOUT THE ITAUKEI

- 1) The iTaukei is a heterogeneous society. This is evidenced in the stories of their origin and variations of their customary practices.
- 2) The vanua is people, land and customs.
- 3) Like most Pacific islanders, the iTaukei is a relational people.
- 4) They generally value *veiwekani* and it is not uncommon to find they have connections to other parts of Fiji within and outside the boundaries of their villages and/or provinces.
- 5) The language of the iTaukei is gender-neutral.
- 6) While the iTaukei is generally a patriarchal society, the women have equal land rights to men as members of a *mataqali* or land owning unit;
- 7) The sanctity of the woman in the life cycle of the iTaukei is evidenced in some of their customary practices at birth, puberty, marriage and death.
- 8) The characteristics of good governance are not too different from the values upon which the customary practice of the iTaukei was built.
- 9) For they generally value *veidokai* (to act with respect and humility), *veikauwaitaki* (to act with consideration), *veinanumi* (to be thoughtful of others) and *veivukei* (to be helpful).
- 10) Their silence does not always equate to agreement, and neither disagreement. They just need to be given time to think things through within their own cultural space.
- 11) A promise not met without explanation is a lie and equates to insincerity.
- 12) Land was demarcated under the authority of the Colonial Government, often in consultation with the local employees into: 1,171 villages, 187 districts and 14 provinces for ease of administration and local governance under indirect rule.
- 13) All land in Fiji is registered. There is no unregistered land. The iTaukei own about 87% of the land.
- 14) For prevention from competing investments in the 19th and 20th centuries, the Vola ni Kawa Bula (VKB), a register for social kinship was introduced to help ascertain chiefly titles, land ownership and fishing rights.
- 15) The Turaga ni Koro is the gate-keeper for development in the village, and is a quasi-employee of the Government through the Ministry of iTaukei Affairs via the respective Provincial Office.
- 16) In 2007, the iTaukei made up 56.82% (475,739) of Fiji's total population (837,271). In 2017, the total population was 884,8871), data by ethnic for 2017 is not available. While, 55.9% of total population lives in urban areas, it is observed that a similar percentage might apply to the iTaukei living in urban areas.
- 17) According to the ADB Poverty Analysis Report 2014-2018, the iTaukei's share of poor increased from 55% to 60%.
- 18) The iTaukei is predominantly Christian.
- 19) In the villages, most of their commitment is related to the church, the *vanua* (including families and extended families) and Government initiatives including NGOs and others.
- 20)** Access to social services and the market remains a need for those living in rural areas and the outer islands.

CASE STUDY: IMPLEMENTING FPIC IN THE DRAWA REDD+ PROJECT

Drawa is one of two current designated Fiji REDD+ project sites. Drawa is a village in the district of Wailevu West in the interior of Cakaudrove Province in the island of Vanua Levu. There are two tribes with more members living out of the village and resident in other areas nearer to schools, public health facilities, market and employment.

There are eight *mataqali* or land owning units. Mataqali Drawa (of the same named village) is the land owning unit which has reserved 29% of its 5,245.12 hectares of land, for the purpose of carbon credit.

The lease by the Drawa Block Forest Community Co-operative (DBFCC) is for 30 years. DBFCC works with NGO Live and Learn's Nakau Programme. This partnership has helped strengthen the capacity of the management of DBFCC. As a cooperative, DBFCC is regulated by the Department of Cooperative to ensure compliance. Members of DBFCC are inclusive of non-land owning units. The Board of DBFCC has 8 seats; 6 are representative of the *mataqali*, and one seat each for the women's and youth groups.

This method of inclusivity helps strengthen social cohesion. The DBFCC which is the project owner (PO) pays an annual lease to the TLTB for Mataqali Drawa, which is then shared between the members of the *mataqali*, as the land owning unit. Beekeeping has been introduced as an alternative livelihood initiative through Live and Learn which also provided the training and facilitated the funding from the New Zealand High Commission.

The following are FPIC triggers for the Drawa Project:

- Mandate to continue the project (accept a decision/plan)
- Delay a decision or plan pending further information
- A request to change the decision or plan before continuing
- The project owner opts out of the project

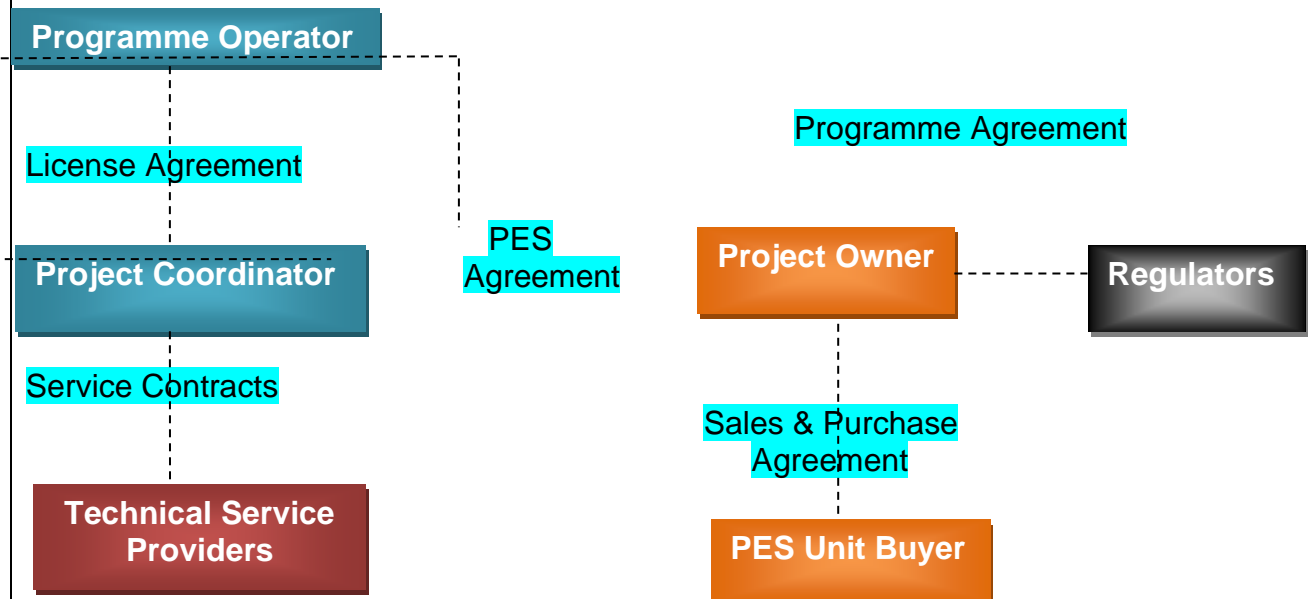
Indicators that FPIC has been adopted are:

- Business Registration Certificate from the Department of Cooperatives
- Through-out different stages of the project, measures to safeguard the Project Owner or landowners (DBFCC) are in place. For example: (1) community's business model and governance structure. (2) Land boundary determined. (3) Conflict resolution procedure is in place (4) Benefit sharing is determined.

Some key strengths of the Drawa project are:

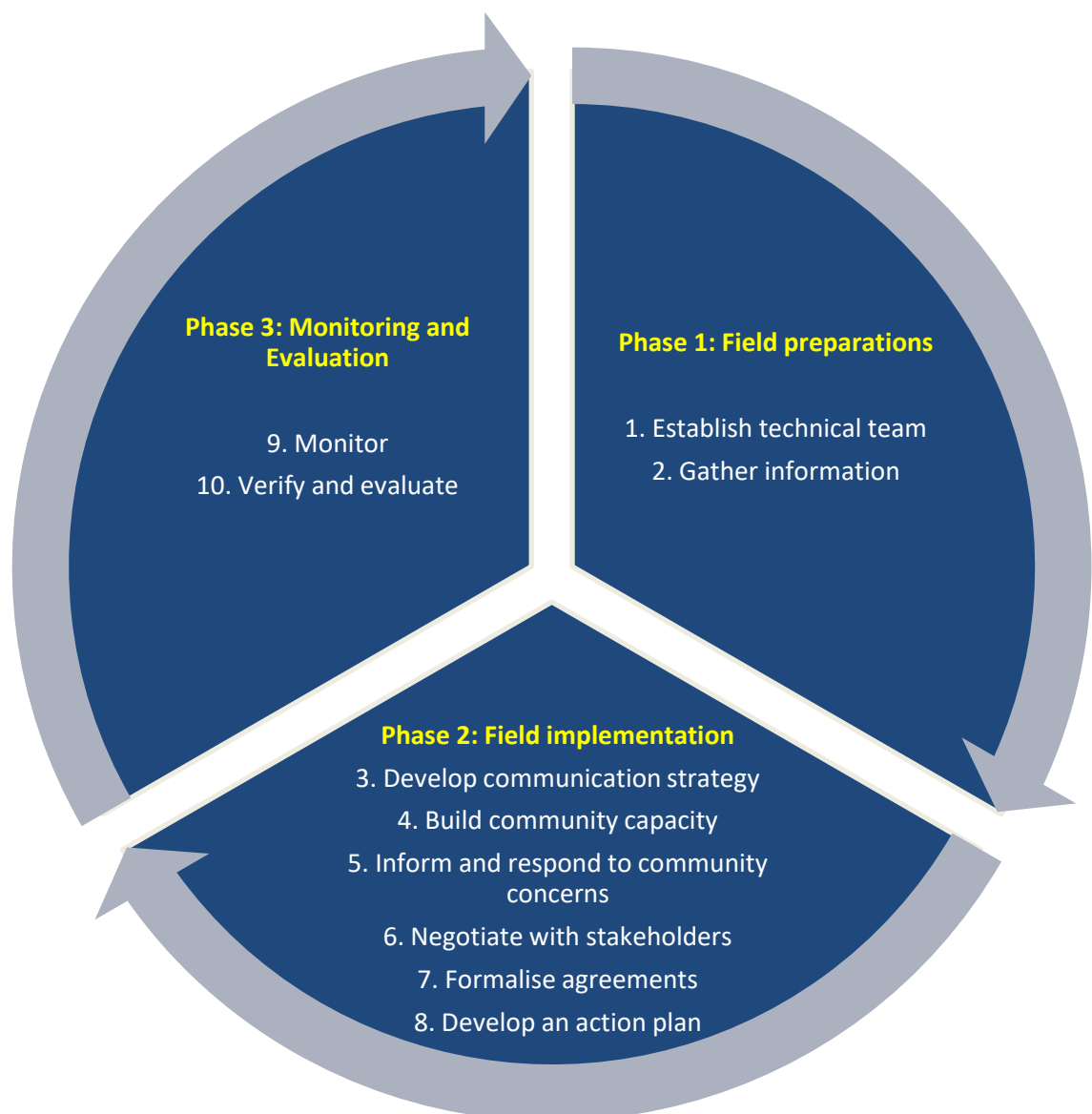
- The local partner which is DBFCC is the project owner
- FPIC principle is engrained in the participatory process beginning with the design of the project, implementation and ownership using community appropriate tools of communication
- Alternative Livelihood project is in place to supplement household income
- The international partner Live and Learn facilitates with benchmarking the initiative to meet international standards.

Live & Learn – Nakau Programme Legal Structure



2. PROCESS OF FREE, PRIOR AND INFORMED CONSENT

The guidelines include ten steps to pursue free, prior and informed consent in the development process of REDD+ strategy, programmes or projects in Fiji. These steps are grouped under three phases.



2.1 Phase 1: Field Preparations

Preliminary field preparation is essential for an effective FPIC process. There are two main steps in this phase.

2.1.1 Step 1: Establish a Team for FPIC Implementation

Agencies implementing REDD+ initiatives should establish a technical and multidisciplinary team for FPIC implementation which should include Ministry of Forest representative, TLTB and other relevant government, non-government and REDD+ actors, local facilitators and technical specialists. The team members should fully understand and respect national laws, international treaties and agreements ratified by Fiji pertaining to human rights, FPIC process and REDD+ projects.

Consent required at this stage:

- *Do the communities agree to consider a REDD+ project?*

Agencies can also decide to reinforce their team by joining forces and entering into effective partnership with other specialized institutions to carry out the FPIC process.

Some basic guiding questions under this step include:

- a) Who do we need to carry out the FPIC operation on the ground (including those from nearby communities and associations)?
- b) What skills do we need?
- c) What strategy can we employ to get an effective and efficient team?
- d) What should be the criteria and skills for selecting team members according to their competencies?
- e) What should be the size of the team and is it cost-effective?
- f) What should be the roles and responsibilities of each team member?

Suggested outputs and/ or indicators:

- Representative institutions identified
- Terms of reference for technical team developed and endorsed
- Memorandum of understanding between agencies endorsed

2.1.2 Step 2: Gather information

The FPIC technical team should collect information on the proposed REDD+ initiative implementation area. Information required includes:

- i. Identifying the rights holders and land users in the target areas, the kinds of claims different groups may have to the target areas and the natural resources therein, bordering communities, customary system of land tenure, and who has the right to be consulted and give or withhold consent to the project;
- ii. Analyzing socio-economic and cultural conditions including , demographic characteristics of communities, gender assessment, types of livelihood, local systems of natural resource use and management, literacy levels, constraints and opportunities, existing formal and informal institutions, customs and traditional processes), the history of the village, and historical factors that have shaped and changed existing populations and their relationship with and use of the land, and cultural value of land and natural resources to target communities;
- iii. Identifying dispute settlement structures/procedures existing within the communities in the target area, including any past and ongoing disputes between and within communities over land and natural resources, their causes and how they have been resolved;
- iv. Mapping of actors in the area so as to identify those who are directly concerned with the REDD+ initiative and the relations between each other as well as interested parties who can have an influence on the project to be implemented;
- v. Mapping of capacity building needs of the communities involved, which will constitute the basis for developing and implementing necessary training programmes pertaining to the FPIC process;
- vi. Conducting a legislative and policy review on laws governing land tenure and land rights of indigenous peoples, relevant regulatory bodies and their roles, legal process for acquiring through leasehold etc., consequences for communities as a result of change in legal status of the land, legislated consultation process and obligations of agencies implementing REDD+ projects to land owners and local communities.

Consent required at this stage:

- *Do the communities agree with the findings?*
- *Do the communities approve of the way their information is shared?*
- *Do the communities consent to the publication or sharing of their information?*

Some basic guiding questions at this stage include:

- a) Is it a “mixed” community (iTaukei and local people)?
- b) Are there marginalized groups in the community?
- c) Is there a risk that certain people may be intimidated or threatened whilst expressing their opinion?
- d) How will the consultation process take this into account?
- e) How will the initiative benefit the community?
- f) What are the rights and duties of the communities during implementation of the initiative?
- g) What will the community lose as a result of the advent of the project?
- h) What is the decision making process of the community?
- i) What is the local administrative structure of the community?
- j) What are the rights, including traditional and modern rights, (such as access to and use of natural resources etc.) and obligations conferred on the community?
- k) What are the different instruments, habits and customs of the communities within the area? What influence could they have on the REDD+ and FPIC processes?
- l) What are the different legal instruments that govern the area in which the project is planned?
- m) What place do these legal instruments occupy in the hierarchy of norms?
- n) Are these legal instruments in contradiction or in conformity with the envisaged process?
- o) What could be their influence in the process?
- p) What are the institutions that are implicated or interested in the process?
- q) What are the implications of the initiative for the socio-economic life of the populations?

Information can be gathered through literature review (existing maps, written reports on socio-economic surveys carried out in the area), facilitating participatory appraisals, including key informant interviews and focus groups discussions, and conducting socio-economic surveys.

Suggested outputs and/ or indicators:

- Participatory mapping report completed and endorsed
- Participatory social and environmental impact assessment report completed and endorsed
- Legislative and policy review report completed and endorsed
- Capacity building needs assessment report completed and endorsed
- Gender analysis report completed and endorsed
- Stakeholder analysis completed and endorsed
- Findings and reports communicated to communities in local languages

2.2 Phase 2: Field Implementation

In accordance with the Ministry of Forest's Emission Reductions Program Document (ER-PD), which dictates the conditions for approving pilot projects, agencies implementing REDD+ initiatives are obliged to present a preliminary plan for consulting with communities, which should be developed following the field preparations.

2.2.1 Step 3: Develop a Communications Plan

A communications plan should be developed to focus on ensuring effective and regular information exchange and communication, including building relationships with the iTaukei, local communities and other stakeholders, and modes of communication with the respective regulatory and administrative bodies such as provincial office/ administrator. In the event there is conflict or a problem arising, these offices can assist if they have been regularly informed. The communications plan should be developed in consultation with the targeted communities and key stakeholders and partners.

The communications plan should include information needs, communication channels and media, key target groups, schedule for providing information, and protocols on translating and providing communication tools in local languages. In addition the communications plan should outline traditional and customary protocols, including norms for verbal and non-verbal communications (personal space, body language, eye contact etc.)

Some basic guiding questions at this stage include:

- a) How can we ensure a good circulation of information between the different actors who are directly or indirectly involved in the process?
- b) What necessary or supplementary information is needed by the actors?
- c) In what language will the information be conveyed to these actors?
- d) What are the culturally appropriate tools which will be used to convey the information?
- e) When is the best time to share information and how often?
- f) What are the most appropriate places to share information to the different categories of actors?
- g) How will the available information be appropriately tailored to each group of actors?
- h) What are the barriers to communication and how can these barriers be handled?

Note that the responses to the majority of these questions may be obtained from the communities themselves.

Suggested outputs and/ or indicators:

- Communications plan developed and endorsed

2.2.2 Step 4: Build Community Capacity

This step aims to build the capacity of local and iTaukei communities in the targeted area to enable them to understand the REDD+ initiative so that they will be able to follow key debates and efficiently represent themselves when the need arises.

Consent required at this stage:

- *Do the communities still wish to consider the REDD+ project?*

The FPIC Team should appoint a local facilitator to visit and schedule meetings with the communities on the proposed REDD+ initiative. Important issues to be considered by the team at this stage include:

- the availability of the community
- the place, date and time of the meeting, that are mutually acceptable to all village heads and community representatives
- the practical modalities for holding a meeting
- materials and logistics needed
- cultural obligation- presenting *sevusevu* is an introductory protocol where the visitor (s) present *yaqona (kava)* on their arrival to those they are visiting.

Some basic guiding questions at this stage include:

- a) What are the moments, periods and dates best suited for organizing discussions?
- b) What can be done to ensure that all the points of view (women, young, the elderly, the handicapped, farmers, fishermen, traditional healers, hunters etc) of the village or community are sufficiently taken into account at the meeting? For example, to gauge a view by gender, separate the women from the men, and then, further into those not belonging to but living in the village. The same can be done to gauge a view by age. That is, separate by gender, and then further by age, usually, most senior, middle and youth.
- c) How can the maximum number of actors from the communities affected by the project be attained?
- d) For how long will the meeting last – a single or multi-stage meeting?
- e) What language will be used in the meeting? Or what are the languages, tools and models of communication available to these vulnerable categories (Braille transcripts, sign language etc) in the diffusion of information used during meetings?
- f) What are the community and project developer expected to bring for the meeting (in terms of logistics, modalities, meals)?
- g) What are the suitable locations for these meetings?

The agencies promoting the REDD+ initiative should build community capacity on the FPIC process. It is only after the capacity building measures have been taken that the agencies should proceed with the information and sensitization meetings.

Suggested outputs and/ or indicators:

- Capacity building strategy developed and implemented
- Evaluation of capacity building measures conducted

2.2.3 Step 5: Inform and Respond to Community Concerns

The information and sensitization meetings aim to inform and discuss the REDD+ initiative with the communities as well as any questions they may have. The FPIC technical team members should provide information on the initiative in a fair, non-threatening and transparent manner, and respond to any community concerns.

Consent required at this stage:

- *Do the communities still wish to consider the REDD+ project?*

In the course of the information and sensitization meeting and process, the following issues should be addressed:

- The nature of the initiative
- Impact of the project on the lifestyle of the community
- Compensatory measures and development of a compensatory plan
- Integration of consensus in the implementation of the project
- Legal rights of the community and legal implications of the proposed initiative (for example, the implications for land/resource rights, the state of carbon rights).

The agency promoting the REDD+ initiative should inform the indigenous and/or local communities about the following points:

- The objective of the project
- The nature, size, impact, duration, income, job opportunities and the implementation process of the proposed activity or initiative
- The size of the area affected by the initiative
- The positive and negative social, economic, cultural and environmental impact of the initiative based on the participatory environmental and social impact assessment
- The eventual limit of the activities within the area affected by the initiatives
- The rights and obligations of the different stakeholders
- The rewards or losses (advantages/ disadvantages) that may be incurred by the community as a result of the initiative, and any penalties involved.

In order to communicate this information to the community, diverse communication tools such as visual tools (posters, images etc), community radio, videos, etc. should be used. The facilitator should favour tools which enable communication in local languages and that are culturally adapted.

Concerns raised by the community should be addressed during this step and considerations made with review of the proposed project design.

Suggested outputs and/ or indicators:

- Communication strategy implemented
- Communities informed and sensitized
- Information products developed and distributed in local languages
- Reports on community information sessions produced and shared with stakeholders
- High proportion of key stakeholders and rights holders have participated in the information sessions
- High proportion of representatives from the communities including vulnerable groups have participated in the information sessions

2.2.4 Step 6: Negotiate with Stakeholders

Once the community is clearly informed and has taken the time to analyse the information received, a date for the negotiation meeting should be established with the community.

Negotiations are crucial for the process of developing a consensus and external facilitators or those assisting in the negotiations must be competent and neutral throughout this process.

Consent required at this stage:

- *Are communities willing to enter into an agreement for the REDD+ project?*

The negotiation process should be interactive with sufficient time for all parties involved to make decisions through community consensus building.

Communities should be allowed during this process to get legal, social, environmental and economic advice.

Consultations and negotiations must be conducted in an appropriate place and at a convenient time which is acceptable to all. This should be done in the absence of persons who are capable of influencing the people.

Initiative promoters must ensure that all relevant right holders are involved (through traditionally/culturally appropriate participation) in the negotiation process throughout the project life cycle of the initiative (from design, through implementation to monitoring and evaluation).

If the multiple communities are affected, a negotiation process should be carried out specific to each of these communities. The decisions that are made with each of these should be recorded in the minutes of the negotiation process and included in the final agreements between the parties.

People who are involved in the decision making process may not necessarily be the ones involved in the preliminary process, therefore documenting each proceeding will help to retain consistency in matters discussed even if participants change.

Some basic guiding questions at this stage include:

- a) Has the community had sufficient time and information to evaluate the gains, losses risks and advantages of the proposed REDD+ project?
- b) Is the information provided sufficiently to allow stakeholders to identify what the project brings as added value, pertaining to the current and future cultural, social, environmental and economic situation?
- c) Are there other alternatives with advantages and disadvantages to offset the impact of the project, and can these become other options and tradeoffs to consider?
- d) Can these other options be renegotiated?
- e) Has community consensus been achieved for each point or issue being negotiated?
- f) Has the community and promoted agreed on a mechanism that will guarantee a fair, transparent and non-discriminatory sharing of benefits emanating from the project among the relevant right holders?
- g) Is there clarification of the groups who will benefit or evaluation of the level of advantage regarding the sharing of benefits from the initiatives?
- h) Are relevant existing international, regional and national texts which govern the mechanisms of benefit sharing considered?
- i) Is information on the evaluation of losses that will emanate from the project and evaluation of the opportunity cost lost (relative to the activities of the populations) due to the initiative clearly understood by the community/ stakeholders involved in the negotiation process? This should include costs and revenues generated by the project and assessment of social, economic, environmental and cultural needs of the population (logging permits etc and recognition of the rights to use and enjoy land as stipulated by the relevant nation legislation).
- j) Has sufficient time been allocated for the local and/or iTaukei communities to amply discuss and establish, using their own methods of doing so, a consensus prior to the conclusion of an agreement between the initiative promoter and the communities. The period of time given should be in accordance with time specified as reasonable by the community.

If the communities accept the REDD+ initiative, the negotiation will be based on the specific REDD+ activities proposed on their land. The parties may negotiate the following issues through the negotiation process:

- Land use deals
- Benefit sharing
- Compensation
- Mitigation
- Protections
- Financial arrangements
- Legal arrangements
- Dispute resolution
- Monitoring process
- Mechanisms for redress

This process should end with a decision from the community which may take several forms:

- A culturally appropriate account by all parties agreeing to the initiative, under the condition that certain aspects will be discussed further or excluded under the terms and conditions of the accord
- Unconditional consent to the initiative
- Refusal, with certain conditions which may imply certain details of the initiative may be renegotiated
- A categorical refusal to the initiative

If a community is opposed to certain components of the project, the project manager should clarify which parts are acceptable and need to be adapted or abandoned. How well the project manager listens to and incorporates the concerns and solutions of the indigenous communities into the agreement can make a significant difference in the final outcome of the project.

Where consent is withheld, establish:

- the causes and conditions that need to be met for indigenous peoples' communities to give their consent,
- whether the community will consider renegotiation
- the terms and timing of an eventual renegotiation.

The right of communities to refuse renegotiation also needs to be respected!

Source: FAO FPIC Manual for Project Practitioners, 2016

Suggested outputs and/ or indicators:

- Reports of community meetings produced
- Report of negotiation process and decisions completed and endorsed

“The agency promoting the REDD+ project must allow enough time for the communities to make their decision, without infringing on the principle of freedom in decision making which is fundamental to the process.”

2.2.5 Step 7: Formalize Agreements Between Parties

The formalization of agreements is only possible if the community gives their consent to the project. Agreements reached must be mutual and recognized by all parties, and formally documented for the purpose of record, monitoring and conflict management.

The agreement between the agency promoting the REDD+ project and the iTaukei and local communities should contain specific terms and conditions under which consent is given, the duration of the agreement and on how they will follow it up.

Consent required at this stage:

- *Are communities satisfied with the terms for the REDD+ project?*
- *Does the community wish to continue?*

The agreement should clearly explain how and through whom conflicts between the parties within the area of the initiative will be managed. It should include how to receive and register feedback and complaints, how to review and investigate complaints, the resolution options that are satisfactory to all parties, an appeal procedure, how the feedback and complaints will be monitored and evaluated by all parties, and access to legal services if the complaints cannot be resolved without outside assistance. The feedback and complaint process should be documented and publicized.

The agreement should include the following items:

- Signatory parties, chosen representatives and their role in the community, how they were chosen, and their responsibility and role as representatives
- Mutually agreed substantive evidence of consent
- Summary of project information including description of the area where the project is located, including the ecosystem services
- The right holders and resources
- The costs and constraints of the initiative incurred by the various parties
- The benefits and advantages for the various parties
- The mechanism for sharing benefits
- The roles and responsibilities of each party
- The duration of the agreements and the frequency for renewing the agreement as indicated by the community
- The grievance process and the mechanism resolving conflicts
- Terms or clauses for the withdrawal of consent
- The procedure future consultations to obtain consent
- Communication arrangements
- The measures of monitoring, verification and independent evaluation of the agreement

The draft agreement should be discussed widely within the community until there is agreement. The finalized agreement should be endorsed by government and confirmed by a notary public and published in the national register for REDD+ initiatives.

The agreement process and outcome should be documented and made publicly available to all members of the community. The written document should clarify if consent was given or withheld and affirm that the decisions therein are binding and enforceable. It should also include the issues raised so that it is possible to review the whole process in the event of a grievance or dispute. For sensitive issues, the target community should be asked what is permissible to document.⁸

Some basic guiding questions at this stage include:

- a) What are the advantages and associated risks?
- b) What can be done to ensure that this act is taken under the best conditions and recognized by the communities?
- c) What do the majority of the members agree upon?
- d) How long will the agreement last for?
- e) What are the measures to be included so as to minimize conflicts and ensure greater cohesion in the process?
- f) Who are persons designated by parties, authorized to submit proposals to authorities and follow it up?
- g) What do they need in order to do this?
- h) What is the guarantee for this long-term investment?

Suggested outputs and/ or indicators:

- All documents relevant to the process published including the Agreement, Project Information Documents, Grievance and Complaints Mechanism, Documentation of FPIC Process.

⁸ FAO, Free Prior and Informed Consent: An Indigenous Peoples' Right and Good Practice for Local Communities, Manual for Local Communities, 2016.

2.2.6 Step 8: Develop Action Plan and Implement Agreement

After an agreement has been established, an action plan should be developed by the initiative promoter in consultation with the community and endorsed by both parties. The action plan should clearly identify the activities to be implemented, the timeframe, and the roles and responsibilities of everyone involved.

The discussions for implementing the action plan should be conducted at a time and in a place convenient to all parties. All the elements of the action plan should be agreed upon with the consensus of the communities. The external facilitators for those who help to elaborate the action plan should be competent and neutral throughout the process and ensure consensus is reached in the development of the action plan.

Suggested outputs and/ or indicators:

- Action plan developed and endorsed
- Activities implemented according to the Action plan

2.3 Phase 3: Monitoring and Evaluation

2.3.1 Step 9: Monitor

Monitoring is carried out over the course of the implementation of the project. A monitoring committee should be established to be responsible for following up on the project implementation phase. The members of the monitoring committee should be independent, acceptable to all parties, and exercise their responsibilities without charge.

Consent required at this stage:

- *Have any of the terms, outcomes or impacts of the REDD+ project changed?*
- *Is the community willing to renegotiate?*

Some basic guiding questions at this stage include:

- a) Should the monitoring committee be independent of the parties for the entire process?
- b) Who will be part of the monitoring and evaluation committee (to ensure a good representation of the parties)?
- c) How may the community choose its own representatives to be part of the monitoring committee?
- d) How may the powers of the community representatives in the monitoring committee be ensured?
- e) How will the implementing agency choose their representatives for the monitoring committee?
- f) What is the strategy to be put in place so as to ensure that the representatives of the implementing agency and the communities cooperate with each other within the monitoring committee?
- g) What resources are needed for the monitoring committee to function?
- h) What is the procedure in case the terms of the agreement are not respected?

Suggested outputs and/ or indicators:

- Project monitoring plan developed
- Project monitoring plan updated regularly and accessible to the target communities

2.3.2 Step 10: Verify and Evaluate

The evaluation should be undertaken by a neutral independent third party organization. The agency promoting the REDD+ project and the target communities should develop the terms of reference for the verification of the FPIC process. Common means for verification for the different components of FPIC include but are not restricted to the following:

- An in-depth survey conducted by certain members of the community
- The number of meetings organized
- Review of relevant documents and meeting reports
- Review of minutes and attendance sheet of negotiation meetings
- Review of agreement documents or memorandum of understanding
- Photos (with GPS coordinates if possible)
- Attendance lists for workshops, meetings, consultations
- Videos
- The action plan
- The annual activity plans
- The agreement signed by the parties
- The communities conducting activities
- The documents listing elements of the initiative which relate to the communities
- Training materials and presentations prepared and used by the promoter during the capacity-building stage of the communities.
- Meeting with the community or their representatives

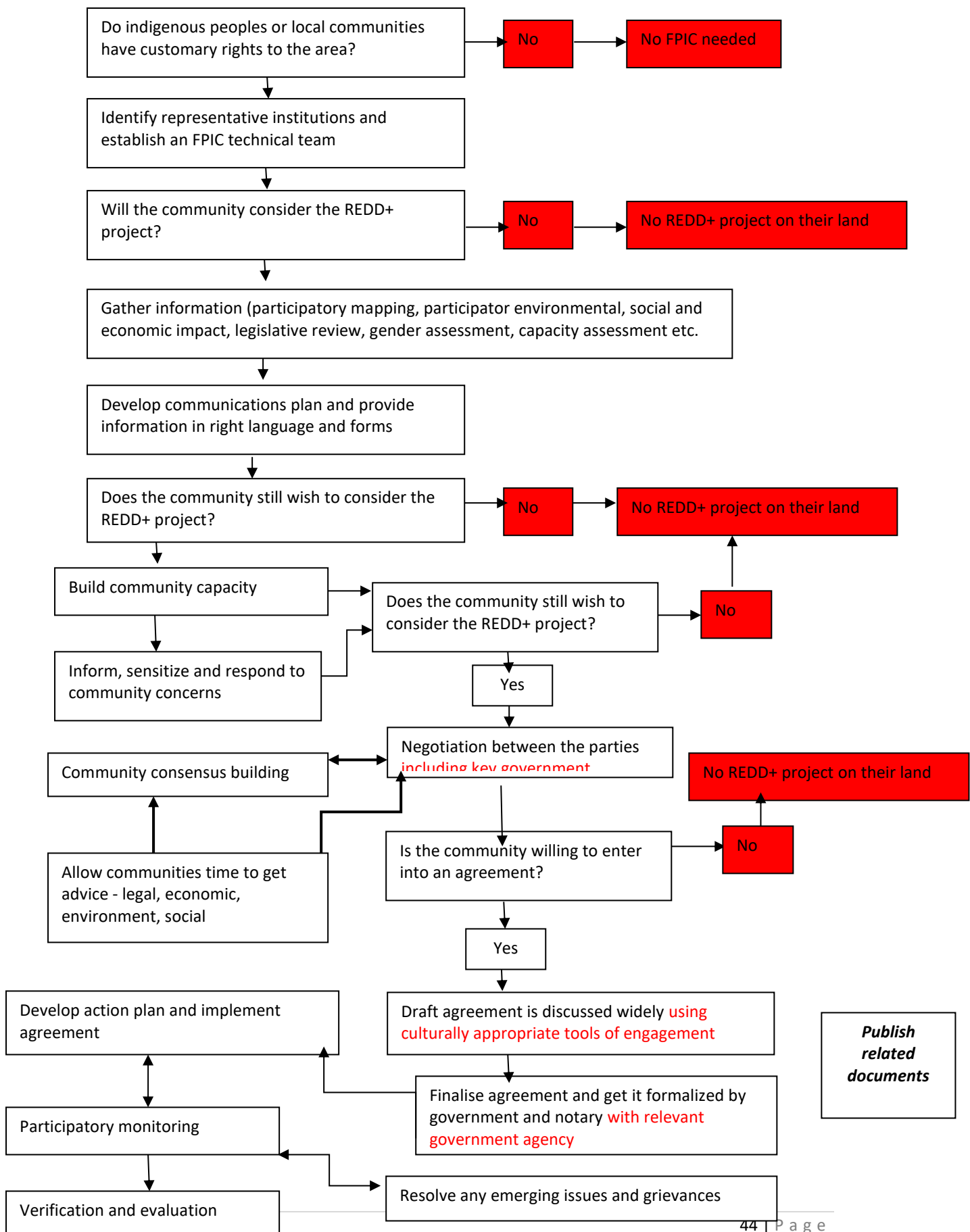
After the evaluation the parties should discuss terms of the agreement and may negotiate readjustments and develop a restructuring plan if applicable.

During subsequent evaluations, if there are project results that are not achieved and these parties are unable to agree upon a restructuring plan, the community can withdraw their consent or the agency promoting the REDD+ project can disengage from the initiative.

Suggested outputs and/ or indicators:

- Evaluations conducted and evaluation reports produced, endorsed and published
- FPIC process verified and results published

2.4 FPIC Flowchart



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