

Adherence to the Principle of Free, Prior and Informed Consent



In Indonesia, it is obvious that within almost 100 years history of its development, oil palm plantations have had gone throughout colonial era and a 32-year systematic new order era. The commodity and its related business activities certainly get involved with serious systematic implications of social injustices, fraud with rights violations, inappropriate negotiations, false promises, and lack of informed consent with communities. Even if there were any agreements, the points of the agreements usually set up by the company and local government officials, which respectively local people were forced to accept agreements.

The facts are obvious too common – lack of consultation, consent or information; the people were forced to hand over their land by local authorities, decision taken only by local officials (WALHI, Down to Earth-UK, 2000), dividing customary leaders and their groups, engineered interests and exploiting customary systems (Sawit Watch, 2005). Another finding of collaborative research on land acquisition for oil palm in Lampung province reveals no FPIC; manipulative use of information, fake maps, false promises, intimidation of government, ‘forced’ land sales, and Loss of land and livelihoods (Sawit Watch, 2005). Moreover, in West Sumatera through a workshop of FPIC with oil palm affected communities, which also positively shows no proper FPIC; customary authorities are transferring land in violation of customary law, false customary institutions have been created without consultation, coercion & use of police, information comes very late, indeed almost no information gets to community, and consent only comes from the ninik mamak (customary leaders) who abuse their authority to speak on behalf of the people (Sawit Watch, 2005).

Once and if States and indigenous/local peoples agree to recognize each other’s existence and rights, the need remains for mutually agreed processes and points of contact to allow the two to interact. A key principle that has emerged over a very long history in order to ensure these relations remain, as far as possible, equitable and amicable is free, prior and informed consent (Marcus Colchester and Fergus McKay, 2004).



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