



IMPACT

Indigenous Movement For Peace and Advancement & Conflict Transformation



FREE PRIOR AND INFORMED CONSENT COMMUNITY BRIEF



www.impactkenya.org

WHAT IS FPIC?

FPIC refers to a right of Indigenous peoples to consent, on a free, prior and informed basis, to development and investment initiatives that affect them and the lands on which they live. The consent must be given voluntarily without coercion, intimidation, or manipulation.

FPIC is an Indigenous Peoples right recognized in the international human rights law, specifically derived from their right to property through ownership or traditional use.

FPIC protects the rights of IPs to land, resources, full and active participation; and enabling them negotiate the conditions under which the projects will be designed, implemented, monitored and evaluated in their territories

However, FPIC is not veto power but a standard that guarantees the land and resource rights of indigenous peoples.

In the FPIC process: -

FREE

► Information should be delivered freely and a community is in a position to act or make decisions freely; through channels agreed by the community; and without control by its leaders, another community, government or the investor.

► This means consent is given voluntarily, without coercion, manipulation, intimidation or externally driven expectations or timelines.

► This means the process is self-directed by the community, with all community members given free and equal opportunities to participate regardless of gender, age or standing; including women, youth and persons with disability.

PRIOR

► The consent of the community should be sought far before the start of activities, at the early stages of a development of investment and when need arises to obtain approval from the community.

► The community should be allowed time to understand, access and analyze information on the proposed activity, with respect to community timelines.

► FPIC is therefore a continuous process before, during, at the close of the project and after the project (M&E).

INFORMED

► The communities must be able to make informed decisions about the project.

► Information should be accessible, clear, consistent, accurate and transparent.

► Information should be delivered in the local language and in a culturally appropriate format; with complete coverage of both the positive and negative impacts.

► Information delivery should respect cultural norms and timeframes compatible with the communities; and ensuring human rights principles are observed but also putting into consideration other decision-making structures that have been agreed upon (ample time depends on the circumstance and the issues under considerations)

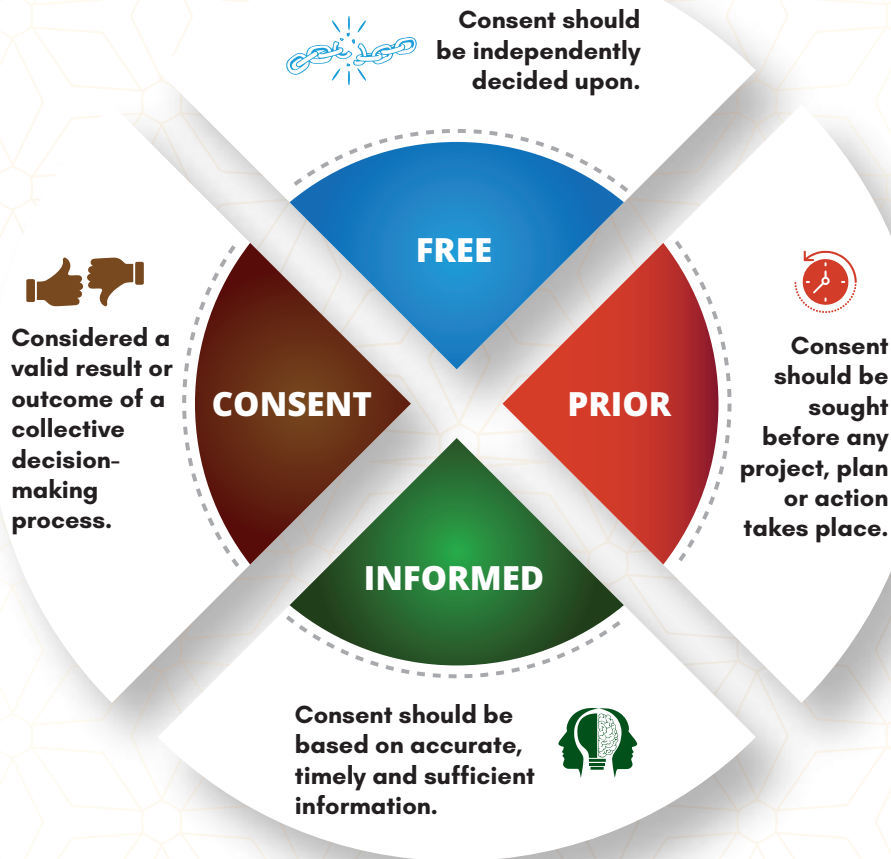
CONSENT

► The community must be able to make collective decisions through a mutually agreed decision-making process.

► The decision maybe a "yes" a "no" or a "no with an option to reconsider when certain facts change

► The process of acquiring consent should be self-directed by the community – the community organizes themselves as they wish without any externally driven expectations or timelines. They should not be organized by others or be told how to organize themselves.

FPIC ELEMENTS ARE INTERLINKED AND SHOULD NOT BE TREATED AS SEPARATE ENTITIES:



BENEFITS OF FPIC

COMMUNITY

The community will realize their self-determination and be able to fully participate in decision making process, reducing risks of social conflicts around Natural resources. This means ownership, sustainability and more benefits from the project

INVESTOR

The investor will receive greater support from the community, guaranteeing security and profits from investments.

GOVERNMENT

The government will achieve successful implementation of the project, resulting to peace and national prosperity.

Who gives FPIC?

The rights holders who are indigenous peoples in whose territory the project will be undertaken. Neighboring indigenous communities should also consent if the project will affect their territories.



RESPONSIBILITIES OF DIFFERENT ACTORS ON FPIC.

GOVERNMENT

- The state should fulfil its primary duty to protect, promote and fulfil human rights; through government structures in your territory.
- The state must also ensure that laws, policies and regulations at both national and county levels recognize and respect FPIC.

COMMUNITY

- Indigenous communities should and must demand and mobilize for FPIC.
- They must have effective decision-making structures that will ensure the FPIC process is effectively implemented.
- They should put in place effective monitoring structures to ensure that what has been agreed upon is followed.

INVESTORS

- Business enterprises and development actors should respect human rights by avoiding the infringement of human rights while addressing the adverse potential impacts on human rights.

PROCEDURE FOR UNDERTAKING FPIC

