

Annex 6c

Indigenous People's Plan (IPP)

to the GCF Funding Proposal

*Land-based Mitigation and Adaptation through a Jurisdictional
Approach in West-Kalimantan*

30/08/2024

Version 5

Authors:

Salfius Seko, AMAN & University of Tanjungpura

Dominikus Uyub, AMAN

Submitted by:

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Enquiries regarding the present document can be directed to:

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
Dag Hammarskjöld Weg 1-5
65760 Eschborn
Germany
www.giz.de

Table of Contents

List of Tables	1
List of Figures	2
Abbreviations & Acronyms	3
Executive Summary	1
1. Introduction	4
2. Project Overview	6
2.1 Project Objective	6
2.2 Project Proponents	6
2.3 Other Involved Entities	7
3. Basic Information	8
3.1 Weather Changes and Climate Change Impacts	8
3.2 Indigenous Peoples in Indonesia and West Kalimantan	8
3.2.1 Indigenous Peoples in West Kalimantan at a Glance	9
3.2.2 The Position and Role of Women in Indigenous Communities	11
3.2.3 Kapuas Hulu Regency	12
3.2.4 Sintang Regency	15
3.2.5 Sanggau Regency	16
3.2.6 Kubu Raya Regency	17
3.2.7 Ketapang Regency	18
3.3 Land Use	18
3.3.1 Tenure Arrangements of Indigenous Peoples in West Kalimantan	20
3.3.2 The Concept of Customary Administrative Territory in Dayak tribes	23
3.3.3 Community-based Natural Resource Management	25
3.3.4 Ecological Dimension of Dayak and Malay Indigenous Peoples' Cultivation	28
3.3.5 Forest Utilization by Indigenous Peoples	28
3.3.6 Indigenous Agricultural Practices in West Kalimantan	29
3.4 Dispute Resolution	30
3.4.1 Tenure conflicts and the Role of the Government	30
3.4.2 Land Dispute Resolution Model within Indigenous Peoples in West Kalimantan	31
3.4.3 The Role of the People's Chief (Customary Court) in Tenure Dispute Resolution	33
3.5 Food security and quality of food consumption	34
3.6 Development, Poverty and Education in the Project Area	35
3.7 National policies and international commitments	38
3.7.1 National Policy on Ethnic Groups	38
3.7.2 International Commitments	42
4. Key Findings and Analysis of Impacts, Risks and Opportunities	44
4.1 Potential Positive Impacts	44
4.2 Potential Negative Impacts	45
5. Consultation Results on Indigenous Peoples	47
5.1 Stakeholder Engagement in Project Consultation	47
5.1.1 Cempaka Baru Village	50
5.1.2 Batu Lintang Village	51
5.1.3 Nanga Semangut Village	51
5.1.4 Kemantan Village	52
5.1.5 Teluk Bakung Village	53

5.1.6	Kali Bandung Village	54
5.1.7	Labai Hilir Village	55
5.1.8	Majel Village	55
5.1.9	Malenggang Village	56
5.1.10	Jasa Village	57
5.1.11	Bekuan Village.....	57
5.1.12	Subah Village.....	58
6.	Measures to Avoid, Minimize, Mitigate Negative Impacts and Use Opportunities	59
6.1	Guiding Principles	59
6.2	Ensuring FPIC for Project Implementation	60
6.3	Overview of Measures to Avoid, Minimize and Mitigate Negative Impacts and Enhance Positive Impacts and Opportunities	62
7.	Benefits for IPs	63
8.	Grievance Redress Mechanism (GRM)	64
9.	Overview of the Institutional Arrangements of the Indigenous Peoples Plan	66
10.	Action Plan: Budget, Schedule, Organisational Responsibility	70
11.	Monitoring, Evaluation and Reporting.....	77
	References	78

List of Tables

Table 1: Overview of ethnic groups and subgroups within the project area in West Kalimantan.	9
Table 2: List of recognized adat communities and adat forests according to regency.	10
Table 3: Regency/City Food Security Index Score of West Kalimantan Province.....	34
Table 4: Regency/City Expected Food Pattern Score of West Kalimantan Province.	35
Table 5: Development status of villages in GCF project area.....	36
Table 6: Poverty rate of target regencies as compared to the province and national average.	37
Table 7: Population Aged 15 years and above by regency with Highest Education Completed in 2023 (in %).	37
Table 8: Population aged 10 years and above by regency with ability to read and write in 2018 (in %)	38
Table 9: Potential positive impacts for customary communities	44
Table 10: Potential negative impacts for customary communities	45
Table 11: Stakeholders Involved in Village Level Consultations.....	47
Table 12: Roles and Tasks of Village-level Stakeholders.....	49
Table 13: Stages of support to IP across different project activities	63

List of Figures

Figure 1: Regencies and Villages with Programme Intervention Area. Source: Dinas LHK..... 25

Figure 2: Grievance Redress Mechanism..... 64

Figure 3: Governmental and customary authorities in customary communities. 65

Figure 4: Institutional Arrangements 68

Abbreviations & Acronyms

AE	Accredited Entity
AMAN	Aliansi Masyarakat Adat Nusantara <i>Alliance of Customary Communities of Indonesia</i>
APBD	Anggaran Pendapatan dan Belanja Daerah <i>Regional Revenues and Expenditure Budget</i>
APK	Alat Pelindung Kerja <i>Work Protective Equipment</i>
ATR	Agraria dan Tata Ruang - Agrarian and Spatial Planning
BAPPEDA	Badan Perencanaan Pembangunan Daerah <i>Sub-National Body for Planning and Development</i>
BPD LH	Badan Pengelola Dana Lingkungan Hidup <i>Indonesia Environmental Fund</i>
BPD	Badan Permusyawaratan Desa <i>Village Consultative Body</i>
BP N	Badan Pertanahan Nasional <i>National Land Agency</i>
BPS	Badan Pusat Statistik <i>Central Bureau of Statistics</i>
BRWA	Badan Registrasi Wilayah Adat <i>Ancestral Domain Registration Body</i>
DINAS	Pemerintah Provinsi dan Kabupaten <i>Offices under Provincial or Regency Government</i>
DISBUN	Dinas Perkebunan <i>Estate Crop Agency</i>
DLHK	Dinas Lingkungan Hidup dan Kehutanan <i>Environmental and Forestry Service</i>
DRK	Desk Resolusi Konflik <i>Resolution Conflict Desk</i>
EE	Executing Entity
ESM	Environmental and Social Safeguards Management
ESMP	Environment and Social Management Plan
ESS	Environmental and Social Safeguards
FA	Financial Assistance
FFI	Fauna & Flora International
FMU	Forest Management Unit
FORCLIME	Forest and Climate Change Programme (BMZ/GIZ)
FPIC	Free, Prior, Informed and Consent
FSVA	Food Security and Vulnerability Map
GAP	Gender Action Plan
GHG	Green House Gases
GIZ	German International Cooperation Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
GRM	Grievance Redress Mechanism
HAM	Hak Asasi Manusia <i>Human Rights</i>
IDM	Indeks Desa Membangun <i>Village Development Index</i>

IKP score	Indeks Ketahanan Pangan Skor <i>Food Security Index Score</i>
ILO	International Labour Organization (UN agency)
IPP	Indigenous Peoples Plan
IP	Indigenous People
KUPS	Kelompok Usaha Perhutanan Sosial <i>Social Forestry Business Units</i>
M&E	Monitoring and Evaluation
MoEF	Ministry of Environment and Forestry
TAP MPR	Ketetapan Majelis Permusyawaratan Rakyat <i>Decree of the People's Consultative Assembly</i>
TERRA	A Collaboration Programme between BPD LH and Ford Foundation
NDA	National Designated Authority
NDC	National Determined Contributions
NGO	Non-Governmental Organization
NTFP	Non-Timber Forest Products
PERPRES	Peraturan Presiden <i>Presidential Regulation</i>
PETI	Pertambangan Emas Tanpa Izin <i>Unauthorized gold mining</i>
PKK	Pemberdayaan Kesejahteraan Keluarga <i>Family Empowerment and Welfare</i>
PLUP	Participatory Land Use Planning
PMU	Project Management Unit
PPH score	Pola Pangan Harapan Skor <i>Expected Food Pattern Score</i>
PTSC	Project/Programme Technical Steering Committee
PUPR	Pekerjaan Umum dan Tata Ruang <i>Public Works and Spatial Planning Agency</i>
REDD+	Reducing emissions from deforestation and forest degradation in developing countries
RFMRC-SEA	Regional Fire Management Resource Center - South-East Asia
RT	Rukun Tetangga <i>Neighbourhood Association</i>
RW	Rukun Warga <i>Community Association</i>
SF	Social Forestry
SMS	Short Message Service
TA	Technical Assistance
UNCED	UN Conference on Environment and Development
UNTAN	Universitas Tanjungpura Pontianak <i>Tanjungpura University of Pontianak</i>
UUPA	Undang-Undang Pokok Agraria <i>Basic Agrarian Law</i>
WPK	Wilayah Pengukuran Kinerja REDD+ <i>REDD+ Measurement Areas</i>

Executive Summary

This Indigenous Peoples Plan (IPP) for the GCF project "Land-Based Mitigation and Adaptation through a Jurisdictional Approach in West Kalimantan" aims to address climate change and deforestation while also empowering customary communities and promoting sustainable land use. The IPP is grounded in the principles of Free, Prior, and Informed Consent (FPIC), benefit-sharing, and grievance mechanisms. Outlining a comprehensive approach, the plan emphasizes the importance of engaging with customary communities, providing them with the resources they need to manage their forests sustainably, and ensuring that they receive fair and equitable benefits from the project. This close involvement also reduces the risk of customary communities being adversely affected by the project.

The primary objectives of the IPP are to:

- minimize and/ or compensate for the adverse impacts.
- empower customary communities and provide them with the resources they need to manage their forests sustainably.
- improve market access for IP products.
- foster collaboration among various stakeholders, including the provincial government, customary communities, and civil society organizations.

The project will be implemented over seven years in five priority regencies in West Kalimantan, covering 71% of the province's total area and 82% of its forest area. The project will target approximately 200 villages and support sustainable forest management and conservation in these areas.

In West Kalimantan, there are two main ethnic groups that have ties to local customs: Dayak and Malay. Both tribes have similar socio-economic levels. However, only Dayak communities have received official recognition as customary law communities. This is partly due to the challenges Malay have with the bureaucratic process of recognition.

As of early October 2023, there are around 44 Regent's Decrees regarding Recognition of Customary Law Communities that have been issued by eight regencies in West Kalimantan Province. These decrees have recognized the existence of 44 customary law communities with a total of 628.550 hectares of customary territory. The low number of communities that have received recognition as customary law communities is partly due to: (1) limited ability of the community to prepare proposals (bureaucratic processes); (2) limited resources of NGOs to provide assistance to the community at large; and (3) limited human resources and budget of Regency Governments to carry out field verification.

Indigenous peoples in West Kalimantan have a long history of managing their land in a sustainable and equitable manner. Indigenous Dayak farmers in West Kalimantan practice a sustainable and harmonious approach to agriculture. They rotate crops, plant a diversity of plants, and maintain the forest for future generations. Their traditional methods are oriented on the maintenance of a balance between nature and maximization of production.

The concept of communal rights is central to indigenous land tenure arrangements. Sacred forests are highly valued by indigenous communities and are protected from encroachment. There are several laws and regulations that recognize and protect indigenous land rights.

The Government of Indonesia has been taking steps to address tenure conflicts, including issuing regulations and establishing a Conflict Resolution Desk (DRK, acronym for the Indonesian translation) in Kapuas Hulu Regency of West Kalimantan. The DRK is a multi-stakeholder institution that facilitates the resolution of tenure and boundary disputes between villages, and conflicts in concession areas between companies. The DRK is a valuable tool for resolving tenure conflicts, but it does not compensate for the need of clear and secure land tenure arrangements.

West Kalimantan is a food-insecure province, with 29.49% of villages classified as very vulnerable to food insecurity. This is due to several factors, including population growth, increasing economic value of land, and investment from outside parties.

The five target regencies in West Kalimantan show 152 villages classified as underdeveloped. This is due to a few factors, including poverty, lack of infrastructure, and limited access to public services. The GCF project aims to contribute to the climate-smart development in these regencies by investing in sustainable agriculture, climate-resilient infrastructure, and capacity building for local communities.

The position and role of women in indigenous communities in West Kalimantan varies between tribes, but they generally have a lower status in society than men. Gender inequality in terms of access to education, information, and capital often renders women more vulnerable. Women tend to be made responsible for domestic tasks and childcare, while men are responsible for agricultural and forestry activities. However, women are also playing an increasingly important role in climate change adaptation and mitigation. They are more likely than men to be interested in planting and caring for the environment, and they are often more willing to participate in community decision-making processes. Thus, women's role needs to be strengthened by providing them with access to education, training, and resources. The project aims to specifically target indigenous women and women's groups as beneficiaries of trainings and other project activities and involve them in decision making to contribute to achieving gender equality. It further aims to identify and collaborate with local women's groups and organizations who are active in West Kalimantan.

Indonesia's legal framework regarding indigenous peoples is complex and multifaceted. There are several national laws and regulations that recognize the existence and rights of indigenous peoples, however, according to experts, gaps and inconsistencies in the law might be identified. Indonesia has not ratified all key international conventions on indigenous peoples' rights.

The IPP will be implemented in a phased approach, focusing on strengthening enabling factors, preparing for implementation, and improving the institutional framework in the initial phase. The subsequent phases will focus on implementing the plan's key components, including community empowerment, granting mechanisms for IPs, developing climate-resilient forest management policies, replicating the Conflict Resolution Desk, and improving market access for IPs' products.

The IPP outlines a broad range of stakeholders, including the government institutions, customary communities, civil society organizations, research institutions, and the private sector and suggests a participatory approach with them at all stages of the project cycle.

The implementation of the IPP will be based on a robust governance structure, including a Steering Committee, a Technical Committee, and a Project Management Unit (PMU). The Steering Committee will provide overall guidance for the project, while the Technical Committee will ensure that the project adheres to environmental, social, and fiduciary safeguards. The PMU will be responsible for implementing the project and monitoring its progress.

The project implementers will employ a comprehensive monitoring, evaluation, and reporting (M&E) system to track progress, assess the effectiveness of its interventions, and ensure compliance with the IPP. The M&E system will gather data on the plan's achievements and progress towards meeting its objectives, and this data will be used to generate reports for stakeholders.

For the project implementation a comprehensive and inclusive approach to benefit-sharing, ensuring that customary communities, especially women, directly impacted by the project

receive fair and equitable benefits. The key principles of benefit-sharing include respect for indigenous rights, equitable distribution, dialogue and mediation, transparency and accountability, and sustainability.

A variety of mechanisms for benefit-sharing, including direct compensation for labor, community development funds, capacity building and training, shared ownership and management, and respect for cultural and spiritual values will be employed. To target indigenous women in benefit sharing, the project will encourage the formation of women's groups and identify and support women led households.

The project implementers will establish a grievance mechanism to address concerns raised by customary communities. The mechanism will be accessible through three intermediate channels - the customary and governmental administration and the project's field staff – as well as directly. The mechanism will follow a reporting procedure in different stages, with all grievances submitted being recorded, verified, and resolved within a predetermined number of (working) days. Grievances can be submitted in writing, verbally, or via SMS, WhatsApp, email, or the project website or directly to the field facilitators.

1. Introduction

The Indonesian Government set ambitious Nationally Determined Contribution (NDC) targets for emissions reduction from the forestry sector and adaptation to climate change. Despite all the efforts and progress made, deforestation and forest degradation still account for a large share of greenhouse gas (GHG) emissions. At the same time, the impacts of climate change, such as increased fires, extreme rainfall, and prolonged droughts, are increasingly affecting local communities, particularly in rural areas. In terms of mitigation, the forest sector needs to reduce emissions by 17,4% (unconditional) or 25.4% (conditional to international assistance)¹ by 2030 compared to reference levels and REDD+ and forest land rehabilitation are key measures to achieve these targets while increasing the resilience of indigenous peoples and ecosystems.

The project area in West Kalimantan remains a major deforestation hotspot; natural forest loss is still occurring at a high rate and often driven by agribusiness corporations, as highlighted in the statement by the chairman of the Daily Management Board of the Alliance of Indigenous Peoples of the Archipelago (AMAN) for West Kalimantan. According to him, the area of West Kalimantan is 14.7 million hectares, while a total of 11.7 million hectares are subject to various permits: 4.5 million hectares for oil palm plantations, 2.7 million hectares for mining, 1.3 million hectares for other forest tenure rights, and 3.2 million hectares for industrial forest plantations². At the same time, West Kalimantan is one of the most fire-prone provinces in Indonesia and around 6,71% of the population lives under the poverty line³. The project supports the implementation of Indonesia's social forestry policy and REDD+ Strategy by targeting the main drivers and underlying causes of deforestation and forest degradation. It improves forest governance, strengthens Forest Management Units (FMUs), implements and scales up social forestry models, and encourages sustainable agricultural business practices in existing concessions and in indigenous communities through collaboration with the private sector, including leveraging investments at scale. The focus on viable and sustainable business models strengthens the resilience of vulnerable small-scale indigenous producers and agricultural and forest ecosystems that are vulnerable and affected by climate change impacts, including drought and fires.

Indigenous peoples are groups of people who live based on origins for generations on a customary territory, who have sovereignty over land and natural resources, socio-cultural life governed by customary law that manages the sustainability of community life⁴. The distribution areas of indigenous peoples based on their geographical characteristics can be distinguished as follows:

- Inland areas (hinterland) are areas far from the coast and sea, namely those who live at the very headwaters of rivers in sloping areas or near the foot of mountain slopes or on mountain peaks.
- The area at the downstream of the river near to the coast, away from the village. is characterized by crowded and dense settlements.
- Inland areas with large tracts of land whose life patterns are hunting and gathering or farming and other activities that take place far from community villages.
- Inland areas with large areas of hunting and gathering or farming or other activities that are not too far from neighbouring villages so that interaction between villages takes place.

1 Enhanced Nationally Determined Contribution Republic of Indonesia DC, 2022

2 https://www.kompas.id/baca/utama/2018/10/22/mereka-tersingkir-di-tanah-sendiri?status=sukses_login%3Fstatus_login%3Dlogin&loc=hard_paywall%3Fstatus_login%3Dlogin&loc=hard_paywall&isVerified=true

3 <https://www.bps.go.id/id/statistics-table/2/MTkylzl=/persentase-penduduk-miskin--maret-2023.html>

4 <https://aman.or.id/news/read/mengenal-siapa-itu-masyarakat-adat>

- Areas where people live on remote islands far from the reach of other island communities.

2. Project Overview

The proposed project will cover the province of West Kalimantan and field implementation will focus on five priority regencies covering 69.21% of West Kalimantan's total area (10.5 million ha) and 82% (4.45 million ha) of West Kalimantan's forest area. The proposed project sites also include areas designated as REDD+ Performance Measurement Areas (REDD+ WPKs). Restricted based on two categories (referring to MoEF guideline No. 70/2017): i) areas that were still forested at the end of 2012 in both primary and secondary forests, on mineral soil and on peat soil and ii) peatlands that in 1990 were still forested but by the end of 2012 were no longer forested.

Field activities will target five priority regencies, selected by the provincial government through an interdisciplinary REDD+ working group based on their importance to achieving the objectives of the proposed programme: Kapuas Hulu, Ketapang, Kubu Raya, Sanggau, and Sintang. Forests in these regencies are highly threatened by deforestation and forest degradation. Selection is based on emission streams, forest stocks, and the ratio of forest cover to regency area.

The project will involve around 200 villages while a major part of their population can be considered as customary communities. Special attention will be given to peatlands in Ketapang, Kubu Raya and Kapuas Hulu. Peatlands in these selected regencies cover about 56% or 903,000 ha of the total peatlands in West Kalimantan (1.6 million ha) and the threat is high - the main drivers are fire and unsustainable peatland conversion and management. The province has developed a Fire Risk and Early Warning Scheme Implementation System. More detailed climate and hazard information for each selected regency will be assessed through a Climate Risk and Vulnerability Assessment planned in the Funding Proposal stage.

The project will be implemented over 7 years and will use a phased approach. The project will focus on strengthening enabling factors, preparing for implementation in selected regencies (including safeguards and ensuring free, prior and informed consent of affected partners) and improving the institutional framework for sustainable landscape planning and management. This will form a strong foundation for efficient and effective implementation and scaling up of sustainable land and forest management and agriculture-based commodity investments. All outputs and activities are based on proven approaches, including lessons learned for successful implementation at scale from GIZ and Solidaridad, that all have been active in West Kalimantan for a long time.

2.1 Project Objective

The project aims to reduce GHG emissions from deforestation and degradation, increase forest carbon stocks through reforestation and forest land rehabilitation, improve good agricultural practices and ultimately strengthen the resilience of forest and peat landscapes in West Kalimantan by addressing two key climate risks (a) increased forest and peat fires due to rising temperatures and drought, and (b) decreased agricultural production due to increasingly severe drought. This will drive a paradigm shift towards climate resilient and low emission pathways at the provincial level. Mitigation and adaptation measures will be implemented in a synergistic manner. The project proponents acknowledge that the sustainability of mitigation benefits depends on successfully strengthening the long-term resilience of small-scale rural producers and smallholders and vulnerable forest ecosystems.

2.2 Project Proponents

GIZ is the GCF Accredited Entity (AE) for this project and this concept note was developed in close coordination with national stakeholders. The project's institutional arrangements stipulate that the parties that will be the Executing Entities (EEs) are: GIZ, BPD LH, and Solidaridad. The project will be implemented jointly by the EEs in close cooperation with the

provincial REDD+ Working Group/Province Environment and Forestry Service, Tanjung Pura University (UNTAN) and other local partners such as NGOs, regency government institutions, FMUs, private sector, village governments, village forest institutions, Social Forestry Business Groups (KUPS), smallholder cooperatives, and customary communities.

Collaboration with the Regional Fire Management Resource Center South-East Asia (RFMRC-SEA) is planned to strengthen the programme's adaptation benefits, particularly through fire prevention. In accordance with the NDA and the Ministry of Environment and Forestry (MoEF), the project governance structure will be established in accordance with existing structures and IEF (BPDH) as a manager for environment and climate change funds in Indonesia.

2.3 Other Involved Entities

At the provincial level, the project engages key governmental environmental and planning agencies for project ownership in the Project Technical Steering Committee (PTSC), including the Regional Development Planning Agency (BAPPEDA), the Environment and Forestry Service (DLHK), the Spatial Planning Service (PUPR), and the Plantation Service (DISBUN). BAPPEDA facilitates deep integration of REDD+ and project frameworks with provincial and regency plans, including sectoral agency plans. DLHK is the lead agency in REDD+ leading project implementation with 17 FMUs at the site level on forest management, including community empowerment. PUPR is leading spatial integration for emission reduction, including land use monitoring and enforcement. DISBUN leads on sustainable palm oil plantation practices.

The project involves regency and village governments at the local level to secure strong ownership for all activities. They will act as project beneficiaries and key actors in project implementation. The target regencies' governments are also involved through the Programme's Technical Steering Committee. Village governments are involved in field project implementation through the development of comprehensive natural resource management plans, including capacity building of village government staff, land use planning, social forestry management and village index improvement. The project also engages the private sector with their capacity and roles, including guiding investment plans and investing and providing co-financing in green schemes and sustainable supply chains to support project outcomes. An Indigenous Peoples small grants mechanism will complement these efforts to support the empowerment of IP.

3. Basic Information

3.1 Weather Changes and Climate Change Impacts

West Kalimantan is affected by climate change due to changes in both temperature and rainfall. Generally, rainfall changes across Indonesia show an increase in rainfall, particularly during the wet season, and a decrease in rainfall intensity, especially during the dry season. This has led to a rise in the potential for floods and droughts.

With these changes to the climate, especially drought, there has been an increase in the intensity of forest and land fires. Forest and land fires have become annual disasters, especially in West Kalimantan. However, fires often occur when combined with dry conditions and drought. In West Kalimantan, plantation and secondary swamp forest areas are highly vulnerable to drought and fires, especially in peat areas with depths of 50-200 cm. Forest and land fires also cause land degradation and changes in forest function, negatively impacting the local economy.

The smallholder farmers living in West Kalimantan are increasingly at risk of the impacts of climate change. The effects of climate change in West Kalimantan, are significant, particularly in the agricultural sector. Maharani (2021) highlights the role of sustainable agriculture in combating deforestation and climate change. However, the region is highly vulnerable to land and forest fires, as Jadmiko (2017) indicated, with unmanaged plantation areas and peatlands at high risk. This vulnerability is exacerbated by the increasing intensity of droughts, which can have serious welfare consequences (Salafsky, 1994). The environmental impact of these changes is evident in the severe forest loss, leading to biodiversity loss and water storage shortages (Fawzi, 2019). The climate change-related risks to agricultural productions are compounded by several elements of vulnerability, such as inadequate farming practices, a lack of sustainable irrigation systems, limited access to quality inputs, including climate-resilient seeds, and the use of essential agricultural equipment/ lack of mechanization of the farm sector as well as lack of information and limited access to land (Weiskopf et al., 2021).

In summary, the smallholder farmers, especially indigenous peoples and other local agricultural actors in West Kalimantan, are increasingly at risk of decreased income and threatened livelihoods due to the impacts of climate change.

3.2 Indigenous Peoples in Indonesia and West Kalimantan⁵

Indigenous peoples are groups of people who identify themselves with others based on lineage referring to characteristics such as culture, nation, language, religion and behaviour. The ethnic group is also a social group that is distinguished from other social groups, because it has the most basic and common characteristics related to its origin, place of origin, and culture⁶.

Similarly, the GCF applies the term indigenous peoples in a generic sense that refers to specific social and cultural groups characterized to varying degrees, as follows:

- identifying oneself as a member of a distinct indigenous social and cultural group and the recognition of this identity by others.
- Collective attachment to geographically distinct habitats, ancestral territories, or areas of management or seasonal residents as well as attachment to natural resources in these areas.

⁵ Dalam konteks di Indonesia, ada istilah Masyarakat Adat, Masyarakat Hukum Adat dan Masyarakat Tradisional. Secara umum pengertiannya hampir sama, hanya saja pengertian Masyarakat tradisional lebih longgar. Sumber: R. Yando Zakaria, Gerakan Masyarakat Adat di Indonesia: Sengkarut Perjuangan Kelas dan Indigenitas, Bahan diskusi tidak dipublikasikan, 2023

⁶ <https://www.gramedia.com/literasi/suku-di-indonesia/>

- Indigenous cultural, economic, social, or political systems that are distinct or separate from mainstream societal or cultural systems; and
- A distinct language or dialect, often different from the official language or languages of the country or region in which they live. This includes languages or dialects that once existed but no longer do due to impacts that make it difficult for a community or group to maintain a distinct language or dialect.⁷

The landscape of ethnic groups in Indonesia is unique and has a lot of diversity, in terms of language, culture, customs, etc. Therefore, Indonesia is known as a nation with a great ethnic diversity. Anthropologists estimate that around 1,300 different ethnic groups can be found in Indonesia⁸.

3.2.1 Indigenous Peoples in West Kalimantan at a Glance

This chapter summarises the different ethnic groups (*suku*) according to the regencies that are part of the project area. The different sub-tribes often share many similarities, especially in their law systems. Generally, customary authorities are operating within the *adat* and Indonesian law system, while the former mostly serves for law enforcement and the latter for administration. However, there are also overlaps between these responsibilities.

All five regencies in the GCF project area show presence of Indigenous Peoples: Kapuas Hulu Regency, Sintang Regency, Sanggau Regency, Ketapang Regency and Kubu Raya Regency. In these regencies the indigenous community comprises mainly two different tribes, namely the Dayak Tribe and the Malay Tribe (see **Error! Reference source not found.**).

Table 1: Overview of ethnic groups and subgroups within the project area in West Kalimantan.

#	Regency	Ethnic group	Ethnic Subgroup
1.	Kapuas Hulu	Dayak	Dayak Suaid, Kantu, Seberuang, Kalis, Lau', Suru', Mentebah, Tamambalo, Ensilat, Mayan, Sekapat, Desa, Punan, Buket, Taman, Kayaan, Rembay, Sebaru', Iban, and Oruung Da'an.
		Malay	
2.	Sintang	Dayak	Sekubang, Sekujam, Desa, Mualang, Seberuang, Ketungau, Bugau, Kebahan, Inggat Silat, Lebang, Undau, Barai, Kayan, Nanga, Goneh, Papak, Paya', Tebidah, Uud Danum, Melahoi and Selawe.
		Malay	
3.	Sanggau	Dayak	Dayak Keneles, Taba, Pruwan, Mali, Pruna, Tobak, Desa, Banyuke, Hibun, Panu, Kodatn, Dosan, Tinying, Mudu', Sami, Mayau, Laya, Sum, Bi Somu, Muara, Golik, Paus, Sisang, Sontas, Iban Sebaro, Suruh, Sikukng, Balantiatn, Punt, Keramay, Senangkatn, Entebang, Daro, Sekajang, Badat, Gun, Jangkang (Kopa, Benua, Engkarong, Jungur Tanjung), Sawai, Ketungau Sesat, Jawatn, Mualang, Pompakng, Kancing, Ketior.
4.	Ketapang	Dayak	Simpakng, Gerai, Baya, Laur, Joka, Pawatn, Krio, Konyeh, Bihak, Beginci, Kayong, Tayap, Tola', Pesaguan, Lemandau, Jalai, Kendawangan, Mali, Kancing, and Tobag.
		Malay	

⁷ [Indigenous peoples policy | Green Climate Fund](#)

⁸ <https://study.com/academy/lesson/indonesian-ethnic-groups.html>

5.	Kubu Raya	Dayak	Kanayatn Ambawang-Mampawah, Kanayatn Mampawah Banana Badamae, Kanayatn Mampawah Banana Ngabakng Bonsoratn, Kanayatn Mampawah Banana Sua Barangan, Kanayatn Mampawah Banana Samaya, Kanayatn Mampawah Banana Morotn Buliatn, Kanayatn Mampawah Banana Pak Nungkat, Kanayatn Mampawah Banana Pak Utan, Kanayatn Mampawah Banana Pinyuh Gersik
		Malay	

To recognize and respect the existence of indigenous communities, the Indonesian Government has issued Minister of Home Affairs Regulation no. 52/2014 concerning Guidelines for the Recognition and Protection of Customary Law Communities. As stipulated by this regulation, communities can apply to be recognized as Indigenous Peoples. The government can recognize or reject the submission of proposals from Indigenous Peoples by considering:

- History of Indigenous Law Communities (*Masyarakat Hukum Adat*),
- Customary territory.
- Customary law.
- Property and/or customary objects.
- Customary institutions/government systems.

Applications to be recognized as indigenous peoples are usually made by indigenous sub-tribes considering the administrative area of the village and customary areas so that it is possible for one customary area to be a cross-village area. For example, a community of the Dayak Seberuang sub-tribe who lives in the village of Benua Encana has received recognition as a customary law community. At the same time, the Dayak Seberuang sub-tribe community living in Riam Batu village also received separate recognition as a Customary Law Community. Recognition of the existence of Customary Law Communities is stipulated by a Regent's Decree. These Customary Law Communities will later have the right to manage customary territories, including applying for customary forest management rights within them.

As depicted in **Error! Reference source not found.**, as of early October 2023, there are around 44 Regent's Decrees regarding Recognition of Customary Law Communities that have been issued by eight regencies in West Kalimantan Province, as follows:

Table 2: List of recognized adat communities and adat forests according to regency.

Regency		ADAT AREA		ADAT FOREST AREA			
No	Name	Number of Bupati decrees concerning recognition of adat community	Total of adat area (ha)	Number of Ministry Decrees on Adat Forest	Total of adat forest area (ha)	Adat Forest Proposals (still in process in MoEF)	Total Proposed Adat Forest (ha)
1	KAPUAS HULU	13	365.300	1	9.480	9	154.053
2	SINTANG	4	20.301	3	9.390	1	6.717
3	MELAWI	6	41.272	5	22.918	1	9.516
4	SEKADAU	4	64.773	1	41	3	25.213
5	SANGGAU	8	122.342	4	7.139	4	29.231
6	LANDAK	3	7.778	2	1.110	1	915

7	BENGKAYANG	4	no data	4	2.025	0	-
8	KETAPANG	2	6.785	-	-	2	2.372
9	KUBU RAYA	0	0	0	0	0	0
	TOTAL	44	628.550	20	52.102	21	228.016

Source: Badan Registrasi Wilayah Adat (BRWA, Ancestral Domain Registration Body in West Kalimantan)

The number of 44 Regent's Decrees regarding the recognition of customary law communities is actually a very low compared to the number of ethnic or sub-ethnic communities spread across 2,031 villages in West Kalimantan⁹. The low number of communities that have received recognition as customary law communities is partly due to: (1) the community's ability to prepare proposals to be recognized as customary law communities is limited, (2) Almost all the communities that have received recognition as customary law communities are accompanied by NGOs. However, NGOs themselves have limited resources to assist the communities at large, (3) Regency Governments have limited human resources and budget to carry out field verification.

In West Kalimantan itself, there are two large tribes that still have ties to local customs, namely the Dayak and Malay tribes. In terms of socio-economic level, the Dayak and Malay tribes are actually very similar. This is not surprising because most Malay tribes are Dayak people who have converted to Islam. However, of the sub-ethnic communities that have received recognition as customary law communities in West Kalimantan, all are from the Dayak community. The absence of communities of the Malay tribe who received official recognition as a customary law community was due to their limited ability to prepare proposals and submit them to the responsible government authority. Meanwhile, NGOs in West Kalimantan that have the potential to act as facilitator have tended to prioritize to assist the Dayak community, which is considered more marginalized.

3.2.2 The Position and Role of Women in Indigenous Communities

Some indigenous communities are generally dominated by patrilineal kinship patterns, but there are also groups of indigenous communities that adhere to matrilineal kinship patterns. Nevertheless, the dominance of men in indigenous communities is still very strong due to the influence of the patriarchal system, which is very strong in most Indonesian communities. Women's daily activities are more focussed on reproductive activities and household tasks, such as collecting firewood, cleaning the house, washing clothes, cooking, caring for children and caring for the elderly.

In some Dayak communities, especially Dayak Iban, men and women have the same right to inherit land from their parents. In some cases, parents divided land between their sons and daughters while they were still alive. Men and women can also gain access to land through marriage. However, there are also traditional communities who still prioritize sons as heirs. Dayak communities generally adhere to a parental or bilateral kinship pattern. This pattern positions men and women in the same role in the core family (father, mother, child), and sometimes women's roles are even greater than men's, for example, women must take care of the household and farming or gardening, while men only farm or garden. Women are even required to be versatile in doing things for the family. Because of this diverse role, women have an important role in the family, but also often have a higher burden.

⁹https://id.wikipedia.org/wiki/Daftar_kecamatan_dan_kelurahan_di_Kalimantan_Barat#:~:text=Berikut%20adalah%20daftar%20kecamatan%20dan%20kelurahan%20di%20Provinsi,5.414.390%20jiwa%20dengan%20total%20luas%20wilayah%20147.307%2C00%20km%C2%B2

However, the role of women outside of household matters is less relevant, generally they are not involved in government affairs, organizations or other activities related to community affairs because of the patriarchal and feudal nature that still strongly underlies the mindset of the Dayak people in general. For example, in the Dayak indigenous community, only men can become administrators or customary leaders, as well as in the Malay tribe, only men can become customary officer (=punggawa). Therefore, in making important decisions, women are less directly involved.

The assumption that women only take care of household matters is still deeply rooted in the views of Indonesian society and indigenous peoples in general. When it comes to matters of domestic life or matters related to family economic life, women will take on roles and share roles with men. At the family level, the decision-making process is mostly carried out jointly between husband and wife. Determination of agricultural business activities, allocation of education costs, and family investment in health are carried out together. In fact, managing family finances is often led by women.

This is also the case regarding the role of women in climate change adaptation and mitigation. The role of women is as important as men's, even women can take a bigger role, for example in the form of the planting movement, as women are more interested in planting than men, and women are more concerned with environmental issues because of their maternal nature and care about environmental sustainability. Generally, the movement to care for the environment and planting carried out by women is more pronounced. Dedicated groups like this are very effective because they are built based on good cooperation and high family spirit, so they are often successful in achieving their targets. Therefore, how to actively involve women in a larger and more impactful climate change mitigation and adaptation program, will be key for its success.

For agricultural and forestry activities, land clearing is carried out mainly by young and old men. Cutting down trees, burning bushes, and preparing agricultural land is dominated by men. Sowing seeds, planting and weeding grass is done by both genders, but women take a larger and more time-consuming part. The use of non-timber forest products (NTFPs) from rattan and bamboo is dominated by women who produce handicrafts.

Finally, there are other issues related to gender inequality that are still prevalent in Indonesian society, including in indigenous communities in West Kalimantan:

- Inequality in the field of education where there is a tendency for families to prioritize education for boys over girls. This is partly due to the cultural view that boys will later bear the burden as head of a family, so they need to have an adequate education.
- Differences in access to productive resources where men tend to have better access to productive resources, information, and capital.
- Inequalities in access to education, resources, and low political participation cause women to be vulnerable to physical, psychological, and sexual violence.

i.

3.2.3 Kapuas Hulu Regency

3.2.3.1 Dayak Punan Uheng Kereho

The Dayak Punan sub-tribe in terms of the language spoken, can be grouped into 2 (two) language groups, namely Punan *Eo* and *Ho'o*. The words *Eo* and *Ho'o* mean 'yes'¹⁰.

¹⁰ Sujarni Alloy, et al, Dayak Mozaik: The Diversity of Dayak Sub-tribes and Languages in West Kalimantan, Institute of Dayakology, Pontianak, pp.

Customary justice system ¹¹

The customary institutions of this subtribe are structured in the following way:

- *Temenggung* or *Ketongan Suku* (head of tribe);
- *Ketongan Adet Hau'* (Customary Chief of Complex/Village);
- *Ketongan Adet Titing* (Customary Chief of Hamlet);
- *Pengerak* (lower-level authority).

In the customary territory of the *Dayak Punan Uheng Kereho* there is only one head of the tribe called *Temenggung* or *Ketongan Suku*. There are two village-level *Ketongan Adet Hau'* or Complex Customary Chiefs, namely *Ketongan Adet Hau Kereho* (Kereho Village) and *Ketongan Adet Cempaka Baru* (combined Cempaka Baru Village + 1 hamlet in Beringin Jaya Village). On the hamlet level, there is one person leading in each *titing* or hamlet, the *Ketongan Adet Titing* or Hamlet Customary Head. The requirements to become a customary authority include:

- At least 35 years old and a maximum of 70 years old.
- Educated to finish elementary school or literate.
- Residing in the *Punan Uheng Kereho* area for at least 15 years.
- Understanding and experience in customary affairs in the area;
- Directly elected by the community.

These positions can be held for a term of 10 years for *Temenggung* and 6 years for complex customary administrators and sub-village customary chiefs as well as *Pengerak* and can be re-elected for the next period. The position of a customary administrator can also be held by women. Prior to 2015, those who could become *Temenggung* were descendants of the previous *Temenggung* and the term of office was for life.

Territorial Control and Management System

The tenure and management system of the *Dayak Punan Uheng Kereho* territory is managed jointly or communally under customary control and some of it is also managed privately or individually under the control of each family. The customary land zoning includes different land categories with separate land uses and purposes. The categories under communal control comprise:

- *Hiva adet* is a protected forest area because in it there are springs and sacred places and also *Tamen* (graves). It is managed communally where the management is under the *Temenggung*.
- *Tana Mari* is a sacred area by the community. In *Mari* Land there is also a cemetery (Tamen)
- *Lopo'un* (former settlements), and *sepan* (hunting area) are also managed by the adat community with direct management by the head of tribe (*Temenggung*).

Meanwhile, land that is managed privately or individually includes:

- *Titing* refers to land that is managed individually and controlled by each family. The ownership of *Titing* is inherited from parents. *Titing* cannot be bought or sold but can be rented to outsiders directly from the owner. This lease must still be reported to the customary chief, village chief and *Temenggung*.
- *Ivut* and *Amuon* also refers to land that is managed and controlled individually by each family. *Ivut* and *Amuon* are transferred by inheritance to their descendants. *Ivut* and *Amuon* can be sold to fellow communities within the territory of the *Ketemengungan*.

Every transaction in terms of buying and selling land must be known to the *Temenggung*, *Ketongan* Adat Hau' and also the Village Head. The same applies to the inheritance system. When the inheritance is to be distributed, it is witnessed by *Ketongan* Hau', the Village Head,

¹¹ <https://brwa.or.id/wa/view/ZIJQU1Z4eGx0YmM>

and *Temenggung* and their respective administrators. In any case, the village head, customary head and *Temenggung* will always be involved. In addition, adjacent landowners are also involved as witnesses. As a prove of land ownership written documents or minutes related to the division of land by inheritance exist.

In general, the inheritance is given to the sons. However, daughters also have the same rights if they are married and do not leave the community. If a married woman leaves and no longer resides in the *ketemenggunan* area, she is no longer entitled to own the inherited land.

3.2.3.2 *Dayak Iban*

The *Dayak Iban* sub-tribe is also known as *Orang Betag Rejang* or *Orang Majang*. They are famous for their ability to fight, especially the war between Dayak tribes before the 1894 Tumbang Anoi agreement¹². The *Dayak Iban* tribe is one of the many Dayak sub-tribes living on the island of Borneo. They live in groups based on their tribe in an area they control. *Dayak Iban* itself is mostly found in West Kalimantan, in the Kapuas Hulu and Sintang Regencies. However, there are also *Iban* people who live in Sarawak, Malaysia because the two places are close together¹³.

The *Iban* people themselves originate from the area that is now West Kalimantan Province, but then they migrated to the area the is now known as Sarawak. There are also those who returned from Sarawak to West Kalimantan to avoid the persecution by the British colonial government.

Customary Justice System

The customary autonomous institution in *Menua Sungai Utik* (customary territory in northern Kapuas Hulu) is called the *Rumah Panjæ* (longhouse) institution. The authority to regulate the territory and community (residents) is based on customary law. The *Rumah Panjæ* is directly led by *Tuai Rumah* (village chief). In carrying out its daily duties, if *Tuai Rumah* is absent or unavailable, then its role and function can be replaced by *Sapit Tuai Rumah* (Deputy *Tuai Rumah*). However, *Sapit Tuai Rumah* is not authorized to make customary decisions. In the event of a violation of customary law, decision-making is carried out through discussions between *Tuai Rumah* and customary leaders for determining the consequences. Decisions are always made in accordance with the customs, norms and rules that are passed on from generation to generation.

This customary institution not only regulates social relations between indigenous people, but it also regulates the management of customary territories and their natural resources. This can be seen from the results of customary area mapping, which illustrates the pattern of land tenure and utilization in the *Sungai Utik* customary area. They organize their territory into *Taroh*, *Galau* and *Endor Kerja* areas. This division refers to the functions and customary rules in the *Rumah Panjæ* institution. The *Taroh* area, for example, is an area with forest cover that cannot be cleared, and the timber cannot be taken.

If there are problems regarding social issues and concerning customary territories and natural resources, they will be resolved by the customary institution *Rumah Panjæ*. However, if the customary deliberations at the elder level cannot resolve the issue, it will be taken to a higher level of the customary hierarchy (up to *Temenggung* level).

3.2.3.3 *Ethnic Malay*¹⁴

The arrival of Malay migrants to Kapuas Hulu indirectly pressured the indigenous tribes to gradually move further inland. Consequently, the immigrant tribes such as the Malay tribe

¹² Sujarni Alloy, et al, Ibid, p.

¹³ <https://www.kompas.id/baca/riset/2021/11/20/ekspresi-cinta-dan-kehidupan-orang-dayak-iban>

¹⁴ <https://valeriadwata4creguler.blogspot.com/2017/05/kebudayaan-melayu-kapuas-hulu.html>

became permanent residents of the area left by the Dayak people. They belong to a group of Muslims who live in their own way and with the culture and beliefs brought from their homeland. The Malay did not want to live in the ways of the native people. Instead, they built several small settlements close to the headwaters of major rivers. Over time, many natives were unconsciously influenced by the way of life of the migrants. They also began to embrace Islam. This process is known as "*masok Melayu*" or "*turun Melayu*". According to Bernard Sellato in his book "*Hornbill and Dragon*"¹⁵, almost 90% (ninety percent) of all Malay tribes are Dayak people who have converted to Islam. The influx of immigrant tribes, especially the Malays, was not only concentrated in one area but also throughout the coast of Kalimantan.

Kapuas Hulu Malay Language

The main language in Kapuas Hulu is Malay. It is the lingua franca in the city centres, government administration and trade. Malay is also used in semi-formal spaces, while in formal spaces Bahasa Indonesia is used. Kapuas Hulu Malay (Ulu Kapuas) is spoken by Malay speakers as a first language, and Malay is also spoken by non-Malay speakers as a second language. Kapuas Hulu Malay language itself has four variants.

3.2.4 Sintang Regency

3.2.4.1 Dayak Sekubang

Sekubang is the name of a tribe that lives close to the Sepauk River that flows in the southern part of Sepauk Sub-district. Around the Sepauk river there are several villages, including Kemantan, Mengkidau Betong, Belimbing, Bernayau, Sei Kuwai, Bakti, Sinar Pekayau, and Andong. The language used by the *Sekubang* people is *apo*, which means 'no'. The word *apo* is often abbreviated with the word *po* only, for example *po pane* which means 'cannot'¹⁶. Because the word *apo* often appears in the spoken language, the language characteristic of the *Sekubang* people is also called *beapo-apo* language.

The *Sekubang* have a culture rich in arts while their livelihoods are mainly based on farming on wetlands (rice fields) and drylands (other crops). The *Sekubang* population is marked by a slow growth because they usually have few children.¹⁷

3.2.4.2 Dayak Bugau¹⁸

Bugau is the name of a hill in Ketungau Hulu Regency, Sintang Regency. The *Bugau* people inhabit the upper Ketungau River basin of Ketungau Hulu Sub-district, namely in Senaning, Sunagai Antu, Engkeruh, Rasau, Sebuluh, Lubuk Pucung, Pangkalan Pait, Riam Sejawak, Jasa, Wak Sepan, Birong, Rentong, Nyelawai, and Kedang Ran villages. The language they speak is characterized by [ay] sounds at the end of words. They themselves state that their language belongs to Benadai, the language spoken by people along the Ketungau River.

The *Dayak Bugau* sub-tribe also recognizes social strata in its customary society, including:

- i. *Demung* is a title given to the rich.
- ii. *Tuak* is a title given to warriors.
- iii. *Stump* is a title given to clever people.
- iv. *Manang* is someone who specializes in shamanism or medicine.
- v. *Bedamang* is a title given to warriors and medicine men.
- vi. *Manuk sabung* is a title given to a brave person.

¹⁵ Bernard Sellato (1989). *Hornbill and Dragon* - Arts and Culture of Borneo

¹⁶ Sujarni Alloy, et al, Log.Cit, p. 281.

¹⁷ Sujarni Alloy, ibid, p. 282.

¹⁸ Sujarni Alloy, et al, ibid, p. 101.

There are several oral traditions and arts that are still alive in the *Dayak Bugau* sub-tribe community.

The customary Justice System

To regulate the order of social life among customary communities to maintain harmony, and to punish violations to local law committed by individuals or alliances, the *Dayak Bugau* sub-tribe has a customary justice system that has a tiered authority, which is very similar to the one of other Dayak sub-tribes (see above).

This customary justice system carries out its duties based on customary rules. In addition, the customary justice system does not only have a role as a judicial institution, but also has other roles, including regulating the management of the territory. Therefore, the adat judge is also seen as the head of the people who has many roles, both as the father of the people, as well as carrying out preventive and repressive guidance functions.

3.2.4.3 Iban Sebaruk

See the *Dayak Iban Sebaruk* sub-tribe in Malenggang Village, Sekayam Regency, Sanggau Regency.

3.2.5 Sanggau Regency

3.2.5.1 Dayak Tobag¹⁹

Dayak Tobag or better known as *Dayak Tebang* is a group of Dayak people who generally live in the Tayan Hilir and Toba sub-districts, Sanggau Regency. Its distribution area is also found in Ketapang Regency, known as the Sepode or Cempede people.

The language of the *Tobag Dayak* sub-tribe is *be'ope* (what), which shows features of the Melayik language. The distribution areas of the *Dayak Tobag* sub-tribe in West Kalimantan includes the following sub-districts:

- Tayan Hilir,
- Meliau,
- Teraju,
- Kecamatan Balai Berkuak,
- Batu Ampar.

Customary justice system

The hierarchical structure of the *Dayak Tobag* customary board (*domong adat*) is similar to other Dayak sub-tribes with slight differences in nomenclature as follows (from higher to lower-level authority):

- *Pati adat* (oversees several heads of tribe),
- *Temanggung adat* (head of tribe),
- *Jaya* (head of village),
- *Lawang Agong* (RW head level),
- *Pesirah* (at the level of the RT head).

The procedure for submitting cases to adat courts is through the domong (adat administrators) based on the authority of each administrator, starting from the lowest judicial level to the highest level. This process is similar to that of state courts. The litigant must also pay a fee equal to the level of authority of the customary judge. If the above- mentioned efforts do not result in a settlement, the disputing parties usually settle the dispute through an "oath in water" (swearing by diving into the water). Before the oath is taken, the disputing parties will be covered with a spell. Usually, the losing party will emerge first because the

¹⁹Sujarni Alloy, et al, *ibid*, pp. 317-318.

river where the submersion is conducted has already been enchanted beforehand so that it has magical meaning and supernatural powers.

3.2.5.2 *Dayak Iban Sebaruk*

The *Sebaruk* Dayak tribe or *Dedeh* Dayak tribe (Triana Wulandari, et al. 96, 2009) is a Dayak sub-tribe of the *Iban* family. The distribution of this Dayak sub-tribe is concentrated in several villages in Sekayam sub-district, Sanggau Regency. The language used is the *Iban* language. According to historical records, this Dayak sub-tribe spread within the area inhabited today and even to Sarawak, Malaysia or vice versa. This flow of refugees occurred due to Japanese colonization and the war between Britain and Japan, so that the Dayaks who lived in Kujang Mawang and Kujang Sain fled to the area now called Panga and settled there until now. After Indonesia's independence, Sarawak joined Malaysia, so the Dayaks who lived in the area in Sarawak were automatically included as part of the Sarawak population²⁰. The customary justice system of the Dayak *Iban Sebaruk* sub-tribe resembles that of other Dayak sub-tribes (see above).

3.2.5.3 *Jangkang Kopa*

The *Jangkang Kopa* sub-tribe is related to the Dayak *Jangkang*. The Dayak *Kopa* sub-tribe group inhabits the western part of the Balai Sebut sub-district. The population of this sub-tribe based on 2001 data amounted to 2,870 people. The customary justice system of the Dayak Iban Sebaruk sub-tribe resembles that of other Dayak sub-tribes (see above)

3.2.5.4 *Dayak Sum*

The Dayak *Sum* sub-tribe is a tribal group that lives in the eastern part of Bonti sub-district. The distribution is in the villages of Bantai, Monu, Sum Ntao', Bangau, Jamu, and Majel. According to the data, this sub-tribal group comprises 3,451 people. This sub-tribal group, according to stories from village elders, is a group that fled from the events that occurred in Tampun Juah Village, which is located upstream of the Sekayam River. Then they settled in one of the small rivers called Sungai Sum.

The language used by the Dayak Sum sub-tribe is almost similar to the Dayak *Daro* sub-tribe (see below), both in terms of sound and word order. This sub-tribal group uses a language that has the same vowel and consonant clusters, for example the pranasal consonant sounds [~kn], [~pm], [~tn] and [~gn]. The customary justice system of the Dayak Sum sub-tribe resembles that of other Dayak sub-tribes (see above)

3.2.5.5 *Dayak Daro*

The *Dayak Daro* sub-tribe is an ethnic group that lives in Bonti sub-district. The word '*daro*' means 'prone to visitation'. The meaning of the word has a connection to the history where this group was affected by a disease outbreak, so their village was "forbidden" to be visited.

The language they speak is *Daro*, which has unusual sounds like other Dayak sub-tribal languages in Sanggau Regency. The customary justice system of the Dayak Daro sub-tribe resembles that of other Dayak sub-tribes (see above)

3.2.6 Kubu Raya Regency

3.2.6.1 *Dayak Kanayatn*

While the exact origin of the *Dayak Kanayatn* tribe cannot be exactly defined, the term *Kanayatn*, if referring to the Sanskrit/Kawi dictionary, comes from the word kana + yani. Kana: there, *yana*: road, *yani*: river (Prawiroadmojo, 1981). The *Kanayatn* tribe inhabits the of the Selakau river, or north of the highway, or north of the Austronesian group's territory (see Simon; 2003).²¹

²⁰ "Dayak Tribe Guarding the State Patrol: in entikong.web.id".

²¹ <https://detikborneo.com/index.php/2021/07/19/mengenal-lebih-dekat-dayak-kanayatn/>

The language used by the Dayak *Kanayatn* sub-tribe is 'ahe' or 'nana' as well as damea/jare and other related languages, while it is sometimes difficult to differentiate between a dialect and another language, because there are also different sub-groups of the Dayak Kanayatn: (1) Ba'ahe logat Karimawatan Sakayu (Dayak Mampawah), (2) Ba'ahe logat Sangah (Dayak Bukit), (3) Bajare (Dayak Gado), (4) Banana', Banyadu' (Dayak Banyuke), (5) Balangin, Bampape (Dayak Landak), (6) Badamea/Badameo (Dayak Salako) and (7) Bakati (Dayak Rara and Dayak Bakati;) (see Atok;2008;8)²².

In his analysis, Atok explained that (1 and 2) can communicate well because 90% of their language vocabulary is relatively the same, although there are phonetic differences (the sound of the language). (1 and 3) can communicate by mixing their languages but understand what each other mean. (1,2, and 4) can mostly communicate well using both Baahe languages. (5 and 6) can communicate because they still have quite a lot of the same vocabulary and generally communicate fluently with the Badameo language. While (1,2,3,4,5,6, and 7) can communicate well using a mix of local languages (Baahe - Badameo –Bajare)²³. The customary justice system of the Dayak Kanayatn is also strictly hierarchical and different authorities are mandated to handle cases on different levels (e.g. within village, between villages, or tribe level).

3.2.7 Ketapang Regency

Dayak Tobag (see Dayak Tobag sub-tribe)

3.3 Land Use

Indigenous peoples, especially the Dayak people, see nature and land as a transcendental reality. They place nature and land as an inseparable part of life, even life itself. Therefore, land utilization must also be regulated wisely by placing and dividing use based on its multi-dimensional designation. The division and allocation of land by the Dayak people is generally based on ownership by individuals, families, and indigenous community associations. The types of land that exist in indigenous communities are as follows:

- vii.
 - i. **Mountain** areas are generally overgrown with various types of plants and trees, medicinal plants, and can also be a source of clean water. Therefore, mountains are not only seen from an economic perspective, but also from an ecological and socio-cultural perspective.
 - ii. **Sacred Places** or places that are considered sacred are related to the history and beliefs of the tribe and the mythological stories associated with the tribe. The sacred place may be related to a mountain, river, or another specific area. These areas are protected, meaning that it cannot be converted for any other purpose.
 - iii. **Tembawang** (orchards) is land dedicated to fruit crops that is owned by families or people who are related to a certain lineage or by individuals. Based on the pedigree, those who are related have the right to benefit from the *tembawang* for consumption and not for sale. These traditional agroforestry systems have an important cultural significance among Dayak people, which goes far beyond land use (see Error! Reference source not found.).
 - iv. **Fields** are divided into two types, namely wet land (*sawah*) and dry land (*ladang gilir balik*). Dry land is generally planted with rice, vegetables and medicinal plants that can be consumed by the family for daily needs. Meanwhile, wetlands (*sawah*) are only planted with rice or certain vegetables and are based on a rainfed system.

²²detikborneo. Op.Cit.

²³Ibid.

- v. The **village** area is used as a permanent residence by the local community. Therefore, it is linked to culture, history, and power, while also reflecting genuine democracy. Generally, village life is still very modest, and the community still has a strong attachment to tradition, close family relations, customs and customary law.
- vi. **Forest** areas are collectively owned areas. This area is utilized for the benefit of the community collectively, for example as a buffer forest area for the benefit of the surrounding community as well as a conservation area and an area that has an economic function, namely as a source of livelihood, hunting, gathering.
- vii. **Garden.** The term *kebun* (garden) is used by local communities to refer to land or areas that have been intensively managed and utilized for economic and ecological purposes. Most garden areas are individually owned by the community. Plantation areas include rubber plantations, orchards and other crops that have conservation and economic functions.
- viii. **Graveyard.** A cemetery is not only understood as an area to bury relatives or other people who have died but is also seen as a connection between the dead and the living. This is evidenced by the way they care for and pray for the deceased and protect the area together. In certain contexts, the cemetery is also seen as a sacred place because it is where ancestors, relatives or people who had an important role in the community are buried.

The importance of *tembawang* in Dayak Society and Culture

From an ecological aspect, the fruit trees planted are generally plants that grow for a long time, have strong roots to absorb water and prevent erosion. The character of the roots and strong trunks can be a buffer and absorb water so that around the *tembawang* the sources of groundwater and clean water tend to be abundant. It is almost never found around *tembawang* that the land is barren or arid. This indicates that the *tembawang* area has a high water content and minerals so that the soil is fertile. In addition, the leaves of fruit plants become natural fertilizer for the soil in the area around the *tembawang*.

From an economic aspect, fruits grown in *tembawang* areas are fruits that are favoured by the local community as well as abroad so that surpluses can also be sold outside the community. Especially *durian* and *langsats* fruits originating from the *tembawang* of the Dayak Tobag sub-tribe are sold to Malaysia. In terms of family income, *tembawang* products can improve the community's economic situation and can even help financing school fees. Although *tembawang* products are not the sole support of family income, they greatly contribute to the economy of the family and even the village concerned.

From a cultural point of view, *tembawang* owners are a collection of one family or several families who are from the same bloodline. Therefore, when the fruit harvest season arrives, all the clans will harvest their corresponding fruits together. If any of them are located far from the *tembawang*, they will be given a message to take the time to harvest the fruits. Togetherness in harvesting the fruits marks that as an extended family they still have strong ties, hence *tembawang* is also seen as a marker of family ties. This practice continues to this day, even though future generations will continue to change.

From the aspect of its usefulness, *tembawang* is a valuable asset that in certain circumstances can even be used as collateral for lending or can be sold by the owner. Generally, *tembawang* are privately owned, not belonging to an extended family so that it is still a unit of family property. In addition, *tembawang* also refers to a person's identity and social status in the community. People who own a lot of private *tembawang* are considered rich people because *tembawang* are currently quite expensive. *Tembawang* is very closely tied with Dayak people's identity. Therefore, there is a saying that asserts that *"Dayak people who do not have Tembawang are Dayak people who are still Dayak tribally but have lost their identity as members of the Dayak community"*. This proverb emphasizes that *tembawang* is a marker of ethnic identity attached to Dayak culture, so *tembawang* is synonymous with Dayak culture.

3.3.1 Tenure Arrangements of Indigenous Peoples in West Kalimantan

The basic agrarian law (UUPA; Law Number 5 of 1960) uses the term *hak ulayat* (customary law) to refer to land that is in the vicinity of the legal community concerned. This term is often used by local communities to refer to land rights, which is called *hak petuanan* (communal land rights) in public law. Van Vollenhoven, a Dutch law professor, used the term "beschikkingsrecht" in his publications, which describes the relationship between the community and its own land. The indigenous people in West Kalimantan often have a broader definition of *ulayat* rights as "sphere of power", while in several other regions in Indonesia the term *ulayat* rights does not refer to customary law, but to land ownership.

The different uses of these terms show pluralism in customary land law on the one hand, it shows that customary land law has many dimensions. Hak *ulayat* faces difficult and severe challenges in its recognition and protection.

The position of *hak ulayat* in Law No. 5/1960 on the Basic Agrarian Law is stipulated in Article 3, namely:

"Keeping in mind the provisions in Articles 1 and 2, the implementation of hak ulayat and similar rights of customary law communities, as long as according to reality they still exist, must be in such a way that it is in accordance with national and state interests, which are based on national unity, and must not conflict with laws and other higher regulations."

The existing regulation on customary rights shows that these are recognized by the state as long as the customary community still exist (according to the official identification process). Nevertheless, the implementation of this law and the recognition of customary rights must not conflict with the national interests as well as other laws and regulations of a higher level. In this case, the interests of an indigenous community must be subject to the higher and broader interests of the public, nation, and state. Therefore, the legal recognition and implementation of ulayat rights is still contested and legally on a weak basis. Furthermore, the position of customary law communities' ulayat rights is regulated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 stipulated in Article 1 paragraph (1), namely:

"Hak ulayat and similar rights of customary law communities (hereinafter referred to as hak ulayat), is the authority according to customary law possessed by certain customary law communities over a certain area which is the living environment of their citizens to take advantage of natural resources, including land, in the area, for their survival and life, arising from the physical and inner relationship that is hereditary and uninterrupted between the customary law community and the area concerned".

The realization of this regulation is to be used as a guideline in the regions for the management of land affairs, especially in relation to the issue of customary rights of indigenous peoples that obviously still exist in the regions concerned. This regulation contains policies that clarify the principle of recognition of customary rights and similar rights of customary law communities, as referred to in Article 3 of the Basic Agrarian Law. Therefore, the Minister of Agrarian Affairs Law No. 5 of 1999 regulates:

- Harmonization of perceptions regarding customary rights.
- Criteria and determination of the existence of customary rights and similar rights of indigenous peoples.
- The authority of customary law communities over their customary land.

Regarding the pattern of customary land tenure, in general, the land tenure system among indigenous peoples is divided into several patterns, including the following:

- a. **Land clearing system** by the local community, in the form of primary forest clearing is carried out jointly by the village community for the purpose of establishing a village, housing, and so on. This activity is carried out in cooperation with all villagers.

Purchase/sale. The pattern of control of land ownership by the community can also be carried out through customary land sales or real (cash) sales. Currently, these sales are conducted in writing and witnessed by traditional administrators to ensure legal certainty. However, these sales are often not registered in the governmental land office (under National Land Agency, abbreviated ATR / BPN).

An **exchange** of a piece of land that is carried out in a customary manner with witnesses to certify the validity of the agreement. The exchange process is carried out by interpreting the value of each other's land. If there is a difference in the value of the land to be exchanged, the owner of the land with the lower value will increase the payment in cash according to the agreed price.

Inheritance. Land ownership can also be achieved through inheritance and is carried out in a customary manner and known by the customary administrator.

Grant. This grant is in the form of giving inheritance to the inheritors by appointing someone or several inheritors. Usually, the appointment of these inheritors is from among the family, the aim is to avoid fighting over the inheritance.

All patterns of land tenure in indigenous communities are based on the provisions of customary law and customs by prioritizing the principle of communal interests over individual interests. This means that if there is an overlap or conflict of interests between communal interests and individual interests, then individual interests are put aside, because they will disrupt the entire life of the community. However, there is an inverse relationship between communal interests and individual interests. That means if communal interests strengthen, then individual interests tend to weaken. Conversely, if communal interests weaken, then individual interests tend to strengthen. And so on, depending on the development and social changes that occur in indigenous communities.

The concept of customary land is understood as land that is subject to the provisions of customary law. This customary land consists of three important categories in relation to its control:

- **Customary land that is communally controlled** by indigenous peoples. This land is controlled by the community together, guarded, maintained, and utilized for common interests, for example, customary forest areas which are areas for conservation because they are a source of clean water and customary forests. This category also includes sacred places which are the abode of the spirits of the ancestors of the Dayak tribe.
- **Customary land controlled by an extended family**, for example *tembawang* (orchards of various fruits). *Tembawang* has social, cultural, ecological, and economic functions. Initially, *tembawang* is owned by one small family, but over time this small family becomes a large family that inhabits a certain village because they have children.
- **Land that is controlled individually.** This land will later become the precursor of freehold land, in the form of dry land fields, rubber plantations, etc.

ix.

Consequently, there are two concepts of control and ownership of land rights in indigenous communities, namely communal and individual ownership. The first concept of ownership, communal ownership, is based on the understanding that indigenous peoples are seen as one big family, where family interests are the main interests and must be prioritized by each family member. Therefore, in the concept of communal ownership, the common interest must be prioritized and especially, if there are individual ownership interests, then individual interests must be put aside. Hence, individual rights are covered by communal rights and if there is a conflict of interest between communal and individual rights, then individual rights can be overridden. This is reasonable because if the interests of the extended family are disrupted, then life in the extended family will also be disrupted (disharmony). The second concept is individual ownership. Individuals in indigenous societies are seen as part of a larger group that can influence the life of the extended family but must not transcend or overcome the extended family and collective interests.

Sometimes there occurs confusion between communal rights and individual rights. There are two views in understanding this concept of rights, the first is the traditional concept, if communal interests encounter individual interests, then individual interests must be put aside. This is based on the concept that communal interests are the highest interests in order to maintain harmony (balance) in the extended family. This condition generally occurs in a genealogical community unit, one of the same descent (*sedatuk*). Second, there is the concept of transitional societies and territorial societies. In communities like this, if there is a clash of individual interests with communal interests, then communal interests tend to

weaken. This happens because they are no longer bound or feel bound in a family bond of the same descent.

According to Ter Haar²⁴ the relationship between individual interests and communal interests is reciprocal and has the same power. This means that the right of individuals to defend themselves against the rights of the community is as strong as the right of the community to defend themselves against individual rights. This fact can be formulated as follows: communal rights and individual rights are intertwined in an endless dynamic relationship. When customary rights strengthen, individual rights weaken, and vice versa, when individual rights strengthen, customary rights weaken.

The weakening of customary rights also applies to the customary rights of the Dayak community and the Malay community²⁵. This is influenced by two factors. *First*, the existence of communal rights has changed into individual rights. *Second*, the socio-cultural changes of the Dayak indigenous people due to modernization.

Communal rights themselves, in the Dayak indigenous community, have several levels, including the following:

- A small family consisting of a clan of *sedatuk* (same descent) families. Among the families there are still close blood relations, so that property rights in the form of land, heirlooms, *tembawang* (orchards), etc.; the collective ownership is still strong.
- Two or more clumps from the *sedatuk* family; In this family, collective ownership is still quite strong, but ownership is already controlled by several descendants; the first descendant has higher rights than the second or third descendant.
- Some clans still have family ties from the same descendants. In these families, collective ownership is not very strong, but it is still maintained to maintain the continuity of clan life and the continuity of family relations.

3.3.2 The Concept of Customary Administrative Territory in Dayak tribes

In the context of West Kalimantan, the customary territorial unit in the Dayak Kanayatn tribe is called *binua*, while different terms exist in different sub-tribes. *Binua* is an area consisting of several villages (formerly *Radakng/Bantang*). *Binua* is understood as an autonomous unit of customary government and customary law, where its authority covers residential villages that have many similarities in the history of origin, customs, customary law, institutions, and customary leadership. They also share a common language and natural resource management model. Each *binua* is led by the *Timanggong Binua* who is in charge of resolving customary affairs and other cases. In running his customary government, the *Timanggong* is assisted by other customary authorities of lower rank (hierarchically from lowest to highest: *pesirah*, *pangaraga*, *timanggong*) to protect the integrity and security of customary land from interference by the community and outsiders. These customary officials take precautions and impose customary sanctions to maintain and regulate the life of the customary community so that the community's future existence is assured.

The *Tarank Dayak* tribe calls this customary area the *Kampung*, the Bakati tribe calls it the *Banua*, the *Tobag Dayak* tribe calls it the *Benua*.

According to Simon Takdir²⁶, from the historical background of the civilization of the *Dayak Salako (Kanayatn)* people who live in groups spread out in search of management areas, the *binua* was passed on to them by the previous generations, so that it became an ancestral domain whose ownership is collective. At some point, each of these groups split into smaller groups that later became villages. Through these developments, these villages were formed

²⁴ Ter Haar, in Salfius Seko, paper "Customary Law", unpublished, 2019, p. 51. 51.

²⁵ Ter Haar, in Salfius Seko, paper "Customary Law", unpublished, 2019, p. 51.

²⁶ Simon Destiny, (2016) <http://ipdkr.blogspot.com/2016/10/mengenal-suku-dayak-salako.html>

based on geographical-ecological and genealogical similarities and are united in one organization called *Binua*²⁷.

While the formation of the *Binua* according to Kristianus Atok et al, begins with the opening of the forest by the ancestors, namely the first person and his family who opened the forest to grow crops and establish a temporary residence (*parokng*)²⁸. The first settlers managed to live safely and prosperously using the available land. This was due to the large areas of land they managed and the low population. Yet, with the arrival of new families who wanted to settle in the same area, the population of this temporary residence grew. Over time and with continued population growth, the *parokng* turned into villages. To maintain balance and harmony in the community, they organized their lives with rules that reflected their life experiences until these rules became laws and to guard the law, they formed a government with all its requirements.

Kristianus Atok further identifies various socio-cultural-political elements that can be seen from the binua government system in the past, including:

- i. the source of people's livelihoods is land that is utilized with an agricultural or plantation system.
- ii. agricultural technology is basic, and plantations are generally uncommon. The family's power to produce was limited to subsistence agriculture.
- iii. the system of life and social relations within the community was developed for social subsistence (to cover the own social needs) by using the power of one's own life experience. This development creates adat which in some cases was turned into customary law and becomes the basis of the local government system.
- iv. because of the physical and cultural isolation experienced over a long period, the social system of the community is more strongly collective than individualistic. Thus, the definition of binua is a collection of people living scattered in several settlements who recognize the same history of origin, customs and customary laws, leaders and natural resource management systems.

In the Tobag Dayak tribe customary territory is understood as a living space, whose governance is based on customary law, customs, led by a chief, has autonomy, consists of villages that are close to each other because of their emotional, familial, and historical ties. In running the customary government several customary authorities are involved through a hierarchical system with respective responsibilities according to their rank.

²⁷ Yohanes Supriyadi <http://yohanessupriyadi.blogspot.com/2008/04/binua-yang-tergerus-zaman-3-visi.html>

²⁸ Yohanessuriyadi.blogspot.com, Ibid.

[illegible]

Regency	No. of villages
Kapuas Hulu	77
Sintang	68
Sanggau	21
Ketapang	19
Kubu Raya	15
TOTAL	200

The management of natural resources in indigenous communities stems from a religious-magical perspective, which is expressed in mythical stories about how they started farming or managing land/forest. Therefore, indigenous knowledge, procedures, and rituals in relation to the management of natural resources related to land, forests, including determining the management areas that will be allocated for various purposes, originate from and are based on these mythical stories.

This deliberation process is carried out by village elders, to designate different management areas. However, before determining the management area, the community first holds a traditional ceremony to find out whether the land/forest is suitable for certain uses, for example as sacred forests, customary forests, agriculture, settlements, etc. Whether or not

a particular area is suitable for indigenous community management is revealed in dreams or through natural signs. These signs can only be revealed (read) by elders or people who have expertise in customary issues. If the dream is a good sign, then the location designated for a particular purpose will be determined by the customary chief. Conversely, if the dream has a bad sign, then another location/land will be found for that particular purpose. Thus, the entire process of determining community-managed areas is determined based on customary provisions and local customs and wisdom that apply in the area.

Governance based on this designation uses a spatial system that is based on the function, purpose as well as the religious-magical, ecological, economic, socio-cultural, and political dimensions of the land or forest in question. This concept of space is placed on the allocation of a certain area for an activity and as a living space (humans and other creatures). This means that the concept of spatial governance in local communities is both profane and transcendent, emphasizing balance and sustainability. This spatial governance perspective sees the unity of different areas as an inseparable unit between humans, living things and the surrounding nature.

Consequently, the pattern of land governance is not based on geo-political control. Land and new areas become common or individual property if there is strong evidence of ownership such as a history of maintenance or planting by a specific party. In addition, land governance is always seen in an integral system that seeks harmony between nature and humans. Land management is always related to the concept of "space" by dividing the area into several zones related to spatial-cultural principles. Thus, the concept of spatial planning in indigenous communities emphasizes the principle of justice, which is not only based on socio-spatial (territorial) justice, but also considers environmental and ecological justice.

Indigenous community-based natural resource management is also regulated in various laws and regulations, including:

a. Law Number 5 of 1960 concerning Agrarian Law (UUPA)

This law generally provides a legal basis that can be used to grant management rights over forest resources to indigenous peoples. For example, this can be seen in the provisions of Article 2 paragraph 4 (UUPA) which states:

"The right of control of the State mentioned above may be delegated to the Swatantra (=autonomous or self-governed) regions and customary law communities, as necessary and not contrary to the national interest, according to the provisions of a Government Regulation."

This provision stipulates that the state's right of control (over the land) may be delegated to autonomous regions and customary law communities. Thus, the right of indigenous peoples to manage forest resources is a right that according to national law originates from the delegation of the authority of the state to the indigenous peoples concerned. Although indigenous peoples are positioned as a subordinate actor of the state, the statement in Article 2 paragraph 4 proves that the existence of indigenous peoples cannot be denied.

b. Law No. 5 of 1994 on the Ratification of the *United Nations Convention on Biological Diversity*

In Article 8 regarding conservation in letter j) it says:

" (...) respect, protect and maintain the knowledge, innovations and practices of indigenous peoples and local communities that reflect traditional lifestyles, in accordance with the conservation and sustainable use of biodiversity and promote their wider application with the consent and involvement of the owners of such knowledge, innovations and practices and

encourage equitable sharing of benefits resulting from the utilization of such knowledge, innovations and practices."

Furthermore, Article 15 point 4 states that access to biological resources, if granted, must be on the basis of mutual consent (especially of the owners of the resources).

c. TAP MPR No. IX of 2001 on Agrarian Reform and Natural Resource Management

This MPR TAP (Decree of the People's Consultative Assembly) instructs the Government to review various laws and regulations related to natural resources, resolve agrarian and natural resource conflicts, and recognize, respect and protect the rights of indigenous peoples and the nation's cultural diversity over agrarian/natural resources.

d. Law No. 7 Year 2004 on Water Resources.

This law includes recognition of indigenous peoples' customary rights. Article 6 paragraph (2) of the Water Resources Law essentially stipulates that control of water resources is organized by the government and/or regional governments while recognizing the *ulayat* rights of customary law communities and rights similar to customary rights, as long as they do not conflict with national interests and laws or other higher regulations. In the explanatory note, it is stated that what is meant by "*rights similar to customary rights*" are region-specific rights previously recognized that have the same meaning as customary rights, for example: *tanah wilayah pertuanan* in Ambon; *panyam peto* or *pewatasan* in Kalimantan; *wewengkon* in Java, *prabumian* and *payar* in Bali; *totabuan* in Bolaang-Mangondouw, *torluk* in Angkola, *limpo* in South Sulawesi, *murū* in Buru Island, *paer* in Lombok, and *panjaean* in Tanah Batak.

e. Law No. 27 Year 2007 on the Management of Coastal Areas and Small Islands

This law also formulates the government's responsibility to recognize, respect and protect the rights of indigenous peoples, traditional communities and local wisdom in coastal areas and small islands that have been practiced for generations. Although this law is considered more advanced, it is still missing implementing regulations related to the state's responsibility towards indigenous peoples.

f. Law No. 32 of 2009 on Environmental Protection and Management

This law provides for the division of government authority in environmental protection and management in relation to the existence, rights, and local wisdom of indigenous peoples. In Article 63 paragraph (1), paragraph (2) and paragraph (3), the division of duties and authority is described as follows:

- i. The government establishes policies regarding the procedures for recognizing the existence of indigenous peoples, local wisdom, and the rights of indigenous peoples related to environmental protection and management.
- ii. The Provincial Government establishes policies regarding the procedures for recognizing the existence of indigenous peoples, local wisdom, and the rights of indigenous peoples related to environmental protection and management at the provincial level.
- iii. Regency / City Government, implement policies regarding procedures for recognizing the existence of indigenous peoples, local wisdom, and the rights of indigenous peoples related to environmental protection and management at the regency / city level.

3.3.4 Ecological Dimension of Dayak and Malay Indigenous Peoples' Cultivation

The economic life of the Dayak people is based on the practice of dry land farming or rotational cultivation. The economic development is based on the farming system and intends to meet their daily needs. Hence, the farming pattern developed is annual (once a year) and the crops planted are also only related to their daily needs such as vegetables and medicinal plants, with the main crop being rice. Rice as the main crop of the agricultural sector is the main support of the Dayak people's economic life so they are naturally trained to store rice as savings to meet their basic needs throughout the year. This is important considering that in life they will face difficult times, such as crop pest attacks, adverse weather events and other causes. Therefore, the most important factors in the agricultural management of this rotating farming system are related to the search for fertile lands, **local wisdom** related to plant maintenance, such as holding ceremonies to avoid plant pest attacks, thanksgiving ceremonies after harvest. In addition to these staple crops, medicinal plants also have an important meaning for them when they need them for treatment or related to healing ceremonies.

In the management of this rotational farming system, land cultivation is carried out traditionally, namely via slash and burn agriculture. Land burning is intended to reduce soil acidity and the residue of burning as well as a natural fertilizer for plants. To maintain soil fertility, the land that has been cultivated is given a pause (fallow period) so that the soil humus can return to its original state. For this reason, they must look for new land that is more fertile. Dayak people maintain the sustainability of the forest for generations by planting fruits that can be enjoyed from generation to generation from the former cultivation land, which can later become *temabawang* (a diverse fruit garden).

3.3.5 Forest Utilization by Indigenous Peoples

The relationship between Dayak people and the forest is a reality of life in an intermittent relationship in the unity between living things and nature. Nature (land), humans and other lifeforms are a unity that has a very close relationship. This is based on a philosophy of totality that explains that nature, humans, and other living things depend on and influence each other. If nature is damaged, the balance and unity between the supernatural and the real will be disrupted. Ter Haar²⁹ says that the disturbance of the balance must be restored immediately so as not to cause turmoil. The restoration must be a customary reaction. The forest that has a spirit, is a mythical reality that is understood in the context of *religio magis*, seen as an effort that is not only understood how humans must maintain their ecological sustainability, but also how humans create a harmonious relationship with the forest guardian gods (forest guardian spirits) who provide fertility, success in harvesting and welfare for humans.

In a cultural dimension, Dayak people maintain the sustainability of the forest by planting fruits that can be enjoyed from generation to generation. It is understood as an effort to maintain the continuity of family life (sedatuk kinship) that exists from one generation to the next, so that communal life between clans continues uninterrupted. Maintaining the community within the clan is an effort that must be prioritized, above individual interests. It is this cultural wisdom in looking at nature and treating nature that determines the sustainability and integrity of the forest and surrounding nature. The destruction of nature lies in how humans behave towards the surrounding nature, if greed controls humans, then the sustainability of nature will not be able to survive. Conversely, if humans treat nature more wisely, then nature will provide benefits and prosperity for humans. The cultural reality formed in Dayak people regarding how they should be wise in managing nature is a life experience that they did not learn in formal school but is an experience of their life in and within the surrounding nature. In conclusion, the utilization of forest resources not only represents the basis for their livelihoods, but also for their cultural and spiritual life.

²⁹ Ter Haar, "Asas-Asas dan Susunan Hukum Adat"

3.3.6 Indigenous Agricultural Practices in West Kalimantan

Farming or *berhuma* is one of the livelihood systems of the Dayak people in West Kalimantan. Based on its type, the farming system in the Dayak community in West Kalimantan is divided into two types, namely *Paya* farming (rain-fed rice fields) and *Munggu* (dry land fields). Both types of farming systems are generally practiced in rotation. The definition of rotation here refers more to the daily practice in the life of the Dayak community, meaning that a certain land is worked again (in rotation) within a certain period fallow period) with the intention of restoring soil fertility and environmental sustainability functions. This system has been practiced for more than a thousand years in the mountains of Southeast Asia³⁰, including by the Dayak people in West Kalimantan.

Farming in the Dayak community is not only understood as a routine to support economic life, but also as part of a culture that is the local wisdom of the Dayak people that has been going on for thousands of years. By C. Kluckhohn this is referred to as a *universal* cultural element (*universal categories of culture*), namely as a system of livelihood³¹. This form of local wisdom emphasizes more on ecological functions (aspects of environmental sustainability) in relation to the sustainability of the lives of the Dayak people themselves, between the past, present and future are seen as intertwined like an unbroken chain (*sustainable*). Present life is determined by past life, and the future is determined by the present. Thus, the most important thing is how the existing links in each phase of life are unbroken and not damaged, because damage will cause destruction in the next generation. The rotating cultivation system must be seen in a mutually supportive sequence, considering the wisdom and balance of environmental management in a wise way. This reality is not only understood as an effort to enjoy the results alone (economic in nature), but also seen as an effort to maintain the continuity of life that exists from generation to generation, so that communal life (clan) continues uninterrupted.

Maintaining the community within the clan is an effort that must be prioritized over individual (e.g. economic) interests. It is this cultural wisdom that determines the sustainability and integrity of the forest and surrounding nature. The destruction of nature lies in how humans behave towards the surrounding nature, if greed controls humans, then the continuity of nature will not be able to survive. Conversely, if humans treat nature more wisely, then nature will provide benefits and prosperity for humans. The cultural reality formed in Dayak people regarding how they must be wise in managing nature (read: farming) is a life experience that they did not learn in formal school but from their life experience in the surrounding nature. This experience has been taught them from generation to generation in maintaining and organizing the surrounding nature because they are part of nature itself, nature is their own life and nature is their own world. Therefore, before taking something from nature, Dayak people must give something first, such as clearing new land, working on the forest for cultivation, they must fulfil certain conditions³².

Generally, the farming system practiced by the Dayak people is carried out traditionally, without the use of modern technology, for example in terms of processing, land utilization, post-harvest systems, and so on. Therefore, this kind of farming practice does not only pursue economic results, but rather focuses on the concepts of sustainability, welfare, and harmony. This agricultural approach is certainly different from modern agricultural practices that emphasize the amount of production and productivity. Because the concept of cultivation in Dayak society emphasizes the concept of the universe (holistic), between results, balance and well-being in a balanced sense that is profane (secular) and transcendental (divine). Therefore, the utilization of technology is more based on knowledge that is practiced from generation to generation (traditional), for example knowledge in land

³⁰ Spencer and Fox in Atem Kornad "Shifting Fields" A reflection of Dayak solidarity, 2016.

³¹ C. Kluckhohn in Vanya Karunia Mulia Putri, Elements of Universal Culture According to Kluckhohn, 2022.

³² Mubyarto in Paulus Florus, et al (editors), Dayak Culture: Actualization and Transformation, Pontianak: Institute of Dayakology, 2005, pp. 60-63.

cultivation systems, land burning, eradication of plant pests and diseases as well as harvest and post-harvest.

3.4 Dispute Resolution

3.4.1 Tenure conflicts and the Role of the Government

Tenurial problems in Indonesia, especially those related to plantation, forestry, and mining conflicts, with indigenous communities have several layers of complex problems ³³, including:

- Absence of land rights and guarantees: Tenurial conflicts arise due to the lack of guarantees regarding the recognition of people's land rights, which especially affects vulnerable communities. In addition, permits to utilize natural resources extraction are often given to companies without considering the formal and informal rights of local communities and the issuance of plantation permits often involves corruption.
- Inconsistencies in laws and regulations or conflicts between regulations cause disharmony in the recognition of people's rights.
- Certification and recognition of land rights have not been carried out formally and widely, so that indigenous peoples often lose their rights. The issue of land certification is at the heart of tenure conflicts because it is proof of recognition of the rights of indigenous and/or local communities to land.
- Frequent overlaps between state forest areas and customary law community claims (often unformalized) over customary territories.

To eliminate tenure conflicts (including tenure conflicts with customary law communities) in Indonesia, apart from issuing Minister of Home Affairs Regulation no. 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples, the Government has developed several activities over the past few years, including:

- Issuance of Presidential Regulation (PERPRES) Number 23 of 2021 concerning Amendments to Presidential Regulation Number 9 of 2016 concerning the Acceleration of Implementation of the One Map Policy at a Map Accuracy Level of 1:50,000 Scale. Through this regulation, it is hoped that there will be one agreed reference map between sectors so that overlapping of different sectoral maps will be minimized.
- Issuance of Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021, which states that the Acceleration of Completion of Forest Area Delimitation is part of the National Strategic Program in the Economic Equalization Program group. Through this process it is hoped that a clear and clean map of state forest areas will be created, so that other sectors and the public can transparently access and understand the boundaries of the state forest area.
- Issuance of Minister of Home Affairs Regulation 45 of 2016 concerning Guidelines for Determining and Confirming Village Boundaries, which aims to speed up the process of mapping village boundaries. Village boundaries are government administrative boundaries between villages, which are a series of coordinate points (poligons) located on the surface of the earth, which can be in the form of natural features such as ridges/mountains (watersheds), rivers and/or artificial elements. Determination and confirmation of village boundaries does not erase land rights, customary rights, and other rights that already exist in the community.

In addition to efforts to prevent and minimize conflict, the Government also issues regulations and policies to resolve existing conflicts, including:

³³ Mas Achmad Santosa, *Alam pun Butuh Hukum & Keadilan*, Penerbit As@-Prima Pustaka, Jakarta 2016, page 284-285.

- Issuance of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning Handling and Settlement of Land Cases. This regulation states that:

"In certain cases, disputes or conflicts can be resolved through traditional institutions based on local wisdom in the area where the object of the dispute or conflict is located. Decisions resulting from dispute or conflict resolution through customary institutions are formalized in the form of authentic deeds and/or registered in court."

- Issuance of Minister of Environment and Forestry Regulation No. P.84/Menlhk-Setjen/2015 concerning the Handling of Tenurial Conflicts in Forest Areas. In this regulation, customary law communities are recognized for their existence as legal subjects who can submit requests for handling forest area tenure conflicts to the MoEF. Apart from that, the Minister of Environment and Forestry Regulation No. P.18 of 2021 concerning the Organization and Work Procedures of the MoEF, established the Directorate for Handling Tenurial and Customary Forest Conflicts. The existence of this directorate is an important step because previously there was often a lack of clarity regarding the work unit responsible for handling forest area tenure conflicts.
- In the plantation sector, in 2020 the Directorate General of Plantations (Ministry of Agriculture) has published Technical Guidelines for Handling Plantation Business Disturbances and Conflicts. In these guidelines, at the provincial or regency level, a cross sectoral team for handling cases of plantation business disturbances and conflicts is formed. The formation of this team is important because many cases of conflict have been found in the field, including land disputes where many companies use customary law community land without permission.

In the past, GIZ has also made efforts to solve land conflicts in West Kalimantan. In Kapuas Hulu Regency, between 2015-2020 GIZ FORCLIME and the GIZ Global Support Initiative Forest Governance (FGP; 2011-2018) in collaboration with the Tenure Working Group (NGO forum in Bogor) facilitated the establishment of a Conflict Resolution Desk (DRK). The DRK is a multi-stakeholder institution (elements of government, traditional institutions, the private sector, civil society organizations) at the regency level, which has the task of facilitating the resolution of tenure conflicts, including conflicts between companies and communities, boundary disputes between villages, and conflicts in concession areas between companies. This DRK was formed to clarify which institutions are mandated to facilitate conflict resolution at the regency level. To date, the handling of tenure conflicts has often been unclear as to who the main perpetrators are, and the administrative process often involves lengthy bureaucratic procedures that are difficult for indigenous peoples living in remote villages to comply with. Since its inception, the DRK has succeeded in facilitating several tenure conflicts at the local level.

3.4.2 Land Dispute Resolution Model within Indigenous Peoples in West Kalimantan

The mechanisms for resolving land disputes among indigenous communities in West Kalimantan comprise:

- Litigation model (through the customary justice system); and
- Non-litigation model (outside the customary justice system)

The non-litigation model is the model that is prioritized in every problem solving. The principle of resolution is deliberation and consensus. This is related to the understanding that the community and individuals are one big family and as one big family must live in harmony and peace so that the balance of the community as a social unit is maintained. Meanwhile, the litigation model is the last resort (*ultimum remedium*) if the consensus is not reached. If conflicts occur with stakeholders outside the customary community, the conflicting parties will usually also turn to traditional institutions to resolve the matter.

In terms of settlement through the litigation model, not all customary civil cases can be appealed, the exception is customary criminal cases where the community's sense of justice is neglected. This is very reasonable because civil cases are not directly related to the interests of the community (customary law society), while criminal cases are directly related to the interests of the community (customary law society). This principle is in line with aspects of individual interests that are never distinguished from community interests. This is a basic teaching found only in customary law. But this does not mean that customary law does not recognize the existence of individual rights, which are widely given a place in the modern legal tradition. But the concept of individual rights is only recognized as long as it does not violate the community's interests. The individual cannot be separated from his community because the duties of the individual are always considered in relation to his involvement in the community. So, the individual and the community rights are two sides of the same coin that cannot be separated.

The communal way of life as found in adat is reflected in the basic teachings about individual life in the community which is very similar to family life where a distinction is rarely made between personal affairs and communal interests. In legal matters it is often found that decisions regarding business transactions are influenced by considerations of communal solidarity. Since individuals are essentially part of the wider community, harmony between the individual and the community or between one group and another is a key issue in maintaining the legal values that exist within the community.

In the event of legal decisions by customary judges, to what extent do these decisions have a binding force? According to Ter Haar ³⁴, customary law that applies in customary society can become binding, if it has been determined by the customary head. This means that the rule of law can only be binding, if there has been a decision or stipulation by the customary head, otherwise if there is no stipulation of the customary head, the rule is not binding because it is not a law, only a customary behaviour.

Land has a very important meaning for the Dayak people, not only as a place to live for a certain ethnic group or a place to earn a living, but more than that, land is part of the life of the Dayak people themselves, both socially, mythologically, and economically. Considering the importance of this land, to maintain the existence and true ownership of the Dayak sub-tribe, land boundaries were created to avoid disputes and at the same time show ownership of the land. The boundaries used to mark land boundaries are concrete boundaries such as rivers, fruit trees, tembawang traditional garden, bamboo, etc. Even though efforts to draw boundaries have been made, tenure conflicts, both internal and external, continue to emerge due to population growth, increasing economic value of land and investment from outside parties. To resolve this conflict, indigenous peoples generally use a settlement model based on local wisdom as follows:

- i. **Deliberation and consensus.** Deliberation and consensus is the resolution of cases through dialogue that prioritizes family aspects. This is based on harmonization and communal morality as a philosophy in building life together.
- ii. **Settlement at the board level.** If the issues attempted through deliberation and consensus do not result in the best solution for the disputing parties, then the issue will be brought to the village management level. The pattern of settlement at this level is more characterized by peaceful efforts (finding win-win solutions) offered to the disputing parties, the village administrator at this level is not a party to decide the case but acts as a mediator.
- iii. **Settlement at customary court level.** The settlement pattern at this level follows the absence of an agreement to resolve the dispute amicably, meaning that the case will be elevated to the customary court level. The *adat* court as the court that will hear the case is presided over by a village judge who functions as a jury and must be neutral. The judge decides the case and announces the

³⁴ Ter Haar, in Salfius Seko, paper "Customary Law", unpublished, 2019, p. 51.

verdict based on the arguments put forward by the parties and the testimony of witnesses related to the land dispute.

iv.

In the litigation process, there are several stages of procedures that must be passed in resolving land disputes or other disputes. These stages include the following:

- i. **Investigation stage.** At this stage, the *adat* judge will investigate the truth of the incident in question through direct investigation or through testimony from people who have knowledge of the incident.
- ii. **Examination of evidence.** The evidence in question is evidence that becomes a case or evidence related to an event or incident.
- iii. **History/story of the incident/case.** At this stage the parties tell the subject matter of the case that occurred. Thus, the customary judge can decide based on the conclusion of the story told by the parties to the dispute. In this case, the customary judge bases the decision on "jurisprudence" so that the decision made later does not deviate from previous decisions and guarantees justice.
- iv. **Determining the time/day of the case.** The customary judge determines the time/day of the case by first informing and asking the parties about the day that has been set.
- v. **Announcement/notification to the public.** This public announcement is intended as an invitation to the community that there will be a customary case in the village. This emphasizes the communal aspect, both the activities and the consequences of the litigation.
- vi. **Customary oath.** If the disputing parties do not find the best solution to the land dispute, there is sometimes a less common last resort, which is the "*adat oath*". This method is almost never used anymore, due to the magical consequences that can cause disasters for individuals and their families for up to seven generations. The traditional oath itself is taken in a sacred place, such as an old graveyard, a mountain, and so on. Usually before the oath is taken, the *pomang* (incantation/prayer reader) will read incantations by calling the spirits that reside in the mountain, sacred place to mark or ask that in the future there will be no consequences that can cause imbalance in the village community.

3.4.3 The Role of the People's Chief (Customary Court) in Tenure Dispute Resolution

The role and significance of the chief's assistance is to perform legal acts in various fields of community life, such as in marriage, buying and selling and so on. The purpose of the chief's involvement in dispute resolution is that the process is clear and does not violate customary law. On the other hand, if the involved actors refuse the requested assistance, then the legal act to be performed is generally considered an act that violates customary law. If an act is forced, it is done without the assistance of the chief so that the act is considered a "peteng" act (dark act), and therefore the act cannot be protected by law against third parties.

If there is a dispute in the community, which affects customary law, the chief acts to restore the rule of customary law, to restore balance and peace in the community. In the event of a dispute in the community, the first attempt to reconcile the two parties is through *adat* peace building conducted by the customary chief/head of the people.

Consequently, the chief has a central role in dispute resolution by taking concrete actions to prevent violations of the law, and to restore the rule of law in case of unlawful actions.

3.5 Food security and quality of food consumption

Based on the results of the analysis of the West Kalimantan Food Security and Vulnerability Map (FSVA) 2021 on a composite basis, it shows that there are still 33 sub-districts (18.97 percent) out of 174 sub-districts and 599 villages (29.49 percent) out of 2,031 villages that are in priorities 1-3 or categorized as very vulnerable - vulnerable - somewhat vulnerable. Based on the 2020 Village Development Index (IDM), priority 1-3 FSVA villages are distributed in 169 underdeveloped villages, 304 developing villages, 93 developed villages and 33 independent villages.

The results of the 2022 Food Security Index calculation³⁵ (IKP score) based on 9 indicators reflect aspects of food availability, food affordability, and food utilization that provide a ranking of the achievement of regional food security (regencies and cities) compared to other regions (see **Error! Reference source not found.**).

Table 3: Regency/City Food Security Index Score of West Kalimantan Province.

No.	Regency / City	IKP Score
1	Bengkayang	81,00
2	Landak	77,07
3	Kayong Utara	75,05
4	Mempawah	74,61
5	Ketapang	74,41
6	Sanggau	73,63
7	Sekadau	72,95
8	Kapuas Hulu	70,90
9	Pontianak	70,31
10	Sambas	69,84
11	Kubu Raya	69,28
12	Sintang	67,25
13	Melawi	59,04
14	Singkawang	57,97

Source: National Food Agency (Badan Pangan Nasional), 2022

Based on the regency / city food security index score in the table above, there are 3 regencies / cities that are considered “*very food resilient*”, namely Landak Regency and Bengkayang Regency, which are areas that have the best food security. There are 8 regencies with “*good food security*”, namely Sanggau Regency, Sambas Regency, Kubu Raya Regency, Mempawah Regency, North Kayong Regency, Kapuas Hulu Regency, Ketapang Regency, Pontianak City, and Sekadau Regency. There is only 1 regency that is considered “*moderately food secure*”, namely Sintang Regency. The least food secure regency (vulnerable) is Melawi Regency. **Meanwhile, Pontianak City is categorized as “*food secure*”, and Singkawang City is categorized as “*moderately food secure*”.**

³⁵<https://badanpangan.go.id/storage/app/media/2023/Buku%20Digital/Buku%20Indeks%20Ketahanan%20Pangan%202022%20Signed.pdf>

The *Expected Food Pattern Score* (PPH score) is an indicator of the quality of food consumption which is influenced by the diversity and balance of consumption between food groups (see Error! Reference source not found.). The diversity of food consumption at the household level determines the quality of consumption at the regional, regency/city, provincial and national levels. The quality of food consumption at the regional (macro) level is reflected by the expected food pattern score.

Table 4: Regency/City Expected Food Pattern Score of West Kalimantan Province.

Rating	Regency/City	PPH Score
1	Kayong Utara	91.97
2	Kubu Raya	89.42
3	Sambas	87.45
4	Mempawah	85.74
5	Pontianak	85.46
6	Singkawang	83.51
7	Bengkayang	82.96
8	Melawi	82.32
9	Sekadau	80.73
10	Ketapang	79.64
11	Landak	79.61
12	Sintang	79.51
13	Sanggau	78.38
14	Kapuas Hulu	73.26

Source: National Food Agency (Badan Pangan Nasional), 2022

Based on the regency/city *Expected Food Pattern Score* in the table above, North Kayong Regency has the best food consumption quality with a score of 91.97, while the other regencies/cities still show deficiencies in food consumption quality. There are 8 regencies/cities with slight deficiencies, namely Sambas Regency, Singkawang City, Melawi Regency, Pontianak City, Sekadau Regency, Bengkayang Regency, Landak Regency, and Kubu Raya Regency. Meanwhile several regencies show moderate levels of food consumption deficits, like Mempawah Regency, Ketapang Regency, Sanggau Regency, Sintang Regency, and Kapuas Hulu Regency.

3.6 Development, Poverty and Education in the Project Area

To monitor the development in villages and of disadvantaged regions, the Government through the Ministry of Villages issued the Ministerial Regulation Number 2 of 2016 concerning the Village Development Index (IDM). In this regulation, there are three indices used to assess the development of a village, namely the Social Resilience Index, Economic Resilience Index and Environmental (Ecological) Resilience Index.

The Social Resilience Index includes parameters on health, education, and social capital and housing. The Economic Resilience Index includes diversity of types of business activities, marketing infrastructure, access to financial institutions, access to markets, and economic institutions in the villages. The Environmental Resilience Index (Ecology) covers aspects of environmental quality and disaster resilience.

From the results of these three indices, village development is grouped into five categories, namely:

- b. **Independent Village (Desa Mandiri)** is an advanced village which has the ability to carry out Village development for improving the quality of life and maximum prosperity Village communities with social resilience, economic resilience, and sustainable ecological resilience.
- c. **Developed village (Desa Maju)** is a village that has potential in social, economic, and ecological resources, as well as the ability to manage them to improve the welfare of the village community, the quality of human life, and overcome poverty.
- d. **Developing Village (Desa Berkembang)** is a village which has potential social, economic, and ecological resources but has not yet managed them optimally to improve the welfare of the village community, the quality of human life and overcome poverty.
- e. **Underdeveloped Village (Desa Tertinggal)** is a Village that has potential social, economic and ecological resources but has not managed them enough or at all, in an effort to improve the welfare of the Village community, the quality of human life and experience poverty in its various forms.
- f. **Very Underdeveloped Village (Desa Sangat Tertinggal)** is a Village that experiences vulnerability to natural disasters, economic shocks, and social conflicts so that they are unable to manage potential social, economic and ecological resources, and experiences poverty in various forms.

The villages covered by this project's target area are grouped in Error! Reference source not found. according to the classification described above.

Table 5: Development status of villages in GCF project area.

Regency	No. of villages per status						HDI year 2023 ³⁶
	Independen (Mandiri)	Developed (Maju)	Developing (Berkembang)	Under-Developed (Tertinggal)	Very Under-developed (sangat tertinggal)	TOTAL	
Kapuas Hulu	40	57	154	27	-	278	67.67
Sintang	44	68	206	72	-	390	68.67
Sanggau	42	41	58	22	-	163	67.77
Ketapang	42	43	142	26	-	253	68.68
Kubu Raya	42	39	31	5	-	117	69.60
Indonesia							74.39

Source: Data processed from the 2021 West Kalimantan Province Development Village Index Data³⁷

Based on the categorization in the table above, the number of disadvantaged villages in the five target regencies reaches 152. This is a challenge for the project, but also justifies the intervention and the use of non-reimbursable grants from GCF proceeds. The relative underdevelopment of the target regencies is also explained by the Human Development Index (HDI), which comprises parameters on health, education, and per capita income. As

³⁶ <https://kalbar.bps.go.id/indicator/26/30/1/ipm-menurut-kabupaten-kota.html>

³⁷ https://data.kalbarprov.go.id/dataset?q=statuss+desa+berdasarkan+indeks+desa+membangun&sort=score+desc%2C+metadata_modified+desc

depicted in Error! Reference source not found. above, the HDI of all target regencies is clearly below the national average of 74.39.

To measure poverty, the Central Bureau of Statistics (Badan Pusat Statistik - BPS) uses the concept of the ability to meet basic needs (basic needs approach). With this approach, poverty is seen as the economic inability to meet the basic needs in terms of food consumption and other basic needs. Hence, the poor are people who have an average monthly per capita expenditure below the poverty line. The poverty line is the sum of the minimum value of spending on food needs and non-food needs like housing, education, and clothing.

Of the five target regencies, three of them have poverty rates above the average poverty rate of West Kalimantan province (6.71%). These regencies are Ketapang Regency, Sintang Regency, and Kapuas Hulu Regency (see Error! Reference source not found.).

Table 6: Poverty rate of target regencies as compared to the province and national average.

Regency	Percentage of poor people	Number of poor people
Sanggau	4.79 %	23,340
Ketapang	9.25 %	49,950
Sintang	8.18 %	35,490
Kapuas Hulu	8.16 %	22,590
Kubu Raya	4.23 %	25,330
Kalimantan Barat	6.71 %	353,350

Source: <https://kalbar.bps.go.id/indicator/23/40/1/kemiskinan-menurut-kab-kota.html>

At the provincial level, of the 353,350 poor people in total, around 75% live in rural areas³⁸. The high poverty rate in rural areas is partly due to unequal development between urban and rural areas. Many rural areas have limited infrastructure and supporting facilities, accessibility, and competent human resources for public service delivery.

The education data available is only on regency level and no education data is obtained for each tribe or sub-tribe. From the Error! Reference source not found. below it can be concluded that in terms of the education level of the population in the target regency, the majority of the population only has basic education (either did not graduate from elementary school or completed elementary school or junior high school). The population who graduated from high school is only around 22%-27% and the number of people who graduated from university is around 5%-9%. Several factors that limit the population's achievement of secondary and higher education include family economic capacity, limited educational facilities and remote settlements with poor transportation.

Table 7: Population Aged 15 years and above by regency with Highest Education Completed in 2023 (in %)

Regency	Not Graduate from Elementary School	Graduate from elementary School	Graduate from Junior High School	Graduate from High School	Graduate from University	TOTAL
Sanggau	18,88	29,23	21,55	25,18	5,16	100
Ketapang	12,92	38,19	20,04	22,14	6,71	100
Sintang	19,03	26,35	23,07	23,24	8,31	100

³⁸ Indikator Kesejahteraan Masyarakat Volume 15, 2023. Badan Pusat Statistik Kalimantan Barat

Kapuas Hulu	14,26	30,21	24,07	22,9	7,88	100
Kubu Raya	23,78	23,28	20,79	26,75	5,4	100
KALBAR	19,58	26,29	20,99	25,01	8,13	100

Source: BPS, Susenas Maret 2023 in Indikator Kesejahteraan Rakyat Volume 15, 2023, Badan Pusat Statistik Kalimantan Barat

In terms of literacy, official data shows that around 6-7% of the population in the target regencies is illiterate, which corresponds to the average illiteracy rate in West Kalimantan Error! Reference source not found..

Table 8: Population aged 10 years and above by regency with ability to read and write in 2018 (in %)

Regency	Literate	Illiterate
Sanggau	92,56	7,44
Ketapang	94,04	5,96
Sintang	92,55	7,45
Kapuas Hulu	94,17	5,83
Kubu Raya	93,01	6,99
KALBAR	93,39	6,61

Source: Statistik Pendidikan Provinsi Kalimantan Barat tahun 2018, Badan Pusat Statistik Kalbar

3.7 National policies and international commitments

Even though the Indonesian Constitution of 1945 has explicitly acknowledged the existence of indigenous peoples, the quest for their recognition persists and faces many challenges. One of the reasons is that the legal landscape surrounding their recognition and the safeguarding of their cultural heritage remains complicated and multifaceted. This chapter aims to provide an overview of the national regulations regarding customary communities and relevant international conventions that were ratified by Indonesia.

3.7.1 National Policy on Ethnic Groups

Constitution of the Republic of Indonesia 1945

Article 18 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that: "The State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law". The rights of customary communities are also confirmed in Article 28 I paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that: "The cultural identity and rights of traditional communities are respected in line with the development of the times and civilization."

Law No. 5 of 1960 on Agrarian Principles

Article 3 stipulates that the implementation of *hak ulayat* and similar rights of customary law communities, if they still exist, must be in such a way that it is in line with national and state interests, which are based on national unity, and must not conflict with laws and other higher regulations.

Law Number 5 of 1990 concerning Conservation of Living Natural Resources and Ecosystems

In this law, the role of the government is substantial regarding the activities for the conservation of biological natural resources and ecosystems. With the large role of the government, the space for customary law communities to carry out natural resource management is almost non-existent. The law does not mention anything about customary law communities, even though customary law communities often have relevant institutions, knowledge, and experience in natural resource conservation.

Law Number 39 of 1999 on Human Rights (HAM)

This law states in Article 6 paragraph (1) that: *"In the context of upholding human rights, the differences and needs of customary law communities must be considered and protected by the law, society and government."*

Law Number 41 of 1999 concerning Forestry

With respect to the article above, Article 67 paragraph (1) of this law states that the existence of a customary law community is recognized if it fulfils the following elements:

- i. The community is still in the form of a legal community.
- ii. There is an institution in the form of a customary ruling apparatus.
- iii. There is a clear customary jurisdiction.
- iv. There are legal institutions and tools, especially customary courts that are still adhered to.
- v. The community still collects forest products in the surrounding forest area to fulfil their daily needs.

Law Number 21 of 2001 on Special Autonomy for Papua

Article 64 paragraph (1) states that the Papua Provincial Government is obliged to carry out integrated environmental management by paying attention to spatial planning, protecting biological natural resources, non-biological natural resources, artificial resources, conservation of biological natural resources and their ecosystems, cultural heritage, and biodiversity and climate change by paying attention to the rights of indigenous peoples.

Law Number 24 Year 2003 on the Constitutional Court

Article 51 paragraph (1) of this law states that one of the categories of applicants to propose reviews of laws and regulations to the constitutional court are *"customary law communities as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia which are regulated by law"*.

Law Number 39 Year 2014 on Plantations

Article 55 b: *"Any Person (and or company) is unlawfully prohibited from: working on, using, occupying and/or controlling community land or customary law community customary land for the purpose of plantation business";*

Law Number 31 of 2004 continued by Number 45 of 2009 concerning Fisheries

Article 6 of this law states that fisheries management for the purposes of fishing and fish farming must consider customary law and local wisdom and pay attention to community participation.

Law Number 32 Year 2004 on Regional Government

Article 2 paragraph (9) of this law affirms that the state recognizes and respects the unity of customary law communities along with their traditional rights if they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.

Law Number 11 of 2005 Concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights

This law, which ratifies the International Covenant on Economic, Social and Cultural Rights, recognizes, among other things, the general rights of indigenous peoples, namely the right not to be discriminated against as stipulated in Article 2 paragraph (2), Article 2 paragraph (3) and Article 3. The right to culture and the right to participate are regulated in Article 15, the right to a healthy environment is regulated in Article 12.

Law No. 12/2005 on the Ratification of the International Covenant on Civil and Political Rights

This law which ratifies the International Covenant on Civil and Political Rights expressly recognizes the right to non-discrimination for everyone (including customary communities) as stipulated in Article 2 paragraph (1) and Article 3. The right to enjoy all rights, including the right to land and natural resources is set out in Article 26, the right to enjoy a distinctive way of life related to the use of land and natural resources is set out in Article 27, and the right to participate is set out in Article 25.

Law Number 26 Year 2007 on Spatial Planning

This law does not contain any provisions that specifically regulate indigenous peoples. However, several articles can potentially be interpreted as providing space for communities, including customary law communities.

Law No. 27/2007 on the Management of Coastal Areas and Small Islands

This law clearly recognizes the existence of indigenous peoples and protects their rights as stipulated in Article 61, even granting them the right to exploit coastal waters as stipulated in Article 18.

Law No. 40/2008 on the Elimination of Racial and Ethnic Discrimination

In principle, this law recognizes that every citizen is entitled to equal treatment to obtain civil, political, economic, social, and cultural rights in accordance with the provisions of laws and regulations, without racial and ethnic distinctions (Article 9).

Law No. 4/2009 on Mineral and Coal Mining

This law provides rights to communities including customary law communities that are directly negatively affected by mining business activities as stipulated in Article 145 paragraph (1).

Law No. 32 of 2009 on Environmental Protection and Management

Article 63 paragraph (1) letter t, Article 63 paragraph (2) letter n, and Article 63 paragraph (3) letter k of this law determine that in environmental protection and management, the National Government and Regional Governments are tasked and authorized to establish

and implement policies regarding the procedures for recognizing the existence of indigenous peoples, local wisdom, and customary law communities related to environmental protection and management. In addition, this regulation also recognises local wisdom.

Law No. 11 of 2013 on the Ratification of the Nagoya Protocol

This policy opens opportunities to regulate the utilization of traditional knowledge owned by indigenous peoples in a fair and balanced manner. However, various important issues are expected to complicate the implementation of the Nagoya Protocol, such as: (1) Capacity to implement free, prior and informed consent; (2) Difficulties in determining which community groups are most entitled to receive benefit sharing from the utilization of traditional knowledge; (3) Establishment of customary institutions representing indigenous peoples.

Law No. 6 of 2014 on Villages

Through the Village Law, changes are possible: Village into Customary Village, Kelurahan into Village, Kelurahan into Customary Village, Customary Village into Kelurahan. Villages/Indigenous Villages can change status, be merged or abolished, based on community initiatives and stipulated in local regulations (provincial or regency/city) accompanied by a map of the area.

Constitutional Court Decision No. 35/PUU-X/2012 on the judicial review of Law No. 41/2009 on Forestry

The issuance of Constitutional Court Decision No. 35/PUU-X/2012 on the judicial review of Law No. 41/2009 on Forestry, with the ruling, among others, that "Customary forests are forests located in the territory of indigenous peoples", has broad implications in efforts to recognize the existence, local wisdom, and rights of indigenous peoples. There are various problems that hinder the implementation of the above decision, including the unavailability of basic data on the existence of customary law communities and local wisdom.

Furthermore, there are several technical regulations on national and provincial level:

- Joint Regulation of the Minister of Home Affairs, Minister of Forestry, Minister of Public Works, Head of BPN No: 79/2014; PB.3/Menhut-11/2014; 17/PRT/M/2014; 8/skb/x/2014 on Procedures for Settlement of Land Tenure within Forest Areas, dated October 17, 2014.
- Minister of Home Affairs regulation No. 52/2014 on Guidelines for the Recognition and Protection of Customary Law Communities. This regulation stipulates the process and the requirements for a community group or community to be identified as a customary community. These comprise having a. history as a customary community; b. defined customary territory; c. customary law; d. property and/or customary objects; and e. customary institutions/government system.
- Permen ATR/Head of BPN No. 9/2015 on Procedures for Determining Communal Rights to Land of Customary Law Communities and Communities Located in Certain Areas
- Regulation of the Minister of Forestry of the Republic of Indonesia Number: P.62/Menhut-li/2013
- Concerning Amendments to the Regulation of the Minister of Forestry Number P.44/Menhut-li/2012 Concerning the Confirmation of Forest Areas
- Minister of Environment and Forestry Regulation No. P32/Menlhk-Setjen/2015 on Forest Rights.

Finally, there are 8 (eight) regulations at the regional level relating to indigenous peoples:

- I. Sintang Regency Regulation No. 12/2015 on the Recognition and Protection of Customary Institutions and Customary Law Communities.
- II. Sekadau Regency Regional Regulation No. 8/2018 on the Recognition and Protection of Customary Law Communities.
- III. Landak Regency Regulation No. 15/2017 on the Recognition and Protection of Customary Law Communities.
- IV. Bengkayang Regency Regional Regulation Number 4 of 2019 concerning Recognition and Protection of Customary Law Communities.
- V. Regional Regulation of Sanggau Regency No. 1/2017 on the Recognition and Protection of Customary Law Communities.
- VI. Melawi Regency Regional Regulation No. 4/2018 on the Recognition and Protection of the Rights of Indigenous Peoples.
- VII. Regional Regulation of Ketapang Regency Number 8 of 2020 concerning Recognition and Protection of Customary Law Communities.
- VIII. Regional Regulation (PERDA) of Kapuas Hulu Regency No. 13/2018 on Recognition and Protection of Customary Law Communities.

3.7.2 International Commitments

ILO Convention No. 107 of 1957 Concerning the Protection and Integration of Indigenous and Other Tribal and Semi Tribal Populations in Independent Countries. This convention, approved in 1957, recognizes the existence of indigenous peoples and their rights as equal to the rights of other larger communities. This Convention has not yet been ratified by the Government of Indonesia.

Convention No. 169 year 1989 Concerning Indigenous and Tribal Peoples in Independent Countries. Unlike ILO Convention 107, which uses an assimilation and integration approach, Convention 169, which came into force on September 5, 1991, prioritizes the principles of 'preservation' and 'participation' of indigenous peoples in policies that affect them. The Convention recognizes indigenous peoples as groups who are the owners or subjects of the rights to be protected by the Convention. The Convention has not yet been ratified by the Government of Indonesia.

Resolution of the World Conservation Strategy; "Caring for the Earth" in 1991. At this meeting it explicitly expressed its support for the special and important role of indigenous peoples worldwide in efforts to safeguard and conserve the environment. This resolution has not yet been ratified by the Government of Indonesia.

Rio Declaration in 1992. This declaration has been ratified by the Government of Indonesia in Law Number 5 of 1994 concerning the United Nations Convention on Biological Diversity. The declaration adopted at the UN Conference on Environment and Development (UNCED), June 1992, in Rio de Janeiro, Brazil, also known as the "Earth Charter", explicitly recognizes and guarantees the rights of indigenous peoples in all environmental conservation programs around the world, especially in Article 22 (Principle 22).

The United Nations Declaration on the Rights of Indigenous Peoples 2007. The Declaration affirms that indigenous peoples have collective rights, the most important of which are the right to self-determination; the right to land, territories, and natural resources; the right to cultural identity and intellectual property; the right to free, prior and informed consent (FPIC); and the right to determine the models and forms of development that are appropriate for them. This declaration has not yet been ratified by the Government of Indonesia.

International Convention on the Elimination of all Forms of Racial Discrimination 1965. The Convention provides for the elimination of all forms of distinction, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin which have the purpose or effect of nullifying or impeding the recognition, acquisition or exercise on an

equal basis of human rights and fundamental freedoms in the political, economic, social, cultural or other fields of public life. This convention has been ratified by Indonesia in Law of the Republic of Indonesia Number 29 of 1999 on the Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination 1965.

Convention on the Elimination of All Forms of Discrimination against Women 1979.

This convention affirms women's equal human rights which include marital status, and the role of women in all fields including political, economic, social, and cultural. This convention has been ratified by Indonesia in Law Number 7 of 1984 concerning the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

4. Key Findings and Analysis of Impacts, Risks and Opportunities

4.1 Potential Positive Impacts

As the project is operating in an ethnically diverse territory, the project is expected to generate positive impacts for customary communities, as one of the beneficiaries and stakeholders of the project. The long-standing experience of the project partners in engaging with these communities and in improving their living conditions based on their specific needs and circumstances will guide these activities. These activities will be closely discussed and coordinated with customary representatives to secure lasting positive impacts. Close adherence to FPIC principles will make sure that customary communities involved will receive all relevant information and any activities will only be initiated upon the informed consent of affected communities.

The stakeholder consultations revealed that the project activities have a high potential to bring positive benefits to customary communities, which may include:

Table 9: Potential positive impacts for customary communities

Project activities/outputs	Potential positive impacts
Establish a dedicated grant mechanism (like TERRA Fund) for Indigenous People (IP) for climate-smart agriculture and sustainable forest management.	<ul style="list-style-type: none"> Improved livelihoods for Indigenous People, especially women. Improved tenure security Strengthened food security and nutrition Adaptation to climate change Diversification of income
Strengthen mitigation actions through enhanced REDD+ implementation (e.g., forest protection, restoration, benefit-sharing)	<ul style="list-style-type: none"> Protection and restoration of natural resources, which are fundamental for customary livelihoods Enhanced provision of ecosystem services including carbon storage, water regulation, habitat provision and others Additional income Enhanced biodiversity conservation Health benefits due to improved forest fire prevention
Development of climate-resilient land use plans for province, regency, and village governments	<ul style="list-style-type: none"> Integrity of customary communities is maintained Reduction of land use conflicts Increased resilience of customary communities against the impacts of climate change Strengthened land use rights
Sustainable land and forest-based business model design	<ul style="list-style-type: none"> Improved and diversified income opportunities including through NTFP harvesting, processing and sale Improved market access through value chain development, especially for women Strengthened food security and nutrition
Implementing resilient and sustainable small-scale agriculture	<ul style="list-style-type: none"> Adaptation of land use to climate change Decreased vulnerability of customary communities Strengthened local wisdom
Advance the implementation of social forestry including building awareness of climate risks and risk reduction practices among local communities.	<ul style="list-style-type: none"> Better awareness about climate risks and vulnerability and how to cope with it through strengthening resilience

	<ul style="list-style-type: none"> • Improved forest management for better social and ecological outcomes • Enhanced income opportunities, especially for women
Protection of the sovereignty of customary territories and management areas of indigenous peoples	<ul style="list-style-type: none"> • Protection of customary culture, livelihoods, and autonomy • Strengthened customary rights • Strengthened local wisdom
Gender-Mainstreaming	<ul style="list-style-type: none"> • Integrating women into project activities • Empowerment of women in customary communities • Balanced workload between men and women

4.2 Potential Negative Impacts

To avoid potential negative impacts of the project on local communities these have been discussed and evaluated in discussions with customary community representatives. This is to make sure that the project will not interfere with the customary community's way of life, customs, belief systems and local wisdom. As the project will influence the management of natural resources, it will be essential to make sure that customary communities are involved in decision making and that all activities strictly follow FPIC principles. The sovereignty of customary communities and their access and use rights of natural resources may not be curtailed by the project but shall be improved. External risks are often present in the vicinity of customary communities, especially due to the expansion of mining and agribusiness. The project also aims to empower customary communities to reduce these external risks.

Table 10: Potential negative impacts for customary communities

Potential issue related to the project	Potential negative impacts
Indigenous peoples are not sufficiently involved in project activities	<ul style="list-style-type: none"> • Lower acceptance and support for proposed activities and reduction of the sustainability of impacts. • If for example customary communities are not consulted in land use planning activities under the project, this could lead to conflicts about territorial boundaries and land use.
Weak protection of customary territories and management areas of indigenous peoples	<ul style="list-style-type: none"> • Indigenous peoples' availability and accessibility to forests and land is a key issue in the project area. • Weak protection of customary territories and management areas of indigenous peoples has narrowed their living space. • Any measures that further narrow their living space could negatively affect them. This also includes measures that alter access and use rights of forests. • Potential to be converted for extractive activity
Inadequate funding of project activities in each village or indigenous community	<ul style="list-style-type: none"> • Lower support of the customary community for the proposed activities, which risks the achievement of the project's objectives. • Lack of management and protection activity which potentially can lead to occupation through concession rights

Low participation of customary communities in capacity building and FPIC activities	<ul style="list-style-type: none"> • Lack of skills and expertise of farmers in cultivating agricultural land based on food security and low emissions. • Lack of public awareness in forest and land management based on climate resilience. • Limited knowledge and understanding of project activities and resulting low motivation, acceptance, and support • Less support from IP to the project objectives
Assistance and grants given to villages are uneven and insufficient for the needs of indigenous peoples or villages.	<ul style="list-style-type: none"> • Discontent among local population because of unfulfilled expectations, envy, or feelings of unfair benefit sharing (e.g. elite capture) or unequal participation (e.g. lack of female participation).
The envisioned gender sensitive approach is not followed across all components of the project.	<ul style="list-style-type: none"> • Persisting gender inequality could further be manifested. • Family conflicts could emerge due to changes in the role of women
Used gender-mainstreaming approach is not the right.	<ul style="list-style-type: none"> • To avoid this, gender action plans, gender sensitive benefit sharing plans and specific measures for social inclusion of women and other vulnerable groups will be developed. • The project also needs to consider issues like high workload and time poverty of women
Villagers who work in plantation sector are exposed to hazardous chemicals and are not equipped with adequate work protective equipment (APK).	<ul style="list-style-type: none"> • If the project fails to address these occupational health and safety issues, the health of workers from the customary communities in the project area could continue to be adversely affected. These potential negative impacts are resulting from activities outside the project (external risk). • Actions for addressing this risk focus on capacity building and training, especially regarding agro-business activities, worker protection guidelines, and law enforcement.
The project fails to address external risks of displacement through agribusiness and mining	<ul style="list-style-type: none"> • Customary communities could be deprived of their livelihoods and customary land use if rights are not protected
Strengthening alternative income opportunities and local businesses	<ul style="list-style-type: none"> • Deforestation and forest degradation • Economic inequality increases; social cohesion is affected • Horizontal conflict between customary communities may occur if development results are uneven or felt to be unfair

5. Consultation Results on Indigenous Peoples

5.1 Stakeholder Engagement in Project Consultation

Consultation activities with stakeholders at the site level, i.e. with indigenous peoples, were implemented between May 23 - June 19, 2023. The consultations were conducted in 5 regencies, namely Kapuas Hulu, Sintang, Sanggau, Ketapang and Kubu Raya. The consultations were facilitated by AMAN team of West Kalimantan (Mr. Dominikus Uyub and Mr. Tono) in 12 villages by interviewing 79 individuals (of more than 150 invited), consisting of village heads, village secretaries, community leaders, women's groups, youth groups, customary officials, village staff, RT heads (*rukun warga* – citizen association), and RW (*rukun tetangga* – neighbourhood association) heads (see Table 11Error! Reference source not found. and Table 12Error! Reference source not found.).

Overall, the stakeholder consultations were met with much interest and expectations from local communities. A general picture of current community conditions could be obtained as follows:

- the government's recognition and protection of customary rights and territories is still weak, which causes legal uncertainty among indigenous communities, including in managing natural resources.
- local communities still follow customary rules and local wisdom in daily life including in the application of the rotational farming system (swidden agriculture),
- most customary people work in the agricultural sector as the main source of income. Some of the key commodities include rubber, coffee, kratom, fruits and others.
- initiatives have emerged in the community to develop agroforestry with the aim of earning an income while improving their environment.

vi.

The consulted communities also expressed expectations and desires that could be addressed GCF project will be implemented by paying attention to the following matters:

- socialization of planned activities and application of the principles of Free, Prior, and Informed Consent (FPIC),
- respect for the law and customary rules.
- supporting increased community economic welfare and improving the environment.
- involving the participation of various stakeholders including women and the younger generation.
- harness synergies with village government programs.

vii.

Based on the results of the community consultations the GCF project will consider the concerns and requests of customary communities and integrate these into the project logic and its implementation. As topics of joint interest, strengthening agroforestry and land tenure emerged as strategic interventions that share much common ground between the GCF project and local communities, as an effective tool to counter climate change mitigation and adaptation while safeguarding biodiversity and customary knowledge. Nevertheless, wise expectation management during the FPIC process will be applied to make sure that the potential positive impacts of the project are not overestimated.

Table 11: Stakeholders Involved in Village Level Consultations

Description	Dates	Venue	Stakeholders engaged	Total	M	F
-------------	-------	-------	----------------------	-------	---	---

Consultation in Cempaka Baru Village, Putussibau Selatan Sub-district, Kapuas Hulu Regency	May 23, 2023	Cempaka Baru Village	Village Head, Village Secretary, Indigenous Women.	3	2	1
Consultation in Sui Utik Hamlet, Batu Lintang Village, Embaloh Hulu Sub-district, Kapuas Hulu Regency	May 24, 2023	Sui Utik Hamlet, Ketemenggungan Jalai Lintang	Tuai Rumah Kampung Sui Utik, Tuai Rumah Kampung Ungak, Indigenous youth, Pateh Jalai Lintang, Indigenous youth, Indigenous women, Indigenous leaders of Jalai Lintang.	7	6	1
Consultation in Nanga Semangut Village, Bunut Hulu Sub-district, Kapuas Hulu Regency	May 30, 2023	Nanga Semangut Village	Village Head, Community Leaders, Village Customary Heads, Youth Leaders.	5	5	0
Consultation in Kemantan Village, Sepauk Sub-district, Sintang Regency	May 31, 2023	Kemantan Village	Village Head, Village Customary Head, Women's Leaders, Women's Groups, Youth Leaders	5	3	2
Consultation in Teluk Bakung Village, Sungai Ambaawang Sub-district, Kubu Raya Regency	June 6, 2023	Gunung Benua Hamlet, Loncek Hamlet	Dusun head, Pangaraga (customary head at the Dusun level), Pasirah (customary head at the village level).	4	4	0
Consultation in Kali Bandung Village, Sungai Raya District, Kubu Raya Regency	June 7, 2023	Kali Bandung Village	Village Secretary, Community Leaders, Farmer Group Heads, Hamlet Heads, Women's Groups, Women's Leaders,	8	6	2
Consultation in Labai Hilir Village, Simpang Hulu District, Ketapang Regency	June 10, 2023	Labai Hilir Village	Village Secretary, Youth Leaders, Jaya Adat (Customary Head at Hamlet Level)	3	3	0
Consultation in Majel Village, Bonti Sub-district, Sanggau Regency	June 11, 2023	Majel Village	Village Head, Customary Head, Women's Leaders, Youth Leaders	4	3	1
Consultation in Malenggang Village, Sekayam Sub-district, Sanggau Regency	June 12, 2023	Malenggang Village	Village Head, Hamlet Heads, Village Staff, Youth Leaders.	7	7	0
Consultation in Jasa Village, Ketunggau Hulu Sub-district, Sintang Regency	June 13, 2023	Service Village	Village Head, Village Secretary, Head of Village General Affairs, Head of Hamlet, Head of Village Financial Affairs, Head of Welfare and Service Affairs,	10	9	1

			Women's Leaders, Village Customary Head.			
Consultation in Bekuan Luyang Village, Ketunggau Hulu Sub-district, Sintang Regency	June 14, 2023	Bekuan Luyang Village	Village Head, Village Customary Head, Hamlet Head, Members of the Village Consultative Body (BPD) Village Secretary, Women's Group, Village Youth Head, Head of Family Empowerment and Welfare (PKK),	11	7	4
Consultation in Subah Village, Tayan Hilir Sub-district, Sanggau Regency	June 19, 2023	Subah Village	Village Head, Hamlet Head, BPD Members, Women's Groups, Jaya Adat (Customary Head at Hamlet Level), Pesirah (Customary Head at Neighborhood Level), Temengung Adat (Customary Head at Village Level).	9	8	1

Table 12: Roles and Tasks of Village-level Stakeholders

ID	Stakeholder name	Role/task of stakeholder
1	Village Head	Organising village administration, carrying out village development, fostering village communities, and empowering village communities, including village forest management.
2	Village Secretary	Assists the Village Head in the field of village administration, coordinates the preparation and implementation of APBDes policies, prepares draft APBDes and draft APBDes Amendments.
3	Head of hamlet	Assists the Village Head in carrying out his duties in his area, fostering peace and order, implementing community protection efforts, population mobility, and structuring and managing the area.
4	Village staff	Assisting the Village Head in policy formulation and coordination, which is organised in the Village Secretariat, and supporting the duties of the Village Head in implementing policies, which is organised in the form of technical implementers and regional elements.
5	BPD	Exploring community aspirations Accommodating community aspirations, Managing community aspirations, Channelling community aspirations, Organising village meetings, and forming the Village Head election committee.
6	Customary head	Taking care of matters related to customary land, preventing violations of customary law, adjudicating violations of customary law.

7	Customary women's group	Fighting for the rights and preserving the culture of indigenous peoples, maintaining family economic security, playing a social role, and preserving the natural environment.
8	Youth groups	Together with the village government and other community components to overcome social welfare problems in a preventive, post-rehabilitative manner as well as mentoring and development and directing the guidance and development of the potential of the younger generation in their neighbourhood.
9	Community leaders	As social controllers in the community, guardians and enforcers of values and norms that apply in the community, and solve various problems that occur in the community.
10	PKK	As a driver of development at the village level, improving the quality of life of the community and family welfare.
11	Rukun Tetangga (RT)	Listen to residents' complaints, Promote good relations between residents, Organise social activities, Maintain neighbourhood security, Encourage residents' participation, Coordinate with other authorities (e.g. with the project).
12	Rukun Warga (RW)	Assists in carrying out community service tasks that are the responsibility of the Village Government, maintains harmony among residents, plans and implements development by developing the aspirations and self-help of the community, and coordinates among residents.

5.1.1 Cempaka Baru Village

Consultations with indigenous peoples were held on May 23, 2023, in Cempaka Baru Village, Putussibau Selatan Sub-district, Kapuas Hulu Regency, West Kalimantan. In this consultation, several things became important points for the *Uheng Kareho* indigenous community, including:

- Unrecognized and protected the areas impacted to the unsecured of customary land. Legally uheng kareho communities have been proposed for recognizing but still in the process of regency verification team.
- Customary law is a guide to regulate the customary community in managing the natural resources, land tenure and resolve the conflicts in the communities' livelihoods.
- Current management of natural resources considers the aspect of sustainability and is guided by customary law and local wisdom. The
- Upcoming GCF project could provide positive impact for increase the socio economy and sustainability of natural resources.
- Upcoming GCF project could improve the access, participation, control, and benefit for women for contributing the family.
- Creation and Innovation that develop through the GCF project could inline to the customary values and synergized with the local village government.



5.1.2 Batu Lintang Village

The consultant team travelled from Putussibau to Batu Lintang Village. The consultation was held at the cultural house in Sungai Utik Hamlet. In a joint consultation with *tuai rumah* (=leader of the long-house), customary youth, customary *pateh* (customary authority), customary women and traditional leaders of Jalai Lintang, there are several important points that can be noted, including:

- That the GCF program that will comprise their village must truly apply the principle of FPIC.
- This program must respect customary rules in forest management.
- When this program enters the village, there must be training and guidance as well as empowerment of indigenous peoples.
- Development of crop commodities, such as coffee is desired.
- The program should also involve women's groups and young people, in activities such as skills training, human resource development, institutional development and animal husbandry to improve family welfare.
- The grievance mechanism shall be carried out in stages through customary institutions or institutions at the village level.



5.1.3 Nanga Semangut Village

The third consultation was still conducted in Kapuas Hulu Regency, specifically in Nanga Semangut Village, Embaloh Hulu Sub-district. The consultation was held at the village office. The village head, community leaders, village customary leaders and youth leaders attended the consultation. The important points noted in the consultation included:

- That the existence of customary institutions as a dispute/conflict resolution mechanism in the Malay indigenous community still exists. Therefore, this institution can be used or GCF project activities.
- The GCF program should consider the community's existing begong (mutual aid) practices in project management and pay respect to the community's existing cultural practices.
- GCF programs must pay attention to spatial patterns that have been agreed upon by indigenous peoples because they have history and cultural values.
- GCF programs should be aligned with Village Government programs and can provide financial support for existing village forest management.
- Community economic development that relies on forest products, such as the development of Jernang rattan, is also a concern for the project.
- Regarding the monitoring and evaluation mechanism of project activities, it is best to use a collaboration model between the project and the village government.
- How the project activities involve young people, for example in village forest management.



5.1.4 Kemantan Village

The fourth consultation was held in Kemantan Village, Sepauk Sub-district, Sintang Regency. Consultation activities were carried out in the homes of residents, namely the house of the village head and the house of the customary leader. During the consultation, there were several important points that were noted, including:

- Changes for village spatial planning. With the change in village spatial planning, it is expected that the community-managed area will be larger than the production forest area (80% of Kemantan Village is included in the production forest area).
- Finding alternative livelihoods for residents is desired so that unauthorized gold mining (PETI) is substituted, for example by planting/harvesting/processing coffee, rubber, rattan, durian, etc.
- In relation to the GCF program, the Kemantan Village community is very open, but there must be socialization activities first that culminate in a mutual agreement.
- There are trainings available for residents related to certain commodities, such as training on nurseries and independent palm oil management.

- The involvement of women's groups and young people in the GCF program is a must, for example women's farmer groups in cultivating ginger, coffee, and corn. Young people can develop freshwater aquaculture.
- Respect for customary rules and local customs because customary rules are guidelines for indigenous peoples in organizing all their social and community activities.
- Synergies between GCF programs and village government programs.



5.1.5 Teluk Bakung Village

From Sintang, the consultation team moved to Teluk Bakung Village, Sugai Ambawang Sub-district, Kubu Raya Regency, West Kalimantan. Consultations were held in two different places, namely in Gunung Benuah Hamlet and Loncek Hamlet. During the consultation, there were several important points noted by the consultant team, including:

- The indigenous people in Teluk Bakung Village still practice various customary traditions related to their beliefs in the form of the Nabo' Bukit ritual (going up to the hill to perform traditional rituals) and rituals to start *behuma* (farming activities).
- Land restoration activities with agroforestry using local species with economic relevance, such as durian, bamboo shoots, jackfruit, etc. are desired.
- Coaching and mentoring of agricultural programs.
- If this GCF program enters the village, it needs to involve all stakeholders so that this program can run well and have an impact on the community.
- Development of specific commodities and market access for those developed commodities.
- Before the GCF program is implemented, there must be socialization of the program to the community as well as a mutual agreement with residents in written form.
- The program must respect the customary laws and traditions of local communities.
- The program should also be able to provide recognition and protection of indigenous territories, for example by conducting mapping and encouraging decrees on the determination of indigenous territories.
- Support programs to document local customs and traditions.
- Integration of GCF program with Teluk Bakung Village Government program.



5.1.6 Kali Bandung Village

The sixth consultation was conducted in Kalibandung Village, Sungai Raya Sub-district, Kubu Raya Regency, West Kalimantan. The consultation in this village was held at the Kalibandung Village Office. In this consultation, there were several important points noted by the consultant team, including:

- That agricultural land management (farming) is still carried out based on local wisdom, for example when burning, fire barriers are made to prevent land and forest fires.
- Traditions, customs and rituals that are still being practiced to maintain the harmony between humans and nature;
- Kalibandung Village has a village regulation on the utilization of fish in the river, namely the prohibition of electrocuting, so that fish populations are maintained. There is a penalty in the form of a fine in case of violation of this regulation in the form of a fine of 100 million rupiah.
- If the GCF program later enters the Kalibandung Village area, there must be prior socialization to the community.
- Activities to develop agricultural commodities, such as vegetables, ginger and providing market access for these commodities are desired.
- Also, community economic development shall be supported in the form of livestock and fisheries management and agricultural activities.
- Strengthening the capacity of village institutions and staff in information management and use of technology is required.
- The monitoring and evaluation of project activities can be conducted jointly between the village government and GCF.



5.1.7 Labai Hilir Village

The seventh consultation was conducted in Labai Hilir Village, Simpang Hulu Regency, Ketapang Regency, West Kalimantan. The consultation was held at a local resident's house. There were also important points noted in the consultation, including:

viii.

- The GCF program is expected to have an impact on the community, especially an economic impact.
- Restoration of critical lands previously used for bauxite mining is desired, for example by planting oil palm, rubber, and local fruits.
- This program can encourage and support the recognition and protection of indigenous territories, for example by mapping and supporting the official recognition of indigenous territories.
- The existence of customary management area planning and regional spatial changes in the Labai Hilir Village area.
- The program should be socialized to the community so that all communities can be involved in project activities.
- When implementing the project, there should be mutual consent with the community.
- Respect the customs and traditions of the community.



5.1.8 Majel Village

The eighth consultation was conducted in Majel Village, Bonti Regency, Sanggau Regency, West Kalimantan. Consultation activities were carried out at a resident's house in the afternoon. The important points that were noted in the consultation included:

- There is a need for coordination in project implementation with the Village Government and Customary Chiefs.
- Before implementing this project, it is necessary to socialize to all stakeholders so that this program can run well.
- Synergies between the GCF project and the Majel Village Government programme.
- This program can provide support for the recognition and protection of indigenous territories in the form of mapping and supporting the preparations for the issuance of decrees on indigenous territories.
- The project shall support the community empowerment in the form of training, for example in agriculture, animal husbandry and freshwater fisheries.

- Restoration of critical lands is desired, such as planting local fruit trees (mentawa, durian, langsung, etc.).
- Facilitation of the development and preservation of culture is desired, for example the development of dance studios, carving arts etc.
- Assistance with agricultural product development and market access for the sale of these commodities is desired.



5.1.9 Malenggang Village

The ninth consultation was held in Malenggang Village, Sekayam Sub-district, Sanggau Regency. During this consultation, there were several points that the consultant team noted, including:

- The program is expected to provide coaching, mentoring and training to the community and village government, such as in agricultural skills and institutional governance for village officials.
- Agricultural commodity development and market access for marketing these commodities are desired.
- Potential synergies between the GCF program and Malenggang Village Government program should be harnessed.
- Involvement of all stakeholders in GCF project activities is important.
- Respect for the customs and traditions that exist in the community.
- The role of environmental conservation and promoting local species, for example planting ironwood trees, local fruit plants.



5.1.10 Jasa Village

The tenth consultation was conducted in Jasa Village, Ketunggau Hulu Sub-district, Sintang Regency. The important points noted in this consultation include:

- There needs to be socialization of the program to the community and all stakeholders in Jasa Village.
- The project program is expected to empower the community and increase capacity in the form of training and mentoring.
- The envisioned activities must be carried out with good planning and participation.
- Agroforestry activities must pay attention to local plant species that are suitable for their designation.
- The recognition and protection of indigenous territories in the form of mapping of indigenous territories and the issuance of decrees on indigenous territories should be encouraged.
- The establishment of a traditional school is desired, so that the younger generation knows, practices and appreciates their customs.
- Development of agricultural commodities and provision of market access for marketing these commodities are needed;
- There are potential synergies between the GCF program and the Jasa Village Government program, especially related to community empowerment.



5.1.11 Bekuan Village

The eleventh consultation was conducted by the IPP consultant team in Bekuan Village, Ketunggau Hulu Sub-district, Sintang Regency, West Kalimantan. In this consultation, there are several important points that can be noted, among others:

- There is a need for program socialization, prior to the start of the GCF project to the community of Bekuan village.
- There is a need for coaching, training and empowerment of village communities in the form of skills improvement, for example for farmers, women's groups and youth.
- There are potential synergies between the GCF project and village government programs in fields like food security, youth development and women's groups.
- Respect for local customs is paramount.
- Provision of clean water for the community of Bekuan Village is needed.
- Cultural development programs are desired, such as the performance and development of regional dances, traditional ceremonies, etc.

- Encourage the recognition and protection of indigenous territories in the form of mapping and decrees on indigenous territories.
- A reforestation program with local trees, such as Meranti wood, Tengkawang, Ulin, Keladan, Tekam, and other local fruits is desired.



5.1.12 Subah Village

The twelfth or final consultation was conducted by the consultant team in Subah Village, Tayan Hilir Sub-district, Sanggau Regency. This consultation activity involved several stakeholders such as the village head, village staff, temenggung adat and women's leaders. The important points noted in this consultation included:

ix.

- There is a need to socialize the GCF project to the Subah Village community.
- Conduct joint agreements to determine project priority activities.
- Intercropping palm oil with secondary crops is desired, such as with corn, chili, etc.
- Provide guidance and capacity building for existing institutions in the community, such as traditional institutions, tourism groups, farmer groups, women's groups, youth groups.
- Land restoration needs to consider local plants, such as cempedak, jengkol, petai, mentawa, pekawai, durian, etc.
- Planning for indigenous territories by inventorying and identifying the potential of the village/indigenous territory.
- Encourage the recognition and establishment of customary territories and customary forests in the form of mapping and customary forest decrees.

x.



6. Measures to Avoid, Minimize, Mitigate Negative Impacts and Use Opportunities

6.1 Guiding Principles

This project applies the principles of FPIC, among others:

- Indigenous peoples as rights holders have a say in the process, timeline and decision-making structure of the project;
- Indigenous peoples must be provided with transparent and objective information as rights holders;
- All decision-making processes must be free from coercion, bias, conditions, bribery, or rewards.
- Meetings and decision-making are held at locations and times determined by the customary community as the rights holder.
- This principle gives indigenous peoples ample time to study, access and analyse information related to planned project activities.
- Information should be provided to indigenous peoples before activities are undertaken, at the beginning of the implementation process, and at the beginning, middle, and end of the process of project activities.
- The decisions of indigenous peoples as rights holders must be respected, as they must understand, analyse, and evaluate project activities on their own terms.
- Socialization and project activity plans are delivered in culturally appropriate local languages;
- Socialization must also include the potential positive and negative impacts of project activities, as well as the consequences of giving or withholding consent by indigenous peoples.
- Project activities in the vicinity of customary territories should be delivered by people who understand the culture, in culturally appropriate locations, and by building on the capacity of local people.
- The project activities should be accessible to remote village communities, including youth, women, seniors, people with special needs, who are often overlooked.
- Project members should be available on an ongoing basis throughout the FPIC process to enhance local communication.
- The choice is freely offered: it may be "Yes", "No", or "Yes with conditions", with the possibility to rethink if the activity in question changes or if there is new information related to the project activity.

- Collective decisions (e.g., by mutual agreement) are made by the affected indigenous peoples in accordance with their customs. The decision making also needs to consider the representativeness of individuals and avoid elite capture.
- The right of indigenous peoples to determine consent to projects relating to land, natural resources, and territories, and culture is mandatory.
- The decision is documented and is being filed with one copy for the community and one for the project with a digital copy provided to both parties.

6.2 Ensuring FPIC for Project Implementation

The implementation of FPIC is one of the core elements of this project. FPIC is not only a mandatory requirement before and during project implementation, but it also aims to ensure that it fully involves indigenous peoples in the project target villages. The FPIC process is implemented in five separate stages:

- I. The first stage is identification. It aims to identify which indigenous peoples, villages communities, and other beneficiaries could be affected by the project. Once they are identified, additional scoping will be conducted to better understand the communities, including the presence of indigenous peoples, women, persons with disabilities, or marginalized persons, among other considerations and dynamics. This information may be obtained from interviews and talks with the communities in and around the project areas. Data from interviews shall be documented and disaggregated for each of the respective communities that could be affected. Identification of women who could be affected by the project is also important, including their challenges in participation during the interviews.

To understand and determine indigenous peoples who have adat/customary rights over the targeted areas of the potential project areas both in State Forests and Non-State Forest, participatory mapping on their lands including natural resources they use as part of their daily livelihoods needs to be conducted. The maps must be made with the full awareness and agreement of, and under control of, the communities and other parties involved. The maps also must be verified with neighbouring communities in order to avoid exacerbating or triggering land disputes.

- II. The second stage is disclosure and pre-condition of project information. It aims to disclose project information to targeted villages in a transparent and culturally sensitive way so that village communities and indigenous peoples can freely decide whether agree or disagree to provide the consent to the project. It is necessary for the PMU to design a participatory communication and conduct iterative discussions with the affected communities, including representation of marginalized groups, elderly and youth, disabled persons.

This includes increasing stakeholder understanding through workshop activities, training and information dissemination through announcements, brochures, and other relevant media as well as an inventory of forest areas and land use models including an inventory of parties with an interest in the forest area. These awareness-raising activities are conducted so that the information provided is consistent, uniform, complete and clear. The quantity of workshops and information sharing activities will be assessed during implementation, but should comprise dedicated sessions for information sharing, discussions to resolve questions, and consensus building. For this step maximum two meetings within half a year are envisioned.

Facilitators will be appointed who are accepted by all parties catalyse in the process of determining the approach/method of FPIC implementation.

Iterative discussions should consider traditional and customary protocols and dynamics, including norms for both verbal and non-verbal communication (such

as body language, eye contact, personal space, pointing with the chin or mouth instead of with hands or fingers).

The facilitators should ensure that communities are able to express their interests and also able to negotiate the shape of project design, implementation, monitoring, and evaluation. All processes of discussions will then be documented and available disseminated to all parties. Documenting each proceeding will be important and help to retain consistency, accountability and transparency in matters discussed since the local institutions or individuals selected by indigenous people for decision-making in the FPIC process may not be necessarily the same ones who were involved in the preliminary discussions.

During this stage, social and environmental risks or impacts of the project toward future communities/indigenous people's territories or livelihoods must be disclosed and discussed. For example, identification of High Biodiversity and Carbon Areas within non-state forest land needs involvement of indigenous peoples/village communities. This also applies for implementation of protection and rehabilitation of forest and peatland ecosystems within state forest lands. Information on the Project's ESMP will be presented, including information on the project's complaints and grievance redress mechanism.

Once the project is presented, including its conditions, benefits, impacts and risks, the team will discuss closely with the village communities/indigenous peoples how to maximise the potential positive and minimize the negative impacts for them during the project implementation. When village communities or indigenous peoples are opposed to certain parts of the project, PMU and village facilitators need to clarify which elements are acceptable and which conditions may need to be added/ met to enable them to provide their consent.

When communities agree with the project, it is necessary to document villages/communities needs that are to be included into the project activities, considering the differentiated needs of indigenous peoples, disabled persons, women, among others. Formal consent from the village/ community must be obtained, which must be free from any intimidation, coercion, or manipulation. The agreements should be mutual and recognized by all parties, taking into consideration customary modes of decision-making and consensus-seeking. These might include votes such as by a show of rising hands. The agreements should be documented and witnessed by a third party. For sensitive issues, it is suggested that the affected communities or indigenous people should be asked what is permissible to document.

- III. The third stage is decision making / coming to an agreement. This stage addresses the consent component of FPIC. All competent representatives will discuss to make decisions about the impacts, options for compensation of impacts and other rights if needed, involvement in the management process of GCF project initiatives, and obligations of village communities and indigenous peoples. This process will be guided by facilitators. The time required for this stage will depend on the success of the pre-conditions stage in terms of increasing stakeholder understanding. For this step maximum two meetings within half a year are envisioned.

- IV. The fourth stage is monitoring, evaluation and verification. It aims to ensure that the agreement reached with village communities/indigenous peoples is properly monitored and evaluated by all interested parties in a transparent and effective manner.

A verification team, comprised of members of the customary community and a representative NGO as independent monitor (e.g. AMAN), to assess whether all FPIC processes have been followed in accordance with FPIC principles and

the stages of FPIC implementation before and during the implementation of the GCF project activities. For the FPIC verification one meeting per village with project intervention is envisioned. The communities' right to disagree and reject the consent will be always respected, even after a prior consent. The Project's Grievance Redress mechanism will be available to all affected persons (see the ESMP in Annex 6b, and the IPP in Annex 6c for more detailed information on the GRM and additional channels and procedures to ensure access for indigenous peoples and local communities).

- V. The fifth stage is of socialisation of lessons learned documentation. This stage is to share the results of recorded processes and decisions to all components of the community that will be affected, including core stakeholder at the village, regency and provincial levels.
- VI. A project working group / task force in the village will conduct follow-up meetings at the village, regency, and provincial levels. Any lessons learned from FPIC process will be useful to improve future actions. PMU should work together with the community to document what was learned throughout each state of the FPIC process, including both strengths and weaknesses.

The communities' right to disagree and reject the consent will be respected at all times, even after a prior consent.

6.3 Overview of Measures to Avoid, Minimize and Mitigate Negative Impacts and Enhance Positive Impacts and Opportunities

Recognition and protection of the existence and rights of indigenous peoples is a major and cross-cutting issue. Therefore, to ensure that the existence and rights of indigenous peoples are recognized and protected, this project is designed to effectively protect, involve, and empower indigenous peoples.

The Indigenous Peoples Plan is in accordance with the needs and policies of the provinces and regencies in West Kalimantan as well as Indonesia's national policies. In the national framework, the ratification of the Indigenous Peoples Bill (Minister of Home Affairs Decree No. 52 / 2014) is a form of recognition and protection of indigenous peoples, while at the regional level the recognition of customary territories and customary forests is a form of protection and empowerment of indigenous peoples. This is important because they are considered a vulnerable group, who has been marginalized by various state policies that seem to exclude them from development activities and decision making.

An overview of measures to avoid, minimize and mitigate negative impacts and enhance positive impacts and opportunities related to customary communities can be seen in chapter 11. As the risk of adverse impacts through the project is being considered very low, no compensation schemes are foreseen.

7. Benefits for IPs

Customary communities play a vital role in the protection of forests and hence in the project. They are targeted beneficiaries in a series of activities, depending on their status in terms of capacities and the administrative process of social forestry licensing. Table 13 aims to summarise how the different planned activities address their specific needs:

Table 13: Stages of support to IP across different project activities

Benefits	Participatory operational planning and FPIC	FA & TA in the process of IP recognition and others	TA & FA in Obtaining a Social Forestry License (SF)	TA & FA in the elaboration of SF Management Plans	FA in the implementation of SF Management Plans	TA for sustainable agroforestry livelihoods
Project References	Project Inception	IPs on-granting mechanism Act. 1.3.1	e.g. Demarcation, Conflict Resolution Desks, (DRKs) PLUPs, "Hutan Adat" etc. Act. 3.2.1	Act. 3.2.1	Act. 3.2.1.	Access to markets, creation of cooperatives etc. Act. 2.2.1 & 3.2.1.

Further benefits for the customary communities:

- Direct benefits: members from customary communities, especially women, will be directly and preferably involved in project activities, such as forest patrols or restoration efforts, and receive compensation for their labour and expertise.
- Community development funds: A portion of project funding is dedicated to IPs through an on-granting mechanism, based on ideas and proposals elaborated by the IPs themselves. These funds support community-identified priorities like for climate-smart and sustainable livelihood activities, including supporting women's groups.
- Capacity Building and Training: Project resources are dedicated to empowering customary communities, especially women, with skills and knowledge about forest management, sustainable livelihoods, and climate change adaptation and mitigation.
- Shared ownership and management (participation in the project steering): Indigenous communities, especially women, are actively involved in shared decision-making regarding project implementation and governance. This includes opportunities for participation in project boards and committees.

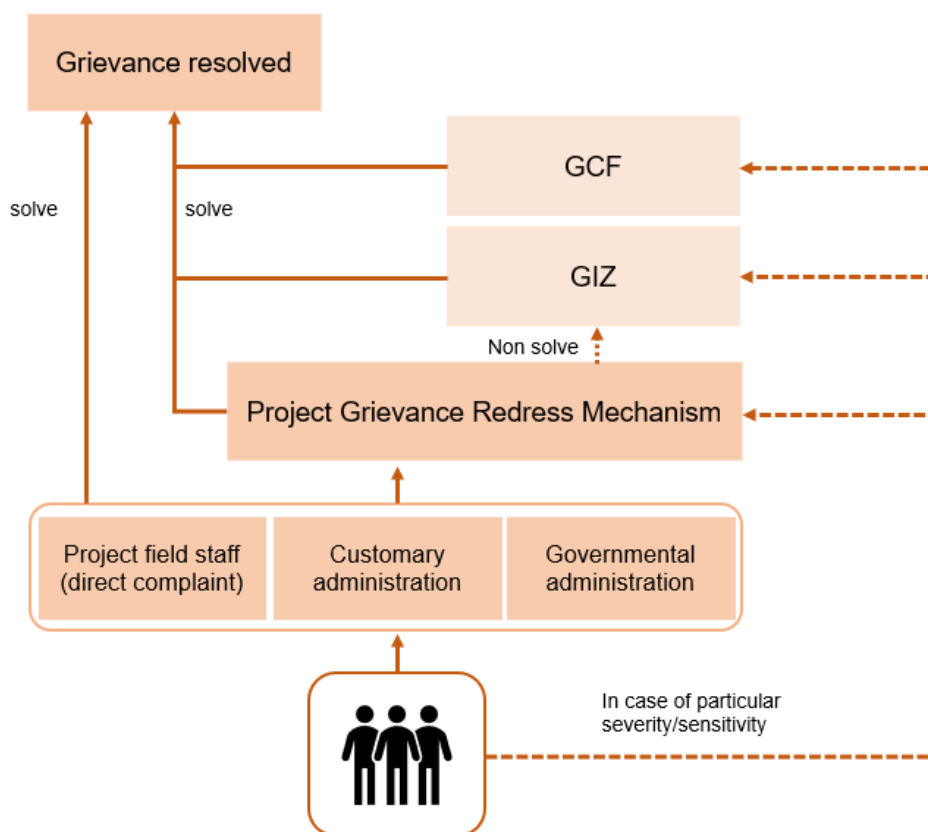
Guiding principles that will be followed by the project team in the work with customary communities:

- Respect for Indigenous Rights and Free, Prior, and Informed Consent (FPIC): The project adheres to internationally recognized indigenous rights standards and requires obtaining FPIC from affected communities before any project activities are initiated in these territories.
- Dialogue and mediation: If any conflicts or dissatisfaction occurs, complaints can be addressed via the grievance handling mechanism described below.
- Transparency and accountability: All information regarding benefits, including decision-making processes and distribution mechanisms, is readily accessible to communities in a transparent manner.
- Sustainability: Benefit-sharing mechanisms are designed to promote long-term benefits for indigenous communities, ensuring positive social, economic, and environmental impacts.

8. Grievance Redress Mechanism (GRM)

Customary communities can file their complaints via three different channels, depending on which one is most accessible to them (see Figure 2):

Figure 2: Grievance Redress Mechanism



The customary structures consist of a hierarchy of different customary officers, which slightly differs between different sub-tribes (see Figure 3). Alternatively, the hierarchy of the governmental administration can also be used. In each of the five regencies where the project operates, GIZ staff members will be employed for the implementation of project activities and the communication and coordination with various partners and stakeholders on the ground. In addition, field facilitators and an independent assistant (see FPIC process above) will be trained and employed to improve communication between the project and the local communities involved. They will have close contact with customary communities at local level and will receive any requests and complaints related to the project. Their contact details will be actively shared to the governmental and customary administration at various levels.

In compliance with the IPP Operational Guidelines Indigenous women and men will be informed of their rights and the possibilities of administrative and legal recourse or remedies, and any legal aid available to assist them as part of the process of consultation and informed participation.

If the grievance cannot be resolved within the level and channel of reception (project field staff, customary respectively governmental administration), it will be forwarded to the formal GRM of the project. The complainant has the right to file his complaint directly to GIZ Country Office, GIZ HQs or even to GCF, if pertinent.

All grievances submitted will be recorded, verified, and resolved by the project at all levels within no more than 14 (fourteen) working days. Submissions can be made by the general public or indigenous peoples either orally or in writing and via different means such as SMS (short message service), WhatsApp, email or through the available website.

All grievances/complaints and grievance resolutions are well documented at all levels or resolving units and reported to GCF regularly as an integral part of the project.

Figure 3: Governmental and customary authorities in customary communities.

Village	Head of Village (Kepala Desa)		Customary and Cultural Council (Dewan Adat Budaya)		Sub-tribes of Dayak: Iban: Temenggung, Uheng Kareho: Suku Ketengon, Sekubang: Temenggung	
Hamlet/ Sub Village	Head of Hamlet/ Sub Village (Kepala Dusun)		Customary Retainer (Punggawa Adat)		Sub-tribes of Dayak: Iban: Pateh Uheng Kareho: Katengon Adat Hau, Sekubang: Ketua Adat	
Citizen Association	Head of Citizen Association (Ketua Rukun Warga)		Customary Leader (Kepala Adat)		Sub-tribes of Dayak: Iban: Tuai Rumah, Uheng Kareho: Katengon Adat Titing, Sekubang: Menteri Adat	
Neighbourhood Association	Head of Neighborhood Association (Ketua Rukun Tetangga)		Customary Leader (Kepala Adat)		Sub-tribes of Dayak: Iban: Sapit Tuai, Uheng Kareho: Penggerak, Sekubang: Masyarakat Adat	
Indigenous people/ community	Village Government System	Kalibandung (Community)	Adat System	Malay (IP)	Adat System	Dayak (IP)

9. Overview of the Institutional Arrangements of the Indigenous Peoples Plan

A **Steering Committee** will be established as the main governing body for the activities, as shown in the figure below. The Committee will meet twice a year and members will consist of the high-ranking (political) representatives from National (e.g., Ministries of Environment & Forestry, Ministry of Agriculture, BMZ), provincial government (e.g. Dinas LHK) and GIZ.

The mandate of the Steering Committee will include:

- Providing overall guidance for project implementation,
- Providing feedback and validation of annual work plans, and annual reports,
- Oversee project adherence with E&S Safeguards, IPP and Gender Action Plan objectives, and the respective legislation.
- Supporting the coordination of component activities across different line ministries, different sector in province and regency level as well as with the private and public sectors and civil society.

A **Technical Committee** will be composed by similar institutions as the Steering Committee, but on a high-ranking technical level. It will have a vital role in the coordination between the Project Management Unit (PMU) and the Steering Committee and will ensure the compliance of the Steering Committee's guidelines and the safeguards through the PMU. Periodically, it will meet the PMU executive staff, supervise the project implementation progress, based on the M&E system and guide the implementation work on a technical level. GIZ as the accredited entity will remind the political partner to consider the participation of indigenous peoples' representatives in the technical committee.

The **Project Management Unit (PMU)** with representatives of project partners (GIZ, Solidaridad, BPD LH) and the provincial government (Dinas LHK, Pokja REDD) will be set up for the duration of the project. The indigenous peoples' organisation AMAN is an official member of the Pokja REDD+ and will represent the rights and interests of IP in the PMU. The mandate of the unit includes (not exhaustively):

- Enhance common understanding among the Executing Entities on the theory of change and how transformation in the sector shall evolve.
- Discuss, monitor, and promote best possible synchronisation of implementation between the Executing Entities.
- Define, monitor, and coordinate work plans.
- Ensure that budgets and work plans are on track and monitor project progress.
- Identify and resolve bottlenecks and implementation challenges relevant on project level.
- Monitor adherence to environmental, social and fiduciary safeguards; monitor implementation of the Project's Environmental and Social Management Plan (ESMP) and Gender Action Plan (GAP), and steer review of these plans if needed.
- Identify issues required to be brought to the attention of the steering committee and/or political decision makers.
- Provide for information exchange and synergies between project components.
- Agree on terms of reference, recruitment of experts.
- Outcome and impact monitoring processes and results.
- Prepare monitoring reports.

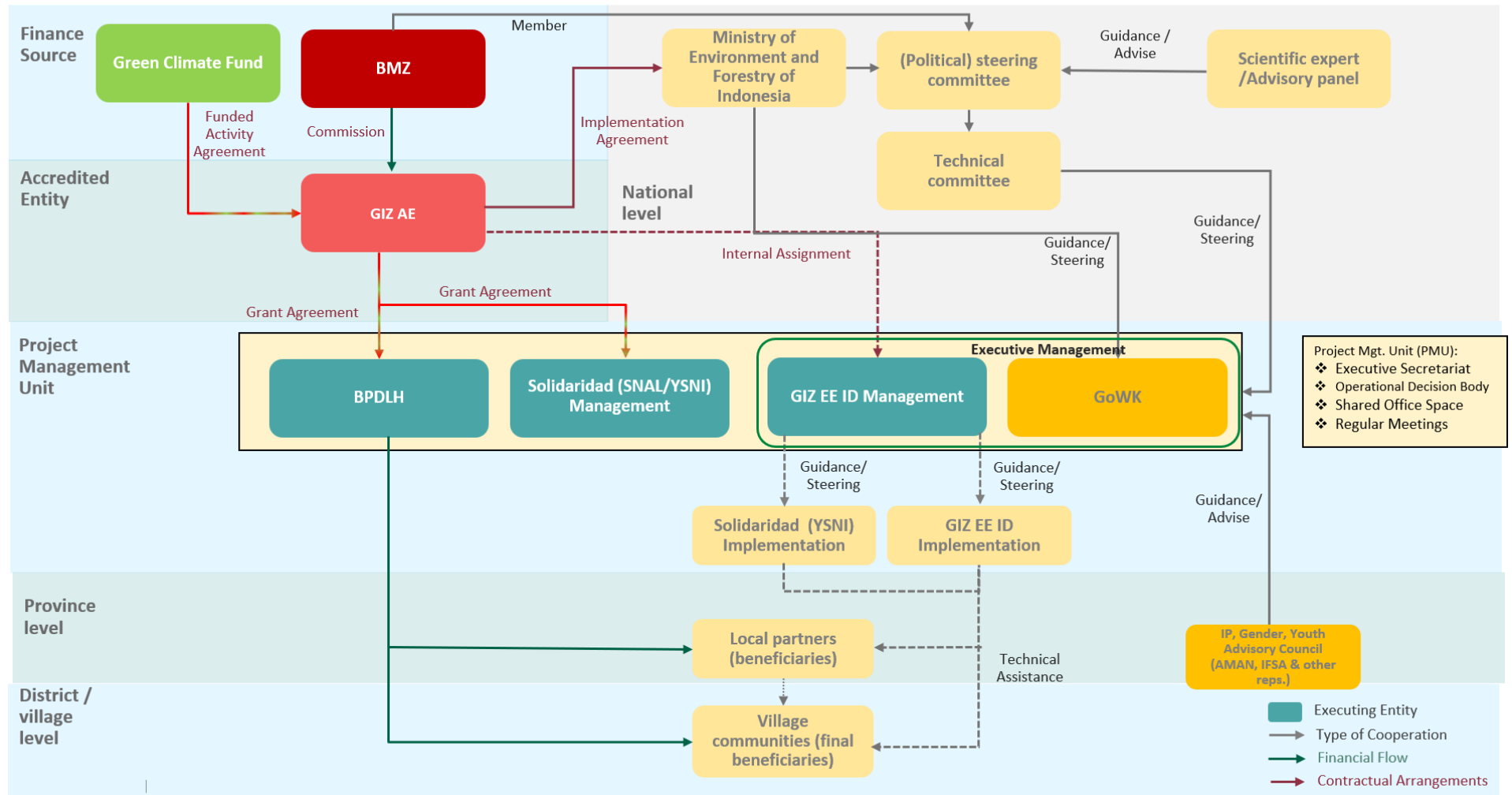
Furthermore, an IP Advisory Council (consisting of AMAN and/or other IP representatives) will advise the PMU on FPIC, the IPs on-granting mechanism and other topics that are relevant for the IPs in the target region.

In addition, ESS focal persons will be assigned within GIZ and Solidaridad to assist in coordinating and ensuring the benefits of IPs, as well as overseeing other social safeguards. The Environmental and Social Safeguards Management (ESM) team will be responsible for

implementation and monitoring of the IPP and will be supported by third party actors (e.g., NGOs).

The PMU is to be informed by the Safeguards Team about any major safeguard issues (including IP-relevant) to trigger mitigation measures. Feedback on technical details of safeguards issues is to be provided by the Safeguards Team directly to PMU leadership.

Figure 4: Institutional Arrangements



10.Action Plan: Budget, Schedule, Organisational Responsibility

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
1	Cross-cutting	Capacity building in FPIC processes, grievance mechanism, gender-related subjects (including gender budgeting, PPRG) and capacity to facilitate critical reflection in project implementation for field facilitators, GIZ project staff, and independent assistants (together with GAP trainings).	Percentage of FPIC relevant staff that was trained	100%	PMU GIZ Technical advisor for Environmental and Social Safeguards, Gender, and Indigenous Peoples (ESGI Advisor)	Y1	PMU ESGI Advisor GIZ HCD Advisor	20,000 (included in Training budget for act. 1.1.1, see also IPP)
2.	Cross-cutting	Process to obtain FPIC with Customary communities in the target regencies. To be implemented jointly with workplan workshop (next activity)	FPIC formally expressed by communities' representatives	Obtain FPIC for project activities	PMU ESGI Advisor	Y1, Y4	PMU Programme Director	30,000 (included in local consultancies budget for act. 1.1.1)
3.	Cross-cutting	Participatory development of a workplan with customary communities	workplan elaborated with participation of customary communities is available	The project's workplan was elaborated with the participation of customary communities in the project region.	PMU ESGI Advisor	Y1	PMU Programme Director	15,000 (included in local consultancies budget for act. 1.1.1)
4.	Cross-cutting	Replicate the successfully "Conflict Resolution Desk (DRK)" from Kapuas Hulu in the	Number of target regencies with a Conflict Resolution Desks	4 additional Regencies in West Kalimantan have a Conflict Resolution Desk.	M&E Tool	Y2-Y6	GIZ	80.000 EUR per DRK (=320.000 EUR in total for 4 DRKs in 4 more regencies)

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
		other four target Regencies.						
4.	Cross-cutting	Inform Customary Communities by proper means about the GRM and ensure capacities to file a grievance, if needed.	Number of communities that have been informed and capacitated about the GRM.	All affected customary communities are informed and capacitated about the GRM.	PMU ESGI Advisor	Y1-y7	PMU ESGI Advisor	Together with FPIC process
	Cross-cutting	Ensure equal participation of women in project activities and benefit sharing	Percentage of women participating and benefiting from project activities	Min. 30% of all project beneficiaries are women	GIZ M&E Advisor ESGI Advisor	Y1-y7	ESGI Advisor	Included in M&E
5.	M&E	Monitoring & Reporting on the implementation of the Indigenous Peoples Plan	IPP monitoring report is available	The Program's M&E system includes the IPP implementation	PMU ESGI Advisor GIZ M&E Advisor	Y1-y7	PMU ESGI Advisor GIZ M&E Advisor	Included in M&E
6.	1.1.1.2: Capacity building and implementation support related to climate change adaptation for government agencies at provincial, regency, and village level	Enhancing the capacity of village governments /indigenous communities in disaster risk reduction and adaptation	<ul style="list-style-type: none"> - Capacity needs assessment (CNA) was carried out. - Number of trainings conducted with relevant institutions in customary territories in land use planning, climate risk reduction and adaptation. 	<ul style="list-style-type: none"> - CNA available - Customary communities in each regency of the project area received at least one training on adaptation topics 	PMU ESGI Advisor GIZ M&E Advisor	Y2-Y6	PMU GIZ Head of Component 1 ESGI Advisor	Included in activity budget

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
7.	1.1.1.4: Monitoring and reporting of adaptation measures 1.1.2.4: Monitoring and reporting of mitigation activities	Ensure that monitoring and reporting of adaptation and mitigation systems includes data from IP territories	Availability of data from IP territories in monitoring and reporting systems.	Data from IP territories is equally included as those from non-IP territories.	PMU Provincial government ESGI Advisor GIZ M&E Advisor	Y5-Y7	PMU Province government GIZ Head of Component 1	Included in activity budget
8.	1.2.1.1-1.2.1.5: Strengthening the regulatory framework and implementation of High Biodiversity and Carbon Areas (i.e., HCV, HCS) on non-state forests land.	During the implementation the project team will make sure that FPIC principles and IPs' rights and livelihoods are taken into account and respected. Available local maps will be considered.	% of IP in mapped HCV/HCS areas during field work which were involved through FPIC processes	100%	GIZ M&E Advisor	Y1-6	GIZ ESGI Advisor	Included in activity budget
9.	1.3.1.1: Implement an on-granting program dedicated to Indigenous People (IP) in West Kalimantan	Develop and operationalize a dedicated fund to ensure access of IP to funds for the implementation of sustainable land-use practices.	Number of proposals submitted to the fund.	25 proposals	BPD LH GIZ M&E Advisor GIZ Head of Component 1	Y1-Y6	BPD LH PMU	Included in activity budget

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
10.	1.3.1.2: Elaborate strategies, policies, and procedures for one or several financing mechanisms for climate resilient agriculture and forestry	Ensure that the needs of IP will be considered in the development of Climate Finance Mechanisms and Facilities	Number of IP representatives present in participatory meetings of the sub-activity	Participatory involvement of IP representatives in all meetings of the sub-activity	Province government	Y6-Y7	Province government PMU	Included in activity budget
11.	2.1.2.1: Improved capacities to implement resilient and sustainable smallholder farming	Capacity building measures on resilient and sustainable farming are tailored to the needs of IP.	Share of beneficiaries (training participants) that are members of customary communities.	60%;	Project management (Solidaridad) M&E Advisor	Y1-Y6	Solidaridad PMU	Included in activity budget
12.	2.1.2.1: Climate resilient business cases for smallholders will be co-developed	Smallholders from IP will be matched with funding sources and potential investors in their sustainable commodity production business cases.	Number of match-makings	5 cooperatives / farmer groups from IP (incl. Malay and transmigrants) are matched with potential funding sources/investors	PMU und M&E team/tool	Y2-Y4	Solidaridad	Included in activity budget
13.	2.1.2.2: Climate-resilient commodity and agroforestry scaled with improved market access	Farmer cooperatives in customary communities are established and trained to facilitate market access, improve processing capacities and farming practices,	Number of cooperatives among IP established	- 5 cooperatives are established among IP (incl. Malay and transmigrants) and trained in sustainable farming.	Project management (Solidaridad)	Y1-Y6	Project management (Solidaridad)	Included in activity budget

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
		and increase bargaining power.						
14.	2.1.2.3: Digital systems for value chain traceability and certification, and improved access to services	Establish digital systems for value chain traceability and certification, and improved access to services for IP	Number of established network connections	Establishment of partnership networks, branding and market formation of agricultural market products at national and international levels for IP.	Project management (Solidaridad) Village, regency, provincial and central governments.	Y2-Y5	Village, regency, provincial, central government and project management.	Included in activity budget
15.	3.2.1.1: Develop and implement SF management plans and support new SF permit proposals for local communities	IP dedicated sub-activity	<ul style="list-style-type: none"> - Number of IP with new licenses of SF or other legal CBFM schemes - Number of new management plans (RKPS) for holders of existing SF and/or other legal CBFM licenses 	<ul style="list-style-type: none"> - 70 - 30 	M&E Tool	Y2-Y6	PMU GIZ, Head of Component 3	Included in act. budget
16.	3.2.1.2: Develop and strengthen SF business units (KUPS) to establish, improve, and escalate market, supply chain, and value-added communities' products, including the creation of KUPS models and capital supports	IP dedicated sub-activity	<ul style="list-style-type: none"> - Number of business feasibility reports on potential KUPS commodities in five regencies. - Number of KUPS formed and strengthened, based on the business feasibility reports. 	<ul style="list-style-type: none"> - 5 (one for each regency) - 100 	M&E Tool	Y2-Y6	PMU GIZ	Included in act. budget

Expected Outcomes, Activities and Targets								
No.	Project (Sub-) Activity/ Component	IPP Activity	Indicator	Target	Monitoring	Timeline	Responsibility	Costs (in EUR, only for IPP)
			- Number of aggregated-commodities business-units formed with an investable business plan.	- 1				
17.	3.2.1.3: Capacity building for SF permit holders	IP dedicated sub-activity	- Number of trainings offered - Number of participating holders of SF and other CBFM schemes permits	- 20 (4 in each target Regency) - 70.	M&E Tool	Y2-Y6	GIZ	Included in act. budget
18.	3.2.1.8: Direct investments to KUPS to implement social forestry licenses to contribute to sustainable management of forest land	IP dedicated sub-activity	Number of financially supported KUPS	100	M&E Tool	Y2-Y6	GIZ	Included in activity budget
TOTAL of additional budget for IPP								EUR 385.000

11. Monitoring, Evaluation and Reporting

To ensure comprehensive monitoring and evaluation, safeguards, and gender mainstreaming, the indicators outlined in the Indigenous Peoples Plan will all be integrated into project's M&E system(s). This aggregation of data allows for a holistic understanding of project achievements and progress towards meeting the objectives of the Indigenous Peoples Plan.

All gathered data is meticulously recorded and stored within a database for efficient retrieval and analysis. This repository serves as the primary source of information for the annual progress report, which outlines the Indigenous Peoples Plan's implementation status, including a comprehensive assessment of the Plan's indicators.

The annual progress report is widely disseminated among all stakeholders, ensuring transparency and accountability throughout the project's lifecycle. Key findings and recommendations from the report are presented at the Steering Committee meeting, fostering open dialogue and collaboration among key decision-makers.

This comprehensive data collection, analysis, and reporting mechanism ensures that the Indigenous Peoples' Plan remains aligned with its objectives, safeguards the rights and well-being of indigenous communities, and contributes to gender equality in project implementation. Ongoing information disclosure, consultation, and informed participation with indigenous peoples (both women and men) will ensure the implementation of any corrective actions identified in the collaborative evaluation process.

References

- Abdias Yas, et al (editors), 2009, Getting to Know the Customary Justice System: 25 Dayak Tribes in Sanggau Regency, Pontianak: LBBT: 2009, p. 205.
- Adwata, Valeria, Kapuas Hulu Malay Culture, 2017.
- Badan Pangan Nasional (2022). Indeks Ketahanan Pangan Tahun 2022. <https://badanpangan.go.id/storage/app/media/2023/Buku%20Digital/Buku%20Indeks%20Ketahanan%20Pangan%202022%20Signed.pdf>
- BRWA, Customary Territory of Ketemengungan Punan Uheng Kereho, 2023.
- Danang, Martinus Pratama Wicaksana, Expressions of Love and Life of the Dayak Iban People, 2021.
- Fawzi, N. I. I., Indrayani, A. M., & DeKay, K. (2019). Forest Change Monitoring and Environmental Impact in Gunung Palung National Park, West Kalimantan, Indonesia. *Jurnal Ilmu Lingkungan*, 17(2), 197-204
- Jadmiko, S.D., D Murdiyarso, and A Faqih. 2017b. Climate Changes Projection for Land and Forest Fire Risk Assessment in West Kalimantan. *IOP Conf. Ser.: Earth Environ. Sci.* 58. DOI 10.1088/1755-1315/58/1/012030
- Kapuas Hulu Central Bureau of Statistics, Poverty, 2015-2019.
- Kluckhohn (2022). 7 Elements of Universal Culture. In Kompas.com. <https://www.kompas.com/skola/read/2022/06/06/090000969/7-unsur-kebudayaan-universal-menurut-c.-kluckhohn?page=all>
- Kornadi, Atem (2016). "Shifting Fields" A reflection of Dayak Solidarity. Blog article. <https://socialicous.wordpress.com/2016/01/07/ladang-berpindah-cerminan-solidaritas-masyarakat-dayak/>
- Maharani, Ratih. (2021). IOP Conference Series: Earth and Environmental Science The resilience of the agricultural system in the midst of the climate change issue in West Kalimantan The resilience of the agricultural system in the midst of the climate change issue in West Kalimantan Forest and Climate Change Programme -Financial Cooperation Module (FORCLIME FC) Planning Bureau, the Ministry of Environment and Forestry Republic of Indonesia
- Mubyarto in Paulus Florus, et al (editors), Dayak Culture: Actualization and Transformation, Pontianak: Institute of Dayakology, 2005, pp. 60-63.
- Nurdiyansah Dalidjo, AMAN, Knowing Who Indigenous Peoples are, August 30, 2021.
- Salafsky, N. (1994). Forest Gardens in the Gunung Palung Region of West Kalimantan, Indonesia. *Agroforestry Systems*, 28, 237-268.
- Saputra, Emanuel Edi, Cues of Climate Change in Kalimantan, 2021.
- Sujarni Alloy, et al, Dayak Mozaik: The Diversity of Dayak Sub-tribes and Languages in West Kalimantan, Institute of Dayakology, Pontianak, 2008.
- Supriyadi, Yohanes, Get to know Dayak Kanayatn better, 2021.
- Ter Haar, in Salfius Seko, paper "Customary Law", unpublished, 2019, p. 51.
- Umam, Gramedia, List of Tribes in Indonesia and their Social Institutions.
- Takdir, Simon, Getting to Know the Salako Dayak Tribe, 2016.
- Weiskopf, S. R., Cushing, J. A., Morelli, T., & Myers, B. J. E. (2021). Climate change risks and adaptation options for Madagascar. *Ecology and Society* 26(4):36.