

Comments on 2018 Proposed Tropical Forest Carbon Standard

Jakarta, 28 August 2019

My name is Norman Jiwan. I self-identify myself as a Dayak Kerambai indigenous person. Dayak Kerambai one of native population in Borneo Island in Kalimantan, Indonesia. I live in West Kalimantan, one of the provinces in the country with heavily forested regions in 1980s and have around 60% of forest cover of its total landmass.

Indonesia has a strong commitment to protect its remaining tropical rainforest. In doing so Indonesia adopts and plans climate adaption and mitigation including a host to major active REDD+ projects¹. Indonesia is active country members of Tropical Forest Alliance and some of its provinces members of Governor's Climate Forum.

Despite the ongoing and future government climate commitments and collaborations, our field 2017 survey in Kapuas Hulu, West Kalimantan, Indonesia found serious problems with REDD+ readiness and preparation activities on the ground. The survey involved indigenous peoples organisations, local social and environmental NGOs revealed the facts that REDD+ related activities and initiatives and the deforestation free commodity jurisdictional initiatives found the following concerns (Appendix 1 below):

- The project is not participatory but is marginalising Dayaks and NGOs.
- Community requests for information are not being responded to
- Free, Prior and Informed Consent is not being observed
- Community maps of their customary rights are not being taken into account
- Unhelpful definition of 'deforestation free'
- Denial of customary rights in forests

With the above realities and problems involved REDD+ readiness preparation activities and relevant jurisdictional initiatives in Kapuas Hulu District, West Kalimantan, Indonesia and international partners and collaborators should take immediate human rights based solutions and approaches in their future climate adaptation and mitigation.

Calling on our submission on United Nations Committee on the Elimination of Racial Discrimination (CERD Committee) under its Early Warning and Urgent Action Procedure with regards to Indonesia REDD laws and plans.²

Having read comments and submissions by various civil society and organisations namely Friends of the Earth US, Greenpeace, Amazon Watch, and members of the European Parliament.

We, hereby put forward our comments, and support the calls by Climate Law Institute *at the* Center for Biological Diversity, Friends of the Earth United States, and Indigenous Environmental Network that request CARB reject the TFS, and focus instead on crafting regulations that will end fossil fuel extraction and combustion, reduce California's

¹ <http://www.reddprojectsdatabase.org/view/projects.php?id=360&name=Indonesia&type=project>

² Submission to the UN Committee on the Elimination of Racial Discrimination concerning Indonesia REDD laws and plans. Submitted by AMAN, SawitWatch and FPP at <https://www.forestpeoples.org/partners/sawit-watch/publication/2009/indonesia-follow-request-cerd-about-redd-laws>

deforestation footprint, provide direct benefits to California communities, and deliver the large-scale, rapid GHG reductions needed to avoid the worst climate catastrophes.

Please do not hesitate to contact us with any questions.

Sincerely,

Norman Jiwan

(1) Supervisory Board member, TuK INDONESIA, Jakarta; (2) Directorate of Organisation and Resource Mobilisation of LemBAH, Bengkayang, West Kalimantan; (3) Staff Directorate of Aliansi Masyarakat Adat Nusantara Bengkayang, Singkawang dan Sambas (AMAN PD Bengkibas); and (4) Associate, Forest Peoples Programme, United Kingdom

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References

Submission to the UN Committee on the Elimination of Racial Discrimination concerning Indonesia REDD laws and plans. Submitted by AMAN, SawitWatch and FPP at <https://www.forestpeoples.org/partners/sawit-watch/publication/2009/indonesia-follow-request-cerd-about-redd-laws>

Discriminatory Forestry Regulations and REDD projects in Indonesia at <https://redd-monitor.org/2012/02/24/discriminatory-forestry-regulations-and-redd-projects-in-indonesia/>

International database on REDD+ projects and programmes at <http://www.reddprojectsdatabase.org/view/project.php?id=519>

Guest Post: The Amazon fires mark the end of REDD+ at <https://redd-monitor.org/2019/08/28/guest-post-the-amazon-fires-mark-the-end-of-redd/>

Ministry of Forestry Regulation on REDD at https://www.elaw.org/system/files/REDD_PERMENHUT_P-30-2009_BILINGUAL.pdf



Forest Peoples Programme



AMAN Kalimantan Barat



PPSDAK-Pancur Kasih



WALHI Kalimantan Barat



Lanting Borneo



Link-AR Borneo

2 May 2018

Attn.:
Country Director, GIZ Indonesia
Ministry of Foreign Affairs and International
Cooperation, Germany
KfW

RE: Concerns with GIZ-FORMCLIME

Dear Sirs/Madams,

We, the undersigned to this joint letter, NGOs from West Kalimantan and international human rights NGO Forest Peoples Programme have long worked in close collaboration with indigenous peoples, local communities and government authorities for good and responsible governance of land and forest, in particular in Kapuas Hulu District and West Kalimantan.

We are writing to you with regard to the ongoing Forest and Climate Programme (FORCLIME) project in Kapuas Hulu District, West Kalimantan, Indonesia. We are concerned by the problems caused by the

2 Mei 2018

Kepada Yth.
Direktur, GIZ Indonesia
Ministry of Foreign Affairs and International
Cooperation, Germany
KfW

Hal: Keberatan dengan GIZ-FORMCLIME

Dengan hormat,

Kami yang bertanda tangan pada surat bersama ini, organisasi masyarakat sipil dari Kalimantan Barat dan bersama organisasi HAM Forest Peoples Programme telah lama berkerja sama dengan masyarakat adat, masyarakat lokal dan pemerintah daerah untuk mendorong tata kelola tanah dan hutan yang baik dan bertanggung jawab, khususnya di Kabupaten Kapuas Hulu dan Kalimantan Barat.

Kami menyampaikan surat ini berkenaan dengan kegiatan Program Forest and Climate Change (FORCLIME) berjalan di Kabupaten Kapuas Hulu, Kalimantan Barat, Indonesia. Kami prihatin dengan masalah-masalah yang

ongoing GIZ-FORCLIME project, and through this letter are calling for reforms in its implementation to ensure it does not further undermine community rights, subsistence livelihoods, and the sustainability of the environment for indigenous peoples and local communities in Kapuas Hulu District and West Kalimantan.

We call on the GIZ-FORCLIME for immediate attention and reforms on the following:

1. The project is not participatory but is marginalising Dayaks and NGOs.

GIZ-FORCLIME designs and implements project without proper consultation and meaningful participation from the affected Dayak communities, a complaint voiced by the people in Jelemuk Village. Even in the GIZ-FORCLIME project assisted area, a village head has expressed concerns of the project limiting access to fishing, forests and non timber produce in forest areas after being mapped by GIZ-FORCLIME.

The GIZ-FORCLIME project fails to protect customary rights and other traditional rights in forest areas. In the name of applicable forestry law and its implementing regulations, GIZ-FORCLIME's reforestation and crop plantings are restricting community access to and activities in forest areas preventing traditional land clearing and agricultural cultivation in forest areas.

GIZ-FORCLIME project officers only work with government institutions and are failing to involve wider, open and transparent participation process with the affected communities and their NGO partners.

There has been no proper consultation and involvement of local parliament (DPRD Kabupaten Kapuas Hulu) in the oversight of effectiveness and community benefits of GIZ-FORCLIME demonstration activities in Kapuas Hulu District.

disebabkan oleh proyek GIZ-FORCLIME, dan melalui surat ini mendesak untuk perbaikan dalam implementasinya untuk memastikan FORCLIME tidak semakin memperlemah hak-hak masyarakat, sumber penghidupan, dan keberlanjutan lingkungan bagi masyarakat adat dan lokal di Kabupaten Kapuas Hulu dan Kalimantan Barat.

Kami mendesak GIZ-FORCLIME untuk perhatian segera dan perbaikan hal-hal berikut:

1. Proyek tidak partisipatif tetapi meminggirkan masyarakat adat Dayak dan masyarakat sipil.

GIZ-FORCLIME merancang dan menjalankan proyek tanpa konsultasi dan partisipasi yang memadai dari masyarakat terdampak di Desa Jelemuk. Bahkan di daerah yang dibantu proyek GIZ-FORCLIME, kepala desa menyatakan kekhawatiran semakin terbatasnya akses mencari ikan, hasil hutan dan hasil hutan bukan kayu di kawasan hutan setelah dipetakan oleh GIZ-FORCLIME.

Proyek GIZ-FORCLIME gagal melindungi hak adat dan hak tradisional lainnya dalam kawasan hutan. Atas nama UU Kehutanan dan peraturan lainnya, kegiatan reboisasi dan penanaman tanaman hutan GIZ-FORCLIME membatasi akses dan kegiatan-kegiatan masyarakat di kawasan hutan yang mencegah pembukaan lahan tradisional dan budidaya pertanian dalam kawasan hutan.

Staf proyek GIZ-FORCLIME hanya bekerja dengan lembaga pemerintah dan gagal melibatkan proses partisipasi luas, terbuka dan transparan dengan masyarakat terdampak dan mitra masyarakat sipil lainnya.

Belum adanya konsultasi dan keterlibatan yang memadai dari DPRD Kabupaten Kapuas Hulu dalam pengawasan efektivitas dan manfaat bagi masyarakat atas aktifitas-aktifitas demonstrasi oleh GIZ-FORCLIME di Kabupaten Kapuas Hulu.

There has been no participatory impact assessment of GIZ-FORCLIME demonstration activities either with those Dayak indigenous peoples communities directly and indirectly affected by the project.

Considering its scale and likely impact, GIZ-FORCLIME have not conducted a strategic social and environmental impact assessment (SESA) and or equivalent impact assessment has been in place with wider NGOs in Kapuas Hulu District and West Kalimantan.

We also note that there appears to be no participatory mitigation measures nor any conflict resolution process proposed and developed, in response to the complaints of the Dayak Kantu community from Jelemuk Village, Bika Sub-district, which was officially submitted in the form of a written letter rejecting GIZ-FORCLIME's project activities.

2. Community requests for information are not being responded to

GIZ-FORCLIME does not respond to and has not made a necessary follow up to community requests for information. GIZ-FORCLIME has not provided data and information when communities have requested maps to help them to understand where the sites of GIZ-FORCLIME project activities are. This is very important because the community wanted to know whether or not FORCLIME project is overlapping with their indigenous territories or may result in restrictions of their current and future use of land, forest and other natural resources.

3. Free, Prior and Informed Consent is not being observed

Information were not fully shared and properly explained with the affected communities. Community request for maps and sites of GIZ-FORCLIME were never shared and disseminated publicly available. In Jelemuk Village, a majority of the

Tidak ada analisis dampak partisipatif atas kegiatan-kegiatan demonstrasi GIZ-FORCLIME yang melibatkan masyarakat adat Dayak baik yang terkena dampak langsung maupun tidak langsung.

Mengingat luas dan dampak, GIZ-FORCLIME belum melakukan penilaian dampak sosial dan lingkungan strategis (SESA) dan atau penilaian dampak sejenis lainnya (SPPL) dilakukan dengan melibatkan masyarakat sipil lebih luas di Kabupaten Kapuas Hulu dan Kalimantan Barat.

Kami juga mencatat bahwa sepertinya tidak ada upaya-upaya mitigasi partisipatif atau proses resolusi konflik yang ditawarkan dan disusun dalam menanggapi pengaduan masyarakat Dayak Kantu dari Desa Jelemuk, Kecamatan Bika, yang secara resmi dalam surat tertulis menyampaikan penolakan kegiatan-kegiatan proyek GIZ-FORCLIME di wilayah mereka.

2. Permintaan masyarakat untuk informasi tidak ditanggapi

GIZ-FORCLIME tidak menanggapi dan belum melakukan tindak lanjut yang memadai atas permintaan masyarakat untuk informasi. GIZ-FORCLIME belum memberikan data dan informasi ketika masyarakat meminta peta-peta yang dapat membantu masyarakat memahami di mana lokasi kegiatan-kegiatan proyek GIZ-FORCLIME. Hal ini sangat penting karena masyarakat ingin mengetahui apakah proyek FORCLIME tumpang tindih atau tidak dengan wilayah adat atau mungkin menghalangi pemanfaatan lahan, hutan dan sumber daya alam saat ini dan masa depan.

3. FPIC tidak dilaksanakan

Informasi tidak sepenuhnya disediakan dan dijelaskan dengan benar kepada masyarakat yang terkena dampak. Permintaan masyarakat untuk peta dan tempat GIZ-FORCLIME tidak pernah dibagikan dan disebarluaskan kepada masyarakat. Di Desa Jelemuk, sebagian besar penduduknya adalah masyarakat adat Dayak

population is Dayak Kantu indigenous peoples from Bika Sub-district is left unattended after it rejected FORCLIME project after survey team of FORCLIME conducted inventory and survey in Jelemuk Village areas without permission. A socialization stage is only used to conduct forest inventory and surveys. There has also been no FPIC based resolution process established and proposed by FORCLIME with Jelemuk Village.

4. Community maps of their customary rights are not being taken into account

As a democratic and bottom-up community and spatial plan decision-making process, participatory mapping is not something unique and new. Participatory mapping has been widely accepted and used by NGOs and indigenous communities in West Kalimantan and in particular Kapuas Hulu District since 1993. Participatory mapping has been instrumental and useful in helping the government and communities to identify and plan traditional and historical spatial and land uses in many regions in Indonesia and clarify which areas are subject to customary rights.

Since GIZ-FORCLIME has been active, these participatory mapping results are facing a problem as it seems the project only accepting and using maps that have been produced with FORCLIME logo. Data coordinates and maps produced by other local NGOs were only taken into account if they were processed by FORCLIME GIS expert and produced with FORCLIME logo. Local NGOs are also increasingly dissatisfied by the fact that other maps and data they have laboriously collected are being used by the project without recognition and courtesy acknowledgment by FORCLIME.

This practice of ignoring the other customary land use and customary rights maps that have been produced through participatory mapping conducted by PPSDAK, Pancur Kasih, Lanting Borneo, AMAN Kalbar,

Kantu dari Kecamatan Bika yang dibiarkan tanpa pengawasan setelah menolak proyek FORCLIME setelah tim survei FORCLIME melakukan inventarisasi dan survei di wilayah desa Jelemuk tanpa izin. Tahap sosialisasi digunakan untuk melakukan inventarisasi dan survei hutan. Juga tidak ada proses resolusi berdasarkan FPIC yang dibangun dan ditawarkan oleh FORCLIME dengan Desa Jelemuk.

4. Peta partisipatif masyarakat adat tidak diperhitungkan

Sebagai proses pengambilan keputusan dan perencanaan tata ruang yang demokratis dan berangkat dari bawah, pemetaan partisipatif bukanlah sesuatu yang unik dan baru. Pemetaan partisipatif telah diterima luas dan digunakan oleh LSM dan masyarakat adat di Kalimantan Barat dan khususnya Kabupaten Kapuas Hulu sejak 1993. Pemetaan partisipatif sangat bermanfaat dan berguna membantu pemerintah dan masyarakat menggali sejarah dan merencanakan tata ruang dan lahan tradisional di banyak wilayah di Indonesia dan memperjelas tanah-tanah yang merupakan hak-hak adat.

Sejak GIZ-FORCLIME mulai aktif, hasil-hasil pemetaan partisipatif menghadapi masalah sebab sepertinya proyek FORCLIME hanya menerima dan menggunakan peta-peta yang diproduksi dengan logo FORCLIME. Data koordinat dan peta yang dihasilkan oleh LSM lokal lainnya hanya diperhitungkan jika diproses oleh ahli GIS FORCLIME dan diproduksi dengan logo FORCLIME. LSM lokal semakin kecewa sebab peta dan data lainnya yang dikumpulkan dengan kerja keras digunakan oleh proyek FORCLIME tanpa pengakuan dan penyebutan sumber oleh FORCLIME.

Praktik ini mengabaikan peta-peta tata guna lahan dan hak-hak adat lainnya yang dihasilkan melalui proses pemetaan partisipatif yang dilakukan oleh PPSDAK Pancur Kasih, Lanting Borneo, AMAN Kalbar, WALHI Kalbar, Link-

WALHI Kalbar, Link-AR Borneo, and other NGOs risks generating conflicts and resentment among the communities concerned. In fact, Perkumpulan Pancur Kasih, PPSDAK and its networks have already mapped approximately 270,000 hectares of indigenous and other communities' territories in Kapuas Hulu of which around 90,000 hectares have been identified and registered with KLHK as potential customary forests belong to indigenous peoples.

5. Unhelpful definition of 'deforestation free'

The project's definition of 'deforestation free' is not helpful as it only treats as forest areas in *Kawasan Hutan* and excludes all forest areas that are in APL or concessions even if they are High Conservation Value or High Carbon Stock areas. This seems to be the basis for a GIZ-FORCLIME official publication maintaining that no deforestation taken place in its project demonstration sites since the project's inception. A GIZ-FORCLIME provincial coordination officer apparently has explained to us that conversion of forest vegetation outside officially designated forest areas is not forest clearing. It is perceived as a planned deforestation, therefore, by a definition it is not deforestation.

6. Denial of customary rights in forests

The project apparently does not consider that Dayaks whose customary lands and territories overlap *Kawasan Hutan* have legitimate rights in their ancestral forests. Native crops planting and demonstration plots were offered and used to control and restrict community access to forest rather than strengthening the promotion of rights and sustainable livelihoods of indigenous peoples and local communities involved in GIZ-FORCLIME project activities.

AR Borneo, dan LSM lainnya berisiko memunculkan konflik dan kekecewaan antara masyarakat. Dalam kenyataannya, Perkumpulan Pancur Kasih, PPSDAK dan jaringannya telah memetakan sekitar 270.000 hektar wilayah masyarakat adat dan masyarakat lainnya yang di dalamnya sekitar 90.000 hektar telah diidentifikasi dan terdaftar dengan KLHK sebagai potensi hutan adat milik masyarakat adat di Kabupaten Kapuas Hulu.

5. Definisi 'bebas deforestasi' tidak berguna

Definisi proyek GIZ-FORCLIME 'bebas deforestasi' tidak berguna sebab definisi tersebut hanya memperlakukan sebagai areal hutan dalam *Kawasan Hutan* dan menegaskan kawasan hutan dalam APL atau konsesi perusahaan bahkan jika tutupan hutan adalah kawasan Nilai Konservasi Tinggi atau Stok Karbon Tinggi. Definisi ini menjadi dasar publikasi resmi GIZ-FORCLIME yang menyatakan bahwa tidak ada deforestasi yang terjadi di lokasi demonstrasi sejak awal proyek dimulai. Pejabat koordinasi provinsi GIZ-FORCLIME menjelaskan bahwa konversi vegetasi hutan di luar kawasan hutan yang telah ditetapkan adalah bukan pembukaan hutan. Hal ini dianggap sebagai deforestasi terencana, oleh karena itu, dengan definisi itu bukan deforestasi.

6. Penolakan hak adat dalam hutan

Kegiatan GIZ-FORCLIME tampaknya tidak mempertimbangkan bahwa masyarakat adat Dayak yang tanah dan wilayah adatnya tumpang tindih dengan *Kawasan Hutan* memiliki hak yang sah dalam hutan adat mereka. Penanaman tanaman asli dan kebun percontohan ditawarkan dan digunakan untuk menguasai dan membatasi akses masyarakat atas hutan bukan sebagai penguatan promosi hak dan keberlanjutan penghidupan masyarakat adat dan masyarakat setempat yang terlibat dalam kegiatan proyek GIZ-FORCLIME.

This joint letter is asking for reforms in order to bring GIZ-FORCLIME project back in line with international human rights norms and GIZ's own standards.

Yours faithfully,

On behalf of concerned organisations:



Stepanus Masiun, AMAN Kalbar



Anton P. Widjaya, WALHI Kalbar



Agus Sutomo, Link-AR Borneo



Norman Jiwan, Consultant for Forest Peoples Programme

Surat bersama ini mendesak perbaikan-perbaikan agar proyek GIZ-FORCLIME kembali selaras dengan norma HAM internasional dan standar GIZ sendiri.

Hormat kami,

Organisasi yang menyampaikan keberatan:



Dominikus Uyub, Lanting Borneo



Giring, PPSDAK/Perkumpulan Pancur Kasih



Dr. Marcus Colchester, Senior Policy Advisor, Forest Peoples Programme