

Indonesia

**Universal Periodic Review (UPR)
Stakeholders' Submission to the 13th session of the UPR Working Group, (21st May -
1st June 2012)**

Joint report submitted on November 21, 2011, by:



HuMa (Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis)
Website: www.huma.or.id



Pontianak Institute



Down to Earth
Website: www.downtoearth-indonesia.org



PUSAKA
Website: www.pusaka.or.id



WALHI (Wahana Lingkungan Hidup) Kalimantan Tengah



Aliansi Masyarakat Adat Nusantara (Indigenous Peoples Alliance of the Archipelago)
Website: www.aman.or.id



Forest Peoples Programme
Website: www.forestpeoples.org



Komunitas Konservasi Indonesia/KKI Warsi Website: www.warsi.or.id



Yayasan Merah Putih/YMP
Website: www.ymp.or.id



Rainforest Foundation Norway (RFN)

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Introduction

1. This report is a joint submission of several civil society organizations in Indonesia and three supporting organizations outside Indonesia.
2. This submission will provide information related to the level of compliance of the Government of Indonesia to those UPR recommendations that are listed in Section II of the Report of the Working Group A/HRC/8/23. It pertains especially to paragraphs 77 (5) and (7), to which the Government of Indonesia declared its support, and paragraph 78 of the same report and Paragraph 77 (5) of the UPR Working Group report recommends the Government of Indonesia to continue measures to promote and protect the human rights of all components of the Indonesian people.
3. Subsequently in paragraph 77 (7) of the UPR Working Group report, the Council also encourages the Government of Indonesia to adopt measures of capacity-building/cooperation/sharing of best practices, which involves the following:
 - (a) Indonesia is encouraged to consider engaging in further dialogue at the regional and international level, and to share best practices, as requested by States during the interactive dialogue;
 - (b) Indonesia is encouraged to identify its capacity-building needs related to the Universal Periodic Review follow-up and seek regional and international cooperation in this regard, including through integration of the Universal Periodic Review recommendations, as appropriate, into its national development strategy and into its dialogue with relevant stakeholders through existing mechanisms. Such capacity-building needs could pertain, inter alia, to issues such as harmonization of local laws with national and international standards or to the strengthening of national human rights institutions;
 - (c) It was also recommended that additional capacity-building measures be taken in support of programmes and projects focused on women and children.
4. Furthermore, in paragraph 78, the UPR Working Group report also mentioned recommendations from the Netherlands and Latvia pertaining to the importance of inviting special rapporteurs under special procedures.

I. Implementation of the Three Recommendations

5. Civil society organizations warmly welcome the issuance of Act No. 40 Year 2008 on the Elimination of All Racial Discrimination by the Government of Indonesia. We also welcome the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) by the Government of Indonesia in 2005, although we highly regret the reservation made on article 1 of the two Covenants. This reservation consequently contributes to the continued neglect of the rights to lands, territories and natural resources of rural communities and particularly indigenous peoples by the Government of Indonesia. Such neglect has increasingly worsened in the implementation of policies and practices of natural resource exploitation and climate change impact mitigation in the last four years.

a. Para 77 Recommendation No.5

6. The following policies and regulations are evidence brought forth by civil society to demonstrate how the reservation on article 1 of ICCPR and ICESCR has made possible the issuance of natural resource and climate change impact mitigation policies that are in contravention with national and international human rights legal principles and norms:

- a) Article 1 letter c and f of Act No. 41 Year 1999 on Forestry (see Annex B)
- b) Article 20 Act No. 18 Year 2004 on Plantation (see Annex B)
- c) Article 169 Act No. 4 Year 2009 on Mineral and Coal Mining (see Annex B)
- d) Ministry of Forestry of Republic of Indonesia Regulation Number: P. 50/Menhut-II/2009 on the Affirmation of Status and Function of Forest Area (see Annex B)
- e) Ministry of Forestry of Republic of Indonesia Regulation Number: P.30/Menhut-II/2009 on the Procedure of Reducing Emissions from Deforestation and Forest Degradation (REDD)
- f) Ministry of Forestry of Republic of Indonesia Decision Number: SK 292/Menhut-II/2011 on Use Change of Forest Area to Non-Forest Area with the Size of 1,168,656 (one million one hundred sixty eight thousand six hundred and fifty six) hectares, Inter-Function Change of Forest Area with the size of 686,666 (six hundred eighty six thousand six hundred and sixty six) hectares and Designation of Non-Forest Area as Forest Area with the size of 29,672 (twenty nine thousand six hundred and seventy two) hectares in Central Kalimantan Province (see Annex B)

7. The reservation on article 1 of ICCPR and ICESCR provides the grounds for the exclusion of recognition and protection of the right to land, territories and natural resources owned and managed by rural communities and indigenous peoples from policies of natural resource and climate change impact mitigation mentioned earlier.¹ By maintaining national laws inherited from the colonial era² stating that land, territories and natural resources are controlled by the state and by preserving that legacy in climate change impact mitigation, these policies have become legal instruments that force communities, especially rural communities and indigenous peoples, to subject themselves to the clauses of forest territories designation that disregard their rights and restrict and/or limit their economic, social and cultural activities, which are deemed as having the potential to accelerate rates of deforestation and forest degradation.

8. We are concerned about the impact of the reservation of article 1 of ICCPR and ICESCR on the content of natural resources-related policies that are biased in favor of large-scale companies and that restrict access of rural communities and indigenous peoples to natural resources. This reservation also affects climate change impact mitigation policies that place a higher value on the protection of conservation areas managed by the state together with the private sector than on territories of food and market commodity crops belonging to rural communities and indigenous peoples. It is evident that none of the policies and regulations created with regards to climate change impact mitigation provide any protection framework for territories of food crop cultivation and other agricultural products that belong to or are managed by rural communities and indigenous peoples. Such absence of protection has forced rural communities and indigenous peoples to adapt themselves to climate change without adequate technological and financial support.

9. Data from the Ministry of Forestry and Central Statistic Agency show that there are 31,957 villages that interact on a daily basis with forest areas, whose size is currently 136.88 million hectares. 71.06% of these communities are dependent on forest natural resources for their livelihood.³ Out of the abovementioned forest area, only 14% already bears a clear legal status. At the same time, the government persists in issuing exploitation licenses in

¹ For further information see Steni, Bernadinus, 2009, *Pemanasan Global: Respon Pemerintah dan Dampaknya terhadap Hak Masyarakat Adat*, Jakarta: HuMa, Jakarta.

² For further information see Owen Lynch and Emily Harwell, 2002, *Whose Natural Resources? Whose Common Good ?*, Jakarta: Elsam and HuMa, pg. 19-43

³ Regulation of Ministry of Forestry of Republic of Indonesia Number: P. 51/Menhut-II/2010 on the Ministry of Forestry Strategic Plan year 2010-2014.

forest areas, forcing communities that lack clear legal status to leave their homes in order to make room for large-scale companies and conservation projects.⁴ Furthermore, communities that live in villages located inside and around forest areas have been directly affected by forest destruction and have gained little or no benefit from large-scale licensed operations. The Ministry of Forestry records that more or less 48.8 million people live on state forest land, 10.2 million of whom are considered poor (Ministry of Forestry Strategic Plan 2010-2014). This effectively means that out of 31.02 million people living below the poverty line, almost half live inside and around forest areas.⁵ This inequality suggests that since the beginnings of massive exploitation of forest and forest resources the 1970s up to the present day, the logic of ‘benefit for the people’ propagated by the government has never even come close to fulfilling the economic, social and cultural rights of communities living inside and around forest areas. Likewise, the highly comparable promises propagated through REDD+ (Reducing Emissions from Deforestation and Forest Degradation) scheme have not paid serious or in-depth attention to the fulfillment of economic, social and cultural rights of rural communities and indigenous peoples.

10. At the beginning of this year, the Community Chamber of National Forestry Council released a public report on the threats to the life and livelihood of rural communities and indigenous peoples in 4,000 villages located inside and around forest areas in the face of the devastating impacts of climate change, and without adequate support from the national and local governments.⁶ Besides being threatened by the looming loss of ownership rights and access to land, territories and natural resources, these villages are also currently facing harvest failures, especially with regards to food crops, but also of other agricultural commodities, which result in their declining ability to fulfill their own dietary requirements independently and the decline in their family income. These threatened communities generally reside in Sulawesi, Kalimantan, Sumatera, West Nusa Tenggara, East Nusa Tenggara and Papua.⁷ In parallel to the negligible degree of effort on the part of the government to manage climate change impacts and the ambiguity concerning the status of rural communities and indigenous peoples’ rights to natural

⁴ Further information can be found in Agus and Sentot Setyasiswanto, 2010, *Setelah Kami Dilarang Masuk Hutan*, Jakarta: HuMa, Pontianak Institute and LBBT. Another relevant report is Andiko et al, 2007, *Mengelola Hutan dengan Memenjarakan Manusia*, Jakarta: HuMa, pg. 11-30.

⁵ <http://www.bps.go.id/index.php?news=776>

⁶ Further information can be found in Kamar Masyarakat Dewan Kehutanan Nasional, *Sendirian Menghadapi Iklim Yang Berubah*, Jakarta, 2010. On <http://tinyurl.com/88ehtjy>

⁷ Masyarakat Dewan Kehutanan Nasional, *Sendirian Menghadapi Iklim Yang Berubah*

resources, the Government of Indonesia persists in promoting natural resource extraction, resulting in protracted conflicts over these natural resources and the repeated violation of civil, political, economic, social and cultural rights of rural communities and indigenous peoples. In the view of civil society, this condition stems from state policies that are rooted in and still preserve patterns and models of natural resource exploitation from the past without any systematic review or serious human rights integration into sectoral policies in the natural resources sectors. Evidence of this condition can be seen in Article 1 letter c and f of Act No. 41 Year 1999 on Forestry, Article 20 Act No. 19 Year 2004 on Plantation, Article 69 Act No. 4 Year 2009 on Mineral and Coal Mining, Ministry of Forestry of Republic of Indonesia Regulation Number: P. 50/Menhut-II/2009 on the Affirmation of Status and Function of Forest Area and more recently on forestry policies with regards to REDD+ (see Annex B).

11. Civil society is also seriously concerned by the absence of clauses pertaining to civil, political, economic, social and cultural rights protection, and the right to Free Prior and Informed Consent (FPIC) of rural communities and indigenous peoples in all policies and regulations intended to manage climate change impacts.⁸ Not a single article in these policies and regulations refers to the importance of civil, political, economic, social, cultural and FPIC rights. Nor is any mention made women and children's rights or the rights of people suffering from physical/mental disabilities. Therefore, it is not surprising that in the implementation of demonstration activities or climate change mitigation projects such as REDD+, numerous reports from the field mention the violation of civil, political, economic, social and cultural rights of local communities and indigenous peoples, as well as the rights of other vulnerable groups, as is the case in West Kalimantan⁹, Central Kalimantan and Central Sulawesi.¹⁰

12. We are concerned that there is no obligation on the government to maintain a record of the number of rural communities whose enjoyment of rights are badly impaired due to climate change impacts and related mitigation efforts. As a result, until the present day, there has been no official report from the government as to the number of casualties, let

⁸ Bernadinus Steni and Sentot Setyasiswanto, 2011, *Tak Ada Alasan Ditunda: Potret FPIC dalam Proyek Demonstration Activities REDD+ di Kalimantan Tengah dan Sulawesi Tengah*, Jakarta: HuMa

⁹ Further information can be found in Hamka & Setyasiswanto, 2011, *Mereka Yang Belum Setara*, Jakarta: HuMa dan Pontinak Institute

¹⁰ For further information see Steni & Setyasiswanto, 2011, *Tak Ada Alasan Ditunda*

alone a report on these communities' living conditions after having been affected by climate change, nor any report on government actions with regards to efforts to improving these living conditions.

13. In Central Sulawesi, based on Ministry of Forestry and Central Statistic Agency report (2009), out of 724 rural communities living inside and around forest areas in Central Sulawesi, only three villages have obtained formal recognition from the government. This means that communities in as many as 721 villages are still being perceived as illegal dwellers facing potential criminalization every time they make use of forest resources. In the context of natural resources exploitation plans and the implementation of REDD+ projects, the unclear legal status of the 721 villages means that their territories may potentially be afflicted with natural resources and carbon-related conflicts.¹¹
14. In Central Kalimantan, the release of a forest area of 1,168,656 hectares based on the Ministry of Forestry Decision Number: SK 292/Menhut-II/2011 leaves a number of villages relegated to Area for Other Utilizations (*Area Penggunaan Lain/APL*) that falls directly under the regional government of Central Kalimantan. Much of this area is covered by oil palm plantation licenses. Such a change has resulted in the takeover of communities' land in seven villages followed by the arrest of four people in their struggle to defend their rights. In many other villages, such appropriation of rights has fostered a deep sense of uncertainty with regards to local communities' rights to natural resources.¹²
15. In Jambi, the Orang Rimba, an indigenous people that historically maintains a territorial claim, has seen their lands grabbed by palm oil companies PT Krisna Duta Agro Indo (Sinar Mas Group) and PT Sari Aditya Loka (Astra Group), resulting in their living space being seriously diminished. Government neglect in this matter has resulted in horizontal conflicts between Orang Rimba and migrants that culminated in violence against and slaughter of native Orang Rimba. From 1997 to 2011, such conflicts have claimed the

¹¹ See Report of Yayasan Merah Putih, 2011, *Memantau UN-REDD di Sulawesi Tengah, Sulawesi Tengah Palu: YMP*

¹² See WALHI Kalteng, 2010, *Posisi Kasus Desa Biru Maju dan PT BAS, Palangkaraya: WALHI*. See also WALHI Kalteng, 2010, *Kawasan Ekologi Genteng Danau Sembuluh dan Konsep Pengelolaan Handil, Palangkaraya: WALHI Kalteng*

lives of at least fourteen Orang Rimba. Most of these crimes have gone without proper legal process, thus contributing to a pervasive culture of impunity.¹³

b. Para 77: Recommendations No. 7

(a) Dialogue and cooperation at the regional and international level

16. Civil society highlights the lack of initiative on the part of the Government of Indonesia to open a dialogue on human rights protection with regards to natural resources conflict resolution and mitigation of climate change impacts at the regional and international level. This in turn has resulted in the marginalization of rights and basic freedom of rural communities and indigenous peoples in policies with regards to natural resources, including projects aimed to mitigate climate change impacts. The Government of Indonesia's failure to implement these recommendations thereby violates the rights and basic freedoms of rural communities and indigenous peoples in several REDD+ demonstration activities sites.

17. Civil society identified almost no dialogue initiative coming from the Government of Indonesia with regards to rights-based mitigation of climate change, apart from a dialogue effort and cooperation with UN-REDD in Central Sulawesi related to the implementation of FPIC rights in REDD+ demonstration activities in that province. Nonetheless, this dialogue effort and cooperation did not result in significant change to improve the protection of the rights and basic freedoms of rural communities and indigenous peoples on the ground. This was largely due to the fact that at the practical level, the Government of Indonesia has been highly inconsistent in implementing FPIC rights in the abovementioned demonstration activities, despite this right being mentioned and elaborated in several international legal standards including International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, United Nations Declaration on the Rights of Indigenous Peoples.¹⁴ Civil society also regrets the failure of several international organizations that have already adopted FPIC as their policy to push the Government of Indonesia to integrate the principles and norms of

¹³ See the complete report on www.warsi.or.id. See end of year report of KKI Warsi 2010, *Jambi Satu Kesatuan Ekosistem yang Terkoyak Multi Kepentingan*, Jambi: KKI Warsi, See also the news of Jambi Independent Newspaper, "Orang Rimba Didor", Kamis March 5, 2009

¹⁴ See Bernadinus Steni and Sentot Setyasiswanto, 2011, *Tak Ada Alasan Ditunda*

FPIC rights into the planned demonstration activities. This includes their failure to convince the Government of Indonesia and regional governments regarding the importance of initiating REDD+ projects in full compliance with the standard and procedure of the right to FPIC.

- 18.** Due to poor initiative on the part of the Government of Indonesia and its antipathy towards integrating FPIC rights into natural resources exploitation licenses and REDD+ demonstration activities, the human rights of many communities in rural areas, whether self-identifying as indigenous peoples or not, are being systematically and repeatedly violated. This includes the right to information, the right to give and withhold consent, the right to fully participate in the aforementioned projects, and the rights of women within these processes.
- 19.** We would also like to draw attention to the human rights impacts of Indonesia's policies and legislation aimed at promoting the development of agrofuels as an alternative to fossil fuels. Increased production of crops including palm oil, jatropha and cassava is being actively encouraged by the Indonesian government in order to meet domestic and international demand for alternatives to fossil fuels, particularly under climate change mitigation plans. These policies are contributing to the accelerated and intensified proliferation of large-scale plantations in many parts of Indonesia, and the emergence of mega-projects such as the state-initiated Merauke Integrated Food and Energy Estate (MIFEE) agro-industrial scheme in Papua. Such projects are leading to the displacement of communities who live in areas targeted by industrial plantation developers, and the subsequent loss of their sources of livelihood, culture, identity and human dignity.
- 20.** The MIFEE project encompasses around 2 million hectares of land which is the customary land of the Malind and other indigenous peoples of Merauke. This land is being appropriated by large companies with state assistance and without any regard for the internationally guaranteed rights (of property and others) of these indigenous peoples, leading instead to the nullification of these rights. The negative human rights impacts of Indonesia's reservations on Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are becoming increasingly evident as the MIFEE project proceeds. This has been outlined in recent submissions on behalf of the affected communities to the Committee on the

Elimination of Racial Discrimination, the Special Rapporteur on Food Security and the Committee on Economic, Social and Cultural Rights.¹⁵ The Chairperson of the CERD has already expressed their concern regarding this project to the Indonesian government.¹⁶

21. The documented negative impacts of MIFEE include coercion and manipulative practices to obtain certification that indigenous peoples have relinquished their land; increased inter-ethnic conflict and violence; and the clearance of the forests on which the Malind and other indigenous communities depend on directly and almost entirely for their subsistence, in order to make way for monocrop plantations under long-term leasehold contracts between the state and private companies. Violations associated with the MIFEE project also include the violation of rights of free assembly, speech and the right of freedom from threats to one's physical integrity. This was exemplified most vividly by the harassment and intimidation of community leaders and representatives by representatives of the Papua provincial police and the national military intelligence during a meeting in July 2011 about MIFEE and human rights, held in Merauke.¹⁷

(b) Human resources capacity development with regards to human rights

22. Related to this matter, civil society organizations were unable to identify any regional or international cooperation aimed at improving human rights capacity-building among state officials and authority-bearing apparatuses in natural resources sectors and climate change mitigation.¹⁸ In particular, the widespread (mis)conception that only the military,

¹⁵ Request for Consideration of the Situation of Indigenous Peoples in Merauke, Papua Province, Indonesia, under the United Nations Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, United Nations Committee on the Elimination of Racial Discrimination, Seventy-ninth session, 08 August – 2 September 2011, Submitted by Sawit Watch and Forest Peoples Programme and 11 other organisations, 31 July 2011.

Letter to Olivier De Schutter, UN Special Rapporteur, Right to Food, IHCHR-UNOG, re: Request for Urgent Assistance to Address the Imminent Threat to the Right to Food of the Indigenous Peoples in Merauke, Papua Province, Indonesia, signed by Abetnego Tarigan, Sawit Watch and Fergus Mackay, Forest Peoples Programme, on behalf of 22 submitting organisations, 9 August, 2011. Letter to Ariranga Govindasamy Pillay, Chairman, Committee on Economic, Social and Cultural Rights (CESCR), re: Indonesia's Ratification of the Covenant and Failure to Submit its Initial Report, signed by Abetnego Tarigan, Sawit Watch and Fergus Mackay, Forest Peoples Programme, on behalf of 22 submitting organisations, 9 August, 2011.

¹⁶ Letter from Anwar Kemal, Chairperson of the Committee on the Elimination of Racial Discrimination to H.E.M.Dian Triansyah Djani, Ambassador, Permanent Mission of Indonesia, Geneva, September 2nd, 2011, Reference GH/ST.

¹⁷ See also Request for Consideration of the Situation of Indigenous Peoples in Merauke, Papua Province, Indonesia. United Nations Committee on the Elimination of Racial Discrimination, Seventy-ninth session, 08 August-2 September 2011, submitted by 13 civil society organisations on behalf of the indigenous peoples of Merauke.

¹⁸ For further information see., Steni & Setyasiswanto, *Tidak Alasan untuk Ditunda*

police and law enforcement officials and members require capacity-building with regards to human rights knowledge and skills has resulted in the complete absence of capacity development aimed at officials and authority-bearing apparatuses with regards to the issuance of licenses for natural resources exploitation and climate change mitigation. No human rights training has been made available to them, either at the local or national level.

- 23.** The evidence of such an erroneous understanding is the failure of the Committee on National Action Plan on Human Rights, established in more than 400 districts and municipalities in Indonesia, to make the connection between human rights and climate change impact mitigation, which has been taken over by officials and state apparatuses in the climate change mitigation sector. As a result, there are no specific courses on natural resources exploitation, climate change and its impacts on human rights enjoyment within the already developed training materials and curricula on human rights, let alone techniques to integrate such courses into climate change impact mitigation projects. The Committee also failed to mainstream FPIC rights in the trainings, seminars and workshops that they have been conducting, not have they attempted to integrate these fundamental rights into the National and Local Action Plan Program.
- 24.** As a result, it is hardly surprising to find that most of the officials and apparatuses authorized to issue licenses to exploit natural resources and to manage climate change impacts have little, if any, understanding of human rights. This in turn leads to a profound disregard for human rights in their work strategy and implementation models. We failed to identify any efforts from the authorities to reduce the destruction and increase the productivity of areas of food crops and other agricultural commodities that belong to rural communities and indigenous peoples, such as in the form of affordable and appropriate technological support, discrimination-free agricultural loans, regular expert support and the badly needed prevention of destruction of local ecosystems.¹⁹
- 25.** The ignorance of authorities and officials on the relation between human rights and the issuance of natural resources exploitation licenses and climate change impact mitigation also results in their failure to meet their obligation to fulfill human rights, especially in ensuring the compliance of non-state actors exploiting natural resources and those

¹⁹ For further information see *Sendirian Menghadapi Iklim yang Berubah*.

involved in climate change mitigation projects with regards to respect for human rights of rural communities and indigenous peoples in many places.²⁰ In Central Kalimantan, the Kalimantan Forests Carbon Partnership (KFCP) — a REDD project under the cooperation of the Government of Indonesia and Australia—has reportedly violated the legal principles and standards of human rights in its project implementation, including the right to land, territories and natural resources of rural communities and indigenous peoples in the former million-hectare Peatland Development Project (PLG) block, as well as the right to information and full participation of both communities.²¹ The government has also failed to conduct an investigation of these violations, thereby allowing the anti-human rights REDD project implementations to proceed unhindered.

(c) Special capacity development with regards to women and children’s rights

26. Civil society also wishes to draw attention to the absence of efforts to develop understanding and skills with regards to integrating the rights of women and children or other vulnerable groups into climate change impact mitigation projects. Civil society has already identified preliminary evidence from the field that REDD projects in Central Kalimantan and Central Sulawesi have often neglected women’s voices in a number of fora, despite the presence of women being reported in these fora.²²

c. Para 78: Inviting A Special Rapporteur

27. Civil society also notes the absence of intent on the part of the Government of Indonesia to invite UN Special Rapporteurs with regards to natural resources exploitation and climate change issues, such as the UN Special Rapporteur on Indigenous Peoples; Adequate Food; Women; Children, Human Rights and Access to Safe Drinking Water and Sanitation; Human Rights and Transnational Corporations and Other Business Enterprises; and Effects of Economic Reform Policies and Foreign Debt on Human Rights, as recommended by Latvia and the Netherlands. At the time of writing, not a single piece of information indicates that the Government of Indonesia has the intention

²⁰ For further information see Steni & Setyasiswanto, *Tidak Ada Alasan untuk Ditunda*, See also the letter of several civil society organizations to the Australian Delegation to Central Kalimantan February 2011, Ref: Number: 381.As/YPD-KT/Kps-XI/2010, Kuala Kapuas, Thursday, 24 th of February 2011

²¹ Ibid

²² Ibid

to invite such Special Rapporteurs to investigate and raise awareness on the aforementioned issues.²³

III. Achievements, best practice, challenges and constraints

- 28.** Civil society warmly welcomes the issuance of Act No. 40 Year 2008 on the Elimination of All Racial Discrimination by the Government of Indonesia. We also welcome the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) by the Government of Indonesia in 2005.
- 29.** Nevertheless, civil society records that the Government of Indonesia has failed to integrate the 2008 Universal Periodic Review recommendations into development policies and practices, particularly with regards to natural resources and climate change impact mitigation. Not a single recommendation has been integrated by the Government of Indonesia into natural resources, development, and climate change impact mitigation, resulting in renewed practices that violate fundamental human rights and basic freedoms.
- 30.** Reform in the military body (Indonesian National Army/TNI), Police and Judicial Institutions are an important measure that must be encouraged and improved as one of the steps towards improving respect for and the protection of human rights in Indonesia. However, it is also equally important to expand the scope of integration of human rights principles and norms into policies and practices in natural resources, development and climate change impact mitigation sectors. Otherwise, such reform will never succeed in yielding the intended results, as copious evidence from the field shows that the failure to integrate human rights principles and norms into policies and practices of development and investment has undermined reform efforts by respective institutions. This is due largely to the fact that institutions by and large persist in adopting a confrontational, rather than conciliatory, stance towards rural communities and indigenous peoples who protest against practices of human rights violation involving big companies.

²³ See Country and other visits by [Special Procedures](http://www2.ohchr.org/english/bodies/chr/special/countryvisitsf-m.htm) Mandate Holders since 1998, <http://www2.ohchr.org/english/bodies/chr/special/countryvisitsf-m.htm>, accessed on October 13, 2011

31. Civil society also highly regrets the lack of initiative on the part the Government of Indonesia to invite UN Special Rapporteurs, especially with regards to climate change impact mitigation, since the visit of UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment(2007). Such lack of initiative hampers the domestic improvement of human rights conditions and basic freedoms and has created major dismay among rural communities and indigenous peoples.

32. In the light of the aforementioned concerns, civil society recommends the Government of Indonesia to undertake the following measures:

- a. Revoke its reservation on article 1 of ICCPR and ICESCR
- b. Accelerate the ratification process of all optional protocols in the international human rights legal instruments it has ratified
- c. Ratify ILO Convention No. 169 on the rights of indigenous and tribal peoples
- d. Integrate human rights legal principles and norms into all policies and practices with regards to climate change impact mitigation as promptly as practically feasible, with the involvement of the National Human Rights Commission, National Commission on Violence against Women, Commission of Children Protection and human rights organizations in the legal drafting process.
- e. Conduct human rights training related to climate change impact mitigation for all authorities, officials and apparatuses in a periodical manner, with the involvement of the National Human Rights Commission, National Commission on Violence against Women, Commission of Children Protection, and human rights organizations in the compilation of teaching modules and the implementation of training.
- f. Invite the National Human Rights Commission, National Commission on Violence against Women, Commission of Children Protection and the Ombudsman to conduct an audit of the conditions of protection and fulfillment of human rights and basic freedoms of rural communities and indigenous peoples both in general and in relation to climate change impacts and their mitigation.
- g. Invite UN Special Rapporteurs for Indigenous peoples, Adequate Food, Women, Children, Human Rights and Access to Safe Drinking Water and Sanitation; Human Rights and Transnational Corporations and Other Business Enterprises; and Effects of Economic Reform Policies and Foreign Debt on Human Rights. Specifically, the Government of Indonesia is urgently requested invite the Special

Rapporteur on the Right to Food to visit the MIFEE project area in Merauke, in line with the request submitted on behalf of indigenous communities in Merauke to the Special Rapporteur on 9 August 2011; and invite the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, as requested by the Chairperson of CERD in his letter to the Indonesian government concerning MIFEE, dated 2 September 2011.

- h. Heed the call to immediately suspend the MIFEE project until such a time as indigenous peoples' rights have been demonstrably secured in law and practice – in particular, their ownership rights to their traditional lands, territories and resources and their right to give or withhold their free, prior and informed consent to any further development thereon.

Annex A: Submitting Organizations

- 1. Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis/HuMA (Association for Community and Ecologically-based Legal Reform)**, founded in 2001, was established by individuals who have long experience and a clear position regarding the importance of community and ecological-based law reform on issues related to land and other natural resources. Address: Jl. Jati Agung No. 8, Jati Padang – Pasar Minggu, Jakarta 12540, Indonesia. Phone: +62(21)78845871. Fax: +62(21)7806959. Website: www.huma.or.id. E-mail: huma@huma.or.id and huma@cbn.net.id. Contact person: Andiko
- 2. Pontianak Institute/PI is a human rights association** established in mid-2009 to answer the concerns of its members on the poor conditions of human rights respect and protection in West Kalimantan. This association delivers its work through education, research and the promotion of human rights. Address: Komplek UNTAN Jl. M. Husni Thamrin Blok P-41, Pontianak Tenggara, 78124. Phone: +62 561 760030. Contact person: Sentot Setyasiswanto
- 3. Down to Earth/DtE founded in 1989** works with partners in Indonesia and internationally to promote climate justice and sustainable livelihoods. Address: Greenside Farmhouse, Hallbankgate, Cumbria CA8 2PX. England. Phone/Fax: +44 (0) 16977 46266. Website: www.downtoearth-indonesia.org. Email: dte@gn.apc.org. Contact person: Carolyn Marr
- 4. PUSAKA** is a non-profit organization that works through advocacy research, documentation, promotion of the rights of indigenous peoples, capacity development, education, and empowerment with regards to indigenous people issues, rights to land, economic, social, and cultural rights, and strengthening community organization. PUSAKA was established in 2001 based on a notary act No. 13 dated August 13, 2002. Address: Kompleks Rawa Bambu Satu, JL. B No. 6 B, Pasar Minggu, Jakarta Selatan. Phone: +6221 7892173. Website: www.pusaka.or.id. Contact person: Franky Samperante
- 5. Wahana Lingkungan Hidup Indonesia Kalimantan Tengah/WALHI (Non-Government Organization and Nature Lovers networks and forums)** is concerned

with issues of environmental destruction in Central Kalimantan. Its vision is to establish people's sovereignty with regards to natural resources management as a just and sustainable means of respecting their welfare and human rights. WALHI Regional Executive was established in 1996. Address: Jl. Virgo IV No. 129 komplek Amaco Palangkaraya 73112. Kalimantan Tengah. Phone: +62. 536 3229202. Fax: +62 536 3238382. Email: walhi.kalteng@gmail.com. Contact person: Arie Rompas

- 6. Aliansi Masyarakat Adat Nusantara/AMAN (Indigenous Peoples' Alliance of the Archipelago)** is an indigenous peoples' organisation that represents indigenous peoples across the Republic of Indonesia. The Alliance is aimed to be an organisation for indigenous peoples to struggle for their existence and rights inherited with it as well as to struggle for sovereignty in running their lives and in managing their natural resources. AMAN's main working areas are 1] Indigenous organization, networking and customary institutions development; 2] Indigenous rights advocacy and legal defense; 3] strengthening customary-based economic system; 4] Strengthening indigenous women; and, 5] Education for indigenous youth. Address: Jalan Tebet Utara II, Blok C No. 22 Jakarta Selatan 12820, Indonesia. Phone/Fax: +62 21 8297954. Website: www.aman.or.id E-mail: rumahaman@cbn.net.id. Contact person: Abdon Nababan
- 7. Forest Peoples Programme (UK)** is an international NGO, founded in 1990, which supports the rights of forest peoples. It aims to secure the rights of indigenous and other peoples, who live in the forests and depend on them for their livelihoods, to control their lands and destinies. Address: 1c Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, UK. Phone: (44) 01608 652893. Fax: (44) 01608 652878. Website: www.forestpeoples.org. E-mail: info@forespeoples.org. Contact person: Marcus Colchester
- 8. Komunitas Konservasi Indonesia/WARSI** is an organizational network established in January 1992, with a membership of twelve NGOs from four provinces in Sumatra (South Sumatra, West Sumatra, Bengkulu and Jambi), whose focus is biodiversity conservation and community development. In July 2002, WARSI was amended to Komunitas Konservasi Indonesia – WARSI. Address: Jl. Inu Kertapati Nomor. 12 Kelurahan Pematanh Sulur, Kecamatan Telanai Pura , Jambi. 36124. Phone: +62741 66695/66678. Website: www.warsi.or.id. Contact person: Rakhmat Hidayat

9. **Yayasan Merah Putih/YMP** is a non-governmental non-profit organization founded in Palu, Central Sulawesi, on December 14 1989 whose work focuses on advocacy and empowerment of local communities in Central Sulawesi, especially indigenous peoples and peasant communities. Address: Jln Tadulako 2 No. 11, Kelurahan Palupi Palu, Sulawesi Tengah Indonesia 94229. Phone: +62451-4740895. Website: www.ymp.or.id. Contact person: Nasution Camang
10. **Rainforest Foundation Norway (RFN)** is a non-governmental non-profit organization based in Oslo, Norway. RFN supports indigenous peoples of the world's rainforests in their effort to protect their forests. RFN supports projects in ten countries, in all three rainforest continents. We work closely together with more than 100 local partners, including in Indonesia and advocate a rights-based approach to rainforest protection. The organization was established in 1989. Address: Grensen 9B, 0159 Oslo, Norway. Phone: +47 23 10 95 00, email: rainforest@rainforest.no. Website: www.rainforest.no. Contact person: Ronny Hansen

Annex B: National laws and policies²⁴

1) Article 1 letter c and f Act No. 41 Year 1999 on Forestry



**THE LAW OF REPUBLIC OF INDONESIA
NUMBER 41 YEAR 1999
ON
FORESTRY
WITH THE BLESSING OF GOD ALMIGHTY
THE PRESIDENT OF REPUBLIC OF INDONESIA,**

**CHAPTER I
GENERAL PROVISIONS
Part One
Definition
Article 1**

In this Law, what is referred to as:

3. Forest area is a particular area designated or officially legalized by the government to be preserved as a permanent forest.
4. State forest (*hutan negara*) is a forest that lies on the land which has not been burdened with right to land;
5. Private forest (*hutan hak*) is a forest that lies on the land which has been burdened with right to land.
6. Customary forest is state forest that lies in the areas of customary law communities.

2) Article 20 Act No. 18 Year 2004 on Plantation



**THE LAW OF REPUBLIC OF INDONESIA
NUMBER 20 YEAR 2004
ON
PLANTATION
WITH THE BLESSING OF GOD ALMIGHTY
THE PRESIDENT OF REPUBLIC OF INDONESIA,**

Article 19

²⁴ Translated by Sophie Chao from Forest Peoples Programme. Indonesian version can be viewed at www.dephut.go.id

- (1) The Government of province, district/municipality promotes and facilitates the empowerment of planters, planters groups, planters cooperatives, and planters associations based on the type of the cultivated plant for the development of plantation agribusiness.
- (2) To build a synergy between actors of plantation agribusiness, the Government promotes and facilitates the establishment of a commodity council, which functions as a coordinating institution for the development of strategic plantation commodities for all plantation stakeholders.

Article 20

Actors of plantation business may take security measures coordinated by security apparatuses and may involve the assistance of communities in the surrounding area.

- 3) Article 169 Act No. 4 Year 2009 on Mineral and Coal Mining



PRESIDEN
REPUBLIK INDONESIA

**THE LAW OF REPUBLIC OF INDONESIA
NUMBER 4 YEAR 2009
ON
MINERAL AND COAL MINING
WITH THE BLESSING OF GOD ALMIGHTY
THE PRESIDENT OF REPUBLIC OF INDONESIA,**

Article 169

At the stipulation of this Law:

- a. Work contracts and agreements of coal mining that have been in existence prior to the stipulation of this Law will still be in force up to the expiration period of the contract/agreement.
- b. Provisions mentioned in the articles of work contracts and agreements of coal mining as stated in letter a will be adjusted within the period of no later than 1 (one) year since the stipulation of this Law, except provisions concerning state revenue.
- c. The exception of state revenue as stated in letter b is aimed at increasing state income.

- 4) Ministry of Forestry of Republic of Indonesia Regulation Number P.50/Menhut-II/2009

**MINISTRY OF FORESTRY OF REPUBLIC OF INDONESIA REGULATION
NUMBER : P. 50/MENHUT-II/2009
ON THE AFFIRMATION OF STATUS AND FUNCTION OF FOREST AREA
WITH THE BLESSING OF GOD ALMIGHTY
MINISTRY OF FORESTRY OF REPUBLIC OF INDONESIA,**

Article 2

- (1) Forest area possesses legal power if:

- a. it has been designated by a Minister Decision; or
 - b. has undergone a boundary demarcation by Forest Boundary Demarcation Team; or
 - c. Official Report of Forest Boundary Demarcation has been legalized by the Minister;
or
 - a. Forest Areas has been officially legalized by a Minister Decision.
- (2) In the case of an area that has been designated by a Minister decision or has undergone a boundary demarcation by Forest Boundary Demarcation Team, or the boundary demarcation of which has been legalized by the Minister, or has been officially legalized by a Minister Decision, the reference that will be used is the latest status of the area.

Article 3

Area for Other Uses (APL) based on TGHK, which has been burdened with land use title or other legalized rights titles issued by authorized officials for the purposes of development outside forest, but which in the provincial designation of forest (and water) area based on the synchronization of TGHK and RTRWP has been designated as forest area, will have the status of APL.

Article 4

In the cases where the APL based on TGHK as stated in Article 3 is not burdened by legalized rights or licenses from authorized officials, but in the provincial designation of forest (and water) area based on the synchronization of TGHK and RTRWP has been designated as forest area, the status of the area is forest area.

1. **Ministry of Forestry of Republic of Indonesia Regulation Number: SK 292/Menhut-II/2011**

**MINISTRY OF FORESTRY
REPUBLIC OF INDONESIA
DECISION OF MINISTRY OF FORESTRY OF REPUBLIC OF INDONESIA
NUMBER: SK.292/Menhut-II/2011**

ON

USE CHANGE OF FOREST AREA TO NON-FOREST AREA WITH THE SIZE OF MORE OR LESS 1,168,656 (ONE MILLION ONE HUNDRED SIXTY EIGHT THOUSAND SIX HUNDRED AND FIFTY SIX) HECTARES, INTER-FUNCTION CHANGE OF FOREST AREA WITH THE SIZE OF MORE OR LESS 689,666 (SIX HUNDRED EIGHTY NINE THOUSAND SIX HUNDRED AND SIXTY SIX) HECTARES AND DESIGNATION OF NON-FOREST AREA AS FOREST AREA WITH THE SIZE OF MORE OR LESS 29,672 (TWENTY NINE THOUSAND SIX HUNDRED AND SEVENTY TWO) HECTARES IN CENTRAL KALIMANTAN PROVINCE

MINISTRY OF FORESTRY OF REPUBLIC OF INDONESIA

Considering

: a. that based on Ministry of Agriculture Decision Number 759/Kpts/Um/12/1982 dated October 12 1982, there has been a designation of forest area in the area of Central Kalimantan Province with the size of more or less 15,300,000 (fifteen million three hundred thousand) hectares;

b. that the Governor of Central Kalimantan, through letter Number 050/299/I/Bapp dated April 2 2007, issued by Central Kalimantan Provincial Spatial Planning (RTRWP), which contains in it forest area use and function change;

c. that concerning forest area use and function change proposed by the Governor of Central Kalimantan as mentioned in point b, a research has been conducted by an Integrated Team with the following recommendations:

1. Forest area use change with the size of more or less 1,405,595 (one million four hundred five thousand five hundred and ninety five) hectares;
2. Forest area function change with the size of more or less 689,666 (six hundred eighty nine thousand six hundred and sixty six) hectares;
3. Designation of non-forest area as forest area with the size of more or less 29,672 (twenty nine thousand six hundred and seventy two) hectares;

d. that out of the forest area use change with the size of 1,405,595 (one million four hundred five thousand five hundred and ninety five) hectares as mentioned in point c number 1, use change of an area with the size of 236,939 (two hundred thirty six thousand nine hundred and thirty nine) hectares has an important and broad impact as well as strategic value and thus requires the approval of the People's Representative Council of Republic of Indonesia and is thus excluded from this Decision;

e. that an area with the size of 1,168,656 (one million one hundred sixty eight thousand six hundred and fifty six) hectares out of the of 1,405,595 (one million four hundred five thousand and five hundred and ninety five) hectares as mentioned in point c number 1 and an area with the size of 689,666 (six hundred eighty nine thousand six hundred and sixty six) hectares as mentioned in point c number 2 and 29,672 (twenty nine thousand six hundred and seventy two) hectares as mentioned in point c number 3 can be designated by the Ministry of Forestry;

f. that to ensure legal certainty over the forest area mentioned in point e, there must be a Ministry of Forestry Decision on Forest Area Use Change to Non-Forest Area with the size of 1,168,656 (one million one hundred sixty eight thousand six hundred and fifty six) hectares, on Forest Area Inter-Function Change with the size

of 689,666 (six hundred eighty nine thousand six hundred and sixty six) hectares and on Designation of Non-Forest Area as Forest Area with the size of 29,672 (twenty nine thousand six hundred and seventy two) hectares in Central Kalimantan Province.

Recalling:

1. Law No 5 Year 1960 on Basic Agrarian Law;
2. Law No. 5 Year 1990 on Conservation of Biodiversity and Its Ecosystem;
3. Law No 41 Year 1999 on Forestry as amended with Law No. 19 Year 2004;
4. Law No 32 Year 2004 on Regional Government that have several times been amended, lastly with Law No 12 Year 2008;
5. Law No. 26 Year 2007 on Spatial Planning;
6. Government Regulation Number 44 Year 2004 on Forestry Planning
7. Government Regulation Number 44 Year 2004 on Forest Protection as amended with Government Regulation Number 60 Year 2009;
8. Government Regulation Number 6 Year 2007 on Forest Management Plan and Utilization as amended with Government Regulation Number 3 Year 2008;
9. Government Regulation Number 38 Year 2007 on Division of Affairs between the Government, Regional Government at the Provincial Level, and Regional Government at District/Municipal Level;
10. Government Regulation Number 26 Year 2008 on National Area Spatial Planning (RTRWN);
11. Government Regulation Number 10 Year 2010 on Protocol of Use and Forest Area Function Change;
12. Government Regulation Number 15 Year 2010 on Spatial Planning Implementation;
13. Regulation of President of Republic of Indonesia Number 47 Year 2009 on the Establishment and Organization of State Ministry;
14. Regulation of President of Republic of Indonesia Number 24 Year 2010 on the Position, Task, and Function of State Ministry and the Organization, Task, and Function of Echelon I;
15. Decision of President of Republic of Indonesia Number 84/P Year 2009 on the Establishment of Indonesia United Cabinet II;
16. Ministry of Forestry Regulation Number P36/Menhut-II/2010 on Integrated Team for Forest area use and function change Research;
17. Ministry of Forestry Regulation Number P.40/Menhut-II/2010 on Organization and Work Procedure of Ministry of Forestry;

In view of:

1. Letter of the Government of Central Kalimantan Number 050/299/I/Bapp dated April 2, 2007 on the proposal of forest area use change in the revision of Central Kalimantan Provincial Spatial Planning (RTRWP);
2. Ministry of Forestry Decision Number SK.314/Menhut-VII/2008 on the Establishment of Integrated Team on Forest Area Use Change Research in Proposed Revision of Central Kalimantan Province Spatial Planning;
3. Ministry of Forestry Letter to Vice President of People's Representative Council of Republic of Indonesia Number S.401/Menhut-VII/2010 dated August 10, 2010 on Report of Integrated Research on Forest Area Change in the Revision of Central

Kalimantan Provincial Spatial Planning (RTRWP) in relation to the issuance of Government Regulation Number 10 Year 2010;

4. Letter of the Government of Central Kalimantan to Ministry of Forestry of Republic of Indonesia Number 050/1137/V/Bapp dated August 31, 2010 on the Approval of the Use of Area for Other Utilization (APL) in the Revision of Central Kalimantan Provincial Spatial Planning (RTRWP);
5. Ministry of Forestry Letter Number S.486/Menhut-VII/2010 dated September 20, 2010 on the Approval of the Use of Area for Other Utilization (APL) in the Revision of Central Kalimantan Provincial Spatial Planning (RTRWP);
6. Text of Agreement between All District/Municipal Governments in Central Kalimantan Province on the Substance and Support of Legislation Process on Draft Regional Regulation (Ranperda) of Central Kalimantan Province on Central Kalimantan Provincial Spatial Planning (RTRWP).

DECIDES:

To issue :

MINISTRY OF FORESTRY DECISION ON USE CHANGE OF FOREST AREA TO NON-FOREST AREA WITH THE SIZE OF 1,168,656 (ONE MILLION ONE HUNDRED SIXTY EIGHT THOUSAND SIX HUNDRED AND FIFTY SIX) HECTARES, INTER-FUNCTION CHANGE OF FOREST AREA WITH THE SIZE OF 689,666 (SIX HUNDRED EIGHTY NINE THOUSAND SIX HUNDRED AND SIXTY SIX) HECTARES AND DESIGNATION OF NON-FOREST AREA AS FOREST AREA WITH THE SIZE OF 29,672 (TWENTY NINE THOUSAND SIX HUNDRED AND SEVENTY TWO) HECTARES IN CENTRAL KALIMANTAN PROVINCE

FIRST :

Changing the use of forest area to non-forest area with the size of more or less 1,168,656 (one million one hundred sixty eight thousand six hundred and fifty six) hectares with the following details on function and size:

No.	Use Change	Size (Ha)
1	Limited Production Forest (HPT) to Area for Other Utilization (APL)	101,157
2	Production Forest (HP) to APL	333,261
3	Conversion Production Forest (HPK) to APL	734,238
	Total	1,168,656

SECOND :

Changing the function of forest area with the size of more or less 689,666 (six hundred eighty nine thousand six hundred and sixty six) hectares with the following details on function and size:

No.	Forest Function Change	Size (Ha)
1	Natural Preservation/Conservation Area (KSA/KPA) to Production Forest (HP)	9,048
2	KSA/KPA to Limited Production Forest (HPT)	4,867
3	KSPA/KPA to Conversion Production Forest (HPK)	34,497
4	Protected Forest (HL) to HPT	33,078
5	HL to KSA/KPA	38
6	HPT to HPK	6,705
7	HPT to HP	24,128
8	HPT to HL	55,865
9	HPT to KSA/KPA	279
10	HP to HPK	240,095
11	HP to HPT	63,352
12	HP to HL	8,639
13	HP to KSA/KPA	89,957
14	HPK to HP	73,961
15	HPK to HPT	25,836
16	HPK to HL	5,480
17	HPK to KSA/KPA	13,841
	Total Size	689,666

THIRD:

Designating non-forest area as forest area with the size of 29,672 (twenty nine thousand six hundred and seventy two) hectares with the following details on function and size:

No.	Forest Area Designation	Size (Ha)
1	APL to KSA/KPA	13,601
2	APL to HL	9,968
3	APL to HPT	3,179
4	APL to HP	2,720
5	APL to HPK	204
	Total Size	29,672

FOURTH:

The location of forest area as meant in the FIRST, SECOND, and THIRD points of this Decision is contained in Annex Map that is in itself an inseparable part of this Decision.

FIFTH :

With the issuance of this Decision, then:

- a. Forest area that has been designated or officially legalized, which use and function is not changed and that technically cannot be included in the Annex Map of this Decision will still be in force;

- b. In cases where forest area boundaries coincide with natural boundaries, river, coast, or lake, the boundaries are deemed to be dynamic in nature and will be adjusted to natural phenomena or change in natural boundaries;
- c. Forest utilization licenses that are still in force in forest area that have undergone use or function change will still be in force up to the expiration of such licenses;
- d. Results of forest area border ordinance that can no longer function due to this forest area use and function change are hereby declared void;

SIX :

Ordering the Governor of Central Kalimantan to implement the following recommendations of Strategic Environmental Assessment:

- a. Forest area use and function change must provide legal certainty with regards to spatial utilization, provide optimal spatial benefit and just spatial distribution for sustainable welfare of the people;
- b. The existence of settlement area and agricultural land of communities in forest area that have been changed into area for other utilization (APL) must provide rights certainty and must strengthen the rights to land that have been used as settlement area and agricultural land so that they can be reached by development programs planned and carried out by the government;
- c. Optimalization of utilization/use of forest area by giving a greater role to regional government to design the management of natural resources for the people's welfare while considering the environment carrying capacity and supporting capacity, as a part of resolution of long-standing conflict over natural resources utilization with communities;
- d. Optimalization of forest area in Watershed Area (DAS) or Hydrological Unit by at least 30% (thirty per a hundred) to fulfill one of the criteria of "sustainable" spatial design, which is one that can ensure the preservation and sustainability of the environment carrying capacity and supporting capacity with future generations in mind;
- e. Reaffirming the allocation and position of protected areas (Protected Forest and Conservation Forest) and forest cultivation area in the regional spatial planning to anticipate population growth, investment development, unfoldment/expansion of government and administration area and to play a role in addressing climate change as a global issue;
- f. In areas whose uses have been changed to APL, with regards to settlement and agricultural land of communities, whose physiology is difficult and prone to floods/landslides, a research on typology and land conservation management actions and disaster (flood/landslide) management, whether through vegetative or technical-civil approach is required;
- g. Policy of spatial utilization in forest area whose use and/or function has been changed that is directed towards supporting the ecosystem or function of the remaining forest area that surrounds it;
- h. Make a regulation on redistribution mechanism for forest area whose use has been changed to APL to prevent domination of rights control by particular parties and to ensure that there will be no expansion of settlement or migration of community to forest area;
- i. Re-order licenses related to spatial utilization to be in line with the existence and location of protected and cultivation areas in the new provincial and district spatial

- planning while paying attention to the existing legislative regulations to provide legal certainty;
- j. Making a Detailed Spatial Planning whose implementation must be overseen by regional stakeholders, including elements of Regional Government, University, and communities equipped with clarity of spatial utilization control mechanism and with grievance mechanism for communities to report on violations of spatial utilization;
 - k. As a consequence of forest area use and function change stated in the Revision of Spatial Planning, security measures must be taken to ensure that there will no longer be illegal utilization of forest area and to support the commission of new forest area boundary ordinance in forest area that have undergone change.

SEVENTH :

Ordering the Governor of Central Kalimantan to insert recommendations of Strategic Environment Assessment as mentioned in the SIXTH Decision in Central Kalimantan Province Regional Regulation that regulates Area Spatial Planning.

EIGHTH :

Ordering the General Director of Forestry Planology to regulate the commission of forest area inauguration as mentioned in the FIRST, SECOND, and THIRD points of this Decision.

NINTH : This Decision shall take effect as of the date of its enactment.

**A copy as in the original
Head of Legal and Organization
Bureau**

**Enacted in Jakarta
On May 31, 2011**

**MINISTRY OF FORESTRY
REPUBLIC OF INDONESIA**

**Krisna Rya, S.H., MH.
NIP 19590730 199003 1 001**

ZULKIFLI HASAN

A copy of this Decision is also given to:

1. Head of Finance Inspector Agency
2. Coordinating Minister of Economy
3. Minister of Interior
4. Minister of Agriculture
5. Minister of Energy and Mineral Resources
6. Minister of Transportation
7. Minister of General Affairs
8. Minister of Environment
9. Head of National Land Agency
10. State Minister of Development Planning/Head of Bappenas
11. Head of Coordination Agency on National Survey and Mapping
12. Governor of Central Kalimantan

13. Echelon I Officials Ministry of Forestry
14. All Districts/Municipal Governments in Central Kalimantan Province
15. Head of Forestry Agency Central Kalimantan Province
16. All Heads of District Forest Agencies in Central Kalimantan Province
17. Head of Forest Area Affirmation Office Area V Banjarbaru

Annex C: Documents for further reference

Agustinus Agus and Sentot Setyasiswanto, 2010
Setelah Kami Dilarang Masuk Hutan, Jakarta: HuMa, Pontianak Institute and LBBT.

Andiko et al, 2007
Mengelola Hutan dengan Memenjarakan Manusia, Jakarta: HuMa

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Pemanasan Global: Respon Pemerintah dan Dampaknya terhadap Hak Indigenous peoples, Jakarta: HuMa, Jakarta

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Jambi Satu Kesatuan Ekosistem yang Terkoyak Multi Kepentingan, Jambi: KKI Warsi

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Hamka & Setyasiswanto, 2011
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Herry Yogaswara, 2011
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Owen Lynch dan Emily Harwell, 2002
Whose Natural Resources ? Whose Common Good ?, Jakarta: Elsam and HuMa,

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<http://www.huma.or.id/document/III.%20HuMa%20ONLINE/HOL-04.%20Publikasi%20HuMa/4.%20Referensi/Sendirian%20Menghadapi%20Iklim%20Oyang%20Berubah.pdf>

Letter from Anwar Kemal, Chairperson of the Committee on the Elimination of Racial Discrimination to H.E.M.Dian Triansyah Djani, Ambassador, Permanent Mission of Indonesia, Geneva, September 2nd, 2011, Reference GH/ST.

Letter from YPD To the Australian Delegation to Central Kalimantan February 2011, Ref: Nomor: 381.As/YPD-KT/Kps-XI/2010, Kuala Kapuas, Thursday, 24 February 2011

Request for Consideration of the Situation of Indigenous Peoples in Merauke, Papua Province, Indonesia. United Nations Committee on the Elimination of Racial Discrimination, Seventy-ninth session, 08 August-2 September 2011, submitted by 14 civil society organisations on behalf of the indigenous peoples of Merauke.

Yayasan Merah Putih, 2011

Memantau UN-REDD di Sulawesi Tengah, Sulawesi Tengah Palu: YMP

WALHI Kalteng, 2010

Posisi Kasus Desa Biru Maju dan PT BAS, Palangkaraya: WALHI. Lihat juga WALHI Kalteng, 2010

WALHI Kalteng, 2010

Kawasan Ekologi Genting Danau Sembuluh dan Konsep Pengelolaan Handil, Palangkaraya: WALHI Kalteng

www.warsi.or.id.