
SFG2776 REV

Annex 5 – Indigenous Peoples Planning Framework

**INDONESIA:
DAM OPERATIONAL IMPROVEMENT AND SAFETY PROJECT - 2
(DOISP AF)**

INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)

An Integral Part of Environmental and Social Management Framework (ESMF)

January 2017

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DEFINITIONS

Terms	Meaning
Government	The Government of the Republic of Indonesia
Project	Dam Operational and Safety Improvement Project 2 (DOISP AF)
Provincial government	The <i>provinsi</i> government, headed by a governor or <i>gubernur</i>
Local government	Municipal (<i>kota</i>) government (headed by a mayor or <i>walikota</i>) or district or regency (<i>kabupaten</i>) government (headed by a district head/regent or <i>bupati</i>)
Sub-project	Project component implemented at the central, provincial and/or kabupaten/kota level

ACRONYMS

CP Program	Community Participation Program
CPIU	Central Project Implementation Unit
CPMU	Central Project Management Unit
GOI	Government of Indonesia
IPs	Indigenous Peoples
IPP	Indigenous Peoples Plan
IPPF	Indigenous Peoples Planning Framework
KAT	Isolated Indigenous Community (<i>Komunitas Adat Terpencil/KAT</i>).
LARPF	Land Acquisition and Resettlement Policy Framework
MPWH	Ministry of Public Works and Housing
NGOs	Non-Government Organizations
PIU	Project Implementation Unit
O&M	Operational and Maintenance
PIP	Project Implementation Plan
PW Agency	Public Works Agency responsible for water resources management (Provincial or <i>Kabupaten/Kota</i> Level)
SA	Social Assessment
WBOJ	World Bank Office in Jakarta

A. Introduction

1. The project is a continuation of the ongoing Dam Operational Improvement and Safety Project – 1 (DOISP) and will finance five components required to substantially improve Indonesia’s dam operation and safety. The project builds on lessons learned from a number of related projects that advocate for an integrated, holistic approach to dam safety and operations within the context of the river basin to ensure the adequacy of the supporting institutional environment. The project is planned to be implemented from 2017-2022 and aimed at: (i) increase the safety of existing dams in selected locations, and (ii) strengthen institutions for operational effectiveness of dam management. Investments are prioritized based on objective criteria for identification and assessment and includes 23 major dams prioritized and prepared under DOISP, along with priority investments from the remaining 115 major dams in the portfolio. These sub-projects will be mostly located in Java (West Java, Central Java, Yogyakarta and East Java), and some in NTB, NTT, Lampung, East Kalimantan and South Sulawesi.
2. In the 1st year, the DOISP AF will finance the physical works in the 6 (six) dams already identified and studied in DOISP (**Appendix 1**). It is confirmed that there are no Indigenous Peoples (IPs) in the vicinity of the 6 sites. While the 6 dam sites for the first year financing and some other sites for the following years have been identified, there is a possibility that during the project implementation new dams are proposed for rehabilitation. This Indigenous Peoples Planning Framework (IPPF) is developed prior to project appraisal to anticipate the presence of indigenous community in the new proposed sites. When an indigenous community is present in, or has collective attachment to, the project area, further screening, verification and confirmation will be done through a social assessment.
3. An Indigenous Peoples Plan (IPP) will be prepared during the project implementation (after the screening, verification and confirmation stage) in the likely event that IPs will be affected by sub-project activities. The Bank requires the project involves indigenous peoples to design and implement projects in a way that fosters full respect to Indigenous People’s dignity, human rights, and cultural uniqueness and so that they: (a) receive culturally compatible social and economic benefits; and b) do not suffer adverse effects during the development process. Experience from DOISP shows that the activities are localized in the existing schemes that in the event that IPs present there will be no significant adverse impacts.

B. Objective

4. The primary objectives of the Framework are:
 - a. Ensure that IPs participate in and benefit from the Project;
 - b. Avoid or minimize potentially adverse effects of the Project on IPs, and if it is unavoidable, develop and implement mitigation measures based on free, prior, and informed consultation resulting in broad support from the impacted IPs communities;
 - c. Maximize the potential positive effects of the Project on the IPs, based on free, prior, and informed consultations with the IPs ensuring that the design and implementation of the Project incorporate aspirations and needs of the IPs;

- d. This is in line with the national objective in empowering indigenous community (KAT), in which to grant of authority and belief to KAT to self-determine their own destiny and various development activity programs available within their location and their necessity through protection, reinforcement, development, consultancy and advocating to improve their social prosperity level.

C. Definition

5. The Government of Indonesia defines Indigenous Peoples as *Masyarakat Hukum Adat* (MHA). The national legislation, Minister of Home Affairs Regulations No. 52/2014 on Guidelines of Recognition and Protection of *Masyarakat Hukum Adat* defines MHA as Indonesian citizens who have distinctive characteristics, live in groups harmoniously according to their customary law, have ties to the ancestral origin and/or similarity in residential location, have a strong relationship with the land and the environment, as well as have value system which determines the economic system, political, social, cultural, legal and utilize a single region for generations.
6. The terms “indigenous peoples”, “indigenous ethnic minorities” and “tribal groups”, describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process. For the purposes here, “indigenous people” is the term that will be used to refer to these groups.
7. Indigenous people are commonly among the poorest segments of a population. According to the Bank policy, the term “Indigenous Peoples” is used in generic sense to refer to s distinct, vulnerable, social and cultural group processing the following characteristics in varying degrees:
 - a) a close attachment to ancestral territories and to the natural resources in these areas;
 - b) self-identification and identification by others as members of a distinct cultural group;
 - c) an indigenous language, often different from the national language; and
 - d) presence of customary cultural, economic, social or political institutions.
8. For the purpose of this Framework, the definition of IP will follow both the criteria of the Bank and the national legislation.

D. Laws and Regulation Related to IPs

9. This framework takes into account issues related to IPs as included in the following Law and Regulations:

Law / Regulation	Summary
<p>UUD 1945 (Amendment) Chapter 18, clause #2 and Chapter 281 clause # 3;</p>	<p>Chapter 18(2): The State recognizes and respects units of indigenous communities and their traditional rights as long as they live, and in accordance with the development of society and the national principles as set out in the legislation.</p> <p>Chapter 281(3): The cultural identity and the rights of traditional communities are respected in line with the times and civilization.</p>
<p>Law No. 41 on Forestry (and Constitutional Court Decision No. 35/PUU-X/2012);</p>	<p>Chapter 67(1): Masyarakat Hukum Adat (MHA) along by the fact still exist are recognized the right to collect forest products to meet the needs of daily life the indigenous peoples concerned; conduct forest management activities based on customary law and not contrary to law; and empower to improve their welfare.</p> <p>Chapter 67(2): Affirmation of existence and abolishment of MHA as referred to in paragraph (1) shall be determined by the Local Regulation (Perda).</p> <p>Explanations of Chapter 67(1): MHA existence is recognized, if in fact meet the elements, among others:</p> <ol style="list-style-type: none"> a. Its society is still in the form of <i>paguyuban (rechtsgemeenschap)</i>; b. Have institution in the form of the customary authorities; c. Have a clear customary law; d. There are institutions and legal instruments, in particular customary judicial system is still adhered to; and e. Still harvest forest products in the surrounding forest to meet the needs of everyday life.
<p>MOHA Regulation No. 52/2014 on the Guidelines on the Recognition and Protection of MHA;</p>	<p>MHA are Indonesian citizens who have distinctive characteristics, live in groups harmoniously according to their customary law, have ties to the ancestral origin and/or similarity in residential location, have a strong relationship with the land and the environment, as well as have value system which determines the economic system, political, social, cultural, legal and utilize a single region for generations.</p>
<p>Ministry of Forestry Regulation No. 62/2013 on Amendment of Ministry of Forestry Regulation No. 44/2012 on Establishment of Forest Area</p>	<p>Chapter 18a: MHA is a group of people who are bound by customary law as part of the group member that shared a partnership of law because of similarities in the basic residence or descent.</p> <p>Chapter 18b: MHA region is the area to live and organize the life of MHA concerned with clear location and area limits and confirmed by the local regulation (Perda).</p>
<p>Joint Regulation of MOHA, Ministry of Forestry, Ministry of Public Works and Land Agency No. 79/2014 on Procedures to Settle Land Ownership Conflict in Forest Area</p>	<p>Chapter 9: Affirmation of MHA rights on forest area will be carried out in accordance with the provisions of the applicable legislations.</p>

Law / Regulation	Summary
Regulation of the Minister of Land Agency and Spatial Development No. 9/2015 on the Procedures to Establish the Land Communal rights on the MHA Land and Community Living in the Special Area (Revocation of Minister of Land Agency Regulation No. 5/1999 on Guidelines on Resolution of Indigenous Rights (<i>Hak Ulayat</i>) of MHA)	<p>Chapter 1(1): Communal rights on land are joint rights on land of an indigenous community that granted to specific community living in a forest or plantation area.</p> <p>Chapter 1(3): MHA is a group of people who are bound by customary law as part of the group member that shared a partnership of law because of similarities in the basic residence or descent.</p> <p>Chapter 3(1): Requirements of MHA includes a society that is still in the form of <i>paguyuban</i>; have institution in the form of the customary authorities; have a clear customary law; and there are institutions and legal instruments, in particular customary judicial system is still adhered to.</p> <p>Chapter 3(2): Requirements of community groups located in Specific Area (Forest and Plantation area) includes: physically dominating an area for at least 10 years or more in a row; still harvest forest products in a particular region and its surrounding areas to meet the needs of everyday life; the specific area is being the main source of life and livelihood; and there are social and economic activities that are integrated with community lifestyle.</p>
Law No. 6/2014 on Village	<p>Chapter 95(1): Village Official and village community can establish a customary village institution</p> <p>Chapter 95(2): Customary village institution is an institution that performs customary functions and become part of the original composition of the village that grew and developed on the initiative of the village community.</p> <p>Chapter 96: National, Provincial, City/District Governments to make the arrangements of MHA units and establish them into Customary Village (<i>Desa Adat</i>).</p>

E. Screening for Indigenous Peoples among the Affected Populations

1. Once the sub-project areas are defined, the PIU will screen, verify and confirm on the presence of the IPs in reference to the above characteristics. In doing so, PIU will consult experts, local universities or NGOs who have good knowledge or have worked on IPs in the area and use available references e.g. IP Study 2010 by the World Bank and other sources. Further, PIU will consult the community's concerned and neighboring communities to confirm that they are IPs.
2. In the case that the presence of IPs is confirmed and they will be part of or affected by the project, PIU under the guidance of Regional Safeguard Specialist, or assisted by consultant if necessary will carry out a Social Assessment (SA) at the village level, based on free, prior and informed consultations, with the affected IPs communities. Potential adverse and positive effects of the project will be identified during the SA preparation.

F. Social Assessment and Consultation

3. During the preparation of the sub-project proposal and/or sub-project approval, a

Social Assessment process will be undertaken to define the nature and scope of impacts on the IP among the affected populations. By gathering both qualitative and quantitative data in the sub-project areas, the basic social and economic profile of beneficiary population or project affected people will be developed.

4. The Social Assessment (SA) will be undertaken by qualified social scientists (or consultants). The SA will gather relevant information on the following: demographic data; social, cultural and economic situation; and social, cultural and economic impacts - positive and negative.
5. The Social Assessment will become a basis for formulating specific measures to consult with, and give opportunity for IP populations in participating decision making related to the sub-project, should they so desire. The Social Assessment process itself is often the method by which such consultations are undertaken, however they can be undertaken as a separate exercise.

G. Indigenous Peoples Plan

6. An Indigenous Peoples Plan (IPP) will be prepared by PIU under the guidance of regional safeguard specialist during the sub-project implementation (after the screening, verification and confirmation stage) in the likely event that IPs will be affected by sub-project activities. In cases where IPs communities are the beneficiaries of the sub-project(s), such as in the Community Participation (CP) program, full consultation and participation in decision making are mainstreamed into program cycles. In the case that a sub-project needs to acquire land belonged to IPs community or individual of the IPs community, the LARPF (Land Acquisition and Resettlement Policy Framework) applies.
7. Free, prior and informed consultations will be conducted through a series of meetings, including separate group meetings: indigenous village chiefs; indigenous men; and indigenous women, especially those who live in the zone of influence of the proposed work under sub-project. Discussions will focus on sub-project impacts, positive and negative; and recommendations for design of sub-projects. If the SA indicates that the proposed sub-project will cause adverse impact or that the IP community rejects the proposal, the sub-project will not be approved (and therefore no further action is needed). If the IP supports the sub-project implementation an IPP will be developed to ensure that the IP will receive culturally appropriate opportunities to benefit from the sub-project activities.
8. The IPP is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed. It will include the following elements, as needed:
 - a. A summary of Social Assessment;
 - b. A summary of results of the free, prior, and informed consultation that was carried out during sub-project preparation;
 - c. A framework for ensuring free, prior, and informed consultation with the affected indigenous communities during project implementation;
 - d. An action plan of measures to ensure that the Indigenous Peoples receive social

- and economic benefits culturally appropriate;
- e. The cost estimates and financing plan for the IPP;
 - f. Accessible grievance mechanism, which takes into account the availability of customary mechanism;
 - g. Monitoring, evaluation and reporting mechanism.
9. The IPP of each sub-project should be reviewed by the CPMU/CPIU and approved by the Bank before sub-project implementation begins.
 10. The IPP should be disclosed publicly in a local language so that accessible to the affected indigenous community as well as posted at the project/MPWH website (www.sda.pu.go.id)
 11. Upon agreed by the Bank, for the sub-projects that work at the existing systems with community-decision making process, a stand-alone IPP may not be required. The process to ensure that the IPs are included as beneficiaries and participate in any activities will be incorporated in the sub-project design. This may take place under the Community Participation program
 12. Under the CP program, potential adverse impacts and positive effects of the project on IPs, or involvement of IPs as beneficiaries will be identified once the villages are defined. Screening, verification and confirmation will be carried out by PIU assisted by community facilitators.
 13. In the case that IPs constitute the beneficiaries of the project, the design and implementation of the sub-project(s) will accommodate the aspirations and needs of the IPs.
 14. For the areas where IPs communities are identified, regional implementing unit will organize training for relevant facilitators in how to work with IPs communities in a meaningful way and in good faith to identify mechanisms for effective participation through free, prior and informed consultations, and address specific challenges in working with such groups, for example, how to deal with groups that may be in conflict with the larger community, etc.
 15. Since facilitators will be hired locally to the extent possible, they are expected to be familiar with such groups. Preference will be made to recruitment of local people with skills and qualifications fit to the project. They will also be rotated as necessary to ensure that those that have been trained in working with IPs, or have specific skill-sets that would be beneficial in working with such groups, are made available in the right places.
 16. Where the IPs communities speak a language different from Bahasa Indonesia, facilitation and socialization will be held in a language that these communities can easily understand. Relevant brochures and documents will be translated in the appropriate language. Provision has been made in the project budget to allow for additional translations of relevant project documents.
 17. The above aims at ensuring that IPs communities participate fully in the project with free, prior and informed consultations, are aware of their rights and responsibilities,

and are able to voice their needs during the community forum establishment as well as developing the community work plan.

H. Principles if a Sub-Project Affects Indigenous Peoples

18. There are a number of main steps to be applied when the IPs are presence in the sub-project area and are part of the beneficiaries, in relation to the development of Indigenous Peoples Plan (IPP).
19. PIU will ensure that free, prior and informed consultations are undertaken, in a language spoken by, and location convenient for, potentially affected IPs. The views of IP are to be taken into account during preparation and implementation of any sub-project, while respecting their current practices, beliefs and cultural preferences. The outcome of the consultations will be documented into the sub-project documents.
20. If the IPs conclude that the subproject will be beneficial to them, and that any minor adverse impacts, if any, can be mitigated, a plan to assist them will be developed based on consultation with the IPs and local representatives. The community should also be consulted to ensure that their rights and culture are respected. The assistance may also include institutional strengthening and capacity building of indigenous villages and community groups working with the sub-project. A process of free, prior, and informed consultation (FPIC) with the affected Indigenous Peoples' communities is required at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project. The consultation methods applied should be appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, and gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits. The procedure for FPIC is described in **Appendix 2**.
21. Where the indigenous peoples speak a language different from Bahasa Indonesia, relevant brochures and documents will be translated in the appropriate language. Provision has been made in the project budget to allow for additional translations of relevant project documents.
22. These steps will be aimed at ensuring that indigenous people participate fully in the project, are aware of their rights and responsibilities, and are able to voice their needs during the social/economic preliminary survey/exercise and in the formulation of the Irrigation and River Basin sub-projects and operational policies. In addition, they will be encouraged to submit subproject proposals that cater to their group's needs, if necessary.

I. Grievance Redress Procedures

23. The project has a complaint system that allows community members to raise issues or complaints at sub-project (village) level to the national level (see **Annex 17** on Grievance Redress Mechanism). The project has designated contact numbers for complaints via phone-calls and short text message (SMS) systems. There are designated staff members at the PIU/Regional Office/CPIU/CPMU responsible for following-up on complaints and ensuring that they are handled adequately. Where IPs communities are concerned, the facilitators under CP component will ensure that

grievance redress mechanisms are developed in culturally appropriate ways in close collaboration with the relevant group.

J. Reporting, Monitoring and Documentation

24. Besides specific attention to IP issues in supervision and monitoring, CPMU/CPIU will include these matters in their progress reporting (Quarterly Progress Report). The World Bank supervision missions will periodically pay special attention to ensure that the subprojects affecting IPs afford benefits to them and no adverse impacts on them.

K. Implementation Arrangement

25. CPMU/CPIU will be responsible for training the respective project implementing unit or local authorities to undertake the work of consultation, screening, social assessment, analyses and preparing IPPs and addressing any grievances.
26. PIU of individual sub-projects and local authorities are responsible for undertaking all those works related to IPs and implementing the IPP (arrange adequate staff and budget) under guidance of regional implementing unit. PIU may assign experts to ensure adequate implementation of the IPP.
27. Monitoring of the IPP will be undertaken biannually by Regional Safeguard Specialist of the CPIU as part of CPIU six-monthly monitoring report. External monitoring and evaluation may be conducted as part of DOISP AF external monitoring and evaluation process.

Appendix 1: List of DOISP AF Sub-Projects in the 1st Year Implementation Arrangement

No	Dam	B(BWS)	Location	Activities	IP Presence
1	Ubrug	Citarum	Kab. Purwakarta, West Java Province	Radial gate installation	No IP Presence
2	Ketro	Bengawan Solo	Desa Ketro, Kec. Tanon, Kab. Sragen, Central Java Province	<ul style="list-style-type: none"> • Rehabilitation of main dike • Minor replacement of hydro-mechanical • Sediment dredging 	No IP Presence
3	Penjalin	Pemali Juana	Desa Paguyungan, Kec. Bumiayu, Kab. Brebes, Central Java Province	<ul style="list-style-type: none"> • Rehabilitation of main dike, using diaphragm wall • Minor replacement of hydro-mechanical • Sediment dredging 	No IP Presence
4	Greneng	Pemali Juana	Dea Tunjungan, Kec. Blora, Kab. Blora, Central Java Province	<ul style="list-style-type: none"> • Replacing some dike material with better soil • Sediment dredging 	No IP Presence
5	Tempuran	Pemali Juana	Desa Tempuran, Kec. Blora, Kab. Blora, Central Java Province	<ul style="list-style-type: none"> • Replacing some dike material with better soil • Sediment dredging 	No IP Presence
6	Mrancang	Kalimantan III	Dea Mrancang, Kec. Gunung Tabur, Kab. Berau, East Kalimantan	<ul style="list-style-type: none"> • Leveling of undulating main dike, and repair spillway. • Minor replacement of hydro-mechanical • Sediment dredging 	No IP Presence

Appendix 2: Free, Prior, and Informed Consultation (FPIC) Procedures

A. Screening of IP Affected Communities

1. PIU with the support of Regional Safeguard Specialist of the CPIU will carried out screening of Indigenous Peoples presence in the subproject area by utilizing list of dams that potentially having IPs presence in the vicinity of the area.
2. PIU then verified the presence of the IPs in the village directly bordered with the reservoirs and in catchment areas of the reservoirs. PIU may assign Community Facilitator to assist in carried out this activity.
3. After that, PIU to confirm the presence and characteristics of IP that will receive project benefits and/or will be affected by the project by involving local communities affected by the subproject.

B. Initial Meeting

4. PIU will host an opening meeting where representatives from communities where FPIC will be sought are in attendance. These representatives and PIU will agree on the FPIC process, including: the nature of Good Faith Negotiations, how both PIU and the communities recognize that differences of opinion may arise, which in some cases may lead to setbacks or delays in reaching agreement. During this meeting the parties will agree on reasonable avenues of recourse to be applied in such situations. This might include seeking mediation or advice from mutually acceptable third parties.
5. The meeting will agree on type and format of project information to be made available, these include agreement of local language, type of media to be utilized, and timing.
6. The meeting will also identify and selection of local cadre from the IP affected communities to assist in facilitating all activities of the project cycle that involve/affect IPs.

C. Information Dissemination and Community Meetings

7. Prior to development of any plan and its implementation, it is important to conduct socialization and information dissemination to the Affected Communities.
8. The time and place of socialization and discussion should be arranged as appropriate to ensure all affected communities, including the IPs can participate and has equal opportunities to raise their concern.
9. Meeting with the affected communities may be conducted more than once, and may include conducted several Focus Group Discussions in different time and location so that all information regarding DOISP AF and the particular subproject is well distributed to the affected communities.
10. Information on DOISP AF and the particular subproject may be disseminated utilizing printed media such as posters and leaflets as agreed in the initial meeting.

Small and informal discussion may be utilized to ensure IPs understanding on the information. Simple and uncomplicated language should be use during this informal discussion.

11. To ensure that the IPs Affected Communities can access the relevant information, the above media for information dissemination should be posted and distributed near their settlement area and should use local language.
12. During the meeting it is important to confirm willingness of the IPs Affected Communities to participate in the program.
13. The decision taken during the meeting should get approval from all units in the IPs affected communities.

