

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on extreme poverty and human rights

Ref.: AL IDN 3/2022
(Please use this reference in your reply)

14 February 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 51/16, 44/15, 43/4, 50/17, 43/14, 43/16, 50/6 and 44/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of human rights violations surrounding the Mandalika urban development and tourism project. Previous concerns have been expressed by the Special Procedures regarding the implementation of this project in AL IDN 5/2021 and AL IDN 1/2022.** We take this opportunity to thank your Excellency's Government for its responses to these communications. Nevertheless, we remain extremely concerned about the situation in the Mandalika region.

According to the information received:

The Mandalika urban development and tourism project ("the Mandalika project") is a major project implemented by the Indonesia Tourism and Development Corporation ("ITDC"), an enterprise fully owned by the Government of Indonesia, in the Mandalika region, Central Lombok Regency, West Nusa Tenggara Province.

The project was approved in December 2018, and it is alleged that the project moved forward without comprehensive social and environmental assessments, meaningful and inclusive consultations or the free, prior and informed consent of the Sasak Indigenous Peoples who have reportedly been affected by land confiscations, forced resettlement, and coercion and intimidation by security forces since 2018.

Estimated to be worth over US\$300 million in total, this project is largely funded by the Asia Infrastructure Investment Bank ("AIIB"), which provides more than seventy percent of its funding in loans. It is alleged that the AIIB failed to exercise due diligence and ensure that the risks of involuntary resettlement and forced evictions of Indigenous Peoples were avoided, minimized, and/or mitigated prior to loan approval. It is submitted that the AIIB did not conduct or make public a comprehensive land survey in the project area as a precondition of project approval, relying instead on the ITDC's claim that over 92.7% of the land was free and clear of any disputes.

West Nusa Tenggara is one of the provinces in Indonesia with a consistently high poverty rates. Eighty-five percent of Lombok's inhabitants are Sasak Indigenous Peoples with their own language, culture and traditions. The Sasak peoples account for over 99 percent of the total population in four villages of the Mandalika region (Kuta, Sukadana, Mertak and Sengkol). The majority of the Mandalika residents are farmers and fishers, who rely on natural resources as their source of livelihood. Many of them live in poverty and struggle to meet their basic needs including access to food, clothing, education, adequate housing and adequate health care.

Allegations of forced evictions, involuntary resettlement, and increased militarisation

The Mandalika International Circuit, a motorcycle racetrack, is marketed as a touristic highlight for the island. There is a high degree of homelessness as a result of involuntary resettlement in the areas surrounding the newly built racetrack.

Despite assurances by the AIIB and ITDC that permanent resettlement would occur within 12 months of relocation, approximately 100 people from an estimated 36 households remain in self-built temporary shelters, almost 3 years later. Essential public services guaranteed by the AIIB and ITDC, such as trash collection, were delayed by over a year. Permanent homes in the Ngolang resettlement site are still under construction, cramped together on a hillside in between mountains. The project-affected communities were reportedly not involved in the design of the resettlement site, nor did they have a say in deciding its location. The first few involuntarily resettled families who have moved into the permanent resettlement site have been informed that they would be required to pay a monthly payment of 300,000 IDR (currently around USD 20) towards home ownership. Neither AIIB, nor ITDC have informed them for how long they would be required to make such payments. They were under the impression that these new homes would be provided for free as part of compensation for the lands and homes they have lost due to the Mandalika project. This is placing already indebted and impoverished families at risk of homelessness (for non-payment of these amounts) and further extreme poverty. In addition, there is no running water, and involuntarily resettled families are being asked to pay for a water pump themselves.

During the March 2022 Moto Grand Prix race ("MotoGP"), the Sasak Indigenous Peoples were prevented from asserting their land rights and demanding fair compensation and dispute settlement. Approximately 36 families (almost 100 people) have remained in the area, forced to live

alongside a construction site in proximity to the racetrack.

In Ebunut village, Sasak households opposing the terms of the involuntary resettlement were forced to wear bracelets during the race days in order to travel through security checkpoints set up near their village. Bracelets were distributed in limited quantities with some households not receiving any and were only valid for two checkpoint entries, severely restricting freedom of movement. The increased presence of security forces and restrictions during the MotoGP has had adverse effects on the lives of the Sasak, with some parents keeping their children home from school out of fear that they would lose the bracelets and not be allowed to return to their homes.

Similar to the MotoGP race, the freedom of movement of communities around Mandalika was curtailed during the November 2022 World Superbike (“WSBK”) race. Local officials distributed stickers to be used to pass through checkpoints. It is reported that the number of stickers allocated was again insufficient, cutting Sasak members off from their livelihoods and restricting women’s ability to purchase essential supplies for their children.

Those whose livelihoods relied on fishing, cattle raising, and running small market stalls complained that the compensation offered for involuntary resettlement was not sufficient restitution to replace their income levels, putting them below the poverty line. School was suspended in some cases because parents were unable to pay for tuition, school supplies and uniforms. The resettlement action plan proposed by the AIIB and ITDC promised that those whose livelihoods had been affected by the project would receive job training. While some community members living in self-built temporary homes found day-labor work at nearby construction sites, albeit without any protection or training, most farmers and fishers are struggling to sustain their livelihoods.

Reports of increased intimidation and coercion to clear the land surrounding the Mandalika International Circuit were made prior to the November 2022 WSBK race. Project-affected communities have raised concerns regarding the task force for the acceleration of settlement of land disputes (“SATGAS”). SATGAS comprises members of both the police and provincial army, which have reportedly intimidated and coerced Indigenous Peoples in Mandalika into ceding their lands.

In addition to losing their homes and traditional lands, some project-affected households have also experienced a breakdown in family and Sasak community relations as a result of their relocation. Residents of the Kuta, Sengkol, Mertak, and Sukedane villages in Pujut sub-district in the Mandalika area were not able to relocate nearer to their extended family and neighbors.

It is further alleged that road conditions around the Mandalika race circuit have worsened dramatically after the construction of the racetrack, and the ITDC and AIIB have made no efforts in improving these conditions. What used to be a 10 minute ride now takes more than 30 minutes. Sasak women have expressed concerns that it would be unsafe for them to travel in the dark on poorly maintained roads.

Allegations of restrictions on civic space and freedom of expression

Ahead of the November 2022 WSBK event, Sasak community members created banners on their property and distributed flyers to visitors of the Mandalika region, highlighting the negative impacts of the Mandalika International Circuit on their lives and livelihoods. Indonesian security forces entered the property of affected community members to take down the banners.

In addition, a planned protest in front of the Mandalika Circuit was canceled due to concerns regarding the safety of participants, some of whom were called or visited by the police and asked to avoid participating in protests. In response to community protests, senior officials from the regional police held a meeting with village leaders from Mandalika following the WSBK event.

Ahead of the G20 Summit, in Bali, Indonesia, activists from the Indonesian People's Assembly ("IPA") organised a nationally coordinated protest on 15 November in 15 provinces, including Lombok. The protests opposed the restriction of civic space around the G20 Summit and the inequitable trade agreements and investments from developed countries that could lead to the destruction of natural resources and labour violations in Indonesia. In Lombok, the demands were tightly intertwined with advocacy messaging focused on the human rights implications of the Mandalika tourism development project.

Meaningful consultations and right to obtain information

Concerns remain that the affected Indigenous Peoples are not being informed or consulted in a meaningful manner about the Mandalika project. Three consultations took place on 7 July 2022, 3 August 2022, and 6 October 2022. It is reported that Major General Djaka Budhi Utama, the Deputy Minister for Political, Legal, and Security Affairs who holds a leadership role within the land acquisition task force, requested a meeting with four village leaders on three days notice. The representatives who attended the meeting had not been selected by the Indigenous communities. Only three project-affected community members independently attended the meeting after hearing about it from their village leaders. Although Ministry officials said they would address the Sasak's concerns, they did not take the time to do so in-depth or listen to their perspectives. The meetings were not translated into Sasak, which made it difficult to participate in the discussions.

Threats and intimidations against Sasak human rights defenders

Reports received further suggest that the Sasak opposing the ITDC's land acquisitions and movement restrictions have been subject to intimidation, harassment, and threats. During the March 2022 MotoGP race, three Sasak members were arrested in connection with social media posts criticising the Indonesian government for restricting their movement. According to these reports, the protestors were told by the police that they would be arrested again if they posted any more comments critical of the security forces and had to pay 2 million Indonesian rupiah to be released. Others who were investigating and monitoring the Mandalika project were subjected to intimidation by unidentified individuals, allegedly linked to the government.

During the WSBK race, security forces erected check points and entered residential areas in Ebunut and Ujung Lauk villages to allegedly intimidate residents involved in protest activities and remove their banners and billboards. Although there have not been any reports of serious altercations, many residents are living in fear after the events they experienced during the previous race.

It is alleged that prior to the 15 November 2022 start of the G20 Summit, local police forces conducted a sweep of the secretariat of student unions where protest materials were being held, and seized posters, banners, and leaflets with slogans criticising the G20 and calling for a resolution to the land disputes in Mandalika.

On the same day, there was also a protest in Mataram against the G20 Summit and the lack of resolution to the land disputes in Mandalika. The protests were quickly dispersed by local police forces. Fourteen activists were arrested and asked to sign a document pledging not to take part in any other protests until the conclusion of the G20 Summit. Sasak members were en route to Mataram to join the protest when police dispersed the crowd and warned against continued protests.

While we do not wish to prejudge the accuracy of the above allegations, the information described above raises serious concerns that the 2022 World Superbike race and subsequent G20 Summit have led to further threats to the land security of the Sasak and increased acts of intimidation against Sasak human rights defenders.

Concern is expressed over reports that the Indonesian Government's security forces continue to restrict the movement of the Sasak Indigenous Peoples during events held in the Mandalika region. It is alleged that such restrictions of movement interferes with their ability to engage in everyday activities such as going to work, attending school, shopping for essential items, or exercising their legitimate rights to freedom of peaceful assembly and of expression.

Concern is also expressed that your Excellency's Government may have failed to protect against human rights abuses within its territory and/or jurisdiction by third parties, including business enterprises and organisers of sporting events. This duty to protect human rights requires taking appropriate steps in relation to business enterprises to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. Given that the ITDC is an enterprise under full ownership and control of the Government, allow us to further highlight that your Excellency's Government has an additional duty to exercise

adequate scrutiny and oversight over the ITDC's operations and ensure that it fully respects human rights. We furthermore express concerns that the ITDC has ignored our previous recommendations to provide remedies for those affected by the sporting event.

In addition, we are concerned by the information that the affected Indigenous Peoples are still not being informed or consulted in a meaningful way about the Mandalika project. In this connection, it has been alleged that the consultations regarding the project have not been transparent, nor have they accommodated broad public participation. In particular, concern has been shared over the limited opportunities provided to the Sasak people to take part in this process. It is also reported that forced evictions and involuntary resettlement are still occurring without consulting the Sasak peoples to obtain their free, prior, and informed consent.

Furthermore, the alleged criminalisation and intimidation of local residents and human rights defenders who have opposed the project and/or its implementation for its detrimental impact on the affected communities, is cause for further concern. Such attempts to silence and deter human rights defenders from protecting and promoting the rights of others, contribute to a harmful and “chilling” effect on civil society more broadly. Equally concerning are reports that the rights to freedom of peaceful assembly and of expression of the Sasak people has been curtailed due to the deployment of security forces during the WKSJ event and the continued involvement of security forces in the land resolution task force as well as the project’s grievance redress mechanism.

We are further concerned that despite assurances by the AIIB and ITDC that permanent resettlement would occur within 12 months of relocation, approximately 100 people from an estimated 36 households remain in self-built temporary shelters, stuck in the limbo of protracted displacement almost 3 years later, unable to find a durable solution or re-establish a safe and lasting home.

Finally, we draw your Excellency’s attention to the joint communication of 4 March 2021 addressed to your Excellency’s Government, regarding the human rights violations and abuses allegedly committed in the implementation of the Mandalika project (Ref: AL IDN 5/2021) which states that “the ITDC appears to have prima facie failed to respect human rights by arbitrarily expropriating land from the local residents, forcibly evicting them from their land and engaging in acts of intimidation against human rights defenders and those who object to or question the ways in which the Mandalika project is implemented” (para. 18) and urged your Excellency’s Government to take “all necessary interim measures... to halt the alleged violations and prevent their re-occurrence” (para. 31). We would also like to draw your Excellency’s attention to the 8 March 2022 communication of the Special Rapporteur on extreme poverty and human rights on the situation of the implementation of the Mandalika project (Ref: AL IDN 1/2022) which noted that “meaningful consultation with and participation of affected indigenous peoples are critical components of a consent process” (para. 15). In addition, the letter of the Special Rapporteur on extreme poverty and human rights (Ref: AL IDN 1/2022) clarified concerns, presented further observations on the alleged forced evictions and referred to conflicting claims regarding the request of consent of the affected households and communities, the compensation for loss of land, properties and livelihoods, and the conditions of resettlement, in line with international human rights law. The Special Rapporteur recommended that the Government of Indonesia

appoints an independent and impartial mediator to “facilitate mediation among different parties, with a view to reconciling conflicting claims and finding mutually agreeable solutions”.

While the AIIB formally committed, in conversations with the Special Rapporteur on extreme poverty and human rights (most recently in a conversation held on 2 August 2022), to appoint an independent and impartial mediator, this should be done in agreement with ITDC and the Government of Indonesia, and we are concerned that no progress has been made in this regard since that date, allegedly due to the unwillingness of the ITDC and the Government of Indonesia to take seriously the concerns expressed.

In connection with the above alleged facts and concerns, please refer to the **Annex which details applicable international human rights law** and standards relevant to the present allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to any steps taken by your Excellency’s Government for meaningful and good-faith consultations with the Sasak People throughout all phases of the project cycle, to assess the impacts of the Mandalika urban development and tourism project on the Sasak as Indigenous Peoples to avoid any potential adverse impacts, including displacement for development projects whenever possible, the restoration of livelihoods and living standards, and transparent compensation for lost assets, and to mitigate risks.
3. Please provide information on measures taken to ensure compliance with the Guiding Principles on Internal Displacement and the prohibition of arbitrary displacement of any individual. In this regard, please provide information on how the national policies on internal displacement due to different causes, and in particular the National Policies on the Handling of Internally Displaced Persons/Refugees in Indonesia, address displacement risks, including the possibility of protracted displacement more explicitly and proactively, to support durable solutions for internally displaced persons, including with consideration for how risks intersect, overlap and are compounded by broader societal challenges.
4. Furthermore, please provide information on measures envisaged to provide permanent shelters to the above-mentioned 36 households who remain in self-built temporary shelters for almost 3 years, forced to live alongside a construction site in proximity to the racetrack shelter.
5. Please provide information on any investigation or inquiry undertaken by your Excellency’s Government into the allegation of threats, intimidations and arrests of Sasak human rights defenders opposing the

land acquisitions referred to in this letter.

6. Please provide information as to any steps taken by your Government to allow for the free and unrestricted movement of the Sasak people in the area around the Mandalika race track.
7. Please provide information as to any steps taken by your Government to allow the Sasak people to engage in peaceful assemblies and to freely disseminate materials which may include dissenting views or beliefs on the Mandalika project.
8. Please provide a detailed explanation as to how your Excellency's Government ensures that remedies are adequate, in view of the current needs of affected groups and individuals as well as their future long-term needs. Please provide information on any steps taken by your Excellency's Government to ensure that the Sasak people can obtain adequate, fair and timely compensation for all assets lost and any affected property, regardless of whether or not they enjoy formalized land rights. In particular, please explain how your Excellency's Government ensured that the compensation offered to affected groups for involuntary resettlement was sufficient restitution to replace their income levels. Furthermore, please provide information as to whether the compensation was calculated using proper valuation methods to include the livelihood support that is necessary for displaced communities to regain their pre-displacement standards of living.
9. Noting your Excellency's response dated 4 May 2022 stating that the Land Disputes Resolution Task-Force (SATGAS) was formed to settle land disputes, please provide information on what processes your Excellency's Government has put in place to assess the effectiveness of this grievance mechanism, as well as other grievance mechanisms available. Further, please detail what steps, if any, are being taken to ensure that the prior and informed consent of the indigenous peoples are sought under conditions free of coercion, intimidation or manipulation, taking into account that SATGAS is largely composed of police and military officers.
10. Noting in your Excellency's response dated 4 May 2022 stating that that the "Sasak Tribe Customary Council has always been involved in the consultation and socialization process", please provide evidence that consultation(s) with affected populations, other than the Sasak Tribe Customary Council alone, was carried out. If so, please indicate when the consultations were held, who participated in them, and the conclusions of the consultation. Please detail any efforts made specifically to gain the free, prior and informed consent of indigenous populations. In addition, please elaborate what efforts the Government has taken to integrate the results of the consultation into the decision-making.
11. Please provide information regarding measures that the government has taken, or plans to take, in response to recommendation made to your Excellency's Government in the 2017 Universal Period Review to

“(f)urther strengthen the commitment of Indonesia to strengthen the human rights dimension in business activities and continue its leading role in this regard.”

12. Please provide information on any steps taken by your Excellency’s Government to appoint an independent and impartial mediator to reconcile conflicting claims and find a mutually agreeable solution.
13. Please indicate the steps taken by your Excellency’s Government to develop and implement a national action plan for the implementation of the UN Guiding Principles on Business and Human Rights and clarify the timeline for the adoption of said action plan.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

Please be informed that letters on this matter are also being sent to the Indonesia Tourism and Development Corporation – ITDC, the Asia Infrastructure Investment Bank (AIIB), Vinci Construction Grands Projects, Accor, EBD Paragon, Dorna Sports, and to the states where they are domiciled- France, Spain and the United States of America, regarding their involvement in the above allegations.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the rights of Indigenous Peoples

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international norms and standards applicable to the present case.

We would like to refer your Excellency's Government to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which Indonesia voted in favour of at the General Assembly in 2007. The UNDRIP sets out international human rights standards relating to Indigenous Peoples' rights. article 26 asserts the right of Indigenous Peoples to "the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired". article 32 affirms that indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources". UNDRIP furthermore underlines that States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact. Importantly, article 10 specifically prohibits forcible removal of Indigenous Peoples from their lands or territories without their free, prior and informed consent, and provides that relocation could take place only after agreement on just and fair compensation and, where possible, with the option of return.

We also wish to draw the attention of your Excellency's Government to its obligations under article 17 of the Universal Declaration of Human Rights (UDHR), which guarantees everyone the right to own property and the right not to be arbitrarily deprived of their property. Furthermore, article 25.1 of UDHR and article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Indonesia on 23 February 2006, recognizes the right of everyone to an adequate standard of living for himself and his family, including housing. In its General Comment No. 4, the Committee on Economic, Social and Cultural Rights clarified that this right to housing should be seen as the right to live in security, peace and dignity. It indicates that the right to housing includes, among others, legal security of tenure guaranteeing legal protection against forced evictions, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection in genuine consultation with affected persons and groups. Upon her visit to Indonesia, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non discrimination in this context, specifically recommended that "Land policy should protect the interests of low-income households, indigenous communities and communities occupying land based on customary (adat) law" (A/HRC/25/54/Add.1, para. 81).

In both General Comment 4 and General Comment 7, the Committee affirmed that forced eviction are *prima facie* incompatible with the requirements of the

Covenant. In General Comment 7, the Committee also clarifies that States have an obligation to ensure, prior to carrying out any evictions, that all feasible alternatives are explored in consultation with the affected persons, remedies provided and the right to adequate compensation for any affected property exercised.

In this regard, we also wish to recall the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (NHRC/4/18, Annex 1), which specify that evictions must be authorized by law and ensure full and fair compensation and rehabilitation. All potentially affected groups and persons have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.

We would also like to draw the attention of your Excellency's Government to the Guiding Principles on extreme poverty and human rights adopted by the Human Rights Council in 2012, which determine that States should "Adopt laws protecting all individuals, groups and communities, including those living in poverty, against forced eviction by State and non-State actors. This should include preventive measures to avoid and/ or eliminate the underlying causes of forced evictions, such as speculation in land and real estate". In addition, the Guiding Principles refer to the need to ensure that States "Take immediate measures aimed at conferring legal security of tenure for persons and households living in poverty who lack such protection, including those who do not have recognized titles to home and land and those living in informal settlements".

We would also like to refer to General Comment 24 on States' obligations under the Covenant on Economic, Social and Cultural Rights (E/C.12/GC/24), ratified by Indonesia in 2006, in the context of business activities. The Covenant establishes specific obligations of States parties at three levels — to respect, to protect and to fulfil. These obligations apply both with respect to situations on the State's national territory, and outside the national territory in situations over which States parties may exercise control. "The obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights without adequate justification, or when they pursue policies that negatively affect such rights. This may occur for instance when forced evictions are ordered in the context of investment projects. Indigenous peoples' cultural values and rights associated with their ancestral lands are particularly at risk. States parties and businesses should respect the principle of free, prior and informed consent of indigenous peoples in relation to all matters that could affect their rights, including their lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired".

We would like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which establish the need to respect and ensure respect for international human rights law to prevent and avoid conditions that might lead to the displacement of persons (principle 5). We moreover stress that according to the Guiding Principles, every human being shall have the right to be protected against being arbitrarily displaced from his or her home, including situations of armed conflict and based on policies resulting in altering the ethnic or religious composition of a population (principle 6). It is incumbent upon the authorities undertaking

displacement to ensure proper accommodation is provided to displaced persons, under satisfactory conditions of safety, nutrition, health, and hygiene, and that members of the same family are not displaced (principle 7). Displacement should not be carried out in a manner that violates the right to life, dignity, liberty, and security of the displaced (principle 8). As stated in principle 3, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons. We would like to particularly draw your attention to principle 9, which highlights that States are under a particular obligation to protect against the displacement of indigenous peoples and other groups with a special dependency on and attachment to their lands.

Internally displaced persons should enjoy adequate standard of living, which includes basic shelter and housing, food and water, and access to medical services (principles 18-19). The property rights of internally displaced persons must be respected, and their property and possessions should in all circumstances be protected from pillage, indiscriminate attacks, destruction as a form of collective punishment, and arbitrary and illegal appropriation, occupation, or use (principle 21). Internally displaced persons are entitled to a durable solution of their choice, i.e. safe, voluntary and dignified return to their places or origin, settlement elsewhere in the country or local integration (principles 28-30).

We also wish to draw attention to the report of the Special Rapporteur on the human rights of internally displaced persons submitted to the Human Rights Council in 2022 (A/77/182), where she examines the issue of development-induced displacement outlining the human rights challenges faced by persons displaced by development projects and identifying systemic challenges in the development space that may lead to arbitrary displacement and infringement of the human rights of those displaced. The Special Rapporteur concludes that unlike displacement caused by conflict or disasters, development-induced displacement can be prevented through appropriate policy choices and by States fully implementing their existing human rights commitments. (A/77/182, para. 63). The Special Rapporteur further recommends that States ensure meaningful disclosure, participation and consent; create an enabling environment for the realization of human rights in the context of development projects; adopt a rights-based approach to development; and close the existing data gaps (paras. 64-77).

We would like to highlight the relevance of the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. In this regard, Indonesia has a duty to ensure that businesses operating within its territory respect human rights by taking steps to prevent as well as investigate, punish, and redress abuses through legislation, regulations, policies, and adjudication. Furthermore, Indonesia has an obligation to ensure access to effective remedies and remedial mechanisms for persons whose rights have been violated by business activities within its territory. States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding principle 1). This requires States to “state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities” (Guiding principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights [...]” (Guiding principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

We would like to refer to the thematic report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/32/45) and recommendations contained therein elaborating on the duty of States to protect against human rights abuses involving those business enterprises that they own or control. This report includes the following considerations:

“All business enterprises, whether they are State-owned or fully private, have the responsibility to respect human rights. This responsibility is distinct but complementary to the State duty to protect against human rights abuses by business enterprises. This duty requires States to take additional steps to protect against abuses by the enterprises they own or control. This goes to the core of how the State should behave as an owner and the ways in which its ownership model is consistent with its international human rights obligations.”

“States, as primary duty bearers under international human rights law, should lead by example. To show leadership on business and human rights requires action and dedicated commitment on many fronts. It also includes using all the means at the disposal of States to ensure that the enterprises under their ownership or control fully respect human rights throughout their operations. There is untapped potential for State-owned enterprises to be champions of responsible business conduct, including respect of human rights. The Working Group calls on States and State-owned enterprises to demonstrate leadership in this field.”

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

We also wish to draw attention to the report of the previous Special Rapporteur on the right to adequate housing (A/74/183) in which she stated that, for Indigenous Peoples, the concept of home is not just about a built structure where one lives, but is about one’s place on the planet, defined through one’s lands, resources,

identity and culture, which in turn requires that the right to housing must be interpreted and applied in a manner that is responsive to indigenous peoples' experiences of housing and home.

Additionally, we would like to refer your Excellency's Government to articles 1, 2, 6 (1), 9, 19, 20 (2), 21, 22, and 26 acceded by Indonesia on 23 February 2006, which provide for the right to self-determination, the right to life, the right to liberty and security of person, the right to freedom of expression, the right to be free from discrimination, the right to freedom of peaceful assembly and of association, and the right to equality before the law.

The right to freedom of opinion and expression protects all forms of expression and the means of their dissemination, CCPR/C/GC/34 para. 12. The seizing of protest materials constitutes a restriction on the rights under article 19 (2) and must therefore comply with the requirements under article 19 (3) in that they must be taken in accordance with the law, serve one of the legitimate aims exhaustively listed in art. 19 (3), and be necessary and proportionate. article 21 states that the right of peaceful assembly should be recognized, and that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Additionally, under the provisions of article 22, everyone shall have the right to freedom of association with others. The Human Rights Committee has established in its General Comment N°35, article 9 (Liberty and security of person) (CCPR/C/GC/35), that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion, expression, assembly and association.

Furthermore, we would also like to draw your Excellency's attention to General Comment No.7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) that forced evictions are a gross violation of the right to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions. Paragraph 15 of the same General Comment provides that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves. We wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons.

Finally, the United Nations Declaration on Human Rights Defenders states that everyone has the right to promote and to strive for the protection and realization of human rights. We would also like to recall article 5 (a), which provides for the right to meet or assemble peacefully and article 6 points b) and c), which provides for the

right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.