

**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 human rights in the context of climate change; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

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(Please use this reference in your reply)

25 September 2025

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 human rights in the context of climate change; Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 51/16, 53/3, 57/31, 55/5, 52/9, 59/12 and 58/14.

In this connection, we would like to bring to the attention of your Excellency's Government a range of **serious concerns regarding the human rights situation of Indigenous Peoples in Indonesia**. These include the lack of formal recognition of Indigenous Peoples; the erosion of their rights under the revised Special Autonomy Law in West Papua; the revival of the transmigration policy and its detrimental impact on cultural integrity; and the adverse effects of National Strategic Projects, extractive industries, and green energy initiatives on Indigenous lands and livelihoods. We also highlight specific cases, such as the expansion of nickel mining in Kabaena and its impact on the Bajau Indigenous Peoples and the dispossession and threats faced by the Cek Bocek Indigenous Peoples in Sumbawa. We have also received allegations of the exclusion of Indigenous communities from conservation efforts, affecting their territories, lands and resources. Additional concerns include the criminalization of Indigenous land defenders and the existential threats faced by Indigenous Peoples in isolation.

Several communications regarding similar or related human rights issues have been sent to the Government of Indonesia in the last years (IDN 1/2025, 7/2024, 5/2024, 2/2024, 9/2023, 6/2023, 4/2023, 3/2023, 2/2023, 3/2022, 1/2022, 11/2021, 10/2021, 8/2021, 5/2021, 4/2021, 2/2020, 1/2020, 8/2019, 6/2019, 7/2018, 6/2017, 3/2016, 1/2016, 8/2015). These have addressed human rights concerns affecting Indigenous Peoples in Indonesia, including allegations of racial discrimination, violations of land rights, excessive use of force by police and military, arbitrary detention, extrajudicial executions, and intimidation of human rights defenders. Many cases reported involve environmental degradation linked to business and development projects, often carried

out without free, prior, and informed consent of Indigenous Peoples affected. There have also been frequent allegations of suppression of peaceful protests and freedom of expression, especially in relation to civil society activism and advocacy for Indigenous Peoples' rights. We appreciate the reply received from your Excellency's Government to most of these communications, namely on 6 May 2025, 18 December 2024, 9 December 2024, 21 November 2024, 7 March 2024, 30 January 2024, 30 October 2023, 9 August 2023, 4 May 2022, 11 April 2023, 20 February 2022, 9 February 2022, 24 December 2021, 22 November 2021, 3 May 2021, 9 April 2021, 9 July 2020, 1 July 2020, 14 February 2020, 21 November 2019, 4 April 2019, 14 December 2018 and 10 October 2017. However, we would like to raise the following issues in the light of persistent concerns and additional developments.

According to the information received:

#### Non-recognition of Indigenous Peoples

Indonesia voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), in 2007. However, at that moment it issued an Explanation of Vote expressing concern over the absence of a specific definition of "Indigenous Peoples." It emphasized that the definition under ILO Convention No. 169 did not align with its national concept of *Masyarakat Hukum Adat* (MHA or Customary Law Communities). The Government reportedly maintains that all ethnic groups in Indonesia are indigenous in their own right and thus avoids categorizing specific groups as "Indigenous Peoples" to preserve national unity.

The 1945 Constitution (Article 18B(2)) recognizes the existence of MHA or Customary Law Communities, and respects their traditional rights, though it does not define MHA or specify their entitlements. This gap has been addressed through various national and subnational laws, which commonly define MHA as communities with shared ancestry, distinct culture, customary laws, and strong ties to land and natural resources. Rights recognized include access to customary land, forests, coastal areas, and environmental protection. A dedicated Bill on MHA, included in the 2025 National Legislation Program, is currently under parliamentary harmonization. The 2020 draft reaffirms MHA rights to customary territories, natural resources, development, culture, and the environment.

Despite an enabling constitutional framework, Indonesia has refused to recognize, through legislation or otherwise its interpretation and policies, the existence of particularly and historically marginalized groups that self-identify as Indigenous Peoples, with distinct culture, customary laws, and strong ties to land, with some even being refused their MHA status.

#### Special Autonomy of West Papua

Indigenous Peoples in Papua, Indonesia, have historically faced discrimination, stereotypes, and marginalisation based on their distinct cultural practices and connection to ancestral lands. To address this issue, Indonesia enacted an Autonomy Law for Papuans.

The Special Autonomy Law for Papua, enacted in 2001, and amended in 2021, was intended to grant Indigenous Peoples in West Papua greater self-governance in order “to regulate and manage the interests of the local people at its own initiative based on the aspiration and fundamental rights of the people of Papua”<sup>1</sup> within the unitary State of Indonesia.

This was in line with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which provides that “Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs<sup>2</sup>, without affecting States’ territorial integrity.”<sup>3</sup>

Consequently, the Indonesian State established institutions such as the Papua People's Assembly (Majelis Rakyat Papua, MRP) and the Papua Regional People's Council (DPRP). The aim of this system was to allow self-governance, facilitate the resolution of local conflicts, accommodate distinctive regional identities, and promote stability in areas with unique cultural, ethnic, or historical contexts.

The Special Autonomy Law outlined also nine key policies aimed at enhancing self-governance and protecting the rights of the Papuan Indigenous Peoples. These include the empowerment of the Papua People's Assembly (MRP) as a cultural representative body, and the granting of legislative authority to the Papua Regional People's Council (DPRP). Furthermore, it sought to increase regional revenue sharing from natural resources and mandated that minimum special autonomy funds be allocated to education and health. It stipulated also greater local control over decision-making, supported the formation of legislative bodies at regency and city levels, and established executive governments led by governors, regents, and mayors. Additionally, the Special Autonomy Law emphasized the protection of the Papuan Indigenous Peoples’ rights and customs and strengthened the MRP’s role in voicing the aspirations of Indigenous Peoples through cultural representation.

The Government of Indonesia has reportedly reversed on its commitment to guarantee an effective autonomy as a way to ensure they enjoy their right to self-determination and freedom from the disproportionate level of poverty of Papuan Indigenous Peoples. In July 2021, the Indonesia's House of Representatives passed a revised Special Autonomy Law. This revision was met with widespread criticism and protests, as it reinstated centralized authority of the national Government and regressed from Papuans’ demands and aspiration for effective autonomy. Under the revised law, local authorities no longer have real power over land, resources, and decision-making. The Government commitments to equitable benefit sharing with Indigenous Peoples were also reversed.’ Exploitation of natural resources has intensified, allegedly often without the free, prior, and informed consent of the Indigenous Peoples affected. Corruption and mismanagement reports have also undermined the

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<sup>1</sup> 2001 Special Autonomy Law for Papua

<sup>2</sup> Article 5 of the Declaration

<sup>3</sup> Article 46 of the Declaration

implementation of the key policies, with funds meant for education and health frequently diverted or misused.

Based on its resources, Papua is one of Indonesia's richest regions, nevertheless it has some of the highest poverty rates in the country. According to the World Bank, Indonesia's national poverty rate stood at 8.57 per cent in 2024;<sup>4</sup> Meanwhile, Papua Province had a significantly higher poverty rate of 18.09 per cent in the same period, as reported by the Central Statistic Agency.<sup>5</sup> This paradox reflects systemic neglect and marginalization. Indigenous Peoples in Papua reportedly face barriers to accessing basic services, education, and employment, and are often displaced by development projects and military operations.<sup>6</sup>

The Special Autonomy Law for Papua has allegedly also failed to improve the human rights situation in the region. Allegations of human rights violations are widespread.<sup>7</sup> International human rights organizations have reported extrajudicial killings, torture, enforced disappearances, and mass displacement of Indigenous Peoples in Papua, in the context of security operations particularly in the Central Highlands where armed groups are active. Since 2018, tens of thousands of Papuans, including Indigenous Peoples, were forcibly displaced; many living in forests or temporary shelters without access to food, healthcare, or education. In addition, reports suggest that the military and police have used public facilities such as schools, district offices, and churches as security posts.

In Yuguru, Nduga Regency, a military operation allegedly led to the forced eviction of Indigenous residents, to the conversion of public facilities such as a school and district office into military posts, and to the suspected extrajudicial killing of a member of the community. In Intan Jaya, indiscriminate shooting by Indonesian soldiers during operations targeting the West Papua National Liberation Army reportedly caused the deaths of at least four civilians and the displacement of hundreds of Indigenous residents from Sugapa and Hitadipa Districts.

The response from the Government to pro-autonomy protests and the Papuans has reportedly been harsh. There are reports of many individuals being arrested and charged with serious criminal offences including treason. Opposition to Indonesian rule has also been stigmatized as "terrorist". The Government also restricted internet access in various regions of Papua. The country appears to have backtracked on its commendable initiative to guarantee Papuans Indigenous Peoples with their rights to effective self-governance and autonomy, as equal citizens of the State of Indonesia.

Given the urgency of the situation, the National Human Rights Commission (Komnas HAM) has formally proposed that the central government declare a state of social disaster in West Papua, which would provide legal authority for a coordinated humanitarian response through the National Disaster

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<sup>4</sup> <https://www.worldbank.org/en/news/factsheet/2025/06/13/updated-global-poverty-lines-indonesia>

<sup>5</sup> <https://papua.bps.go.id/en/pressrelease/2025/01/15/1053/-poverty-profile-of-papua-province-september-2024.html>

<sup>6</sup> E/C.12/IDN/CO/2, para. 54.

<sup>7</sup> ALs IND 3/2023, IND 4/2023 and IND 2/2024.

Management Agency (BNPB). This declaration would enable comprehensive involvement of multiple ministries in addressing the crisis, including social assistance, healthcare, education restoration, and infrastructure recovery.

### Transmigration and cultural integrity

Transmigration was a practice during Dutch colonial rule that involved moving people from regions with high population density to areas with lower population density. The programme continued in post-colonial Indonesia during the Suharto era; however, it was discontinued in the late 1990s amidst reformist movement.

The halt to the transmigration in post-colonial Indonesia was a positive action, particularly for Indigenous Peoples. By introducing large numbers of non-indigenous settlers into indigenous territories, transmigration disrupts traditional social structures, erodes local languages, and undermines the cultural identity of Indigenous Peoples. Under international law, States have the duty to prevent cultural assimilation of Indigenous Peoples or any action that has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.<sup>8</sup>

In October 2024, however, the Minister for Transmigration confirmed plans to restart the program in eastern Indonesia, with a particular focus on West Papua. This announcement to revive it has triggered widespread protests and renewed fears of cultural and demographic erosion.<sup>9</sup> Human rights and local organizations, including the International Parliamentarians for West Papua, have consistently warned that transmigration has historically resulted in land dispossession, demographic shifts, and the marginalization of Indigenous Peoples.<sup>10</sup>

During a working meeting with Commission V of the House of Representatives in Jakarta, in early September 2025, the Minister for Transmigration reportedly explained that transmigration placements cannot be carried out arbitrarily but must be based on official requests from local governments through inter-regional cooperation mechanisms.

The new transmigration programme will further decrease the number of Papuan Indigenous Peoples on their ancestral lands, where ongoing conflicts and human rights violations have already forced many to leave. Between 2018 and 2022, an estimated 60,000 to 100,000 Indigenous Peoples in Papua were displaced due to military operations; in addition, reports have documented extrajudicial killings, torture, enforced disappearances, and obstruction of humanitarian aid.<sup>11</sup> Despite repeated calls for unrestricted access and independent investigations, the Government of Indonesia has not granted entry to international, independent and impartial monitoring mechanisms, such as the United Nations Office of the

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<sup>8</sup> Article art. 8 (2)(a) of the Declaration

<sup>9</sup> <https://lens.civicus.org/interview/the-transmigration-plan-threatens-papuas-autonomy-and-indigenous-ways-of-life/>

<sup>10</sup> <https://www.ipwp.org/statements/transmigration-to-west-papua-ipwp-statement/>

<sup>11</sup> <https://www.ohchr.org/en/press-releases/2022/03/indonesia-un-experts-sound-alarm-serious-papua-abuses-call-urgent-aid>

High Commissioner for Human Rights, to assess the situation on the ground.

Recent reports indicate a sharp increase in arbitrary detentions, torture, and violations of freedom of assembly during anti-transmigration protests. Over 85,000 people remain internally displaced, and ongoing military operations continue to displace thousands more. Strategic National Projects (PSN), are expected to bring up to one million new settlers to Papua, further exacerbating the demographic imbalance and threatening Indigenous Peoples' cultural survival.

In some districts, Indigenous Peoples from Papua now constitute only 25-30 per cent of the population. Entire indigenous villages have disappeared, along with their languages and traditions. Communities are being surrounded by settlers, with some reduced to just a few hundred households. Sacred and historical sites are being destroyed, and traditional livelihoods are under threat due to deforestation and land conversion. These developments reportedly promote forced assimilation of Indigenous Peoples, while limiting their self-determination, land rights and the right to cultural integrity.

Given these developments, there is reportedly an urgent need for independent and impartial mechanisms to monitor and report on the cultural and demographic impacts of transmigration in Papua. Civil society and indigenous organizations advocate for a moratorium on such projects if these are undertaken without the free, prior, and informed consent of Indigenous Peoples, while calling for support for Indigenous-led documentation efforts, and press for access for relevant international and human rights bodies.

### National Strategic Projects

Indonesia's National Strategic Projects (or PSN) are targeted investments prioritized by the Government, aimed at accelerating national development. The 2025–2029 PSN plan marks a significant shift in priorities. Compared to the previous administration, which pursued 228 projects with emphasis on large-scale infrastructure, it is reported that the current plan has streamlined the portfolio to 77 projects, focusing on food security, industrial down streaming, and social welfare. Key initiatives include the revitalization of schools, construction of district-level hospitals, and major port upgrades.

The new approach reportedly favours impact over volume, with emphasis on adding value to domestic resources. Industrial down streaming projects include bioethanol production from sugarcane, processing cassava and seaweed, as well as mineral refining for nickel, tin, and copper. Social welfare is allegedly central, for example with the Free Nutritious Meals Program. This reorientation signals a more regionally balanced development model, with less focus on mega-projects and urban growth.

However, PSNs have been a persistent reason of concern from a human rights perspective.<sup>12</sup> While PSNs are framed as instruments of national development,

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<sup>12</sup> AL IND 1/2025, AL IND 9/2023, AL IND 3/2022, AL IND 1/2022, AL IND 5/2021 and AL IND 7/2011.

they have had deeply troubling consequences for Indigenous Peoples across the country, including in West Papua. The region has become a focal point for large-scale economic initiatives, including the construction of an international airport and other infrastructure projects that have already claimed over 2,300 hectares of indigenous customary land, with thousands more planned.

These developments are reportedly enabled by Presidential Decree No. 109 and Regulation No. 66, both of 2020, allowing for accelerated land acquisition and broadening the definition of public interest, sidelining Indigenous Peoples' free, prior and informed consent. Once a company begins operations, the area is often declared sensitive and placed under military protection, creating an environment of intimidation and fear. In one case, 75 families who attempted to block access to their land were met with military and police intervention, resulting in the dismantling of their blockade.

The militarization of development is reportedly further institutionalized through a Memorandum of Understanding between the Ministry of Defence and the Ministry of Environment, which facilitates the deployment of armed forces to suppress resistance from locals. This has led to widespread reports of human rights violations, including extrajudicial killings, arbitrary arrests, and torture, particularly targeting Indigenous Peoples. Civil society organisations have recorded at least fifty such conflicts between security forces and communities over PSNs between 2017 and 2023. Despite public outcry and media attention, investigations into these abuses remain internal and lack transparency. The recent amendments to Indonesia's Military Law, which expand the military's role in civilian governance, risk further embedding this pattern.<sup>13</sup>

While the Government claims that these projects align with the Papua Special Autonomy framework, they often violate the requirement for free, prior, and informed consent. According to the affected communities, the response from the Government of Indonesia to a joint letter from the Special Procedures addressing these concerns failed to acknowledge the scale of the harm or offer meaningful redress.

#### Extractive industries, green energy, critical mineral, and the impact of businesses' activities on Indigenous Peoples rights

Indigenous Peoples across the country have been reporting increasing pressure from extractive industries and development projects, including geothermal energy initiatives, dam construction, mining operations, and logging concessions. These activities are often carried out without meaningful consultation or free, prior and informed consent, and have led to widespread displacement, environmental degradation, and social disruption.

In Sumba, the Umalulu Indigenous Peoples have been affected by a large-scale sugar plantation covering 7,800 hectares. Community members report that their customary land has been appropriated and that their concerns have been dismissed. Initially agreed upon in 1962 as a 25-year lease, the land was later

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<sup>13</sup> IDN 3/2025

reclassified for business development. A new company took over in 2001, and despite attempts at dialogue facilitated by the Ministry of Law and Human Rights, the dispute remains unresolved.

In Lombok, the Atagori Indigenous village is under threat from a geothermal project initiated by a 2008 ministerial decree. The project was planned without informing the community, and residents were expected to accept its implementation without consultation. In Nangahale, land historically managed by Soge Natarmage and Goban Runut Indigenous Peoples has been appropriated by a Church, which has reportedly divided the land into plots for non-Indigenous persons. This has led to arrests, imprisonment, and persecution of members of Indigenous Peoples defending their land by opposing to the project.

In Mataloko, a geothermal project is planned in an area that includes homes, plantations, water sources, and cultural sites. Indigenous Peoples have resisted the project, citing its impact on their way of life and the interdependence of land and water. Despite opposition, the project continues, and residents have faced violence, intimidation, and criminalization, including beatings and police summons.

On Kei Besar Island, a state-sponsored mining company entered Indigenous Peoples' territory under the protection of the military. Compensation for land was minimal, and the actual lease duration was misrepresented. The project threatens the island's environment and the cultural identity of the Kei Indigenous Peoples. Community members have reported violence, intimidation, and broken promises regarding employment opportunities.

In Central Maluku, the Nuaulu Indigenous Peoples have been affected by logging concessions granted without broad community involvement. The operations have led to flooding and the loss of wildlife essential for cultural rituals. Despite reporting the issue to local authorities, no action has been taken to redress this harm.

In Seko, South Sulawesi, a private company supported by the Land Registration Agency has claimed 23,000 hectares of Indigenous Peoples' land. The community was not involved in the decision-making process, and land demarcation was carried out under military escort. Community members have protested and removed land markers, resulting in police investigations and criminal charges.

In North Sumatra, several Indigenous Peoples, including the Rakyat Penunggu, have faced decades-long struggles against palm oil and mining companies. These operations have led to displacement, environmental damage with related implications for climate change mitigation and adaptation and further negative human rights impacts, and the destruction of ancestral lands. Despite some local recognition of Indigenous Peoples' status, extractive activities continue, often in violation of zoning and environmental regulations.

In the Mentawai Islands, logging operations have encroached on forest lands managed by Indigenous Peoples. Permits were issued without proper

consultation, and the projects threaten biodiversity, traditional medicine sources, and governance systems, with related implications for climate change mitigation and adaptation and further negative human rights impacts.

In North Kalimantan, Indigenous Peoples have been affected by the construction of a large-scale hydropower project. Arrests and intimidation have affected their leaderships, and traditional practices are being lost due to environmental degradation. Community members report that their rituals, which rely on forest resources, can no longer be performed. This can also negatively impact climate adaptation and mitigation, in addition to have further negative human rights impacts.

In Sihaporas, ancestral land has been appropriated by a pulp and paper company. Members of Indigenous Peoples have faced criminal charges, imprisonment, and intimidation for presenting opposition to the activities of the company. The environmental damage has disrupted cultural rituals and traditional livelihoods.

These cases illustrate a pattern of land appropriation, environmental harm, and social disruption affecting Indigenous Peoples across Indonesia. Development projects are often implemented without adequate safeguards or recognition of Indigenous Peoples rights, leading to long-term consequences for cultural survival, community well-being and environment protection, all of which face worsened impacts in the context of climate change.

#### Nickel Mining in Kabaena and the Bajau People

We have received information regarding the expansion of nickel mining operations on the island of Kabaena, in Southeast Sulawesi. Despite legal prohibitions under Law No. 1 of 2014 on the Management of Coastal Areas and Small Islands – which restrict mining on islands smaller than 2,000 km<sup>2</sup> – Kabaena, with an area of only 891 km<sup>2</sup>, is reportedly covered by mining concessions over more than 70 per cent of its surface. These operations have led to severe environmental degradation, health impacts, and violations of Indigenous Peoples rights, particularly affecting the Bajau People, a mobile and maritime Indigenous Peoples whose cultural identity and subsistence are deeply tied to the sea.

The Bajau Indigenous Peoples have reported drastic declines in fish catches and seaweed quality, with household incomes dropping by up to 69.4 per cent in some villages. In Kokoe, octopus catches have fallen by 80 per cent, while seaweed prices in Talaga Besar have plummeted by 90 per cent. These losses are attributed to sedimentation and marine pollution caused by mining runoff, which has turned once-clear waters red and rendered traditional fishing and harvesting grounds unusable.

Health impacts are also widespread. Over 40 per cent residents have reported respiratory and skin conditions linked to mining dust and water contamination. In Wulu, a village located just 400 meters from mining sites, respiratory complaints are particularly high. Biomonitoring conducted in 2024 confirmed the presence of toxic substances such as cadmium, nickel, and lead in water,

dust, and biological samples, with contamination levels exceeding WHO safety thresholds by up to 1,000 times.

Tragically, these conditions have resulted in child deaths. In March 2025, a three-year-old Bajau Indigenous girl drowned in the murky waters of Baliara, where sedimentation from mining has turned the sea into sludge. This was reportedly the third such incident involving Bajau Indigenous children in recent years.

In addition to environmental and health concerns, mining companies failed to obtain the free, prior, and informed consent from Indigenous Peoples. Land seizures without consultation or compensation have been reported, and residents who protested have faced criminalization.

The threat of further expansion looms, with companies reportedly preparing to rezone protected forest areas and build new infrastructure. These developments risk exacerbating the ecological and social impacts already underway. Given the scale of harm and the legal prohibitions in place, the continued mining operations in Kabaena are likely to continue to have a negative impact on the Bajau Indigenous Peoples' rights, particularly to life, health and cultural survival.

#### Dispossession and Threats to the Cek Bocek Indigenous Peoples in Sumbawa

The Cek Bocek Selesik Reen Sury Indigenous Peoples – commonly known as the Berco Tribe – has faced systemic and sustained human rights violations in Sumbawa Regency, West Nusa Tenggara Province. These violations have reportedly been perpetrated by both corporate and state actors, primarily in connection with mining operations.

The Cek Bocek Peoples has inhabited the mountainous region of Ropang for centuries, with historical records tracing their presence to 1492 and the establishment of an Indigenous governance system in 1512 under the Kedatuan Dewa Awan Maskuning. Their distinct cultural identity is reflected in their use of the Berco language and their continued practice of customary governance through hereditary institutions such as the Bengko Adat. Their ancestral territory, known as the Elang Dodo Forest, spans approximately 28,975 hectares and sustains their traditional economy, which includes sugar production from palms, hunting, gathering, and river fishing.

Despite this deep-rooted connection to the land, the Indonesian Government reportedly granted a mining concession over the Cek Bocek Peoples' territory to a private limited responsibility company in 1986, without consultation, compensation, or recognition of their customary rights. The territory was subsequently designated as State Forest land, legally extinguishing the community's claims. The current development of the "Elang Project" poses an imminent threat to the community's sacred geography, including 3,750 ancestral graves located within the concession area. These graves are actively maintained through annual rituals such as "Jango Kubir," which reaffirm the community's spiritual and territorial ties.

Throughout the nearly four-decade conflict, the Cek Bocek Peoples has reportedly been denied recognition as an Indigenous Peoples or as a MHA, leaving them without legal standing to defend their rights. Efforts to pass a Regional Regulation recognizing their status were allegedly sabotaged by corporate-backed actors, who claimed exclusive indigenous status in the region. Mediation attempts by the Komnas HAM failed due to the company's refusal to acknowledge the community's indigenous identity.

On the ground, a private company is reported to have conducted exploration activities without consent, established camps in ancestral territory, and used intimidation tactics – including vigilante threats and manipulation of local authorities – to suppress resistance. Meanwhile, state security forces have reportedly acted as corporate enforcers, engaging in intimidation, violence, and criminalization of community members defending their land.

Particularly concerning is the failure of the Government of Indonesia to implement Constitutional Court ruling No. 35/PUU-X/2012, which explicitly affirms that customary forests are not part of State Forests and must be recognized as belonging to Indigenous communities. This landmark decision was intended to correct decades of legal exclusion and restore Indigenous Peoples' rights to their ancestral territories. However, in the case of the Cek Bocek Peoples, the ruling has not been operationalized. Their ancestral territory remains designated as State Forest land, which continues to serve as the legal basis for mining concessions and the denial of their customary rights.

This failure to enforce the ruling not only undermines the authority of the Constitutional Court but also perpetuates the dispossession and marginalization of Indigenous Peoples across Indonesia. The situation reflects a broader pattern of state-corporate collusion, where regulatory, law enforcement, and resource management functions have allegedly been aligned to serve corporate interests at the expense of Indigenous Peoples' rights, who face increasingly severe impacts from climate change as well as from ineffective and exclusionary climate action.

#### Conservation efforts and Indigenous Peoples lands, territories and resources

Recent developments in conservation policy and practice have led to the expansion of protected areas onto Indigenous Peoples' lands, often without their consent or involvement. This trend has intensified following the enactment of Law No. 32 of 2024 on the Conservation of Biological Natural Resources and Ecosystems, adopted on 9 July 2024. The law centralizes the authority to designate conservation zones under the State, without recognizing the role of Indigenous Peoples or their traditional conservation practices. The law disregards traditional knowledge and governance systems that Indigenous Peoples have maintained for generations.

In Timor Tengah Selatan, the Molo Indigenous Peoples have been excluded from access to their cultural sites due to overlapping with mining projects and the establishment of a national park. Government agencies have informed

residents that the forest is no longer theirs, presenting maps that reclassify the area as State land. The park spans three districts, and its creation has led to forced relocations of Indigenous families.

In South Kalimantan, the Meratus mountain range, which covers eight districts, has long been preserved by Indigenous Peoples through customary practices. These forests and mountains are considered sacred and are central to the communities' livelihoods, rituals, and ecological stewardship. Despite this, plans to designate the area as a national park emerged in 2024, without prior consultation. A research team was dispatched to assess the area, but Indigenous Peoples were not informed of the implications. Residents fear that the park will result in evictions and restrictions on access to forest resources, including medicinal plants, hunting grounds, and ritual sites.

The Meratus Indigenous Peoples, who have lived in the mountain forests for thousands of years, rely on the land for subsistence farming, hunting, and traditional medicine. The proposed national parks and expanding mining operations threaten their ability to perform rituals, access education, and maintain their cultural identity. Community members have reported arrests for harvesting forest products, despite a Constitutional Court ruling (No. 35/PUU-X/2012) affirming Indigenous Peoples' ownership of forests.

Under current conservation regulations, national parks and nature reserves are classified as areas of strict protection, often prohibiting entry. While limited access may be granted for non-timber forest products, large portions of these areas remain off-limits. In some cases, if valuable resources such as gold are discovered, the classification of the land may be altered to permit extraction, further undermining Indigenous Peoples' rights and conservation goals.

Indigenous Peoples have developed sophisticated systems of territorial management, including sacred zones and rotational production areas of key importance from a climate change adaptation perspective. These systems are at risk of being dismantled by the imposition of external governance for protected areas, which does not accommodate traditional land management. In several districts, companies have begun claiming territory that overlaps with Indigenous Peoples' lands, further complicating the situation.

These developments illustrate a broader pattern in which conservation efforts, while aimed at environmental protection, are being implemented in ways that marginalize Indigenous Peoples and disregard their longstanding contributions to environmental stewardship, biodiversity preservation and climate action.

### Criminalisation of Indigenous Peoples' land defenders

In response to their efforts to defend customary lands from extractive and development projects, Indigenous Peoples across Indonesia have increasingly faced criminalization and repression. These incidents often involve arbitrary arrests, intimidation, and legal actions initiated by companies or supported by law enforcement agencies.

In East Halmahera, residents of Wayamli and Yawanli villages in Maba Tengah District have been protesting nickel mining activities conducted by a company on their customary lands. On 26 April 2025, police reportedly forced Wayamli residents to leave their customary land, which had been evicted in favour of the same company. Some individuals were handcuffed during the operation.

On 28 April 2025, in Baburino Village approximately 300 residents marched to the same company office. Their protest was met with a heavy police presence, including 20-30 Brimob personnel. During the confrontation, Brimob officers reportedly fired tear gas into the crowd without warning, resulting in injuries to several individuals, including gunshot wounds to the shoulder, arm, leg, and fingers.

On 10 May 2025, several residents from Yawanli, Babasaram, Beringin Lamo, and Wayamli villages received police summonses following a report filed by the same company. It accused them of carrying sharp weapons, incitement, robbery, and committing unpleasant acts during a protest on 21 April 2025. The protest was organized in response to alleged encroachment on over 25 hectares of customary land and environmental damage caused by mining operations.

Further escalation occurred on 16 May 2025, when residents were detained by police in Ternate. They had travelled to a mining site to protest nickel excavating activities affecting the Indigenous territories and the Sangaji River. Of those detained, several were later named as suspects and charged under multiple legal provisions, including Emergency Law No. 12 of 1951 for carrying sharp weapons without a permit, Law No. 3 of 2020 for obstructing licensed mining operations, and provisions of the Criminal Code for alleged extortion and threats.

In East Mangaray, the Pocoloeka Indigenous community has faced restrictions on access to their forests, which are not recognized by authorities. Approximately 500 members of an Indigenous Peoples' community have reportedly opposed the development of a geothermal project on their ancestral lands, initiated by the State Electricity Company. Peaceful demonstrations held on 9 August 2023 and 2 October 2024 were met with intimidation, criminalization, and excessive use of force by police and military personnel. During these incidents, several Indigenous persons were injured, including one journalist. The project is allegedly proceeding without the free, prior, and informed consent of the affected community. Despite complaints submitted to several entities, no effective remedial action has been taken. While Indigenous Peoples are prohibited from entering these forests, companies reportedly continue to operate within them.

In Tapanuli Utara, in an Ompu Ronggur community referenced in a case under ILO Convention No. 111,<sup>14</sup> residents have reported intimidation and criminalization linked to company operations. The community has submitted proposals to international bodies, including the ILO, seeking recognition of their legal status as Indigenous Peoples, the passage of national legislation to protect

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<sup>14</sup> [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID%2CP13100\\_COUNTRY\\_ID:4416270%2C102938](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID%2CP13100_COUNTRY_ID:4416270%2C102938)

Indigenous Peoples' rights, and the safeguarding of traditional livelihoods threatened by corporate activities.

These cases reflect a broader pattern of criminalization targeting Indigenous Peoples' land defenders, often in contexts where legal recognition of Indigenous status and land rights remains unresolved. The use of law enforcement to suppress peaceful protest and traditional land use raises serious concerns about the protection of Indigenous Peoples and their ability to exercise their rights.

#### Indigenous Peoples in isolation and the threat of extinction/extermination

Due to land dispossession, environmental degradation, and lack of formal recognition, certain Indigenous Peoples in Indonesia face existential threats. Among these, the Rimba Peoples, who are experiencing acute vulnerability, with their survival increasingly at risk.

The Rimba Peoples live in and around the Bukit Duabelas National Park in the Jambi region. Although they have inhabited this forested area for generations, their territory was formally designated as a national park through a government decree, without recognition of their customary rights. While the community initially accepted the park's establishment, their ability to maintain traditional livelihoods has been severely compromised.

A significant portion of the Rimba's ancestral land – estimated at nearly half of the 36,000 hectares – has been sold off by individuals within the community. These sales, often informal and driven by economic hardship, are influenced by external pressures and changing values. Land is frequently sold to outsiders in exchange for consumer goods or to cover personal expenses. This practice has led to fragmentation of the community's territory and undermined collective land stewardship.

The Rimba Peoples practice rotational land use within a defined territory, relying on forest resources for rituals, medicine, and subsistence. The shrinking of their grazing and harvesting areas has resulted in food insecurity and forced some members to migrate to urban areas, where they live in precarious conditions.

Members of the Rimba Peoples travelled on foot to Jakarta to meet with the Minister of Environment and Forestry, seeking recognition and support. However, no follow-up actions were carried out.

The Rimba Peoples has also faced internal challenges, including the need for awareness-raising among its members about the long-term consequences of land sales. The lack of legal recognition of their rotational land use system and the absence of protective measures have left them vulnerable to further dispossession.

Beyond the Rimba, there are reports of uncontacted Indigenous Peoples in Indonesia whose existence and territories remain undocumented and unprotected. These groups are at risk of extinction due to encroachment by

extractive industries and conservation initiatives that fail to account for their presence.

The situation of the Rimba and other isolated Indigenous Peoples highlights the urgent need for recognition of their status as Indigenous Peoples, along with the acknowledgement of their traditional land use systems, the protection of cultural practices, and safeguards against external pressures that threaten their survival.

While we do not wish to prejudge the accuracy of these allegations, we express deep concern for the lack of recognition of Indigenous Peoples that self-identify as such and that have suffered historic, systematic and grave human rights violations, including racial discrimination, in Indonesia. In this context, we would like to highlight that “giving recognition to all groups, respecting their differences and allowing them all to flourish in a truly democratic spirit does not lead to conflict, it prevents conflict. What rather creates conflict is that certain dominant groups force through a sort of “unity” that only reflects the perspectives and interests of certain powerful groups within a given [S]tate, and which seeks to prevent weaker marginalized groups from voicing their particular concerns and perspectives. Or put another way: conflicts do not arise because people demand their rights but because their rights are violated.”<sup>15</sup>

In this context, we express our grave concern that the revised Special Autonomy Law for Papua, while ostensibly designed to enhance self-governance, has instead centralized authority and undermined Indigenous Peoples’ rights. The erosion of local decision-making power, coupled with increased exploitation of natural resources without free, prior, and informed consent, appears inconsistent with Indonesia’s obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly articles 3, and 32. The persistent marginalization, displacement, and documented human rights violations – including extrajudicial killings and obstruction of humanitarian aid – raise questions about compliance with the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC), and the Universal Declaration of Human Rights (UDHR).

We also express our grave concern about the revival of the transmigration program in Papua, as it seems to pose a grave threat to the cultural survival and demographic integrity of Indigenous Peoples and their ability to maintain and transmit their ways of life. It is worrying that the influx of non-indigenous settlers has reportedly led to land dispossession, erosion of languages, and forced assimilation, in a potential violation of the right to cultural integrity and self-determination under articles 8 and 10 of the UNDRIP, their cultural rights under articles 15 of the ICESCR and 27 of the ICCPR, and their right to adequate food and housing under article 11 of the ICESCR. We are furthermore concerned that the lack of meaningful consultation suggest non-compliance with Indonesia’s obligations to involve all concerned persons in all decision-making processes that have an impact on their cultural life, as recognized under article 15 of the ICESCR, and to obtain free, prior and informed consent (FPIC) from Indigenous Peoples about their affairs.

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<sup>15</sup> [A/HRC/60/29](#)

We express particular concern regarding the implementation of National Strategic Projects in Indonesia, in view of the allegations that these have resulted in large-scale land acquisition and militarization, often without the free, prior, and informed consent of Indigenous Peoples. The use of Presidential Decrees and regulatory frameworks to bypass safeguards could contravene articles 26 and 32 of the UNDRIP, as well as the right to participation under article 25 of the ICCPR. Reports of intimidation, violence, and lack of transparency in investigations into abuses linked to PSNs raise serious concerns about access to justice and accountability, as required under international human rights law.

Furthermore, deep concern is also expressed over the expansion of extractive industries and renewable energy projects across Indonesia, as it has reportedly led to widespread displacement, environmental degradation, and violations of Indigenous Peoples' land rights. These activities are allegedly often carried out without consultation or consent, which will undermine the rights enshrined in articles 26, 28 and 29 of the UNDRIP, and may breach Indonesia's responsibilities under the UN Guiding Principles on Business and Human Rights. The pattern of land appropriation, criminalization of opposition, and environmental harm suggests alarming systemic failures to uphold the rights to property, cultural rights, and the right to a healthy environment under the ICCPR, ICESCR, CRC and UDHR.

We express particular concern regarding the expansion of nickel mining operations on the Island of Kabaena, Southeast Sulawesi, which reportedly violates a prohibition mining on islands smaller than 2,000 km<sup>2</sup>. This is leading to severe environmental degradation, negative impacts on health, and violations of Indigenous Peoples' collective rights, which are already severely harmed by climate change impacts. Reports of toxic contamination, respiratory illnesses, and child fatalities linked to mining runoff are deeply troubling. These developments appear to contravene Indonesia's obligations under articles 10, 24, and 29 of the UNDRIP, and raise serious concerns under the ICCPR, ICESCR and CRC regarding the rights to life, health, and cultural survival.

We also express grave concern about the dispossession and threats faced by the Cek Bocek Selesik Reen Sury Indigenous Peoples – commonly known as the Berco Tribe – in Sumbawa Regency, West Nusa Tenggara. Despite their centuries-long presence and distinct cultural identity, they reportedly have been denied recognition as Indigenous Peoples or MHA, leaving them without legal standing to defend their ancestral territory. We are worried about the development of projects on their sacred lands, including 3,750 ancestral graves, as it has allegedly proceeded without consultation or consent, and has involved intimidation, violence, and criminalization of Indigenous persons. We regret the failure to implement Constitutional Court ruling No. 35/PUU-X/2012, which affirms Indigenous ownership of customary forests, this reflects systemic disregard for Indigenous rights and judicial authority. These allegations suggest violations of articles 26, 28, and 32 of the UNDRIP, and raise serious concerns under international human rights law regarding cultural integrity, land rights, and access to justice.

We also express concern about the reports that recent conservation policies, including Law No. 32 of 2024, have led to the expansion of protected areas onto

Indigenous Peoples' lands without recognition of customary governance systems, ecosystem stewardship and climate action. The exclusion of Indigenous Peoples from decision-making and access to their territories contradicts articles 25 and 29 of the UNDRIP and may violate the right to participate in cultural life under article 15 of the ICESCR. Worryingly, the reclassification of land and potential for resource extraction within conservation zones could further undermine environmental stewardship and Indigenous Peoples' rights to maintain their chosen ways of life, including traditional practices and livelihoods, and their resilience in the face of increasing impacts of climate change.

Additionally, allegations of increasing criminalization of Indigenous Peoples defending their lands from extractive and development projects are deeply troubling. Reports of arbitrary arrests, excessive use of force, and legal harassment suggest violations of the rights to personal liberty and security, freedom of expression, assembly, and due process under articles 9, 14, 19 and 21 of the ICCPR. The use of emergency laws and mining regulations to suppress peaceful protest and traditional land use raises concerns about the misuse of legal frameworks to silence Indigenous Peoples voices and obstruct access to justice.

We also express our grave concern over repeated episodes of forced displacement. Such displacement has allegedly been accompanied by serious human rights violations, including excessive use of force, destruction of property, intimidation, arbitrary arrest, and in some cases extrajudicial killings. Indigenous communities have been often forced to flee without adequate humanitarian assistance or guarantees of safe return, leaving them in conditions of prolonged insecurity, poverty, and loss of traditional livelihoods. These displacements also erode people's ability to maintain and transmit their cultural identity and their connection to ancestral lands and other resources, violating the principles of free, prior, and informed consent and contravening Indonesia's obligations under international human rights law.

We express concern that all these alleged violations of human rights also point to a systematic lack of recognition of Indigenous science, as part of the best available science on which all States must base their climate action, and contributions to effective climate action and environmental protection. This in turn results in undermining public processes of planning and authorizing climate interventions (be they related to renewable energy, critical minerals, climate adaptation or environmental protection) that are not considering the nexus of climate, nature, food, water and health to the detriment of everyone's human right to a healthy environment, health, food, water and life, including children's' human rights.

Finally, we wish to highlight our concern with regards to the existential threats facing Indigenous Peoples in isolation, due to land dispossession, environmental degradation, massive displacement and lack of legal recognition. The absence of protective measures and the fragmentation of ancestral lands jeopardize their survival and cultural continuity, in violation of articles 10 and 36 of the UNDRIP. The failure to recognize rotational land use systems and the lack of follow-up to community appeals for support reflect a broader neglect of Indonesia's obligations to protect vulnerable Indigenous Peoples under international human rights law, including the right to life, culture, equality and non-discrimination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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 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 detailed information on the measures taken by your Excellency's Government to ensure that the revised Special Autonomy Law for Papua complies with international human rights standards, particularly regarding the rights of Indigenous Peoples to self-determination, self-governance, participation in decision-making, and access to education, health, and natural resources and a healthy environment.
3. Please indicate whether any environmental and socio-cultural impact assessments or consultations with Indigenous Peoples were conducted prior to the decision to revive the transmigration program in Papua, and if so, kindly provide the findings and details of how Indigenous Peoples' views were incorporated into the planning and implementation of the program.
4. Please indicate what measures have been envisaged and implemented to protect the cultural integrity and cultural rights of Indigenous Peoples from the potential impact of the transmigration program in Papua.
5. Please provide information on the environment and human rights the safeguards in place to ensure that National Strategic Projects are implemented in accordance with the principles of free, prior, and informed consent of Indigenous Peoples, and clarify the role of military and law enforcement agencies in the context of land acquisition and consultation processes.
6. Please specify the steps taken by your Excellency's Government to develop comprehensive domestic legislation that clarify the applicability to renewables development and transition minerals of the rights of Indigenous Peoples and of the right to a healthy environment, including children's right to a healthy environment.
7. Please specify the steps taken by your Excellency's Government to apply the highest level of precaution to new hydropower development, including extensive consideration of alternatives, in consideration of potential negative impacts on the climate system and extensive negative impacts on human rights and biodiversity.

8. Please specify the steps taken by your Excellency's Government to plan, regulate, ensure public access to information on, and monitor and regulate the activities of extractive and energy companies operating on Indigenous Peoples lands, and to ensure that these projects do not result in displacement, environmental degradation, or violations of Indigenous Peoples' rights, including the respect for their free, prior and informed consent and their right to contribute to decision-making processes that have an impact on their cultural rights.
9. Please provide information on measures taken, or intended to be taken, by your Excellency's Government to ensure that business enterprises operating in Indonesia fully respect human rights and environmental standards in their operations, including in their supply chains, in line with the UN Guiding Principles on Business and Human Rights and international law.
10. Please detail measures taken by the Government to protect human rights defenders in Indonesia from intimidation or retaliation for reporting on the various situations referred to in this communication.
11. Please provide detailed information on the legal basis and human rights and environmental safeguards applied to the expansion of nickel mining operations on Kabaena Island, including how your Excellency's Government ensures compliance with Law No. 1 of 2014 and protects the rights, health, and livelihoods of maritime Indigenous Peoples.
12. Please clarify what measures were taken or are envisaged to provide protection and assistance to those displaced, including alternative adequate housing, water, essential food and medical services, and other forms of humanitarian and/or legal assistance.
13. Please provide information on steps undertaken to investigate allegations of coercion, intimidation, or forced returns of IDPs, including accountability mechanisms for violations.
14. Please provide information on the measures undertaken or envisaged to prevent further arbitrary displacement, provide protection and assistance to IDPs, as well as investigate violations of their rights and ensure remedy and accountability.
15. Please clarify the measures taken by your Excellency's Government to recognize and protect the rights of the Cek Bocek Selesek Reen Sury Indigenous Peoples in Sumbawa, including steps to implement Constitutional Court ruling No. 35/PUU-X/2012 and to prevent dispossession, intimidation, and desecration of sacred sites.
16. Please provide information on how Indigenous Peoples have been consulted and involved in the designation and management of conservation areas under Law No. 32 of 2024, and whether any mechanisms exist to recognize and integrate customary conservation

practices and land tenure systems.

17. Please indicate what measures have been taken to investigate allegations of arbitrary arrests, excessive use of force, and legal harassment against Indigenous Peoples' land defenders, and to ensure that law enforcement actions in cases that require cultural awareness and sensibility are consistent with international standards on freedom of expression, peaceful assembly, and due process.
18. Please provide information on the steps taken by your Excellency's Government to identify, recognize, and protect isolated Indigenous Peoples, and to safeguard their traditional land use systems, cultural practices, and to ensure their survival against external pressures and environmental threats.
19. Please provide information on how Your Excellency's government ensures that environmental and human rights impact assessments, considering the impacts of climate change, are independent and guarantee that commercial activities prevent, mitigate, and remedy damage to the environment and the rights of local communities. Please also indicate how requirements for public information and consultation have been met in the context of these assessments.

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.

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

Albert K. Barume  
Special Rapporteur on the rights of Indigenous Peoples

Pichamon Yeophantong  
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Elisa Morgera  
Special Rapporteur on the promotion and protection of human rights in the context of climate change

Alexandra Xanthaki  
Special Rapporteur in the field of cultural rights

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Paula Gaviria  
Special Rapporteur on the human rights of internally displaced persons

Ben Saul  
Special Rapporteur on the promotion and protection of human rights and fundamental  
freedoms while countering terrorism

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw the attention of Your Excellency's Government the following international human rights norms and standards.

I would like to refer your Excellency's Government to relevant provisions of the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia acceded to in 2006. Article 1 of the Covenant affirms the right of all peoples to self-determination and to freely dispose of their natural wealth and resources, and not to be deprived of their own means of subsistence. Article 9 guarantees the right to liberty and security of person and protection from arbitrary arrest or detention. Article 14 affirms the right to a fair trial and due process. Article 19 protects the right to freedom of opinion and expression, while article 21 guarantees the right to peaceful assembly. Article 27 protects the rights of ethnic, religious or linguistic minorities to enjoy their own culture, profess and practice their own religion, and use their own language. These provisions are particularly relevant in the context of reported criminalization, intimidation, and excessive use of force against Indigenous Peoples' land defenders and peaceful protesters.

The Human Rights Committee, in its general comment No. 36 on the right to life (article 6), has emphasized that the right to life must be interpreted broadly to include protection from conditions that threaten life, such as environmental degradation, displacement, and lack of access to essential services. The Committee has affirmed that States have positive obligations to ensure access to food, water, shelter, and healthcare, and that failure to prevent exposure to hazardous substances may constitute a violation of the right to life.<sup>16</sup>

I would also like to refer your Excellency's Government to relevant provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Indonesia ratified in 2006, thereby undertaking to respect, protect, and fulfill the economic, social, and cultural rights of all individuals, including Indigenous Peoples. In this context, it is worth noting that article 1 of the ICESCR is identical to article 1 of the ICCPR, noting the importance of the right all peoples to self-determination and to freely dispose of their natural wealth and resources, and not to be deprived of their own means of subsistence. Article 11 recognizes the right of everyone to an adequate standard of living, including adequate food, clothing, housing, and the continuous improvement of living conditions. Article 12 affirms the right to the highest attainable standard of physical and mental health. Article 15 guarantees the right to take part in cultural life, to benefit from scientific progress and its application and to enjoy the freedoms indispensable for scientific research and creative activity.

The Committee on Economic, Social and Cultural Rights, in its general comment No. 12, has clarified that the right to adequate food includes both physical and economic access to food, and requires States to respect existing access, protect against third-party interference, and fulfill the right through proactive measures. The

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<sup>16</sup> CCPR/C/GC/36, para. 26.

Committee has emphasized that the right to be free from hunger is of immediate obligation and not subject to progressive realization.<sup>17</sup>

In general comment No. 14, the Committee has affirmed that the right to health includes access to safe and potable water, adequate nutrition, and healthy environmental conditions.<sup>18</sup>

In general comment No. 21, the Committee has emphasized that Indigenous Peoples' cultural life is inseparable from their relationship with their ancestral lands and natural resources, and that States must recognize and protect these rights to avoid degradation of their way of life and cultural identity.<sup>19</sup> It also stressed the right to take part in the development of the community to which a person belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person's cultural rights (para. 15.c).

In her report to the General Assembly, the Special Rapporteur in the field of cultural rights explained how this latter right is to be understood in broader development contexts. She highlighted that in many cases, "development" policies and strategies reflecting dominant cultural viewpoints or those of the most powerful sectors of society, with historic ties to colonialism and domination, are designed and implemented to the detriment of the most vulnerable in a manner that impedes the future sustainable development and survival of these persons and communities and probably, in the longer term, of humanity. She stressed that people and peoples must be the primary beneficiaries of sustainable development processes and recommended that States, international organizations and other stakeholders ensure that sustainable development processes:

- (a) Are culturally sensitive and appropriate, contextualised to specific cultural environments and seek to fully align themselves with the aspirations, customs, traditions, systems and world views of the individuals and groups most likely to be affected;
- (b) Fully respect and integrate the participation rights and the right of affected people and communities to free, prior and informed consent;
- (c) Are self-determined and community led;
- (d) Are preceded by human rights impact assessments to avoid any negative impacts on human rights, including impact assessments on cultural rights; any impact assessment failing to address living heritage or the cultural significance of affected natural resources, or conducted without the free, prior and informed consent, consultation and active participation of the persons and communities affected directly or indirectly, should be rejected as insufficient and incomplete;
- (e) Recognize that indigenous peoples must give their free, prior and informed consent before any project that affects them is implemented

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<sup>17</sup> E/C/12/1999/5.

<sup>18</sup> E/C.12/2000/4.

<sup>19</sup> E/C.12/GC/21.

(A/77/290, paras. 97-98).

The Convention on the Rights of the Child and general comment No. 26 on Children's Rights and the Environment, with a special focus on climate change, which clarifies that children have the right to a clean, healthy and sustainable environment, including include clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments. Relevant obligations include to ensure access to safe and sufficient water; ensure a fair and just transition of energy sources; conserve, protect and restore biodiversity; prevent marine pollution; and closely regulate and eliminate the use and release of toxic substances that have disproportionate adverse health effects on children.

In particular, according to general comment No. 26, States have an obligation to effectively prevent, protect against and provide remedies for both direct and indirect environmental discrimination, considering the discriminatory effect of environmental harm on Indigenous children, particularly if they are living with disabilities and/or in disaster-prone or climate-vulnerable environments. States should collect disaggregated data to identify the differential effects of environment-related harm on children and to better understand intersectionalities, paying special attention to groups of children who are most at risk, and to implement special measures and policies, as required. States must ensure that all legislation, policies and programmes that deal with environmental issues are not intentionally or unintentionally discriminatory towards children in their content or implementation.

We would also like to draw the attention of Your Excellency's Government to the Universal Declaration of Human Rights (UDHR), which enjoys universal recognition and is widely considered to reflect customary international law. Article 1 of the Declaration affirms that all human beings are born free and equal in dignity and rights, and article 2 guarantees that everyone is entitled to the rights and freedoms set forth in the Declaration without distinction of any kind, including race, language, or national or social origin. Article 17 affirms that everyone has the right to own property alone as well as in association with others, and that no one shall be arbitrarily deprived of their property. This provision is applicable to Indigenous Peoples' collective ownership of ancestral lands and territories and reinforces the obligation of States to respect and protect Indigenous land tenure systems from dispossession, encroachment, or arbitrary interference.

Article 25 of the UDHR recognizes the right of everyone to a standard of living adequate for health and well-being, including food, clothing, housing, medical care, and necessary social services. This provision is particularly relevant in the context of allegations of displacement, food insecurity, and environmental degradation affecting Indigenous Peoples in Indonesia. The Declaration also affirms, in article 27, the right to participate in cultural life, which is essential to the protection of Indigenous identities, traditions, and spiritual relationships with ancestral lands. In light of the reported threats to the survival, cultural integrity, and livelihoods of Indigenous communities, the principles enshrined in the UDHR provide a foundational framework for the protection of their rights and dignity, and underscore the obligation of States to ensure equality, non-discrimination, and access to basic services and cultural life for all individuals, including Indigenous Peoples.

Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007<sup>20</sup> with the support of Indonesia, affirms the collective and individual rights of Indigenous Peoples, including their rights to self-determination, autonomy, and control over their lands, territories, and resources. These provisions are particularly relevant to the concerns raised regarding the Special Autonomy Law in Papua, the transmigration program, National Strategic Projects, extractive industries, conservation policies, criminalization of land defenders, and the situation of Indigenous Peoples in isolation.

Article 3 of the Declaration recognizes the right of Indigenous Peoples to self-determination, including the right to freely determine their political status and pursue their economic, social, and cultural development. Article 4 further affirms their right to autonomy or self-government in matters relating to their internal and local affairs. Article 8 prohibits forced assimilation and destruction of culture, while article 10 protects against forced removal from lands or territories.

The Declaration also affirms under article 25 the right of Indigenous Peoples to maintain and strengthen their spiritual relationship with their lands. Articles 26 and 27 establish the right of Indigenous Peoples to the lands, territories, and resources which they have traditionally owned, occupied, or otherwise used, and call upon States to recognize and protect these rights through fair, transparent, and participatory processes. Article 28 demands for redress for Indigenous Peoples' lands and resources taken without their consent, while article 29 recognize the right of Indigenous Peoples to conserve and protect the environment and the productive capacity of their lands or territories and resources.

In addition, article 31 recognizes the right of Indigenous Peoples to maintain, control, protect, and develop their cultural heritage, traditional knowledge, and cultural expressions. Article 32 requires States to obtain the free, prior, and informed consent of Indigenous Peoples before approving any project affecting their lands or resources, and to provide effective mechanisms for redress. Article 36 affirms the right of Indigenous Peoples in isolation to maintain relations across borders and to be protected from extinction and extermination.

In this context, we would like draw to the attention of the Government of Your Excellency to the recent report of the Special Rapporteur on the rights of Indigenous Peoples, on the topic of Recognition of Indigenous Peoples:

4. The term “Indigenous Peoples” has become a human rights call for justice. It is a demand for redress, made by distinct peoples that suffered or continue to suffer historical injustices, grounded in racial discrimination, which led to loss of their ancestral lands and distinct culture. The Declaration was formulated to address this injustice and foster reconciliation and partnership between Indigenous Peoples and States.

5. States should recognize Indigenous Peoples as specific rights holders under international law. However, State recognition neither creates Indigenous Peoples nor grants them their rights. The rights of Indigenous Peoples are

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<sup>20</sup> A/61/L.67

guaranteed under international law, and they are binding on States regardless of recognition in domestic laws. Refusal by a State to recognize Indigenous Peoples, or denial by a State of their existence on its territory, does not diminish the rights held by Indigenous Peoples.

(...)

41. Asia has endorsed its own human rights understanding of the term “Indigenous Peoples”. Many Asian traditional communities identify themselves as Indigenous Peoples to seek redress for historical injustices, loss of or threat to their ancestral lands, and marginalization that threatens their cultural identities and livelihoods.

42. A previous Special Rapporteur concluded that there were particular groups that distinguished themselves from the broader populations of the Asian countries and that fell within the scope of the international concern for Indigenous Peoples as it had developed throughout the United Nations system and in connection with his mandate, including those referred to as “tribal peoples”, “hill tribes”, “scheduled tribes” or “Adivasis”. Another previous Special Rapporteur noted that some nation States had forcibly integrated territories of Indigenous Peoples or included them as part of their territorial claims, and she concluded that in Asia, modern nation State-building had contributed to the creation of Indigenous Peoples.<sup>21</sup>

We would also like to highlight 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, are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

1. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
2. 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;
3. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

Guiding principle 1 reiterates the State's duty to "protect against human rights abuses by business enterprises on its territory and/or under its jurisdiction". The guiding principle 2 provides that States should make clear that all companies domiciled on their territory and/or under their jurisdiction are expected to respect human rights in all their activities. In addition, guiding principle 3 reiterates that States must take appropriate measures to "prevent, investigate, punish and remedy such abuses through effective policies, laws, regulations and adjudication". In addition, it requires, among other things, that a State "provide effective guidance to business enterprises on how to respect human rights throughout their operations".

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<sup>21</sup> A/HRC/60/29

Furthermore, on access to remedy, guiding principle 25 stresses that the State must take appropriate steps to ensure, through judicial, administrative, legislative and other appropriate means that when business-related human rights abuses occur within their territory and/or jurisdiction, those affected have access to effective remedy.

According to guiding principle 26, States should take appropriate measures to ensure the effectiveness of domestic judicial mechanisms when dealing with business-related human rights abuses, including by considering how to limit legal, practical and other obstacles that may lead to denial of access to remedy.

Principles 11 to 24 and principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have caused or contributed to adverse impacts.

Furthermore, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment, confirmed by the General Assembly in July 2022 with resolution A/RES/76/300. A safe climate has been identified as a substantial element of this right.

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. They state that States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence (principle 4).

We would like to bring to your Excellency's Government's attention that these obligations have been further clarified in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises in A/78/155 "Extractive Sector, Just Transition and Human Rights." The Working Group calls on States to "develop national strategies and legislation and support regional green mineral strategies, in order to strengthen reliable, responsible and Guiding Principle-compatible production and supply of critical transition minerals that are essential to the energy transition." Acknowledging the crucial importance of just and right-based development of critical and energy transition minerals, the Working Group highlighted the need for States to "Require business enterprises to respect and fulfil international human rights obligations when designing or implementing energy transition programmes, including by assessing intersecting forms of discrimination and social exclusion, to develop inclusive, coherent and gender-responsive programmes." The Working Group also stressed that States should "require extractive sector businesses to prove that they are taking effective action to address the impacts of energy transition programmes on human rights and the environment, by reporting on their board composition, appointments, procurement practices and operations."

In addition, in her report entitled "A Human Rights Based to the Energy Transition" (A/80/188) the Special Rapporteur on the promotion and protection of

human rights in the context of climate change stressed:

“Fairly and equitably sharing the benefits of a just energy transition, as a requirement of the human right to science, Indigenous Peoples’ human rights and peasants’ human rights, entails moving away from a mere logic of exchange and “damage control”. Instead, it requires collaboratively identifying and understanding opportunities for positive impacts, both locally and globally, according to Indigenous peoples’, communities’ and women’s world views. States are responsible for ensuring the genuine nature of consent in the context of customary institutions, with a view to providing the foundations for the emergence of a new resource governance model, premised on the notion of partnership. Thus, States should put in place norms and practices to ensure that fair and equitable benefit-sharing supports community agency in the context of an iterative dialogue aimed at understanding different world views and realizing communities’ choice and capabilities. Both benefits protecting or enhancing communities’ control over natural resources and benefits providing support for the exercise of effective control are needed. In addition, in the consideration of alternatives and of the justification for the final outcome, it is necessary to show how assessments differed from merely providing a pre-set array of development options to communities. Any benefit must be measured against the broader context of historical and systemic injustices faced by communities.”

To that end, States should ensure a coherent domestic legal framework for a human rights-based and ecosystem-based just energy transition, States should:

- a) ensure that domestic laws on climate change, energy, nature, water, mining and human rights are aligned, requiring comprehensive human rights and environmental impact assessments for policies, plans and projects for renewables and transition minerals;
- b) Develop comprehensive domestic legislation on the protection of the rights of Indigenous Peoples, persons of African descent, peasants and small-scale fishers and of the right to a healthy environment, including children’s right to a healthy environment, and clarify their applicability to renewables development and transition minerals;
- c) Establish mandatory human rights and environmental due diligence legislation in line with the Guiding Principles on Business and Human Rights, clarifying its applicability throughout the value chain of renewables and transition minerals.

In addition the Special Rapporteur emphasized that due to considerable climate, environmental and human rights concerns, new hydropower development should be considered with the highest level of precaution and extensive consideration of alternatives, in the context of a human rights-based and ecosystem approach, taking into account the need to protect and restore biodiversity as part of States’ obligations related to climate change, as clarified by the International Tribunal for the Law of the Sea and the Inter-American Court of Human Rights in their respective advisory opinions. A precautionary approach should be applied to the consideration of geothermal power, which can be most effective when planned for longevity and not narrowly focused on carbon sequestration. States should therefore:

- (a) Consider all possible alternatives to satisfy demand for secure renewable energy and all practicable steps to prevent or mitigate ecological harm;
- (b) Ensure that biodiversity protection and restoration are integrated into strategic and project-level assessment, planning and development stages, including in site selection, project design and operational and monitoring practices, for renewables and energy transition minerals;
- (c) Integrate land-marine spatial planning through participatory and inclusive approaches, in order to consider the cumulative impacts of renewables and energy transition minerals at the nexus and address conflicts of interest;
- (d) Establish no-go zones in ecologically sensitive areas;
- (e) Ensure participatory monitoring of the application of mitigation measures and of unforeseen negative impacts on the environment and on human rights.

Further, the Rapporteur recommended a human rights-based participatory approach to the planning and implementation of renewables to support processes for evaluating, on the basis of best available science, including Indigenous science and local knowledge, the impacts on climate mitigation, electricity generation, water supply, flood and drought management, irrigation, navigation, fisheries and recreational activities, as well as the economic benefits. To that end, States should:

- (a) Oversee consultations and their outcomes, in order to mitigate power imbalances between business entities and communities, including by guaranteeing access to independent technical and legal advice;
- (b) Ensure that strategic environmental assessments and environmental impact assessments serve to identify, in an integrated fashion, the positive and negative impacts on the environment and on human rights of proposed renewables and related mining projects, in addition to any potential damage to ways of life, livelihoods, well-being and knowledge systems;
- (c) Ensure that strategic environmental assessments and environmental impact assessments serve to genuinely support free, prior and informed consent and consultation processes, providing full, trustworthy and accessible information and consideration of benefit-sharing as early as the screening and scoping phases, including consideration of all alternatives and siting options, and integrating Indigenous and community methodologies;
- (d) Require strategic environmental assessments and environmental impact assessments consultants to demonstrate sufficient understanding of Indigenous Peoples' science and other knowledge systems;

- (e) Allow sufficient time for internal discussion within communities and create channels for sustained, effective and reliable dialogue with communities' representative institutions, supporting the realization of their right to decide their own development priorities;<sup>22</sup>
- (f) Prevent misuse of benefit-sharing, such as when an economic advantage is offered in exchange for obtaining consent, when social cohesion of affected communities is undermined through bribes or selective negotiations tactics or when paternalistic mechanisms are not responsive to communities' needs;
- (g) Support, in the first instance, community ownership or co-ownership and, where communities chose to engage with a business entity, require both community participation in decision-making and a share in profits and other benefits, such as high-skill employment and energy price reduction packages;
- (h) Require compensation beyond market value for land acquisition, to ensure full livelihood restoration, ensuring that full compensation for resettlement is provided before landholders are required to vacate land;
- (i) Verify that benefit-sharing agreements with business entities fully respect human rights.

Companies involved in renewables development, transition minerals and related supply and value chains should have robust human rights due diligence process, with a view to:

- (a) Assessing land tenure, in addition to relying on formal or documented land rights, to identify all rights holders and baselines for environmental and human rights impact assessments, to estimate the direct and indirect area of influence of each project at the nexus;
- (b) Providing funding for independent legal and technical experts to support Indigenous Peoples, persons of African descent and peasants in environmental impact assessments, consultations and benefit-sharing negotiations;
- (c) Identifying benefit-sharing opportunities in the early stages of assessments and planning, with the meaningful participation of communities and according to community world views and history;
- (d) Designing systems and products to enable maximum resource and energy efficiency and circularity through repair and reuse, and ensuring extended producer responsibility;
- (e) Ensuring public access to information on contributions to circularity, on beneficial owners across the value chain, on the origin of minerals, and

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<sup>22</sup> Inter-American Court of Human Rights, *Case of the Kichwa Indigenous People of Sarayaku v Ecuador*, Judgment (Merits and Reparations), 27 June 2012, paras. 165-177; and African Commission on Human and Peoples' Rights, (2010), paras. 212 and 289.

on contracts, licences, environmental and human rights impact studies, third-party audit findings and financial reports;

- (f) Implementing “local content” provisions through meaningful job creation and the integration of local experts in management positions, including technological co-development;
- (g) Supporting participatory long-term monitoring throughout the life cycle, including closure planning and environmental restoration;
- (h) Establishing effective and accessible operational-level grievance mechanisms for workers and communities, in local languages and with powers to provide remedies, such as compensation and rehabilitation;
- (i) Adopting enforceable zero-tolerance policies to prevent retaliation against environmental human rights defenders, including screening potential business partners for histories of retaliation.

We would also like to refer 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). Indigenous peoples and minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands should be particularly protected from displacement (principle 9). Internally displaced persons should be protected against genocide, murder, summary execution, indiscriminate acts of violence, starvation as a method of combat, use as shields, attacks against their camps and settlements, landmines, rape, and arbitrary detention (principles 10-12).

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). All authorities concerned should not impede the passage of humanitarian assistance to internally displaced persons, and humanitarian workers and supplies must be respected (principles 25-26). 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).