

UN CERD formal communication to the Government of Indonesia requests evidence of safeguards to protect the rights of indigenous peoples
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The United Nations Committee on the Elimination of Racial Discrimination (UN CERD) has requested that the Government of Indonesia provide evidence it has adopted safeguards to guarantee the protection of the rights of indigenous peoples, in the context of the increasing presence of palm oil plantations in indigenous people's lands and territories.

“The government must take serious measures to protect indigenous peoples,” said Ms. Rukka Sombolinggi, Secretary General, Indigenous Peoples Alliance of the Archipelago (AMAN), largest Indigenous organisation in Indonesia.

“The CERD Committee has clearly requested the government of Indonesia to respect and protect the rights of indigenous peoples including to enact the bill on recognition and protection of indigenous peoples rights,” she said.

UN CERD issued the formal communication, urging the Government of Indonesia:

- “to respect the way in which indigenous peoples perceive and define themselves”;
- “to amend its domestic laws, regulations and practices to ensure that the concepts of national interest, modernization and economic and social development are defined in a participatory way [...] and are not used as a justification to override the rights of indigenous peoples”;
- “to secure the possession and ownership rights of local communities before proceeding further” with the Kalimantan Border Palm Oil Megaproject; and
- “ensure that meaningful consultations are undertaken with the concerned communities, with a view to obtaining their consent and participation in [the project].”

The letter, sent on 30th April 2021, came in response to two joint submissions submitted by Civil Society Organisations across the archipelago in 2020.

[The first submission](#) brought to UN CERD's attention the threats to indigenous peoples living across Borneo's borderlands where the Government of Indonesia is in the process of facilitating the encroachment on and [takings of indigenous lands for roadbuilding, plantations and mining along the Indonesia-Malaysia border](#).

The submission highlights how these projects will cause imminent, gross and irreparable harm to the Dayak and other indigenous peoples in an area which coincides with the ancestral territory of 1 – 1.4 million Dayak. Some communities already have been forcibly relocated and it is estimated that another 300,000 indigenous individuals are threatened with displacement.

[This request highlighted how the Government of Indonesia's plans would not only result in large scale deforestation](#) – thus undermining the country's commitment to climate change and the protection of biodiversity – but would also sabotage the efforts of indigenous communities living across the border region to secure legal recognition of their lands.

UN CERD has made repeated requests to the Government of Indonesia to take appropriate protections to guarantee the respect for the principle of self-identification and the rights of indigenous peoples.

[The second submission to UN CERD](#) highlighted the retrograde measures taken by the Government of Indonesia in the midst of the COVID-19 pandemic to reverse the already weak protections of indigenous peoples' rights through the highly controversial enactment of the Omnibus Law.

"The State must guarantee to implement, respect, protect, fulfil, enforce and advance human rights in all sectors," said Eko Zanuardy, Executive Director of Link-AR Borneo.

"The enactment of Omnibus Law will further give business full control over community lands to be further exploited without paying attention to social and environmental values," he said.

The submission focuses on the passage of the Omnibus Law on Job Creation, [a regressive and substantially discriminatory piece of legislation that was hastily enacted by the President of Indonesia on 3 November 2020](#). The law represents one of the biggest legislative changes in the country's history and was passed in the midst of the ongoing COVID-19 pandemic without proper consultation and participation of the country's indigenous peoples.

[The sweeping amendment - to almost 80 laws - rolls back already limited protections for indigenous peoples' rights](#), and further privileges the interests of the business community, specifically plantation companies and extractive industries. All the while, the *Bill on the Recognition and Protection of Indigenous Peoples Rights* has lingered in the legislature for almost a decade, indicating the deliberate preferencing of business interests over indigenous rights.

In recent weeks, Indonesian lawmakers, themselves, [have expressed shock at the powers granted by the deregulation bill](#) which provides amnesty to palm oil plantations operating illegally inside forest areas. A Law which UN CERD notes will enable the Government to "arbitrarily declare some lands as 'abandoned', and compulsorily acquire indigenous peoples' lands without any free, prior, or informed consent, and without fair and just compensation".

In addition, UN CERD called on the national government to take special measures to protect the rights of indigenous peoples, especially those living along the Indonesia-Malaysia international border where the Kalimantan Border Palm Oil Mega-Project is in the process of being established. UNCERD requested the Government of Indonesia provide information on:

- (a) The safeguards adopted to guarantee the respect of the fundamental principle of self-identification in the determination of indigenous peoples;
- (b) The measures taken to expedite the enactment of the draft bill on the recognition and protection of the rights of indigenous peoples, in consultation with them;
- (c) The concrete steps taken to prevent and address the conflicts between indigenous communities and oil palm companies, and to legally protect the rights of these communities in the context of the increasing presence of oil palm plantations and roadbuilding, in particular in the Kalimantan border regions;
- (d) The status of implementation of the Omnibus Law on Job Creation (Law 11/2020 of 3 November 2020) including adverse impact on the rights of indigenous peoples and the measures adopted to revoke or to review it;
- (e) The concrete measures adopted to guarantee an inclusive and adequate discharge of the duty to consult indigenous peoples that could be affected by the oil palm industry and other large-scale projects, and to obtain their free, prior and informed consent.

This formal communication has been welcomed by indigenous communities and Indonesian Civil Society **organisations**.

Further information

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Additional quotes

“The government must take serious measures to protect indigenous peoples. It is now time for the government opens its eyes and ears to all the racial discrimination being experienced by indigenous peoples. There have been many reports submitted by civil society organisations and received CERD Committee’s recommendations. The cases of palm oil megaproject in Kalimantan, MIFEE, Aru and the recently enacted Omnibus Law. CERD Committee has clearly requested the government of Indonesia to respect and protect the rights of indigenous peoples including to enact the bill on recognition and protection of indigenous peoples rights. What happened was Omnibus Law passed unilaterally. CERD Committee letter on Omnibus Law and the recommendations must be responded to seriously by the government of Indonesia,” said Ms. Rukka Sombolinggi, Secretary General, Indigenous Peoples Alliance of the Archipelago (AMAN), largest Indigenous organisation in Indonesia.

"Indonesia as a legal state is fast becoming a fantasy state, given the unconstitutional methods way it unilaterally adopted the Omnibus Law erasing and amending critical articles in several major applicable laws, without any substantive reviews by the highest constitutional assembly. Indonesia must rethink its past twenty-years of reformation struggles because it has failed to benefit marginalized communities." said Agung Wibowo, Executive Director of HuMA.

"The State must guarantee to implement, respect, protect, fulfil, enforce and advance human rights in all sectors. In reality, however, the State favours business interests who thirst after our country’s abundant natural resources. The enactment of Omnibus Law will further give them full control over community lands to be further exploited without paying attention to social and environmental values", told Eko Zanuardy, Executive Director of Link-AR Borneo.

“The government has failed to fulfil its constitutional mandate to adopt the bill on the recognition and protection of indigenous peoples’ rights. The State must immediately take steps to remedy the human rights abuses caused by impacts of any de jure and de facto discriminations, by resolving violations by means of government’s judicial and non-judicial measures for Dayak indigenous peoples and other indigenous communities across Indonesia-Malaysia border of Borneo in West, North, and East Kalimantan.” said Ms. Mayang Andasputri, legal staff of LemBAH.