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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Joint written statement* submitted by Franciscans International, a non-governmental organization in general consultative status, VIVAT International, a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The human rights violations related to the environmental degradation as a result of private sector activities in Indonesia

Introduction

1. Franciscans International (FI) and VIVAT International, would like to welcome the first Report of the Independent Expert (IE) on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/22/43) focusing on the relationship between human rights and environment. FI welcomes the effort of the IE in providing greater conceptual clarity to the application of human rights obligations related to the environment.

2. The environmental degradation linked to development projects and extractive industry has particularly affected by the vulnerable groups, especially by the Indigenous Peoples (IP), due to the special relation between the IP and their environment. The IE underlines this fact in his first report¹ while he also made a reference that the environmental harms are caused by non-state actors, including businesses.²

3. We would like to draw the Council's attention to two specific cases in which the activities of private sectors on mining and logging sectors have negative impacts on the environment and on the enjoyment of human rights of indigenous and forest dependent community.

Mining

4. We would like to draw the attention of the IE to address the negative impacts of mining industry on the full enjoyment of human rights in Indonesia. The adoption of the Law No 4, 2009 on Mineral and Coal Mining, by the Government of Indonesia (Undang-Undang Minerba No 4, 2009) has triggered series of debates among civil society in Indonesia, especially on the impact of mineral and coal mining industry on the environment and on the full enjoyment of human rights. From 2009 to 2012, the Government of Indonesian issued 10.677 mineral and coal mining permits (the average of 2.669 permits per year). In the same period, the human rights violations related to the conflict on natural resources included 52 death, 64 injured by gunshots, 604 arrests, and 321 persecutions. The conflicts covered not less than 500.372 hectares and 69.975 households.³

5. One of the most recent symbolic environmental disasters is the Sidoarjo mudflow⁴ eruption in Porong, Sidoarjo, East Java Province caused by drilling activities initially intended to extract natural gas by PT: Lapindo Brantas. The eruption which started in May 2006 continues until today. Tens of thousands of houses are submerged covering more than 900 hectares of land, including agricultural lands, and displaced thousands of people. It brings severe consequences on the multiple human rights of the victims, including the rights to life, livelihood, food, health and education.

¹ See A/HRC/22/43 para 44 – 46. The IE also made references to the reports of other Special Rapporteurs, especially the Special Rapporteurs on the situation of human rights and fundamental freedoms of indigenous peoples and on human rights defenders.

² See A/HRC/22/ para 49.

³ Data from the press release of Mining Advocacy Network (Jaringan Advokasi Tambang – JATAM), see <http://indo.jatam.org/saung-pers/siaran-pers/231-politik-penjarahan-mesin-uang-partai-politik-menjelang-2014.html> (last visited 5 February 2013).

⁴ It is also referred as Lapindo Mudflow (*Bahasa Indonesia: Banjir lumpur Lapindo*).

6. We would like to draw the attention of the IE to a case in the Regency of Manggarai Timur, in the Indonesian Province of East Nusa Tenggara, where there have been conflicts between the Serise indigenous community and PT. Arumba Manganbekti, a holder of manganese mining concession. The Serise indigenous community was particularly affected by the presence of this mining company, especially on the issue of grabbing of customary land (lingko in the local language) and the pollution of agricultural lands.

7. On the customary land issue, the Serise accused PT. Arumba Manganbekti of taking the lingko without having the permission from the community. In December 2010, lead by Serise's leader Mr. Siprianus Amon, the community filed a case to the Police Station in Manggarai, Ruteng against PT. Arumba Manganbekti for land grabbing. Instead of investigating the case, Mr. Siprianus together with three other leaders: Yohanes Pani, Yeremias Pani dan Matias Kimu Kole, were arrested and brought to court. They were sentenced for five months.⁵

8. As per the pollution of agricultural lands, the manganese waste has polluted the agricultural lands of the region. The presence of this mining company is alleged to be the cause of the significant decrease of rice and corn crops. If the mining activity continues, it will threaten the livelihood of the Serise community. Despite the advocacy work including sending a complaint to the National Human Rights Commission (KOMNAS HAM), there is no concrete solution to the grievances of the Serise indigenous community.

9. The case above shows the failure of the Government of Indonesia to guarantee rights of freedom of expression of the Serise indigenous community, the rights to food and the right to have a safe, clean, healthy and sustainable environment. This case is one of the many cases on how the activities of extractive and mining industries have negative impacts for the population, especially of the vulnerable groups.

Logging

10. We would like to express our concern on ever increasing level of forest destructions in Indonesia due to the logging and other activities by private sectors in Indonesia. Between 1990 and 2010, Indonesia lost an average of 1,205,650 ha or 1.02% per year. In total, between 1990 and 2010, Indonesia lost 20.3% of its forest cover, or around 24,113,000 ha.⁶ We welcome the Government of Indonesia's issuance of a two year forest moratorium in 2011, through President Instruction No. 10/2011.⁷ The aim is to suspend the granting of new concession licences for logging and conversion of forests and peatlands for two years from the date of enactment, with the suspension allowing for better planning for forest governance through the institution of necessary coordination processes, data collection and, potentially, new regulations. While welcoming such initiative, we express our concern to the on-going logging activities, which endanger the forest and its environment as well as violating the human rights, especially the right to livelihood of forest dependent community.

11. We received the reliable information on the case of logging activities of PT. Karya Jaya Berdikari, in Yamdena Island, Tanimbar archipelago in the southern part of Maluku Province of Indonesia. The Ministry of Forestry issued the logging concession to this

⁵ The Court on 8 November 2011 decided that they were found guilty of violating, among others, article 162 of Law No 4, 2009 on Mineral and Coal Mining – disrupting the mining activities, and article 335 of the Penal Code on the offensive treatment or threat force against third party.

⁶ See <http://rainforests.mongabay.com/deforestation/2000/Indonesia.htm>, (last visited 11 February 2013).

⁷ See http://www.kemendagri.go.id/media/documents/2011/09/19/i/n/inpres_no.10-2011.pdf (last visited 11 February 2013).

company in 2009, without the full consent of the forest dependent community in Watmuri village, where the logging takes place. In addition, the logging activity was extended to Arma village without the full consent of the people in Arma. The activities cause the environment destruction in the forest. The livelihood of these two forest dependent communities is particularly affected by diminishing of forest area.

12. The two communities sent a formal letter to the local government opposing the logging activities. This led to protests by the members of Arma⁸ and Watmuri⁹ communities against PT. Karya Jaya Berdikari. It was reported that the law enforcement officers supported the interest of the company. As a result, 36 people from Arma village and 31 from Watmuri were arrested by the police. Now, the people demand their release, the cessation of logging activities and rehabilitation of the critical forest in Yamdena Island.

Recommendations

13. We would like to commend the work of the IE and therefore we encourage the IE:
- In the next report, to consider focusing on the impact of extractive industry, logging and agribusiness to the full enjoyment of human rights, especially the vulnerable groups and the state obligations to guarantee the right to the enjoyment of a safe, clean, healthy and sustainable environment.
 - To consider country visits and identify challenges along with best practices relating to the use of human rights obligations on the area of environment protection.
14. We also urge the Government of Indonesia:
- To uphold the respect of the principles of free, informed and prior consent (FPIC) when issuing mining and logging concessions affecting indigenous customary lands.
 - To revoke the exploitation permit of PT. Arumba Manganbukti and PT. Karya Jaya Berdikari, and any other mining and logging companies, which are not compatible with the principles of FPIC.

⁸ The protest by the Arma community took place on 21st August 2012.

⁹ The protest by the Watmuri community took place on 26 September 2012.