

Written Statement by Franciscans International
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Agenda Item 4: Implementation of the six mandated areas of the Permanent Forum

Revocation of Indonesian Omnibus Law on Job Creation

Indigenous peoples face numerous challenges in their quest for justice. From a lack of meaningful consultation and of free, prior and informed consent to inadequate or absent mechanisms that guarantee their participation in decision-making processes, they are not only left behind but usually left outside.

As the Special Rapporteur on the rights of indigenous peoples has noted, “extractive activities within indigenous peoples’ lands and territories undertaken without adequate consultation or consent are the main source of serious violations of their human rights, including violence, criminalisation and forced displacement.”¹ This situation is aggravated by the involvement of private actors who have increasingly resorted to physical violence and crimes in order to take control and exploit land and territories for their private interests. In most cases, States have been unwilling or unable to hold them accountable. During the pandemic, States have also facilitated and expedited the enactment of laws detrimental to indigenous peoples and their territories. We note that these issues are recognized in the mandated area of ‘economic and social development’ of the Permanent Forum.

In this context, we would like to call special attention to the situation in Indonesia, where the absence of legal recognition of indigenous people leads to the lack of adequate protection of their rights and their territories.² This has been made worse by a lack of protection during the Covid-19 pandemic. On 2 November 2020, while struggling with the consequences of the pandemic, Indonesia’s President officially enacted the job creation law, widely known as the *Omnibus Law*, which modifies nearly 80 existing laws. The aim of this Omnibus Law is to attract investment, create new jobs, and stimulate the economy by simplifying the licensing process and harmonizing various laws and regulations, and making policy decisions faster for the central government to respond to global or other changes or challenges.

The Omnibus Law changed and amended several existing laws including sectoral laws on environmental protection, land use, and public consultation. The government justified pushing through this new law as a response to the economic recession triggered by the pandemic, with the aim of creating a larger (formal) workforce and speeding up extractive and natural resource-based industries. However, this Omnibus Law is projected to negatively affect the ways in which indigenous peoples living in and around forests can access their land and puts them at a disadvantage in relation to corporations with commercial interests.

¹ Statement of Ms Victoria Tauli-Corpuz, UN Special rapporteur on the rights of indigenous peoples, at the 42nd Session of the UN Human Rights Council on 18 September 2019. Document can be accessed in the Extranet of the UN Human Rights Council.

² A bill on the Recognition and Protection of the Right of Indigenous Peoples has been debated in the parliament since 2009 without any clear timeline for its adoption.



Importantly, the enactment of the Omnibus Law has been strongly criticized by civil society organizations, including indigenous peoples' organizations. There was no transparent process and effective opportunity for public participation during the debate in the parliament. This can be considered as a violation of the State's obligation to obtain free, prior, and informed consent from indigenous peoples, who will be directly impacted by many of the Law's provisions.

This situation is of particular concern for indigenous peoples living in West Papua³ as the Omnibus Law contains no provision on the special autonomy status granted for West Papua, despite legislation⁴ requiring such recognition.

The forest area in West Papua is estimated to cover 33,847,928 hectares;⁵ it is the largest coverage in Indonesia. The forest coverage in the islands of Sumatra and Borneo has diminished significantly due to economic development activities, including the palm oil industry. In the last two decades, natural forest cover in Papua has also been depleted by 663,443 hectares, 29% of which occurred from 2001-2010 and 71% from 2011-2019. This averaged 34,918 hectares of deforestation a year, with the highest level occurring in 2015 when 89,881 hectares of natural forest were lost in West Papua.⁶

In West Papua, indigenous people have been steadfast in upholding the value of local wisdom and in protecting their forest. Moreover, civil society organizations in West Papua have been striving to strengthen their advocacy to protect indigenous people's rights and to protect their forests, oceans, and rivers. Despite understanding the need for development, they do not agree with the destructive impacts of a model that does not consider sustainability or the preservation of the planet. Therefore, there has been persistent resistance against mono-crop plantations, such as palm oil plantations, and against mining industries.

The Omnibus Law enables the Central Government in Jakarta to entirely control investments and business licensing in West Papua. Several provisions in the Omnibus Law will likely undermine the self-governing rights and functions of the Provincial Governments of Papua and Papua Barat, including granting exploitation permits and concessions. There have been further concerns that the Central Government might overrule the regulations issued by local governments, either at the provincial or regency level, that are considered to be in contradiction with business or national interests.

We call on the Indonesian Government to revoke the Omnibus Law and its implementing regulation, which puts economic and business interests above human rights, and we call on the Indonesian Government to guarantee the respect, protection and fulfilment of the rights of indigenous peoples.

³ West Papua refers to the Indonesian provinces of Papua and Papua Barat.

⁴ Law No. 21/2001 on Special Autonomy for the Papua Province

⁵ Koalisi Indonesia Memantau. 2021. Planned Deforestation: Forest Policy in Papua, page 4. February, 2021. Jakarta, Indonesia.

⁶ *Idem*, p8.