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

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

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

[13 February 2012]

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

Indonesia: National laws and policies are resulting in violations of the right to food

The Asian Legal Resource Center (ALRC) wishes to bring the Council's attention to the deterioration of farmers' and indigenous peoples' food security in Indonesia as the country's laws and policies fail to ensure their fundamental rights and let human rights violations committed by national and multinational corporations go unpunished. Violence and extrajudicial killings by law enforcement agencies routinely take place when people protest for their rights.

The Indonesian government bears responsibility for the promotion of land grabbing and exploitation of natural resources throughout Indonesia, including Papua, by allowing national or multinational corporations to access land and natural resources without following any legitimate procedure to obtain the prior, free and informed consent of the affected communities who have been economically and socially depending on the land and its natural resources for generations. The government has not established any procedure under national laws to ensure the affected communities' right to participate in the decision-making process. This has left the door open to land and natural resource grabbing by private corporations without the consent of local populations. Furthermore, the government has condoned the use of force by the security forces against communities and human rights defenders who opposed the exploitation of their natural resources in corporation-run plantations, resulting in a high number of casualties.

In spite of human rights groups' condemnation of ongoing right to food violations, the continuous discrimination indigenous people face, and their ongoing call for food sovereignty, the government has neglected their concerns to date. The UN Special Rapporteurs on the right to food and the rights of indigenous peoples, as well as the Committee on the Elimination of racial discrimination have expressed concern about these issues. Instead of responding to these concerns by taking action to uphold the fundamental rights of farmers and the indigenous communities, the government of Indonesia passed the Land Acquisition Act in December 2011, which has no provision to ensure the rights of landowners, who are mostly farmers or indigenous people. Furthermore, the government has routinely allowed the police to use disproportionate force to suppress peaceful demonstrations and to disperse protesters who have been demanding that their fundamental rights be respected. Recent cases testify to an increase in the intensity of violence by law enforcement agencies against people demanding the respect of their food security, leading to casualties.

On December 24, 2011, the police shot dead two villagers and injured about 80 other protesters, most of whom are farmers, in Bima, West Nusa Tenggara. 37 protesters were arrested. Despite the fact that the police used excessive force against the protesters, only two police officers belonging to the Mobile Brigade were sentenced to a mere two days in prison, and a two-month delay of their educational programs by the West Nusa Tenggara Police's disciplinary court for insubordination and violating procedures. Yet, the police officers bearing command responsibility for the disproportionate and excessive use of force have not faced any sanction. The demonstrators were protesting against the gold mining plan of the Bima regency government. In 2008, the regency government had given a land concession concerning 24,980 hectares in the Sape, Lambu and Langgudu sub-districts to private company Sumber Mineral Nusantara, whose major shareholder is Arc Exploration, an Australian publicly listed company. Since the regency government issued the concession without any communication with the farmers who were to be affected by it, and without notifying them, the affected farmers learnt about it only in 2010. Since then, they have been protesting against the gold mining, as they are deeply concerned that it would greatly

reduce the water resources in the area and affect their cultivation and livelihood. The farmers have been holding a peaceful protest since early 2011, which has been ignored by the regency administration. The regency administration has the legal authority to issue a concession to the company according to national law, which fails to guarantee the affected communities' right to food and right to participate in the decision-making process.

Four farmers, two paramilitary personnel and three company staff were killed over a land dispute between palm oil companies and farmers in Mesuji district, Ogan Komering Ilir Regency, South Sumatra Province, and Mesuji Regency of Lampung Province. The dispute over land has been going on since the 1990s and involves PT Sumber Wangi Alam for South Sumatra, PT Barat Selatan Makmur Investindo and PT Lampung Interpertiwi for Lampung (occupying 17,769 hectares in Lampung alone). As in the previous cases that have taken place over the course of several decades, there was no proper communication and consultation between the administration, the companies and the affected communities regarding land acquisition, and the companies failed to provide proper compensation to all those who owned the land collectively. In November 2010, local villagers occupied the land to protest against the companies and submitted a letter signed by 1020 of them to the Vice Head of Tulang Bawang District Police. On 10 November 2011, the Mobile Brigade arrested one farmer. The other villagers attempted to release him, to which the police responded first by shooting one of them and then opening fire indiscriminately on community-members. One villager was shot dead in the head.

The outburst of violence and casualties which have surrounded the farmers' struggle to protect their land, a major resource that is necessary to ensure their right to food, have been caused by the government's failure in ensuring the farmers' right to participate in the decision-making process concerning land acquisition, as well as the government's support for the use of force to repress these protests. Farmers have sent several letters to the relevant stakeholders and authorities including a letter addressed to the President of Indonesia, dated 15 July 2011 and a letter sent to Head of Lampung Regional Police dated 25 October 2011.

The government is failing to allow justice to be provided to victims, while law enforcement officers are typically responsible for causing avoidable violence and food injustice in Indonesia. In 2010, in Jambi province, central Sumatra, three farmers were killed while protesting against acquisition of land for cocoa farming and palm oil plantation. The police officers who shot dead farmers have not yet been brought to justice, despite an investigation being conducted in 2011. Since 1999, the Jambi regency administration and the Minister for forests have authorized company PT WKS to acquire a total of 191,130 hectares of the indigenous community land. The company forcibly evicted communities despite Ministerial decision No. 744/1996 which stated that the villages and communities' plantation area should be excluded from the concession.

Most of such cases remain unreported or unresolved. Indonesia's National Human Rights Commission reported that out of 6,000 cases of human rights violations it documents each year, 1,000 are committed by plantation companies.

The Merauke Integrated Food and Energy Estate (MIFEE) has come under the scrutiny of regional, national and international human rights groups in recent years. MIFEE is the largest-scaled food and energy production project in Indonesia. It was driven by the central government in violation of the Special Autonomy Law of Papua that gives sole authority over such projects to the Papuan government for it to protect the rights of Papuan indigenous peoples. A governmental policy encouraging transmigration of outsiders into Papua in the 1980s, followed by the promotion of corporate investment in the extraction of natural resources since the 1990s, have threatened the food security of the Papuan indigenous people, especially those belonging to the Malind tribe, by taking away their land and forests without following any legitimate procedures based on the law. The MIFEE

project, acting under these policies, further jeopardizes the food sovereignty of the Papuan people and their self-sufficiency. The indigenous peoples' food culture has been challenged by these projects, as they are forced to purchase rice instead of being able to produce their own food. It is alleged that the central government, confronted by concerns and opposition expressed by national and international civil society groups, may relocate the project to Kalimantan. However, in Papua, the corporations and the government have continued to carry out the project. No legitimate procedure is being followed in the process while the Papuan indigenous peoples and Papuan civil society have not been provided with any exact information about the project.

In Domande village, Malind district located in South Merauke, a monument was built in December 2010 engraving a land lease agreement signed between Rajawali, a private company, and seven clan leaders, as part of the MIFEE project. In it, the villagers committed not to prevent the company from setting up and running a sugar cane plantation in the area. In 2010, the company paid cash to the villagers, without having reached a clear agreement or given a comprehensive explanation of the functioning of the plantation to the villagers. The company further made promises that it would construct a church in the village and provide scholarships for students. The company never held proper discussions with the villagers to determine the exact conditions of the land lease, including the exact area which will be covered by the plantation, comprehensive compensation, the period of land lease or the conditions of employment in the plantation work. However, the company provided the villagers with a written agreement. Neither the clan leaders nor the villagers are aware of the content of the written agreement and Merauke regent put his signature on it without consultation with the community. The villagers do not agree with the provisional plantation area currently described on a map provided by the company. The villagers worry that the plantation will affect their water and livelihood resources.

In Koa, Animha District, Merauke, five clan leaders were forced to sign a blank paper when staff from PT Hardaya Sugar Plantation (Hardaya Group) along with government officials and the police came to the village to convince the villagers to lease their land in 2011. Without following a proper consultation process, the company with the support of the government tried to appropriate land from the villagers to establish a plantation. Many other such villages have been similarly affected by the MIFEE.

The MIFEE is illustrative of several national policies and laws promoting corporations' control and access to natural resources. Wherever it is launched, the project aggravates the food security of farmers and indigenous peoples. Papuan indigenous peoples have not been given any other option to promote their livelihood other than to depend on the government's policies, which fail to guarantee Papuan's access to natural resources, or protect their rights and environment. Agrarian assistance from the government to Papuans is failing to improve Papuans' capacities and skills in the utilization and protection of natural resources and cultivation, which would be more effective in protecting their rights, and instead has been limited to the short-sighted provision of equipment or seeds.

The ALRC therefore urges the Special Rapporteur on the right to food to request a country visit to look into the right to food and national land acquisition mechanisms that are impacting this right, as well as to follow-up on cases communicated to the government.

The ALRC urges the government of Indonesia to:

- set up an independent investigative body to probe all allegations of violations of the right to food and to land of farmers and indigenous peoples, including related excessive use of force by the police;
- announce an immediate moratorium on land acquisitions by corporations related to the MIFEE in Papua, and create a round table with local communities and civil society to review the project;

- reform laws related to the right to food and land and establish a proper mechanism to ensure the right to participate in the decision-making process concerning land concessions for farmers and indigenous peoples.
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