



REFERENCE: CERD/87<sup>th</sup>/EWUAP/GH/CG/ks

28 August 2015

Excellency,

I write to inform you that in the course of its 87th session, the Committee on the Elimination of Racial Discrimination received information on recent developments regarding the situation of the Aru indigenous peoples of the Aru Islands District, Moluccas Province.

The information alleges that the PT. Menara Group Consortium has been granted a permit for monocrop sugar cane plantations over nearly 50 percent of Aru indigenous peoples' ancestral territory, in spite of opposition to the by a coalition of representatives of the affected indigenous peoples and without any prior consultation with them, according to the information received in contravention of requirements under the 2004 Plantations Act and under international law. The Committee has also received information alleging that the State party currently lacks effective legal guarantees to protect the rights of indigenous peoples.

As the territory's forest reportedly constitutes the main means of subsistence for the Aru indigenous peoples and also contains sites of fundamental cultural and spiritual relevance to them, the submitting organizations claim that the intended conversion of the forest into sugarcane plantations would place the culture and the economic resources of the Aru indigenous peoples in serious peril and therefore requires an urgent response.

Furthermore, the Committee has been informed that Indonesia's National Commission on Human Rights ("Komnas HAM") has found several violations of domestic law regarding the Aru situation and issued related recommendations. According to the submitting organizations, Komnas HAM has also, after conducting a National Inquiry on "Indigenous Peoples Rights Violations in Forest Areas" in 2014, found, inter alia, that the State party "had ignored the rights of indigenous peoples in Aru Islands", issuing recommendations in this regard.

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In addition, the Committee has received information that the Constitutional Court in its decision No. 35/PUU-X/2012, issued in May 2013, reclassified traditional indigenous lands as privately owned by indigenous peoples, rather than as “state forests”. On the information available to the Committee, it appears that the State party has not taken any measures in response to these recommendations and Court ruling.

The Committee is concerned that these allegations, if verified, could hinder the full enjoyment of rights under the Convention. In this regard, the Committee refers to its General Recommendation 23 on the rights of indigenous peoples in which the Committee calls upon States parties “to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories”.

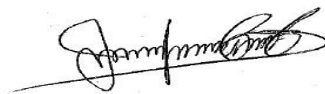
The Committee recalls its recommendations to the State party (CERD/C/IDN/CO/3) of 15 August 2007, particularly paragraph 16 where it recommended that the State party amend its domestic laws, regulations and practices to ensure that the concepts of national interest, modernization and economic and social development are (...) not used as a justification to override the rights of indigenous peoples, and paragraph 17, where it inter alia recommended that the State party review its laws, in particular Law No. 18 of 2004 on Plantations, as well as the way they are interpreted and implemented in practice, to ensure that they respect the rights of indigenous peoples to possess, develop, control and use their communal lands. The Committee notes with concern that so far, no follow-up information has been provided on paragraph 17, nor on the other paragraphs follow-up information had been required on.

The Committee also recalls its previous letters sent to the State party on 13 March 2009, on 28 September 2009, on 2 September 2011 and on 30 August 2013, and notes with concern that the State party has not yet responded to any of these.

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests that the State party submit information on all of the issues and concerns as outlined above by 15 November 2015, as well as on any action already taken to address these.

Allow me, Excellency, to express the wish of the Committee to continue to engage in a constructive dialogue with the Government of Indonesia, with a view to provide it with assistance in the effective implementation of the Convention.

Yours sincerely,



José Francisco Calí Tzay  
Chair

Committee on the Elimination of Racial Discrimination