

Indonesian Civil Society Organization on
The International Covenant on Civil and Political Rights (ICCPR) Report
“Indonesia’s National Strategic Project and its Linkage to the Inhibition of Human Rights”

Overview

The Indonesian Civil Society Organization which include Indonesia Legal Aid Foundation (YLBHI), The Commission for the Disappeared and Victims of Violence (KontraS), The Indonesian Forum for Environment (WALHI), Indonesia Corruption Watch (ICW), Mining Advocacy Network (JATAM), Trend Asia, Agrarian Reform Movement Alliance (AGRA), Sajogyo Institute (SAINS), Forum Asia, and Bentala Rakyat Heritage Foundation (PUSAKA) would like to elaborate several key issues in regards to in Civil and Political Rights to Indonesian civilians, specifically the National Strategic Project (PSN) which occurred during President Joko Widodo’s era.

The project had an initial idea of an output to support the state’s economy through various infrastructure projects. Unfortunately, human rights dimensions are neglected, formed by several intimidations and denial of fundamental rights to civilians, primarily villagers who are living in PSN’s projected area. Such neglect and violations are implemented as forced evictions, land-grabbings, as well as halting villagers’ sources of income and adequate living.

National Strategic Project Overview

Proyek Strategis Nasional (PSN) or National Strategic Project is a project and a program run by the government, local government, and business entities with strategic impacts to increase growth and equal development to improve community welfare and regional development, as well as to manage the deficit of infrastructure. Despite the government’s claim that PSN was made to improve community welfare, the implementation shows the opposite, as many structural land conflicts occurred between local communities and indigenous people versus the government and companies. Other than creating and causing conflicts, PSN, and industries responsible for natural resource exploitation industries potentially cause or have caused enormous environmental natural damages. PSN are also proven to affect communities’ economy; environment; and health.

Brief Explanation of Jokowi’s National Development Project

Under the guidance of the World Bank, in early 2005, not long after President Susilo Bambang Yudhoyono was elected as President, he immediately held a large forum called the “Infrastructure Summit 2005”. At this meeting, leaders of international financial and development financing institutions as well as a number of corporate leaders and giant investors are finalising plans to improve Indonesia's infrastructure for investment,

development and economic growth. Since the 2005 Infrastructure Summit, investors and business people's demand for "legal certainty and consistent regulations" has resurfaced, especially in terms of procurement, use and transfer of land rights (Davidson 2010, 91; Bachriadi 2019). In SBY's second term, the 2010 Infrastructure Summit confirmed a new framework to expand the implementation of infrastructure development ideas with a Public-Private Partnership scheme. Thus, in the context of development, President SBY is the first government in the Reformation era to move to develop Indonesia under the direct direction of international financial institutions.

During his time, SBY designated a number of regions as new areas for economic growth and revitalization of a number of previous economic growth areas, both related to industrial development (manufacturing and agro-industry), expansion of mining areas, development of tourism areas, infrastructure networks including expansion of construction of toll roads, power plants and dams. The SBY government is also preparing new legal foundations for land acquisition. Some of these things are the amendment of Presidential Decree 35/1996 to Presidential Regulation 36/2005 concerning Land Acquisition for Public Interest, followed by the issuance of Law no. 2 of 2012 concerning Land Acquisition for Development in the Public Interest. The SBY government also implemented a Public Private Partnership scheme in financing new infrastructure. All these programs are referred to as the Master Plan for the Acceleration and Expansion of Indonesian Economic Development (MP3EI)

In 2014, Jokowi was elected as President to replace SBY and then re-elected in the 2019 Presidential Election. He did not negate the foothold established by SBY, but continued SBY's steps by making almost all the development plans set by SBY a success, even though he no longer uses the name MP3EI but PSN, Provincial Strategic Projects (PSP), Regional Strategic Projects (PSD), National Capital Projects, National Tourism Strategic Area (KSPN) and National Tourism Development Areas (KPPN). Problems arose after these policies were passed. Here are some of them.

In the Rempang Eco-City project, when residents refused to install land boundary markers for the Rempang Eco-City project by security officers and BP Batam, acts of violence occurred such as acts of abuse, arbitrary arrests, and even throwing tear gas at residents. As a result of these various acts of violence, many victims suffered injuries and shortness of breath due to the throwing of tear gas. Not only the act of violence. According to the data of 35 PSN projects advocated by LBH, at least 35 people experienced criminalization. Criminalization was recorded in 5 provinces/cities, namely Central Java, West Java, Padang, Makassar, and Manado.

PSN Regulation and Law

Several laws regarding the **National Strategic Projects (PSN)** are mentioned below

1. Presidential Decree No. 3/2016, became Presidential Decree no. 58/2017 becomes Presidential Decree No. 56/2018, becomes Presidential Decree No.109/2020
2. Presidential Instruction Number 1 of 2016 concerning Accelerated Implementation of National Strategic Projects

3. Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Changes to the List of National Strategic Projects
4. Regulation of the Coordinating Minister for Economic Affairs Number 9 of 2022 concerning Amendments to Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Amendments to the List of National Strategic Projects
5. Regulation of the Coordinating Minister for Economic Affairs Number 21 of 2022 concerning Second Amendment to Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Amendments to the List of National Strategic Projects.
6. Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2023 concerning the Third Amendment to Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 concerning Amendments to the List of National Strategic Projects.
7. Presidential Regulation Number 16 of 2018 concerning Procurement of Government Goods/Services.
8. Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning Procurement of Government Goods/Services.
9. Land procurement for PSN follows the provisions in Law No. 2/2012 and Law No. 11/2020 which replaced Perpu No. 2 of 2022.
10. Presidential Decree No. 62 of 2018 concerning Handling Social and Community Impacts in the Context of Providing Land for National Development was replaced by Presidential Decree Number 78 of 2023 concerning Amendments to Presidential Regulation Number 62 of 2018 concerning Handling Social and Community Impacts in the Context of Providing Land for National Development.
11. Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation to Become Law (Law No. 6/2023) which revoked Law No. 11 of 2020 on Job Creation (Law No. 11/2020).
12. Presidential Regulation Number 78 of 2023 concerning Amendments to Presidential Regulation Number 62 of 2018 concerning Handling Social Impacts in the Context of Providing Land for National Development.

Specifically, several laws of PSN also occur to **Provincial Strategic Project (PSP) and Regional Strategic Project (PSD)**

1. PSP is determined through a Governor's Regulation and PSD is determined through a Regent's Regulation.
2. Other provisions follow the provisions in Law No. 2 of 2012 on Land Acquisition for Development in Public Interest which replaced Law No.2/2020 which replaced Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 6/2023.

Repressive Laws under PSN

On November 17, 2020, the president signed Presidential Decree of the Republic of Indonesia Number 109 of 2020 concerning the Third Amendment to Presidential Decree Number 3 of 2016 concerning the Acceleration of National Strategic Projects Implementation. This decree eliminates efforts to resolve conflicts arising from National Strategic Projects (PSN). In this case, there is almost no mechanism for complaints built fairly and equally; often, the rights of citizens are ignored on behalf of PSN. Once again, the state fails to understand the rights of citizens, simplifying well-being into merely job creation (WALHI/FoE Indonesia).

Furthermore, at the end of last year, in 2023, President Joko Widodo presented an unwelcome gift through the issuance of Presidential Decree Number 78 of 2023 concerning the Amendment to Presidential Decree Number 62 of 2018 concerning the Handling of Social and Community Impacts in the Framework of Providing Land for National Development. Through this decree, the government intends to expedite the process of confiscating the people's land to boost the development of various national strategic projects. In his two government terms, Joko Widodo closed off public participation in the stages of law formation, from planning and discussion to enactment. Protests against various policy outcomes that adversely affect the people and the environment are responded to with repression and criminalization (WALHI/FoE Indonesia).

The situation of repression and criminalization is facilitated by problematic legislation that is incompatible with human rights, such as the Article on Defamation and the Spread of False News found in several regulations, including the Criminal Code (KUHP), the Electronic Information and Transactions Law, and Criminal Law Regulation No. 1 of 1946.

The Familiarity of Civilians and Violence in the National Strategic Project (PSN)

It is an undeniable fact that the National Strategic Project (PSN) backlashes with its purpose, binded by the terminology of 'growth'. It has more or less 211 projects within President Joko Widodo second term with more than 5,700 trillion Rupiah issued whilst most civilians in the projected area fear of losing their land in which their one remaining livelihood. Thus, the fear turned to motivation to protest as their rights to exercise their freedom of expression and opinion with the hopes that the central and local government would hear their concern to protect their land. However, a worrisome pattern is shown that by emphasising their concern, violence by security officers was one of the main responses they received.

KontraS recorded 79 violence during 2019 - 2023 in the implementation of PSN. Violence against civilians was mostly carried out by the Indonesian National Police (Polri) in 39 incidents, the direct involvement of the Government in 30 incidents, and private sectors in 29 incidents. The series of violence itself is manifested through 3 environmental damage incidents, 1 usage of rubber bullet incident, 3 usage of tear gas incidents, 8 vandalism incidents, 17 arbitrary arrests incidents, 18 occupation incidents, 27 criminalization incidents, 18 intimidation incidents, and 1 doxing incidents.

Throughout the mentioned timeline, violence by these 3 different security officers resulted in 101 civilians injured, 248 arrested, and 64 experienced psychological violence. Specifically, there are 4 categories of victims of human rights violations in PSN, namely the Non-Criminal civilians with 216 victims, indigenous people with 63 victims, farmers with 7 victims, and activists with 127 victims.

In general, the impact to civilians is trauma and excessive fear, resulting in the emergence of a climate of fear that circulates among those who wish to express their concerns regarding the enforcement and implementation of public policy which are detrimental to their livelihood as well as their everyday life. Within these cases, violence was not only perpetrated to one form, but multiple forms as mentioned below

1. **Natumingka**, North Sumatra in 2020. Violent incident against the Natumingka Indigenous Community began when hundreds of indigenous people tried to block around 400 workers and company security officers who were about to enter their traditional territory which was claimed to be in the PT Toba Pulp Lestari (TPL) company concession. This obstruction sparked acts of violence by company workers and security officers by pushing and throwing stones at indigenous people. Acts of violence did not only occur at that incident. In the period 2020-2021, there were several acts of violence committed by PT TPL. This violence included efforts to forcibly stop indigenous people from carrying out their activities, threats and prohibitions on carrying out activities in the fields of customary areas which were claimed by PT TPL, and summons from the North Tapanuli Police to one of the indigenous communities reported by PT TPL on charges of committing farming activities on concession land.
2. **Wadas**, Purworejo, Central Java. In 2021, civilians in Wadas were protesting due to the environmental damage caused by the construction of Bener dam. The act to protect their land as well as adequate living space was responded to by pulling, pushing, hitting, even arbitrary arrest by security forces. It doesn't stop there, doxing was also used by anonymous perpetrators in order to intimidate activists as happened to Legal Aid Foundation in Yogyakarta (LBH Yogyakarta) and several Wadas defender activists on February 12th 2022 (Kabar24, 2022). The hacking first occurred with LBH Yogyakarta Director Yogi Zul Fadhli when his WhatsApp was hacked and continued to the LBH Yogyakarta Instagram account to the accounts of several activists who were critical of public policy.
3. **Labuan Bajo**, East Nusa Tenggara. On 22nd April 2022, a civilian who is a part of the Racang Buka community, had an effort to block the evictions by West Manggarai Resort Police. The community itself stated that the land which was planned to be one of the projected areas of PSN managed by the Labuan Bajo Flores Authority Implementing Body (BPOLBF) is said to be the civilians' settlement since 1999. The effort resulted in an arbitrary arrest by the resort police.
4. **Intaran Bali**. On 19th June 2022, The Intaran Traditional Village threatened to raid the Bali DPRD office again to express its aspirations for rejecting the liquefied natural gas (LNG) terminal project. This is because the LNG project is planned to be built in

the mangrove area of Ngurah Rai Forest Park (Tahura). However, the protests to highlight the environmental damage did not receive a response from the local government as they proceeded with the plan to implement the terminal project.

5. **Nagari Air Bangis**, West Pasaman, West Sumatra. On 5th August 2023, thousands of civilians staged demonstrations to oppose plans to develop a petrochemical industrial area, where the community is worried about losing their land which has been their source of income and needs for decades. The demonstration has been occurring since July 31 2023 to demand a meeting between the community and the Governor of West Sumatra. However, when the meeting took place on August 5 2023, the West Sumatra Regional Police Team went to the civilians who were praying and asked them to get on the buses provided, but in the end they refused. This refusal prompted the police to carry out repression by arbitrarily arresting more than 14 people.
6. **Rempang**. The Rempang Eco-City project carried out by PT Makmur Elok Graha (MEG), which has been designated as a National Strategic Project, has generated a number of polemics. One of them is that the development is thought to be driving out residents from 16 Old Malay villages. Apart from that, there were forced relocation efforts. These various polemics created a wave of rejection by the residents of Rempang Island. However, on September 7 2023, when residents refused to install land boundary markers for the Rempang Eco-City project by security officers and BP Batam, acts of violence occurred such as acts of abuse, arbitrary arrests, and even throwing tear gas at residents. As a result of these various acts of violence, many victims suffered injuries and shortness of breath due to the throwing of tear gas.
7. **The Poco Leok area**, Satar Mese District, Manggarai Regency, East Nusa Tenggara is the location for Geothermal electricity development by the Ulumbu PLTP which has been designated as a National Strategic Project. The geothermal development plan was rejected by the indigenous people who live around Poco Leok because the development project risks changing the landscape of Pocuk Leok, making it vulnerable to causing natural disasters. Apart from that, geothermal development is not a priority for the people who live in Poco Leok. However, indigenous peoples who reject the development are threatened with criminalization by the Manggarai Police. Around seven Poco Leok Indigenous Peoples were summoned by the Manggarai Police and threatened with criminalization using Article 46 of Law Number 21 of 2014 concerning Geothermal Energy.

The amount of violence clearly indicates that security officers – including the Indonesian Government itself – are neglecting the freedom of expression and opinion of the civilians as well as indigenous people within the project implementation. In various of national instruments such as Law No.9 of 1998 concerning the freedom of expression in public as it is aligned with Article 9 of the Universal Declaration of Human Rights, Article 3 of the 1945 Constitution concerning the rights of land which should be entirely used by the civil society, Article 28E paragraph 3 of the 1945 Constitution concerning the full rights to express opinions and peaceful assembly and of association, as well as Law No.39 of 1999 concerning the fulfilment and protection of human rights by the Indonesian Government, have proven

that project development acceleration have been the utmost priority rather than the state's main duty to respect, fulfil, and protect fundamental rights of their people.

Promises made by the government to international forums have also been concerning. One of which is the promise and support made by the state in the 4th Cycle in Universal Periodic Review in November 2022 and adopted in March 2023. Two recommendations mentioned during the UPR that Indonesia should prioritise human rights components including the protection of indigenous people and the environment itself when implementing investment-related or economic-growth projects. However, the two that were supported by Indonesia were only a mere bluff since none of the PSN projects fulfilled the recommendations.

Violation of Freedom of Assembly and Expression:

1. Case of Rempang-Galang, Batam City, Riau Islands.

On September 7, 2023, thousands of residents of Rempang Island spontaneously blocked the land measurement and demarcation efforts, rejecting the relocation that would target residents of 16 Old Villages. The action was responded to by a joint force of the Indonesian National Military (TNI), the National Police (Polri), and the Public Order Agency (Satpol PP) with repressive actions without prior persuasion. Various repressive actions included tear gas shootings, rubber bullet firings, the use of water cannons, and even torture of the community. The police fired tear gas and water cannons into the crowd, even to Elementary and High School buildings. This situation caused many protesting citizens to suffer injuries and loss of consciousness. Vulnerable groups such as children, women, and the elderly also became victims and had to be evacuated to the nearest hospital. The dispersal of the demonstration also occurred on September 11, 2023, at the Batam Authority Office, using excessive force such as tear gas and water cannons. The excessive use of tear gas could be identified from the police's purchase transactions. In 2023, the police bought 67 thousand tear gas munitions with a budget of Rp49 billion (ICW, 2023).

2. Andesite Quarrying in Wadas Village

Andesite stone mining is not directly a National Strategic Project (PSN), but the mining activities in Wadas Village are carried out to support the raw material needs for the construction of the Bener Dam in Purworejo Regency. The residents of Wadas initially rejected the rock mining because of its potential environmental damage. However, in February 2022, the police escorted the National Land Agency in measuring the land for land acquisition using complete equipment. The measurement was rejected and obstructed by local residents through peaceful demonstrations. However, the police responded by arresting 40 residents through sweeping and accusing them of carrying sharp weapons. Not stopping at arrests, the police continued patrols and set up guard tents in the village. Public lawyer from LBH Yogyakarta was hindered and expelled when attempting to provide legal assistance to the 40 arrested residents.

3. Case of the New Yogyakarta International Airport (NYIA) Construction, Palihan Village, Kulonprogo, Yogyakarta Special Region

The construction of the Kulonprogo Airport faced rejection from residents, leading to the arrest of 15 activists from the Anti-Eviction Solidarity Network in Palihan, Temon, Kulonprogo, and three residents were injured (BBC, 2017).

Violation of Access to Justice:

1. Case of Rempang-Galang, Batam City, Riau Islands.

In addition to the forced dispersal, the demonstration opposing the relocation of residents from 16 Old Villages on Rempang Island, Batam City, Riau Islands, on September 7 and 11, 2023, also involved arbitrary arrests and detentions leading to the designation of 43 individuals as suspects by the Police. Furthermore, there were obstacles to accessing legal assistance for the 43 suspects imposed by the Police, including restrictions on legal aid access.

2. Case of Nagari Air Bangis, Pasaman Barat, West Sumatra.

The conflict between PT. Ranah Andalas Plantation (RAP) and the communities of Nagari Bidar Alam and Nagari Ranah Pantai Cermin in South Solok Regency has led to the designation of 6 community members as suspects by the South Solok Police (WALHI West Sumatra, 2023). This criminalization is a consequence of the unresolved agrarian conflict that has been ongoing. Despite the revocation of PT. RAP's location permit based on the South Solok Regent's Decree dated July 29, 2008, and the lack of a Plantation Business License (HGU) (WALHI West Sumatra, 2023), legal issues persist.

Violation of the Right to Life:

Case of Papan Loe Village, Bantaeng, South Sulawesi, and PT Huadi Nickel-Alloy;

The smelter activities of PT Huadi Nickel-Alloy, located approximately 100 meters from the residential area of Papan Loe Village, Bantaeng, South Sulawesi, have caused distress among residents. The operations of PT HNI are suspected to be backed by the police force from the Mobile Brigade Unit (Brimob). Beyond the operations, there have been reports of torture against residents, resulting in fatalities. The torture incidents occurred within the operational area of PT HNI and were carried out by members of Brimob (Betahita, 2022).

Right to Public Participation:

Case of Rempang-Galang, Batam City, Riau Islands.

The fundamental issue leading to the rejection of the national strategic project on Rempang Island, Batam City, Riau Islands, is the lack of public participation from the planning process. This resulted in the rapid designation of Rempang Island as an object in the national strategic project. According to the investigation by the Ombudsman of the Republic of Indonesia, there have been four findings of maladministration in the designation of Rempang Island. This confirms that the government has neglected legal regulations in its planning process. The case study also infers the lack of recognition of the right of indigenous peoples and local communities to free, prior and informed consent. Whereas the government would usually highlight the usage of Free Prior and Informed Consent (FPIC), but as far as PSN is implemented, including Rempang Eco-City Project, the mechanism's transparency of usage is yet to be clarified.

The public's rights are in fact legalized through Law No.14 of 2008 concerning the transparency of Public Information which specifically aims to guarantee citizens' rights to know public policy plans and programs, public decision-making processes, as well as the reasons for making a public decision; encouraging community participation in the public policy making process; and to increase the active role of the community in making public policies and good management of Public Bodies.

Recommendations

In accordance to the mentioned cases studies of the ongoing repressive acts to civilians who are mobilising their rights to protest and express their concerns, we would like to underline our stance and urge

1. The **President of the Republic of Indonesia** to evaluate National Strategic Projects which have been proven to be detrimental to the people, triggering the emergence of various forms of violent practices and human rights violations, whether carried out by the State through its officials or companies against the community in various regions in Indonesia;
2. The **Coordinating Ministry for the Economy, the Ministry of Investment** and all related levels must ensure that development implementation covered by PSN must prioritise human rights values and prioritise participation and to prioritise the equal access to information, especially for parties who are vulnerable and have an interest in the use of natural resources;
3. The **state supervisory institutions** such as the National Human Rights Commission, Ombudsman, National Police Commission (Kompolnas) to monitor and take action against all forms of violations of the actions of officials who carry out repressive actions against the community in scope of national strategic projects. In addition, Corruption Eradication Committee (KPK) to monitor and take action against all forms of violations of corrupt practices or fraud;
4. **Commission V of the Indonesian People's Representatives Council of Indonesia** to carry out regular audits and monitoring of projects that have been running or will be running from the planning stage to implementation. Furthermore, Commission V must openly report violations that occur in each national strategic project.

Endorsed by:

- 1. Indonesia Legal Aid Foundation (YLBHI)**
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