

**Совет по правам человека****Сороковая сессия**

25 февраля – 22 марта 2019 года

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие****Посещение Индонезии****Доклад Специального докладчика по вопросу о праве на питание\****Резюме*

9–18 апреля 2018 года Специальный докладчик по вопросу о праве на питание Хиляль Эльвер совершила официальную поездку в Индонезию по приглашению правительства страны. В ходе визита Специальный докладчик поставила себе цель оценить осуществление права на питание в Индонезии путем выявления передовой практики и нерешенных проблем, особенно для уязвимых групп населения, в том числе женщин, детей и лиц, проживающих в сельских и отдаленных районах.

В своем докладе Специальный докладчик приводит общий обзор ситуации в отношении права на питание в Индонезии, включая эффективность производства продовольствия и модели потребления, использование сельскохозяйственных и морских ресурсов, а также усилия правительства по сокращению масштабов нищеты. Анализируя национальную нормативно-правовую основу, она рассматривает соблюдение страной международных договоров по правам человека и других договоров и обязательств в области продовольствия, взятых на себя правительством в рамках международного и регионального сотрудничества, направленного на реализацию права на питание. В ходе обзора национальной нормативно-правовой базы Специальный докладчик выявляет передовую практику, которая свидетельствует об усилиях, предпринимаемых правительством для повышения продовольственной безопасности и объемов производства продовольствия, призывая его активизировать усилия по обеспечению эффективного применения и реализации существующей основы.

\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на языке представления.



В разделе доклада, посвященном конкретным группам населения, Специальный докладчик утверждает, что коренным народам (местным общинам, ведущим традиционный образ жизни), женщинам и детям следует уделять особое внимание в плане осуществления их права на питание в силу их особенно уязвимого положения. Специальный докладчик определяет проблемы и возможности, на которых правительству следует сосредоточить внимание при осуществлении права на питание в контексте своих обязательств в области прав человека. В их число входят земельные вопросы, рыболовецкие сообщества и население прибрежных районов, деловая практика, проекты развития инфраструктуры, изменение климата и стихийные бедствия, а также торговля.

В конце своего доклада Специальный докладчик выносит Индонезии ряд рекомендаций, в том числе призывает ее ратифицировать Факультативный протокол к Международному пакту об экономических, социальных и культурных правах и Конвенцию 1989 года о коренных народах и народах, ведущих племенной образ жизни (№ 169), Конвенцию 2011 года о достойном труде домашних работников (№ 189) и Конвенцию 2007 года о труде в рыболовном секторе (№ 188) Международной организации труда. Кроме того, она рекомендует правительству в полной мере интегрировать правозащитный подход в свою нормативно-правовую основу, а также диверсифицировать стратегию, выходящую за рамки продовольственной политики, основанной на выращивании риса, и внедрять различные механизмы Продовольственной и сельскохозяйственной организации Объединенных Наций. Наконец, она рекомендует правительству принять надлежащие меры для решения проблем, выявленных в докладе.

## Annex

### Report of the Special Rapporteur on the right to food on her mission to Indonesia

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## I. Introduction

1. The Special Rapporteur on the right to food, Hilal Elver, conducted an official visit to Indonesia from 9 to 18 April 2018, at the invitation of the Government. The Special Rapporteur's objective during the visit was to assess the enjoyment of the right to food in Indonesia, by identifying best practices and the remaining challenges, especially for vulnerable populations, including women, children and populations living in rural and remote areas.

2. During her 10-day visit, the Special Rapporteur met with government officials in Jakarta from the Ministry of Foreign Affairs, the Ministry of Agriculture, the Ministry of Marine Affairs and Fisheries, the Ministry of Law and Human Rights, the Ministry of Agrarian and Spatial Planning/National Land Agency, the Ministry of Environment and Forestry, the Ministry of Education and Culture, the National Food Logistics Agency, the Ministry of National Development Planning/National Development Planning Agency, the Ministry of Trade, a representative (Vice-Chair) of the Indonesian Palm Oil Association, as well as with local government officials in Palembang (South Sumatra), the Special Region of Yogyakarta and Ambon (Maluku). The Special Rapporteur expresses her gratitude to the Government for its invitation and her appreciation to the Ministry of Foreign Affairs for coordinating the official meetings. She is grateful for the warmth and openness of all those who took time to meet with her and for their cooperation during her visit.

3. The Special Rapporteur also met with representatives of the National Commission on Human Rights and the National Commission on Violence Against Women, and members of civil society, including grass-roots organizations. She was overwhelmed by the warm welcome and most impressed with the unwavering dedication of human rights activists.

4. The Special Rapporteur also thanks the Regional Office for South-East Asia (Bangkok) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Resident Coordinator and her team for their invaluable support, both in the preparation of and during her visit.

## II. General overview

5. Indonesia successfully recovered from the Asian financial crisis of the late 1990s to become the largest economy in South-East Asia.<sup>1</sup> Since 2007, its gross national income per capita has risen steadily from \$2,642 to \$3,834 in 2015. Indonesia was the world's tenth largest economy in terms of purchasing power parity in 2016.<sup>2</sup>

6. Indonesia has significantly reduced poverty, cutting the poverty rate to a record low of 9.82 per cent in 2018.<sup>3</sup> Most populations living in poverty reside in the rural areas of Eastern Indonesia, where the poverty rate is far higher than the rest of the country.<sup>4</sup> For instance, in 2017, the poverty rates were highest in the provinces of Papua (27.8 per cent), Papua Barat (23.1 per cent), Nusa Tenggara Timur (21.4 per cent), Maluku (18.3 per cent) and Gorontalo (17.1 per cent),<sup>5</sup> despite an overall drop in the nation's relative poverty.<sup>6</sup>

<sup>1</sup> Food and Agriculture Organization of the United Nations (FAO), "Country fact sheet on food and agriculture policy trends – Indonesia" (Rome, 2017), p. 1. Hereinafter, FAO, "Fact sheet".

<sup>2</sup> World Bank, "The World Bank in Indonesia: overview".

<sup>3</sup> World Bank, Global Poverty Working Group, "Data: Poverty headcount ratio at national poverty lines (% of population) for Indonesia".

<sup>4</sup> Priasto Aji, "Summary of Indonesia's poverty analysis", Asian Development Bank (ADB) Papers on Indonesia, No. 4 (Asian Development Bank, 2015), p. 3.

<sup>5</sup> Statistics Indonesia, *Statistical Yearbook of Indonesia 2018* (Jakarta, 2018), p. 212.

<sup>6</sup> Indonesia Investments, "Poverty in Indonesia fell to the lowest level ever in March 2018", 17 July 2018.

7. The multicultural, multi-ethnic population of Indonesia continues to rise, reaching 264 million in 2017 – a 45 per cent increase from 1990 (181 million).<sup>7</sup> The population density on its 191,000 km<sup>2</sup> surface area also increased from 100 to 145 during this period.<sup>8</sup> Since the mid-1990s, however, the rural population has declined, with more than half of the total population currently living in urban settings.<sup>9</sup> The urban population is projected to account for 66.6 per cent of the population by 2030.<sup>10</sup> Without sufficient human resources contributing to food production in rural areas, ensuring adequate food for the urbanizing population may be difficult.<sup>11</sup>

8. Nevertheless, the 17,508 islands of Indonesia offer a diverse and promising supply of agricultural and marine resources. Indonesia has become a leading exporter of fish due to its large ocean areas and long coast. With regard to land resources, Indonesia is a leading producer of palm oil and other commodities, such as rubber, cocoa and coffee, and is one of the leading spice producers in the world.<sup>12</sup>

9. Indonesia has achieved an impressive increase in agricultural productivity, both in grains and protein. Production of rice, corn, sweet potato and cassava has steadily increased. Despite being a top rice producer, Indonesia continues to be a rice importer due to high consumption.

10. Agriculture employs around 40 million people or 33 per cent of the total labour force as of 2014.<sup>13</sup> According to the 2013 agricultural census, about 14 million out of 25 million farmer households are small-scale farmers who hold less than half a hectare of land.<sup>14</sup>

11. Fish and seafood are one of the major sources of protein for Indonesians. According to the Food and Agriculture Organization of the United Nations (FAO), about 54 per cent of total animal protein intake comes from fish and seafood.<sup>15</sup> Fish production has been rapidly expanding in the last two decades and is expected to reach 12.4 million tonnes by 2025 according to an FAO model.<sup>16</sup> The Ministry of Marine Affairs and Fisheries has imposed a moratorium on new licences for foreign vessels and taken measures to regulate illegal fishing vessels to address illegal, unreported and unregulated fishing, which threaten national food security and the livelihoods of fisherfolk.<sup>17</sup>

12. Indonesia is becoming more food secure, ranking sixty-fifth in the 2018 global food security index, up from seventy-first in 2016, and seventy-fourth in 2015.<sup>18</sup> Still, the country's Global Hunger Index score of 22 suggests that hunger remains a serious issue.<sup>19</sup> According to *The State of Food Security and Nutrition in the World 2017*, 20.3 million Indonesians, 7.9 per cent of the entire population, suffered from hunger between 2014 and 2016.<sup>20</sup> There is also regional disparity with respect to food insecurity and poor nutrition.

<sup>7</sup> World Bank, World development indicators.

<sup>8</sup> Ibid.

<sup>9</sup> FAO, "Fact sheet", p. 1.

<sup>10</sup> Indonesia, Ministry of National Development Planning and others, *Voluntary National Review (VNR): "Eradicating Poverty and Promoting Prosperity in a Changing World"* (Jakarta, 2017), p. 31.

<sup>11</sup> Indonesia Investments, "Poverty in Indonesia", 12 January 2017.

<sup>12</sup> FAO, "Fact sheet", p. 1.

<sup>13</sup> Eric Quincieu, "Summary of Indonesia's Agriculture, Natural Resources, and Environment Sector Assessment", Asian Development Bank (ADB) Papers on Indonesia, No. 8 (Manila, Asian Development Bank, 2015), p. 3.

<sup>14</sup> Statistics Indonesia, *Census of Agriculture 2013* (Jakarta, 2016).

<sup>15</sup> FAO, "Fact sheet", p. 3.

<sup>16</sup> See FAO, *The State of World Fisheries and Aquaculture 2016: Contributing to Food Security and Nutrition for All* (Rome, 2016), p. 173.

<sup>17</sup> Basten Gokkon, "Indonesia targets illegal fishing vessel owners under new bill", Mongabay, 31 May 2018.

<sup>18</sup> The Economist Intelligence Unit, Global Food Security Index, "Rankings and trends", year-on-year trends.

<sup>19</sup> Klaus von Grebmer and others, *2017 Global Hunger Index: The Inequalities of Hunger* (Washington, D.C., International Food Policy Research Institute; Bonn, Welthungerhilfe; and Dublin, Concern Worldwide, 2017), p. 36.

<sup>20</sup> FAO and others, *The State of Food Security and Nutrition in the World 2017. Building Resilience for Peace and Food Security* (Rome, 2017), p. 89.

According to latest data on national health research conducted by the Ministry of Health, stunting prevalence continues to exceed 40 per cent in two provinces. In 2013, 15 of the provinces reported stunting as a serious issue.<sup>21</sup>

13. The quality of food consumption has improved over the years. The desirable dietary pattern score increased from 75.7 (2009) to 85.2 (2015), indicating improvements in food availability, food diversity and community knowledge of food. Nutrition and physical and economic accessibility may also have improved.<sup>22</sup>

14. The Special Rapporteur was impressed with the progress of Indonesia over the past years in terms of economic growth, and food productivity and security. The Government has various policies to increase the quality and quantity of food production, relying on modern technology, rehabilitation of irrigation systems, development of swamp and tidal land areas and reforestation. The Special Rapporteur also observed innovative approaches to enhancing land and water uses in Palembang and Ambon and increasing food security and economic empowerment through a community-based backyard programme in Yogyakarta. She was impressed with the local and central governments' effort in this regard and encourages the replication of these good practices in other parts of Indonesia.

### III. Legal and policy framework

#### A. At the international level

##### 1. Legal framework

15. The right to food is recognized in the Universal Declaration of Human Rights, the International Covenant on Economic Social and Cultural Rights and other international human rights instruments. The Universal Declaration recognizes that everyone has the right to a standard of living adequate for the health and well-being of oneself and one's family, including food, clothing, housing and medical care and the necessary social services (art. 25 (1)). Article 11 of the Covenant imposes similar obligations on States concerning the right to a standard of living and, specifically, the right to adequate food (art. 11 (1)) and the right to be free from hunger (art. 11 (2)). As a party to the Covenant, Indonesia has a legal obligation to realize, among its other human rights obligations, the right to food for all Indonesians. The Government has not ratified the Optional Protocol to the Covenant, which would enable a mechanism for individual victims of human rights violations to appeal to an international monitoring body.

16. The right to food is an inclusive right and should be understood holistically to encompass other related rights, including the rights to health, housing, water and sanitation, as well as the continuous improvement of living conditions. The right to food requires unrestricted access and opportunities to produce food for one's own consumption, to generate income sufficient for food production and purchase, and access to social protections. Importantly, this right extends to workers engaged in food production, as well as consumers (A/73/164). There is a clear obligation of States to implement specific programmes to ensure everyone lives in dignity free from hunger and to improve nutrition and develop/reform agrarian systems to improve the right to food (article 11 of the Covenant).

17. The Committee on Economic, Social and Cultural Rights interpreted the right to food in its general comment No. 12 (1999) on the right to adequate food, highlighting its interrelatedness with other social and economic dimensions and other human rights. In the general comment, the Committee provides the normative contents of the right to food, including availability, accessibility, adequacy and sustainability, and provides an elaboration on access to remedies in the case of a violation (para. 32). It also states that the right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement (para. 6).

<sup>21</sup> Indonesia, *Voluntary National Review*, p. 28.

<sup>22</sup> *Ibid.*, p. 25.

18. Indonesia is party to several treaties that are relevant for the right to food, such as the Convention on the Elimination of All Forms of Discrimination against Women,<sup>23</sup> the Convention on the Rights of the Child,<sup>24</sup> the Convention on the Rights of Persons with Disabilities<sup>25</sup> and the International Covenant on Civil and Political Rights. Such recognition is important, as the right to food is indivisibly related to other rights, including rights to health, social protection, housing, water and sanitation, access to land and work, and a healthy environment, as well as freedom of expression and peaceful assembly based on the principle of non-discrimination.

19. Indonesia has not, however, ratified other international instruments that are closely related to the right to food, such as the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Domestic Workers Convention, 2011 (No. 189) and the Work in Fishing Convention, 2007 (No. 188).<sup>26</sup>

## 2. International and regional cooperation

20. Indonesia has demonstrated cooperation and engagement with international human rights bodies and mechanisms. Indonesia was a member of the Human Rights Council on various occasions (2006–2007, 2007–2010 and 2011–2014) and one of its nationals was Vice-President between 2009 and 2010. Recently, the country has received visits from the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (2013), the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2017), as well as the High Commissioner for Human Rights (2018). Indonesia also voted for the establishment of an open-ended intergovernmental working group on transnational corporations and other business enterprises the work of which is closely related to the right to food (Human Rights Council resolution 26/9).

21. Indonesia signed the Human Rights Declaration of the Association of Southeast Asian Nations as a member on 18 November 2012, which proclaims every person's "right to adequate and affordable food, freedom from hunger and access to safe and nutritious food ... medical care and necessary social services ... safe drinking water and sanitation ... a safe, clean and sustainable environment" (art. 28).

## B. At the domestic level

### 1. Legal framework

22. The Constitution of Indonesia was drafted in 1945 and has been amended four times since 1999. The current version guarantees both civil and political rights, as well as economic, social and cultural rights, as constitutional rights (art. 28) and confirms the State's responsibility to protect, promote, enforce and fulfil human rights (art. 28I (4)). The Constitution implicitly recognizes the rights to food and nutrition in the context of its affirmation of the rights to life and livelihood, a dignified life, a healthy living environment, social security and work.

23. An explicit reference to the right to food is found in the Law on Food (No. 18/2012), which recognizes food as the most essential basic need and emphasizes State obligations to realize the availability, affordability and fulfilment of food that is adequate, safe and nutritious. The Law further holds the Government responsible for producing and distributing staple foods and other foods consistent with the needs of the poor, those prone to food scarcity

<sup>23</sup> Article 12 (2) recognizes the right of pregnant and lactating women to nutrition in the context of maternity protection.

<sup>24</sup> The Convention recognizes the right of children to adequate nutrition in article 24 (2) (c) and (e) in the context of the right to health and in article 27 (3) in the context of the right to an adequate standard of living.

<sup>25</sup> The right to food is recognized in article 25 (f) in the context of the right to health and in article 28 (1) in the context of the right to an adequate standard of living and social protection.

<sup>26</sup> Regulation No. 2/2017 of the Minister of Marine Affairs and Fisheries refers to the guidelines of ILO Convention No. 188, even though Indonesia has not ratified the Convention.

and malnutrition, and those confronted by emergency situations (art. 58 (1)). The Law also encourages local food diversity and safe and balanced food consumption patterns (art. 41).

24. Furthermore, the Law on Protection of Sustainable Food Crops Farmland (No. 41/2009) states that the Government must guarantee the right to food as a human right of each citizen and food self-sufficiency, food security and food sovereignty. The Law on the Handling of the Poor and Needy (No. 13/2011) provides that the poor have the right to adequate food, clothing and housing.

25. Other laws relevant to the right to food include the Laws on Forestry (No. 41/1999), Coastal and Small Island Management (No. 27/2007, which was recently amended), Fisheries (No. 45/2009 amending No. 31/2004), Basic Regulations on Agrarian Principles (No. 5/1960), Farmers' Protection and Empowerment (No. 19/2013) and the Protection and Empowerment of Fisherfolk, Fish Farmers and Salt Farmers (No. 7/2016). The Government has adopted policies and regulations aimed at promoting food security and nutrition, including government regulation No. 17/2015 and presidential regulation No. 83/2017.

26. With regard to access to remedies, article 7 (1) of the Law on Human Rights provides that "everyone has the right to use all effective national legal means and international forums against all violations of human rights guaranteed under Indonesian law and under international law concerning human rights which has been ratified by Indonesia", which include remedies for violations of the right to food.

27. The National Commission on Human Rights, as established by article 75 of the Law on Human Rights (No. 39/1999), and the National Commission on Violence Against Women<sup>27</sup> have played pivotal roles in the protection and promotion of human rights, including the right to food, throughout the country.<sup>28</sup>

## 2. Policy framework

28. The Government has developed several policy frameworks related to food security. For instance, it identified key challenges facing the agricultural sector related to land, infrastructure, seeds, regulations, human resources and capital under the Policy on Agricultural Development 2015–2019. The Policy includes plans on: (a) strengthening food security; (b) developing export commodities and import substitution; (c) strengthening the competitiveness of agricultural products through standardization and improving supply chains, and food quality and security; (d) developing infrastructure and agroindustry in rural areas; (e) protecting seedling systems, farmers protection, innovation and dissemination of technology and education; (f) climate change adaptation and mitigation, as well as disaster management; and (g) subsidies on fertilizer, among others.<sup>29</sup>

29. Indonesia has launched several programmes that recognize food security and nutrition as policy priorities, including the Strategic Policy and Action Plan on Food and Nutrition through regulation No. 17/2015 of the Minister of National Development Planning, as well as the policy on scaling up the diversification of local food consumption and the Guidelines on a Food and Nutrition Surveillance System.<sup>30</sup>

30. The country's 20-year economic development planning 2005–2025 highlights specific goals for food and nutrition, such as improvement of food security and self-sufficiency (through an increase in rice production) and of rural livelihoods (through the promotion of higher value crops).<sup>31</sup> The planning is divided into five-year medium-term plans, each with different development priorities. The 2010–2014 phase focused on nutrition

<sup>27</sup> Established by presidential regulation No. 65/2005.

<sup>28</sup> The Commission has held an A status – in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) – since its inception and is a founding member of the Asia-Pacific Forum of National Human Rights Institutions.

<sup>29</sup> Indonesia, Ministry of Agriculture, Bureau of Planning, "Policy on Agricultural Development 2015–2019" (2014).

<sup>30</sup> FAO, "Fact sheet", p. 2.

<sup>31</sup> Ibid., and FIAN International, *Legal Framework of the Right to Food and Nutrition in Indonesia*, p. 24.

with a target to reduce stunting and the current 2015–2019 phase focuses on infrastructure development and social assistance programmes.<sup>32</sup>

31. Consistent with its goal to achieve rice self-sufficiency, Indonesia has become the third largest rice producer in Asia, producing 73.9 million tonnes in 2017.<sup>33</sup> Much of this growth is attributed to the Government’s rice subsidies, which the State-owned Logistics Agency administered to poor households under the Subsidized Rice for the Poor programme.<sup>34</sup> Introduced in 1998, the programme was transformed into the Rice Subsidy programme in 2016, and then into the Non-Cash Food Assistance programme in 2017, which is expected to be completed in 2019. Though rice farmers are able to enjoy additional protections through these programmes, consumers tend to suffer from high domestic prices.<sup>35</sup>

32. The Special Rapporteur observed evidence of the Government prioritizing food security through legal provisions and the policy framework. In particular, she commends the Government’s emphasis on food security, sovereignty and self-reliance. However, food security, an important precondition for the right to food, is not the same as the enjoyment of the right to food. Nor is charity equivalent to the right to food. The right to food requires the recognition and participation of rights holders in decision-making processes.<sup>36</sup> Various social protection schemes should also aim to protect this right for the most vulnerable populations. In this regard, there is a need to integrate a human rights-based approach to the Government’s legal and policy framework so that the right to food may be realized by all.<sup>37</sup>

33. In addition, the lack of enforcement and implementation of the existing legal framework was repeatedly brought to the Special Rapporteur’s attention. The Government should ensure that it is allocating adequate resources and enhancing cross-sectoral coordination with the participation of concerned populations.

#### IV. Normative contents of the right to food

34. The normative contents of the right to food include availability, accessibility, adequacy and sustainability.

##### A. Availability

35. The availability of food is predicated on the existence of sufficient food produced from natural resources or for sale in the market to satisfy the needs of the population, whether by cultivating land or by engaging in animal husbandry or other ways of obtaining food, such as fishing, hunting or gathering (A/HRC//48/Add.2, para. 24). The Government is responsible for ensuring the availability of food and for the development of local food production (Law No. 18/2012, art. 12).

36. As discussed previously, Indonesia has made good progress in terms of increasing its food production. However, this production may be undermined by the drastically decreasing number of farmers with access to farmland. For instance, in 2004, the total number of farmers stood at 40 million families, while the number dropped significantly to 26.1 million in 2013.<sup>38</sup> In addition, the rapidly growing population poses a challenge for the availability of food and the sustainability of food sources.<sup>39</sup>

<sup>32</sup> FAO, “Fact sheet”, p. 2.

<sup>33</sup> FAO, *Rice Market Monitor*, vol. 21, No. 1 (April 2018), p. 4.

<sup>34</sup> FAO, “Fact sheet”, p. 2.

<sup>35</sup> *Ibid.*, p. 3.

<sup>36</sup> FIAN International, *Legal Framework*, p. 32.

<sup>37</sup> *Ibid.*, p. 38.

<sup>38</sup> Statistics Indonesia, *Census of Agriculture 2013*.

<sup>39</sup> The population has grown from 229 million in 2008 to 262 million in 2017, and it is expected to reach 305 million in 2035. See Statistics Indonesia, *Statistical Yearbook of Indonesia 2018*, pp. 1–2, and Gavin W. Jones, “The 2010–2035 Indonesian population projection: understanding the causes, consequences, and policy options for population and development” (Jakarta, United Nations Population Fund, 2014).

37. The country's policies intended to facilitate food production, including its agriculture subsidy programmes, appear to overemphasize rice and other staples at the expense of nutritionally diverse food. Indonesians consume far fewer fruits and vegetables due to their high price, which leads to food and nutrition issues. There is a need to diversify the priorities of the policies to ensure the availability of diverse and nutritious foods.<sup>40</sup>

38. The availability of food refers not just to a quantitative amount that will prevent hunger, but also to a food supply that is culturally sensitive. Especially in a country like Indonesia, with its incredibly diverse and rich cultural background, food informs human identity. Available foods must be sensitive to traditions and cultural values, while also satisfying dietary needs. Some populations are accustomed to alternative staple foods, such as *sagu*, rather than those that the Government subsidizes. Government policies to promote food production should consider cultural preferences, so as not to create dissatisfaction or disrupt cultural identities.

## B. Accessibility

39. The fulfilment of the right to food requires both economic and physical access to food. Economic access means that individuals should be able to afford sufficient, nutritionally balanced food without compromising other needs, such as school fees, medical expenses or housing. Physical access means that those with physical vulnerabilities or living in remote areas are able to obtain food without restriction.

40. Due to fluctuating food prices and high inflation, many Indonesians are not always able to enjoy diversified, nutritionally balanced diets that meet minimum nutritional needs.<sup>41</sup> According to the World Food Programme, one third of the population is unable to afford a balanced diet that meets minimum nutritional needs; thus, high food prices are one of the contributing factors to malnutrition in Indonesia.<sup>42</sup> These barriers to economic access have contributed to malnutrition, particularly among the urban poor, indigenous communities and subsistence farmers and fisherfolk.

41. To respond to this, the Government, through the National Food Agency, has enacted regulation No. 43 to support diversification and consumption based on local resources. During her visit to Yogyakarta, the Special Rapporteur observed a community-based backyard programme, one successful model for implementation of the Government's programme to ensure nutritional balance for families.

42. The archipelagic nature of the country makes the physical accessibility of food difficult.<sup>43</sup> The lack of infrastructure development, which is essential to access food and medical facilities, remains a challenge in many underdeveloped and remote regions. Between September 2017 and early 2018, for example, a measles outbreak in the Asmat District in Papua resulted in the death of 72 children – 66 due to measles and 6 due to malnutrition. The outbreak, which infected as many as 651 patients, 223 of whom were children also diagnosed with malnutrition, exposed the extent of chronic food insecurity in the area due to a lack of access to food and medical intervention.<sup>44</sup>

<sup>40</sup> FAO, "Fact sheet", p. 6.

<sup>41</sup> Indonesia, *Voluntary National Review*, p. 27.

<sup>42</sup> Food prices are highly volatile in Indonesia, with food inflation averaging 12.77 per cent between 1997 and 2018, and the cost of food increasing by 4.90 in August 2018 compared with the previous year. Households typically spend more than half of their disposable income on food, particularly on rice, rather than fruits and vegetables. See "Indonesia food inflation: 1997–2018", Trading Economics; see also FAO, "Indonesia – food and nutrition security profiles" (2014).

<sup>43</sup> Indonesia, *Voluntary National Review*, p. 27.

<sup>44</sup> Alessa Fahira, "Deadly measles outbreak and malnutrition striking children in Asmat Regency", Indonesia One Health University Network, 19 February 2018.

### C. Adequacy

43. The Law on Food (art. 59) obliges the Government to establish food consumption goals consistent with figures for adequate nutrition, and to ensure that the quality and quantity of food consumed is diverse, nutritionally balanced and safe. The Government introduces food and nutrition policy and action plans every five years, setting out nutritional requirements for pregnant women, lactating mothers, infants, children under the age of 5 and malnutrition-prone groups. The Law on Health (No. 36/2009) requires the Government to address measures of maternal health and provides that each infant has the right to be breastfed exclusively from birth to six months.<sup>45</sup> The Law also describes a public nutrition improvement programme aimed at improving the nutritional quality of the individual and community.

44. Indonesia suffers from the two dimensions of malnutrition: undernutrition, which wastes and stunts and causes micronutrient deficiencies; and, in recent years, obesity, which is caused by unhealthy and unbalanced food consumption.<sup>46</sup>

45. Undernutrition touches some regions more severely than others and disproportionately affects certain populations, including children, lactating and pregnant women, indigenous peoples, people living in poverty and people living in remote areas. Approximately, 37 per cent and 12 per cent of Indonesians battle high levels of acute and chronic malnutrition, respectively,<sup>47</sup> and about 9 million children under 5 years are stunted.<sup>48</sup> The Government has policies to address these issues, but these efforts need to be greatly strengthened and more effectively implemented throughout the country with the goal of not leaving anyone behind. Malnutrition is not only tied to food consumption, but is also dependent on access to good health services, social welfare and poverty reduction programmes, clean drinking water and sanitation. In this regard, the Government should take a holistic approach in the realization of the right to food, taking into account its interdependence with other rights.

46. Indonesia also experiences overconsumption of staple foods and under consumption of fruits and vegetables, which have led to a rise in obesity. The rate of obesity among the adult population has increased from 11.7 per cent in 2010 to 20.7 per cent in 2016.<sup>49</sup> The Government's efforts in promoting healthy and balanced consumption should extend to school programmes and education, and to those who lack access to affordable nutritious food.

### D. Sustainability

47. Sustainability relates to the availability of food for future generations. The Government's obligation to ensure the sustainable production of food requires consideration of several factors, such as population growth, climate change, natural disasters and land management. Indonesia is experiencing rapid population growth, decreasing and degrading farmland, scarcity of water resources and a declining population engaged in food production.<sup>50</sup> The archipelago is also vulnerable to the extreme impacts of climate change and natural disasters.<sup>51</sup>

48. Despite these challenges, Indonesia has rich biodiversity and extensive natural resources to support the right to food. The Government ratified the Convention on Biological Diversity, enacted as Law No. 5/1994, and established the Indonesian Biodiversity Strategy and Action Plan (2015–2020). At the regional level, a joint declaration by Indonesia, Malaysia and Brunei in 2017 aims to secure a sustainable future for the highland rainforest of Borneo and zero deforestation. Presidential decree No. 11/2015 further seeks to mitigate

<sup>45</sup> See arts. 126 (1) and 128 (1).

<sup>46</sup> Indonesia, *Voluntary National Review*, p. 30.

<sup>47</sup> United Nations Children's Fund Indonesia, "Challenges". Available at [www.unicef.org/indonesia/health\\_nutrition.html](http://www.unicef.org/indonesia/health_nutrition.html).

<sup>48</sup> World Bank, "Indonesia accelerates fight against children stunting", 26 June 2018.

<sup>49</sup> Indonesia, *Voluntary National Review*, p. 30.

<sup>50</sup> FAO, "Fact sheet", p. 6.

<sup>51</sup> *Ibid.*

forest fires. There have also been efforts to restore 2 million hectares of degraded peatland. As a result, there has been a significant decrease in biodiversity hotspots across Indonesia.

49. As described, the Government has issued a series of laws and commitments relevant to sustainable food-system practices. The Special Rapporteur observed some of the tangible outcomes, but notes that the Government should be mindful of the difficulty of implementing and monitoring these policies.

## V. Population groups requiring special attention

50. Some groups or individuals, including indigenous peoples (customary local communities), women and children, face severe discrimination and obstacles to their enjoyment of the right to food.

### A. Indigenous peoples

51. Although Indonesia had certain reservations in voting for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, which was adopted in 2007, its Constitution and national legislation recognize, to a degree, the rights of indigenous peoples. The Law on Human Rights provides indigenous peoples with a right to ancestral lands (art. 6 (2)). In addition, Law No. 1/2014 amending Law No. 27/2007 on the Management of Coastal Areas and Small Islands (art. 21 (1)) recognizes the customary law of indigenous people to utilize coastal resource areas and small island waters. Despite the provisions, indigenous peoples and local communities face disproportionate barriers to accessing land. The situation of the Malind people in Papua is concerning. Their land, forest and wetlands, especially *sogu* trees (a main staple food), are being destroyed by an agricultural project to meet the food needs of Indonesia.<sup>52</sup>

52. Amid persistent concerns about indigenous peoples' land rights, the Special Rapporteur observed promising decisions and practices by the Government to address those issues. For example, for the first time, in 2017, central Government recognized the land rights of nine indigenous communities.<sup>53</sup> The presidential decision of December 2016 to return customary lands to indigenous communities in Sumatra, in accordance with a landmark decision of the Constitutional Court in 2013 that opened the door for reclaiming customary land, is still in the process of implementation.<sup>54</sup> The Special Rapporteur welcomes such developments and encourages the Government to accelerate the process and establish a special body to ensure the full enjoyment of the right to food of the indigenous communities whose livelihoods and food sources depend considerably on the free use of land.

### B. Women

53. The Convention on the Elimination of All Forms of Discrimination against Women protects women's equal access to work, land, credit, income and social security, which are essential to ensure women's equal enjoyment of the right to food. For example, article 14 provides a set of concrete measures to eliminate discrimination against women in rural areas, which create an enabling environment for women to enjoy the right to food. Article 11 protects women's equal enjoyment of labour rights and article 13 (b) their access to financial resources. ILO conventions, such as the conventions on eliminating discrimination in respect of employment and occupation (Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)), also protect women's labour rights.

<sup>52</sup> Forest Peoples Programme, *"A Sweetness Like Unto Death": Voices of the Indigenous Malind of Merauke, Papua* (2013).

<sup>53</sup> "Jokowi grants first-ever indigenous land rights to 9 communities", Mongabay, 4 January 2017.

<sup>54</sup> See Constitutional Court's judicial review of Law No. 41/1999 on Forestry submitted by the Alliance of Indigenous Peoples of the Archipelago, 21 May 2013.

54. Women play a key role in food production and achieving food security. Although women's knowledge and experience contribute to sustainable food production management, women are often left behind in accessing the means for producing adequate food. Women receive lower pay compared with men and many work informally under precarious conditions, all of which undermines their ability to purchase food. Women are also exposed to pesticides more than men due to the agricultural activities in which they are engaged (A/HRC/31/51, para. 46). Furthermore, women are not recognized in policies and programmes and remain largely marginalized in the implementation of government programmes.

55. The Special Rapporteur expresses great concern over the failure to recognize women as essential to the food security of Indonesia and as rights holders. National legislation related to food, including the Laws on Food, on Farmers' Protection and Empowerment and on Protection and Empowerment of Fisherfolk, Fish Farmers and Salt Farmers, does not explicitly recognize women as stakeholders. Laws that do recognize women consider their role as part of a household, rather than as an integral part of food production. This lack of adequate recognition further undermines the rights of women to social security and welfare programmes and delegitimizes women as agricultural workers.

56. Discrimination against women is found in practice as well. For instance, the landownership ratio between men and women in Barati Village, South-East Pamona District, Poso Regency and Central Sulawesi is 9:1.<sup>55</sup> Similarly, in Seri Bandung, Ogan Ilir District in South Sumatera, women have only 15.7 per cent of land titles while the rest belong to men.<sup>56</sup> The implementation of government programmes, such as the special efforts to increase rice, corn and soybean production,<sup>57</sup> does not specifically call for women to receive education and training concerning agricultural technologies. Based on the Special Rapporteur's interviews, women working in fisheries report having difficulty acquiring fishery worker identification cards, thus interfering with their contribution to food production and prohibiting their access to workers' benefits.

57. Presidential instruction No. 9/2000 on gender mainstreaming in national development aims to integrate a gender perspective in policies and programmes. Several ministries have incorporated gender mainstreaming in their strategic plans, including the food and nutrition education programme and the community-based backyard programme for improved food and nutrition for families. Although these are good practices, it is not enough to recognize the role, position and rights of women in food management and landownership. The Government should further ensure equal access, control, participation and benefits for women at all stages of policy formulation and implementation.

## C. Children

58. Indonesia has ratified the Convention on the Rights of the Child, which stipulates children's right to food. Article 24 states that parties should take appropriate steps to combat diseases and malnutrition through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water. Article 27 of the Convention also stipulates an obligation on States to provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing in case of need.

59. The Government reported that around 4.5 million children suffered from malnutrition.<sup>58</sup> Indonesia experiences a high prevalence of three forms of child malnutrition

<sup>55</sup> NGO submission: Data Solidaritas Perempuan Sintuwu Raya Poso, 2016.

<sup>56</sup> NGO submission: Data Solidaritas Perempuan Palembang, 2015.

<sup>57</sup> The programme provides agricultural machinery, fertilizer, seed, training and mentoring in Ogan Ilir, South Sumatra, Poso and Palu, Central Sulawesi and Sumbawa, and West Nusa Tenggara. See Kementerian Komunikasi Dan Informatika Republik Indonesia, "Real Work Towards Self Sufficiency". Available at [www.kominfo.go.id/content/detail/8241/kerja-nyata-menuju-swasembada/0/kerja\\_nyata](http://www.kominfo.go.id/content/detail/8241/kerja-nyata-menuju-swasembada/0/kerja_nyata).

<sup>58</sup> FIAN International, *Legal Framework*, p. 4.

– child stunting, child wasting and child obesity.<sup>59</sup> Among children under the age of 5, 36.4 per cent, 13.5 per cent and 11.5 per cent are stunted, wasted and obese, respectively.<sup>60</sup> Indonesia belongs to one of the five countries in which children under 5 years of age are moderately or severely stunted.<sup>61</sup>

60. Malnutrition among children is closely associated with poverty, lack of education and poor environmental conditions, such as restricted access to clean water and sanitation.<sup>62</sup> Childhood malnutrition may be fatal or result in long-term mental and physical impairment.<sup>63</sup> FAO suggests that regulation of the fast-food market, promotion of agricultural diversity, nutrition education and breastfeeding could prevent malnutrition and obesity in children.<sup>64</sup>

61. The Special Rapporteur believes that the reported deaths of 72 children in Papua from preventable disease and malnutrition, as discussed briefly above, represent the Government's failure to meet its obligation to fulfil the right to food, especially for children and vulnerable populations. The Special Rapporteur recently learned that the Government has sent a team of health-care workers and nutritionists to the region to prevent similar atrocities and to avoid future violations of the right to food and to life.

## VI. Challenges and opportunities concerning the realization of the right to food

62. Although the Special Rapporteur observed good practices in implementing the right to food, she also identified persistent and emerging issues, including matters relating to land access, fisheries, business practices, infrastructure, climate change and trade.

### A. Land issues

63. The right to land is closely related to food access and availability, which are integral to the right to food, especially for those populations who grow their own food, or who use land for income-generating purposes. The obligation to fulfil the right to food thus requires the implementation of agrarian reform programmes and regulations<sup>65</sup> that ensure access to land and other resources.

64. The Law on Basic Regulations on Agrarian Principles provides every Indonesian citizen with the right to land and to acquire its benefits and yields for themselves or for their families.<sup>66</sup> The majority of citizens who cultivate land in Indonesia are small-scale farmers. Of the 25.76 million farming households, 14.25 million are small-scale farmers who own less than 0.5 hectares of land.<sup>67</sup> The Government has introduced land distribution policies to ensure that each farming household owns a minimum of 2 hectares – a sizable land area for farmers to cultivate in pursuit of the right to food.<sup>68</sup> The Government indicated that “the issuance of local regulations on the land allocation for sustainable agriculture and new potential agricultural land” will help “overcome challenges relating to food and nutrition issues” and will “empower smallholder farmers and farmer groups”.<sup>69</sup>

<sup>59</sup> FAO and others, *The State of Food Security*, p. 29.

<sup>60</sup> *Ibid.*, p. 20.

<sup>61</sup> *Ibid.*, p. 89.

<sup>62</sup> Indonesia, *Voluntary National Review*, pp. 23–24.

<sup>63</sup> OHCHR, *Fact Sheet No. 34: The Right to Adequate Food* (Geneva, 2010), p. 16.

<sup>64</sup> FAO, “Fact sheet”, p. 6.

<sup>65</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 12.

<sup>66</sup> Article 9 (2).

<sup>67</sup> Statistics Indonesia, *Census of Agriculture 2013*.

<sup>68</sup> Indonesian Center for Agricultural Socio-Economy and Policy Studies, Indonesia Agency for Agricultural Research and Development, Ministry of Agriculture, “Farmland policy in Indonesia for young generation”, Food and Fertilizer Technology Center for the Asian and Pacific Region, Agricultural Policy Articles, 4 June 2015. Available at [http://ap.fftc.agnet.org/ap\\_db.php?id=437](http://ap.fftc.agnet.org/ap_db.php?id=437).

<sup>69</sup> Indonesia, *Voluntary National Review*, p. 28.

65. Furthermore, the Ministry of Environment and Forestry has committed to redistribute 12.7 million hectares of social forests for communities to engage in collaborative forest management.<sup>70</sup> This redistribution scheme provides a legal right for the communities who live in and around forest areas and who depend on the forest for their food and livelihoods.

66. The Special Rapporteur welcomes these initiatives. However, she understands that the implementation of these projects has been delayed due to unclear entitlements to land, lack of comprehensive land registry and geospatial information and lack of formal methods to determine customary rights to land.<sup>71</sup> In addition, the lack of resources and difficulties in coordination among relevant ministries and agencies and between central and local governments pose barriers to successful implementation. The Special Rapporteur strongly encourages the Government to address these barriers and to complete these projects in a timely manner.

67. Another challenge to securing the right to land involves large-scale land acquisitions. The Special Rapporteur was informed of these acquisitions as one of the most critical obstacles blocking the realization of the rights to land and to food in Indonesia. In the absence of clear landownership and registration, the Government has awarded logging, palm oil, mining and other companies permits to operate in lands on which people have been farming for generations.<sup>72</sup>

68. In Indonesia, land-related conflicts have had devastating human rights impacts. The Agrarian Reform Consortium states that between 2015 and 2017, there were 1,361 agrarian conflicts involving 2,185,948 hectares and impacting 848,197 households. These conflicts predominantly involved the use of land for plantations, forestry and infrastructure. The Special Rapporteur heard the testimonies of those who were suffering from land conflicts. A woman from Pari Island exclaimed “We never sold our land. We never sold our land”, almost crying out from years of despair. A local farmer from South Sumatra shared his story about the ongoing fight for his land against a large sugar cane company that also claimed rights to the property. The Special Rapporteur is gravely concerned about the forced evictions of Indonesians who rely on their land for their livelihoods, and about the subsequent criminalization of these farmers, community members and activists who protest against this practice.<sup>73</sup> The Government should do more to prevent these land conflicts from escalating further and to ensure that farmers and local populations attempting to peacefully retain or reclaim their land are not criminalized.

## B. Fishing and coastal communities

69. Fishing and coastal zone communities also face several challenges to realizing their right to food and an adequate standard of living, despite their considerable role in food production.<sup>74</sup> About 150 million people, or 60 per cent of the population, live in coastal areas.<sup>75</sup> Most fishing vessels are small scale, below 10 gross tonnes. Increasingly, these small-

<sup>70</sup> S. De Royer, M. Van Noordwijk and J.M. Roshetko, “Does community-based forest management in Indonesia devolve social justice or social costs?”, *International Forestry Review*, vol. 20, No. 2 (June 2018).

<sup>71</sup> FIAN International, *Legal Framework*, p. 31.

<sup>72</sup> Palm oil plantation companies control 11,672,861 hectares of land. Indonesia, Ministry of Agriculture, “Statistics of plantations in Indonesia 2014–2016” (Jakarta, 2016).

<sup>73</sup> In 2016, the National Commission on Human Rights released a 1,000-page study of 40 cases of conflict involving indigenous peoples in disputes over forest areas, which revealed that agrarian conflict resulted in criminalization, violence, eviction, deprivation and violation of the human rights of the community members.

<sup>74</sup> More than 80 per cent of fish catches in Indonesia are from small-scale fisheries. Nisa Ayunda, Mariusz Sapota and Anna Pawelec, “The impact of small-scale fisheries activities toward fisheries sustainability in Indonesia”, in *Interdisciplinary Approaches for Sustainable Development Goals*, Tymon Zielinski, Iwona Sagan and Waldemar Surosz, eds. (Cham, Switzerland, GeoPlanet: Earth and Planetary Sciences, Springer, 2018).

<sup>75</sup> Iwan Rudiarto, Wiwandari Handayani and Jawoto Sih Setyono, “A regional perspective on urbanization and climate-related disasters in the northern coastal region of central Java, Indonesia”, *Land*, vol. 7, No. 1 (2018).

scale fishing communities are losing access to coastal and fishing areas due to new infrastructure, tourism, pollution, extinction or endangerment of fish, illegal fishing and extreme weather events. These fishing communities are forced to go further from shore to catch fish, subjecting them to greater risks due to poor equipment and small vessels. They also experience smaller catches while navigating unfamiliar waters and running the risk of being threatened by illegal fishing vessels from neighbouring countries.

70. The Government has sought to protect the access of small-scale fisherfolk and coastal communities. For instance, the Law on Coastal and Small Island Management has been amended by Law No. 1/2014 in order to grant small-scale fisherfolk freedom to fish in all fisheries management areas. However, it still does not provide exclusive access to small-scale, traditional fisherfolk who compete with industrialized fishing vessels.

71. The Government also revised the Law on the Protection and Empowerment of Fisherfolk, Fish Farmers and Salt Farmers, which is expected to improve the protection and empowerment of fisherfolk, fish farmers and salt farmers. Law No. 7/2016 generally regulates fishing areas and equipment, and protects sustainable fisheries by permitting only small-scale fisherfolk (fishing boats less than 10 gross tonnes) to enter and fish in conservation areas. The Ministry of Marine Affairs and Fisheries has implemented rigorous policies to stop illegal foreign fishing vessels from entering territorial waters.<sup>76</sup> Fisheries Law (Nos. 31/2004 and 45/2009) has been amended recently. The Government should continue to implement good legislation, promote good practices and integrate the rights of fisherfolk – both men and women – and their families in law and fisheries management.

72. Despite these protective measures, the Special Rapporteur observed threats to coastal communities from land reclamation. About 729,000 families are affected by the reclamation projects on 37 sites in coastal areas.<sup>77</sup> The Special Rapporteur visited Jakarta Bay area where local fisheries communities have been severely impacted by the 17 island reclamation project.<sup>78</sup> Following the visit of the Special Rapporteur, the Jakarta Provincial Government implemented a policy change: in September 2018, the Governor of Jakarta revoked the reclamation permit for the Jakarta Bay project, and now 13 of the 15 islands will not be subject to reclamation.

73. For any future concession on land or in water, the Government should ensure that the rights of the affected communities are fully respected. Those affected should be adequately informed of the anticipated impacts in a timely manner, they should be provided with opportunities to participate in decision-making processes and they should be given adequate remedies if their rights are violated.

## C. Business practices

### 1. Palm oil plantations

74. Indonesia is the world's largest producer and exporter of palm oil, an industry that poses a serious threat to the right to food of farmers, fisheries and local communities<sup>79</sup> if not properly regulated and monitored. The area of palm oil plantations in Indonesia is currently around 8 million hectares, representing a 100 per cent increase from 2000, and is expected to expand to 13 million hectares by 2020.<sup>80</sup> Among the 1,599 palm oil plantations, companies control 30 per cent of the total agricultural land in Indonesia.<sup>81</sup> Small-scale farmers own 42 per cent of these plantations, a coverage close to 5 million hectares. Palm oil contributes

<sup>76</sup> Gokkon, "Indonesia targets illegal fishing vessel owners".

<sup>77</sup> The People's Coalition for Fisheries Justice, [www.kiara.or.id/pesisir-3](http://www.kiara.or.id/pesisir-3).

<sup>78</sup> Maarten Bakker, Satoko Kishimoto and Christa Nooy, *Social Justice at Bay: The Dutch Role in Jakarta's Coastal Defence and Land Reclamation* (SOMO, Both ENDS and the Transnational Institute, 2017).

<sup>79</sup> See M. Fadhil Hasan, "Indonesia palm oil industry: current status and outlook 2018" (2018), in which the author stated that Indonesia and Malaysia produced roughly 85 per cent of the world's palm oil, and that Indonesian production reached 36.5 million tonnes in 2017.

<sup>80</sup> FAO, "Fact sheet", p. 5.

<sup>81</sup> Indonesia, Ministry of Agriculture, "Statistics of plantations in Indonesia 2014–2016" (Jakarta, 2016), p. 11.

to the livelihoods of farmers and their families, providing approximately 17.8 million people with direct or indirect employment<sup>82</sup> and contributing to the expansion of the middle class.

75. However, the industrial expansion of palm oil plantations has created numerous threats to human rights, especially the right to food. Land conflicts, environmental degradation (deforestation, and soil and water pollution) and poor working conditions for plantation workers are among the major issues.

76. Even though the Government has implemented a mandatory Indonesian sustainable palm oil certification aimed at creating sustainability and increasing acceptance in the international market, only 16.7 per cent of palm oil plantations are certified. Moreover, the programme has been criticized for lack of transparency,<sup>83</sup> lack of protection of workers, no clear prohibition of child labour and failure to recognize the rights of indigenous communities.<sup>84</sup>

77. According to the Ministry of Agriculture's data, not all land conflicts are caused by the expansion of palm oil, and the Law on Plantations (No. 18/2004) seeks to further mitigate such conflicts by mandating that every plantation reserve 20 per cent of its area for community plantations. Still, land disputes continue to occur.<sup>85</sup> Despite the Government's mediation between community and business enterprises, information obtained from non-governmental organizations indicates that corporations continue to overrun local communities. In Mekar Jaya, Langkat, North Sumatra, for example, where the Government has attempted to introduce agrarian reforms to address economic disparities, a Malaysian firm acquired 554 hectares and forcefully evicted 360 peasant families in order to develop a palm oil plantation between November 2016 and March 2017.<sup>86</sup>

78. Farmers, fisherfolk and local communities are also detrimentally affected by the infrastructure associated with expanding palm oil plantations, including the construction of roads and canals. These infrastructure projects often cause irrigation and soil damage, which creates challenges for local farmers who rely on the land for food production. Many fisherfolk, especially those who rely on inland waters, experience lower catches due to the impact of canals and channels on the free movement of fish.

79. Despite bans set forth in the Law on Environmental Protection and Management (No. 32/2009) and the Law on Plantations, burning soil is often used to cultivate palm trees, thus altering the soil's chemical composition and making it difficult to grow other types of plants and crops.<sup>87</sup> In addition, palm oil plantations involve forest clearing, which has devastating effects on the biological diversity essential for the realization of many human rights, including the right to food (A/HRC/49, paras. 19–20). Many endangered species, such as orangutans and tigers, are also under threat as palm oil plantations expand.<sup>88</sup>

80. Although palm oil plantations create employment for some locals, the Special Rapporteur is concerned about the working conditions of workers.<sup>89</sup> Many suffer from abuses, such as unfair employment contracts, occupational safety and health violations, low

<sup>82</sup> Amar Arsjad, Secretary-General of the Indonesian Palm Oil Growers Association, letter to the President of the European Commission and the President of the European Council, 2018.

<sup>83</sup> Indonesia-Investments, "Only 16.7% of Indonesia's oil palm plantations ISPO certified", 29 August 2017.

<sup>84</sup> Guarav Madan, "Palm oil on the precipice", Friends of the Earth, 18 June 2018.

<sup>85</sup> See Nicola K. Abram and others, "Oil palm-community conflict mapping in Indonesia: a case for better community liaison in planning for development initiatives", *Applied Geography*, vol. 78 (January 2017).

<sup>86</sup> La Via Campesina (International Peasants' Movement), "Peasants' houses in Mekar Jaya – the 'hometown of agrarian reform' in Indonesia – razed down by a plantation firm", 31 March 2017.

<sup>87</sup> S.K. Balasundram and others, "Relationship between oil palm yield and soil fertility as affected by topography in an Indonesian plantation", *Communications in Soil Science and Plant Analysis*, vol. 37, No. 9–10 (2006), pp. 1321–1337.

<sup>88</sup> "The effects of palm oil: how does palm oil harm orangutans and other wildlife", Orangutan Foundation International.

<sup>89</sup> See, for example, Rainforest Action Network, the International Labor Rights Forum and Oppuk, *The Human Cost of Conflict Palm Oil Revisited: How PepsiCo, Banks, and the Roundtable on Sustainable Palm Oil Perpetuate Indonesia's Worker Exploitation* (2017).

wages, heavy workloads, gender discrimination, unachievable daily targets and child labour.<sup>90</sup> As elaborated in the Special Rapporteur's report on agricultural workers and the right to food (A/73/164), labour rights and human rights are interdependent, indivisible and mutually inclusive. The Government bears the primary duty to protect plantation workers from any labour rights violations or abuses, as well as violations of human rights, including the right to food.

81. The Special Rapporteur welcomes President Joko Widodo's signing of a moratorium, on 19 September 2018, prohibiting the granting of new licences for palm oil plantations for a period of three years. The moratorium also obliges relevant ministries and regional governments to conduct a comprehensive assessment of existing palm oil licenses.<sup>91</sup> The order was introduced two years after it was initially promised, but the Special Rapporteur views this as an appropriate measure to address violations of the right to food caused by palm oil operations and urges the Government to effectively implement the provisions contained in the moratorium while prioritizing the right to food.

## 2. Mining

82. Mining raises similar human rights concerns as the palm oil industry. The impacts of mining on the environment, notably the pollution of land and water resources, have threatened the local production of food and use of natural resources to generate income. Coal mining (including exploration) is the largest net industrial land-use allocation in Indonesia, covering almost 17.5 million hectares. Coal concessions cover 19 per cent of existing rice land and 23 per cent of land identified as capable of growing rice. As a result, 1.7 million tonnes of rice a year is lost to coal mining and 6 million tonnes of rice production a year is at risk from existing cultivated land.<sup>92</sup> Mining industries often damage water resources that are used for food production, forcing villagers and farmers around the mining area to use mine pit water for household use and for irrigation of crops and fish farming. Farmers using mine pit water experienced a decrease in rice production of 50 per cent, and fish production has also decreased by 80 per cent, raising serious concerns about the right to food of the affected population.<sup>93</sup> Moreover, like palm oil plantations, mining concessions have instigated numerous land-use conflicts, many of which remain unresolved.<sup>94</sup>

83. The right to food in Indonesia is seriously affected by palm oil and mining activities. The Government should review the existing policies and practices in this regard and ensure that these business practices are in line with international human rights laws and standards, including the Guiding Principles on Business and Human Rights. The Government should not only take measures to prevent business activities from interfering with the realization of the right to food, but should also ensure that the businesses – both domestic and multinational companies – respect human rights.<sup>95</sup>

<sup>90</sup> For example, Sawit Watch's report on palm oil workers in Kalimantan where the largest plantation operates elaborates on the exploitative working conditions imposed on workers. Rizal Assalam and Hotler "Zidane" Parsaoran, *Profit Over People: Working Conditions in Sinar Mas Palm Oil Supply Chain* (Asia Monitor Resource Centre and Sawit Watch, 2018). See also, Amnesty International, *The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names* (London, 2016).

<sup>91</sup> "Indonesian president signs 3-year freeze on new oil palm licenses", Mongabay, 20 September 2018.

<sup>92</sup> Jatam (Mining Advocacy Network), "Hungry coal: coal mining and food security in Indonesia" (2017), p. 2.

<sup>93</sup> Ibid.

<sup>94</sup> Budy Resosudarmo and others, "Socioeconomic conflicts in Indonesia's mining industry", in *Exploiting Natural Resources: Growth, Instability, and Conflict in the Middle East and Asia*, Richard Cronin and Amit Pandya, eds. (Washington, D.C., Stimson, 2009), p. 33.

<sup>95</sup> Indonesia voted for Human Rights Council resolution 26/9, in which the Council created an intergovernmental working group tasked to elaborate an international legally binding treaty to regulate the activities of transnational corporations and other business enterprises with respect to human rights.

## D. Infrastructure development projects

84. As previously mentioned, Indonesia consists of 17,508 islands. As such, physically accessing adequate food is a challenge for many populations. There are numerous remote areas, making it hard for people to access food and basic social services. The Special Rapporteur welcomes the Government's efforts to prioritize infrastructure development projects throughout the country,<sup>96</sup> as they are essential for guaranteeing the physical accessibility of food. However, she regrets that some projects are executed at the expense of populations living in proximity to the development.

85. In 2015, for example, the Government announced construction of 57 new airports in Indonesia. The Special Rapporteur learned that some of the construction had led to land conflicts, and loss of livelihoods and employment, and had contributed to the food insecurity of the local populations. The construction of Kulon Progo Airport in the Special Region of Yogyakarta threatens to displace nearly 3,000 households with 11,500 inhabitants, most of whom are farmers or fisherfolk.<sup>97</sup> In December 2017, the construction of the Batang-Semarang highway resulted in the forced eviction of hundreds of local community members, including peasants from nine villages.

86. The Special Rapporteur finds that infrastructure development projects are much needed in Indonesia, especially for remote rural areas, to promote access to food for all. At the same time, she stresses that development should be carried out in a manner that does not interfere with the enjoyment of human rights, or undermine the right to food.

## E. Climate change and natural disasters

87. Indonesia has 81,000 kilometres of coastline and is vulnerable to rising sea levels and natural disasters. Extreme weather events caused by climate change have affected the country, claiming the lives of people and depriving individuals of their right to food and livelihood (A/70/287 and A/HRC/37/61). More than 2,000 serious disasters are reported each year, 90 per cent of which are weather related, including floods, tornadoes, fires and mudslides.<sup>98</sup> In 2017, Indonesians reported 787 floods, 716 tornadoes, 614 landslides, 96 forest and ground fires, 19 droughts, and 2 volcanic eruptions, cumulatively displacing 3.4 million people.<sup>99</sup>

88. The impact of climate change and extreme weather conditions particularly affect the right to food of fisherfolk and coastal communities. Between 2014 and 2016, 200 fisherfolk died at sea while catching fish due to extreme weather conditions. Many fisherfolk were only able to fish 180 days out of the year due to unpredictable weather.<sup>100</sup> The Special Rapporteur heard the testimonies of fisherfolk in Maluku who explained that they risked going further out to the sea to secure a catch and that they experienced reduced income from fishing in the light of the unpredictable weather conditions.

89. Mindful of the adverse impacts of climate change, President Joko Widodo expressed his country's strong commitment to addressing the challenges of climate change during the 2015 Paris Climate Conference. To mitigate the impacts of climate change on food and nutrition security, Indonesia introduced the Climate Change Sectoral Road Map in 2009, and the National Action Plan for Climate Change Adaptation in 2013. The Action Plan aims to harmonize and coordinate policies on climate change in order to achieve sustainable development adaptable to climate change.<sup>101</sup> In 2009, Indonesia voluntarily vowed to reduce

<sup>96</sup> The planning of the 2015–2019 part of the economic development plan for 2005–2025 focuses on infrastructure development and social assistance programmes.

<sup>97</sup> Rose Bridger, *Aviation Expansion in Indonesia: Tourism, Land Struggles, Economic Zones and Aerotropolis Projects* (Penang, Third World Network and Global Anti-Aerotropolis Movement, June 2017), p. 27.

<sup>98</sup> Arielle Emmett, "Hazards in paradise: Indonesia prepares for natural disasters", *Earth Magazine*, 6 July 2018.

<sup>99</sup> *Ibid.*

<sup>100</sup> The People's Coalition for Fisheries Justice.

<sup>101</sup> FAO, "Fact sheet", p. 6.

emissions by 26 per cent by 2020; however, in 2015, this target was increased to 29 per cent by 2030.<sup>102</sup>

90. The Government's climate change and disaster response policies should fully integrate the right to food. These efforts should afford special attention to those who are especially vulnerable, including farmers, fisherfolk, rural populations and coastal communities, and take into account a gender perspective. The Government should adopt additional and timely measures focused on climate change mitigation and disaster preparedness.

## F. Trade

91. Indonesia is a member of the World Trade Organization and has signed several bilateral trade agreements. These trade agreements have various impacts on the right to food. The Special Rapporteur observed the impacts of these agreements, which could in turn have devastating impacts on local food producers, overall food security and the realization of the right to food if not readily addressed. The Government should urgently conduct a human rights impact assessment on its free trade agreements<sup>103</sup> and explore ways to protect the right to food in Indonesia, especially for local producers.

## VII. Conclusion and recommendations

92. **The Special Rapporteur recommends that the Government of Indonesia:**

- (a) **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**
- (b) **Ratify other international instruments that are closely related to the right to food, such as the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Domestic Workers Convention, 2011 (No. 189) and the Work in Fishing Convention, 2007 (No. 188);**
- (c) **Integrate a human rights-based approach to its legal and policy framework and allocate adequate resources for the implementation and enforcement of its existing legal framework;**
- (d) **Implement fully the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication and the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security as a means to promote and protect the right to food;**
- (e) **Adjust its social protection schemes aimed at protecting vulnerable populations consistent with a human rights-based approach;**
- (f) **Diversify its current policies, which focus predominantly on rice and other staples, so as to support the production of more diverse and nutritious foods, including fruits and vegetables;**
- (g) **Take into account the cultural traditions and food preferences of various populations while promoting access to healthy food;**
- (h) **Focus economic policies to lower food prices, particularly for more diverse and nutritious foods, in order to address malnutrition throughout the country;**

<sup>102</sup> Ibid.

<sup>103</sup> Article 11 (2) (b) of the International Covenant on Economic, Social and Cultural Rights provides that States should consider the problems of food-importing and food-exporting countries and ensure an equitable distribution of food supplies.

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- (i) Strengthen and more effectively implement its existing policies designed to address malnutrition throughout the country, including school feeding programmes and programmes for those who lack access to affordable nutritious food;
- (j) Be mindful of the archipelago's vulnerability to the extreme impacts of natural disasters and climate change, as well as its rapid population growth, and decreasing and degrading farmlands;
- (k) Take appropriate measures to provide small-holder farmers, fisherfolk, indigenous peoples, pastoralists, women and girls with access to and control over land, water and other natural resources necessary to produce their own food to feed themselves or to support their livelihoods;
- (l) Address barriers to the successful and timely implementation of land redistribution initiatives;
- (m) Implement a land registration programme to protect local populations against large-scale land acquisitions by companies seeking to log, mine and grow palm oil;
- (n) Enhance efforts to protect the access of small-scale fisherfolk, men, women and their families, and coastal communities to water resources and integrate a human rights-based approach into laws related to fisheries and fisheries management;
- (o) Ensure that the rights of communities affected by land or water concessions are fully respected and carry out infrastructure development projects in a manner that does not interfere with the enjoyment of human rights, thus undermining the right to food, particularly of populations living in proximity to the development;
- (p) Protect agricultural workers from any labour rights violations or abuses, in accordance with the Government's primary duty under international human rights law, and consistent with international labour law instruments;
- (q) Ensure that business practices are in line with international human rights laws and standards, including the Guiding Principles on Business and Human Rights;
- (r) Fully integrate the right to food into climate change and disaster policies, and pay special attention to those who are especially vulnerable, including farmers, fisherfolk, rural populations and coastal communities, while also taking a gender perspective;
- (s) Conduct a human rights impact assessment on its free trade agreements and explore ways to protect the right to food, especially for local producers.
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