**Submission to the United Nations Office of the High Commissioner for Human Rights (OHCHR)**

**Regarding**

**Realizing children's rights through a healthy environment**

**Submitted by**

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In resolution 40/14, the Human Rights Council decided to focus its next annual full-day meeting on the rights of the child in 2020, on the theme “Realizing children’s rights through a healthy environment.” This submission is made to inform the Office of the United Nations High Commissioner for Human Rights (OHCHR) about the situation in some areas of Indonesia identified as a mercury pollution hotspot. We hope that this submission will be useful for the OHCHR report.

**1. Please share any information or evidence on the impact of environmental degradation, pollution or childhood exposure to hazardous substances on children’s rights, including the right to health.**

In Indonesia, there are more than 800 hotspots of artisanal and small-scale gold mining (ASGM) or illegal small-scale gold mining that use mercury to extract gold   
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
(Bose-O'Reilly, Ismawati et al. 2016). There are one million miners and 5 million populations, depending on their lives on these illicit practices. More than 500,000 children who live in the mercury hotspots expose to high risk of mercury exposures in the air, water, soil, and from the food chain.

In some hotspots, children under 16 years of age, also involve as cheap labours. In other hotspots, children's playground is made out of mercury-contaminated tailings. Meanwhile, in other hotspots, babies were born with congenital disabilities (BaliFokus and Medicuss 2015). Mercury is a toxic substance that can pass through the brain barrier and transferred through the placenta, from mothers to the foetuses   
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
(Grandjean and Herz 2011). Mercury also affect cognitive ability of children and may affect their IQ development. Studies show that Indonesia’s economic losses due to Hg-pollution in form of future opportunities are between USD 960,000 to USD 1.6 million per year (Trasande, DiGangi et al. 2016).

**2. Please identify noteworthy and globally significant examples of good practice towards ensuring children’s rights through a healthy environment, including good practices to mitigate childhood exposures to harmful levels of air pollution and hazardous substances, such as pesticides or other toxic chemicals.**

Regarding good practices towards ensuring children’s rights in mercury hotspots are none.

Mercury vapour in ASGM villages, majority, are significantly 50 times above the safe level recommended by WHO, 1000 nanogram/m3. However, there is no mechanism or alert system available to inform the communities, especially children. Many children in ASGM hotspots suffered from frequent seizures, nose bleeding, severe headache, etc.

In Indonesia, my organisation initiated a new program to address this issue. Our new program titled the Children’s Health Interventions in Mercury-polluted Environment or CHIME. Through CHIME program, we developed four interventions:

* 1. Rapid assessment of children’s health and facilitate necessary medical treatment;
  2. Develop capacity buildings:
     + 1. for health workers to identify early symptoms of Hg-poisoning;
       2. teachers to identify and recognise and manage children with special need;
  3. Identify alternative livelihood especially for youth and women; and
  4. Develop “CHIME House” for mothers and children.

CHIME is a new program, perhaps one of its kind, dedicated to provide support for children in ASGM hotspots and uphold the Ecological Child Rights. The program was developed by the Nexus3 Foundation team with funding support from Terre des Homme Germany and IPEN. Currently, the program is still at the final prototype stage and will be tested in Migori, one of Kenya’s ASGM hotspots, by early 2020.

**3. What legal and other measures are in place to ensure that the activities of companies do not damage the environment, either domestically or in other countries?**

**a). What are the main gaps and challenges experienced in this regard?**

Legal measures to stop mercury pollution globally has been addressed through the Minamata Convention on Mercury, which was adopted in October 2013 in Kumamoto, Japan and entered into force in September 2017. Currently, 114 countries already ratified the mercury convention.

Although the treaty’s objective is to protect human health the environment from the anthropogenic mercury pollution, the global agreement do not have strong text to ban or prohibit mercury use in ASGM sector. Under the Article 2 regarding Definition, although every party already encouraged to replace it with other chemicals, mercury is still categorised as “use allowed” in ASGM practices. Moreover, health measures recommended in the Article 16 of the treaty do not elaborate further about the need to protect children’s rights to live in a healthy environment.

ASGM practices with mercury are found in more than 70 countries   
(Telmer and Veiga 2009). Currently, Mexico, China, and Indonesia are the major producers of mercury. However, mercury supply in Indonesia are mainly coming from illegal cinnabar mining sites in West Seram Regency, and the Kapuas Hulu Regency, West Kalimantan Province (Ismawati, Zaki et al. 2017).

Although mercury use and imported by Indonesia were declining compared to its peak time in 2012, mercury trade are still challenging to tackled. Several illegal Hg-trade cases that have been prosecuted in the Indonesian courts did not apply strong sanctions for (illegal) mercury traders. Further, the verdict for confiscated mercury - that is treated as the evidence of crime - under the Indonesian law, must be destroyed. However, mercury is an element and cannot be destroyed (Ismawati, Zaki et al. 2018).

Beside mercury, cinnabar ore, also being traded globally and domestically without control. Mercury and cinnabar also sold freely online through the e-commerce platforms, i.e. Alibaba, Indotrading, Bukalapak, etc. Indonesia does not have e-commerce regulation yet.

In 2018, we learned that a huge amount of elemental mercury had been exported labelled as dental filling. Anecdotal story stated that the mercury was mined and produced in Indonesia, and then smuggled to Mindanao, the Philippines, and then exported to several countries. In 2017, the Philippines exported about 8,000 metric tonnes of mercury as dental fillings (HS code 2843) and in 2018 about 3,600 metric tonnes (Ismawati 2018).

**4. Please provide information on national laws and policies to ensure that companies undertake environmental and human rights due diligence and do not contribute to abuses of children’s rights.**

1. **What measures are in place to combat hazardous forms of child labour in which children are at particular risk of exposure to hazardous and toxic substances?**

In Indonesia, there are several Laws (Acts) that protect children’s rights related to child labour and companies.

* Indonesian Law No. 19 year 1999 regarding the adoption of ILO Convention No. 105 concerning the abolition of forced labour;
* Indonesian Law No. 1 year 2000 regarding the adoption of ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst form of child labour;
* Indonesian Law No. 23 year 2002 regarding children’s protection;
* Indonesian Law No. 13 year 2003 regarding employment;
* Indonesian Law No. 32 year 2009 regarding environmental protection;

Small-scale gold mining activities using mercury to extract gold in Indonesia, as well as in other 77 countries, are mainly conducted as illegal activities. There is no measures to monitor child labour in ASGM sector. Hence there is no way to minimise or prevent Hg exposures to children.

**5. What measures are in place to fulfil children’s right to participate and be heard in decisions affecting their rights and environment, including their right to remedy in the case of violations of their rights linked to pollution or exposures to hazardous substances?**

Currently none.

**6. How are environmental risks to children being monitored and measured in your country?**

Currently NGOs are the only groups that monitor and measured environmental risk to children especially from heavy metals exposures.

My organisation, Nexus 3 Foundation (formerly known as BaliFokus Foundation), have been working observing concerning situation of children in ASGM hotspots since 2012. We have visited more than 30 ASGM hotspots in Indonesia since 2012 and documenting severe cases of mercury poisoning affecting the vulnerable populations especially children.

Most of our reports are published and released on our website, [www.balifokus.asia](http://www.balifokus.asia).

Details report is available upon request.

# Bibliography

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