

Ensuring the Right to Health of Indigenous Peoples; Children and Youth in Indonesia

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Background

Indonesia has a population of approximately 254 million (data of Indonesian Ministry of Internal Affairs, 2015). Indonesia Ministry of Social Affairs identifies some indigenous communities as “geographically-isolated indigenous communities”. Under Presidential Decree No. 111/1999 and Social Ministry Decree No. 06/PEGHUK/2002 defines “Indigenous Peoples as “Remote indigenous community “or Komunitas Adat Terpencil as a local social-culture group who spread-out as well as lack of or does not have access in networking and social, economic and politic or public service”. Based on this definition, the government estimates a total population of Indigenous Peoples in Indonesia is 1,1 millions people. Then, the government acknowledge 1,128 ethnic groups. Though, many more peoples self-identify or are believed by others as indigenous. Current government acts and decrees use the term masyarakat adat to refer to indigenous peoples. The national indigenous peoples’ organization, *Aliansi Masyarakat Adat Nusantara (AMAN)*ⁱ in its first congress, 17 March 1999 states that “Indigenous communities are a group of people who have lived in their ancestral land for generations, have sovereignty over the land and natural resources, and govern their community by customary law and institution which maintain the continuity of their livelihood.” Then AMAN evaluates roughly that the number of indigenous peoples in Indonesia is approximately 70 million people.

AMAN deems that the Indonesian government continues to refuse indigenous peoples in Indonesia as “Indigenous Peoples” while Indonesia is a signatory to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) September 13, 2007. Moreover, government officials argue that the concept of indigenous peoples is not valid as almost all Indonesians with the exception of the ethnic Chinese are indigenous and hence entitled to the same rights. Accordingly, the government has rejected calls for specific needs by groups identifying themselves as indigenous (IWGA, 2014). Due of lack of recent data on the child and youth in Indonesia for the purpose of this study, hence using the data from *Indonesia investment organization* states that about 19 percent of Indonesia’s population is children aged under 10 years and 37 percent of population are below 20 years in 2010.

At that moment, Indonesia ratified the Convention on the Rights of Child (UNCRC) through Presidential Decree No. 36 of 1990 on August 25, 1990 and adopted by Act No. 23 of 2002 on the Protection of Children bringing it into effect as a legally binding document, meaning the government is committed to upholding the Rights. The UNCRC has four principles, namely non-discrimination, best interests of the child, life assurance and participation of children. Such rights should be granted by the State, parents, and the community. Violation of the children rights can be subject to criminal sanctions for anyone as stated by the Law.

As a consequence of ratification, Indonesia must submit periodic National Reports to the Committee on the Rights of the Child. States must report primarily two years after acceding to the Convention and then every five years. The Committee inspects each report and addresses its concerns and recommendations to the State party in the form of “concluding observations. (OHCHR - www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx).

There have been a specific report in concluding observations on the combined third and fourth periodic reports of Indonesia comprises as follows; based on general principles (arts. 2, 3, 6 and 12 of the Convention), a title on Non-discrimination which the Committee is deeply concerned about discriminatory provisions still remaining in Indonesia national legislation, as well as about the prevalence of frequent de facto discrimination, including in point (d) *Children belonging to indigenous communities facing various forms of discrimination, such as insufficient access to education and health care.*

Therefore, in this concluding observation, article 20, the Committee urges the State party to vigorously address all forms of de jure and de facto discrimination, and to:

- (a) *Repeal without further delay all laws which discriminate against girls, in particular with regards to inheritance, and eliminate negative attitudes and practices and deep-rooted stereotypes towards girls by formulating a comprehensive strategy, including a clear definition of targets and establishing an appropriate monitoring mechanism. Coordination in this regard should be ensured with a wide range of stakeholders, including girls, and involve all sectors of society so as to facilitate social and cultural change and the creation of an enabling environment that promotes equality;*
- (b) *Take all necessary measures to ensure equal access of children with disabilities to all public services, in particular regarding health care and education;*
- (c) *Take all necessary measures to eliminate discrimination against children based on their religion and to end all forms of violence suffered by certain religious minorities; and*
- (d) *Take all necessary measures; in particular improve the relevant infrastructure, to provide equal access to public services by children belonging to indigenous communities.*

Regarding children belonging to minority or indigenous groups as stated in point 69, the Committee is concerned about the situation of children belonging to indigenous communities, in particular regarding Papuans, who are faced with poverty, militarization, extraction of natural resources as well as poor access to education and healthcare. In point 70, in light of its general comment No. 11 (2009) on indigenous children and their rights under the Convention, the Committee urges the State party to take all necessary measures to eliminate poverty among indigenous communities and monitor progress in this regard, provide for their equal access to all public services, pursue demilitarization efforts and ensure the prior informed consent of indigenous peoples regarding the exploitation of the natural resources in their traditional territories. Then, some findings from human rights NGO's show individual and collective human rights violations against indigenous peoples, with children and women belonging to indigenous peoples are the most vulnerable position.

Data collection and Methods

This study applies descriptive and adopts a qualitative approach. It obtains data from Ngo's and media reports, interview and observation. This study also examines UN human rights instruments, books, journals for finding the challenges of indigenous peoples with the focus on children and youth. The UN Human Rights Instruments includes of Universal

Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC), International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Indonesia through Act No. 11 of 2005, International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia through Act No. 12 of 2005, Act No. 5 of 1998 on the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Legislation on Protection of children and youth belonging to Indigenous Peoples

According to the Law No. 23 of 2002, which was amended by Act No 35 of 2014 on Child Protection which article 1 (1) stipulates that “the child is someone who has not yet 18 (eighteen) years old , including a young child in the pregnancy . Then, article 44 (1) stipulates that “the Government and regional governments are required facilities and organize comprehensive health efforts for children to gain the optimum health status since her/him in the pregnancy .

Then, article 45 (1) states that “Parents and Families is responsible to maintain health care for the children since her/him in the pregnancy”. Then point (2) states that “ In the case of Parents and Families that do not capable of carrying out the responsibilities the Government and Local Government shall fulfil the tasks “. Next, Article 45B (1)says “ Government, Local Government , Community and Parents are obliged to protect the activities of the Child which affect their health and child-life growing”. Then, Special Protection to Children as stated in article 59 (2) is given to : “Children in emergency situations ; Children in conflict with the law ; Children from minority groups and isolated ; Children who are exploited economically and or sexual abuse; Children who are victims of narcotics abused , alcohol , psychotropic substances and other addictive substances ;Children who are victims of pornography ; Children with HIV / AIDS ;Child abduction, sale, and / or trade ; Child victims of physical violence and or psychological ;Child victims of sexual crimes ;Child victims of terrorist networks ; Child with Disabilities ; Child victims of abuse and neglect ; Children with socially deviant behaviour ; and Children who are victims of stigmatization of labelling associated with the condition of Parents.

Thus, Act No. 35 of 2014 does not refer or does not mention specifically to children belonging to indigenous peoples who should receive special protection, while in fact, the Act stipulates children and youth belongs by indigenous group as minority and isolated as in a general term.

Then, the Law on Prevention and Eradication of Forest Destruction continued to bar indigenous peoples from living in their forests which the children and youth are facing double discrimination since they are depend on their parents and the Forest is their “home” for living. The draft law on the Recognition and Protection of the Rights of Indigenous Peoples was not put as priority at National Legislation Project of the Government in 2016. There is also lack of enforcement on the ground from some laws which promoting human rights for example Act No. 39/1999 on Human Rights, Act No. 5/1960 on Basic Agrarian Regulation, Act No. 32/2010 on Environment and Act No. 27/2007 on Management of Coastal and Small Islands. Research from many human rights institutions found that the majority of law enforcement officers are directly violating human rights, even directly position themselves as the protector of companies and violate the legal procedures.

A Right to Health of Mother and Children

The future of a community, the nation and the state is determined by the health of mothers and children. If mothers and children get adequate nutrition, then the children will be born, grow and develop into a healthy personal and intelligent. According to government data 2014, the most three provinces which are experiencing a shortage of calories and protein was East Nusa Tenggara (NTT) , Papua and Lampung . Thus the results of the Total Nutrition Study was held by Board of Health Research and Development (Balitbangkes) Ministry of Health was released and published along with 173 other research during 2014. The survey was conducted by Balitbangkes to 46.238 households in 497 districts and cities in 33 provinces throughout Indonesia.

In Papua, the health condition of mothers and children in Papua is also very alarming Many Papuan Indigenous children suffering from malnutrition. We can see, either in the suburbs or in the villages, the mothers and children in Papua are growing in an unhealthy environment. They live in simple houses with no clean water facilities, electricity and toilets. In a place like this, the Papuan Indigenous Women experience on pregnancy, childbirth, breastfeeding and growing their children. On the other hands, the Papuan Indigenous are not too shaky with issues of nutrition and health of mothers and children. It is enough for them, if they can eat the main food such as sago or cassava. While in order to support the child's health development, it is required adequate nutritional intake.

One of observation by Petrus in April 2012 to the the indigenous children name is Gerardus. Gerardus was suffered malnutrition in the Yamas village, Asmat district. He was three years old at that time, but not yet able to walk. He was very thin and weak. Her mother also looked thin and not well health conditions. The problem facing by the mother and Gerardus is the place that they are living at a remote village. If the health of mothers and children received less attention, then the children of Papua will be born, to grow and develop a limp. They will be the person who is less intelligent and unhealthy. In Papuan indigenous peoples, cases of malnutrition were found to 28 babies in the district of Sentani in 2013. The five indigenous groups which experienced on malnutrition were located in Jayapura area including Yobe Kampung Kehiran I, Komba, Yafale Kehiran II , Ifar Kampung Besar and Yahim . Then, the suspected cases of malnutrition also occurred in the District Kwor , Tambrau Regency , West Papua in 2013 which reportedly 15-95 casualties within five months . Based on the report Tambrau Health Department, the cumulative death occurred from October 2012 to March 2013 .

Based on Merauke Health Service data in 2014 , the percentage number of cases of malnutrition around 7 percent and malnourished is 13 percent in Merauke Papuan Indigenous peoples ,so that the total is about 20 percent of children under five years old.

Next, the data observation in East Nusa Tenggara (NTT) which a total 1918 suffer from malnutrition during January-May 2015. In addition to that, it was recorded 11 children under the age of five die because of malnutrition, furthermore there were 21134 children under five are malnourished. According to Public Health Office of Nutrition Improvement East Nusa Tenggara in May 2015 states that malnutrition experienced by poor families living in remote areas and inland. They are difficult to reach health centre because lack of access on transportation and their place of living is in remote areas. On the other hands, the mother understanding's on the nutrient is also very low. It was compounded by droughts that have occurred since 2014 so that many farmers failed to harvest.

These conditions lead to a food crisis that the food consumed by children was reduced, even not nutritious. Malnutrition makes children prone to various diseases, such as diarrhoea which can cause of death. Cases of malnutrition occur in almost all districts in NTT. Most cases of malnutrition suffered by Indigenous peoples were occurred in district of Southwest Sumba, Kupang, South Central Timor District, and North Central Timor district in NTT. Cases of malnutrition in fact always occur annually in the NTT province. In 2014, for example, recorded 2100 severely malnourished children and 15 children of who were died, and recorded 3121 children less than five years are malnourished.

These are accumulated because of poor infrastructure and lack of access to transportation makes malnutrition uncontrolled by health officials. As a result, patients easily subverted various other diseases. Malnutrition to indigenous children is not only the responsibility of the health department in Government agencies. Some government agencies should share responsibility and coordination among government for malnutrition issues because it is closely related to the problem of poverty.

Access to Health Services

A health problem is related to the point of public welfare. In the Nyogan village where residing Suku Anak Dalam Indigenous people, there is a public health center but it is located at the base of the village. Thus, it is quite far away to reach the public health centre from Segandi River which is approximately 10 kilometres. If the indigenous people get sick, as the consequences, the indigenous people just using traditional medicine. If the disease is getting serious enough, they recently went to the clinic. In their opinion, if they suffer ailments, thus they let traditional healers and unnecessary go to the health clinic. It is also happens to the condition of health of pregnant women and children. When giving birth, they give birth at home and only assisted by village midwives (My & Kusnadi, 2010, p.337)

The observation to the health of Orang Rimba Indigenous people at Bukit Dua belas, Sarolangun district, Jambi. The prevalence of hepatitis B and malaria diseases are reflecting the poor quality of health of the indigenous peoples. Due to poor health conditions Orang Rimba therefore the life expectancy are tend to be low. Their health situation is aggravated by the forest environment which is narrowed and damaged (Eijkman Institute for Molecular Biology, 2015). A gaps health service for indigenous peoples was apparent in the treatment differences between Orang Rimba compared to the adjacent community which conducted by health department. Eijkman Institute research results show that the prevalence of hepatitis B reached 33.9 percent and malaria diseases reached 24.6 percent of Orang Rimba Indigenous people .

According to Eijkman Institute the figures of health in 2015 show that the prevalence of hepatitis B in the Orang Rimba reached four times higher than other Jambi community. For malaria, the prevalence was 307.5 times higher than the others people of Jambi community.

In fact , the spread of the two infectious diseases can actually be solved , especially stocks of medicines, adequate vaccination and the health care is not maximized, furthermore the health department has not had a full profile of the health of Orang Rimba Indigenous people particularly the profile of children and women in Jambi Province.

Next, the observation is conducted to children and youth of Talang Mamak Indigenous people. They were living in the jungle of Kelayang district, Indragiri Hulu, Riau province. They live in a very simple way and their livelihood from the forests. Their activities were hunting, fishing, and take non-timber forest products to meet their daily needs.

The location to Talang Mamak Indigenous people can be accessed quite far by land from Rengat town or about 3 hours drive and the problem of limited access of transportation as well as communication. Talang Mamak Indigenous people are still adhering to their custom and still embrace animism and their belief on the magical power that resides in the forests. This is the reason which encouraged Indigenous Talang Mamak is keeping the relationship with their forest. They believe that forests have important role in social life, so they will preserve the forest. Because of the belief that they profess, thus Talang Mamak Indigenous people is still facing difficulties in accessing health and education services they are entitled to as citizens.

Rights to safe, clean, healthy and sustainable environment for Children and Youth belonging to Indigenous groups

An extraordinary occurrence of haze pollution because of forest-fires and peat land fires for 3 months in Indonesia in 2015 in several provinces mainly in Sumatra Island and Kalimantan Island have resulted indigenous children's health impaired. Indigenous peoples who were living in the jungle, forest and inland, then, they had to evacuate their children from "haze" which causes respiratory problem. The air and contaminated water directly be able to pollute the lungs and prevent respiratory tract as well as the human inhale circulation.

The National Commission on Human Rights (Komnas HAM) has said that the uncontrollable spread of air pollution from forest fires in Sumatra widen of the choking haze had curtailed the essential rights of the people to live a healthy life. The people are forced to inhale polluted air in their own homes and workplaces. Therefore, Komnas HAM demanded the government temporarily relocate all people, particularly children, affected by the haze to more healthy areas. The Komnas HAM also demand to relocate the people to safe areas is no less important than the efforts to extinguish the fires. The Komnas HAM urges also the government to provide indoor education and indoor playgrounds for the children affected by the haze (Jakarta Post, 2015).

The Ministry of Health recorded in October 2015 as many as 425377 people stricken with acute respiratory infection (ARI) as a result of the impact of peat land and forest fires in seven provinces in Indonesia since June 2015. Increased respiratory disease occurred in Jambi, Riau, South Sumatra, Central Kalimantan, West Kalimantan, South Kalimantan in Indonesia with the young children particularly the indigenous children who were living in the forest and inland were the most suffering of this forest fires and haze pollution.

As reported by Forest Watch Indonesia, haze pollutants due to forest and land fires in Sumatra and Kalimantan have passed safe levels. In September 2015 in Riau , for example , the Air Pollution Standard Index even touch the figure of 750 Psi (Pollutant Standards Index) . Though safe threshold pollutant index as corresponding to the government decree of the Environmental Impact Management Agency is in the range of 300-500 Psi .

Thus, this fact demonstrates the disastrous effects of the haze pollutant, which clearly threaten human civilization due to the potential loss of generation in the future , especially for women and young children are vulnerable to contracting of acute respiratory infection . It can also attack their brain tissue systems. In addition to that, haze pollutant because of forest fires and peat land fires in Riau in 2015 resulted in a girl died and thousands of women and children are more affected by acute respiratory infection because of delays in the evacuation process to them into areas where the air is fresher, particularly no evacuation for children, pregnant and lactating women and indigenous children which the haze occurrence had surrounded since a month in 2015 (Helda Khasm, 2015) .

The Ministry of Health and the government has deployed a team of health and medical to the several provinces to distribute the packages of drugs (antibiotics), masks, provide the facilities in the hospital, however it would not solved the issue the “responsibility” to the those whom were suffering and potential cancer illness in the future or other respiratory disease particularly to the children and youth belongs by indigenous peoples.

Summary

The lack of access to health and personnel on health services, lack of promotion to right to health and lack of protection to the rights of children and youth belongs by indigenous peoples resulted in major health problems in Indonesia, such as malnutrition or nutrient deficiencies to infant, acute respiratory infection, malaria, hepatitis B, diarrhoea and other diseases, and a high mortality rate children in remote areas of indigenous peoples. It is generated by living in poor condition, poor sanitation and waste management, haze pollution, consumption of unsafe drinking water and other causes. The bad infrastructure and lack of access to the remote areas and villages are also the main problems that lead children and youth can not reach public health centres and health services.

The government should develop the data and profile indigenous peoples and data on the condition of health of children and youth belonging to Indigenous peoples particularly after the “occurrence of Haze Pollution in Indonesia in 2015.

Forest rights issues on food security is closely connected with the health of indigenous people and how indigenous communities can enjoy the right to safety and a healthy environment. Central and local government is responsible for ensuring the rights of indigenous peoples , especially to legislate the regulation as well as to enforce the existing laws, and the government is responsible to protect the rights of indigenous people and to recognize Indigenous peoples in Indonesia. Finally, the government has to comply with the recommendations of CRC Committees on children and youth belonging to Indigenous peoples and the government has to report any human rights development particularly on right to health of indigenous peoples to the treaty body recommendation and to regional and international human rights mechanisms.

References

- UN Committee on the Rights of the Child (CRC), Concluding observations on the combined third and fourth periodic reports of Indonesia, 13 June 2014, CRC/C/IDN/CO/3-4
- the Convention on the Rights of Child (UNCRC) , Presidential Decree No. 36 of 1990
- International Covenant on Economic, Social and Cultural Rights (ICESCR), Act No. 11 of 2005
- International Covenant on Civil and Political Rights (ICCPR) , Act No. 12 of 2005
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Act No. 5 of 1998
- Act No. 35 of 2014 on Child Protection
- Act No. 11 of 2009 on Social Welfare
- Act No. 36 of 2009 on Health

- UN Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Position Paper of Indigenous Peoples Alliance of the archipelago –AMAN (2015 against the Draft of Intended Nationally Determined Contribution (INDC) Indonesia
- Mahmud My, Edi Kusnadi (2010) The Development of Isolated Social Community in Autonomy era : Case study of Indigenous Children in Muarojambi Academic Media, Volume 25 , No. 4
- UNICEF annual report 2014, Indonesia; http://www.unicef.org/about/annualreport/files/Indonesia_Annual_Report_2014.pdf
- Eijkman Eijkman Institute for Molecular Biology (2015) finding
- <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14669&LangID=E>
- <http://www.abc.net.au/news/2015-10-29/indonesian-smoke-haze-takes-heavy-toll-on-children/6895178>
- <http://www.theguardian.com/sustainable-business/2015/nov/11/indonesia-forest-fires-explained-haze-palm-oil-timber-burning>
- Petrus Pit Supardi, in his observation and notes on Reforming the Maternal and Child Nutrition Papua, verified at http://www.kompasiana.com/petruspitsupardiilung/menata-gizi-ibu-dan-anak-papua_567a852ed57e610109b3aa65
- <http://www.thejakartapost.com/news/2015/09/19/haze-disaster-human-rights-abuse-says-rights-commission.html#sthash.craVqDOU.dpuf>
- <http://www.iwgia.org/regions/asia/indonesia>
- Indonesia Population, available at <http://www.indonesia-investments.com/id/budaya/demografi/item67>

ENDNOTES

ⁱ The Indigenous Peoples' Alliance of the Archipelago (AMAN) was founded in 1999 as a result of the March 1999 *Congress of the Indigenous Peoples of the Archipelago*, declared on March 17, 1999 in Jakarta. AMAN is an independent social organisation comprised of Indigenous communities and organisations from various parts of the Indonesian Archipelago.