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Response to Call for inputs on Toxic-free places to live, work, study and play UN Special Rapporteur on Human Rights and Environment

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Introduction on the Input

1. This document will cover the subject as this impacted the commons and livelihood of “Suku Laut” and/or sea nomads. This very scope will bring attention to the context of toxic, and degradation of environment which hamper the rights of “suku laut” and/or sea nomads.
2. This input is also derived from our previous submission on the subject of input to the draft of General Comment no. 26 on land and economic, social and cultural rights -submitted as document of “Joint contribution Geneva Academy - La Via Campesina - CETIM - FIAN International” (no. 7) and “Law Faculty of Atma Jaya Yogyakarta University” (no. 88) <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-draft-GC-land.aspx>

1. This input is responding to the question of 1, 6, 7 of the inquiry/the call for input

Basis of research and normative studies

1. This input will look into the normative basis on “toxic and human rights” as the framework the resolution on and mandate of the UN Special Rapporteur. Yet, this input will bring the context of “suku laut” and/or sea nomads as they are adversely affected by toxic environment. This input is taking into framework and analysis on the 16 principles of “framework principles on human rights and the environment”, especially *principle 11*, *principle 12, principle 13,* *principle14,* and *principle 15*.
2. This input shall admit and utilise the UNDROP (the UN Declaration on Rights of Peasants and Other People Working in Rural Areas), and draw recommendation upon it. For the purpose of this input, as it is derived from UNDROP, “suku laut” and/or sea nomads is communities and numerous ethnic group who lives and have been making their livelihood primarily from the sea and marine ecocsystem. They live as nomadic, semi-nomadic, seasonal residents, on islands, parcels of islands, coastal and reefs ecosystem, as dweller in a very vast marine area. Their traditional knowledge, commons’ life, and freedom movements are very distinctive as a basis for their fundamental rights. Into the context of Southeast Asia, especially Indonesia, “suku laut” are long-standing “residents”, “dweller” of the archipelago. The UNDROP reaffirms this reality in pointing that suku laut and/or sea nomads lives as a community, relies on nature and biodiversity, and engage in small-scale livelihood. They lives as community with specific vulnerability situation, as also they lives as indigenous groups, as traditional fishing seafarers, and as holder of an ecosystem of biodiversity.

The scope of “suku laut” as it is based on UNDROP, conforms with several research on the subject (see appendix).

Input to no 1

“…ways in which toxic environments…”

1. The livelihood of suku laut and sea nomads are closely reliant on their ability to gather sufficient resources from the natural world. In addition to this, however, sea nomads/suku laut possess a cultural relationship to the natural world, and it is intimately part of their spirituality and traditions. As such, where the natural world, particularly the sea world, is degraded by toxicity the cultural rights of sea nomads are impacted.
2. This input considers that toxic environments can come from many sources. One driver of increasing toxic environments for sea nomads is a growing tourism industry in coastal areas of Southeast Asia. These industries are often developed without sufficient waste management systems, resulting in rubbish dumping or waste disposal methods that create a toxic natural environment. This can then have varied impacts, including decreased biodiversity and unsafe fishing environements. Marine pollution from industrialisation is also creating a toxic environment that reduces biodiversity and availability of fish, severely impacting the livelihood of sea nomads that rely on fishing as their main source of income.
3. Ongoing poverty and a lack of social security has also prompted some sea nomads to use toxic chemicals to create more efficient fishing practices. These include the use of cyanide and explosives to gain larger yields. This in turn reinforces lower fish populations due to chemical pollution and resultant overfishing, creating a cycle of necessary pollution for survival and fish scarcity. A lack of government support has also led to further environmental damage. Poor sanitation infrastructure in government settlements of suku laut has resulted in poor water quality, with impacts inlcuding seasonal skin conditions. The resulting environmental toxicity has degraded the right to health and a safe, clean environment.
4. The suku laut and sea nomads have a long history of navigating natural environmental changes, and have grown a strong aptitude for understanding seasonal climate variability, tidal movements, and the onset of dangeorous weather. The understanding of these weather patterns enables sea nomads to safely gather resources to support their livelihoods, and to safely exercise their cultural rights including moving between living on the sea and in coastal areas. As the climate has been evolving at an unusual pace, it has become more difficult for suku laut to utilise their centuries-old environmental knowledge. Additionally, local governments have attempted to force sea nomads to resettle in permanent coastal villages, partly in reaction to the changing environment and need to support sea nomads’ safety. This practice, however, degrades sea nomads’ cultural rights and their ability to connect with the sea.
5. Environmental toxicity also acts as a threat multiplier for sea nomads. Sea nomads already face a range of threats including water scarcity and loss of biodiversity. These issues are further exacerbated by environmental toxicity, but they also multiply the impact of environmental toxocity on sea nomads’ cultural rights.
6. The Moken sea nomads in Thailand have experienced the impacts of a growing tourism industry on their tradtional livelihoods and cultural rights. A study by Xanthe Verschuur (2019) elucidated the impacts of tourism on Moken on Koh Phayam and Koh Surin islands. One of the many impacts noted was that there were insufficient waste management procedures to deal with the heightened level of waste from tourism. As a result, waste was disposed of by burning or by dumping in illegal garbage dumps in coves that were hidden from tourists. This has resulted in a toxic environment and a degradation of the environment in which Moken conduct their traditional livelihoods and culture, including fishing and living in the local areas.
7. The incrased of economic activites are adversely affecting the cultural life of Suku Laut. While research on economic acvities in sea- and coral-bodies have been keeping tab to situation and impact to suku laut (and marine communities), the wider cases on “cyanide fishing, blast fishing” are recorded. The cases exposes the destruction not only to environment into long-term context, but especially creating toxic-environment to Suku Laut and sea nomads’ livelihood and marine-settlement. This input is based research and observation on this case was undertaken in archipelago off Makassar and Selayar and its ecosystem Indonesia.
8. The sedentarisation of Suku Laut, as part of government-driven policy, is yet to be assesed properly. This sedentarisation causes a low- or forced adaptation of Suku Laut and sea nomads into unhealthy area. Often this area, still close to coral area, are badly polluted (land-based pollution).
9. The spatial change which effectively create sedentarisation of Bajau/suku laut and sea nomads and, at the same time, establish a mono-type of coastal economisation including in mangrove ecocsystem (e.g. timber, prawn and milkfish cultivation) brought forth certain toxic substance. This economisation produced litter and waste which lead to culmulative environmental degradation. The point in case is Tomini Bay, Indonesia. The spatial contest cause directly and indirectly toxic environment towards Bajau/suku laut. (the dissertation of Muhammad Obie, 2015).

Input to 6

“….examples of good practices…”

1. Research on Suku laut and sea nomads are steadily increasing in numbers and scope. This is the very basis of input into and on bringing good practices in the area of public policy and community-based activites. These researchs are yet to be adapted into systematic and specific protection of cultural rights of Bajau/suku laut and sea nomads; but the researchs already attract participation and contribution from researchers, government in (very) local level on assessing carefully into the nature of life and livelilihood of suku laut and sea nomads. Community leaders, e.g. coral reef community and traditional fishing, including those who relate to suku laut on regular basis, is taking benefit by participating to, socialisation, adaptation of the research. These leaders further serves as enabling actors to suku laut and sea nomads.

1. A quite similar to the research, organised and/or like-minded cooperation are flourishing, contributing to the participation, socialisation, adaptation research into measured-activities or program. They includes, but not limited to, program of “sustainable small-scale fisheries”, “Indonesian Coastal Resources Management Project (Proyek Pesisir)”, Coremap-CTI (Coral Reef Rehabilitation and Managemeng Program-Coral Triangle Initiative), “Alternative Livelihoods Project For Fishers On Rote And In Kupang Bay, Arafura And Timor Seas Ecosystem Action Program (ATSEA1)”, “Diversification Of Smallholder Coastal Aquaculture In Indonesia Economic And Welfare Movement Of Coastal Communities”, “Coral Reef Rehabilitation And Management Project (COREMAP) Phase II”, (full list of the cooperation is in Stacey, Gibson, Loneragan, Warren, Budy, Adhuri, Steenbergen, Fitriana, 2020).

Other cooperation is on developing a framework and tool for collaboration for coral and maritime protection. This includes FishCollab of CCRES (Capturing Coral Reef & Related Ecosystem Services).

These cooperations vary in its scopes, objectives, and results, and in addressing the normative basis for protection, incrementaly. They brought result to communities, policy makers, academia, researchers, international communities. In any case, these cooperations greatly contribute to the establishment of knowledge and policy on maritime protection and its communities, including Bajau/Suku Laut and sea nomads. These cooperations are directly and indirectly contributing to control against toxic-problems, including those which disproprotionately impacts to the cultural rights of Bajau/suku laut.

1. An area is designated as marine protected area (MPA). This case refer to Wakatobi National Park, Southeastern tip of Sulawesi, Indonesia (a number of similar applications actually are already in place). The MPA provides an area where traditional-based eco-cultural activities of Bajau/suku laut are protected without them being unnecesary forced into sedentary settlement.
2. This input is taking note into tens more of initiatives being presently undertaken and collaboratively established. These yet to come into an open report, but, these should contribute into further assessment in 2 or 3 years in progress.

Input to 7

(…additional protection should be provided)

1. The normative framework into cultural rights of suku laut and sea nomads is yet to adequately be established. The UNDROP provided necessary framework for this protection. Article of 26 of UNDROP (sub 1): ….the right to enjoy their own culture and to pursue freely their cultural development, without interference or any form of discrimination. They also have the right to maintain, express, control, protect and develop their traditional and local knowledge, such as ways of life, methods of production or technology, or customs and tradition….” -and in its sub 2 and 3.

The fundamental part of this normative framework is to recognise the very existence of Bajau/suku laut and sea nomads. This normative framework, subsequently, contributes directly to the mapping of biodiverstiy, of a vast maritime area and its knowledge out of it, and to the development of commons- and community-based management of maritime resources.

1. The recognition of nomadic and semi-nomadic existence of Bajau/suku laut and sea nomads is understood also as a protection of their freedom of movement (seafaring) and of their role in management biodiversity and on addressing climate change. Misunderstanding often arises in seeing this context as a “closed area” or a kind of licensed exclusive maritime-residency. The misunderstanding often come into a suspicion on the legitimacy of existence of nomadic and semi-nomadic group such as Bajau/suku laut and sea nomads.

The author in this input served as a testimony-expert on the subject in the Indonesian Constitutional Court in 2011. The key of this testimony is on “commons” and community-based maritime area and (natural)resources; these should serve a common platform in the islands-based nation, such as archipelago of Indonesia. The overt and large scale economic activities by government and transnational corporations must be accounted into this normative framework.

In addressing toxic and its impact to cultural rights of bajau/suku laut and sea nomads, freedom of movement contributes to management of biodiversity, especially in the long-term situation. This freedom of movement also avoids overfishing in concentrated area.

1. The norm and implementation of non-discrimination is also addressed UNDROP. Its key article on rights holder fosters anti-discriminatory measures towards suku laut and sea nomads. The toxic environment arising from project on monoculture, excessive exploitation of coral ecosystem, exposure to chemical substance in industrial facilities is higly likely taking place where the anti-discriminatory measures are non-existent.

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\* We do apologise for not providing french and spanish translation together with this english document. We do not a have better capacity to make it into readable french and spanish text.

Appendix

The reffered researches are including, but no limited to, “Developing sustainable small-scale fisheries livelihoods in Indonesia: Trends, enabling and constraining factors, and future opportunities” (2020, Natasha Stacey, Emily Gibson, Neil R. Loneragan, Carol Warren, Budy Wiryawan, Dedi S. Adhuri, Dirk J. Steenbergen , Ria Fitriana), “Impacts of marine protected areas on livelihoods and food security of the Bajau as an indigenous migratory people in maritime Southeast Asia” (2017, Natasha Stacey, Greg Acciaioli, Julian Clifton, Dirk J. Steenbergen), Perampanasan Hak Ulayat Pesisir dan Laut Komunitas Suku Bajo, Kasus Pengelolaan Sumber Daya Pesisir dan Laut di Teluk Tomini (Deprivation of communal rights on coast and sea of *Suku Bajo*, the research on the management on resources of coast and sea of the Gulf of Tomini) (2015, Muhammmad Obie), the Life and Culture of Bajau, Sea Gypsies (2019, Kyoungho Jeon), The nationality and statelessness of nomads under international law (2020, Heather Alexander); as well as a good number of researches and publication on the subject). In any case, the author greatly acknowledges Dedi Adhuri of Indonesian Institute of Science as colleague in the research on the subject. Apintlaw develop an intensive research and normative studies on UNDROP in which Suku Laut is one of several key subject.