|  |  |
| --- | --- |
| apintlaw  |  |
| https://apintlaw.info |  |

[original: English]

Input to “Call for comments on the draft general comment on children’s rights and the environment with a special focus on climate change”

15 February 2023

The submission is prepared and co-authored by Henry Thomas Simarmata[[1]](#footnote-1), Zahra Wilson[[2]](#footnote-2), and Fathuddin Muchtar[[3]](#footnote-3)

Introduction on the input

1. This input will cover the subject in a very specific context, i.e. recognition of the rights of children of the “Sea Nomads”, as in Indonesia and Southeast Asia known as Bajau, Bajo, Sama Bajo, Moken, “suku laut”. This context will be read into, later, the context of climate change where they live. Purposely, this input will set, a concise way, the context of sea nomads of Southeast Asia.[[4]](#footnote-4)
2. This input will bear in mind also the context of other UN Instruments, i.e. UNDROP and UNDRIP, and the process on the general comment of right to land of the CESCR, as Apintlaw submitted its input <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-draft-GC-land.aspx>. This input is taking into account previous Apintlaw’s work on <https://www.ohchr.org/en/calls-for-input/2021/call-inputs-toxic-free-places-live-work-study-and-play>.

The vulnerabilities of children of sea nomads

1. The children of the sea nomads in Indonesia are particularly vulnerable to, and disproportionately affected by, the adverse effects of climate change. The sea nomads, living with their family in a communal way would conform the context and setting of the UNDROP and UNDRIP. These nomadic/semi-nomadic communities live and have been making their livelihood primarily from the sea and marine ecosystem.[[5]](#footnote-5) They live as nomadic, semi-nomadic, seasonal residents, on islands, parcels of islands, coastal and reefs ecosystem, as long-standing “residents” dweller in a very vast marine area in littoral as well as in open sea of Indonesian archipelago.
2. The climate change causing ocean acidification, coastline degradation, increased pollution of water, air and soil, and the devastation of marine biodiversity (ref. Climate Change 2022: Impacts, Adaptation and Vulnerability Working Group II Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change)[[6]](#footnote-6). The children of sea nomads are at a high risk of experiencing forced displacement and loss of their livelihood and cultural practices. These risk factors are further compounded to their inherently vulnerable status in society and dependence on their elders to provide food, water, security and shelter.

Key articles of the CRC addressed

1. This contribution is mainly taking attention to the interpretation and further protection as the article of CRC sets, i.e. on article 30 as overriding reading. This input also taking article 24 into account.

Inputs to the draft of the General Comment no.26:

1. Input to the para.16, 17, 50: right to life and non-discrimination

Art. 30 of the CRC recognise the rights to for their communal and nomadic/semi-nomadic in which they have a unique relationship with their environment as indigenous, nomadic sea peoples. Their traditional belief systems, way of life, livelihoods and cultural knowledge are all rooted in their interactions with the local marine environment.

1. Input to para 18 and 49: harm caused and in relation to environmental degradation and climate change

The children of sea nomads in Indonesia are at high risk of experiencing the worst effects of climate change in forms, inter alia, rising sea levels, littoral and coastline degradation, ocean acidification, pollution of air, water and soil resources and a loss of marine biodiversity. These also has been causing to risk of reduced mobility and potential for loss of homes due to climate change. Within the last few years, local governments have actually “attempted to force sea nomads to resettle in permanent coastal villages” to respond to the changing environment.[[7]](#footnote-7)

1. Input to para 78, 91, 114: obligation and duty of care

In implementing CRC, the states should develop a framework of “adaptation” and “mitigation” in which states, especially those with archipelagic characteristics, to address the vulnerability of the children of sea nomads and ensure their rights under the CRC are protected. there are three focus actions that will be discussed. These calls to action are considerate of, and emphasise, the special relation between children of sea nomads and their environment. The rising adoptions of local and/or decentralised governments, commons-arrangement, choral-based program should inform government to take legislative and implementation-focus in the state’s obligation.

State should take a necessary care to wider context of archipelago. For archipelagic states living in a vast ecosystem such as southeast Asia, there should be a dedication to ways and means to translate the local best practice and international studies into specific recognition to the children of sea nomads. Alternately, the risk rising from the business operating in this archipelagic ecosystem should be assessed throughout.

1. Input to para 78, 83, 85: traditional knowledge of the children of sea nomads

The sea nomads living with their cultural life rights and their deep connection with the marine ecosystem, often a very vast one. Sea nomads are specifically understood to be seafaring peoples with vast traditional environmental knowledge, yet governments (national and local) fail to collaborate or hear inputs from the sea nomads, including those in matter of their children. The sea nomads living with their own traditional knowledge where they educate their children to live in changing marine life caused and related with climate change. Often, the situation has regressed so much that the children and the youth of sea nomads allegedly underestimate and abandon learning about their peoples’ traditional ecological knowledge because they believe it relates to “unreasonable and primitive activities.”[[8]](#footnote-8) The result is that climate change aggravates environmental toxicity which greatly impacts on sea nomads’ cultural rights and their ability to enjoy their cultural practices, which is an arguable violation of Article 30 CRC.

The children of sea nomads living in their traditional knowledge which allows them to develop their own practices of “weather forecasting, traditional fishing method, traditional medicine, disaster preparedness, cultural astronomy, aquaculture, mangrove conservation and coral reef conservation”,[[9]](#footnote-9) which is linked to their deep spiritual belief system to the marine world. Environmental knowledge in the community is vast and they are known to have advanced understandings of “ocean currents and tides, winds, fishing grounds, and the position of the sun, moon, and stars by which they find their way during their journeys through the archipelago. They are also familiar with freshwater sources at the shore and numerous species of flora and fauna of sea and coast, including edible species and species for medical use.”[[10]](#footnote-10). Sea nomads and their children have been internalising and utilising their ability to adapt to environmental changes and utilise their local knowledge.

The State further should to formally recognise traditional environmental knowledge as the ‘valuable tool’ that it can be ‘to assist policy-makers in refining and adapting conservation measures to suit local circumstances and environments.’[[11]](#footnote-11), further recognising the cultural rights of the sea nomads and their children.

1. Input to para 31: right to education

The vulnerability of the children of sea nomads is the lack of age and culture appropriate resources aimed to educate and inform them, and other children in general, on the causes and effects of climate change. This right is explicitly outlined in Article 24(2)(e) of the CRC which aims to ensure that children are ‘informed’ and ‘have access to education’ about their environment. This issue is complicated by the literacy barrier between the children of sea nomads with other communities living in more formal education system. The challenge also relates to as their educational opportunities (mis-opportunity) and (mis-)proficiency in written and oral in a formal national language, hence presenting a significant obstacle in their upcoming adult life.

It is widely accepted that the adverse effects of climate change “heighten[s] existing vulnerabilities and disparities among the most disadvantaged ethnic minority communities, families and children” so as there must be attention to the positive obligation of Indonesia under Art 30 and 24 of the CRC to ensure the fulfilment of right to education of the children of sea nomads.

\_\_\_\_\_\_\_\_\_\_\_\_

1. Executive coordinator of Apintlaw (Associated Program for International Law) [↑](#footnote-ref-1)
2. The University of Sydney with ACICIS program [↑](#footnote-ref-2)
3. The contribution of Fathuddin Muchtar is the contribution of SAMIN (Sekretariat Anak Merdeka Indonesia) foundation, a yogyakarta-based organisation working on the rights of the child. [↑](#footnote-ref-3)
4. An extensive work on the subject has been developed since 2021 by Dedi Adhuri (of Indonesian Body of Research and Innovation, BRIN), Wengky Ariando (presently with Chulalongkorn University), and Henry Thomas Simarmata (of Apintlaw); herein, these three have been in conversation with communities of Bajo, Bajau, Sama Bajo, “Suku Laut”, of Indonesian sea nomads. [↑](#footnote-ref-4)
5. *A Preliminary Spatial Data on the Distribution of the Sama-Bajau Population in Insular Southeast Asia - Reconsidering Social History of Maritime Worlds in Southeast Asia: Perspectives from Sama-Bajau* by Kazufumi Nagatsu (2010) [↑](#footnote-ref-5)
6. For the purpose of writing of this report, the co-authors read the metrics and landscape-based analysis in this report to check the latest update on climate action, without prejudging and putting aside other reports; building analysis with comparative look into the situation of Indonesia sea nomads, islands, mangroves, and the impact of plantations against different estuaries. [↑](#footnote-ref-6)
7. Apintlaw submission on Response to Call for inputs on Toxic-free places to live, work, study and play UN Special Rapporteur on Human Rights and Environment [↑](#footnote-ref-7)
8. *Traditional Ecological Knowledge of Indonesian Sea Nomads “Orang Suku Laut” on Climate Change Adaptation* (2019, Wengky Ariando) [↑](#footnote-ref-8)
9. 2019, Ariando, op,cit [↑](#footnote-ref-9)
10. Conversation with Bajau community, mainly with Kekar (Kerukunan Keluarga Bajo, the community of families of Bajo) [↑](#footnote-ref-10)
11. e.g. as widely discussed in *Marine Research and Convservation in the Coral Triangle, the Wakatobi National Park* (2010, Julian Clifton, Richard K.F. Unsworth, David J. Smith) and in the work on “Selayar” (*Pengaruh Sosial untuk Melindungi Terumbu Karang, Social impact in protecting coral*. 2019, Ali Yansyah Abdurrahim, Helen Ross, Andi Rismayani, Andi Ismainna and Dedi S. Adhuri) [↑](#footnote-ref-11)