

Saniri Alifuru Alifuru Council

Universal Periodic Review Submission
Republic of Indonesia
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A. Introduction and Summary

1. The Alifuru people are the Indigenous peoples living on the Maluku archipelago situated between the Philippines and East Timor. There are an estimated 1027 islands, with a total area of 850,000 km², 90% of which is sea. Maluku's population is 2,571,593 (2010), and over 100 languages are spoken across the islands. The Alifuru culture has been purposely suppressed by Indonesian authorities, and the forests in which they have resided for time immemorial have been exploited by logging companies, and government projects. The Alifuru adhere to their traditional religion which is mostly based on a belief that the ancestors control every day life and if the traditions they handed down are not followed correctly the living will be punished.
2. Saniri Alifuru (Alifuru Council) is a consortium of traditional chiefs and leaders of the Maluku islands, that has existed since time immemorial, established in the pre-colonial era committed to ensure the survival of the Alifuru people through the promotion and protection of their social, economic, cultural, educational, spiritual, and political needs. The Saniri has a unique oral constitution that provides for the functioning of the Council. Saniri Alifuru aims to include all traditional chiefs and leaders in its work including from Weta r, Kisar, Romang, Leti/Moa/Lakor, Damar, Teun/Nila/Serua, Babar, Tanimbar, Kei, Aru, Banda, Watubela, Gorom, Geser, Lease, Ambon islands and from Buru the districts Ambelau/Namrole, Kapalamada/Airbuaya, Namlea/Teluk Kayeli, Tg. Walwalat/Leksula, Buano/Kelang/Manipa, on Seram the districts of Alune/Makahala, Wemale, Nuaulu, Huaulu, Sima Sima, Nusamwele, Manusela, Hatuolo, Tanahbaru, Waerama, Uhei Kahlakim, Bobot, Bonfia, and Seti. Inclusiveness is one of the pillars of the traditional council and always welcomes traditional chiefs and leaders as new members.
3. Given that the Indigenous governing system of Maluku including that the Saniri institution has existed pre-colonialism, the Saniri Alifuru is not a legal entity. Due to the increased challenges on the local, regional and global level, inherently endangerment of the Alifuru livelihood and habitat, the Saniri saw the need to participate in decision making processes that affect them, processes that occur on the aforementioned levels. To assist the Saniri in its work, yet maintaining its traditional integrity, the Saniri Alifuru has established a Secretariat. The Secretariat provides operational support to the Saniri in its broad range of work, visits, studies, trainings, and other activities.

4. As the United Nations Declaration on the Rights of Indigenous Peoples¹ is the basis of our activities as Indigenous peoples and engagement with the dominant Indonesian society, Saniri Alifuru is proud to have been instrumental in the development of the outcome document of the High-level plenary of the United Nations General Assembly to be known as the World Conference on Indigenous Peoples 2014², focusing on raising the human rights standards for Indigenous Peoples. Presently Saniri Alifuru runs several local programs to advance the capacities of the Indigenous Alifuru Peoples and reinforces the rights of Indigenous peoples on a local level and commits to continue advocacy for human rights of all Indigenous Peoples within the UN human rights system.

5. Striving to sustain and expand the human rights enjoyment of all Indigenous peoples including those situated on the Maluku islands Saniri Alifuru respectfully submits this stakeholder report for the Universal Periodic Review (UPR) of the Republic of Indonesia in May 2017. For the compilation of this report Saniri Alifuru relied on its strengths: Engagement with grassroots traditional chiefs and leaders, and connect with the United Nations. This report addresses and offers recommendations under three overarching themes:

- Indigenous Lands, Territories and Resources;
- International Human Rights Framework;
- Criminalization of Peaceful Political Activities.

B. Methodology

1. This stakeholder report was compiled through a consultation process that took place from January until August 2016. The process occurred through events both in person and via online communication platforms. The three above mentioned overarching themes derived from the consultations.
2. Participants were asked to share direct, firsthand testimonials, experiences, on the human rights record of Indonesia and to offer action-oriented proposals, recommendations and ideas.
3. In drafting and compiling this report, Saniri Alifuru has identified recommendations, comments and other content that emerged from the 2nd cycle UPR consultations.

C. Indigenous Lands, Territories and Resources

¹ A/RES/61/295, UN General Assembly, "United Nations Declaration on the Rights of Indigenous Peoples", 13 September 2007

² A/RES/69/2, UN General Assembly, 22 September 2014, "Outcome Document of the high-level plenary meeting of the General Assembly to be known as the World Conference on Indigenous Peoples"

1. The continuing threats to the cultural heritage of Indigenous Peoples summons a planned approach by the United Nations and its Member States to comply with their international human rights obligations relating to Indigenous Peoples.
2. In Indonesia, indigenous peoples' rights stipulated in the Constitution of 1945, Article 18 B, paragraph 2, states: *“The State recognizes and respects units of indigenous people and their traditional rights of all are still alive and in accordance with the development of society and the rule of unitary Republic of Indonesia, which is set in the law. From this it is clear that the provisions of the State of Indonesia recognizes the indigenous peoples within the territory of the Unitary Republik Indonesia.”*
3. But in practice, the protection of the rights of indigenous peoples are not reflected in the legislation that should be in terms with international law and respect and protect the rights of indigenous peoples, especially the right to their natural resources as reflected in UN Declaration on the Rights of Indigenous Peoples, Article 26.
4. The UN Declaration constitutes a legal and moral framework for the survival of Indigenous Peoples, and to uphold the full enjoyment of dignity, freedom and equality for Indigenous Peoples. The adoption in 2007 represented a major accomplishment, and epitomized the change of attitude of the international legal community vis-à-vis Indigenous Peoples from consideration to commitment, and recommitment³, as the General Assembly adopted the World Conference on Indigenous Peoples Outcome Document in 2014.
5. Self-determination⁴ is the very heart of the UN Declaration, it is an important element for Indigenous peoples to control their destinies, it is consistent with international law, and a prerequisite to the enjoyment of all the rights, including free prior and informed consent.
6. As the Indigenous Alifuru Peoples' contemporary livelihoods are based upon subsistence that includes the processing of sago, taro, hunting in the forest, fishing in rivers, waters and seas, ensuring natural balance and prevent excessive exploitation. The Alifuru peoples have experienced between 2012 and 2016 land grab and exploitation of lands, territories and resources. We highlight in this report the situations of the Sepa district and the islands of Romang, Buru, and Aru.
7. Romang is a small island which has a broad range of natural resources ranging from forests, spices, and fisheries, Romang has since 2006 become the aim of PT. Gemala Borneo Utama a privately owned Indonesian mining company. Post 2nd cycle UPR review of Indonesia the Indigenous peoples living on the island of Romang dependent on its natural forests and spice have formed a symbiosis since time immemorial, but

³ General Assembly resolution 69/2, para. 7

⁴ See A/HRC/24/50, A/HRC/27/65, A/HRC/18/42 and A/HRC/21/55

recently had to witness increasing land grabs from the mining company. The Indigenous peoples have therefore asked to revoke the license of PT. Gemala Borneo Utama.⁵

8. More than 50 percent of the traditional territories and their resources of the Indigenous Alifuru peoples living on the island of Aru, an area encompassing 484,500 hectares⁶ has been granted to the Menara Group for a sugarcane plantation. As the Committee on the Eradication of Racial Discrimination in its letter dated August 28, 2015 recalls previous recommendations and letters sent to the State, and calls upon Indonesia to ensure that they respect the rights of Indigenous peoples and take steps to return the lands.⁷ To date, Indonesia has not taken any measures to that effect.
9. Since 2015 one of the Alifuru tribes called Nuaulu, living in the area of Sepa, a district on the island of Seram, have been battling the Indonesian Ministry for Forestry and Environment and timber enterprise PT Bintang Lima Makmur. The Nuaulu demands the license of PT Bintang Lima Makmur to be revoked to save 24,500 hectares of Indigenous forests containing traditional locations which are considered sacred by the Nuaulu tribe and are threatened to be destroyed.⁸
10. The Alifuru peoples also expresses its concerns over deviation from the traditional mechanisms that need to be applied preceding the right to free prior and informed consent regarding access to indigenous lands, territories and resources in cases such as mining on Indigenous lands in the area of Gunung Botak “Bald Mountain” on the island of Buru an issue that emerged in 2014 and is still ongoing. The Indonesian ministry for Forestry and Environment has granted the 250 hectares encompassing Gunung Botak to mining company Freeport-McMoRan Inc, which has also removed the Indigenous peoples living there. As of now non-Alifuru 10,000 prospectors from neighboring islands of Java, Maduro, Manado have set up camp on Gunung Botak to scavenge for gold. The mining activities so far have caused water contamination due to mercury and other chemicals, the activities cause soil erosion, becoming an area unsuitable for future use by the Indigenous peoples.
11. It is evident that the Indonesia continues to “lack any effective legal means to recognize, secure and protect Indigenous Peoples’ rights to their lands, territories and resources”.⁹

⁵ See Tribun Maluku Koalisi, “Save Romang” Ingin Bertemu Gubernur Soal GBU [Coalition “Save Romang” Wants To Meet Governor about Problem GBU], 4 May 2016, available at: <http://www.tribun-maluku.com/2016/05/koalisi-save-romang-ingin-bertemu-gubernur-soal-gbu.html>

⁶ See <http://www.forestpeoples.org/sites/fpp/files/news/2015/10/aru-islands-ew-ua-request-final.pdf> para 3

⁷ CERD/87th/EWUAP/GH/CG/ks

⁸ See Maluku News, “LSM Pukat Seram Tantang PT. BLM yang Mau Babat Habis Hutan Sepa” [NGO seines Seram regarding PT. BLM that wants to clear out Sepa forest], 9 februari 2016, available at: <http://malukunews.co/berita/malteng/1c5zg0qc03pw8ok/lsm-pukat-seram-tantang-pt-blm-yang-mau-babat-habis-hutan-sepa>

⁹ Communication of the Committee adopted pursuant to the early warning and urgent action procedures, 13 March 2009, at p. 2. Available at: http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/Indonesia130309.pdf.

Recommendations to the Government of Indonesia on Indigenous Lands, territories and resources

- That Indonesia reviews its laws as recommended in para 16 of CERD/C/IDN/CO/3 of 15 August 2007 as a matter of urgency.
- Take steps to prevent abuses of the rights of Indigenous Peoples in compliance with the commitment made in World Conference on Indigenous Peoples Outcome Document Article 24.
- To reaffirm and honour existing obligations to obtain the free prior and informed consent prior to the approval of projects affecting their lands or territories and other resources as recognized in World Conference on Indigenous Peoples Outcome Document Article 20.

D. International Human Rights Framework

1. The Indonesian Government has a poor record in its treatment of Indigenous Peoples, including the Indigenous Alifuru Peoples. The colonisation of Indonesia of the Alifuru archipelago has resulted in an ongoing legacy of injustice and racial discrimination, and excessive use and abuse of Peoples, lands territories and resources.
2. The injustice has resulted in a disadvantage for the Alifuru that are controlled by the dominant government using laws, policies, programs, and actions that occur beyond the reach or influence of the Indigenous peoples concerned.
3. The education policies of the Indonesian Government are heavily biased and are not culturally appropriate, instead are focussed on educating the young Indigenous generation to conform to the social norms of the Indonesian society while the Alifuru interests are discouraged and any Indigenous practice is prevented from consideration, showing an unwillingness to promote and protect the human rights, the fundamental freedoms and the collective identity of the Alifuru Peoples.
4. On 22 September 2014 the United Nations General Assembly adopted a resolution taking specific actions to promote and protect the rights of Indigenous Peoples enshrined in the Outcome Document of the World Conference on Indigenous Peoples (WCIP2014). This action-oriented document is conceived by both Indigenous Peoples and Member States and signify the next step towards recognition of the distinct rights of Indigenous Peoples and identity as self-determining peoples.
5. One key action in this Outcome Document is that Member States are encouraged to report to the Universal Periodic Review through their reports measures taken to pursue the objectives of the Declaration on the Rights of Indigenous Peoples.
6. The following recommendations are framed to advance the human rights of the Indigenous Alifuru people based on the human rights frameworks and mechanisms established by the United Nations.

Recommendations to the Government of Indonesia on International Human Rights Framework

- Recalling recommendation 109.7, we recommend Indonesia to ratify ILO Convention NO. 169 and revise the national constitution, laws, and policies to fully recognize and protect the rights of Indigenous Peoples.
- Recalling recommendation 109.36 we recommend Indonesia to promote implementation of the UN Declaration on the Rights of Indigenous Peoples through legislative, policy and administrative measures and the full awareness of the Declaration amongst all sectors of society including the private sector, as reflected in Operative Paragraph 7 of the WCIP2014 outcome document.
- Establish at the national level, in conjunction with Indigenous Peoples concerned, a fair, independent, impartial, open and transparent mechanism and processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining their lands, territories and resources as reflected in Operative Paragraph 8 of the WCIP2014 outcome document.
- Support Alifuru initiatives towards self-governance including the delivery of culturally-sustainable and appropriate services through their own institutions within their communities for health, education, welfare, and other social needs.
- Recalling recommendation 108.55, and 109.15 we recommend Indonesia to extend an invitation to the Working Group on enforced or involuntary disappearances; Independent Expert on minority issues; Special Rapporteur on the right to food; and the Special Rapporteur on the rights of indigenous peoples in order that they visit Indonesia, Maluku and Papua in particular.

E. Criminalization of Peaceful Political Activities

1. The Indonesian government has grown extremely sensitive toward pro-independence agitation (RMS) in Maluku following an embarrassing incident during a 2007 visit to Ambon by President Susilo Bambang Yudhoyono.
2. On June 29, 2007 a group of South Moluccan dancers passed uninhibited through several layers of security at Ambon stadium, and confronted Yudhoyono by performing a traditional cakalele war dance and unfurling an RMS flag, symbol to the peaceful pro-independence movement. The stunt – thought to have been masterminded by Simon Saiya as he was a praised leader – garnered a harsh reaction from the government, arresting over 23 traditional dancers as a government regulation No. 77/2007 issued in December 2007 prohibits the display of the RMS flag in Maluku and other “separatist” flags.¹⁰

¹⁰ See Amnesty International, *Jailed for Waving a Flag: Prisoners of Conscience in Maluku* (Index: ASA 21/008/2009), (Amnesty International, *Jailed for Waving a Flag*), p19.

3. Over 70 people are currently imprisoned, some as long as 20 years, for attending, organizing or participating in peaceful political activities, protests or possessing, raising or waving the prohibited pro-independence flags of Maluku. Many of those arrested are charged with “rebellion” under Articles 106 and 110 (crimes against the security of the state) of Indonesia’s Criminal Code which carries a maximum life sentence.
4. In November 2008 WGAD declared the detention of the cakalele war dancers to be arbitrary on the grounds that they were imprisoned for the exercise of his rights to freedom of expression and peaceful assembly and because they have been subjected to an unfair trial.¹¹
5. As authorities suspected Saiya to have been mastermind of the 2007 incident has been a fugitive ever since. On April 25 2014, Ambon police arrested Simon Saiya, along with several others during a peaceful demonstration. On the day of his arrest, Saiya and his followers marched peacefully in an annual independence demonstration in Batu Gantung. Police arrested Saiya and eight of his followers – four of them minors – on charges of treason.
6. While in detainment, authorities failed to ensure medical care as Saiya’s heart condition was declining. Saiya’s health was deteriorated such that he was admitted into Tantui prison infirmary on December 31st 2015 where he received initial medical attention.
7. On 22 February 2016 Simon Saiya died after a coma due to denial of medical care. Johan Teterissa et al. remain incarcerated.
8. Human Rights Defender and lawyer of Simon Saiya Yanes Balubun and other political prisoners was found dead under mysterious circumstances on 26 May 2016. Indigenous peoples highly suspect a correlation between his death and the death of Simon Saiya. No prompt and proper investigation has been conducted by the authorities for both.

Recommendations to the Government of Indonesia on Criminalization of Peaceful Political Activities

- Recalling recommendations 108.18, 108.89, 108.113, 108.116, 109.32, and 109.33, we recommend the repeal or else amendment of laws and regulations including Articles 106 and 110 of the Indonesian Criminal Code so that these articles are no longer used to criminalize freedom of expression or impose restrictions on this right; and to
- Revoke Article 6 of Government Regulation No. 77/2007 which prohibits the display of separatist logos or flags, or else bring it into compliance with the International Covenant on Civil and Political Rights.

¹¹ WGAD Opinion No. 41/2008 (Indonesia)

- Recalling recommendations 108.90, 108.91, and 108,95 we recommend a full and proper investigation into the deaths of Simon Saiya and Yanes Balubun.