

Questionnaire to National Human Rights Institutions

The theme of the 2017 session of the UN Permanent Forum on Indigenous Issues will be:

Tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples: measures taken to implement the Declaration.

1. Recommendations of the UN Permanent Forum on Indigenous Issues

At its 2016 session, the Permanent Forum recognized “the contributions of national human rights institutions in the promotion and protection of human rights, including the rights of indigenous peoples, and welcomed their participation in future sessions of the Forum “.

- a) The theme of the 2016 session was “Indigenous peoples: conflict, peace and resolution” (paragraphs 49-64). Please provide information on how your Human Rights Institution is working on issues related to conflict, peace and resolution for indigenous peoples. Where possible, please include information on the situation of indigenous women in your responses.

Komnas HAM (The Indonesian National Commission on Human Rights) has been working in the main conflict areas in Indonesia since it was established in 1999, particularly in Aceh, West Kalimantan, Central Sulawesi, Molluccas and West Papua. In addition, we also work in other areas where we are needed. Based on the submitted complain and situation analysis, Komnas HAM conducted monitoring, investigation, research, education and training on various issues and groups, including the indigenous peoples.

We conducted a National Inquiry on the Rights of Indigenous Peoples over Their Territories in Forest Zones. The inquiry was conducted based on the previous research and submitted complaints over the land claims conflict in Forest Zones all over the country. The inquiry produced a long list of recommendation for the Parliament, President of Indonesia, Minister of Environment and Forestry, Minister of Home Affair, Chief of Police, Chief of the Armed Forces, Head of Districts and several other Ministries.

Komnas HAM support Lampung Provincial Government (Sumatera Island) in analysing the root causes of social conflict, identifying possible conflict resolution mechanisms and promote peaceful societies. Most of the social conflicts manifested in Lampung Province involving indigenous communities and migrants.

- b) The 2017 session will include a focus on indigenous human rights defenders. Please provide information on the work of your commission/institution in relation to indigenous human rights defenders?

Komnas HAM established a mechanism for appointing each Commissioner to become special rapporteur for specific issues and/or marginalized communities. Two Commissioners were appointed as the Special Rapporteur for including the indigenous peoples’ rights and human rights defenders.

Commissioner Sandrayati Moniaga who's been in charge on Indigenous Peoples' issues has been working with The Alliance of Indigenous Peoples of the Archipelago (AMAN) to explore possibility on how to prevent the criminalization of indigenous rights defenders and rehabilitate the legal status of indigenous rights defenders. Meanwhile, Commissioner Siti Noor Laila, have been promoting the urgency of a special legal protection for the human rights defenders in general.

Komnas HAM include a special clause on the protection for the human rights defenders in the proposed revision of the Law No. 39 of 1999 on Human Rights which submitted to the Parliament.

2. Promoting and protecting indigenous peoples' rights

The UN Declaration on the Rights of Indigenous Peoples was adopted in 2007. To mark the tenth anniversary, and assess gains and achievements, please provide further information on the following:

- a) What are the main activities carried out by your institution/commission at the national and/or regional level to implement the UN Declaration on the Rights of Indigenous Peoples?

Komnas HAM proposed the main principles of UNDRIP to be adopted the Draft Law on Indigenous Peoples (*RUU PPMHA*¹) since 2013. The Draft Law was discussed in the Parliament in 2013 to 2014. Unfortunately it did not finalized before the term of the Member of the Parliament ended in 2014. The Drafting process restarted again this year. Komnas HAM will continue focus on the integration of human rights principles, including UNDRIP, into the Draft of the Law.

- b) What are the main constitutional, legislative and/or administrative developments taken or planned to promote and/or implement the UN Declaration on the Rights of Indigenous Peoples in your country? Has your institution/commission been involved in these processes, and if so how?

Ideally, UNDRIP's principles shall be transplanted to *RUU PPMHA* or the Draft Law on Indigenous Peoples and it's implementing regulation and program. However, while the Draft Law is the process of making, we could work with the relevant Ministers and several regional governments to enact regulations and develop relevant programs.

Komnas HAM has been involved in submitting our draft of the law to the Parliament; recommend several ministers and local governments. Then, we coordinate with AMAN and other NGOs in monitoring the implementation.

- c) Has your institution/commission been engaged in the process for the Universal Periodic Review, and the work of the special procedures and treaty bodies? If so, did this include specific reference to indigenous peoples?

¹ *RUU PPMHA* is the abbreviation of Rancangan Undang-undang tentang Penghormatan dan Perlindungan Masyarakat Hukum Adat which literally translated as the Draft Law on Respect and Protection of the Indigenous Peoples'

Yes, Komnas HAM submit its report for the UPR for Indonesia in 2008, 2012, and 2017 which submitted in September 2016. We also involved in the review of treaty bodies.

Komnas HAM included specific references to indigenous peoples issue in:

- Comments' of Komnas HAM on the Indonesia's Compliance with the International Covenant on Economic, Social and Cultural Rights, April 2014; and
- Submission to the United Nations 3rd Universal Periodic Review, 27th Session of the Working Group on the UPR of Human Rights Council, September 2016.

- d) Please provide information on any activities and programmes that your - institution/commission carries out or plans to that are specific to indigenous peoples.
- Monitor several cases concerning indigenous peoples' rights, ranging from civil, political, economic, social and cultural rights;
 - Research and Review on various issues related to indigenous peoples rights;
 - Human Rights Training for indigenous leaders and activist;
 - Conduct a National Inquiry on the Rights of Indigenous Peoples in Forest Zones;
 - Amicus Curiae at the Court;
- e) Has your institution/commission been engaged in protecting the rights of indigenous peoples, with particular reference to their lands, territories and resources?
- Yes, we do

3. Follow up to the World Conference on Indigenous Peoples

The UN organized the first World Conference on Indigenous Peoples in September 2014. At the World Conference, Member States made a number of commitments that are of relevance to human rights institutions. Please provide information on measures taken or planned by your institution to support the following:

- a) To develop and implement national action plans, strategies or other measures, where relevant, to achieve the ends of the Declaration, in cooperation with indigenous peoples, through their own representative institutions;
- b) To intensify efforts, in cooperation with indigenous peoples, to prevent and eliminate all forms of violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities, by strengthening legal, policy and institutional frameworks;
- c) To establish at the national level, in conjunction with the indigenous peoples concerned, fair, independent, impartial, open and transparent processes to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources.

Komnas HAM support AMAN's proposed agenda to the President which is establishing an independent special task force which shall accelerate the Draft finalization Law on IPs which will work for certain defined period.

The Law is needed to provide a more elaborated rights and mechanism to respect, protect and fulfil those rights. It shall be the main legal instrument to prevent and eliminate all form of violence and discrimination against indigenous peoples and individuals. Furthermore, it will also be the main legal basis to establish a national institution for IPs.

The draft of Presidential Regulation for establishing the special task force is finalized and expected to be sign by the President, hopefully not later than the beginning of 2017. And the process for discussing and formulating the draft Law on IPs scheduled to begin in May 2017.

Komnas HAM committed in monitoring the realization of the Parliament and Government commitments to the indigenous peoples in Indonesia.