Jelai Dayak man, West-Kalimantan province. Photo: Christian Erni

Country Profile

Indonesia

Indonesia consists of more than 17, 000 islands, covers a land area of 1,919,440 km^2 and has a population of around 220 million people. Indonesia is an ethnically extremely diverse country. Over 700 different languages have been identified.[1] Indonesia is still a unitary state with a strong central government, even though political and governmental structures have been decentralized after the resignation of President Suharto in 1998.

The government officially recognizes 365 ethnic and sub-ethnic groups as so-called *komunitas adat terpencil* (isolated *adat*[2] communities). They number about 1.1 million. However, there are many more ethnic groups that consider themselves, or are considered by others, as indigenous peoples. The nation-wide indigenous peoples' organization, Aliansi Masyarakat Adat Nusantara (AMAN), uses the term *masyarakat adat* to refer to indigenous peoples. A conservative estimate of the number of indigenous peoples in Indonesia amounts to between 50 and 70 million.

Terms used for indigenous peoples

Terms used to refer indigenous peoples in Indonesia change from time to time. During the General Soeharto regime (1967-1998), various terms were used to refer indigenous peoples such as *masyarakat terasing* (isolated people), *suku-suku terasing* (isolated tribes), *masyarakat terkebelang* (backward people), *masyarakat terpencil* (remote community) etc. These terms usually represent negative connotations and were use to emphasize the backwardness of indigenous peoples, that had led to discrimination, marginalization and exclusion of indigenous peoples.

The term *Masyarakat Adat* was initially introduced by JAPHAMA[3] in 1993 and later on endorsed by Indigenous Peoples Congress in 1999. *Masyarakat Adat* is more accepted and has been consistently used by indigenous peoples as well as NGO, Academics and some government official.

After the fall of Soeharto, Indonesian Government has been using several terms. *Masyarakat hukum adat*[4] *and masyarakat tradisional*[5] are used in Indonesian Constitution (second Amendment, 2000). *Masyarakat adat* is also used consistently in the Act No 27/2007 on Coastal and Small Islands Management.

The Department of Social Welfare of Republic Indonesia uses *komunitas adat terpencil* (remote indigenous community) to replace *masyarakat terasing* (isolated community) which was used prior to the implementation of Presidential Decree no.111/1999 on the Establishment of the Social Welfare of Isolated Indigenous Communities.

The Government's position regarding the recognition of indigenous peoples and their rights

In the early days of Indonesian independence, the Department of Social Affairs was put in charge of what came to be called *masyarakat terasing.* Its work was limited to relief projects for a few small and impoverished groups, which however had little impact.[6] The government's policy was to integrate these people, who were considered backward, into mainstream society. This was to be achieved by rather drastic means such as prohibiting traditional ways of life (like living in communal houses) or forced resettlement. Indigenous people's right to land and resources were not recognized, they were considered illegal occupants of state forest land which the government wanted to open up for logging, mining, plantation and transmigration projects. The latter involved the settlement of hundreds of thousands of migrants on indigenous peoples' lands, above all in West Papua, Kalimantan and Sumatra.

The third amendment of the Indonesian Constitution of 2001 recognizes indigenous peoples' rights in Article 18 Para 2 (concerning regional government) *"The State recognizes and respects indigenous communities along with their customary rights as long as they are still exist, in accordance to the society/cultural development and civilization within the Unitary State of Indonesia, and they are recognized legally by law".*

Article 28I Para 3 (regarding Human Rights) respects the cultural identity of indigenous peoples.[7] These two articles use two terms to refer indigenous peoples, namely masyarakat hukum adat (Article 18 Para 2) and *masyarakat tradisional* (Article 28I Para 3). In addition, these two article emphasize the recognition of indigenous peoples shall apply *as long as they still exist, in accordance to the society/cultural development* and *civilization within* the *Unitary State of Indonesia,* and *they are recognized legally by law.*

However, the Indonesia government at international fora persistently argues that the concept of indigenous peoples is not applicable in Indonesia, as almost all Indonesians (with the exception of the ethnic Chinese) were indigenous and thus entitled to the same rights. Consequently, the government rejected all calls for special treatment by groups identifying themselves as indigenous, which prevented indigenous peoples from maintaining their distinct identity and control over their territories, land and resources.

There are several Indonesia's laws and policies that at least implicitly recognize or are in other ways related to indigenous peoples' rights:

1. Act No. 39/1999 on Human Rights
2. Act No. 10 /1992 on Population and Prosperous Family
3. Act No. 22/1999 on Local Government
4. Act No. 5/1960 on Basic Regulations on Agrarian Principles (or Basic Agrarian Law)
5. Act No. 41/1999 on Forestry
6. Act No. 5 of 1990 on the Conservation of Biological Resources and the Ecosystem
7. Act No 27/2007 on Coastal and Small Islands Management.
8. People's Assembly Decree 17/1998 on Human Rights,
9. People' Assembly Decree 9/2001 on the Agrarian Reform and Natural Resource Management.
10. Act number 24/1992 on the Spatial Layout Planning
11. Act No. 23/1997 on the Environmental Management
12. Act No. 10/2004 on the Law-Making Process
13. Act No. 32/2004 on the Local Government
14. Government Regulation No. 76/2001 on the Local Government Implementation Guidelines
15. Ministerial Regulation of the Agrarian Minister and the Head of the National Land Agency number 5/1999 on the Guidelines on Dispute Resolution of the Communal Title of the Indigenous peoples.

In addition, there are many district-level or provincial legislations and policies relevant for indigenous peoples.

Indonesia voted for the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) at the UN General Assembly on 13 September 2007. This shows commitment by the government for the protection of Indonesia's indigenous peoples. The UNDRIP added on to a set of the core international human rights instruments that Indonesian has, although in several cases with reservations, become party to. They are as following:

1. International Convention on the Elimination of All Forms of Racial Discrimination, Party since 25 June 1999 (Reservation)
2. International Covenant on Civil and Political Rights, Party since 23 February 2006 (accession)
3. International Covenant on Economic, Social and Cultural Rights, Party since 23 February 2006 (accession)
4. Convention on the Elimination of All Forms of Discrimination against Women, Party since 13 October 1984
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Signatory since 23 October 1985 , Party since 28 October 1998
6. Convention on the Rights of the Child, Signatory since 26 January 1990, Party since 5 September 1990
7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Signatory since 22 September 2004.

Identifying indigenous peoples in Indonesia

The number of ethnic groups in Indonesia is not known and estimates very considerably. Leo Suryadinata et. Al. in 2003[8] reported that there are 100 ethnic and sub-ethnic groups (including the Chinese descendants). The Joshua Project[9] in 2007 estimated that Indonesia has some 758 ethnic and sub-ethnic groups, while the Summer Institute of Linguistics Ethnologue reports that there are 737 living languages in Indonesia. According to a rough classification suggested by Noer Fauzi 45% of the people in Indonesia are Javanese, 14% Sundanese, 8% Maduranese, 7% Malay, and the remaining 26% belong to numerous small ethnic groups.[10]

The Ministry of Social Welfare officially recognizes 365 groups as *masyarakat adat* terpencil ((isolated *adapt* communities) with a total population of 1.1 million.[11] The national alliance AMAN estimates that out off the 210 millions of Indonesia's population, around 50-70 million are indigenous. This prediction is established based on the working definition endorsed in March 1999 by the Congress of Indigenous Peoples of the Archipelago (KMAN-Kongres Masyarakat Adat Nusantara) as *"the people who live in a community unit descendent from specific generation over a territorial area, has sovereignty over the land and natural resources, their distinct socio-cultural system is ruled by customary law and governed by indigenous institution"*[12] (KMAN 1999). Indigenous Peoples live mostly in the so-called "outer islands", i.e. the archipelago outside Java, and in the eastern part of Indonesia. The main groups consist

With the high diversity of ethnic groups and the fact that most of them are ethnic groups with small populations, the identification of indigenous peoples based on the ethno-linguistic approach alone is difficult and problematic. It has

therefore been suggested to us a the community approach. Using this approach in practice means that among the Javanese, for example, who are the biggest ethno-linguistic group in Java, small communities like the Orang Kanekes (also known as Baduy people), the Kasepuhan in Banten Kidul and the Orang Osing in East Java can be identified as indigenous peoples since they identify themselves as such in distinction to the majority Javanese. This situation has created challenges in the effort to identify the numbers and the populations of indigenous peoples in Indonesia. A similar situation is also found in the Malayu territory which concentrated in west coast of Sumatera. In that area, we can find indigenous communities like the Orang Rimba, Nias, Mentawai and Orang Talang Mamak who maintain a distinct identity vis-à-vis the majority.

This country profile was written by Rukka Sombolinggi, AMAN, with inputs from Abdon Nababan (Executive Secretary of AMAN) and Christian Erni (IWGIA).

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On linguistic diversity:

Ethnologue web-site: http://www.ethnologue.com/show_country.asp?name=id

Notes

1 http://www.ethnologue.com/show_country.asp?name=id
2 Wikipedia defines adat as follows: "*Adat (Arabic* عادة *ādah)* is a set of local and traditional laws and dispute resolution systems in many parts of Nusantara. In older Malay language, adat refers to the customary laws, the unwritten traditional code regulating social, political, and economical as well maritime laws." http://en.wikipedia.org/wiki/Adat
3 JAPHAMA - *Jaringan Pembelaan Hak-Hak Masyarakat Adat* (Network of Indigenous Peoples' Rights Defender)
4 Article 18B(2)
5 Article 28I (3) – Human Rights Section
6 Persoon 2004: 11
7 The Second Amendment of the Constitution of 2000 uses two terms to refer indigenous peoples. Article 18B-2 uses *masyarakat hukum adat* while Article 28I-3 uses *masyarakat tradisional.*
8 Suryadinata, Leo, Evi Nurvidya Arifin, Aris Ananta 2003
9 http://www.joshuaproject.net
10 Fauzi 2005
11 International Work Group for Indigenous Affairs 2007: p. 322
12 Kongres Masyarakat Adat Nusantara (KMAN) I, Jakarta 1999