Indonesian NGO Alternative Report_ICERD

ALTERNATIVE REPORT ON ICERD
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"Breaking the smoke-screen of Racial Discrimination and Impunity in Indonesia"

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ALTERNATIVE REPORT ON ICERD
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CHAPTER I
INTRODUCTION: POLITICAL REALITY OF RACIAL DISCRIMINATION IN INDONESIA

1. In respond to Government of Indonesia's report, NGOs in Indonesia prepare an alternative report. At this stage, the report is still in a form of preliminary. This report is the final alternative report after having a national NGO consultation last 21-23 June 2007 in Bogor, West Java, Indonesia. A national NGO Coalition on ICERD consist of 25 NGO from different provinces in Indonesia namely West Papua, Eastern Part of Nusa Tenggara Islands, Kalimantan, Sulawesi , Aceh-Sumatra.[1]

2. The outline of this report are as followed;
   a. Background that contain introduction of racial discriminations reality in Indonesia specifically on existing and applied policies in Indonesia. This part will also explained about general shortcomings of Government's report both in terms of substance/arguments and facts or cases used.
   b. Thematic issues. In this chapter there are some thematic issues that We consider as the main concerns on the implementation of CERD with reference to Committee's General Recommendations. From those issues, the subject on Impunity and racial discrimination are considered as the most crucial matters.

   The thematic issues are:

   1) Legal Framework
   2) Impunity, such as the May 1998 Tragedy where rape cases took place against ethnic Chinese women, as well as ethnic conflict in Sampit district in Central Kalimantan, and in Sambas District in West Kalimantan.
   3) Discrimination against Chinese ethnic, specifically regarding *Surat Bukti Kewarganegaraan Indonesia* (SBKRI or Proof of Indonesian Citizenship) and the Stateless status of Chinese ethnic
   4) Discrimination against indigenous people.
   5) Restrictions against ethnic groups and religious groups
   6) Denial of the rights of Internally displaced Persons as victim of ethnic conflict
   7) Racial discrimination in Papua

3. Discrimination is cultural phenomenon in any society in the world. But when a state, based on its policies and regulations, discriminates its own citizen or any individual in its territory, it certainly is a denial of humanity. Moreover, in the context of Indonesian state with its constitution that upholds the rechtstaat.

4. Politics of Racial discrimination exist since a long time ago in Indonesia, it is even older than the age of Republic of Indonesia. Racial discrimination politic has been applied since Dutch colonial era in 1849, with its racial segregation law through

[1] See further details of the members organisation of the Coalition Annex 3 of the report

private law ‘Indische Staatsregeling’. Since then, it extremely influences politics and practices of racial discrimination until now. Particularly in the period of 1953 to 1970, there have been numerous discriminative policies towards many racial groups in Indonesia which violates 1965 ICERD, one of them implicated to Chinese ethnic group. Those various policies including the obligation to posses Letter of Proof of Republic Indonesia Citizenship (SBKRI), restrictions of having education, restriction to enrol as Government personnel/army/police forces, general prohibition to use Mandarin language, limitation of property ownership and even furthermore restriction to trade in counties in 1959.

5. Racial Discrimination practices in Indonesia have also taken place due to conflict of laws, namely various conflicts within the Constitution (between articles), conflicts between laws, and conflicts within the hierarchy of law and regulations. Conflict of laws become as source of legitimation in committing acts of discrimination in a wider scale.

6. This racial-based politics was escalated with Government failure to provide minimum social welfare, which ended in abundance of racist treatment that resulted in systematic rights violations against Chinese ethnic. Such as Chinese massacre by Dutch colonial rulers in 1840, riot in Bandung and recently May 1998 riot in various cities in Indonesia. The Government is unable to provide protection or even justice/remedy to the victims.

7. Not only against Chinese ethnic, discriminative policy has also victimized indigenous people whose rights have been violated, such as the rights to their communal land, the rights to manage natural resources, and their civil and political rights. Restriction against the freedom of belief leads to the denial of their civil rights as citizens, such as the right to build a family and to have children. This type of restriction is experienced by, for example, ethnic community who holds traditional beliefs.

8. Before 1998, there was no any Government’s effort to eliminate racial discrimination; furthermore those acts of discrimination often are not perceived as discrimination at all. Later in 1999, when political reform started by the resignation of Soeharto as the President of Indonesia, Republic of Indonesia ratified Convention on Elimination of All Forms Racial Discrimination in 1999, caused by pressures from International community after May 1998 riot.

9. Since ratification of ICERD in 1999, IGO effort to eliminate racial discrimination in Indonesia specifically in relations with revoking all discriminative policies has been very slow, despites many political promises stated by politicians and Government officers. Some steps and efforts of law reforms that have been performed by the Government of Indonesia because of people’s pressure and initiative, which also have performed several law actions. Such as, political changes for elimination of racial discrimination in Indonesia like the permitted publishing of Mandarin language media, establishment Imlek New Year as National Holiday, or the effort the eradication of SBKRI / LPRIC obligation by President Resolution No. 56 in 1996 and Law No. 12 in 2006 on Citizenship. Unfortunately that policy is not completely applied. For instance,

countless racial discrimination cases are still happened and the Government has not performed any effective protection or public lawsuit on those racial discriminations although Government apparatus who done it. Furthermore, those law enforcement have not been reflected yet, because there are still some discriminative regulations like Law No. 23 in 2006 about Residence-Administration that sill discriminating and several Provincial Regulations/by-laws (There is a Law that was born to eliminate discrimination practices, which is Law No. 12 in 2006 about Citizenship, on the other hand another discriminative Law was also adopted by Indonesian parliament namely Law No. 23 in 2006 about Civil Registration)

10. We welcome the effort of Government of Indonesia to fulfill its obligation as state party of ICERD to submit a consolidated report of initial, first and second periodical report on the implementation of ICERD in Indonesia. the report reflects loads of progress that had been done by Government, both in legislation and law-enforcement practices in handling discriminations cases. However, reports are not entirely based on actual facts, whether in legislation or case-handling.

11. In general, there are some critical remarks particularly on facts and substance presented in Indonesia's government report, such as:

    a. Many of the presented substances are not correspond to the articles stipulated in CERD, particularly the boundaries of discrimination basis used in it. In general the report frequently not in accordance with Article 1 of CERD and General Recommendation No 14: Definition of Discrimination; 22/03/93. Example in this context is about a substance regarding discrimination based on religion and disability (Paragraph 132).
    b. Facts or cases that presented in this report are also far from reality of racial discrimination, because since the beginning the discrimination substances presented are not based on ICERD. Samples of facts and cases that did not match with CERD such as the finding of some discrimination cases based on religion, such as case that took place in Probolinggo and Malang (Paragraph 112), political discrimination which derive from from political parties regulation, about disable police officer which is still perform his duty based on discrimination on disabled people (Paragraph 148), discrimination that has happened based on people's poverty and frailness (Paragraph 151).
    c. Government reports are not focus and contradict to each other. This reality can be observed from the using of several legal argumentations presented. For example, the Law No. 8 in 1985 about Community Organizations that has been claimed by the Government as a Law that supported the elimination of discrimination, but on the other side in that report, that Law also legitimates violence practices based on religion.
    d. Incorrect claims on NGO works. It happened when the research conducted by UPC organization *(Urban Poor Consortium)* towards the discrimination on poor and precarious people, which was included in CERD report. the research itself was not CERD based.

CHAPTER II
CRITICAL POINT TOWARDS GOVERNMENT REPORT: ALTERNATIVE INFORMATION AND ARGUMENTATION THAT RELEVANT WITH ARTICLE 1 TO 7 ICERD

Article 1

12. Formally the definition of discrimination has been written in numerous laws and regulations, namely in the 4th Amendment of Constitution 1945, Law No. 39 in 1999 on Human Rights (Paragraph 86-88). However, the basic questions are (1) is there any punishment on the acts of discrimination? (2) Has those regulations eliminates discrimination practices? (3) Are those regulations create new discrimination practices? (4) Is there any synchronization of laws and legal policies from national to local level? Are those regulations contradict articles in the Constitution 1945 and the convention? Government of Indonesia's report on the Implementation of Convention on Elimination of Racial Discrimination fails to answer these 4 basic points adequately.

13. Government of Indonesia does not describe specifically the definition of discrimination from the constitution down to the regulations. Hence there is contradiction between higher and lower regulations. For example, Instruction of Yogyakarta Governor No. 398/I/A/1975 on Standardization Policy of Right Granting on Property Ownership upon Non-indigenous Citizens, that forbids Chinese lineage Citizens to own any property in Yogyakarta which clearly against with Constitution 1945 and Law No. 39/99 on Human Rights.

14. Discrimination practices are still persisted. Information in Paragraph 90 mentions that in Indonesia there are legal consequences for discriminative conducts is very inaccurate. Because jurisdiction of Law No. 26 in 2000 on Human Rights Court is limited gross violation of Human Rights cases, which are crimes against humanity and genocide. The jurisdiction Human Rights Court covers only one element of crimes in discrimination context, which is crimes that falls under the category of crimes against humanity or genocide, while discrimination practices also take place as ordinary crime. In this context, the Indonesian Criminal Code does not regulate acts of discrimination as a crime.

Article 2

15. Information in Paragraph 95, 100, 101, about Article 27 line (1) Constitution 1945 and about warranty that there is not any law that opposed with Constitution 1945, which stands as the highest source of law. It is very contradictive with reality, for example the regulation issued by Governor of Yogyakarta No. 398/I/A/1975 as mentioned above, or even the Law No. 23/2006 on Civil Registration that recently adopted by the parliament in 2006 still causes discrimination. It means law harmonization is not implemented effectively to all laws and regulations since the colonialism era until this moment. Besides, there has not been any law implementation or legal consequences intended for discrimination conducts yet.

16. Information in Paragraph 102 is true. Although, that claim of Government has not been done completely. Legally, there are still many discriminative regulations. Such as, Instruction of Governor of Special Province of Yogyakarta No. 398/I/A/1975 on the Standardization Policy of Right Granting on Property Ownership upon Non-indigenous Citizens. The Instruction forbids Chinese ethnic to own land. (Details of discriminative regulations will be enclosed in the final ICERD Alternative Report).

17. Paragraphs 104, 105, 106, 107, are irrelevant with Article 2 of the Convention. The Policy of Development for elapsed areas in Eastern part of Indonesia, which is described in Government's report, actually is not in the frame of policy that based on efforts to eliminate racial discrimination, but more related to the polices in eradicating structural poverty, and mostly the main beneficiaries will be the investors, because that development plan is synergy with investment plan in eastern part of Indonesia.

18. Governmen'ts effort in eliminating Letter of Proof of Republic Indonesia Citizenship (SBKRI) for Chinese etnic (paragraph 108) is indeed supposedly conduct and should be applied effectively. However as mentioned above, acts of discrimination were still committed by Banks (Paragraph 109). In this subject, it is required a confirmation of whether there are any effort or legal mechanism that has been done and whether there are any attempt to provide effective remedy for the victims.

19. Points 110 – 112 do not fall under ICERD jurisdiction, because the illustrated case is based on religion and not racial based. Besides, information in Paragraph 110-112 misleads from the real facts. For instance, yes, there was a plan of marriage documentation for the devotees of beliefs and religions outside the official religion in National Human Rights Action Plan 2004-2009. However, this plan is not accomplished very well. For example case experienced by Mrs. Dewi Kanti (Devotee of a Belief); Her child that was born in her marriage is only recognized by the Government as a child of Mrs. Dewi Kanti alone. So, a child that was born in a marriage outside the 5 (five) official religions will only be recognized by Government as a child of the mother side alone, and Government will not acknowledge the father side.

20. Information about marriage documentation for devotees of religion or belief outside 5 (five) recognised official religion by Government (Paragraph 110) could not yet be implemented well for every religions and beliefs in Indonesia. Marriage documentations were merely done for Confucius (Konghucu) Devotees, while marriages for devotees of Beliefs and all faiths attached to ethnicity have not been documented. The Office of Civil Administration still refuse to authenticate marriage for Beliefs devotees, although the Court has order the assigned authority officer to register the marriages.

21. Paragraph 111 doest not fall under CERD jurisdiction. Almost all districts in Indonesia still put Religion column in Resident Identity Card (ID). City of Bogor (Paragraph 111) still applied column of religion. Even in the new Law No. 23/2006 on Civil Registration, Article 61 line 2 indicates that the Identity Card has to provide

space on religion. For unrecognised religion the available space will be blank in the Identity Card.

22. Information in paragraph 112 contradicts with paragraph 114 in the application of Law No. 8 in 1985 about Societal Organization. In paragraph 112, it mentions that the arrest of Group Leader labeled as "Traitor Groups" is opposite to Law No. 8 in 1985. While in paragraph 114, Law No. 8 in 1985 was used as justification to condemn the faith of Ahmadiyah Group. In this context, Ahmadiyah followers are the victim of violence based on religion. Facts on the field show there are many violence happened based on religion, unfortunately the Government did not do anything and even involved in it, for examples are prosecutions against Ahmadiyah followers cases and Churches destruction cases.

23. Law No. 8 in 1985 about Societal Organizations is one of products of the "New Order" regime to control the acitivities of societal organization. The Law limits the rights to assembly and associations. Today, this law is no longer relevant due to respect on Human Rights standards.

24. Information in Paragraph 114, Government accused Ahmadiyah as a racialist organization. That accusation is extremely irrelevant due to the fact that Ahmadiyah in Indonesia is the victim of violation on freedom of religion. In Ahmadiyah case, there is no correlation between the Law No. 8 in 1985 and the faith of Ahmadiyah followers. The statement / information of Ahmadiyah group is very subjective (Paragraph 114) and can be exploited as legitimate ground to apply violence acts against Ahmadiyah followers. Because, Ahmadiyah as a minority group would not explicitly announce their version of Islam. Besides, the existence of Ahmadiyah group has been recognized as a legal institution by the Minister of Justice decree number JA 5/23/23 dated on 1 March 1953, and recognized as Social Organization based on Letter form the office of Inter- Political institutions Directorate Nr. 75/D.I/VI/2003.

25. In these cases, the Government was not protecting the religious minorities. Violence, threats, and destructions on houses, mosque and education facilities were never processed legally. Government/ Law enforcement officers tend to keep silent and ignore them.

Article 3

26. It is true that there are some improvements on the elimination of regulations that control segregation, but those eliminations did not guarantee the effectiveness of prevention and settlement of segregation. For example, with regard to Letter of Proof of Republic Indonesia Citizenship (SBKRI) mentioned in paragraphs 117, 118, 119. Although a Presidential Decree No. 56/1996 stipulates eradication on the requirement of Letter of Proof of Indonesia Republic Citizenship (SBKRI), but in reality practices of LPRIC are still present in some areas. Research by National Commission of Human Rights (KOMNAS HAM) and The Indonesian Anti Discrimination Movements (GANDI) in 4 (four) cities, namely Tanjung Pinang and Batam, Medan, Manado and

Pontianak, found that Letter of Proof of Republic Indonesia Citizenship (SBKRI) are still present with patterns such as[2]:

a. SBKRI is required to apply birth certificate for children of mix-marriage. In applying for Identity Card, children of lineage citizens were inquired to enclose SBKRI with Family Card (Cases in Tanjung Pinang).
b. SBKRI is still required in applying Business Certifications and Passports (Cases in Medan).
c. Since 2003, University of North Sumatra, is not inquire SBKRI any more to new students enrolled. (Cases in Medan).
d. Most of Citizens of Indonesia with Indian descent do not have certified document, like birth certificates, then they are still considered as Foreign Citizens (Cases in Medan)

27. Another examples, in Aceh in the northern part of Sumatera during the period of armed conflict, social segregation indeed was made by Government through recruiting militia based on racial ethnicity (Java and Sumatra) to fights the Aceh Freedom Movements (GAM) and insisted on dividing Aceh into 2 (two) provinces. The implication of that social segregation is still existed and nurtured. Besides that, the parliament is initiating a draft law on Anti Pornography and Porn Action, which unfortunately contain regulation to limit the diversity of cultural expression from various ethnics in Indonesia, in the form of putting forward the values of certain kind of dress code and values of certain behaviors. Various ethnic groups have already refused this draft Law.

28. Assimilation movements by Government in eliminating segregation (Paragraph 122) can cause the loss of ethnical identities. Government should support integration instead of assimilation.

Article 4

29. Information mentioned in Paragraph 125-138, are not relevant with Article 4 of the Convention. Besides, most information has been mentioned earlier in Article 2 of the Convention.

30. In Indonesian legislation, there is no law that regulates legal punishment on acts of discrimination. Information about legal process for discrimination in the Law No. 26/ 2000 on Human Rights Court is not correct, because the jurisdiction of this Law is to judge gross violation on human rights namely genocide and crime against humanity. One element of Crimes against Humanity in that Law is torture on certain group based on the same political opinion, race, nationality, ethnic, culture, religion and type of sex. While for discriminative conducts, as in Paragraph 109, which are Bank act of requiring SBKRI and Government officer act of refusing application of Candra Setiawan (Paragraph 113), have no legal consequences.

[2] Complete research by National Committee of Human Rights and Anti Discrimination Exertion Movements can be seen in the book "Letter of Proof of Indonesia Republic Citizenship: Analysis and Observation Results", page 79 – 109. November 2006.

31. It has to be established that Law UU No. 26/2000 only relates to the types of crimes that fall within the gross violation of human rights. Law No. 26/2000 can only charge those who commit torture based on systematic or widespread racial discrimination. Law No. 39/ 1999 on Human Rights, although stating to be anti-discrimination, does not contain any legal sanctions for discrimination practices. In fact, the forms of discrimination practices – according to CERD – include any human rights violations. This means that the (criminal) legal system in Indonesia, embodied in the Criminal Code (KUHP), does not regulate the prohibition of racial discrimination practices in the category of common violations.

32. In addition, the draft of criminal code (RUU KUHP) which has been discussed for the past 20 years contains provisions regarding discrimination in its articles 286 and 287; however, it is limited in that the discrimination practices lead to violence. Therefore, it can be concluded that the Indonesian legislation system and positive law are not adequate in combating racial discrimination practices.

Article 5

33. Generally, paragraphs 139 - 151 are irrelevant with the CERD convention. Because the concepts and discrimination elimination cases mentioned by Government are not racial based discriminations.

34. Specifically in Paragraph 150. Violence cases happened in May 1998 were rape cases on certain ethnic, shopping centers destroyed by fire, murders, and the shooting of Tri Sakti University's students my military/police forces. But, the Police and Attorney General did not follow up the official report from Joint Fact Finding Team (TGPF). Further detail on this case will be explained in thematic part of this alternative report.

Article 6

35. Information on Paragraph 152 - 158 are irrelevant with Article 6 of the Convention. The facts happened in Indonesia are racial discrimination cases that were not processed legally by court, and the Government does not provide any effective remedy for the victims.

36. Indonesia Constitutional has revoked Law No. 27 in 2004 about Commission of Truth and Reconciliation. There has been no replacement yet.

Article 7

37. There is not any educational policy to eliminate racial discrimination, both for the general public and for Government apparatus. It shows in the number of acts of racial discrimination by Government officers, as mentioned above.

Comments on Difficulties Faced by Government in Implementing the Convention

38. In general the Government fails to conduct conflict resolution proces, particularly those cases happened in West-Kalimantan between Madura and Dayak ethnic communities. It can be observed from the condition of internally displaced people of Madura ethnical group, they are still not be able to return to their homes. Government did not facilitate permanent reconciliation and peace building between two parties. Therefore, psychologically Madura ethnic community has not had the courage to come home and Dayak ethnic community has not been able to receive their existence.

39. The reality that Indonesia is a multi cultural, religions, races and languages country, should be brought into policy's makers mind in formulation of policy and regulations that should be sensitive on potential conflict particularly conflict based on racial discrimination.

CHAPTER III
THEMATIC ISSUES

1. LEGAL FRAMEWORK

40. In Indonesia there are still laws that are discriminative and in conflict with ICERD convention. This is caused by conflict of laws in the form of conflict within the 1945 Constitution, conflict between laws (UU), and conflict within the hierarchy of rules and regulations, such as between Provincial Regulations (Perda) and laws or between laws and the Constitution.

41. Conflict of law occurs due to the policy makers' interests, racially biased perspective (prioritizing one and restricting others), and the interests of capital owners.

42. Conflict of laws within the Constitution occurs because of conflicts between one article and another. For example, Article 28i verse (2) in the 1945 Constitution states that: *Each person has the right to be free from act of discrimination based on what grounds ever and shall be entitled to protection against such discriminative treatment.* This article is in conflict with article 18b verse (2) which states *The State shall recognize and respect, to be regulated by law, the homogeneity of societies with customary law along with their traditional rights for as long as they remain in existence and in agreement with societal development and with the principle of the Unitary State of the Republic of Indonesia.* The sentence *for as long as……* in article 18b verse (2) threatens the existence of indigenous people because it is considered to be irrelevant with development.

43. An illustration of conflict between laws is between the Law on Civil Registration (Law No. 23/2006), which regulates the restriction on religions and beliefs, and the Law on human Rights (Law No. 39/1999), which guarantees the freedom of religion or belief. Law No. 23/2006 is also in conflict with the 1945 Constitution, especially article 28E which guarantees the freedom of religion or belief for every citizen.

44. In the regional level, there are also provincial regulations (Perda) that are in conflict with Laws and the 1945 Constitution. Perda No. 6/2003 in Bulukumba (South Sulawesi) on the ability to read and write the Qur'an is in conflict with article 28I verse 3 of the Constitution on the recognition of cultural identity and the rights of indigenous people. This Perda will make the indigenous people of Kajang Bulukumba lose their cultural identity because they will be obliged to conform to it.

45. In such condition of the conflict of laws, there are also several laws that restrict the indigenous people's economic and social rights (this is in conflict with the general recommendation No 23: indigenous people: 18/08/97 number (4) point (c) which provides the indigenous people a condition that enables a sustainable economic and social development in accordance with their cultural characteristics). Examples are Law No. 18/2004 on Plantation, Law on Fisheries, Law on Mining, and Law No. 7/2004 on Water Resources. These three laws serve to legitimize capital owners to

deny the indigenous people their rights, especially the rights to land, water, and natural resources**.**

46. Even before the amendment of the 1945 Constitution, practices occurring with the same clauses regarding the contingent recognition as provided in Law No. 41/1999 on Forestry have caused systematic marginalization against the indigenous people who live in and are dependant on forest.

47. The same happens with Law No. 32/2004 on Regional Government. It serves as an instrument for the Provincial Government to interpret the existence of indigenous people. This includes the interpretation of the sentence "*for as long as they remain in existence and in agreement with societal development and with the principle of the Unitary State of the Republic of Indonesia* "as written in article 18B verse 2 of the 1945 Constitution.

48. In history, contingent recognition is a legacy of the Dutch colonial that restricts indigenous laws and village administration. Later, since Law No. 5/1960 (Basic Agrarian Law) was enacted, contingent recognition was used for communal rights and traditional laws. However, since reformation, contingent recognition has become widely spread to communal rights, tradition and customs, traditional rights, traditional laws and traditional institutions (Rikardo Simarmata 2007: Legal Recognition for Indigenous People in Indonesia. Jakarta: UNDP: 312-313).

49. This spread of contingent recognition coverage within a number of normative frameworks is what has given birth to a potential systematic and legal discrimination against indigenous people's rights (not only potential but it has become a reality in many regulations)

2. IMPUNITY IN RACIAL DISCRIMINATION CASE

50. Article 6 ICERD mentions "Governments Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunal and other Government institutions, against any acts of racial discrimination which violate his Human Rights and fundamental freedom contrary to this Convention, as well as the right to seek from such tribunal just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination". The Article clearly obligates Government to provide a guarantee of justice for victims and punish the perpetrator through tribunal, and perform effective remedy for the victims.

51. In Indonesia, the Government obligation stipulated in article 6 has not been implemented yet, the Government even commits impunity on cases existed. It can be seen from several things, like there is not any legal settlement of discrimination cases, Government apparatus' behavior still show the practice of racial discrimination, law products were made still contain high potential which causing acts of discrimination.

52. Impunity can be observed from how the Government ends numerous cases. For example the case of May 1998 riot and Sampit case in 2001 - ethnic violent conflict between Dayak and Madura ethnical group.

53. In this alternative report, we choose May 98 case and the case of ethnic conflict in Kalimantan as examples of how impunity in racial discrimination occurs, without undermining the importance of other cases.

2.1. May 1998 Riot

54. Various findings, whether from NGOs investigations, journalism or media reports, up to findings of Government sanctioned independent investigation team, describe that in the end of New Order period (only some time before Soeharto resigned), from 13-15 of May 1998 there was a *pogrom*, mass riots in numerous big cities in Indonesia; Jakarta, Medan, Surabaya, Palembang, Solo, and Lampung. In the middle of mass riots, cropped up violence conducts against Chinese ethnics in Indonesia; start from properties and belongings raids, physical violence, rapes on Chinese women. In the same momentum racial sentiments emerged in major cities. Words like "belong to native people" are written on countless houses and shopping centers to avoid mass robbery.

55. The most difficult things to verify the detail of truth is the number of rape victims. An NGO (Volunteers for Humanity) finding stated that 168 women were victims of rape, most of them Chinese ethnics. While official findings by the Government, which is the findings of Joint fact finding team show there were 85 persons became the victims of sexual violence, 52 of them are rape victims and mostly Chinese ethnic and were cruelly gang raped. Accurate estimation of actual number of victims undoubtedly may surpass that number, considering the difficulty of revealing this most sadistic crime through evidence and testimony.

56. Joint Fact Finding Team (TGPF) that was constructed based on Joint Ministerial decree, namely Minister of Defense / Armed Forces Commander, Minister of Justice, Minister of Foreign Affairs, Minister of Women Roles, and Attorney General. Joint Fact Finding Team was established in order to reveal and find the perpetrators, and the background of 13-15 May 1998 incident. On the final report, Joint Fact Finding Team (TGPF) concluded that 13-15 May 1998 incident was happened intentionally, carefully planned, patterned, systematically, and presumably was a result of political battle of elites to seize power. Joint Fact Finding Team also recommended several things:

    1) Urge the Government to follow up cases that can be brought to justice, involving both civilian and military
    2) Urge the Government to provide security guarantee for the victims and witnesses, ask the Government immediately to form a permanent committee to manage victims and witness protection program;

3) Urge the Government to immediately ratify international convention on the elimination of racial discrimination, and translate them into Indonesian legislation, including implementation international convention torture;
4) Insist the Government to take a firm action to bring the perpetrators that have explicitly spread out racial or Ethnic, Religion, Origin hatred to justice
5) Urge the Government to declare to the people that such incident will never happen again the future.

Unfortunately, until now, the Government has not follow up Joint of Facts Findings Team's recommendations.

57. Considering Government's low response on Joint fact finding team' reports, another investigation on this May 1998 tragedy in 2003. This time the investigation was conduct by National Commission of Human Rights (Komnas HAM) due to the reformation of the new law system. Komnas HAM created based on Law No. 39/1999 on Human Rights and Law No. 26/2000 on Human Rights Tribunal, has a power to conduct and independent inquiry.

58. The findings of Komnas HAM (National Commission of Human Rights) inquiry was not so different from Joint fact finding team, that 13-15 May 1998 incident was a crime that can be categorized as gross violation of Human Rights which happened systematically and widespread. Komnas HAM also confirmed the existence of racial based violence.

2.1.1. The Law Enforcement of May 1998 Tragedy

59. In general can be said that the predicament of law enforcement of May 1998 Tragedy was caused by similar reasons that caused oppressed handling of Trisakti, Semanggi I and Semanggi II Tragedies, which is procedural political problem and the lack of political will of Attorney General, House of Representatives and President of Indonesia Republic. National Commission of Human Rights (Komnas HAM) has learned from Investigating Committee of Human Rights Violation of Trisakti-Semanggi I-Semanggi II (TSS),[3] responded the requisition from May 1998 victims community, instead of establishing *ad hoc* Investigating Committee, they established Evaluator Team of May 1998 Riot based on Law No. 39/1999 about Human Rights with working mandate to perform evaluation upon results of investigation that has been conducted by Joint fact finding team in 1998. After working for 12 months, Komnas HAM Board make a decision to elevate the inquiry team status into *pro*

[3] The Cases of Trisakti, Semanggi I, and Semanggi II or known as TSS Case is gun shooting on students in protest waves of students' movements. Trisakti case (12 May, 1998) is the trigger of mass riot waves in Jakarta and Joint Team of Facts Searchers' investigation found a correlation between this case with 13-15 May 1998 case. NCHR then form an independent investigation team (Investigating Committee of Human Rights Violation) on TSS case and affirm gross violation against Human Rights (according to law No. 26 in 2000) and submit the report to the Attorney General for immediate investigation and court case proceeding in *ad hoc* Human Rights Tribunal. But the Attorney General refused to perform investigation in reason of the absence of political recommendation from House of Representatives.

justicia (pre-judicial) investigators for more comprehensive investigation and data collection.[4]

60. In executing investigation, National Commission of Human Rights (Komnas HAM) limit the investigation scope on 13 – 15 May 1998 in Jakarta, Tangerang, Bekasi and Depok. In order not to repeat the same blockage as in Trisakti, Semanggi I and Semanggi II cases, in March 2003, Komnas HAM urged the House of Representatives not to declare any recommendation on May 1998 case before the investigation process conducted by *ad hoc* investigator team was finished completely. A*d hoc* team believed that there have been gross violations against Human Rights that existed in may 1998 riot, confirmed by the enormous number of civil victims.

61. *Ad hoc* investigator team called victim witnesses, civil and military officers, and expert witnesses. In the middle of inquiry, Komnas HAM summoned a number high ranking officer of Police Forces and National Army. But, again Army and Police omitted to present in this investigation. Advocacy team of Indonesia National Army officially stated their refusal of Komnas HAM summon to several officers of Indonesia National Army and Police, with reason that there are not legal ground of the summon. At least twice official summon were sent to the officers of Police Forces and National Army. But it failed. Advocacy team of National Army argued that the summon of Police Forces and Army Officer must be based on recommendation from House of Representative to establish an *ad hoc* tribunal of Human Rights, while Komnas HAM believe that the investigation was conducted to decide whether there is any gross violation of Human Rights.

62. The lack of goodwill forced *ad hoc* team to seek for forced summon by sending letter to the Head of District Court of Central Jakarta, July 2003. In that letter, Head of District Court was asked to issue obligatory summon letter by putting order to Commanding Officer of Police and Army to forcefully bring former officers of police and Army as the authoritative officials of security by the time of May 1998 riot. But, the District Court of Central Jakarta refused the effort of obligatory summon (Sub-Poena).

63. In September 2003, Komnas HAM concluded that there has been gross violation on human rights in that case. At least 20 persons of authorized security officers (Police/Army) and civilian will be solicited their responsibility for primary and subsidiary crimes on their acts in May 1998 riot. Abdul Hakim Garuda Nusantara, The Chief of Komnas HAM has officially submitted the letter to the Attorney General. In October 2003, Attorney General formed a team to learn 18 bundles of files of May 1998 case.

64. The same as Trisakti, Semanggi I and Semanggi II files, the Attorney General party was represented by Human Rights Working Unit: Mr. BR Pangaribuan and Head of Informations Officer of AGO, Mr. Kemas Yahya Harahap in a meeting with victims of

[4] The Resolution of NCHR No.10a/NCHR/III/2003 on the establishment of Adhoc Investigator Team of May 1998 Incident.

May 1998 explained that Komnas HAM report is still vague and not mentioning any suspect, therefore temporary investigation result of Attorney General Office concluded that the report would be returned to Komnas HAM. For it, the Chief of Komnas HAM asked Attorney General not to throw responsibilities in handling gross violation on human rights in May Riot. Abdul Hakim Garuda Nusantara expressed it in a Parliamentary Hearing with Commission II House of Representatives. Komnas HAM urged house of Representatives to recommend the President in order to establish an *ad hoc* human rights tribunal on May '98 riot.

2.1.2. The Termination of Attorney General Investigation

65. Officially on 4 March 2004 Attorney General returned the case investigation files of May Riot back to Komnas HAM (Commission Natinal of Human Rights). According to M.A. Rahman, to follow up Komnas HAM investigation results submitted since 19 September 2003, his party has already formed a team to examine it. Based on team's result of research, the case files were not complete yet. Komnas HAM continue to handle May '98 case. The handling of these 3 cases have been returned to Attorney General again in May 2004.

66. On the next progress, on 17 May 2004, Attorney General party stated that they will returned the files of investigation result to Komnas HAM, because Examination Documentation was not made in Projusticia and preliminary evidences were indefinite. Attorney General Office also considered that perpetrators and policy engineers were not clearly described.

67. Precisely on 31 June 2004, the investigation files of May '98 tragedy was once again returned by Attorney General to Komnas HAM. It was commonly believed that the giving back of May '98 tragedy files to the Komnas HAM was more likely be a political than by legal deliberation. The action is considered as a big mistake, because they are the one who supposed to proceeds the investigation with inquisition.

2.1.3. May 1998 Case: The Freeze Continues

68. Until now, case of May 1998 riot is at a standstill. There is no initiative, both from Komnas HAM (Commission National of Human Rights) and Attorney General to break the dead-lock since last 2003. After Komnas HAM gave this case files to Attorney General Office, it is recorded that the files have been twice back and forth being returned with various formal judicial reason. Even the House of Representatives has not taken any initiative to recommend any adhoc Human Rights tribunal, to proceed the investigation result of Komnas HAM that affirmed there were gross violation on human rights in this case.

69. Whereas in the Work Meeting of Attorney General with Committee II and III House of Representatives Republic of Indonesia, Attorney General stated that one of difficulties of handling cases of gross violation on human rights all this time, is the difference of substantial perception between Attorney General Office and Komnas HAM. It comprised of understanding of formal procedural regulation, which are the

arrangement of Examination Documentation, investigation process and boundaries of duties, both NCHR and Attorney General Office each as investigator. As a result they threw each other responsibilities of legal actions that supposed to be done by each law institution.[5]

2.1.4. The House of Representatives' Lack of Initiative

70. In May 2005, commemorating of May 1998 tragedy, for the repeated of time, victims accompanied by KONTRAS question the investigation progress of May 1998 cases to the Attorney General Office. They were accepted by Head of Information Center of Attorney General Office Suhandoyo SH and Director of Gross Violation on human rights Cases Handling, the Attorney General Office affirmed the difficulties of asking explanation from witnesses to identify perpetrator and the lack of evident. They confirmed that the case file that has been submitted by Komnas HAM (Commission National of Human Rights) was not complete; therefore if it forcefully tossed to the Tribunal, this case will only be free. One of victims' family, Budi Hartono criticized that Attorney General Office is reluctantly conclude the investigation of May 1998 tragedy and only throwing responsibilities to other institution by not proceeding the files from Komnas HAM.

71. In the meeting with family victims, the Chief of Komnas HAM, Mr. Abdul Hakim Garuda Nusantara, stated that he already carry out hearings 4 times with Committee III House of Representatives. Komnas HAM asked the House of Representatives to audit the performance of Komnas HAM and Attorney General Office about deceleration of May and Trisakti Semanggi Cases. While former member of investigators team of May 1998 case in Komnas HAM, Mr. Solahudin Wahid, suggest that House of Representatives to immediately recommend the President to establish *ad hoc* Tribunal to reveal May 1998 tragedy.

72. Finally, Internal Meeting of Committee III House of Representatives RI on 30 June 2005, resulted in a study that based itself on opinions and point of views of political fractions of Commission III about May 1998 case. They will send letter to the Chair of the parliament about Position and Opinion of Committee III of House of Representatives, which is: "In the case of May 1998 Riot, Committee III House of Representatives RI consider to perform deeply discussion that will be carry out by legislative body of House of representatives (Committee or Specific Committee)". In the last meeting of family victims with Committee III House of representatives RI, Trimedya Panjaitan, Deputy Chairman of Committee III said that he would discuss the subject in the Summit and ask it in the Work Meeting with Attorney General. Until now, House of Representatives still have not discussed about May 1998 case.

73. The pattern of impunity such as in May 1998 case can also be found in several other cases such as Sambas and Sampit cases in Kalimantan, in which there is essentially no

[5] Material of Attorney General Republic of Indonesia in Joint Work Meeting with Committees II and III House of Representative RI with Attorney General RI, 7 February 2005.

punishment neither for the perpetrators nor the state apparatus (for omission) and no reparation for victims.

2.2. Riot/Ethnic Conflict in Kalimantan

Many of the conflicts that occur in Kalimantan involve the ethnics Dayak and Madura. Two major conflicts that are still unresolved until today are Sambas (1998-1999) and Sampit (2001).

2.2.1. Ethnic Conflict in Sambas, West Kalimantan in 1998-1999

74. Ethnic conflict in Sambas, West Kalimantan – between Dayak group and Madura group – occurred in 1998. The conflict-induced violence lasted for almost a year. During this conflict period, victims were fallen from both parties. In addition, the impact of the conflict led to 68,000 people seeking refuge.

75. What needs to be questioned is State's responsibility in preventing such conflict and to give a sense of security to its citizens in Sambas. Even until today, there is no judiciary mechanism that can perform truth seeking on Sambas case, no State officials punished for their acts of omission, and no adequate mechanism of reparation for the victims. Neither is there mechanism from the Government to facilitate peace development (reconciliation). As a result, prejudice and tension between the two ethnic groups prevail.

76. The case in Sambas is suspected to be one of the triggers of riot against Dayak and Madura ethnic in Sampit, Central Kalimantan (2001)

2.2.2 Ethnic Conflict in Sampit, Central Kalimantan in 2001

77. Ethnic conflict – between Dayak and Madura groups – occurred in 18 February 2001 in Sampit city, Central Kalimantan. The violence resulted from ethnic conflict lasted for about 10 days. During this conflict period, there were 341 people died from the Madura group and around 16 people died from the Dayak group. In addition, hundreds of houses were either burned or damaged. The data was obtained from Kotawaringin Timur Resort Police. Post-conflict time was also marked by an exodus of nearly 30,000 IDPs – form the Madura group – from Central Kalimantan to Java Island. Most of these IDPs have not had the courage to return to their homes because they still feel unsafe.

78. What needs to be questioned is State's responsibility in preventing such conflict and to give a sense of security to its citizens in Sampit. Before conflict broke out, various early indications of communal conflict could be felt. There had been at least three criminal cases which were potential to trigger a larger social conflict: riot in Tumbang Samba (17 September 1999), riot in Kumai (5 July 2000), and riot in Kereng Pangi (17 December 2000). After the three cases took place, there had been flyers, issues, terrors and threats prevailing in the community, containing ethnic hatred towards certain groups. State's responsibility is also questioned because before Sampit conflict broke

out in February 2001, Al-Miftah Islamic Educational Foundation located in Pamekasan, Madura – with a branch in Kereng Pangi – has reported threats and requested that the central and regional governments handle the situation.

79. In May 2001, several human rights organizations – KontraS, YLBHI, PBHI, ELSAM, and APHI – submitted litigation against the administrators of Indonesian government, from the central administration to the regional administration, which are considered to have failed to provide security for the communities and to let conflict broke out. The litigation via legal standing mechanism was finally rejected by Central Jakarta District Court.

80. Post the social conflict, Komnas HAM (2001) conducted an investigation into the Sampit case and the result shows that there have been human rights violations. Unfortunately, there has been no judicial mechanism that can result in truth seeking for Sampit case, no State officials punished for their acts of omission, and no adequate mechanism of reparation for the victims. As a result, prejudice and tension between the two ethnic groups prevail.

2.3. Closing

81. Impunity occurs due to several reasons, among them are: a) no judicial or extra judicial mechanisms that are adequate to punish perpetrators and to bring justice for the victims; b) no truth seeking mechanism and development of reconciliation in ethnic conflict; c) no mechanism of reparation for victims; d) racially-charged crimes are only considered as common crimes.

3. STATE'S DISCRIMINATION AGAINST CHINESE ETHNIC

82. Although Chinese ethnic in Indonesia has been present for a long time before the Indonesian Independence, 17 August 1945, their presence as part of the nation still leaves many racial discrimination problems such as in the recognition of their citizenship status and the issue where some Chinese ethnic people are treated as stateless (no citizenship).

3.1. Obligation to Hold Proof of Indonesian Citizenship (SBKRI)

83. The issue of Proof of Indonesian Citizenship - SBKRI in short – is a form of racial discrimination by State against its Chinese ethnic citizens. In the policy every Chinese ethnic citizen must hold SBKRI to proof their Indonesian citizenship needed to obtain various public services, such as obtaining a passport, an ID Card, request for bank loan/credit, etc. Meanwhile, citizens who are not from Chinese ethnic can simply show their ID cards or birth certificates to get the same services. This policy is a form of difference in treatment based on race/ethnic, with the purpose of undermining the recognition of their status, as included in the definition of racial discrimination in article 1 ICERD.

84. Issue of Letter of Proof of Republic Indonesia Citizenship (SBKRI) emerged first when Law No. 62 in 1958 about Republic Indonesia Citizenship was endorsed. In Article IV Closing Regulation of Law No. 62 in 1958 confirm that: *"Whoever needs to proof that he/she is a republic Indonesia Citizen and does not have any letter of proof to show or to have or to also have the citizenship, can apply to District Court of his/her domicile to applied whether he/she is a citizen of Republic Indonesia or not, according to common private law. The regulation does not decreasing any specific condition in or based on other Laws"*. The condition actually remains facultative and applied to all citizens of Indonesia. But then this Law was followed by **Regulation of Minister of Justice No. J.B.3/4/12 in 1978**, which in **Article 1** declared that ***"every citizen of RI <u>who need</u> to proof his/her citizenship can applied request to the Minister of Justice to Letter of Proof of Republic Indonesia Citizenship (SBKRI)".***

85. But later in reality, Letter of Announcement from Minister of Justice No. JHB 3/31/3 in 1978 followed that policy to all District Courts and Head of RI representatives overseas, where SBKRI is only addressed for descent community. In practices it is only addressed for Chinese ethnics, while it is not addressed for other ethnics like Arab, India, etc.

86. This **SBKRI** issue will always occur because it become one of the requirements that always been asked by relevant institutions, such as: **the whole range of Ministry of Internal Affairs**, required it for the application of birth certificate, marriage, or even death; **All levels of Ministry of Education** still required it for school needs; **All levels of Ministry of Trade and Ministry of Industry** required it for business requirements; even **all levels of Justice and Human Rights Ministry, directorate general of immigration**) consider SBKRI as a 'must'.

87. Although the difference in treatment is administrative wise, in the citizenship principles, SBKRI policy places the citizenship status of Chinese ethnic in a "doubtful status (status quo)", which is different from other Indonesian citizens. In the development, the application of SBKRI rule led to restrictions on the access of Indonesians who are of Chinese ethnic to state university, or to become civil servant or TNI/Police, and et cetera as seen in 1978 – 1999 period. In several regions such as in Banyumas Regency there also occurred Provincial Regulations which still differentiate between places and requirements in the service of civil registry for Chinese ethnic and for those called native or any other ethnic groups such as Arab, India. Another example is that Chinese ethnic is not allowed to own land in Yogyakarta based on **Yogyakarta Governor's Decree No. 398/I/A/1975** on Standardizing the Policy in Giving the Rights to Land to a Non-Native Indonesian Citizen. SBKRI and several other discriminative policies are still applied until today such as written in the table containing discriminative laws and regulations attached in this report.

88. There have been several efforts made by the Government of Republic Indonesia to resolve SBKRI issue such as through Presidential Decree No. 56/ 1996 which states that in terms of proving their Indonesian citizenship, an Indonesian citizen does not require SKBRI and they simply require a Birth Certificate or ID Cards; lastly, based

on law No. 12/2006 on Citizenship which was expected to be able to revoke SBKRI practice, but because the Minister for Justice's Decree **No. J.B.3/4/12 year 1978,** which was used as a legal backing of SBKRI, has not been revoked thoroughly and the Indonesian Government has not been strict in terms of applying SBKRI in its bureaucracy, SBKRI is still required by Immigration Office and Civil Registry Office until today. Many reasons such as preventing immigrants from entering the country without RRT documents to Indonesia or forgery of civil registry document, which is in actual an issue of lack of coordination between Government institutions, are used to apply SBKRI in the community. The fact that several immigrants involved in terrorism entered Indonesia with fake documents simply shows how irrational is the application of SBKRI on Chinese ethnic who are also Indonesian citizens.

89. The experience of Chinese ethnic citizens – such as Andrianto in Kraton Lor region, Pekalongan, who was still asked for SBKRI when extending passport at Pemalang Immigration Office, Central Tengah, Indonesia (23 February 2007); Papang Hidayat who was still asked for SBKRI when extending his ID Card (January 2007, Jakarta) or Rico Permana from Kelapa Gading, Jakarta, who was still asked for his parents' SBKRI by the church when he was registering his marriage because it was a requirement from DKI Jakarta Population and Civil Registry Office (29 January 2007) – shows the Indonesian Government's half-hearted political will in resolving SBKRI issue and racial discrimination against Chinese ethnic in Indonesia. In Komnas HAM report in 2005, some cities in Indonesia are even still applying SBKRI policy.

90. The fact that SBKRI policy has not been revoked and is still applied by authorized officials or Government agencies such as Immigration Office and the Population and Civil Registry Office, shows that the Indonesian Government has not been fulfilled State's responsibility to review, to amend, to revoke or to cancel policies supporting racially discriminative SBKRI and to prevent, prohibit and eliminate all forms of racial discrimination practices as provided for in ICERD article 2 point c, Article 3 and Article 5 ICERD.

3.2. The issue of Chinese ethnic as Stateless (No Citizenship)

91. Apart from SBKRI, another racial discrimination practice against Chinese ethnic in Indonesia is that some Chinese ethnic is still treated as stateless (no citizenship) because they have no documents that can prove their Indonesian citizenship. Lack of documents can occur when they lost the documents such as Birth Certificate, ID Card or SBKRI due to flood or fire or confusion in the Indonesian citizenship policy caused by RI-RRT Dual-Citizenship in 1955.

92. Confusion in the citizenship policy first appeared when in 1955 the Prime Minister of RRT (People's Republic of Tiongkok), Chou Enlai, claimed that based on citizenship *ius sanguinis* (descendant) principle newly adopted by RRT at that time, all Chinese ethnic outside RRT including in Indonesia are citizens of RRT. As a result, the Indonesian and RRT Governments had a dual-citizenship agreement based on Law No. 2/1955 which obliges all Chinese ethnic in Indonesia to choose between Indonesian or RRT citizenship, unless those who are serving as *Tentara Nasional*

Indonesia (TNI or the Indonesian Army), civil servants, have served the country, a farmer or have taken part in the 1955 general election. In reality, several of those who worked as civil servants, farmers, those who took part in general election, even badminton players such as Tan Joe Hoek and Liem Koen Hian, one of the founders of this State in 1945, were still obliged to choose between Indonesian and RRT citizenship,.

93. During the implementation process of dual-citizenship, the Indonesian Government issued a Presidential Regulation No. 10/1959 on the prohibition of non-native citizens to trade in regency/*Swatantra* area. This regulation caused large eviction against and exodus of Chinese ethnic from regency/*swatantra* although they still held Indonesian citizenship status. This policy, which triggered discrimination against Chinese ethnic and led to large eviction, has caused some of the Chinese ethnic to leave Indonesia, while some others stayed. The one who stayed finally went through the process of dual-citizenship resolution. However, because the process did not go smoothly, not all Chinese ethnic who stayed received the necessary documents as a form of recognition of their Indonesian citizenship. In this case, many Chinese ethnic did not get the documents. This lack of documents caused them to be treated as *stateless*.

94. This *stateless* status went on for so long and for generations without any resolutions from the Government. Consequently, they have not obtained all the rights that they should have received as citizens. For example, the right to an ID Card, and the rights to receive other public services. This condition also caused all children born in Indonesia from *stateless* parents to be denied their rights as provided for in the Child Protection Convention, especially the right to a birth certificate.

95. In 1980, the initiatives of community organizations in Indonesia together with the Indonesian Government have tried to speed process those who were *stateless* and managed to give SKBRI documents to Chinese ethnic but there were still tens of thousands of others in any regions. (Data from the Department of Justice in 2001 estimated 30,000 people). After 1980 there were several efforts to give Birth Certificate to Indonesian citizens who had no Birth Certificate. But such policy was not applied to Chinese ethnic who were considered stateless. Other individual efforts made by Chinese ethnic to obtain Birth Certificate were always rejected by the Population and Registry Office for reason that they hold no SBKRI.

96. Such racial discrimination has lasted for a long time until today. It is experienced by, for example, Tan Elim a.k.a Momoy or Tan Tian Lie and Pui Nyin Wah whose parents do not hold documents such as SBKRI or Birth Certificate and therefore they could not obtain their ID Card in Kedaung Sub-District, Tangerang. In similar cases in Tegal Alur and Tangerang regions, the number of Chinese ethnic treated as stateless for not having the documents is estimated to be 135 people (Source of data: Anti Discrimination Agency Indonesia (LADI), Tegal Alur, Tangerang, Indonesia). Similar cases are also experienced by Chinese ethnic in many other regions in Indonesia such as in East Java, West Kalimantan, North Sumatra, and others.

97. Due to their status as Chinese ethnic (which is stereotyped as rich), and poverty, often times when they have to face officials and deal with policies, they suffer from multi layered discrimination. In every welfare program made by the Government such as the distribution of rice for the poor or cash aid, they were marginalized. In such economic trouble and lack of clarity in their legal status, their young girls become an easy target for trafficking to Taiwan. In this group, stateless Chinese ethnic suffer from racial discrimination that led to double burden resulting from many discriminative treatment.

98. In ICERD context, the issue of stateless Chinese ethnic is an issue of racial discrimination. Based on CERD's General Recommendation No. 30: Discrimination against non-citizen: 01/10/2004 Point 16, Indonesia is obliged as a State party who ratified ICERD to reduce and to resolve the *statelessness* especially in children. Especially because in the context of Indonesia's national law, the Indonesian Citizenship regulations, both law No. 62/1958 and the current Law No. 12/2006, hold the principle of preventing *stateless* (no citizenship) condition.

4. DISCRIMINATION ON INDIGENOUS PEOPLE'S

4.1. Introduction

99. General Recommendation No. 23: Indigenous People: 18/08/97. Point 1 states that " In the practice of the Committee on the Elimination of Racial Discrimination, in particular in the examination of reports of Governments parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the situation of indigenous peoples has always been a matter of close attention and concern. In this respect, the Committee has consistently affirmed that discrimination against indigenous peoples falls under the scope of the Convention and that all appropriate means must be taken to combat and eliminate such discrimination".

100. In the General Recommendation point 1 clearly states that '...the situation of indigenous peoples has always been a matter of close attention and concern. In this respect, the Committee has consistently affirmed that discrimination against indigenous peoples falls under the scope of the Convention and that all appropriate means must be taken to combat and eliminate such discrimination". This point bring into being that discrimination problem on Indigenous people is also categorized in the scope of ICERD.

101. A meeting on Tanah Toraja in 1993 identifies Indigenous community as group of people who has origin (hereditary) on a certain geographic area, and possesses its own value, ideology, political, cultural, and social values. *Kingsbury* (1995:33) gave the indicators of those groups called as Indigenous people. One of the indicators mentioned is the existence of a long (enduring) relationship with its territory. Besides that indication, the Indigenous peole groups can be recognized from details like: the existence of cultural relationship which is close with an area of certain terrain or territory, the continuing of history with preliminary inhabitants, socio-economy and

socio-cultural differences with surrounding population, different language characteristic, race, material and spiritual culture, and many more different things, and considered as "*indigenous*" by surrounding population.

4. 2. Form Discrimination on Indigenous People in Indonesia

In this respect, the form of racial discrimination in Indonesia as followed : Land an d narural resource greabing, Development policy, Politic of image (stereotipe) and Discrimination as inpact of (state) regulations.

4.2.1. Land and Natural Resources Incursion: The Beginning of Big Disaster for Indigenous people in Indonesia

102. Generally, the rights of Indigenous people that have been discriminated were rights in correlation with land and natural resource on cultural territory. The source is the nullifying of their existence, which creates limitation and exception that effecting on the destruction of their rights, specifically rights based on their identity. This condition is included in the scope of ICERD article 1 point 1.

103. From all indications above, their connection with their cultural land and territory is the key of their completeness as a Indigenous people. It is because their land is the only space for the Indigenous people to express them selves. Land for the Indigenous people not only stand as their space of expression that connect them with their belief, history, culture and language; but the land is also stand as the only space they use to fulfill all their life necessities.

104. In most cases, practices conducted by Indonesian Government are not in accordance with General Recommendation point 5, "The Committee especially calls upon Governments parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to just, fair and prompt compensation should substitute the right to restitution. Such compensation should as far as possible take the form of lands and territories.

105. Next in the General Recommendation (point 3) also mention problematical issue that faced by Indigenous community, specifically land and natural resources incursion that caused effect of their identities threatened. It is also a part of discrimination. In this context, alternative report covers the condition of Indigenous peole that suffered discrimination, which in the end will caused effect of their threatened identities, specifically based on land incursion both by Government and corporation.

106. The suffering of indigenous societies in Indonesia are alarming. They systematically subjected to discrimination, specifically by the loss of their land and natural resources. Which is meant restrictions and destruction of their identity as Indigenous people. This is happened because the management of land and natural resource are

based on developmental paradigm. This paradigm required the consistent supply of natural resources. To fulfill the needs, Government consumes the ownership of Indigenous people of communal land (in general, the ownership of Indigenous people ownership is based on historical claim). The Government's Rights of Possession of land, water and other natural resources as written in Article 33 Constitution 1945 that has mistakenly interpreted. The managements were given into private sectors that definitely will impose their private economic interest instead of people's prosperity. With that mis interpretation, Government turned communal lands of cultural societies into large-scale plantations, and the ownerships were given to collaboration of corporation and Government. Regrettably inherited lands of cultural societies, which some of them were Shielding Forrest, were given to the private mining companies with support of Law No. 19 in 2004. Land and natural resource management that were established on developmental paradigm in Indonesia, undeniably discriminates the cultural societies from their rights of land and natural resource.

107. The conflict between Indigenous people of Denai in 2005 versus Government via State Plantation Company II (PTPN II) of North Sumatra. The Denai Community demand on reclaiming of their land after conquest of the State Plantation company. Indigenous people of Denai did not get their land back and the recovery of land incursion was happened for a long period of time. Instead, they were shot, beaten, and some of their houses were burned down by the Police and paid-thugs. Similar things suffered by Indigenous people of Kajang in Bulukumba, South Sulawesi whose lands were also conquest by Plantation Company of London Sumatra (Lonsum) Indonesia Ltd.Inc. When they were reclaiming their rights they were brutally repressed by the Police Forces and 39 people of Indigenous people of Kajang were arrested. Both cases still have not been resolved yet and there is no any remedy effort for the victims. Likewise, there are a lot of other cases still taking place.

108. Similar case was also experienced by indigenous people Karonsi'e Dongi (Luwu Timur, South Sulawesi). These indigenous people were evicted from their communal land because of an attack by DI/TII in 1950s. Then, in 1970s, the community tried to return to their communal land but failed because the land had been owned by Inko company. Until today, about 40 families keep trying to occupy the land around the company but they are always intimidated and have to face efforts to evict them. The discrimination suffered by this community is: a) they are unable to build huts around the land that is owned by the company; b) their children have no access to education because the schools in the area are owned by the companies and are only intended for families of the company's employees.

109. From land cases, they implied to other rights violations, as regulated in article 5 of ICERD. Several rights annexed are;

1) Rights of Equality before Law.
   Indigenous people of Denai reported the violation to the Police; apparently the report was not preceded. Even the local police avoid that case by throwing the case to the higher-level police bureau, therefore the Indigenous people of Denai difficult to access it.

The violation against this right is explicitly revealed by the case of rejection of Indigenous people of Denai's report about the crime of incursion and bulldozing of their land by PTPN II party that was supported by Mobile Brigade of the Police.

The Police institution is institution that serves public matter. In Constitution 1945, the function of Police institution was confirmed in Article 30 line 4 that declare that The Police Republic of Indonesia as Government apparatus in keeping the security and public order, function to protect, shelter and serve society and enforce the law. In the position of an institution that serve the people, the goal of the Police of Republic of Indonesia is to obtain national security which cover the maintaining safety and public order, law enforcement, and the functional of protection, education, and service to the society, and the conduct of people well-being by appreciating Human Rights (Article 4 Law No. 2 in 2002 about the Police of Republic of Indonesia).

In the case of Denai and Bulukumba, the Police institutions on the areas did not perform their function professionally. Moreover, they engaged in the incursion of farmland of Indigenous people of Denai and execute gun firing to the Indigenous people of Bulukumba. It describes that the Police institution not only break national law (Constitution 1945 and Law No. 2 in 2002 about National Police) but also violate the rights of every human to having the same opportunity and service in public places, as written in Article 5 of International Convention on Elimination of All Forms of Racial Discrimination.

2) Rights of Free from Fear and Violence.
It happened to Indigenous people of Kajang who suffered aggression and arrest to 39 people. And it did not end that far. There are more terrors by the apparatus in the form of rummage and chasing of people all the way through the villages.

3) Rights of Inheritance.
The incident of bulldozing farms in Denai village in North Sumatra, and the incident happened in Bulukumba, South Sulawesi are violation of this rights. The land that had been claimed by the Indigenous people as mentioned above as their land is communal land, and the incursion of the land a form of conduct that vanishing the opportunities of their children and grandchildren to acquire / inherit part of this communal land.

4.2.2. Development Policy for Indigenous People's: for example the case of Suku Anak Dalam etnic group in Propince Jambi.

110. Bukit Duabelas National Park (TNBD) is an area of tropical rain forest in the lowland of Jambi, located at 1º44'35'' South Latitude - 2º03'15''South Latitude, 102º31'37'' East Longitude - 102º48'27'' East longitude. This are was originally a definitive production forest, limited production forest and also other uses which later joined to become a national park. TNBD covers three regencies with total area, based on temporary data (DIPHUT, 2004), of 58,300 Ha as follows: (a) Batanghari Regency ± 65% (37,000 Ha.), (b) Sarolangun Regency ± 15% (9000

Ha.), (c) Tebo Regency ± 20% (11500 Ha.). TNBD was established via Minister for Forestry and Plantation's Decree No. 258/Kpts-II/2000, 23 August 2000.

111. Most Suku Anak Dalam (SAD) live in the area, numbering around 200,000 people and is spread in three areas (Bukit Duabelas, Bukit Tigapuluh, and along Trans-Sumatera road. The establishment of Bukit Duabelas area as a National Park was originally intended to protect SAD community, but was later led to the violations of SAD's human rights. The change in the status of the area is not intended to maintain SAD's existence, but it turned into a means to force SAD to leave their "lives".

112. Those who have nomadic live and hunt are not possible to be forced to leave the forest in which they live and make their livelihood and even build their belief. The pattern of live that they hold was more because of a very strong traditional attachment. They live in groups with their bodies only partially covered. It is also strengthened by their animism belief. If the Government still forces its will, what will happen is what Komnas HAM found several months ago: that there are 12 kinds of human rights violations against Suku Anak Dalam inside the Bukit Duabelas National Park Bukit, Jambi.

113. According to the series of events and facts from SAD, there have been discriminative treatments based on Government's reason that they are jungle people and this led to various violations against their rights. Among these violations, based on Komnas HAM finding in their letter No. 088/SR-KHU/III/07, are:
    a. Violations of the rights of special group, where the Government generally has not given extra treatment and protection for the Orang Rimba as a special group in development policy;
    b. Violations against communal land, where there were efforts in the form of National Park policy and Government policy in developing palm oil plantation., which has reduced and will continue to reduce the recognition of Orang Rimba's communal rights;
    c. Violations against the right to live in dignity because there have been restrictions, reduction, and prohibition on Orang Rimba's livelihood activities as a result of TNBD policy;
    d. Violations against the right to environment, where natural environment as the habitat and source of livelihood for Orang Rimba has been damaged by, among others, the policy of forest concession right and the expansion of palm oil plantation;
    e. Violations against the right to health, where the Government does not provide adequate health facilities and infrastructure that can be accessed and accepted by Orang Rimba;
    f. Violations against the right to education, where the Government does not provide adequate educational facilities and infrastructure that can be accessed and accepted by Orang Rimba;

g. Violations against the right to information, where the Government does not give and provide adequate, fair and transparent information in the National Park policy and Government policies in general;
h. Violations against the right to self-development, where Government programs to resettle Orang Rimba in villages has stopped their lives from progressing. This caused their self-development to be hampered;
i. Violations against the right to security because there have been threats made and prohibitions made against their livelihood activities, damages to properties, and shooting by security officers in palm oil plantation, all of which have disturbed the peaceful live of Orang Rimba;
j. Violations against the right to ownership, where there have been damages and elimination on Orang Rimba's properties, as well as efforts from the National Park policy which are potential to hamper, restrict, and reduce their rights to property;
k. Violations against the right to participate, where the Government is not opened to and invite Orang Rimba to participate in the planning, formulation and implementation of National Park policy, especially in the preparation of management plan of the National Park ;
l. Violations against the right to citizenship because the Government does not give Birth Certificate to every child of Orang Rimba as part of protection and recognition of Orang Rimba's existence.

114. Until today, there has been no concrete follow up to stop the violations against the human rights of Suku Anak Dalam. Even after Komnas HAM's finding was published, the Natural Resources Conservation Agency (BKSDA) Jambi as a Government institution does not admit the existence of human rights violations against Suku Anak Dalam (SAD). This shows that there is no good will from the Government to stop discrimination practices against Suku Anak Dalam in Bukit Duabelas National Park

115. Meanwhile, especially for violations against the right to citizenship, not only did the Government not give Birth-Certificate, it has also failed to provide population administration that can accommodate SAD. The lack of clarity in the individual residence has always been used as a reason, when in fact, by creating an administration system that can accommodate SAD's nomadic live, and the problem can be easily resolved.

4.2.3. Stereotype

116. Stereotype here means a point of view that is (re)produced continuously in viewing and categorizing other communities in negative ways such as being uncivilized, retarded, stubborn, lazy, rebellious, not modern, etc. Post 1965, such stereotyping becomes stronger especially through socialization of knowledge about communities that are considered threatening the existence of the majority group and the national stability.

117. Community Sedulur Sikep, for example, has been stigmatized for decades both by State and other religions. There are still many other groups that call this community Samin community in a connotative meaning. The word "Samin" is often said in angry tone (for example, "*dasar Samin*!!") simply to show that this community is identical to rebellion against State regulations such as making ID Card, paying taxes, etc. The same stigma also occurs in matrimonial ritual. Sedulur Sikep Community has its own way in terms of wedding but it is considered as incorrect. Moreover, Government institutions such as the Office of Religious Affairs (KUA) always invite Sedulur Sikep community to perform mass wedding facilitated by the Government (head of villages and KUA officials).

118. Lately, the stigma and stereotype against Sedulur Sikep community as a "retarded" community occurs in the form of a movie which is currently being made by a director from Jakarta. The film tells the lives of Sedulur Sikep community such as wedding, sexual relationship and education, in which the community is described as not being modern.

119. Dayak Hindu Budha Bumi Segandu Community in Indramayu is also stigmatized in a very concerning way. The community is described as a community that rebels against State regulations such as not having ID Card, not wearing helmet when riding, refusing to inform authorities when they are going to hold certain ritual or ceremony. They are even accused of a group who mix the teachings of several official religions. On 26 April 2007, this community was tried by Government officials such Council of Indonesian Ulama (MUI), Department of Religious Affairs, Police, Military, and Prosecutors to explain all their daily activities. The point is that the Government is forcing Dayak Indramayu community to obey and follow all rules in Indonesia.

120. W*etu Telu* community in West Nusa Tenggara and Gantarang Keke community (Bantaeng, South Sulawesi) are stigmatized as "imperfect Moslems." Many religious schools in Lombok always try to bring these communities to take the "right path". Such efforts resulted from the opinions of several religious leaders that their version of Islam is not the real Islam because they never perform the rituals and the teachings that are studied, understood and performed by the majority of Moslems in the world. In wedding, *Wetu Telu* community has to have two wedding ceremonies, one at the Office of Religious Affairs (KUA) and another based on their tradition. The wedding through KUA is a form of discrimination because they are being coerced by the Government since if they do not obey, *wetu telu* community and their children will not receive their right to other population administration such as birth certificate, entering formal school, etc.

121. Stereotype, especially in the form of defamation against ritual practices, is experienced by *tau taa wana* community in Central Sulawesi especially through religious missions performed by Moslem and Christian missionaries. Parmalim community (North Sumatera) is having difficulties obtaining ID Cards and birth certificate; community with different beliefs such as Karuhun Urang and Kapribaden is discriminated as communities who have no right in obtaining population administration; meanwhile, Cikoang community (South Sulawesi) was attacked by

another group (a religious school) because their tradition of *maudhu lompoa* was considered as a *bid'ah* (heresy) and a betrayal against Islamic tradition and teachings.

122. Stereotype against local communities is often parallel to their category as a community who does not hold one of the State-recognized official religions, which leads to the difficulties in obtaining civil rights. The difference between the beliefs of traditional community and those of majority religions can also lead to violence. Such was what happened to Papuangan Mandar community (South Sulawesi) where in September 2003, their *Mappasialla Manu* ritual (literally means slaughtering a chicken) was raided by security and several people were arrested. The ritual was considered a form of gambling and had to be banned.

4.2.4. Discrimination against indigenous people through Provincial Regulations (Perda)

123. Apart from stereotyping (stigma, stereotype, etc), the discrimination against local community (tribal and ethnic) was due to Provincial Regulations (Perda). The beliefs of the local community are generalized as indigenous beliefs and therefore all their rituals are bound within this terminology. Several Provincial Regulations that are discriminative and impacted directly in local communities are:
    a. In Bulukumba (South Sulawesi) there are Provincial Regulations (Perda) No. 6/2003 on reading and writing the Quran, No. 4/2003 on Moslem wear and No. 3/2002 on regulating alcoholic drinks. These Provincial Regulations impacted the Kajang community because they also have to obey the rules. The first one on reading and writing the Quran clearly marginalized and discriminated against Kajang community belief of *Pasanga ri Kajang* (the holy book) because now they are obliged to be able to read the Quran. Meanwhile, the Perda related to alcoholic drinks also discriminates against Kajang community, who uses *tuak* (traditional alcoholic drink) as a part of their rituals. The strange thing is that alcoholic drinks for tourist spots such as Bira are allowed.
    b. West Sumatera's Perda No. 2/2007 on Nagari is a threat to the existence of Mentawai community. During the establishment of the regulation, the Mentawai community rejected it but the regulation was passed anyway. The regulation was established due to the politics of prioritizing one traditional community above others. One of the threats of discrimination against Mentawai community is the destruction of all culture and order of Mentawai indigenous people.

4.3. Closing.

124. Discrimination against indigenous people results from State's policy as well as company's policy, especially related to the procurement of land and natural resources. This consequently leads to violations against other rights.

125. The above are violations against ICERD according to General Recommendation No. 23: Indigenous Peoples: 18/08/97 point 1. Even more so since it specifically mentions the issues of land and natural resources in point 3, which is of special

concern for the Committee. It is hereby stated that the Government of Indonesia has failed in complying with point 5 of the General Recommendation.

126. Discrimination against indigenous people can occur due to Provincial Regulations such as in Bulukumba and Mentawai cases. On one hand, discrimination against indigenous people results from not only the stigma attached to the community and from Perda, but also in the form of omission by officials who did not carry out legal actions against the discriminative treatments.

5. RACIAL DISCRIMINATION CONDUCTS On ETHNIC And NULLIFYING Of ETHNIC

127. Article 1 Point 1 ICERD mentions that the definition racial discrimination in the convention shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose of effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Human Rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. The definition from Article 1 point 1 mentions national/ ethnic. In that definition is also addressed to activities "which has the purpose of effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Human Rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life that conducted with any distinction, exclusion, restriction or preference".

128. Indonesia in this context has numerous amounts of tribes/ethnics with various identities attached to those ethnics. Frequently the policy that established is discriminative on them, even policy that has not directly contact with the ethnic can bring discriminative impact.

129. Entering the scope of definition in article 1 point 1 of CERD explained above, it can be proved that many incidents / cases suffered by an ethnic, both individually and group, are categorized in the definition of violation against article point 1 CERD. Therefore, this report present the facts of how ethnic group suffered discrimination conducts in context of racial discrimination / can be scoped into the jurisdiction definition of ICERD.

5.1. Background

130. All this time local beliefs, which commonly devoted by certain ethnic or sub-ethnic groups were never be recognized by the Government. While in facts, their number is quite large, spread all over archipelago, with various belief and ritual practices they believed. Everything presented in this summary report is just a sketch of some distinguishable groups in fighting for their rights against discriminative conduct by Government. There are a lot of more *local beliefs based on ethnic or sub-ethnic* in

archipelago that unfortunately, has never been paid any attention to.[6] It is hope for in this brief description from several groups below, can be observed the pattern of discriminative policies that nullifying their civil and political rights.

5.2. The Pattern of Discriminative Policies

131. There are 3 patterns of discriminative policies that suffered by those ethnic groups, specifically on the nullifying of local beliefs by Government. Entirely can be said thae discriminative policies by Government are systematically, widespread and consistently implemented since the Old Order era until now, they are;

    1. The pattern of segregating between recognized and non-recognized religions.

    2. The pattern of nullifying civil rights.

    3. The pattern of insertion local belief as a part of religion recognized by Government.

5.2.1. Segregating between Recognized and Non-Recognized Religions

132. Although there has not any law and regulation about segregating between religion "recognized" or "not recognized" by Government, but in practice what have been called as "religion" are only six religion stated in President Resolution No 1/PNPS/1965 (now Law No 1/PNPS/1965). There are two important notes. First, the remark of six religions (Islam, Christian, Catholic, Hindu, Buddha, and Confucius) is only in the part of *explanation* article 1, not in the text of PNPS itself, which explained about "religions that being adopt by the citizens of Indonesia". Second, Confucius once was "expelled" from the list as a result of President Instruction No. 14/1967, which forbid any practices of Religion, Belief and Tradition of Chinese in public domain. Then, after the issued of President Resolution No. 6/2000 that withdraw previous President Instruction, the Confucius devotees can have a great relief.

133. The emerge of Law No. 1/PNPS/1965 needs to be examined thoroughly because it impacts fatally to the groups of ethnic or sub-ethnic basis beliefs. As can be extracted from official explanation of PNPS 1965, the resolution of President Soekarno is born from the situation where "almost all over Indonesia not in small number, emerges organizations of faith/belief that contradicted with the teachings and principles of religions." This situation is considered as "has causing things that violate the law, break the national unity and contaminate religions" (*Explanation on president Resolution No. 1/1965*, I.2). In other words, PNPS 1965 was born to protect religions (recognized by Government) from the itineraries of faith / belief. Why this step is necessary to take? In his classic studies, Niels Mulder[7] stated that one of the

[6] According to CERD jurisdiction, therefore the focus of attention will only be aimed on local beliefs that have strong connection with identities of certain ethnic or sub-ethnic.

[7] *Mysticism and Everyday Life in Contemporary Java: Cultural Persistence and Change*, Singapore: Singapore University Press, 1978

background reasons is the abundant productivity of faith groups at that time. Ministry of religion stated that there are more than 360 of Faith groups in Java. These groups play important roles in General Election in 1955, Islamic parties were failed to achieve majority votes, and only got 42 percent of votes. In the same year, Congress Body of Faith all Indonesia (BKKI) was established under the leadership of Mr. Wongsonegoro. In 1957, BKKI urged President Soekarno to recognized formally that "faith" is equal to "religion".

134. This background was the reason that encourage Ministry of Religion, in 1961, to officially formulate of what "religion" is, with its 5 elements: God, Prophet, Holy Book, Congregation and International recognized. Therefore, with that step, the groups that believe in local belief were categorized as "not having religion yet", or more explicitly, "not having religion recognized by Government". To scrutinize these groups, through Letter of Decision No. 167/PROMOSI/1954 then established Inter-department Committee on Beliefs in Society, which later in 1960 became the Society Versions of Belief Supervising (SVBS / PAKEM), a Bureau under Attorney General Office. Then, via announcement letter from Attorney General Office, Central PAKEM Bureau No. 34/Pakem/S.E./61 dated on 7 April 1961, PAKEM Bureau must be established in every Provinces and Counties. Some of the duties of PAKEM Bureau are following, observing, supervising the movements and developments of all religions, beliefs and faiths, checking and learning books, brochures of religions and beliefs, both domestic or from overseas.[8]

135. PAKEM bureau is still exist and performing its function. Moreover, some of its duties are recorded in Law No. 16/2004 about Attorney General. In the Law, according to article 30:3 the Attorney General also function in public order and safety by perform "(c.) Supervising the distribution of printed material; (d.) supervising version of belief that potentially endanger people and country; (e.) prevention of misused and /or contamination of religion". The effective control by Government caused a lot of local beliefs adopted by various ethnic or sub-ethnic in Indonesia must die. As reported by Kompas (5 August 1993), "The Chief of Public Relation of Attorney General Office Soeparman, S.H., said that since 1949 to 1992, there are 517 versions of belief had 'died' all over Indonesia."

136. The policy of segregation is consistently performed by New Order regime with very powerful law basis. In 1978 The People's Consultative Assembly (MPR) established TAP The People's Consultative Assembly No. IV/MPR/1978 about National Direction Outlines (GBHN). In the TAP is confirmed that, "Belief of One God is not Religion". Start from this resolution Minister of Religion; issue an Instruction No. 4 and 14 in 1978 that outlining the core of belief versions. Both of them then followed by Letter from Minister of Religion No. B/5943/1978 dated on 3 July 1978 addressed to the Governor of East Java. The letter confirmed that, since belief is not religion, (but categorized by Minister of religion as "culture"), then on them there are not any oath, marriage or other rituals according to that belief. It shall mean that marriage "only

[8] Ahmad Baso, *Islam Post Colonialism: Affairs of Religion, Colonialism and Liberalism,* Bandung: Mizan, 2005, h. 241.

existed according to religion consistent with applied law and regulation".

5.2.2. Nullifying of Civil Rights

137. Clearly the segregation policy above caused fatal impacts on local ethnic or sub-ethnic beliefs in Indonesia. Moreover, the column of "religion" is an obligation that has to be filled since Family Card, Identity Card until other important civil certificates. Included in the Law No. 23/2006 about Residents Administration that has been established recently on 8 December 2006 (in "Reformation" regime) still require it. The Law is interesting, because for the first time, in an official National Document is employed remark of "non-recognized religion by Government" to refer belief devotees *outside* six recognized religions. In fact these kind of groups have very large number and spread all over archipelago. They are not only cover local beliefs, but also "ethnic based religion" groups like Sikh, which in international world is recognized as religion.

138. In the practice level, commonly the religion column in Identity Card for belief devotees must be emptied or marked with "--". This, definitely, cause another weakness; maybe, they were accused as "atheist" that has no place in this country. Most of them, because of this concern, forced to fill it with one on recognized religion by the Government. Although, they do not believe in it or practicing the religion.[9] What is more painful for the groups, Government does not acknowledge their marriages based on belief tradition. In truth, in article 2:1 Law No. 1/1974 about Marriage, sounds "Marriage is legal, if conduct according his/her religion and belief". But, as explained in Letter of Minister of Religion No. B/5943/1978 dated on 3 July 1978 mentioned above, in matter of marriage there is only existed procedure, which is of religion procedure! As a result, Office of Civil Documentation would not document the marriage. This discriminative conducts encourage many of belief groups to report to NCHR. Report in Gatra (4 March 2006, h. 28 – 31) mention that 110 husband and wives couples, and another 30 couples in Kebumen, Central Java, who attempt to do that. Definitely, it is only small amount of various groups of local belief groups that spread all over Indonesia.

139. By not recognized marriage of local belief groups, then the status of children born within that marriage becomes troubled. Commonly, as expressed by Dewi Kanti from the belief group of Sunda Wiwitan, Cigugur, there is a form that should be filled so the child from the marriage of belief devotees can get "acknowledgement". What's so interesting is that in the form is only mentioned that a woman delivers the child on a certain date, and *not mentioning name of her husband or status of their marriage*.

140. Sedulur Sikep Community is part of ethnic Java in Pati, Blora, Kudus, and Bojonegoro. Their belief is not included in the State's five officially recognized religions, and this leads to several discriminative treatments such as: a) their ID Cards do not state their belief; b) they are persuaded to perform mass wedding according to

[9] Furthermore see report on *Forum Keadilan* No. 50, 16 April 2006, h. 18 – 19, and *Indonesian Edition of Playboy* magazine, April 2006, h. 72 – 79.

Islam; c) they are prohibited from burying their dead in public cemetery.

5.2.3. Because of Legality, forced to Change His/Her Belief into Official Religion

141. Because of obstacles above, a lot of people from belief group took a shortcut. They fill the column of religion in civil certificate with one of the religion recognized by Government, or married based on certain religion. These ways are taken to avoid many difficulties they have to confront when facing Government bureaucracy.

142. On the other side, Government is also having trouble in handling various local beliefs, whether in the form of faith or in ritual practices. Frequently, the Government also takes a shortcut, by categorizing some of local beliefs into one of recognized religion. For instance, reflected in the policy of Ministry of Religion to the people of Tolotang in South Sulawesi. This community recklessly was placed by Ministry of Religion under the supervision of Directorate General of Society Management of Hindu Buddha. Based on Letter of Decision No 2 and 6 in 1966 that "appoint Mr. Makkatungeng on behalf of Directorate General of Society Management of Hindu and Buddha to conduct management and enlightenment to the community of Hindu Tolotang." Then, as a result Indigenous community of Tolotang is enforced to pray in Pura with rituals subsequently like Balinese Hindu rituals that completely peculiar for them! [10]

143. Bitter experience of Tolotang community in South Sulawesi is only an example of similar treatment received by local belief devotees in other places. Such as Dayak community that adopt "local belief of Kaharingan" is also recklessly placed under Hindu religion since 1980. Similar thing happened to Sikh community in Medan, which majority devotees are India lineage, or other communities

6. IDPs in Ethnic Violence in Kalimantan

6.1. IDPs from Ethnic Madura: Conflict in Sambas Regency, West Kalimantan, and Sampit Regency, Central Kalimantan

144. ICERD pays special attention to IDPs as reflected in the General recommendation No 22: art 5 on Refugees and Displaced Persons.

145. In the context of Indonesia, one of IDPs problems related to ICERD occurs in the riot between ethnic Dayak and Madura in West Kalimantan (Sambas Case /1998-1999) and Central Kalimantan (Sampit Case /2001).

146. The fate of the Madurese who were displaced because of the Sambas incident has not been resolved. Around 68,000 IDPs have been placed in relocations in several areas in Pontianak. However, there are still efforts made by public officials to reject the return of the Madurese community back to their homes in Sambas. Several NGOs

[10] Ahmad Baso, *op.cit.*, h. 246 – 247.

who tried to facilitate and encouraged efforts to build reconciliation on grassroots level were accused by public officials and community leaders as 'wanting to return Madurese to Sambas'. Another problem that IDPs experienced is that their properties, scattered all over Sambas regency, do not receive any guarantee of legal protection from the Government.

147. In the relocation sites in Pontianak such as in Pulau Nyamuk and Parit Haji Ali, IDPs also face many problems, namely: a) inadequate or unsuitable location for farming so that the IDPs are experiencing difficulties in building a new life as farmers; b) the location is still under legal dispute and this leads to a dispute with the local community around the location. This is a violation of the General Recommendation no. 22 number 2 point c related to article 5 of the convention.

148. IDPs in the relocation sites are mostly women. Basic health problems there do not receive enough attention and this is in violation of the General Recommendation No. 25.

149. Until today, the Provincial Government of West Kalimantan does not have a policy that contains truth seeking and reconciliation scenario conducive to build peace in West Kalimantan. This can be seen from the frequent social frictions within the community which often end in ethnic violence. This is a violation against article 7 of the Convention.

150. The omission by State towards ethnic violence without giving clear legal solution causes ongoing racial discrimination. It is suspected that such omission is one of the triggers of riot between ethnic Dayak and Madura in Sampit, Central Kalimantan in 2001. This is a violation against Article 5 verse b.

151. The same case occurred with IDPs of ethnic conflict in Sampit, Central Kalimantan, on 18 February 2001. Violence due to ethnic conflict here lasted around 10 days. During the period there were around 341 victims from Madura and around 16 victims from Dayak. Hundreds of houses were burned and damaged. This data is obtained from Kotawaringin Timur Resort Police. Post conflict was also marked by exodus of nearly 30,000 refugees (IDPs) – from Madura ethnic – from Central Kalimantan to Java Island. Most of them have not been able to return to their homes because they are still afraid for their safety.

6.2. Closing

152. The non-fulfillment of IDPs' rights in Kalimantan is due to omission/lack of good will from the regional and central government in resolving the problems. In reality, the post conflict relocation that the Government did serves as a permanent separator between the two ethnics. Until today, IDPs have not been able to return to their homes safely.

7. RACIAL DISCRIMINATION In PAPUA

7.1. General Background

153. Papua's land covers 422,000 sq km, almost one fourth of Indonesian land (roughly 1.9 million sq miles) and is rich in natural resources such as oil, gas, gold, copper, wood, uranium and fish. Papuans are Negroit Melanesia with dark skin and curly hair. Ethnic Papua is divided in sub-cultures with 253 tribal languages. Papua Island was once a colony of the Dutch Kingdom, which was then transferred to the Republic of Indonesia on 1 May 1963. It was strengthened in a poll initiated by the UN in 1969 although the Papuans think that it was un fair and non-democratic.

154. The history of racial discrimination in Papua has started for along time, even before Papua joined the Unitary State of Indonesia on 1 May 1963. The Dutch and Japanese governments have practiced discrimination against Papuans. For example, the Dutch government restricted Papuans from getting education. Only Papuans whose parents held important positions or helped the Dutch colonial government could obtain opportunities to get education. After Papua joined NKRI, racial discrimination continued until today.

155. In response to the situation in Papua, Rodolfo Stevenhagen, the UN Special Rapporteur for Indigenous People said in his report during the 61st session in 2005, "Indigenous people in Papua suffer from widespread discrimination that prevents them, in certain ways, to gain access into institutions in community, which enable them to make their own decision, such as in education, treatment, health, equal earning/income, public view of women, and self-respect,[11] although there exists the Papua Adat Council and Papuan People Assembly.

7.2. Discrimination in Papua can be seen from 2 (two) aspects

7.2.1. Development policy

The central government's development policy contains programs for the development of eastern Indonesia including Papua, in the form of a general development policy without any special programs based on the appreciation of local values. In the context of development in Papua, it is still racially biased and stereotyped against Papuans. It is in this context that development policies become the source of violations against ICERD.

7.2.1.1. Lack of affirmative action in the Economy.

156. Lack of affirmative actions in the economy policy so that it is very difficult for the native Papuans to compete with outsiders who have experience and strong business sense. Another factor is that Papuans themselves is still in transition period from the culture of gathering to a modern economy system. Furthermore, the Government gives very little opportunities for native Papuans to develop their economy. Banking

[11] ***(Hermien Rumrar and DR. Theodor Rathgeber., "Economy, Social and Cultural Rights di West Papua". Page 148) @2007,***

gives limited credit for Papuans to improve their economy. In the markets, native Papuans trade on pavements; they do not enjoy the market facilities dominated by non-Papuans.

Lack of affirmative actions has resulted in Papuans being marginalized and it is this condition that makes Papuans vulnerable to discriminative treatments.

7.2.1.2. Stereotype and Discrimination in Employment

157. Papuans are often stereotyped as not educated, not attractive looking and lazy. This makes it difficult for to obtain employment in certain fields. Many supermarkets in Papua refused to employ Papuans. Private companies like Freeport and British Petroleum are no exception. At Freeport, for example, employees who are native Papuans are never promoted to strategic positions despite having the same qualifications and capability as other employees. Such discrimination leads to the employees forming an association called "Tongoi Papua." They then conducted a large demonstration last April to demand for better empowerment of Papuan employees and wages improvement. Meanwhile at British Petroleum, the local people are only promised to be hired as security guards.

158. Another form of racial discrimination is a racist call towards Papuans after the attack on Abepura Police Headquarters in 2000 by an unknown group, which led to sweeping conducted by the police. In its report, KPP Komnas HAM for "Abepura Berdarah" case found racist statements directed to the prisoners during interrogation. The statements are, among others, "you Papuans only know to eat pig, therefore you have pig brains"; "you must eat lamb so you can be smart like people from Makasar, Java and Jakarta"; "You Papuans with your curly hair, black and stupid".

7.2.2. Indigenous People

7.2.2.1. Taking over of Land

159. The denial of indigenous people's rights often occurs in Papua. Communal land is taken over to develop transmigration, build military basis and serve the interests of investors without giving adequate compensation. The taking over of communal land not only damages the people's economy which depends on the land but it also damages traditional values long held by the community. Papuans always referred to the land as "MOTHER' because it gives protection/feeds and referred to rivers as the "**breast milk**" which gives life. When the community fought to reserve their right and traditional values, they were accused of hampering development and being a separatist. Such reasons were used to justify harsh reaction or to create a new chain of violence. An example is the fight given by Amungme tribe against the presence of PT Freeport which destroys the land and the environment as well as polluting the rivers. Many people were killed for trying to defend their right to natural resources in mining areas such as Hoya, Agandi, etc. The cases have been reported by the church and were investigated by Komnas HAM in 1995.

7.2.2.2. The issue of transmigration

160. Papua is a transmigration destination. With the transmigration program, fertile lands and communal lands were taken over. As a result, the indigenous/native people were forced out. Many of them were forced to live in mountains. Another implication is the difference between the native population and the outsiders coming to live there. An example is in 1970 in Arso, a central transmigration district, where the population was around 1,000 people. In 2000, the population had grown to 20,000 people, causing the native to become minorities. In addition, health service, education and housing for the transmigrants are more complete than those in the native's villages. For example, in Arso we can see that the transmigration villages have Junior and Senior High Schools as well as Health Care Center (Puskesmas) provided by the Government, whereas in the native's villages the Government did not build similar service but it is the Church who is responsible for it.[2]

7.2.2.3. Stigma as OPM (Free Papua Organisation / Organisasi Papua Merdeka)

161. One form of discrimination against Papuans is being stigmatized as OPM. The government and State apparatus build the stigma that Papuans, especially indigenous people living in suburbs and in jungles are identical with OPM and rebels, thus giving justifications in eradicating them. An example case is the breaking into a weapon warehouse in Wamena in 2003, committed by an unknown group of people. The security personnel accused OPM of committing the act. They then conducted a sweeping and committed arrests and killing. Many Papuans who had no knowledge of the crime and were mostly civilians/farmers became the victims and were accused of assisting OPM. This incident was used as a justification to have another battalion in Wamena. Another case is where around 10,000 civilians from Yamo district, Puncak Jaya Regency, fled their homes after the murder of two army soldiers by a militia group. Still another example is Mariedi district in Bintuni regency where the people demanded adequate compensation for the wood taken by PT. Djayanti Group but Brimob, acting as the company's guard, shot dead 5 people because they were accused of being involved in OPM. In another incident in *ketupat* operation, 11 civilians were accused of being members of TPN/OPM and were arrested on 22 November 2003.

162. In addition, Papua was made into Military Operation Area (*Daerah Military operation* or DOM). The target of this military operation was Papuans who were accused of treachery against the Government of Indonesia. Such operation covered almost the entire Papua land. Many Papuans were killed during DOM because military operation did not apply selective system - they targeted everyone. This can be seen in the case of Wasior regency Manokwari where the officers did not differentiate between those who were innocent and those who were not, and simply acted based on the color of the target's skin and hair.

[2] Kristina Neubauer 2002: *Die soziokulturellen Folgen des Indonesischen Transmigrations programmes fuer die lokale Bevoelkerung Papuas am Beispiel der Region Arso.*

CHAPTER IV
CONCLUSION

163. In Indonesia, racial discrimination still occurs although there is now legal policy that shows changes to the better. It occurs because of the changing in the existing legal policy, which is not comprehensive and is sometimes accompanied by the birth of new laws that still contain discrimination. In such context, conflict of laws occurs. Such conflict of laws also occurs within the Constitution between one article and another article which contradict each other.

164. In addition to the contradiction between law /policies that regulate racial discrimination, existing discrimination also caused by Government's apparatus conduct. They are supposed to implement their obligation to serve every individual or citizen, instead of applying racial discrimination. The behavior of Government's apparatus is also reflecting of how discrimination phenomena has been conducted systematically and widespread.

165. In this context there is not any concrete action that has been taken by the Government of Indonesia. Not only nullifying the facts but also the active involvement of those Government apparatus.

166. Racial discrimination in Indonesia emerged in many forms. Most victims are Chinese ethnic and other ethnics/tribes specifically connected with their identity of their religion or belief.

167. Other serious matter in the implementation of ICERD is the policy to combat impunity on various racial discrimination cases, such as May '98 case, conflict case between Dayak and Madura communities in Sampit, Central Kalimantan, and other cases. The Government does not show effective efforts to settle those cases or any effective efforts in fighting impunity.

168. The issue of IDPs resulting from ethnic riot is also unresolved; many of their rights are violated and it is also said that the ongoing IDPs problem occurs because of the many point of views and policies that are racially biased.

169. There has not any law policy that addressed the remedy of victims of discrimination effectively. If it is mentioned that the Government Regulation No. 3 in 2002 about Reimbursement and Remedy for Victims of Gross Violation on human rights, it will not reach the victims of racial discrimination. And in real implementation, that Government Regulation No. 3 in 2002 cannot even be implemented for Victims of Gross Violation on human rights.

170. Another fact of ICERD violations is the many violations against Indigenous People in many forms, from overtaking of land and natural resources to destruction of local values.

171. In the Papua context, violations against ICERD also occur; the basic problem of the violations has not even been resolved until today.

172. In general, it can be concluded that racial discrimination in Indonesia is still occurring and that there is no effective resolution either through development policy, legal policy, or through a court.

CHAPTER V
CLOSURE

173. Description above proves of how the policy that was taken by Government and applied until now can cause ethnic whether as individual or as group being dropped by discriminative conducts.

174. The source of various violations against ICERD as described above is Government's policy and the omission of the violations themselves. Even more so because the 1945 Constitution still contains article which legitimizes violations resulting from racial discrimination as mentioned in ICERD.

CHAPTER VI
RECOMMENDATION

175. For the Indonesian Government:

1. To immediately amend Law No. 23/2006 on Population Administration.
2. For the President to immediately instruct the Attorney General to hold a court for May 1998 case and ethnic conflict in Sampit, Central Kalimantan, and Sambas, West Kalimantan.
3. Immediately revoke the policy of prioritizing certain religion / official religions.
4. Disband the Supervision of the Mystical Belief (*Pengawas Aliran Kepercayaan Masyarakat* or PAKEM).
5. Carry out any effective measures to guarantee the elimination of racial discrimination, especially those committed by State apparatus and to immediately draft a law that gives sanction to such discriminative treatment.
6. To establish policy that guarantees victims rehabilitation.
7. To form a special desk responsible for eradicating discrimination practices.
8. Urging the Government of Indonesia to be committed in implementing ICERD.
9. To establish a policy that guarantees the protection of indigenous people's rights and to resolve cases that of indigenous people in Indonesia.

176. For the Committee;

1. To change discriminative policies and laws.
2. To take effective measures in combating impunity.
3. Recommended to find resolution to May 1998 Case and ethnic conflict in Sampit, Central Kalimantan, and Sambas, West Kalimantan, through a credible and competent court the Human Rights Court.
4. To provide technical assistance.
5. To implement ICERD effectively and with commitment.

ATTACHMENT:

1. Table of discriminative policy/regulations

REGULATIONS	PROBLEMS/ANALYSES	FOLLOW UP SCHEMES
Regulation of Minister of Justice No. JB.3/4/12, 14 March 1978 on Letter of Proof of Indonesia Republic Citizenship (LPIRC)	The regulation from Minister and its implementation rules show that the requirement of appeals for LPIRC are only applied for Indonesia Citizen descendants (Chinese)	The Minister Regulation must be abolished by President Instruction / Regulation of Minister of Law that confirm about proving the citizenship of Indonesia Republic based on Law No. 12/2006 those are Birth Certificate, ID Card, etc for Indonesia Citizens (native) and the Copy of President Instruction on Republic of Indonesia naturalization and Documentation of Loyalty Oaths/Promises to the Unity Country of Indonesia Republic for those who naturalized into Indonesia Citizens. Then the new President Instruction / Minister Regulation are socialized to various Departments / Institutions / Public. These President Instruction / Minister Regulation also being the implementation following up instruction of President Edict No. 56 in 1996 with President Instructions No. 26/1998 and No. 4/1999 which did not do well.
Instruction of Directorate General of Laws and Regulations No. JHB.3/104/11 on 2 January 1980 on the Administration Completion of Appealing Letter of Proof of Indonesia Republic Citizenship	Indonesia Citizen descendants that already live for generation after generation should ever be sufficient by showing their birth certificates as a proof of Indonesia Republic Citizenship and DO NOT NEED any LPIRC	The Instruction of Directorate General must be abolished
Instruction of President of Republic Indonesia No. 2 in 1980 on Proof of Indonesia Republic Citizenship	Considers: a. In order to grant Law certainty for Citizen of FOREIGN DESCENDANTS that have not had the proof of Indonesia Republic Citizenship, need to be given a Letter of Proof of Indonesia Republic Citizenship …	This President Instruction has been abolished by itself
Presidential Decree of Republic Indonesia No. 13 in 1980 on Completion Protocol of Indonesia Republic Naturalization Appeals	Implementation Rules of naturalization requirements Law No. 62 in 1958	The President Instruction is automatically invalid
The Pronouncement Letter from Directorate General of Laws and Regulation No. JHB.3/157/24 on 22 November 1980 on LPIRC Appeals	LPIRC is not obligated for foreign Citizen descendants (Chinese), it is only required for holders of bi-Citizenship statement letters of Indonesia Republic – People Republic of China, but in realty it is applied for all Citizen descendants (Chinese) and their offspring	The Pronouncement Letter must be withdrawn and its substances being applied in President Instruction / Minister Regulation that abolishes No. JB.3/4/12, 14 March 1978
Joint Letter of Decree from Minister of Justice and Minister of National Affair No. M.01-UM.09.30-80 and No. 42 in 1980 on the Implementation of Granting Letter of Proof of Indonesia Republic Citizenship	Implementation Rule of President Instruction No. 2 in 1980	The Joint Letter of Edict should be considered as illegitimate automatically.
Wired Letter from Minister of Justice to Minister of National Affair No. M.UM.09.03-01 on 11 April 1980 on	Guidelines of problems occurred in the implementation of President Instruction No. 2 in 1980	The Wired Letter should be invalid automatically.

The Implementation of Letter of Edict from Minister of Justice and Minister of National Affair on 10 March 1980 No. M.01-UM.09.03-80 and No. 42 in 1980 on the implementation of President Instruction No. 2 in 1980		
The Decree of Indonesia Republic Minister of Justice No. M.01-HL.04.02 on 25 April 1983 on Letter (of Statement) Explaining Citizenship based on b-Citizenship Agreement of Indonesia Republic – People Republic of China and Granting the Letter of Proof of Indonesia Republic Citizenship	LPIRC is not obligated for foreign Citizen descendants (Chinese), it is only required for holders of bi-Citizenship statement letters of Indonesia Republic – People Republic of China, but in realty it is applied for all Citizen descendants (Chinese) and their offspring	The Minister Edict must be withdrawn and its substances being applied in President Instruction / Minister Regulation that abolishes No. JB.3/4/12, 14 March 1978
The Decree of Indonesia Republic Minister of Justice No. M.02-HL.04.10 on 10 July 1992 on the Verification of Indonesia Republic Citizenship Status of Children of Indonesia Republic Citizens with Foreign Descendants as Republic Indonesia Citizenship Proof Holder	In daily life children that have reached their adultery (18 years old) of parents LPIRC holder are "forced" to have LPIRC as their parents, because the letters were asked by institutions like Department of Education and Culture, Department of Industry and Trade, Department of Justice, because LPIRCs become the requirement to enroll school, start business, and make passport, even though available already the Edict of Minister of Justice No. M.02-HL.04.10 on 10 July 1992 and letter from Minister of Justice to Minister of National Affair No. M.UM.01.06-109 on Birth Certificate	The Edict of Minister must be abolished and its substances being applied in President Instruction / Minister Regulation that abolishes No. JB.3/4/12, 14 March 1978
Letter from Minister of Justice to Minister of National Affair No. M.UM.01.06-109 on 10 July 1992 on Indonesia Republic Citizenship Proof for an Indonesia Republic Citizen Descendants (Chinese)	In daily life children that have reached their adultery (18 years old) of parents LPIRC holder are "forced" to have LPIRC as their parents, because the letters were asked by institutions like Department of Education and Culture, Department of Industry and Trade, Department of Justice, because LPIRCs become the requirement to enroll school, start business, and make passport.	The Letter of Minister of Justice must be abolished and its substances being applied in President Instruction / Minister Regulation that abolishes No. JB.3/4/12, 14 March 1978
President Decree Republic Indonesia No. 56/1996 on Indonesia Republic Citizenship Proof	Article 5: By the functioning of this President Edict, therefore all Laws and regulations that in order to comply certain importance requires Letter of Proof of Indonesia Republic Citizenship (LPIRC), is not legitimate anymore.	Being reconfirmed with President Instruction/Minister of Justice and Human Rights Regulation that fortify about proving the citizenship of Indonesia Republic based on Law No. 12/2006 those are Birth Certificate, ID Card, etc for Indonesia Citizens (natural) and the Copy of President Instruction on Republic of Indonesia naturalization and Documentation of Loyalty Oaths/Promises to the Unity Country of Indonesia Republic for those who naturalized into Indonesia Citizens. Then the new President Instruction / Minister Regulation are socialized to various Departments / Institutions / Public.
Instruction of President of Republic Indonesia No. 4 in 1999 on the implementation of President Edict No.	Reconfirm the substances of President Edict No. 56 in 1996 on LPIRC and President Instruction No. 26 in 1998	Because this President Instruction has pass its cycle and LPIRC still can be problem, then it is necessary to establish subsequent

56 in 1996 and President Instruction No. 26 in 1998 with Full Responsible		President Instruction as well abolishing Regulation of Minister of Justice No. JB.3/4/12, 14 March 1978
RESIDENCY		
President Decree No. 52 in 1977 on Residents Registration	• This regulation requires LPIRC for Indonesia Citizen Tionghoa ethnic in residents' administration. • This regulation still categorizing Indonesia Citizen on descent ethnicity	This President Edict should not be applied anymore by the establishment of Law No. 23 in 2006 on Resident Administration.
Regulation of Minister of National Affair no. 8 in 1977 on 10 December 1977 on Implementation of Residents Registration	The Regulation of Minister of National Affair No. 8 in 1977 causes the existence of tendency that racial policy in the Instruction of Minister of National Affair No. X.01 in 1977 is "COVERED" by organizing residents' registration.	This Regulation of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Instruction of Minister of National Affair No. X01 on 10 December 1977 on the Guideline of Organizing Residents' Registration	Different administrative treatment of residents' registration for Indonesia Citizen descendants (Chinese) from other Indonesia Citizen, like the code on ID Card and requirement of having form K-1 for Indonesia Citizen with foreign descents (Chinese) in Special Province of Jakarta. (See point 4,5,6)	This Instruction of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Regulation of Minister of National Affair No. 1A on 2 January 1995 on Organizing Residents' Registration in the framework of Management Information System of Residency	• Different administrative treatment of residents' registration for Indonesia Citizen descendants (Chinese) from other Indonesia Citizen with foreign descents, such as code on ID Card and the requirement of having form K-1 for Indonesia Citizen descendants (Chinese) in Special Province of Jakarta. (See articles 15 and 16) • That different treatment started from the Instruction of Minister of National Affair No. X.01 in 1977	This Regulation of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of Minister of National Affair No. 1A on 30 January 1995 on Specification of Blanks/Forms/Books and other Supporting Pieces of Equipment to be Used in Organizing Residents' Registration	• Different administrative treatment of residents' registration for Indonesia Citizen descendants (Chinese) from other Indonesia Citizen with foreign descents, such as code on ID Card and the requirement of having form K-1 for Indonesia Citizen descendants (Chinese) in Special Province of Jakarta. • The effects of Instruction of Minister of National Affair No. X01 in 1977 spirit the differentiation treatments in all regulations issued by the team in Department of National Affair	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
CIVILIAN DOCUMENTATION		
Staatsblad 1849-25 on Regulation of		This Reglemen should not be deployed

Organizing Registrations of Civilian Documentation for European		anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Staatsblad 1917-130 on Regulation of Organizing Registrations of Civilian Documentation for Tionghoa		This Reglemen should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Staatsblad 1920-751 on Regulation of Organizing Registrations of Civilian Documentation for Indonesian		This Reglemen should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Staatsblad 1933-75 on Regulation of Managing Civilian Documentation Registration for Christian Indonesia Citizen in Java, Madura and Minahasa		This Reglemen should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Instruction of Parliament Presidium No. 31/U/IN/1966 on 27 December 1966 on Civilian Documentation	In realty, this regulation emerges discrimination in all aspects of life, because it still uses the categorization on the ordinance of Civilian Documentation	This Instruction should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of President of Republic Indonesia No. 12 on 25 February 1983 on Arrangement and Improvement of Tutoring the Organizing of Civilian Documentation	Article 1 point a: Organizing Documentation and Issuing Quotes of Birth Certificates, Death Certificates, Marriage and Divorce Certificates for non-Muslims, Acknowledgement and Legitimacy of Children	This Edict should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Joint Pronouncement Letter of Department of National Affair and Department of Justice No. Pemudes.51/1/3.J.A.2/2/5 on 28 January 1967 on The Implementation of Parliament Presidium's Edict No. 127/U/Kep/12/1966 and Instruction of Parliament Presidium No. 31/U/IN/12/1966	This Pronouncement Letter only standardizing the format (certificate blanks), but the substances are still deploying categorization on the base of ordinance	This Pronouncement Letter should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of Minister of National Affair No. 221A/1975 on Marriage and Birth Registration	This regulation is still categorizing based on ethnics and religions, and cannot revised the ordinance on the level of Laws	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Instruction of Minister of National Affair No. 474.1-311 on Birth Certificate Dispensation	Birth Certificate Dispensation by applying discrimination (only for native Citizens);	This Instruction of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 474 / 1376 / POUD on Death Reports for Tionghoa and European Groups	The report of death and birth of child beyond marriage are only for Tionghoa and European Groups;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on

		Residents' Administration
Pronouncement Letter of Minister of National Affair No. 474 / 1592 / POUD on the Dispatch of Death Reports for Tionghoa and European Groups	The dispatch reports of death and birth of child beyond marriage are only for Tionghoa and European Groups;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 893.3 / 1558 / POUD on the Implementation of Job Training Follow Up for Civilian Documentation	The Implementation of Job Training Follow Up for Civilian Documentation discriminate fellow Citizens based on ethnics;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 474.1/1814/PUOD on 26-5-1990 on Quotes of Birth Certificates for the Applicants of Indonesia Republic Citizenship	This regulation apply ethnic discrimination;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 477/2220/PUOD on 29 May 1989 on Documentation of Birth Certificate Quotes	The documentation of birth certificate quotes that treats Indonesia Citizen particularly Tionghoa, as well as foreign Citizen;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of Minister of National Affair No. 474.1-785 on 14 October 1989 on the Issuing of Delayed Birth Certificate	The issuing of Delayed Birth Certificate, by applying dichotomy of and specialized for "NATIVE" Citizen;	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 474.1 / 809 / PUOD on 1 March 1990 on the Manual of Implementation of Minister of National Affair's Edict No. 474-1-785	Manual of Implementation of Minister of National Affair No. 474.1-785 on 14-10-1989 applying dichotomy of and specialized for "NATIVE" Citizen;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 474.1 / 1812 / POUD on 28 May 1990 on Subject of Managing Identity Card Making and Civilian Documentation Certificate	This regulation still refers to Edict of President No. 12 in 1983 that discriminative	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Pronouncement Letter of Minister of National Affair No. 477 / 1977/ POUD on 11 June 1990 on marriage Documentation	Marriage Documentation applying dichotomy of "NATIVE" Citizen;	This Pronouncement Letter of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
Minister of National Affair's Edict No. 102/1991 on Organization of Procedure in the Civilian Documentation Office of Special Province of Jakarta	The regulation still categorizing Citizen by ethnicity and religion;	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Instruction of Minister of National	The regulation cases discrimination in	This Instruction of Minister of National Affair

Affair No. 3/1992 on the Implementation of Minister of National Affair's Edict No. 102 on 1991	civilian documentation service to fellow Citizen	should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of Minister of National Affair No. 131/1997 on the Management of Civilian Documentation in Framework of management Information System of Residency	The regulation still categorizes Citizen by ethnicity and religion in the process of birth registration;	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Decree of Minister of National Affair No. 132/1997 on Registration Blanks and Birth Certificate Quotes	The blanks used in certificate registration and quote of civil documentation certificate still uses staatsblaad that categorize Citizen by ethnicity and religion;	This Edict of Minister of National Affair should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
IMMIGRATION		
Law No. 9 in 1992 on Immigration	Still has racial perspective	Revision is necessary
This Pronouncement Letter of Directorate General of Immigration No. F-IZ.02.07-1025 on 3 August 1998 on the Uncertainty of Indonesia Republic Citizenship Status	• "... take notice on physical characters, accents and local language fluency" – this pronouncement letter is very racist and discriminative. In real life the regulation is extensively applied on Indonesia Citizen from Tionghoa ethnic (which have similar physical characters with Citizen of People Republic of Chine) with the obligation of LPIRC • This regulation is against with 1945 constitution on equality and human rights, Law No. 39 in 1999, Ratification Law of Convention of Elimination on All Forms of Racial Discrimination • This regulation also ignores the function of Birth Certificate, ID Card, and passport as legal government document, that have already show somebody's nationality	This Pronouncement Letter of Directorate General of Immigration should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
PROPERTY		
Governor Special Province of Yogyakarta Instruction of No. 398/I/A/1975 on Standardization Policy of Right Granting on Property Ownership upon Non-indigenous Citizens	• Against human rights, ethnic-culture-race-religion, and democracy condition • Limitation (discrimination) of civil rights of Indonesia Citizen from Tionghoa/India ethnics ("...Government of Special Province of Yogyakarta until now has not granted property ownership upon Non-indigenous Citizens who need lands)	This Instruction of Governor should not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
The Letter from Directorate General of Land Department of National Affair	The regulation is racial because it is only for Indonesia Citizen from Tionghoa ethnic	This Letter from Directorate General of Land Department of National Affair should

No. Btux.8/3/8-78 on Land/Building Belongs to Organizations, Groups, or Personals of Dutch and Chinese		not be deployed anymore by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration
ECONOMY (BANKING)		
Pronouncement Letter from Bank of Indonesia Directors No. SE.6/37/UPK on Investment credit for Small Scale Entrepreneurs /Small Scale investment Credit		This Pronouncement Letter should be revised (particularly on LPIRC requirement) by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration. Then the revision must be socialized to all banks in Indonesia.
Pronouncement Letter from Bank of Indonesia Directors No. 23/8/BPPP/1991 on Additional Regulation on Business Establishment and the Reporting Procedure of Ownership, Board of Directors and Board of Commissaries of Communities Credit Banks;	The government still treat Indonesia Citizen of Tionghoa descents as marginal groups; therefore they cannot contribute optimally to government institutions; besides, Government still treat p Tionghoa descents as "second class Citizen", by obligating LPIRC issued by Department of Justice;	This Pronouncement Letter should be revised (particularly on LPIRC requirement) by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration. Then the revision must be socialized to all banks in Indonesia.
Pronouncement Letter from Bank of Indonesia Directors No. 23/6/BPPP on Procedure of Ownership, Board of Directors and Board of Commissaries;	III. Reports (1). Report of ownership changes; 1.1 Report of investment adding; a. In investment adding, etc; b. For Communities Credit Banks in the form of Limited Incorporation, etc; 1.2. In the subject of Personal Stock Holder: a. History of Life; b. Copy of ID card c. Letter of Proof of Indonesia Republic Citizenship for Foreign Descents and Name Alteration Letter if he/she changes his/her name; (2). Report of members of board of Directors and Commissaries, also requires Letter of Proof of Indonesia Republic Citizenship for Foreign Descents and Name Alteration Letter;	This Pronouncement Letter should be revised (particularly on LPIRC requirement) by the establishment of Law No. 12 in 2006 on Citizenship of Republic of Indonesia and Law No. 23 in 2006 on Residents' Administration. Then the revision must be socialized to all banks in Indonesia.

PROFILE OF SUBMMITING NGO

❖ HRWG (Human Rights Working Group : Indonesia's NGO Coalition for International Human Rights Advocacy)

The Indonesia's NGO Coalition for International Human Rights Advocacy (HRWG) was established by a the majority of NGOs working in different issues but share interest in human rights to serve the need for elaborate advocacy works already in place with the aim of maximizing the goals and putting more pressures on the Indonesian government to execute its international and constitutional obligations to protecting, fulfilling, respecting and promoting human rights in the country.

Vision
State administrators to better fulfill their constitutional and international obligations to promoting, fulfilling and protecting human rights in Indonesia.

Mission
To increase effectiveness of human rights advocacy works in Indonesia in particular and in international world in general with the intention that encouraging the state c/q the Government of Indonesia to carry out its international and constitutional obligation to promoting, fulfilling and protecting human rights by making the following attempts:

- Building collaboration with human rights advocacy workers and those who are supporting it at local, national and international levels.
- Building coordination among human rights advocacy workers in order to maximize the impact, particularly at the international level.
- Increasing the capacity of the working group participants and other human rights advocacy workers at international level.
- Increasing effectiveness of control on the state's fulfillment of its obligations to enforcing and promoting human rights.

Networking Principles and Values
- The Coalition upholds the human rights values assured in all UN documents on human rights, including the Universal Declaration of Human Rights, its covenants and conventions.
- The Coalition administers and manages the organization and programs based on the following principles:
- The *Working Group* focusing on human rights advocacy with respect to attempted advocacy works for the right to self-determination in peace, pursuant to the 5 points of Vienna Declaration 1993.
- The *Working Group* carries out its advocacy works based on the principles of international justice.
- The *Working Group* is an inseparable part of the global movements for human rights.
- The *Working Group*'s membership is open in nature in so far as its mission and vision are acknowledged.
- In case internal conflict between participants appears, the Working Group may dismiss the participants involved for a non-determined period of time until the case settled.
- The *Working Group* does not duplicate any work that has been and/or be in progress in the hands of its participants.
- The *Working Group* sustains gender justice and equality.

- The *Working Group* is accountable to its participants and the public at large

❖ **GANDI (The Indonesian Anti Discrimination Movement)**
B A C K G R O U N D

13 – 15 May 1998 riots against the Indonesian Chinese in Jakarta, Solo, and other cities, were shocking so deeply in the hearts and minds of the Chinese. The riots spread so quickly and so fiercely, happened in three consecutive days in a metropolitan city and recorded by so many television life broadcast, and yet, without any evidence of effective efforts from the authority to control, creating an impression that it was deliberately intended to hurt the Chinese at large**.**

The burning of homes and shops at such a large scale, the bloodshed, the killing and raping of innocent people, young and old, were indeed a very traumatic life experience for the Chinese, unprecedented, in Indonesia. Literally, it was a *barbaric* venture: thousands of people disappear and died of organised violence. These were the tragic moments that will not be easily forgotten!

Very concerned with this tragedy, a group of Indonesian Chinese businessmen and executives gathered and after so much deliberation decided to form an institution to fight for our dignity and human rights. KH Abdurrachman Wahid (Gus Dur), who was the President of Nahdlatul Ulama (union of Islam clerics), responded instantly and declaring his support to our plea. In fact, the name GANDI was his idea, referring to the great man Mahatma Gandhi. GANDI was officiated by Gus Dur on November 6, 1998 at his house (Ciganjur), observed also by Megawati Sukarnoputeri (now the Vice President of Indonesia).

THE VISION

Looking ahead to the future, the national unity needs to be strengthen by all and every constituent. A nation that is multi-culture, multi-ethnic, and multi-religion shall not allow discriminative behavior and acts, because this will promote hatred, conflict, violence and ultimately, disintegration in the country.

In the era of Third Millenium, Indonesia as a country will have to integrate into common life with all nations in the world, in line with the expanding globalization, that supports human rights and democracy principle.

Racial and ethnic discrimination is against human rights and democracy principle, therefore it has to be abolished once for all.

THE MISSION

Our mission is to support national unity, and promote harmony in social and communal relations, in respect to equality in human dignity and human rights.

❖ **MADIA (Society for Inter Religious Dialogue)**
MADIA (Masyarakat Dialog Antar Agama), or Society for Inter-religious Dialogue, was established in November 1995 as a non-governmental organization devoted mostly in promoting mutual understanding, inter-faith encounters, and as a network for concerned individual and inter-faith activists in their joint effort to open dialogical space in Indonesia. From 1999-2000 MADIA did research in four different regions to understand the impacts of the fall of Soeharto's new order regime on inter-faith encounters at the societal level. In 2001, together with International IDEA, MADIA arranged focus group discussion to assess the

democratization process. From 2002-2004, MADIA hosted on air discussion on some basic issues concerning fundamentalism, human rights, and the role of religions in public sphere. Since 2004, together with many NGOs, MADIA forms many alliance to promote unity in diversity, freedom of religions and beliefs, civil liberties, and participates in National Alliance for Voter Education (JPPR).

❖ **KONTRAS (The Commision for the Disappeared and Victim of Violence)**

VISION

- Democracy must be development on the basis of the wholeness of the people's sovereignty based on the fundamentals and principles of a people that is free from fear, oppression, violence and the various form of human rights violation.
- The conditions for the growth of a domocratic system is to develop the characteristics of the system and the conduct of the state with civilian characteristics, and the alienation of politics from the approaches through violence which is born from the principles of militarism as a system, and the political behavior or culture, so that the issue is not just the military intervention in politics. But more than that it concerns the structural and cultural conditions and the relationships between social communities, social groups and social strata which prioritizes violence and its symbols.

MISSION

- To Advance the people's awareness on the importance of respect for human rights, especially the sensitivity of the people to the various forms of violence and attempts at the forced disappearances of people as a result of the abuse of state power.
- To fight for the upholding and respect for human rights, especially the right of the people to be free from all forms of violence and forced disappearances of people and the other serious human rights violation, by means of various forms of advocating or demands for the accountability of the state.
- To consistently push for the changes in law and political system which has the dimension of the strengthening and protection of the people against the forms of violence and forced disappearances and the other serious human rights violation?

❖ **AMAN (Indigenous Peoples Alliance of the Archipelago)**

Aliansi Masyarakat Adat Nusantara (AMAN) or Indigenous Peoples Alliance of the Archipelago is an independent social organisation composed of indigenous peoples communities from the whole of the country.

The Alliance is aimed to be an organization for indigenous peoples to struggle for their existence and rights inherited with it as well as to struggle for sovereignty in running their lives and in managing their natural resources.

❖ **DESANTARA -Institute for Cultural Studies**

Building epistemic communities among pesantren groups and local communities (masyarakat adat) with a goal to bridge the thinking gap and tension between the two became the first program in Desantara, which continues up to now. In the long run, the emergence of these epistemic communities would hopefully become social capitals for the growing of cultural practices and thinking with more inclusive and liberalize vision before the mass. In the local level, pesantren and other communities should be continuously supported to be able to participate in public sphere. In this context, Desantara facilitates the emergence of communication space that is more participatory, and at the same time supports the subject

repositioning amidst the pressures of its surrounding cultural practices and structures. In the process, the communities and networks with which Desantara works in the grass-root level demand a more intensive and extensive support. For Desantara, the sowing of more inclusive and transformative religious ideas inevitably demands an obligation to awaken civil politics in various fields. Problems the people are facing could not be directed to only one singlefactor.

Based on Desantara's experience, culture is not merely symbolic representation as seen in arts and rituals. Included in culture is numerous process of human interaction producing symbolic meanings as representation of various interests to dominate, implement hegemony, intimidate, exclude and interests directed to free and freeze those forms of domination/repression as well. This kind of situation brought Desantara to concern in three fields of cultural practices and works:

- Representation of human emancipation processes to establish and fight for their rights and dignities
- Representation of plurality and multi-culture in a community/society; and
- Holistic concepts which include ethical, esthetical, and progressive-evaluative dimensions; shaped by and through interaction between humans and other aspects in life.

❖ **HUMA (The Association for Community and Ecologic-Based Law Reform)**
Brief History of the Organization:

The Association for Community and Ecologic – Based Law Reform that also named as HuMa was founded in Gadog, West Java in February 2001 and formalized in Jakarta on October 19, 2001 by a public notary with the certificate No. 23. HuMa was established by eighteen individuals who have a long experience and a clear position regarding the importance of community and ecologic-based law reform on the issues related to land and other natural richness.

Four years before HuMa was established, individuals from different regions and expertise were facilitated to join the Law and Community Program of ELSAM (The Institute for Policy Research and Advocacy). Through that Program various activities were conducted, starting from facilitating the capacity building of the Community Legal Resource Development Facilitators (Pendamping Hukum Rakyat), which later on developed into advocating the law reform process and studying further the alternative law concepts studies.

Realizing a unique role and the different general and strategic objectives of ELSAM, the establishment of HuMa became unavoidable to enable a serious continuation of the previous efforts.

Vision:
To accomplish the community-based legal system underlain by human right values, justice, cultural diversity and ecosystem conservation in the Indonesian Archipelago.

Mission:
- To promote the realization of community- and ecology-based law reform on land and other natural richness;
- To develop alternative legal philosophy, theory and research methodology (critical-participatory);

- To develop information and media system of community legal resources concerning land and other natural resource issues for law reform;
- To develop the organizational capacity for facilitating the development of constituents' capacity and encouraging synergy among different components by acquiring social as well as financial accountability.

❖ **Human Rights Law Studies-Faculty of Law Airlangga University**

Profile:

Established in September 2006, under Constitutional Department, Faculty of Law, Airlangga University .

Vision:

Strengthening higher institutions and communities in changing awareness for human rights advancement toward critical legal educations

Aims:

1. To promote human rights laws toward critical legal education
2. To empower human rights teaching methodologies and researches through participatory methods for changing political economy policy.
3. To build strategic network for progressing human rights policy at local, national and international level.

❖ **PBHI (Indonesian Legal Aid and Human Rights Association)**

Was established on 5th of November 1996 in Jakarta. PBHI's foundation was prompted by the urgent need among many individuals and groups to form a mass organization that can act on the protection and promotion of Human Rights. It was decided to have an association as the type of this organization.

Vision, mission & goals

PBHI envisions a democratic society where human rights are fully respected and the civil society and the government both play by the rule of Law to shape the society.

PBHI sees itself as a force in the defense of human rights whenever serious abuses and crimes take place. It does its work in an outspoken way because it wants to break through the long tradition of silence and apathy when it concerns impunity of the perpetrators of serious human rights crimes.

The long-term goals of the organization are:

- To fight impunity and enhance the resilience of the civil society against threats of human rights abuses;
- To provide legal defense for victims of human rights abuses;
- To popularize universal human rights values among the general public.

❖ **JKMA-Aceh (Aceh Indigenous Peoples Network)**

JKMA Aceh is the centre of spider net for Adat community network in Aceh. JKMA Aceh members are spread in 13 regions of Aceh; that is JKMA Pase, JKMA Aceh Rayeuk, JKMA Pidie, JKMA Pulau Weh, JKMA Lut Tawar, JKMA Bumoe Teuku Umar, JKMA Bumoe Cut Ali, JKMA Singkil, JKMA Latim, JKMA Tamiang, JKMA Abdya, JK Matra (Southeast Aceh) JKMA Simeulue.

Established on 31 January 1999 in Ujong Batee, Great Aceh, JKMA Aceh is a forum for the struggle of strengthening traditional governance relating to upholding their existence and rights to self determination as well as rights to traditional economic autonomy. Since then, JKMA Aceh has held its second congress on April 2007 in Lhoong-Great Aceh. The result from the second congress is related to the expansion of JKMA Aceh program and the autonomy of JKMA district offices.

The Principles and Basic Values of JKMA Aceh
- Respect and reverence of human rights
- Respect and reverence of traditional law and custom
- Urge the unity of Adat communities in Aceh
- Respect and reverence of the organization decision
- Refuse violence

❖ **SNB (Homeland Solidarity)**

Solidaritas Nusa Bangsa is a Non-Government Organization (NGO), which concern to the society's values such as dignity, equality and freedom. Established on June 5, 1998 after the May 98 Riot, SNB spontaneously had being a shelter for the riot's victims and their relatives.
VISION**:** Indonesia's democratic society, which appreciates friendship, pluralism values and honors the equality.

MISSION: Empowering communities that are aware towards values of pluralism and equality.

❖ **ELSAM (*Institute for Policy Research and Advocacy*)**

ELSAM, the institute for Policy Research and Advocacy was establishes in 1983 in the spirit of encouraging the development of a democratic political order, by means of strengthening civil society through advocacy and promotion of human rights in Indonesia. Having worked for more than six years on promotion of responsibility mechanism of gross human rights violation, civil and political rights in particular, in the few years ahead ELSAM will initiate more advocacy works to encourage the development of accountability mechanism of economic social and cultural rights violations. This choice was deliberately decided in regards ofindivisibility and interdependence of the two categories.

The reform period began with the downfall of the Soeharto regime in 1998. During this period, many human rights defender organizations and civil society has been encouraged to reveal the gross human rights violations taking place during the authoritarian regime. Among these efforts are: the establishment of human rights court ad hoc for East Timorese cases, as well as for Tanjung priok, the promotion of the establishment of Truth Commission and Reconciliation, the establishment of independent inquiry team for Trisakti and Semanggi cases in 1999. The development of accountability mechanisms as has mentioned above could put the impunity to an end. The latest development showed that those instruments are likely to be an impunity instrument for the gross human rights violations. Thus the few years ahead the struggle for fighting against impunity will still be the main work to guarantee better enjoyment of human rights, victims in particular. In this regards, revealing the truth about gross human rights violation in the past would provide important step in bringing the perpetrator to justice

and provide reparation to the victims.

Besides, many developments in political structure have also taken place during this period. The implementation of autonomy policy brings about important changes in relation between central government and local government. In one side, this encourage human rights organization of better enjoyment of human rights, but in the other side, this lead to the spread out of gross human rights violations pattern among the regions. The escalating of violence caused by conflicts over natural resources management obviously indicates this symptom. The question of justice comes along this line, poverty, low quality of education and health mainly in remote areas, disparity of welfare between central and peripheral areas are some of the main question increasing presently. Considering this situation the challenge to reveal the gross human rights violation of Economic, social and cultural rights couldn't be abandoned. The enjoyment of these rights will strongly encourage the better enjoyment of human rights as a whole.

Responding these situations, within the internal organization, the spirit of encourage the development of democratic organization has motivated ELSAM to change its form from foundation to the more constituent based organization that is Association. This change was also coincided with the effort in responding a tendency of the government to control NGO through stipulating Foundation Act in 2002. This change is expected to provide strong support to its works in the future.

Vision: ELSAM believes that human rights and respect towards human rights are the main prerequisite for the establishment of a democratic civil-society that attains socio-economic justice.

Mission: Such vision is translated into ELSAM's mission is to promote the existence of a society that respects the values of human rights and democracy and attains social justice as well as gender sensitivity

- **PBHI Sumatera Barat (Indonesian Legal Aid and Human Rights Association-West Sumatera)**

- **PBHI-Jawa Barat (Indonesia Legal Aid and Human Rights Association-West Java)**
  PBHI West Java has existed on February 14th 1999 at Bandung through the Region Congress of members by 14 members of its founder. The legalization of PBHI West Java had been carried out by the Council of PBHI Members on Maret 31st 1999, in Bandung as region association. PBHI West Java, once of each three years, performs Congress of members to take a significant decree for the organization e.g. selecting the Chairperson of Executive Board and Council of Region, and legalizing the new members of PBHI. The second Region Congress of Members was performed in Bandung, on February 14th 2001 and July 31st 2004 for the third Region Congress also the forth on June 23rd 2007.
  Result of the forth Region Congress of Members forming a Council of Members and Executive Board for periods of 2007-2010. The following lists below are the composition of Council Members PBHI Region and Executive Board of PBHI West Java.

- **LAPAR (Institute of Advocacy and Education of People Child)**

- **Foker LSM Papua (Papua NGO's Forum)**

FOKER functions as a platform for exchange and discussion between NGOs, a basis for joint advocacy on issues that affect the population and an instrument to create and strengthen local organizations through training and other activities. FOKER was established in 1991 by 11 NGO representatives, 6 Church representatives and 1 university representative. It emerged from a range of discussion. The first round of discussion took place on 27-28 March 1990 where attended by Papua NGO activists. In the discussion, the participants agreed to "walk together' to prepare several strategies to stimulate the involvement of Papua peoples in controlling several resources (politics, economy, Law and Socio-culture. In order to make this strategy successful, it was agreed to form an Alert Committee that would manage several programs and activities. A year later, 28-31 August 1991, a second round of discussion was held in Jayapura in order to evaluate the results of the Alert Committee. Finally, on August 31, 1991 the Alert Committee was reformed into a networking forum between NGOs in Papua. This forum was then formally declared with the name "Forum Kerjasama LSM Papua (Papua NGOs' Forum.

From the onset, FOKER has had a proper accountability structure. This structure entails a Forum of participants, as the highest policy-making body, the Steering Committee (SC) and the secretariat. The SC, accountable to the forum, designs the programmes and meets every six months. Membership of the SC is elected according to the principle of equal representation of the four sub-regions of the province. In 2002, FOKER had 44 participants. Now, FOKER has 64 member organizations across Papua. Now, FOKER has some divisions which deal with specific issues including Public Policy, Information and Communication Network Strengthening, Region Capacity Building.

- **ITP (Peace Building Institute)**

  Institut Titian Perdamaian (Peace Building Institute-PBI) is a non profit organisation which founded on May 14th, 2003, initiated by a congregation of activist and intellectuals who share a common interest in peace buildings, law & justice and the promotion of non-violence culture.

  Vision of the Peace Building Institute is establishing a solid order of society in which plurality is tolerated and honored; a society that has the ability to manage its social conflict and resolve differences in amicable ways.

- **LBH Jakarta (Jakarta Legal Aid Institute)**

  Lembaga Bantuan Hukum Jakarta – The Jakarta Legal Aid Institute, was established of the idea addressed on the Indonesian Bar Association (PERADIN) 3rd congress in 1969. The idea gained approval from the National Committee of Peradin by its Decree Nu. 001/Kep/10/1970 in October 26, 1970 which contain decision on the establishment of The Jakarta Legal Aid Institute and The Public Defender Institute that came into force in October 28, 1970.

  The institution which was also supported by the local authority of DKI Jakarta, at its early year was aimed to provide legal aid for the poor in defending their rights. Especially the poor which are victim of force eviction, marginalization, lay off and human rights violation in general.

  One step at a time The Jakarta Legal Aid Institute became an important point for the pro-democratic movement. Due to its effort in developing the human rights values and democracy

as a development pillar in Indonesia. This objective was indicated by the spirit of struggle of the New Era Regime led by Soeharto who was overthrown in 1998. Up to this day, The Jakarta Legal Aid Institute has received thousand complains from many people. Approximately 5.718 cases with 96.681 people assisted was recorded since 2002 to 2006. Those complain indicates the need of the people of the legal aid.

- **PIAR-NTT (Association of Initiative Developing and People Advocacy-South East Nusa)**

Association of Initiative Developing and People Advocacy (PIAR) is a non profit and independent non-government organization based on democracy, universal values of human rights and social justice, which is active either in advocacy of indigenous people, other marginal people rights, environment (living space) for the sake of realization of democratization, supremacy of law and maintenance of human rights, or environment. This association is a developing and (or) renewal of the previous organization, namely Center information for people advocacy (PIAR), in which because of some internal and external problems, it makes us have to create mending of organization to be more transparent, accountable, democratic and independent.

This association was legitimated on November 15th, 2002 with notary certificate number 71 and listed in state court with number 1/AN/PIAR/Lgs/2002/PN.KPG, on November 23rd, 2002. The members of this association are old PIAR activists added with new independent and professional activists. The only situation that would reach by this association is Indonesian more democratic which respect to the enforcement of Human Rights and fair and long-lasting management of environment.

MISSION

Indigenous People and other marginal society able to carry out a number changing of decision, policy and structure of social, economic and culture suffering their interest. Therefore, PIAR sure that social political changing to more democratic direction can only reach through wide and actual participatory involvement by each citizen in the structure, policy and culture of state governance, ever since the process of planning, implementation, monitoring and evaluation.

In order to achieve all that, there is need for developing critical thinking, initiatives and aspirations of the people in their statehood and nationhood life. And for that matter, there is need for creating an "alternative medium" which is autonomous, independent, militant and consistent in encouraging and facilitating social, political, economic, regulatory and cultural transformation toward democratization based on Human Rights and social justice.

- **SETARA INSITUTE**

SETARA INSTITUTE for Democracy and Peace is an individual-based association dedicated to achieve the vision of which everyone is treated equally by respecting diversity, preceding solidarity, and treating human as a noble individual. SETARA INSTITUTE for Democracy and Peace was founded by those persons who care about elimination or decreasing of discrimination and intolerability based on religion, ethnic, race, skin color, gender, and other social strata as well as increasing solidarity to those who are weak and detrimented.

SETARA INSTITUTE for Democracy and Peace believes that a democratic society will be developed if there are values of understanding, respecting, and acknowledgement on diversity. Regrettably, discrimination and intolerability still remain around us; even, heading for violence. Therefore, steps to strengthen the respect on diversity and human rights by

creating further participation are expected to be able to put forward democracy and peace. SETARA INSTITUTE for Democracy and Peace takes part in urging an open political condition based on the respect on diversity, defending of human rights, elimination intolerability and xenophobia.

VISION : Creating an equal, plural and dignified treatment for everyone in a democratic social political order.

MISSION

1. Promoting pluralism, humanitarianism, democracy and human rights
2. Executing study and advocacy in public policies on pluralism, humanitarianism, democracy and human rights
3. Smoothing the dialog in conflict settlement
4. Executing public education

❖ **GKI-Papua (Evangelical Cristian Church in Papua)**

❖ **ELPAGAR-West Kalimantan (Institute of Empowerment and People Movement)**

❖ **SAWIT WATCH**

Perkumpulan Sawit Watch is an Indonesian Non-Government Organisation concerned with adverse negative social and environmental impacts of oil palm plantation development in Indonesia . It is active in 17 provinces where oil palm plantations are being developed in Indonesia. **Address**: Jl. Sempur Kaler No. 28, Bogor 16129, tel: +62 251 352171/fax: +62 251 352047, e-mail: info@sawitwatch.or.id, website: www.sawitwatch.or.id

❖ **PKBH BENGKULU (Association of Legal Aid Office of Bengkulu)**

Goal and Objective

Democratic society of Indonesia, equality and humanity who has commitment to the respecting and ordering of law supreme. To become an activator of democracy organization which get trust and support of public in Bengkulu.

MISSION

- **Legal Aid Services and Advocacy**
  We provide legal aid services. But the efforts in making peoples understand the politic and law also realize of their economic, culture rights were same even more important than legal aid. Free legal aid services emphasized to the people group who's sensitive and marginalized in the development process. Especially, for the collective and structural disputes. In the human rights establishment context, we focused on advocacy and economic, social and culture rights establishment.

- **Politic empowerment– popular economic**
  Growing of people's consciousness of politic, civil, economic, social and culture rights by education and advocacy to fill the inequality of advocacy which much stressed on litigation.

- **Plurality Development**
  Mutual respect for the existence of plurality in the society is a condition to create an open and humanized civil society

❖ **LADI (Institute of Anti Discrimination Indonesia)**