

**CONSOLIDATED REPORT OF THE REPUBLIC OF INDONESIA ON THE
IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION
(ICERD)
(PERIOD OF 25th MAY 1999 - 25th May 2004)**

I. D. Political structure

36. As stated in the 4th Amendment of the 1945 Constitution of the Republic of Indonesia, Indonesia is a unitary state with a republic system, and has organs of the state including:
- a) The People's Consultative Assembly (Majelis Permusyawaratan Rakyat)
 - b) The House of Representatives (Dewan Perwakilan Rakyat/DPR),
 - c) The Regional Representatives Council (Dewan Perwakilan Daerah/DPD)
 - d) The Presidency,
 - e) The State Financial Auditing Agency (Badan Pemeriksa Keuangan),
 - f) The Supreme Court (Mahkamah Agung)
 - g) The Judicial Commission (Komisi Judicial)
37. The People's Consultative Assembly (MPR), as a result of the 2004 General Election, has 678 members, which consists of the 550-member House of Peoples' Representatives (DPR) plus 128 regional representatives (DPD). The DPR and DPD members are elected through direct general elections. The House of Representatives holds the power of legislative branch, together with the President. In 2004, for the first time in Indonesia, the President and the Vice President were directly elected by the people. In the previous governments, the President and Vice President had been elected by the MPR, which gave the latter the designation of the highest state organ. The DPR Members, who come from 17 different political parties, are the representatives of the people, who should take oath or promise as regulated by the laws, and have to matter the interests of the people in exercising their duties. In 2005 the heads of local governments i.e. Governor for province, Regent for regency/municipality and Mayor for city will be directly elected.
38. In exercising its functions in legislation, budget and supervision, the House has the following tasks and authorities: to formulate and enact laws together with the President, to deliberate and to approve on government regulation in lieu of law, to receive and deliberate bill proposed by the DPD related to the regional autonomy; oversee relations between the Central and Regional /Local government; consider

the establishment, expansion and amalgamation of regions, monitor management of natural resources and other economic resources; and to involve the DPD in the deliberation, to take into account the consideration of the DPD on State Budget Bill and Bill related to tax, education and religion, to decide the State Budget together with the President by taking into account the consideration of the DPD, to oversee the implementation of laws, State Budget, and government's policies, to select the Members of the State Audit Board while also taking into account the consideration of the DPD, to deliberate and to follow up the results of the audit on state budget spending submitted by the State Audit Board, to absorb, collect, accommodate and to follow up the people's aspirations, and to implement other tasks and authority as assigned by the 1945 Constitution and other laws. In carrying out its tasks and authority, the DPR has to conduct consultation and coordination with other state bodies; summon state officials, legal body, or member of the society to give explanation.

39. In 2003, as prescribed in the fourth amendment of the 1945 Constitution, the Supreme Advisory Council (Dewan Pertimbangan Agung/DPA) was abolished. Consequently Law No. 3 of 1967 as amended by Law No. 4 of 1978 on the Supreme Advisory Council was abolished as well. This is in conjunction with the reform spirit in Indonesia especially the establishment of good governance. By the abolition of this body, the Government seeks to increase the efficiency of the state's authorities.
40. Based on the amended 1945, Indonesia has established Regional Consultative Council (Dewan Perwakilan Daerah/DPD) whose members were elected from each province through a direct general election. The DPD shall convene a meeting at least once in a year, and it may submit to the House of Representatives (DPR) draft bills on regional autonomy; relations between central government and regional government; the establishment, enlargement and amalgamation of regions; the management of natural and other economic resources; and other matters related to the financial balance between the center and the regions. The DPD may participate in any debates on autonomy deliberations, and supervise the implementation of laws regarding regional autonomy.
41. The President holds the executive powers, which gives him/her the power and prerogative authority to appoint the ministers and form a cabinet. The President is entitled to submit bills to the DPR, and shall issue government regulations to implement laws as needed, as stipulated in Article 5 of the 1945 Constitution.
42. Other state bodies are the State Financial Auditing Agency and the Supreme Court, the Constitutional Court, the Judicial Commission and the State Financial Auditing Agency bear the responsibility to supervise and oversee the state's and its apparatus' spending and income through its budgeting policy. The Supreme Court is the highest judicial authority in Indonesia. It shall have the competence to try cessation cases, to review regulations made under a law against a particular law, as well as other

competences as provided by law.

43. Indonesia is also a multi-party system, with two large nationalist secular parties, Golkar and the PDI-P, and newly introduced during the last 2004 elections, the Democratic Party, the President's party of origin. The other main parties have an Islamic orientation; such as the United Development Party (PPP), the National Awakening Party (PKB), the National Mandate Party (PAN) and the Prosperous Justice Party (PKS).
44. Since 2004, all political representatives, including the president, are to be directly elected. The next parliamentary election is due in 2009. Direct presidential elections were held for the first time in July and September 2004; the next presidential election is due in 2009.
45. In 1999, Law No 22 of 1999 on Local Autonomy and Law No 25 of 1999 on Balanced Finance between Central and Local Government has transformed the government system from being highly centralized to a more decentralized one, allowing for more autonomy at local government level. The main objectives of decentralization are to provide flexibility to regional governments to manage their own affairs as part of the democratization process. In addition, decentralization will also empower and motivate all civil society organizations (CSO) to contribute to the building of democratic systems. However, Law No. 32 of 2004 on Local Governments guarantees that the power and authority shall be used accordingly with appropriate measures and control, and states a clear distinction on the issues which can be handled by local government, and which ones can not.
46. Law No. 12 of 2003 on General Election regulates the direct election of members of legislative body, the president and vice president. This is also a groundbreaking piece of legislation, which enhances women's representation in political parties and parliament.
47. In addition, Law No. 32 of 2004 on Local Governments guarantees the power and authority to the local government to govern their own regions except for 6 (six) matters, i.e., foreign affairs, defense, security, judiciary, national monetary and fiscal, and religion; these six matters are still under the authority of the central government.

LD.I. The Armed Forces

48. The proclamation of independence of the Republic of Indonesia was followed by the forming and establishment of governmental institutions. However, the National Armed Forces was not directly formed afterward. On 23 August 1945, President Soekarno established People's Security Body (Badan Keamanan Rakyat - BKR) as an organization that has the tasks to protect and secure people from any kind of threats. Since October 1945, the Government founded People's Security Army (Tentara Keamanan Rakyat - TKR) to replace the BKR. The first Commander ad interim was Muhammad Suryoadikusumo, Minister of Security, Soepriyadi, was appointed as the Commander in Chief, and Oerip Soemohardjo as the Chief of Staff of the TKR. The first TKR headquarters was in

Yogyakarta. Mr. Soepriyadi never assumed his position as the Commander in Chief, and as his replacement, on 18 December 1945, Colonel Soedirman was appointed to fill the position, and promoted to full star General.

49. The TKR then became TNI. The establishment of TNI and its solidity was expected to assure the resilience of the Republic of Indonesia against threats of any kind. TNI's vision is to create a solid TNI and uphold professionalism in order to carry-out the role as the guardian of the sovereignty of the Republic of Indonesia and the safety of the nation. Whereas the mission of the TNI is to complete the internal adjustment of the TNI to reposition TNI as the main apparatus for state defense, in line with the guideline to the policy of the security and defense development, or known as Propenas 2002-2004.
50. The TNI is headed by a Commander in Chief who is directly responsible to the President. It consists of twelve territorial commands known as Regional Military Command (*Komando Daerah Militer - Kodam*), representing the army in the regions. The Government is currently preparing a draft law on TNI to assure the professionalism of the TNI in the future. According to the Decree of the People's Consultative Agency No.: VII/MPR/2002 article 2 the role and main duties of the TNI is:
 - a. The TNI is the state's apparatus with its role as National defense authority of the Republic of Indonesia;
 - b. The TNI has main duties to guard Indonesia's sovereignty, to guard the integrity of the Unitary State of the Republic of Indonesia based on 1945 Constitution and Pancasila, and to protect all of the nation and the archipelago from all threats and challenges to the integrity of the state and nation.

I.D.2. The Police

51. The Indonesian National Police (Polri) was established in 1945, as an organization that had been a national force, financed, directed, and organized by the central Government. Its main duties were to maintain public order and security. Like the other armed services, the police considered themselves a social force active in national development and therefore they participated in the armed services' civic missions. The commander, the Chief of Police, is the highest-ranking uniformed police officer in the nation, and assisted by a deputy police chief. Police headquarters in Jakarta includes staff and several separate administrative bodies that handle specialized police functions.
52. The Police have its own territorial organization made up of seventeen territorial jurisdictions, each is known as a Police Regional Command (Polda). Each Polda is administratively subdivided at the district, sub-district, and village level. Functionally, the police are organized into a number of specialized elements. The largest of these are the uniformed police, which included both the general police, who performed

conventional police duties relating to the control and prevention of crime and protection of property, and the traffic police, who patrol the nation's roadways and supervised the licensing of drivers and the registration of motor vehicles. Currently, Indonesian National Police operates under Law No. 2 of 2002 on the National Police of Indonesia.

I.D.3. Regional Government

53. Indonesia consists of 33 provinces, including three special territory provinces of Aceh, Jakarta, and Yogyakarta. Each province has its own political legislature, headed by a governor, with extensive powers to administer the province.
54. The provinces consist of several *kabupaten* (municipalities), each of which is headed by a regent; and cities, each of which is headed by a *walikota* (mayor). The municipality or the city consists of several *kecamatan* (districts), each of which is headed by a *camat* (head of district). The district then consists of several *kelurahan/desa* (village groupings) headed by chief of village (*lurah*).

I. E. Legal framework

55. Based on Law No. 10 of 2004 (Article 7) on the Formulation of Laws and Regulation, the Indonesian legal hierarchy as follows:
 - a. 1945 Constitution (UUD 1945);
 - b. Law (Undang-undang)/Government Regulation in lieu of Law (Perpu);
 - c. Government Regulation (Peraturan Pemerintah);
 - d. Presidential Regulation (Peraturan Presiden);
 - e. Local Regulation (Peraturan Daerah).
56. The Constitution of state of the Republic of Indonesia year of 1945 is usually referred to as the 1945 Constitution. This is partly because the Constitution was drafted and adopted in 1945 when the Republic was established. Furthermore, the articles of the 1945 Constitution spell out the ideals and the goals for which independence was proclaimed on 17 August 1945, and defended thereafter. It reflects the spirit and vigor of the time when the Constitution was shaped. Preceded by a preamble, the Constitution of the Republic of Indonesia consists of 37 articles, 4 transitional clauses and 2 additional provisions. Indonesia's 1945 Constitution (*Undang-undang Dasar 1945*) is the source of all the sources of laws and regulations in Indonesia. It is the written basic Law that regulates the statehood and has the function as basis and reference for other regulations.
57. Law (*Undang-undang* - UU)/Government Regulation in lieu of Law (*Peraturan Pemerintah Pengganti Undang-undang* - Perpu) has two meanings, i.e:
 - a. Law in material terms is publicly enacted regulation and made by the

Government, both Central Government and/or local or regional government.

- b. Law in formal terms is written decision, which established in formal sense as a source of law, as stipulated by article 5 paragraph (1) and article 20 paragraph (1) of the 1945 Constitution.
58. Government Regulation (*Peraturan Pemerintah - PP*) is enacted as an operational regulation to implement the Law of that particular Government Regulation, formed by the President and the House of Representatives. The 1945 Constitution gives authority to the President to enact and adopt Government Regulation to implement the Law as appropriate. In this sense, the President may not enact any Government Regulation unless the Law as the umbrella for the Regulation has been enacted so that the Regulation shall refer to that Law. In reciprocity, the Law can not be effectively enforced when there is no Government Regulation to implement the Law.
 59. The 1945 Constitution also implies that Presidential Decree (*Keputusan Presiden - Keppres*) is one of the legal regulations. The Presidential Decree was used for the first time in 1959 in accordance with the Letter of the President No. 2262/HK/1969 addressed to the House of Representatives, i.e. as the regulation which formed by the President to implement on the operational level of the Decision of the President. Through the Decree of the People's Consultative Assembly No. XX/MPRS/1966, Presidential Decree was officially adopted as one of regulations in accordance with the 1945 Constitution. The Presidential Decree contains decisions that has specialty in its nature (*einmalig*) to implement the 1945 Constitution; the Decree of the People's Consultative Assembly in the realm of executive branch of statehood; and the Government Regulation.
 60. Other operative regulations are Decree of the Minister, Instruction of the Minister, and several others, which must comply, be based on and have as its source a higher regulation, such as laws, government regulation, and the presidential decree.
 61. Under international law there are at least five international documents related to the protection of race/ethnic groups i.e. Universal Declaration of Human Rights; International Covenant on Civil and Political Rights and their optional protocols; International Covenant on Economic, Social and Cultural Rights, ILO Convention No. 100 of 1957, UNESCO Convention on Education Discrimination, and Convention Against Apartheid. Indonesia also played an important role in the formulation of Durban Plan of Action on the Elimination of Racism, Xenophobia and Racial Discrimination.
 62. In addition, there are regulations on the protection of indigenous people as well as women and children. The Government is now in the process of concluding the draft law on the vulnerable groups, i.e., Convention on the Elimination of Discrimination against Women, Convention on the Rights of the Child, Slavery Convention. At present Indonesia is preparing new legislations to provide better protection and treatment to all ethnic groups. These include bills on the Rights of the Traditional

Community (Hak-hak masyarakat adat); the Rights of the Remote Traditional Community (komunitas adat terpencil); and Recognition and Respect for Traditional Community and Their Traditions (Hak masyarakat adat dan tradisinya).

63. The Government has given protection and special treatment to the remote community in 27 out of 33 provinces (called Komunitas Adat Terpencil), among others by providing housing, population administration, and other matters related to their daily lives (prior to the issuance of Keppres No 111 of 1999), based on Law No. 6 of 1974 on Principles of Social Welfare.
64. Article 28 (1) of the 1945 Constitution guarantees full respect for the rights for the indigenous people. However, in reality, ensuring the survival of the indigenous people is proven to be a daunting task. The indigenous people live dependently on nature, not by social contract. They have full rights.
65. Indonesia also applies regulations and legal decrees established by ministers and the officials of ministerial level or the institution of the same degree as minister. Local Regulations cover Province Regulation, Sub-District Regulation and Village Regulation.
66. The Government of Indonesia has been very committed in the promotion and protection of human rights in general. This can be seen from the state philosophy and through a set of national legislation that are related to human rights such as:
 - a. Pancasila, particularly the Second Principle "Just and Civilized Humanity";
 - b. 1945 Constitution, Chapter XA, Art. 28A - 28J;
 - c. MPR Decree No. XVII of 1998 on Human Rights;
 - d. Law No. 39 of 1999 on Human Rights;
 - e. Law No. 26 of 2000 on Human Rights Court;
 - f. Law No. 23 of 2004 on the Elimination of Domestic Violence;
 - g. Law No. 27 of 2004 on Truth and Reconciliation Commissions;
 - h. Government Regulation No. 2 of 2002 on the Protection of Witness and Victim;
 - i. Government Regulation No. 3 of 2002 on Compensation, Restitution and Rehabilitation against Gross Violation on Human Rights;
 - j. Presidential Decree No. 40 of 2004 on National Action Plan on Human Rights (2004-2009);
 - k. Laws on the Ratification of UN main Conventions:
 - i. Law No. 68 of 1958 on Ratification of Convention on Women's Rights;
 - ii. Law No. 7 of 1984 on Ratification of Convention on Elimination of

all Forms of Discrimination against Women;

- iii. Presidential Decree No. 48 of 1993 on the Ratification of the Convention against Apartheid in Sports of 1985;
- iv. Law No. 5 of 1998 on Ratification of Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- v. Law No. 29 of 1999 on International Convention on the Elimination of All Forms of Racial Discrimination;
- vi. Presidential Decree No. 36 of 1990 on Ratification of the Convention on the Rights of the Child.

67. In addition, the Government of Indonesia will ratify two main international covenants on Human Rights, i.e. the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 2005.
68. Previously, there was no specific legislation, which regulates the ratification of international convention until the enactment of Law No.24 of 2000 on International Treaties. A convention, at that time, could be ratified either by law or by Presidential Decree. However, after the enactment of Law No. 24 of 2000, specific vital international conventions such as in human rights could only be ratified through law. Indonesia, for example, ratified CERD using Law No. 29 of 1999, showing the importance of this convention.
69. To strengthen the legal framework in Indonesia, as mandated by the 1945 Constitution, the Government has established several new institutions, namely: the Constitutional Court, the National Law Commission, [Judicial Commission], Prosecutorial Commission, Police Commission, and the Ombudsman Commission.
70. In February 2000, the President of the Republic of Indonesia established the National Law Commission (*Kotnisi Hukum Nasional*) whose mandate is to advise the President on general legal matters, and to design plans in law reform with the assistance of members of other legal communities. The President also established the National Ombudsman Commission (*Komisi Ombudsman Nasional*) on 20 March 2000 with the mandate to receive, investigate, and follow up reports from public concerning the protection of their rights and the services rendered by the Government.
71. The Judicial Commission was established in accordance with Law No. 22 of 2004. The establishment of the Judicial Commission is to ascertain free judicial system in Indonesia to guarantee further the promotion of justice and rule of law in accordance with the Constitution. The Commission has two main duties i.e. (a) to select and enlist candidature of Supreme Indices, and propose the promotion of candidates to the House of Representatives and (b) to ascertain the honor,

dignity and the actions taken by the Justices. The Commission can be perceived as an oversight body for the justices and the Judges within the Indonesian judicial system. The Commission consists of seven members that are elected by the President with the consent of the House of Representatives. The members are selected from former judges, law practitioners, law academicians, and members of community; and serve a five-year term. In carrying out their duties, the Commission is independent and free from the Government's influences.

72. Prosecutorial Commission was established with the aim to ensure external supervision of the internal control mechanism of the prosecutorial system. The Prosecutorial Commission monitors and evaluates organizational conditions, the adequacy of infrastructure and human resources within the Attorney General's office; supervises and evaluates the conduct of prosecutors in carrying out their jobs and/or outside their jobs; and submits recommendations based on monitoring, evaluation, and supervision to be followed up by the Attorney General. The Prosecutorial Commission will also oversee the internal supervision unit.
73. The Commission on the National Police was formed in accordance with Law No. 2 of 2002 on the Police Department. The Commission will be in charge of monitoring the working performance of the police. A team formed by the Police carries out the selection process for the members of the Commission. The selection procedure is similar to the procedures carried out to select members for both the Prosecutorial Commission and the Judicial Commission, although candidates for the latter were also required to pass a fit-and-proper test at the House of Representatives (DPR). The Judicial Commission also traces its legal basis to the fourth amendment of the 1945 Constitution, which authorizes the commission to recommend a candidate for the Head of Supreme Court. The Commission has nine members, of which six of the members are appointed from the public, while the other three come from the Cabinet. The Coordinating Minister for Political, Legal and Security Affairs acts as chairman, the Minister of Home Affairs acts as deputy chairman, and the Minister of Justice and Human Rights serves as a commission member.
74. Indonesia has also established the Constitutional Court (Mahkamah Konstitusi) as the outcome of the third amendment of 1945 Constitution, which is substantiated by the Presidential Decree No 147/M/2003. This new court has five authorities, which are: (a) to review whether or not the laws are in accordance with the 1945 Constitution; (b) to judge disputes on the competence of state institutions whose authority is rendered by the constitution; (c) to dismiss political parties; (d) to adjudicate disputes on the election result; and (e) to decide on the Legislative opinion whether the President and/or Vice-President have been suspected to breach the laws such as the act of treason, corruption, bribery, or other grave crimes, or inappropriate acts.
75. The Indonesian Government has consistently given its paramount importance to the respect for and the implementation of human rights. In this regard, the Government of Indonesia introduced the first National Plan of Action on Human

Rights 1998-2003, which was formally launched on 25 June 1998, exactly five years after the adoption of the Vienna Declaration and Programme of Action.

76. In 2004, the Government of Indonesia issued the second-term Plan of Action on Human Rights (for the period of 2004-2009) through Law no. 40 of 2004. The President of the Republic of Indonesia formally launched the Plan of Action on 25 August 2004 in Jakarta.
77. The main objective of this Plan is to ensure the enhancement of respect, promotion, fulfillment, and protection of human rights in Indonesia, taking into account the religious, customs and cultural values of Indonesian people based on the Constitution of 1945 of the Republic of Indonesia. Like the first National Plan of Action (for the period 1998-2003), the second one has established a timetable for the attainment of concrete goals in education about human rights issues.
78. As prescribed by the Plan Action for the implementation of the Decade, special attention has also been given to training police officers; prison officials; lawyers; judges; teachers and curriculum developers; the armed forces; international civil servants; development officers and peacekeepers; non-governmental organizations; the media; government officials; members of parliament; and other groups that are in a particular position to affect and effect the realization of human rights. In addition, the Government has been conducting similar programs in informal institutions, such as social and religious ones. This action springs from the conviction that many violations of human rights occur because of the lack of knowledge or understanding of specific human rights principles.

I. F. Information, Publication, National Implementation of the Contents of the Convention

79. The Government has taken several measures in order to ensure and guarantee the promotion and protection of human rights in Indonesia, namely, the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination through Law No. 29 of 1999.
80. In order to ensure the implementation of the Convention, the Government of the Republic of Indonesia made some concrete steps or measures such as publication, dissemination, and harmonization of laws. In other words, the Government has done its utmost to ensure that information contained in the Convention be distributed and well implemented in the country.
81. For example, to disseminate this Convention, the Government has conducted such activities as follows:
 - a. Publishing the International Convention on the Elimination of All Forms of Racial Discrimination in Indonesian language (Bahasa Indonesia) and in

English, including the Law on the ratification of the Convention and made them available, free of charge, in a practical book;

- b. Distributing the publication of the International Convention on the Elimination of All Forms of Racial Discrimination, to all human rights stakeholders (National Commission on Human Rights and Civil Society);
 - c. Conducting regular seminars at various university levels to disseminate the content of the International Convention on the Elimination of All Forms of Racial Discrimination.
82. Every province in Indonesia has established a provincial institution to implement National Plan of Action on Human Rights in the province. By 2006, all municipalities (kabupaten) will have their respective local institutions to implement the National Plan of Action.
83. The National Commission on Human Rights produced booklets on the Elimination of All Forms of Racial Discrimination in 1999, and in 2000 conducted a seminar on that matter. In addition, the Agency of Press and Development Study (Lembaga Studi Pers dan Pembangunan - LSPP) published guidelines on the Elimination of All Forms of Racial Discrimination in 2000. In addition, Nation State Solidarity (Solidaritas Nusa Bangsa - SNB), published a draft law on Elimination of All Forms of Racial Discrimination in 1999.
84. Indonesia has also made some efforts in promoting and disseminating the value and norm on human rights including the rights of the minorities. The Government, NGOs and sixteen other institutions including UNICEF, associated in the Consortium on Civil Registration (Konsorsium Catatan Sipil), which was established in 2003, published a draft law on Civil Registration (Catatan Sipil). Various departments at different level and other institution from time to time made various efforts to disseminate norms and values of Human rights, both at the provincial and municipal level, especially to the government officials; local NGOs, journalists, university students, and academicians. Nation State Solidarity conducted some dissemination on the protection on minorities through seminars, and radio broadcasted discussion.
85. In addition, the Government has conducted a number of researches and studies on minorities with the objective to have the best protection on all groups including minorities.

II. Relevant Information Related to Article 1 through Article 7

Article 1

Definition of Discrimination

86. Law No. 39 of 1999 on Human Rights defines discrimination as "every restriction, degradation, or exception, direct and indirect, based on differentiation of humans on the grounds of religion, ethnic origin, race, ethnicity, group, faction, social status, economic status, sex, language, political belief, that results in the reduction, contravention, or revocation, of the recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of individual or collective life" (Article 1 paragraph (3) Law Number 39 of 1999 on Human Rights).
87. Law No. 39 of 1999 on Human Rights stipulates the protection of everyone from discrimination, as stated in article 3 paragraph 3, article 17 and 26. Article 3 states: "Every person has the rights for the protection of human rights and basic rights, without discrimination." In addition, article 26 states that every person has the rights to have, receive, change, and keep his nationality.
88. Article 17 of the Human Rights Law No. 39 of 1999 guarantees every person effective protection, through competent national tribunal and other public institution against any act of discrimination. The article reads : "Everyone without discrimination, has the right to justice by submitting applications, grievances, and charges of a criminal, civil, and administrative nature, and to a hearing by an independent and impartial tribunal, according to legal procedure that guarantees a hearing by a just and fair judge allowing an objective and impartial verdict to be reached".
89. By the clear definition of discrimination in Indonesia's laws, it is obvious that there is no discrimination as a result of descent, or national or ethnic origin, nor nullification nor impairment of the equal recognition, enjoyment or exercise of human rights and fundamental freedoms in all fields of public life in Indonesia.
90. There is no discrimination, be it direct or indirect; extreme or ordinary; or every day discrimination, in Indonesia since the national law guarantees the elimination of discrimination. The sanction of using discrimination is regulated in Law number 26 of 2000 on Human Rights Court.
91. Although Indonesia consists of more than 214 million people living in more than 600 out of 18,108 islands, and have more than 1,000 ethnic groups with their own customs, languages, and cultures. However all ethnic and racial groups are equal. This can be seen from the national language, Bahasa Indonesia that was derived from a small ethnic group, Malay language in eastern coast of Sumatra even though the biggest ethnic group is the Javanese.
92. In sum, it can be concluded that the definition of discrimination in Indonesia is in line and even broader compared to the definition of racial discrimination in the

Convention.

Article 2

Condemnation to racial discrimination

93. The main legislative instrument related to the elimination all forms of racial discrimination is the 1945 Constitution that has entered into force since 18 August 1945 and was amended four times from 2000 to 2002.
94. The promulgation of the 1945 Constitution on 18 August 1945, long before the 1948 Universal Declaration of Human Rights, is an indication of how the founding fathers of Indonesia have already envisaged the paramount importance of human rights promotion and protection, including with respect to the elimination of all forms of racial discrimination.
95. Article 27 (1) of the 1945 Constitution clearly states, "*All citizens shall have equal status before the law and the government and hold without exemption the law and the government in esteem.*" This constitutional guarantee is very important since the Constitution is at the pinnacle of the hierarchy of laws in Indonesia. It means that there will be no laws that contradict the provisions of the Constitution. If by any chance there be any law that contradicts the provision of the Constitution, the Constitution shall prevail. That article also reflects the constitutional guarantee that all Indonesian citizens, without any exception, have the same status before the law and the government.
96. In other words, since its establishment, Indonesia has given attention to the issue of the elimination of all forms of racial discrimination, considering the existing pluralism of the Indonesian people, which consists of more than 1.000 ethnic and sub-ethnic groups with different languages, cultures, and traditions. Its unwavering commitment is also reflected in Indonesia's motto "*Bhinneka Tunggal Ika*", which means "Unity in Diversity". The Founding Fathers realized that the success of the development would prevail in Indonesia if the people strengthen its unity and its common ground. Moreover, the basic philosophy of Indonesia is "*Pancasila*" (Five Basic Principles) in which one of its principles is "Just and Civilized Humanity." One of the values enshrined in this *Sila* (Principle) is fighting against unjust discrimination.
97. The essence of the aforementioned statement is one among the other reasons why Indonesia became the party to this Convention. The step taken was a starting point for Indonesia as a democratic nation with democratically elected legitimate government that complies with the goals set up by the *Rencana Aksi Nasional Hak Asasi Manusia* (Indonesia's National Plan of Action on Human Rights) of 1998-2003. To continue the Plan of Actions, President Megawati Soekarnoputri, issued the Presidential Decree No. 40 of 2004 on "Indonesian National Plan of Actions on Human Rights of 2004-2009" which *inter-alia* focuses on the government's

priority on promoting and protection of human rights for the next five years, including abolition of racialism and racial discrimination.

98. In conjunction with the reform era in 1999, the people of Indonesia agreed to amend the 1945 Constitution in order to give more firm guarantee on human rights of all Indonesians.
99. In 2000, 1945 Constitution (UUD 1945) was amended, which among others aimed in guaranteeing the freedom of every individual from any acts of discrimination and the rights to the protection from such acts, which is stipulated by Article 27 of the 1945 Constitution. Article 30 of the 1945 Constitution stipulates the equality of rights and obligation in the area of state defense. Article 31 stipulates equal rights to education. In addition, there is one chapter (Chapter VII A) in the Constitution, in which regulates Human Rights.
100. Article 28D (3) of the Constitution also states, *"Each citizen has the right to equal opportunity in government."* This provision is also very important since the constitutional guarantees that all Indonesians, regardless their race, ethnicity, religion, are equal before the law and that they have the same opportunity in the government. This important provision does not make any exception on whether the position is in the highest level of government or of its lowest level; it means all Indonesian citizens have the same right.
101. Article 28I (2) of the Constitution states, *"Each person has the right to be free from acts of discrimination based on what grounds ever and shall be entitled to protection against such discriminative treatment."* This constitutional provision further emphasizes that no Indonesian citizens shall be subject to any form of discrimination on whatever grounds, including based on race or ethnicity. In this regard although Indonesia has more than 1000 ethnic groups, however all of them have the same rights.
102. The government is in the process of reviewing all existing laws to ensure that the related laws are being upheld in accordance with the principle of non-discrimination. As an illustration, on January 17, 2002, through Presidential Decree No. 6 of 2000, the Government revoked the Presidential Instruction No. 14 of 1967 on the Chinese Religion, Beliefs, and Traditions. One of the considerations for the withdrawal of the latter is that such instruction has limited the so-called minority's existence as Indonesian.
103. The Government of Indonesia has continuously taken steps on legislation, judicial, regulation, and administration to eliminate racism and discrimination in Indonesia. In this regard, the Government concentrates to promote and protect tolerance and common appreciation between different societies through education and reconciliatory dialogue. These efforts include the Law on Anti Terrorism. Indonesia, like other countries, is of the stance that terrorists should be captured and put to trial, but without prejudice and without creating any links to certain religion, certain

ethnic and certain country. All humans regardless of race, language, sex, physical traits and other factors shall be allowed to contribute to development as one of the conditions to make peace and prosperity prevail.

104. One of the concrete and specific measures on the social, economy, and cultural, as well as other aspects, to ensure proper development and protection for racial groups and certain individuals that has been taken by the Government is the enactment of Presidential Instruction No. 7 of 2000 on the Policy Implementation and National Strategy on the development acceleration for Eastern Part of Indonesia. The Instruction is to accelerate development in the eastern part of Indonesia that will benefit the people in an area , which consists of ethnic and racial groups different from the western part of Indonesia.
105. In addition, one of the goals of the Instruction is the urgent/important resolution of horizontal conflicts which among others happened between *Dayak* people (indigenous people) and *Madura* people in West and Central Kalimantan, conflict between *Ambon* and *Bugis* people in Maluku island, and between *Ternate* ethnic group and *Tidore* ethnic group. Those conflicts, which happened in the eastern part of Indonesia, have called for the enactment of the Instruction. In addition, the social and economic development in the eastern part of Indonesia is lagging behind compared to the western part of Indonesia. This condition/situation is considered as an impact of discrimination toward the people in eastern part of Indonesia.
106. In an effort to accelerate development in the eastern part of Indonesia, the government has carried out program activities on five areas, i.e.,
 - a. Human resources development through strengthening health, education and culture.
 - b. Economic development through utilization of natural resources, increase economic growth and purchasing power of the people.
 - c. Infrastructure and supra-structure development through providing and optimizing infrastructure and supra-structure.
 - d. Institutional development through strengthening the existing institutions.
 - e. Investment promotion through providing incentive for investment in eastern part of Indonesia.
107. In addition, the Government has allocated a larger portion of its budget for the eastern part of Indonesia compared to the western part, which in fact has a larger population, in order to accelerate development in the former. For example, in 2003 the Department of Social Affairs allocated budget in a large amount of Rp.

365.840.000.000 for development program in the eastern part of Indonesia, much higher than that was allocated for the western part of Indonesia, the sum of Rp. 361.840.000.000.

108. There have been efforts by the government to review and annul regulations, which contain discriminatory treatment. For example, the Government has abolished of SBKRI (*Surat Bukti Kewarganegaraan Republik Indonesia*, which means Proof of Indonesian Citizenry) for Indonesian of Chinese origin.
109. However, in practice, some people especially native Indonesian make use of this opportunity for their own interests. For example, Banks sometimes require the SBKRI in lending money to the customers although Presidential Instruction No. 26 of 1998 on the cease of the segregation of racial discrimination has regulated among other that SBKRI would not be needed to borrow money from Banks. In this regard, local Governments of Batam, Semarang, and Solo have abolished the requirement of SBKRI in borrowing money from banks.
110. The abolition of SBKRI and marriage registration for those who hold a religion outside the five religions recognized by the government was also stipulated in Indonesia's Plan of Action of Human Rights (RAN HAM) 2004-2009.
111. The City of Bogor no longer put the column of religion in the Citizen Identification Card. The Decree of the Minister of Home Affairs No. 477/74054 of 18 November 1978 on incorporation of the religion denomination column on the ID card (KTP) was revoked by the Circular Note (surat edaran) of the Minister of Home Affairs No. 477/805/SJ of 31 March 2000. This action was taken with the objective to eliminate the sense of racial discrimination that may be imposed by such incorporation of religion column in the ID card.
112. There are several cases related to racial discrimination. Among others are "Probolinggo case" and "Malang case", which were involved religion-associated organizations. The "Probolinggo case" was a conflict between two different groups of Moslems, where the people who claim themselves as the "righteous", raided and destroyed the premise of the so called "infidel group". The authority did not take any measures to the raiders, and detained the head of the so called "infidel group" instead. It is in contrary with Law No. 8 of 1985 on Organization, which stipulates that every organization have the rights to conduct their activities.
113. Another case of discrimination involved Chandra Setiawan, a confucian who in 2004 requested that his belief be mentioned in his ID card. His request was rejected by the local authorities who published his ID card, with the reason that Confucianism has not been regarded as a religion in Indonesia, and there was no precedence in doing so. Chandra then made an appeal to the court, in which he lost the case. A similar case also happened, when a tonfucian couple wanted to register their marriage to the Civic Registration Office. The Office, using the same reason with the

aforementioned case, also rejected their registration. The couple filed an appeal to the District Court, and the Court granted their appeal, and advised the Office to register the couple's marriage.

114. In order to prohibit practices of organization which support racial discrimination, the Government issued Law No. 8 Of 1985 on Organization. This was applied in the case of Ahmadiyah, a faction of Islam, whose practices and beliefs have been regarded as in contrary with the Law. Ahmadiyah, who publicly claims that their version of Islam is most righteous and superior compared to other factions, violated the provisions of the said Law. Using the Law as the base and guidance, the Government then banned this faction. The Government had no choice but to take such action to keep public order and to avoid further conflict from spreading and became any other clash led by certain group against another group based on hatred. The Government, however, did not restrict members of Ahmadiyah to conduct their personal religious activities.

Article 3

Condemnation of racial segregation and apartheid

115. The Government of Indonesia has adopted necessary policies on the elimination of racial discrimination in all forms and manifestation in order to avoid and combat doctrines and racial practices, to promote inter-racial mutual understanding and also to ward off the international community from all forms of expulsion and racial discrimination.
116. In addition, Indonesia has also condemned apartheid. Article 9 of Law Number 26 of 2000 on Human Rights Court stated that apartheid is part of crimes against humanity. During the apartheid era in South Africa, the Government of Indonesia had also consistently condemned the practice of apartheid in that country.
117. There have been some concrete measures taken by the Indonesian Government to support the acts on the elimination of all forms of racial discrimination. For example, the Government promulgated Presidential Decree No. 56 of 1996 on Nationality Certificate and followed with the issuance of Presidential Decree No. 4 of 1999 as the new regulation to replace Presidential Instruction No. 2 of 1980 which required nationality certificate for the process of certain matters (for example in the application process to obtain passport). The regulation has been considered irrelevant, because of its discriminative nature.
118. Furthermore, in implementing the Presidential Decree No. 56 of 1996, the Government c.q. Ministry of Home Affairs has issued Note of the Minister of Home Affairs No. 471.2/1265/SJ of 2002 on National Certificate as a follow-up the Presidential Instruction No. 28 of 1998 on the elimination of the "indigenous" and "non-indigenous" term. This is to ensure the equal treatment and services to all the peoples

of Indonesia in the field of government, social services and development and the elimination of all discrimination based on tribe, religion, race and place of origin.

119. Another example, in order to follow up promulgation of the Instruction of the President of the Republic of Indonesia Number 4 of 1999 and the Decree of the President of the Republic of Indonesia Number 56 of 1996, the Mayor of Surakarta enacted the Instruction of the Mayor of Surakarta Number 471/006/02/2004 on the Implementation of the Utilization of the Proof of Indonesian Citizenship, on 19 Juli 2004. The Mayor's Instruction then terminated the necessity for the citizens of Chinese ethnicity to obtain the Proof of Indonesian Citizenship (*Surat Bukti Kewarganegaraan Indonesia*), especially in Surakarta, a city in Central Java.
120. Furthermore, through Presidential Instruction No. 26 of 1998 on the cessation of the use of "indigenous" and "non-indigenous" term the Government of Indonesia shows its further commitment to eradicate and prevent the occurrence of any form of discrimination in Indonesian society. This Presidential Instruction regulates the cessation on the usage of "indigenous" and "non-indigenous" terms in all official documents; grants the equal treatment and services for all the people of Indonesia; as well as reviews and adjusts all laws and regulations, program, policy and the implementation of programs.
121. Following the above regulation, the government issued the Presidential Decree No 6 of 2000 on the repeal of Presidential Instruction No. 14 of 1967 on Chinese religions, beliefs, and traditions. This regulation is a benchmark example in eradicating discrimination to the Chinese ethnicity in Indonesia. The Decree stipulates that the implementation of religious activities, belief, and Chinese traditions can be carried out without special permit from the government. Thus, the holding of festivals and Chinese traditions in the province or regency level would not need a permit from the Governor or Regent like in the past.
122. Furthermore, the government issued the Presidential Decree No. 19 of 2002 on Chinese New Year as Public Holiday. The Decree stipulates that Chinese New Year's day is a public holiday and it is to be nationally celebrated. The government also made another effort to amalgamate the ethnic Chinese with the native Indonesian by establishing a Working Group on Society Blending (*Pokja Pembauran*) through Note of the Minister of Home Affairs No. 471.3/133 of 5 September 2002. In this regard, the Government of Indonesia is steady and put into function the Working Group of Blending to cope with all obstacles related to efforts to place national unity on a firm basis. Central and Regional Governments in cooperation with local organizations had carried-out all measures in expediting the process of national unification.
123. Indonesia has ratified the International Convention against Apartheid in Sports of 1985 with the Presidential Decree No. 48 of 1993. This showed that Indonesia could not tolerate the acts of racial segregation and apartheid.

124. In some cases, if it is necessary and highly critical, the Government in rare critical and complex cases has applied segregation. This step was taken with high precaution in order to prevent further conflict to take place, and to restore the order of the community. The nature of segregation is only temporary, applied in conflict areas, where two or more different ethnic and/or religion groups are involved. After order was restored, the Government will cancel the segregation. The example can be seen from the conflict that happened in Palangkaraya, Central Kalimantan, which involved Dayak and Madura in a deadly clash. Further elaboration is provided in the "Difficulties" part of this report.

Article 4

Condemnation of all propaganda and organizations, which support the idea of race superiority

125. The government of Indonesia has taken some concrete legislative, judicial and administrative measures to ensure that any person who committed discrimination as defined by Article 1 (3) of Law No. 39 of 1999 on Human Rights. In that regard a person shall not be subject to limitation, harassment, exile, directly or indirectly, based on the differentiation. Thus, any acts that would cause discrimination based on religion, ethnic group, race, ethnic, group, social status, economic status, sex, language, political beliefs are punishable by that law.
126. The Government of Indonesia has also promulgated Law No 26 of 2000 on Human Rights Court to ensure that any act of discrimination is punishable and shall be processed in a human rights court. Article 9 of that law implies that the Human Rights Court has the obligation and the authority to assess, try and settle violations against human rights and of its systematically conducted discrimination.
127. The Government of Indonesia's concerns over the protection of its citizens abroad are also without any discrimination, which can be seen through Law No. 37 of 1999 on Foreign Relations, particularly Chapter V on the Protection for the Citizens of the Republic of Indonesia abroad.
128. Furthermore, the effort in eliminating discrimination in all forms particularly in ensuring equal opportunity in the work-place, especially public offices, is guaranteed through Law No. 43 of 1999 on the Amendment of Law No. 8 of 1974 on Employment Principles. In particular, Article 16 Paragraph 2 stipulates that every citizen of Indonesia have an equal opportunity to apply for public offices with given conditions. The effort to eliminate discrimination in work places has been strengthened through Law No. 21 of 1999 on the Ratification of the ILO Convention No. III on the Discrimination (Employment and Occupation), 1958.
129. The most concrete measure taken by the government in adopting positive steps in eradicating discrimination in the work place is through Law No. 13 of 2003 on Employee. For example in Chapter III of the said law ("Equal Treatment and

Opportunity"), especially Article 5 stipulates that every employee have equal rights without any discrimination to seek for employment.

130. Furthermore, Article 18 of the said law stipulates that every employee has the rights to be recognized of his capabilities in particular area of work after attending work-trainings that are conducted by Training Agencies, both in private agencies or by their workplace. Article 31 stipulates that every employee have equal rights and opportunity to choose, obtain, and transfer their work and to earn an adequate living within and outside Indonesia.
131. The Government has also taken concrete measures in securing that discrimination will not occur in sensitive places of discrimination such as prison, prisoners or in the case of ex-prisoners. Through Government Decree No. 31 of 1999 on Assistance and Counseling for the Citizens, the Government of Indonesia has guaranteed that discriminatory acts will not take place. As it is clearly stipulated in Article 12 of the said Decree, in the case of a prisoner whose assimilation and opportunity to integrate have been revoked, such prisoner shall be put under special supervision.
132. The equal rights of disabled persons in attaining their social welfare in Indonesia are also guaranteed by the Government of Indonesia. The disabled persons enjoy the same opportunity as other persons in their efforts to enhance their social welfare, which are guaranteed by Presidential Decree No. 83 of 1999 on the Agency of Coordination and Control for the Enhancement of Social Welfare for Disabled/Handicapped People. Furthermore, Article 67 Paragraph 1 of Law No. 13 of 2003 on Employee stipulates that every employer who employs disabled/handicapped persons as their employee shall provide protection that would complement the degree of the disability.
133. From the provision of 1945 Constitution and other national Laws, it is crystal clear that public servants shall not engage in any activities that may cause racial discrimination. For example, Law No. 2 of 2002 on the Police of the Republic of Indonesia, particularly Article 4 stipulates that the Police of the Republic of Indonesia aim to maintain home security and public order, rule of law, and protection and service for the people while sustaining human rights.
134. In the field of political rights, the government has rendered its best efforts to take concrete measures designed to eradicate racial discrimination with due regard to the principles embodied in the Universal Declaration of Human Rights. For example, through Law No. 31 of 2002 on Political Parties, particularly Article 10 Paragraph 2 stipulates that the membership of the political parties shall be on voluntarily basis, open and non-discriminating for all the people of the Republic of Indonesia as long as they are concerned and accede to the parties' constitution.
135. In addition, every citizen who is 17 years old or above, has the right to vote as guaranteed by Law No. 12 of 2003 on General Election for the Members of the House

of Representatives, Members of the Regional Council, and Members of the Regional House of Representatives, particularly Chapter III (Rights of the Election) Article 13.

136. In the field of religion, there have been serious efforts of the government to review all decrees to avoid different interpretations especially with regard to discrimination, including joint decrees of two ministers i.e. the Minister of Religion Affairs and the Minister of Home Affairs No. 01/BER/MAG-MDN/69 of 1969 on the Implementation of the Duties of State's Apparatus in Guaranteeing the Order of the Conduct of the Religion and Prayer by its Believer. The Decree itself contains no discrimination against any religion, however, its implementation sometimes creates problems considered as discriminatory.
137. Articles 3,17 and 26 of Law No. 39 of 1999 on Human Rights, prohibit all Government officials and public institutions to commit discriminatory acts.
138. In sum, it can be concluded that, as a matter of policy, in Indonesia there is no place for racial discrimination in all its forms.

Article 5

Protection of the rights of all people against racial discrimination

139. The strong commitment of the Government of Indonesia in protecting its people from all forms of racial discrimination is also reflected in the third Amendment of the 1945 Constitution. Article 6 paragraph (1) of the 1945 Constitution (as amended) stipulates that, "Candidates for the President and the Vice President shall be national of Indonesia by birth and have never granted any other nationality on a voluntary basis, have never committed or involved in any act of treason against the State, and are able both physically and mentally capable to carry out their mandated tasks and duties as the President and the Vice President." Such provision is a quantum leap in the promotion and protection of human rights, especially in political rights and in particular in the fight to eradicate racial discrimination. The Article of the third Amendment of the 1945 Constitution guarantees that all Indonesian citizens with Indonesian nationality have equal opportunity, given they have political and public support, to become the President and the Vice President of Indonesia, regardless their status as native Indonesians or that of non-native Indonesian descendant as long as they are able to comply with the provisions of the Article. The original text of the 1945 Constitution stipulated that only native Indonesians have the opportunity to be the President and Vice President of Indonesia.
140. The Indonesian Government has consistently given a priority to the respect for and the implementation of human rights. In 2004, Indonesia introduced its second Plan of Action on Human Rights (for the period of 2004-2009) through the Presidential Decree number 40 of 2004. The President of the Republic of Indonesia formally launched the Plan of Action on 25 August 2004 in Jakarta.

141. The main objective of this Plan is to ensure the enhancement of, respect for, promotion, fulfillment, and protection of human rights in Indonesia, taking into account the religious, customary and cultural values of Indonesian people based on the 1945 Constitution. As it had been with the first National Plan of Action (for the period 1998-2003), the second Plan of Action has established a timetable for the attainment of concrete goals in the area of education on human rights issues.
142. In the implementation of the Indonesian Plan of Action, special attention has been given to the trainings for the following : police officers, prison officials, lawyers; judges; prosecutors; teachers and curriculum planners; the armed forces; international civil servants; development officers and peacekeepers; non-governmental organizations; the media; government officials; members of parliament; and other groups that are in a particular position to affect and effect the realization of human rights. In addition, the Government has also been conducting similar programs in informal institutions, such as social and religious ones. The purpose of this action was to improve the knowledge or understanding of the entities on specific human rights principles.
143. As part of the implementation of the 1945 Constitution particularly article 34 on the protection of social security of the people, the government introduced Law No. 40 of 2004 on Social Security System which guarantees various basic needs of all citizens including health, welfare, etc.. In addition, Article 41 of Law No. 39 of 1999 on Human Rights also guarantees the rights of the people to their basic needs.
144. The principle of non-discrimination related to the rights of the child is integrated in articles 52 to 66 of Law No. 39 of 1999 on Human Rights, Article 2 of Law No. 23 of 2002 on Child Protection, and Article 4 of Law No. 20 of 2003 on the National Education System.
145. Failing to or deliberately committing acts of discriminating or neglecting a child shall be subject to a term of imprisonment of maximum five years and/or a fine of not more than one hundred million rupiahs (Rp. 100.000.000,-), this has been stipulated in Article 77 of Law No. 23 of 2002 on Child Protection.
146. In the case of rape, the investigation, prosecution and trials have been improved in order to protect the victims, especially from discrimination. In this regard, the Government has published booklets on the human rights protection for the police officers and guardians of the prisoners. In addition, a Memorandum of Understanding on the protection of victims of violations has been agreed upon by the Chief of Police, the Minister of Women Empowerment, and the Minister of Social Affairs especially to prevent discrimination against women.
147. The Government in cooperation with UNHCR has published guidelines for law enforcement officials on the respect for human rights in 2002. It contains some basic documents on the promotion and protection of human rights including the protection of vulnerable rights.

148. Law No. 4 of 1997 on Disabled Persons, which is further regulated by Government Regulation No. 43 of 1998, stipulates that every disabled person have the rights and equal opportunity in all aspects. As an example, a handicapped police named Bripda Nyoman Rintep, a surviving victim of a motorcycle accident who then lost his sight, is still employed in Polda Bali as a telephone officer. This information was provided by the Indonesian Disabled Persons Union (*Persatuan Penyandang Cacat Indonesia*), an organization that then awarded the Chief of Polda Bali with high distinction.
149. On political rights, the Government has reviewed decrees that are considered discriminatory or may be potentially discriminatory in its implementation. For example, the Constitutional Court reviewed some of the provisions of the Decree of the People's Consultative Assembly No. VIII/MPR/2001, to rehabilitate the political rights of ex-political prisoners in 2004.
150. The May 1998 riot was considered as to contain racial discrimination. There were many rape and killing cases, which victimized many Chinese-descendant Indonesians. During the riots, which eventually led to the resignation of President Soeharto, the perpetrators seemed to target and pick only the members of Chinese ethnicity as their victims. The Government then established a Fact Finding Team to investigate the riots. The Team has submitted its findings to the Police for follow-up.
151. Concerning the rights to housing, the *Konsorsium Rakyat Miskin Perkotaan* (Urban Poor Consortium - UPC) has conducted a research, and found out that there has been discrimination on housing, especially against people living on or below poverty line.

Article 6

Rights of the victims to remedies

152. Indonesia is a state that upholds the rule of law, therefore, it has a strong commitment in implementing the Convention. Indonesia guarantees the elimination of any acts of racial discrimination in its Constitution 1945. In particular, Article 27 (1) states, "*every citizen is equal before the law and the Government is obliged to respect the law without any exception.*" Furthermore, every citizen of Indonesia has the rights to be free from any discrimination and to enjoy protection from discrimination as stipulated in Article 28 (2) of the 1945 Constitution.
153. The law to implement the 1945 Constitution with regard to human rights is Law Number 39 of 1999 on Human Rights, which strictly regulates and guarantees protection from discrimination. For example, Article 17 of the Constitution guarantees, access to obtain justice without discrimination. Article 17, *inter alia*, stated, "*everyone, without discrimination, has the right to obtain justice by submitting plea and complaints*".
154. Furthermore, Indonesian nationals are also free to choose their citizenship without any

discrimination, which is stipulated in Article 26 of the 1945 Constitution: "*everyone has the freedom to choose his/her citizenship and without discrimination may enjoy the rights that are inherent to the citizenship, and is obliged to fulfill his/her obligations in accordance with the prevailing laws.*"

155. As the follow up to the ratification of the Convention, the government has promulgated several laws to abide by the Convention to show the seriousness of the Government in eliminating all forms of racial discrimination, for example, by enacting Presidential Instruction Number 26 of 1998 on the cessation of the use of the terms "indigenous" and "non-indigenous" and the elimination of all forms of discrimination.
156. In this regard, the first instruction of the said Presidential Instruction clearly orders to end the use of the terms "indigenous" and "non-indigenous" in policy implementation, program planning or in government activities. Furthermore, the third instruction abrogates racial policies conducted by the former government by reviewing all laws and regulations, policies, programs, activities in business, financial/banking, citizenship, education, health, job opportunity, salary and other worker rights.
157. The Government has promulgated Presidential Decree Number 6 of 2000 to implement the Decree of the President of the Republic of Indonesia Number 56 of 1996, thus revoking the Presidential Instruction No. 14 of 1967 on Chinese Religion, Belief, and Tradition. Under this Decree, Chinese-Indonesians can freely carry out their tradition without asking for prior permission.
158. In efforts of eliminating all forms of racial discrimination, the National Commission of Human Rights has established Working Committee on Evaluating Discriminative Laws and Regulations. The members of the Committee are from the National Commission of Human Rights and NGOs such as Anti-discrimination Movement (*Gerakan Anti Diskriminasi -GANDI*) and Nation Unity Communication Forum (*Forum Komunikasi Kesatuan Bangsa - FKKB*). The National Commission on Human Rights has also established Anti-discrimination Working Group. One of the results of the Committee is a comprehensive study with regard to the elimination of the racial discrimination.
159. Law No. 26 of 2000 and Law No. 27 of 2004 on the Commission of Truth and Reconciliation (*Komisi Kebenaran dan Rekonsiliasi - KKR*), contain provisions on the reparation, compensation for any damage suffered as a result of racial discrimination.
160. To implement Law No. 26 of 2000 on the Human Rights Court, the Government has further enacted Government Regulation No. 3 of 2002 on Restitution and Remedies for the victims of the gross violations on human rights.

Article 7

Education and information on the prohibition of racial discrimination

161. The Government of the Republic of Indonesia is of the view that mass media plays an important role in promoting and protecting human rights. Support from the mass media is essential helping the government disseminate the values of human rights to all people, in particular the elimination of discrimination. Mass media is also a main source of information for most of the people since they have access to radios, newspapers, magazines and television channels. Mass media has strong influence in making public opinions.
162. Considering the importance of the role of mass media and its independence in disseminating information to the public, the only thing that the government can do is to support any positive efforts by press organizations in teaching and educating people in combating racial discrimination. For example, Press and Development Study Institution (LSPP) have published a book on the International Convention on the Elimination of All Forms of Racial Discrimination as a pocket book for journalists in doing their job. LSPP also actively holds training for journalists in this regard. The output of the training has been published in form of a book, entitled "From uniformity to diversity, Multi Cultures Perspective in Media."
163. With regard to the indigenous people issue, it cannot be denied that, in some local or international groups, have tried to misuse the issue to criticize the Government. However, their efforts seem to fail. For example, Indonesia is considered by the "Water Institution" in Canada as the best example in dealing with indigenous people.
164. Law No. 40 of 1999 on Press is much more advanced compared to Law No. 21 of 1984 on the same issue. The government has also enacted Law No. 9 of 98 on the Freedom of Expression. Should there be complaints from the society regarding the performance of the press, they can file their case to the Indonesian Broadcast Commission, an organization that will take a measure in response to the case.
165. The enactment of Law No. 31 of 2002 on Political Parties was based on a consideration that democracy shall uphold a non-discriminatory principle. The establishment and presence of political parties, then, shall ensure that democracy prevails, which means that political parties shall also adopt *non-discriminatory principles*. *Article 6 paragraph (c) of the Law implies that the political parties shall promote democratic atmosphere. Article 9 paragraph (d) implies that political parties shall also promote the protection and respect of human rights.*
166. The curriculum for Indonesia's educational institutions, from elementary level to university, have disseminated the spirit of respecting all people, regardless their differences. For example, the Civic Studies that is taught and lectured from elementary school until university promote the respect of others.

167. Law No. 20 of 2003 on National Education stipulates that every person in Indonesia have the rights to education regardless their race or ethnicity.

III. Difficulties encountered by the Government on the implementation of the Convention

168. Although the national motto of Indonesia is unity in diversity (*Bhinneka Tunggal Ika*), in reality the efforts to prevent any conflicts shall not be taken for granted. In 1994, for example, an ethnic clash took place in Palangkaraya, Central Kalimantan. The clash was between the original population (Dayak ethnic group) and new settlers (Madura ethnic group) who came from Eastern Java mainly for the transmigration purpose. Because of misunderstanding, the two ethnic groups were involved in a conflict that caused many casualties on both sides. Hundreds of person, mainly from the Madura ethnic group, lost their lives, whereas those who survived were forced to leave the conflicted region.
169. The local government had no choice but to separate or segregate the two ethnic groups for a while. However, this policy was only temporary and only to prevent a more severe damage. Many members of the Madura ethnic group left their homes in Central Kalimantan, and after some time they naturally go back to their homes in Kalimantan. Now they live together side by side, but they drew a very important lesson from the events i.e. how to live harmoniously.
170. The fact that Indonesia is a multi-cultural, multi-racial, multi-religions, and multi-lingua country has forced the government to always find a very innovative way or method to make all the ethnic groups feel secure and fair without any discrimination.
171. Cultural differences among ethnic groups shall not be undermined as in the case of Kalimantan in 1994. One of the observations why the conflict took place was because of culture misunderstanding. New settlers, Madura people, have a custom to always bring a machete every day wherever they go to work. This machete has is a multi-purpose tool and was very useful in helping them completing their daily work. However, for Dayak people, bringing machetes were interpreted as a symbol of war. In addition, the Dayak people highly consider trees as the palace of their holy spirit and that the tree may bring life. In that regard the Dayak people hardly cut trees because they would consider it as damaging their lives. While for Madura people, cutting trees is something normal.
172. The increasing tendency of internally displaced persons in Indonesia, especially due to natural disasters, makes it necessary for the Government to prepare a kind of guiding principles when the situation happens, with the objective to prevent the practice of discrimination.
173. The contrast discrepancy of understanding between local governments and the central government on the promotion and protection of human rights also contributes to the

difficult situation.

174. Some Indonesian regulations need to be harmonized to accommodate the concerns of masyarakat adat.
175. In other words, the government's efforts to handle so many people in Indonesia (the fourth largest population in the world), with so much diversity in terms of ethnic group or race, custom and culture, religions and beliefs, language and script, living in more than 17 thousands islands of the archipelagic Indonesia, should not be undermined and shall not be underestimated. Only with the blessings of God Almighty, may this country be well governed.

IV. Conclusion

176. Indonesia is a multi-racial, multi-cultural, multi-religious, and multi-lingua country. Yet since its independence in 1945 all people and ethnic groups in Indonesia are equal and have the same rights and obligations in all aspects of life, and this is guaranteed by the Constitution and other national laws of Indonesia. The state's principles "Pancasila" which also emphasizes humanity and the national motto "unity in diversity" help Indonesia in realizing this important endeavor.
177. Although Indonesia has an unswerving belief and commitment to the principles of the elimination of all forms of discrimination, Indonesia realizes that with the development in political, social, economic, and cultural life, much needs to be done in order to make the convention work in the country.
178. In this regard, Indonesia has taken a number of concrete steps to ensure the implementation of the Convention in the country. It is done through adjusting or furthering measures and steps to strengthen the cohesiveness of the people and to guarantee that more than 201 million citizens enjoy the equal rights and treatment. The National Plan of Action on Human Rights 2004-2009 also contains concrete policies on the elimination of racial discrimination.

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List of Annexes:

1. *1945 Constitution*
2. *Law number 39 of 1999 on Human Rights*
3. *Law number 26 of 2000 on Human Rights Court*
4. *Presidential Decree Number 40 of 2004 on the National Plan on Human Rights of 2004 - 2009 and its annexes*

5. *Presidential Instruction number 26 of 1998 on the Cessation of use of terms of "pribumi" and "non-pribumi" in all formulation and policy, activity of the Government, program planning and its implementation.*
6. *Presidential Instruction No. 4 of 1999 on the Implementation of Presidential Decree No. 56 of 1999 on Nationality Certificate.*
7. *Presidential Decree No. 56 of 1996 on the Certification of the Indonesian Citizenship.*
8. *Presidential Decree No 6 of 2000 on the revocation of Presidential Instruction No. 14 of 1967 on Chinese Religions, Beliefs, and Customaries.*