



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/244
11 March 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 6 of the provisional agenda

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF
DISCRIMINATION**

**Written statement* submitted by the Netherlands Organization for International
Development Cooperation (NOVIB), a non-governmental organization
in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

**Never-ending Practices of Discrimination
and Racialism in Indonesia**
Written by: GANDI, the Indonesian Anti Discrimination Movement

Indonesia has ratified the International Convention on the Elimination of all kinds of racial discrimination in 1965 through Law No. 29/1999, and has acceded the Declaration of, and Program of Action of the World Conference Against Racism (WCAR) in Durban in 2001 for the elimination of racism, racial discrimination, xenophobia, and other intolerance. It has also provided in the Constitution for equal protection and rights of citizens. Article 27 of the 1945 Constitution, for instance, articulates 'all citizens are equal before the law and government', while human rights are articulated under article 28. Until today, however, discrimination persists, and is getting more complicated to address, let alone eliminated. Some contributing factors to the escalating discrimination in Indonesia during 2003 are:

First, instead of addressing the issue on discrimination, the legal policies that was enacted in 2003 strengthens it. The inclusion of MPR decree No. XXV/ 1966 on the ban of Marxism, communism, and Leninism in the 2003 Annual Session obviously strengthens the decree by acknowledging and preserving the content, substance and legitimacy. Obviously, the State had no good will in eradicating discrimination issue. Ironically, the MPRS decree No. XXV/1966 was the tool used by the authoritarian New Order to suppress the people. The '65 case victims were only a few to mention, among other victims of repression. During the reform era, the revocation of the decree mentioned above has been a significant agenda in view of eliminating discrimination and victims' recovery. Preserving the decree has blocked the opportunity for victims to maintain justice. The MPRS decree also has a number of implications on Indonesia's democratization process. The family members of the 1965's victims have limited access to politics, democratic activities, and any related activities. Current election system as stipulated in the Election Law No. 12/2003, articulates that any one who has any involvement with the '65 tragedy may not be nominated or nominate her/himself as legislator and presidents/vice president.

Secondly, in addition to the Laws and regulations, during 2003 the government had also enacted a number of discriminative bills, such as the bill on the inter-faith concord that even more legitimizes the five officially acknowledged religions and faith-based social segregation. This, apparently, became the root of discrimination since there are more than 5 religions in the society, while facilities and protection is only given to the five. The state has also created social segregation incurred by faith-based discrimination through the Education Act that was enacted by the parliament last year.

Third, until 2003, racialism and discrimination-based violence has not been properly addressed and tends to be overlooked (e.g. the 13 - 15 May 1998 tragedy). Despite the investigation done by KOMNAS HAM Ad Hoc team, of which result was submitted to the Attorney General office (dd/mm), several racial cases still demand proper solution and addresses. Let alone, they mostly involved high-rank officials in the military and police, who sternly refused standing as witnesses before the KPP in May 1998 (dd/mm). The existing legal systems and institutions, however, are unable to take actions.

Departing from the above points, the Indonesian government evidently had failed its responsibility to protecting and the rights of citizens. This is believed to be part of its effort of the state's power control politics upon its people.

The situation is worsening since the government seems to have no political will to revoke discriminating regulations although it has ratified the International Convention on the eradication of any kind of racial discrimination in 1965 and adopted it in Law No. 29/1999. Indonesia had also acceded the Declaration of and the Program of Action of the World Conference Against Racism (WCAR) in Durban in 2001 for the eradication of racism, racial discrimination, xenophobia, and other intolerance. Still, however, some legal products such as Law No. 62/1958 on citizenship and its operational regulations that require all Chinese-ethnics to have a certificate of Indonesian Citizenship (SBKRI), while others are only required to have KTPs (ID card), or birth certificate. The marriage act No. 1/1974 and other Dutch-inherited laws (Staatsblad) on Civil Registration Agency legalizes marriages based on the 5 officially acknowledged religions, namely Islam, Catholic, Protestant, Hindu and Buddhism. Adherents of other faiths such as Kong Hu Cu, Animism, Sikh, Kaharingan, Bahai, and some indigenous faiths, are deprived from their civil rights to get their marriage registered, and as the result, their children are considered illegal. Asep Setia Pujanegara and Rela Susanti, a married couple who are devotees of Animism, were still rejected at the Civil Registration Agency, although they marriage has been registered at the State Court.

Almost five years after ratifying the International Convention 1965 on the eradication of all kinds of racial discriminations, the Indonesian government has taken no significant actions to exercise the recommendations of the WCAR Durban 2001. Even worse, the government has not submitted its initial report the Committee on the Elimination of Racial Discrimination (CERD) which was due in 2001.

Based on the above-mentioned facts, therefore, we hereby request the UN-Human Rights Commission and the international community to urge the Indonesian government and the parliamentary to:

- Eliminate and revise discriminative rules and regulations such as the laws on citizenship, civil registration, marriage, etc., including the regulations that discriminate people based on minority, ethnic-based groups, faith-based groups, woman, children, migrant workers, the disabled, and political point of views.
- Develop a law on the eradication of all kinds of discrimination and intolerance in order to secure every citizen from any discriminating treatment in Indonesia.
- Ratify the optional protocol (individual complaint) and implement the 1965 convention on the eradication of all kinds of racial discrimination, and truthfully follow-up the recommendation of World Conference Against Racism, Durban 2001.
- Seek for resolution of the humanity tragedy, May 13-15, 1998.
