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**CIVIL AND POLITICAL RIGHTS:  
STATES OF EMERGENCY**

**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]

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

**No Democratic Elections under Martial Law**  
**Written by: CETRO. Center for Lectoral Reform**

In November 2003, the Indonesian government decided to extend the imposition of martial law in Aceh. The government argued that the extension is needed to secure security situation during the 2004 elections. Pro-democracy and human rights activists deplored the decision on the grounds that in principle, no democratic elections can take place under martial law.

The enactment of the martial law in Aceh is based on the Law No.23/1959 passed under Indonesia's first president, Soekarno. This law was enacted by a Presidential decree issued by President Megawati Soekarnoputri in May 2003. Under the law, the provincial military authority has broad authority to limit civil and political rights by restricting free speech, free press, freedom of movement, freedom of assembly--- all of which are fundamental freedoms necessary for a free and fair elections in a democracy. The Law No.23/1959 is thus diametrically opposed to the laws of elections and presidential elections which will be the legal basis for the conduct of the 2004 general elections in Indonesia. The law will also allow the provincial martial law authority to perform arrests and detainment without due process. In addition to the martial law, the government has also imposed bans on foreign media and foreign NGOs to operate or engage their programs in Aceh.

Such restrictions will, for instance, limit access to free, accurate and objective information for voters, political parties and candidates. It is also doubtful whether political parties and candidates can freely express their party or campaign platforms to the voters, especially platforms or campaign themes that are perceived to be 'critical' to the martial law authority. Pro-democracy activists in Aceh were concerned that Provincial Martial Law Authority were allegedly involved in organizing public demonstrations against Ghazali Abbas, a candidate for the Senate, who had been known to be critical of the role of the military in Aceh. Abbas, was finally disqualified from the nominations process by the Provincial Elections Commission. Recent arrests of a student in the district of Aceh Tamiang and interrogation of a tabloid editor for publicly expressing their opposition to the extension of martial law are further examples of the prospect of a very restrictive elections in Aceh.

CETRO, an NGO, focusing on electoral reform has conducted a limited survey in Aceh and found that one out of two Acehnese does not believe that there will be freedom of expression during the campaign period in Aceh. In the security-prone areas, people are also skeptical that basic rights of voters will also be upheld. In the 1999 elections, while the Free Aceh Movement barred people from coming to the polls, the military forcibly transported voters to the polling station. Most Acehnese in these security-prone areas believe that such practices will take place again.

It is also doubtful that independent elections monitors will be allowed free access to all areas in Aceh. The provincial martial law authority has pledged that domestic elections monitors will be given access to monitor the elections. However, such an oral pledge will not be sufficient to guarantee the safety of the monitors without legal acknowledgement of the rights of elections monitors in Aceh. Under the martial law, such acknowledgement is non-existent. In 1999, six independent domestic elections monitors were arrested and beaten by local military

officers because they were wearing elections monitors identification cards as mandated by the elections laws. The reason for this mistreatment, according to the arresting officers were because most students were Free Aceh Movements sympathizers; and since the six monitors were students, they were directly under suspicion of being spies for the Free Aceh Movement. If such a treatment against monitors can take place in Aceh even during 'normal' times, there is even greater opportunity for the provincial martial law authority to do so because of the broad authorities granted to them under the Law No.23/1959.

CETRO has also found in its survey that most local elections commissioners, party leaders and members of local legislatures and provincial government officials have not read the martial law. Therefore, it is questionable whether their support of the martial law is based on adequate information about the implications of the law to the conduct of free and fair elections in Aceh. The provincial elections commission has not even contemplated the inherent conflict between the martial law and the elections law. Under the latter, the elections commission is has the highest authority in conducting elections in Aceh, however under the martial law, all civilian authority (including the elections commission) has to be subordinated to the provincial martial law authority. Most Acehnese are also ignorant of the fact that the primary substance of the martial law is actually targeted against civilians.

It is also unfortunate that most Acehnese and the public in general, tend to confuse between military operations and martial law. Thus, most Acehnese and the public would vehemently oppose the cessation of martial law in Aceh prior to the 2004 elections because of fear that the separatist Aceh movement will cause instability during the elections without the presence of the Indonesian military. Many also perceive the police as too weak to handle the Free Aceh Movement. In some areas where the notorious police mobile brigade is feared, people preferred the army than the police. Alternatives to the imposition of martial law, such as the imposition of limited military operations only in security-prone areas have never been openly discussed, further blurring the distinction between the two alternatives. The provincial martial law authority seems to emphasize that the martial law is the only solution to the security problem in Aceh, despite the fact that not all areas in Aceh are vulnerable to separatist guerrillas.

The group that benefited the most from the extension of the martial law in Aceh are local district heads, who under the martial law, will not have to be subject to re-election when their terms are up. Many of these district heads (*bupatis*) are recently appointed by the central government in newly-created districts. They were appointed because in these new districts, no district legislatures had been established and therefore preventing the elections of district heads by these legislatures. These *bupatis* provided the strongest voice against the lifting of martial law in Aceh. Many of these *bupatis* are known to be corrupt and despised by their constituents. The appointments of military officers as local subdistrict heads (*camats*) also add to supporters of the extension of the martial law in Aceh.

The government has never made clear when the martial law will be lifted. The extension of the martial law only runs until April 2004. The general elections will take place on April 5, 2004 during which the martial law will still be in place. However, since the military continue to use the 'elections' as grounds for the extension of the martial law, it is still a big question whether the government will issue another extension up until the conduct of the Presidential elections on July 5 or even up to September, if a second round of Presidential elections is

needed. Some observers even predict that another extension might be issued up until the President-elect is sworn-in in October of 2004, granting the total period of extension to one year since November 2003.

The government, the parliament and the military are also silent on the issue of the cost of the martial law in Aceh. No clear amount has been acknowledged by the government on the amount of funds spent on the first six months of martial law in Aceh. Many observers put the total amount of funds spent to about Rp. 1.6 billion. The extension may cost at least the same amount. At the same time, the government decided to cut the budget for the elections by Rp. 900 million, provoking questions whether the funds were shifted to fund the extension of martial law in Aceh.

It is also questionable whether the government still holds to the original goal of the imposition of the martial law in Aceh, which is to defeat the Free Aceh Movement rebels. The military seems to alter the goal of the martial law into maintaining security in Aceh during the 2004 elections.

Within such a context, it is unfortunate that international donor agencies such as UNDP and USAID chose to ignore the sentiments against the extension of the martial law in Aceh and prefer to continue to support elections programs in Aceh, without questioning the legal basis of conducting the elections under martial law. This position has strengthened the legitimacy of the martial law in Aceh as the government argued that if international donors are willing to support elections programs in Aceh, then, they must also accept the extension of martial law in Aceh. Currently, those NGOs that have explicitly expressed opposition to the extension of martial law are accused of 'anti-nationalist' and also pro-Free Aceh Movement. The Head of the Army has even called them 'threats to national security as they seek to boycott the elections.'

We therefore request the Commission of Human rights to:

1. Urge Indonesian government to immediately stop Martial Law in Aceh

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