CHAPTER III

CONSTITUTIONAL STATUS OF THE ETHNIC CHINESE IN INDONESIA
The discussion about the relationship between *pribumi* and ethnic Chinese is incomplete without the debate of the constitutional or legal rights conferred upon them and the actual status of the ethnic Chinese enjoy in Indonesia. In this context, this chapter is an attempt to explore various constitutional provisions made in favour of ethnic Chinese in Indonesia. Besides, this chapter will discuss various constitutional rights granted and guaranteed to the ethnic Chinese as a citizen of Indonesia, various government policies towards ethnic Chinese and change in their status if any, and will also have a look on their actual social, economic and political position in Indonesian society.

The protection of a citizen’s life is the responsibility of the state, and this right is guaranteed by the Indonesian constitution too. As the constitutional government provides an ideal home for the fundamental freedom enjoyed by citizen or resident of the country, the Indonesian government has such provisions in its written constitution. Constitutional government is otherwise defined as ‘Limited Government’ and ‘Rule of Law’. Therefore, the constitutional government supposed to be limited by the law provided by the constitution. It also means the rights granted and guaranteed to the people of the country by the constitution must not be violated by either organ of the government. In pursuance to the above spirit of the constitutional government the very foundation of the Indonesia constitution was based on the principle of *Pancasila*1 and the characteristics of *Pancasila* are almost same with the principles applied in ‘Rule of Law’. It sounds great in theory, but when the actual status of the ethnic Chinese in Indonesia, the high soundness of the above mentioned spirit of constitutionalism as the harbinger of fundamental freedom dissolve like a water bubble. Thus, in this chapter first we will have a survey of the rights theoretically granted in the constitution to the

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1 *Pancasila* means five principles i.e. 1) Belief in one God; 2) Justice and civility among people; 3) the unity of Indonesia; 4) Democracy through deliberation and consensus among representatives; and 5) Social justice for all. See Chapter-II for elaborate principles of *Pancasila*. 
people of the country and then to examine the rights what they enjoy in their real day
to day life.

1. **INDONESIAN CONSTITUTION & FUNDAMENTAL RIGHTS**

1.1 **Human Rights in the 1945 Constitution**

The 1945 Constitution was drafted by Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan (Committee for the Examination of Efforts for the Preparation of Independence or ‘BPUPK’) and was eventually adopted as the Constitution for the newly independent state of the Republic of Indonesia on 18 August 1945 by Panitia Persiapan Kemerdekaan Indonesia (Committee for the Preparation of Indonesia’s Independence or ‘PPKI’).

It is interesting to note that even though the 1945 Constitution was drafted well before the adoption and proclamation of the Universal Declaration of Human Rights (10 December 1948), the 1945 Constitution does contain a number of provisions promoting and ensuring respect for some basic human rights and fundamental freedoms, including:

1. Article 27 paragraph (1) envisions that ‘All citizens are equal before the law and in the government and obliged to respect the law and government without exception’;
2. Article 27 paragraph (2) declares that ‘Every citizen is entitled to work and a reasonable standard of living’;
3. Article 28 provisions that ‘The freedom of association and assembly, to express opinion orally, in writing or otherwise stipulated by law’;
4. Article 29 paragraph (2) reiterates that ‘The state guarantees the freedom of every citizen to profess and practice their own religion and belief;
5. Article 30 paragraph (1) provides that ‘Every citizen has the right and is obliged to take part in the national security and defense;
6. Article 31 paragraph (1) guarantees that ‘Every citizen has the right to education’. 
In view of the circumstances and period in which the 1945 Constitution was drafted, the very brief provisions on human rights in the 1945 Constitution are reasonable. It was drafted in a very short time when Indonesia was still under the Japanese occupation and struggling for independence. The Indonesian founding fathers promised to draft a new constitution for the independent Republic of Indonesia after a certain degree of stability has been achieved. Thus, it only contains the most basic provisions whilst other implementing rules will be stipulated in lower laws and regulations. Perhaps it is also important to briefly discuss, in comparison, the human rights provisions in two other constitutions which were promulgated during the period of 1949-1959 prior to the reinstatement of the 1945 Constitution.

Under the constitution of 1949, there are 35 articles which guaranteed fundamental freedoms including duties and responsibilities of the national authorities to promote and protect the welfare of the people. The constitution of Federal Republic of Indonesia incorporated the Human Rights and fundamental freedoms originally taken from the Universal Declaration of Human Rights 1948 and ensured that those rights and freedom were constitutionally based.

1.2 Rights under Constitution of the Federal Republic of Indonesia of 1950

The Constitution of 1950, unlike the 1945 Constitution, was a long and detailed one and its provisions were drafted in relatively long sentences. Of the total 197 articles, some 35 articles (from article 7 to 41), or some eighteen per cent of the total number of articles, were devoted to human rights and fundamental freedoms. The essence of most of the human rights and fundamental freedoms listed in the Universal Declaration of Human Rights (UDHR), 1948 was incorporated in the relevant articles on human rights and fundamental freedoms of the Constitution of the Federal Republic of Indonesia. It is noted that a number of provisions there of stipulate certain duties and responsibilities of the national authorities for the promotion and protection of the welfare of the people. The incorporation of such a large number of provisions on human rights and fundamental
freedoms, most of them originate from the UDHR of 1948, was certainly intended to ensure on the recognition, respect, protection and implementation of their human rights and fundamental freedoms, as such rights and freedoms are constitutionally-based. Unlike the 1945 Constitution (in its original form), the Constitution of 1950 followed the system of incorporating several human rights and fundamental freedoms in the Constitution itself. Although such a listing would never be exhaustive, the Constitution of the Federal Republic of Indonesia did not contain any provision which stipulate that such listing should not be construed as denying, disparaging or abridging any human rights and/or fundamental freedoms not therein referred to that may have existed and have been recognized at the time of the Constitution being taken into effect.

1.3 Rights under the Provisional Constitution of the Republic Indonesia 1950

The Provisional Constitution of the Republic Indonesia, which was promulgated by the Act No. 7 of 1950 (State Gazette No. 50 of 1950; Supplementary State Gazette No. 37), was of a similar format as the Constitution of the Federal Republic of Indonesia of 1950, in the sense that it was also long (146 articles plus one procedural provision) with its substantive articles written in detailed manner. Of its 146 substantive articles, the Provisional Constitution of the Republic of Indonesia, 1950 devoted 37 articles (some twenty-five per cent of the total number of articles) to human rights and fundamental freedoms (Articles 7-43). These provisions were, practically, similar to those provisions of the Constitution of the Federal Republic of Indonesia which relate to human rights and fundamental freedoms (Articles 7-41), with some additional provisions, such as recognition of the right to demonstrate and to strike, stipulation that property has a social function, duty of the authorities to prevent private monopoly, affirmation of the principles of “economic democracy” (similar to Article 33 of the 1945 Constitution) and affirmation that the State shall care for poverty-stricken people and neglected children. As in the case of the Constitution of the Federal Republic of Indonesia, 1950, the human rights and
fundamental freedom referred to in the Provisional Constitution of the Republic of Indonesia.

Under the "Guided Democracy", between 1959 and 1965, the issues of human rights and fundamental freedoms were not very much of public interest. During this period, internal political problems, economic and financial crises, national mobilization to liberate west Irian (now Papua) from the Dutch occupation and "confrontation" with Malaysia were the then government's top most priorities. Human rights and fundamental freedoms of the citizens continuously worsened with the change of the nation's political system from "Guided Democracy" to the so-called "New Order" regime which started in March 1966. For the subsequent thirty-two years, Indonesia was under an authoritarian, oppressive and repressive regime. Disrespect for and violation of rights and individual freedom were the orders of the day during this period which the international community dubbed as "gross violation of human rights."

The situation witnessed a change in 1998 with the fall of the "New Order" regime following a national reform movement aiming at transforming Indonesia to a democratic regime based on rule of law and respect for human rights and fundamental freedoms.²

1.4 Decree of the People's Consultative Assembly No. XVII/MPR/1998

In response to and reflecting people's aspiration for democratic life based on rule of law and respect for human rights and fundamental freedoms, the People's Consultative Assembly, the highest state institution and the highest political decision making power under the (original) 1945 Constitution, on 13 November 1998, issued Decree No. XVII/MPR/1998 on Human Rights³ which includes two annexes as integral parts of the


Decree, namely, “the Views and Position of the Indonesian Nation towards Human Rights” and “the Human Rights Charter”.

The 1998 Human Rights Charter, which may be considered as an “Indonesian National Declaration of Human Rights” consists of forty-four articles, taken mostly from the 1948 Universal Declaration of Human Rights. They are grouped under ten main themes, namely right to life, right to form family, right to self-development, right to justice, right to freedoms, right to freedom of information, right to security, right to welfare, duties and protection and promotion. The Decree, which was issued under the national high spirit and determination to create a democratic national life based on the rule of law and respect for human rights and fundamental freedoms, gave an impetus for the recognition, protection and promotion of human rights and fundamental freedoms in Indonesia. The main body of the instrument stipulates that the implementation of education, studies, monitoring, research and meditation on human rights shall be carried out by a Human Rights National Commission to be established by Act (Article 4) whilst the Human Rights Charter provides, inter alia, that protection, promotion, upholding and fulfillment of human rights are, primarily, the responsibility of the Government (Article 43). The Human Rights Charter further states that to uphold and protect human rights in accordance with the principles of democratic state based on law, the implementation of human rights shall be, stipulated, guaranteed and set forth in legislations (Articles 44).

4 The Universal Declaration of Human Rights is the cornerstone of the wide-ranging body of human rights law created over the decades. It’s Articles 1 and 2 states that “all human being are born equal in dignity and rights” and is entitled to all the rights and freedoms set forth in the Declaration “without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status”. Besides it also includes civil and political rights (Article 3-21), Economic, Social and Cultural rights (Article 22-27). Finally Article 28-30 recognize that everyone is entitled to a social and international order in which the human rights set forth in the Declaration may be fully realized; that these rights may only be limited foe the sole purpose of securing reorganization and respect of the rights and freedoms of others and of meeting the requirements of morality, public order and the general welfare in a democratic society; and that each person has duties to the community in which she or he lives (For detail see- Universal Declaration of Human Rights, UNHRC).

1.5  Act No. 39 of 1999 on Human Rights

In order to implement the stipulations of the Decree of the People’s Consultative Assembly No. XVII/MPR/1998 referred to in the preceding paragraph and, at the same time, to transform the Human Rights Charter, which was of a declaratory nature, to legal norms, Act No. 39 was declared on 23 September 1999 (Act No. 39, 1999). This Act, in essence, contains two main groups of provisions, namely: (a) List of human rights and fundamental freedoms (which are recognized and which should be respected, protected, promoted, upheld and fulfilled); and (b) Provisions on Human Rights National Commission to replace the one established under Presidential Decision No. 50 of 1993 (objectives, membership, mode of elections of members, organs, mandate, function, etc.)

The promulgation of Act No. 39 of 1999 has the following two significant implications: (a) It transformed the declaratory instrument on human rights and fundamental freedoms (proclaimed by the People’s Consultative Assembly) to legal norms; and (b) It strengthens the legal foundation of the Human Rights National Commission and, at the same time, strengthening its position as an independent institution of the same level as other state institutions. Thus a foundation was laid down to give a real feel on the protection of ethnic minorities in Indonesia through the above mentioned Act.

2.  AMENDMENTS TO THE 1945 CONSTITUTION

On 18 August 2000 the People’s Consultative Assembly decided to make a second amendment to the 1945 Constitution. The amendment relates to the provisions on regional governments, House of Representatives, citizens and population, and human rights. The second constitutional amendment was improvement over the earlier status enjoyed by the ethnic minorities by virtue of the provision under the constitution. Thus

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6 Ibid.
7 Second Amendment to the 1945 Constitution of the Republic of Indonesia, Dept. of Information, Republic of Indonesia, 2000.
the amendment brought a new look in the form of Article 26 clause (2) & (3), Article 27 clause (3), and Chapter XII Article 30 clause (1) & (4) and also added a new Chapter XA comprising Articles 28 A to 28 J on Human Rights hitherto unknown to Indonesia and said to be the harbinger of minority rights. The amendment relating to human rights was drawn up in the form of incorporating new provisions to the 1945 Constitution as earlier amended in the first amendment on 19 October 1999. This amendment is spelled out in 27(3), 28A through 28J and 30(1). These were further completed by the fourth amendment of 10 August 2002 which, as far as human rights questions are concerned, set forth in Articles 31(1) and 32(1). The new provisions on human rights incorporated in the amended 1945 Constitution referred in the preceding paragraph.

Consequently, there are, at present, a large number of human rights legal norms of basic nature stipulated in two national legislations, namely a constitution (the highest level of national legislations) and an act (the second level of national legislations after the constitution). Hence, there are a large number of the same human rights and fundamental rights are incorporated in two different levels of national legislations, namely Act No. 39 of 1999 (enacted prior to the Second and Fourth Amendment of the 1945 Constitution) and the 1945 Constitution as amended by the Second Amendment (2000) and Fourth Amendment (2002).

2.1 Second Constitutional Amendment

The second amendment modified the existing Article 26 clause (2) which declares that the inhabitants consist of Indonesian citizens and foreigners who reside in Indonesia. It has added a clause (3) to the Article 27 which enjoins that every citizen shall have the right and duty to participate in the defence of state efforts. The major changes brought by the second amendment included a chapter on human rights through the Articles 28A to 28J.
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2.2 Act No. 26, 2000

In order to deal with "gross violations of human rights", an act called Act No. 26 of 2000 on Human Rights Courts, was promulgated on 23 November 2000. For the purpose of the Act, "gross violations of human rights" refer to crime of genocide and crimes against humanity (Articles 1.2 and 1-9). Under this Act, the Human Rights National Commissions is conferred with a mandate as pro justitia inquirer for gross violations of human rights as well as competence and duties related thereto (Articles 18-20). It is pertinent to note here that the criminal judicial process in Indonesia consists of four phases of actions, namely inquiry (penyelidikan), investigation (penyidikan), prosecution (penuntutan) and court examination (pemeriksaan di pengadilan). In cases of ordinary crimes, the inquiry and investigation functions are carried out by the police.

However, with a view to ensuring the objectivity of the results of the inquiry, the competence of inquiry for gross violations of human rights is entrusted to the Human Rights National Commission only, considering that it is an independent body (Elucidation of Article 18(1)). Armed with these constitutional provisions as well as some legislations, it is a general expectation to see the ethnic minorities in Indonesia to enjoy life without any discrimination. But in practice, it is not possible in Indonesia. An ethnic Chinese has to face discrimination wherever and whenever the situation arises.

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Thus, it is imperative to discuss the actual status the ethnic Chinese people enjoy as constitutionally or legally granted vis-à-vis in their day to day life while interacting with the indigenous people.

2.3 Fourth Constitutional Amendment Act

The process of constitutional development culminated with the 4th constitutional amendment act 2002,\(^9\) which made the existing articles of 31 and 32 livelier with regard to the fundamental freedoms and human rights of the citizens of the country. Thus, at least theoretically, it guaranteed following rights to the people of Indonesia including the ethnic Chinese. These rights include:

Clause 2 of Article 31 declares that every citizen has the obligation to undertake basic education, and the government has the obligation to fund this. According to clause (3) of the same article, the government shall manage and organize one system of national education, which shall increase the level of spiritual belief, devoutness and moral character in the context of developing the life of the nation and shall be regulated by law. Clause (4) of Article 31 further enjoins the state to prioritize the budget for education to a minimum of 20% of the State Budget and also of the Regional Budgets for implementation of national education. Further, according to clause (5) of article 31, the government shall advance science and technology with highest respect for religious values and national unity for the advancement of civilization and prosperity of mankind (4th Amendment, 2002). Likewise the amendment made some changes in the clause 1 of the Article 32 which enjoins the state to ameliorate the national culture of Indonesia and disseminate its essence across the world by assuring the freedom of society to preserve and to develop cultural values. And clause 2 of Article 32 enjoins the state to respect and preserve local languages as national cultural treasures (4th Amendment, 2002).

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3. POLITICS OF THE 1945 CONSTITUTION

Prior to 1998, no one could think about the amendment of the 1945 Constitution. The 1945 Constitution was a product of nationalist who had hard fought for independence from the Dutch colonization. This historical background made it the symbol of independence of the Indonesian nation. Thus, it has been considered as forbidden to touch the contents of the 1945 Constitution whereas political leaders have legitimized their authoritarian position by utilizing a symbolic character of the Constitution.

The Indonesian modern state has applied the 1945 Constitution as the basic law since its independence in 1945, except for around 10 years in the 1950s. In the period of independence struggle, contrary to the constitutional provision that a kind of presidential system is employed, a cabinet responsible for the Central National Committee was installed. Politics under this institution was in practice a parliamentary system of government. After the Dutch transferred sovereignty to Indonesia in 1949, West European constitutionalism and party politics under a parliamentary system was fully adopted with the introduction of two new constitutions: the 1949 Constitution of Federal Republic of Indonesia and the 1950 Provisional Constitution of Republic of Indonesia. Since a return from the 1950 Constitution to the 1945 Constitution was decided with the Presidential Decree in 1959, the 1945 Constitution had supported two authoritarian regimes of Sukarno's "Guided Democracy" and Suharto's "New Order" as a legal base. When the 32-year Suharto's government fell down and democratization started in 1998, the 1945 Constitution was not replaced with a new one, as seen in many other democratizing countries, but successively reformed to adapt itself to a new democratic regime. In the result of four constitutional amendments in 1999-2002, political institutions in Indonesia are experiencing a transformation from an authoritative structure, in which the executive branch monopolized power along with incompetent legislative and judicial branches, to a modern democratic structure, in which the legislative branch can maintain predominance over the executive. However, as observed
that President Abdurrahman Wahid, the first president ever elected democratically in Indonesian history, was impeached after one and a half years in office, democratic politics under a new political institution has never been stable.

4. ACTUAL POSITION OF ETHNIC CHINESE

The actual status of ethnic Chinese vis-à-vis what is theoretically granted is a complex issue in Indonesia. The ethnic Chinese in Indonesia are treated very badly both at the hands of government as well as by the public. These discriminations are widespread. For example, a person with an Italian ancestry applying for Indonesian citizenship is allowed to keep his Italian name. A person born in Indonesia by a Mexican parentage is allowed to carry a Mexican name on his Indonesian citizenship form. A Russian is allowed to keep his Russian name as well. Only the Chinese are prohibited from having Chinese name. Thus, the law in Indonesia only applies to the ethnic Chinese.

Likewise, in Indonesia, ethnic Chinese are not allowed to learn the Chinese language. In Indonesia, a couple from Nigeria can teach their children the Nigerian language. Anyone interested in learning French can enroll into French courses offered in several Indonesian colleges and universities. But if a Chinese is caught learning the Chinese language in Indonesia, he/she may be incarcerated for violating the anti-Chinese law. A person caught teaching Chinese language in Indonesia is dubbed as an act of subversion and may face death penalty. Even the international travelers are not allowed to bring in any materials written in Chinese into Indonesia. Indonesian custom officials perform thorough search especially if the passenger is from China, Hong Kong, or Taiwan to ensure that they don’t carry anything Chinese.

In Indonesia, Muslim holy month Ramadan is celebrated besides Christian holidays like Christmas and Easter. But the Chinese Indonesians are prohibited from celebrating the Chinese New Year. Further, people from Brazil or Germany are not
barred from working in the Indonesian government offices. But the ethnic Chinese who are even born in Indonesia is not allowed to work in any Indonesian government office. In Indonesia, the ethnic Chinese are even not permitted to have permanent land title and also prohibited from obtaining government scholarship. The same restriction neither applies to Caucasians from the United States, nor from the sub-continent. Thus, in the following discussion an attempt will be made to include these problems at length and also the recent developments (if any) which help in improving the status of ethnic Chinese in the eyes of Chinese themselves.

4.1 With Regard to Citizenship

The legal or constitutional status as enjoyed by the ethnic Chinese can be traced back to the colonial period when the Dutch classified the ethnic Chinese as a distinct group in their policy of *divides et impera*, which later exacerbated the already existing problem. After independence, China considered overseas Chinese as their nationals by virtue of the *jus sanguinis* (blood law) principle. Later, China shifted it to *jus soli* (law of the land) which is the basis of nationality in most of the world. A Sino-Indonesian treaty was signed in 1955, under which the ethnic Chinese in Indonesia had to choose between Indonesian or Chinese nationalities between January 1960 to January 1962. An estimated 65 to 75% opted for Indonesian nationality. However, the relation with China was suspended in 1965 because of alleged complicity of China in the aborted coup d'etat by the Indonesian communist party. Suharto unilaterally abrogated the treaty on nationality in 1969. On 8 August 1990, a Memorandum of Understanding was signed to mark the restoration of relations between the two countries. This was to settle the citizenship issue of remaining 300,000 ethnic Chinese still holding Chinese passports. It is found that a huge number of ethnic Chinese are not having Indonesian citizenship. Despite being born

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11 Ibid.
and brought up in the Indonesian soil, the ethnic Chinese still hold the status of the "foreign national".

Even the ethnic Chinese who are having valid Indonesian citizenship face some sort of discrimination in their day to day life. In the following paragraph, we can see the kind of treatment meted out to the citizens in their own country.

According to the preamble of the 1945 Constitution, the state is obliged to protect every citizen, regardless of his ethnicity, socio-economic strata, religious background and political stance. However, a frequently debated, the 1945 Constitution is not sufficient to protect and uphold the rights, particularly, those of the minority ethnic Chinese (who are also legally the citizen of the country like any other prabumi). The constitutional arguments for discriminating between Indonesians of different racial origin are advanced by the saying that Article 6 of the 1945 Constitution itself makes a distinction between 'asli', native or indigenous and other Indonesians for appointment as President\(^\text{12}\).

Despite the new articles on Human Rights and Fundamental freedoms as included through the Second Amendment act 2000, the discriminatory provisions still exist in the 1945 Constitution. The Second Amendment only amended and made changes to Chapter X on Citizens and Residents in Article 26 of Clause 2 and 3: Clause 2 declares that, residents shall consist of Indonesian citizens and foreign nationals living in Indonesia. Clause 3 was amended to state that any other matters concerning citizens and residents shall be regulated by law'. Yet no change was made to clause 1 of the Article 26 of the original 1945 constitution which describe, Citizens shall consist of indigenous Indonesian peoples and persons of foreign origin who have been legalized as citizens in accordance with law\(^\text{13}\). Thus, to ethnic Chinese disappointment, the very basic article on Citizens


and Residents in the 1945 Constitution still retains the term “Indonesian indigenous people’ which is seen by the Chinese community as a way to justify discrimination14.

Further, the 3rd Amendment to 1945 constitution declares that any candidate for President or Vice-President shall be a citizen of Indonesia since birth, shall never have acquired another citizenship by his/her own will, shall never have betrayed the country, and shall be mentally and physically capable of implementing the duties and obligations of President or Vice-President15. The word ‘betray’ particularly is used in this article to keep the Chinese out of the race as they are stigmatized and dubbed as ‘the betrayer’ irrespective of their role in the freedom struggle. The Chinese are suspected as the collaborators of the failed coup of 1965. Therefore, according to the very pribumi notion, the ethnic Chinese are not at all eligible for the high office of the country like President and Vice-President.

Suharto’s regime asked the ethnic Chinese to carry a distinctive mark on their identity cards (Kartu Tanda Penduduk, or KTP) to distinguish them from the indigenous Indonesians despite the fact that they were Indonesian citizens. They were even ignorant of the fact that they had been issued cards bearing a special code along with former political prisoners, most of whom were members of the PKI, the Communist Party of Indonesia16. During the period from 1980s to 1990s in Jakarta, the badge of alienation for Chinese was the code “0” at the start of the KTP serial number, a strategically located nol (nil) that nullified the Indonesianess of the card holder17.

Further, the SBKRI, (certificate of citizenship for the Republic of Indonesia) requisite for school admission, business activity and marriage was not issued to those of Chinese descent. No mitigation of these prohibitions occurred during the three

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14 Ibid.
17 Ibid.
generations of New Order governance. Even after Suharto’s fall from power, the practice persists unquestioned. Despite some modification of the legal codes today, many discriminatory regulations remain as reminders that ethnic Chinese yet to attain full citizenship.\(^{18}\) In other words, although the government has annulled the Indonesian Citizenship Certificate required solely by ethnic Chinese, in practice it is still required in day-to-day administrative process\(^{19}\).

The SBKRI requirement has been perpetuated through a new citizenship law, although the original intent was to provide proof that a foreigner had been naturalized as an Indonesian citizen.\(^{20}\) The government still requires Chinese-Indonesians to produce the SBKRI for issuance of documents such as Identity cards, passports and birth certificates. Unlike other ethnic groups such as Indians and Arabs, Chinese-Indonesians are required by law to apply for the SBKRI to be officially recognized as Indonesian citizens. Chinese Indonesian citizens are still required to submit the SBKRI for enrolment in certain universities, particularly state universities\(^{21}\). Karawang and Bekasai still issue national identity cards that specify *keturunan*, which indicates persons of Chinese descent.\(^{22}\) Obtaining the SKBRI can cost claimants a good deal of money because of bureaucratic corruption and claimants are frequently not able to obtain the documents, leaving them with no proof of citizenship\(^{21}\).

The year 2006 brought some optimism about the improvement of the status of ethnic Chinese. One of the main reasons for this is a fundamental change in Indonesia’s citizenship law. The country has redefined what it means to be a "native" by adopting *jus*...
The citizenship law passed by the House of Representatives in July 2006 proclaims that “an indigenous Indonesian is someone who is born in Indonesia as well as the children (under 18) whose parent(s) are already Indonesian citizens.” This is a radical departure from a society that separated the Chinese in one way or another during colonial times and more recently during Suharto's 33-year reign that ended after the riots in 1998. The law abolished the notorious Indonesian Citizenship Certificate (SBKRI), which means that obtaining Indonesian citizenship should now be much easier for many "stateless" Indonesians whose citizenship status in this republic is still ambiguous due to their inability to present (and pay for) an SBKRI and other documentation.

In spite of its imperfections, the law will undoubtedly help the lives of many Chinese-Indonesians, along with many other people of "foreign" descent (such as those of Arab or Indian background) whose citizenship status is unclear. Most notably, the law marks the official end (at least on paper) of the long-disputed pribumi (indigenous)/non-pribumi dichotomy. Now it depends on the government to implement this new law and to eradicate corruption from the highest to the lowest levels in the process and no more SBKRI should also mean no more "fees" needed to "ease" the release of citizenship documents right.

Today, instead of using the word "pribumi," some politicians assert they are "putra daerah," or local sons, and contrast that with "pendatang" or newcomers. Other laws have also erased the preferential treatment for "pribumi," or indigenous groups in bank lending and awarding of government contracts, a policy that still prevails in Malaysia, where racial tensions are creeping higher. Thus, now it has been expected to get the real thrill of citizenship by the ethnic Chinese. No doubt, the ethnic Chinese are

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27 Ibid.
28 Fuller, 2000, op. cit.
rejoicing about their newly achieved status and even some scholar like, Thomas Fuller calling it as the "Golden Age for Indonesian Chinese". Writing about the level of satisfaction, Fuller narrated the feelings of Benny Setiono (head of the Chinese Indonesian Association, a non-profit group that represents the community) in the following lines: "The situation of the Chinese has never been as good as today, we feel freer and more equal". There have been other important landmarks in the "quest" for eradication of all forms of discrimination and achieve equal rights for all Chinese-Indonesians.29

4.2 With Regard to Political Status

It is true that now many of the cultural rights of the ethnic Chinese have been restored. However, the government is still far from going all the way in recognizing the human rights of the ethnic Chinese and requires a discussion on the existing political discrimination which is tantamount to deny the ethnic Chinese of their political rights.

There are several discriminatory laws, which are legitimized on numerous grounds within the Indonesian legal system, most notably on grounds of political affiliation. The People's Assembly Decree (TAP MPRS) No XXV of 1966, while declaring the prohibition of the communist party and related activities, is commonly interpreted to include a ban on all individuals with links to persons in any way previously affiliated with communism. Similarly, numerous laws and regulations discriminate against those having 'direct or indirect involvement' with the communist party such as article 7 of Law No 14 of 1985, article 13 (1) (d) of Law No 7 of 1989 and article 23 (5) (b) of Law No 43 of 1999. Discrimination and violence against ethnic or religious minorities is also rife throughout the country. Many past violations of human rights, including the massacre of nearly one million civilians alleged to be communists during 1965-66 and the indiscriminate killing of ethnic Chinese during the May 1998 riots are

29 Ibid.
yet to be addressed, largely due to Indonesia's ineffective legal system as well as the absence of political will\textsuperscript{30}.

Such restrictive encompassing political pressure as suffered by Chinese-Indonesians during the Suharto regime has caused a section of the Indonesian community to lose their identity. Many ethnic Chinese have tried to deny their identity in various ways due to this political pressure that, at times, associated their “Chineseness” with Communism, betrayal, disloyalty, insularism with their ancestral country and various other undesirable attributes that added to the political pressure and stigma weighted against them. The result is that the Chinese community is still afraid to become engaged in or even talk about politics, and even to become politician themselves. There are few communities in the world as apolitical as the Indonesian Chinese.\textsuperscript{31}

The original text of the 1945 Constitution only contains six provisions that explicitly talk about human rights along with 15 Human Rights Principles.\textsuperscript{32} Human rights provisions in the 1945 Constitution are also problematic because there were too many further regulations delegated to laws/statutes. Thus, they could be easily ‘twisted’ according to those in power. For instance, there was a law regarding mass organisation (Law No. 8, year 1985) imposing ‘Pancasila’ as the only principle for every organisation as a further regulatory provision of ‘the right to organisation’ provided in Article 28 of the 1945 Constitution. Without having ‘Pancasila’ as its principle, a group was never allowed to establish an organisation\textsuperscript{33}.

\textsuperscript{31} The Jakarta Post, Jan. 24, 2004, op. cit.
Thus, citizens were still not allowed the freedom to organize groups and to participate in politics\textsuperscript{34}. Indonesians Chinese have joined together to form their own race-based political parties to compete in the 1999 parliamentary election, including the National Democratic Party, or PND\textsuperscript{35}. Chinese-Indonesians were particular targeted of the violence, and the government estimates that 100,000 have fled the country since the end of Suharto era\textsuperscript{36}. But much has changed in the past few years. One of the immediate step of the new President, B.J. Habibie was to walk through the ruins of Jakarta's Chinatown, urging ethnic Chinese to stay in the country. He also repealed several discriminatory laws, including a ban on the use of the Chinese language.

Thus in the recent years the ethnic Chinese got some political rights by which they started searching for a new political format and strategy. The opening up of the political system in the post-Suharto era has resulted in spread of political pluralism that has made the Chinese parties to make a mark at the national political level. As a result, Forty-eight parties contested the election\textsuperscript{37}.

While analyzing the changing political environment of political participation of Daniel S. Lev and Benny Subianto indicated five political trends among the Chinese Indonesians in the recent years. These are:

- First, there are those who have become very conscious of their ethnic identity and seek new channels to struggle for their rights; hence they set up Chinese-based political parties.

- Second, there are those who staunchly struggle against all types of discrimination against the Chinese. To guarantee their basic rights, they try to

\textsuperscript{36} Ibid
\textsuperscript{37} Ibid.
create movements for equal treatment, but their movement is not based on ethnic identity.

- Third, those who keep struggling for the interest of the Chinese set up various forums or institutions to function as pressure group.
- Fourth, there are those who prefer to establish community organizations based on their Chineseness.
- Fifth, some Chinese prefer to join one of the inclusive political parties because they think that these parties are the best way to channelize their political aspirations. 38

Since the 1999 presidential election, Indonesians Chinese have relatively been more confident in expressing their political aspirations. There are some encouraging signs such as increasing membership of Chinese in political parties; an increase in the number of political discussions and seminars hosted by Chinese-Indonesian associations with assertive members; and informal presidential campaign teams that generated various social activities in different localities. Each of these activities showed the physical and public presence of Chinese-Indonesians. This presence at this early stage of democratic consolidation has been enough to erode the apolitical stigma, and regular media coverage of their presence has helped greatly in drawing a different picture of the Chinese-Indonesian. Even if it is not yet comprehensive, at least to the general public, their political participation has increasingly become evident. 39 Further, since the election to legislative bodies in April 2004, more Chinese-Indonesians have been engaged in the country's democratization process, and this degree of enthusiasm is a new precedent for their future participation. 40

40 Ibid.
Although the above political trend shows some political flexibility yet the approach of indigenous Indonesian towards ethnic Chinese is critical. Commenting on the critical approach of the indigenous people, Leo Suryadinata cites an example of an editorial review of one of the largest Indonesian newspapers, *Kompas*, which recognizes the need for the ethnic Chinese to be involved in politics, was unsure whether ethnic Chinese parties constituted the proper format for political participation. Thus, still the attitudes of the *pribumis* are not conducive for the full-fledged participation of ethnic Chinese in Indonesia's political affairs. As a result, there is another trend taking shape in the form of emergence of non-political organisation in the recent years. For some ethnic Chinese, this has been considered a more appropriate avenue through which their energy and passions can be channelized. Suryadinata argues that despite such movements into the political arena, many ethnic Chinese still suffer from political phobia. They felt that party politics was dangerous and an ethnic party would not be effective. They preferred to work with associations and pressure groups to fight discrimination. They wanted to establish NGOs that would promote ethnic Chinese interests.

4.3 With Regard to Cultural and Educational Status

Over three decades of cultural and political repression, Chinese Indonesians are now being given the opportunity to express their identity. In September 1998, President B.J. Habibie brought about legislative reforms to end the official use of the discriminatory labels *pribumi* and *non-pribumi*, a move many saw as an aim to erase the distinction between 'indigenous-ness' and 'foreignness'. In May 1999, Habibie issued a presidential decree to allow the teaching of the Chinese language and abolished a regulation requiring ethnic Chinese to produce certificates of citizenship meant for registration for schools or writing official applications. Following this decree, Chinese language ushered in a revival.

in Indonesia. Among young ethnic Chinese, learning Mandarin has become a popular pursuit, triggering a proliferation of after-school and after-work Mandarin courses. These courses were in even greater demand after Abdurrahman Wahid lifted the official ban on the display of Chinese characters and the importation of Chinese publications in February 2001, which was prevailed since 1978. Many ethnic Chinese families now send their children to schools that impart education on Chinese dialects, mainly Mandarin. With the rise of China as a world power, learning Chinese is becoming popular among Indonesians irrespective of all ethnicities\footnote{Fuller, Thomas, "Fear Subsides for Indonesia's Ethnic Chinese Community", \textit{International Herald Tribune: Asia Pacific}, 17 Dec. 2006.}

The government’s encouragement of the use of Chinese language continued even after Wahid was ousted. In 2002, Megawati supported Chinese education and Sinology departments were established in Indonesian universities. Since then, many Chinese language tuition centers have sprung up in Indonesia’s major cities. Chinese language as a subject has been included in some school curricula, Chinese studies centers have been established in various universities, and the Chinese language press has blossomed\footnote{Frost, Nicola, Indonesia, Oxfam, Hong Kong, 2002, p. 44.}.

New literary expressions by the Chinese in Indonesia are developing rapidly as well. During Suharto’s period, there was restriction on Chinese literature within Indonesia. But after Suharto’s resignation, two organizations of Chinese Indonesian writers made efforts by which Chinese Indonesian literature underwent something of a renaissance\footnote{Suryadinata, 2001, op. cit., p. 512.}. Stories depicting friendships between Chinese and \textit{pribumi} Indonesian are increasingly appearing in fictional literary works. In addition, television dramas and soap operas such as \textit{Cina Terhalang Tembok} (Obstructed Love) and \textit{Don't Call me Chinese}- although not supported by all ethnic Chinese due to often assimilationist storylines- have picked up on such themes to highlight the need for greater understanding across ethnic
boundaries, 'mirroring a greater willingness to allow the open expression of ethnic culture in the years since the fall of Suharto'⁴⁶.

Further, from about June 1998, or just a short while after Suharto’s fall, the term *Orang Tionghoa*⁴⁷ started to be re-introduced in mass media to substitute for the offensive, but officialized term *Orang Cina*⁴⁸. The ethnic Chinese people whole heartedly welcome its introduction because for them, *Tionghoa* is undoubtedly the polite and proper term. For the ethnic Chinese, *Cina* is a foreign word which is in use for the derogatory purposes thus resented by them, while the term *Tionghao* is having indigenous flavor thus it is polite. Further, the word has been remembered in the name of a new political party, the Partai Reformasi Tionghoa Indonesia (*Parti*), which aims at harmonizing the relations of Chinese-Indonesians with all Indonesians.

Similarly, the ethnic Chinese media in Indonesia has also undergone a reawakening since the fall of Suharto. Dozens of new newspapers have emerged throughout Indonesia in Chinese and Indonesian languages catering to the growing demands of the ethnic Chinese community. These have provided a space for Chinese to discuss the visions that they have for their future in Indonesia, with many newspapers stressing the need for acknowledgement of the country’s diversity regarding religion and ethnicity, besides protesting the discriminatory practices against ethnic Chinese.

Under Wahid’s administration, ethnic Chinese were also given greater freedom to assert their cultural and religious identity. Presidential Decree No. 6/2000 annulled the discriminatory regulation (presidential Decree No. 14/1967) banning public displays of Chinese beliefs, customs and traditions. In issuing this decree, President Wahid assured the ethnic Chinese of their rights to observe their cultural practice in the same way that

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⁴⁷ Aftermath of 1965 coup, the word *Tionghao* was effectively banned by the military from the public use in Indonesia and instead introduce the word *Cina*, as the official term to call the Chinese. One of the main reasons given by the army for this change was “to remove inferiority on the part of the Indigenous people, while on the other hand removing the feeling of superiority on the part of the local Chinese within the state”.
other ethnic groups had enjoyed theirs. A traditional Chinese dragon dance, which was banned earlier, was part of Indonesian Independence Day celebrations in 2006.49

Following the amendment of the official cultural policy (President Wahid revoked the 1967 Decree in 2000), ethnic Chinese were able to celebrate *Imlek* (Chinese New Year) publicly and without restrictions for the first time in over three decades. In January 2001, Wahid went a step further, declaring *Imlek* an optional holiday50. In 2002, many Chinese-owned factories in Surabaya a city with a large Chinese population were closed throughout the holiday period, and even the President took the day off. There are calls to give *Imlek* the same status as other religious holidays51. Thus, in February, Megawati declared *Imlek* a national holiday beginning in the year 2003. This edict further established the cultural rights of the ethnic Chinese and marks a landmark decision. Since then President Megawati Soekarnoputri officially declared *Imlek* a national holiday, *Imlek* has been regarded as the ultimate expression of Chinese-Indonesian ethnic identity. Even *Imlek* was celebrated on a national scale with the *Imlek Nasional Indonesia Bersatu* on 28 February 2007.

Further the 4th Constitutional Amendment to the 1945 constitution amended suitably to provide a constitutional basis to the existing cultural diversity of Indonesia. For example, according to Article 31 clause 2 "The government shall establish and conduct a national educational system which shall be regulated by law. Likewise, Article 32 declares that "the government shall advance the national culture". In explaining the national culture, the constitution says "the national culture is the product of the mental and spiritual activities of the entire Indonesian people. The old and indigenous cultures which were the essential parts of cultural life in all the regions of Indonesia together form the national culture. Cultural activities should lead to the advancement of civilization and culture, and the strengthening of unity without rejecting new elements of foreign cultures

49 Fuller, 2006, op. cit.
50 Frost, 2002, op. cit., p. 44.
51 Ibid.
which can develop or enrich the own national culture and raise the human dignity of the Indonesian people (4th Constitutional Amendment, 2002).

However, despite these positive signs of Chinese cultural freedoms, racial discrimination in Indonesia still prevails. At least 50 discriminative laws and ordinances were still in force in 2004. For instance, despite government declarations to the contrary and unlike other Indonesians, ethnic Chinese are still required to produce certificates of citizenship every time they apply for official documents such as identification cards and passports. In February 2002, prior to Imlek, the Chinese were warned by Jakarta's Governor, Sutiyoso, to celebrate the festival in a 'low-key' way, in order to avoid jealousy from society. This statement implied that anti-Chinese sentiment is still present and is fuelled by perceptions of inequalities of wealth\(^52\). Still insecurity is the part of everyday life for Chinese Indonesians and buying protection is as customary as buying rice.

4.4 Religious Status

Therefore, while the Government generally respected freedom of religion, restrictions continued on some types of religious activity on unrecognized religions including Confucian religion of which Chinese constitute of 92 percent. The Government sometimes tolerated discrimination against and the abuse of religious groups by private actors, and often failed to punish perpetrators. The situation was changed in 2006 for the ethnic Chinese as the Confucian religion was officially recognized by government\(^53\). With this, currently, the Indonesian State only recognizes six major religions: Islam, Christianity, Catholicism, Buddhism, Hinduism and Confucianism. Thus, it seems the Government alleviated the religious status of the ethnic Chinese, but in actual practice, still there are some restrictions on certain religious activities of the ethnic Chinese.

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52 Hoon, Chang-yau, "How to be Chinese", [http://www.indonesia.org](http://www.indonesia.org)
International Religious Freedom Report, released by US Department of State in 2006 enumerated several religious based discrimination as well as exploitation in the following point:

- The Government tolerated extremist groups that used violence and intimidation against religious groups, and it often failed to punish perpetrators of such violence.

- Faith-based social organizations sometimes reportedly extracted financial contributions from non-Muslim merchants, particularly before major Islamic holidays. Most commonly, these actions relied on social pressure from Muslim-majority communities. Many of those targeted were ethnic Chinese, who generally practiced Buddhism, Christianity, or Confucianism of which majority of the people belonging to ethnic Chinese.

- In late July 2005, MUI (Council of Ulemas) issued a fatwa denouncing pluralism, secularism and liberal forms of Islam, along with inter-faith marriage and inter-faith prayer. While the fatwa generated heated debates and served as a factor behind subsequent militant actions, it produced no perceptible substantive impact on the law.

- Article 156 of the criminal code makes spreading hatred, heresy, and blasphemy punishable up to five years in jail. Although the law applies to all officially recognized religions, it is most often applied to cases involving Islam.

- Although there is the provision for national holidays for all major religion, yet we can find certain discriminatory treatment to other religion by the state government. Further, while the Muslim holidays includes the “Ascension of the Prophet”, “Id al-Fitr”, “Id al-Adha”, the Muslim New Year, and the Birth
of the Prophet Muhammad, only recently Chinese New Year, celebrated by Confucians and was declared as national holiday.

- During the Muslim fasting month of Ramadan, many local governments ordered either the closure or a reduction in operating hours of various types of entertainment establishments. A Jakarta decree ordered the month-long closure of non-hotel bars, discos, nightclubs, sauna spas, massage parlors, and venues for live music. Billiard parlors, karaoke bars, hotel bars, and discos operated for up to four hours per night. These orders are nothing but to infringe the rights of other minority religious groups.

- The Government did not take any steps to implement controversial provisions of the 2003 education law that required private elementary and secondary schools to provide students with religious instruction in their own faith. Under preceding laws, students had to choose religious instruction from five types of classes, representing only Islam, Catholicism, Protestantism, Buddhism, and Hinduism.

- Religious groups and social organizations must obtain permits to hold religious concerts or other public events.

- The Government requires all adult citizens to carry a National Identity Card (KTP), which identifies, among other things, the holder's religion. Until February 2006 when the Government began providing administrative services to Confucians, some Confucians received Buddhist KTPs. Even some Protestants and Catholics received KTPs listing them as Muslims. It appears that Civil Registry staff used Islam as the "default" category for many members of unrecognized faiths. Islam remained the only recognized religion that could be claimed without proof and was administratively the least burdensome. Some citizens without a KTP had difficulty in finding work.
• The law does not discriminate against any religious group in employment, education, housing, or health care; however, some Christians and members of other religious minority groups believed they often were excluded from prime civil service postings and graduate student positions at public universities.

• After the Government promulgated the Regulation on Building Houses of Worship in 2006, a revision of the 1969 decree, militant groups forcibly closed two churches without police intervention despite a two-year grace period contained in the revised regulation for houses of worship to obtain permits per the new requirements. At the end of the reporting period, these churches remained closed. Another twenty churches, closed under pressure from militant groups the promulgation of the revised decree, also remain closed. Though often present, police almost never acted to prevent forced church closings and sometimes assisted militant groups in the closure.

On the issue of the current situation regarding the treatment of ethnic Chinese in Indonesia, the experts from the INS Resource Information Center say that although conditions for ethnic Chinese in Indonesia have improved considerably since 1998, when a wave of arson attacks in Jakarta and other major cities leveled many Sino-Indonesian businesses (check the sentence), ethnic Chinese fear that they would be targeted again if the Southeast Asian country goes through another deep economic crisis.

Therefore, the actual status enjoyed by ethnic Chinese in respect to the right to religion includes both conflict and cooperation. On the one hand, it is witnessing violent ethnic conflict where by and large the ethnic Chinese are victims. On other hand, it is also witnessing some change in the official ideology of the government in respect to the religious freedoms and tolerance. The improvements and positive developments in

\[54\] Ibid.
respect for religious freedom can be derived from the speech made by the Indonesian President in 2006 on the occasion of the Chinese New Year. In his speech, the President promised the Government to provide services to Confucians as the members of an officially recognized religion. Further in early 2006, the President instructed the Religious Affairs and Home Affairs Ministries to fulfill his promise. As a result, Confucians could obtain identity cards that reflected their religious affiliation and register Confucian marriages and births\textsuperscript{56}. Therefore, the actual position of ethnic Chinese with regard to religion although has seemed improving, we have to wait till the day when the \textit{pribumi} and ethnic Chinese will cooperate irrespective of their religious affiliation and Indonesia will be evolved into a multicultural society, not in theory but also in practice.

4.5 The Current Economic Status Enjoyed by Ethnic Chinese

Therefore, while the Government generally respected freedom of religion, restrictions continued on some types of religious activity on unrecognized religions including Confucian religion of which Chinese constitute of 92 percent. The Government sometimes tolerated discrimination against and the abuse of religious groups by private actors, and often failed to punish perpetrators. The situation was changed in 2006 for the ethnic Chinese as the Confucian religion was officially recognized by government\textsuperscript{57}. With this, currently, the Indonesian State only recognizes six major religions: Islam, Christianity, Catholicism, Buddhism, Hinduism and Confucianism. Thus, it seems the Government alleviated the religious status of the ethnic Chinese, but in actual practice, still there are some restrictions on certain religious activities of the ethnic Chinese. The International Religious Freedom Report, released by US Department of State in 2006 enumerated several religious based discrimination as well as exploitation in the following point:

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\textsuperscript{57} Ibid.
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58 Ibid.
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In the recent years, Indonesian government has a favourable tilt towards human rights. The Indonesian government's commitment to ratify two key human rights instruments, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in May 2006, is a welcome step. The ratification of these two covenants, which are central to the international bill on human rights, is a good opportunity for Indonesia to improve its dismal human rights track record. This cannot be done by ratification alone, it needs proper implementation. The effective implementation of these two covenants requires two elements: One is domestic legislation corresponding to the international provisions, and the second is functioning institutions to monitor the enforcement of this legislation. Indonesia at present has neither of these elements. Many years of authoritarian rule and political suppression under the Suharto regime have resulted in a repressive legal system and the degeneration of justice institutions, particularly the police, prosecution and judiciary.

Soeprapto listed Indonesia's so far ratified important international treaty and agreement which will provide a basis to protect the human rights and fundamental freedoms of the ethnic Chinese. These are:

(a) Convention on the political Rights of Women, 1952 (Act No. 68 of 1958);
(b) Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Act No. 7 of 1984);

(c) International Convention against Apartheid in Sports, 1985 (Presidential Decision No. 45 of 1993);

(d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (Act No. 5 of 1998);

(e) International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (Act No. 29 of 1999). It is worth noting that Act No. 39 of 1999 (on Human Rights) states in its preambular para d that “... the Indonesian nations as a member of the United Nations has moral and legal responsibilities to uphold and implement the Universal Declaration of Human Rights proclaimed by the United Nations and various other international instruments on human rights which have been accepted by the Republic of Indonesia”. It is significant to note in this connection that, even though the 1948 UDHR is not a legally binding international instrument, by incorporating a statement in an act referred to in para 52 above, Indonesia considers itself both morally and legally bound by the provisions of the 1948 UDHR.

It is important to note here that under the Indonesian National Plan of Action on Human Rights for 2004-2009, Indonesia is planning to ratify the following human rights international instruments with their respective time frame for the completion of the drawing up of the ratification bill concerned:

(a) International Covenant on Economic, Social and Cultural Rights, 1966 (2004);

(b) International Covenant on Civil and Political Rights, 1966 (2004);

(c) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution 1949 (2004);

(d) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (2005);

(f) Optional Protocol to the Convention on the Elimination of All Forms Discrimination against Women, 1999 (2005);

(g) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, 2000 (2005);

(h) Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (2007);

(i) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002 (2008);

(j) Rome statute of the International Criminal Court, 1998 (2008);

(k) Convention relating to the Status of refugees, 1951 (2009);


The listing of eleven human rights international instruments referred to in the preceding paragraph for ratification from 2004 through 2009 seems too ambitious. Nonetheless, it demonstrates, at least, the intention of the Government to further promote the respect for and protection of human rights and fundamental freedoms in broader aspects by making a commitment at the international plane through ratification or accession to those human rights international instruments. Besides, the government is also considering amending Law No. 62/1958 so as to avoid a sense of discrimination and to allow Indonesians to enjoy dual citizenship, a possibility that previous governments would not even consider. Another aspect to be reviewed includes the citizenship of children, which will be broadened to allow the mother’s nationality to be conferred on her children. With regard to ethnic discrimination, in February of 2002, President Megawati Soekarnoputri acknowledged Chinese Indonesians by declaring the Lunar New
Year a national holiday\textsuperscript{63}. And since then, the Chinese New Year is celebrated with much of fun fare.

Local police in Central Sulawesi were more active in punishing those allegedly involved in violence that may be related to inter-religious strife. In June 2005, police arrested eighteen suspects in the May 28, 2005, Tentena bombing. The head of Poso prison, Hasman, was also arrested, but police subsequently released Hasman and all other suspects for lack of evidence. In Central Sulawesi, police arrested Papa Siti, suspected in the 2004 shooting of prosecutor Ferry Silalali, on July 17, 2005, in Malino village of Tojo Una-Una Regency. On March 15, 2006, Central Sulawesi police detained Andi Makasau, the alleged mastermind of a series of armed robberies, fatal shootings, and bombings in the province, along with six other persons allegedly involved in violence there and still the case is pending. On May 7, 2006, police arrested five men in connection with acts of terrorism and other violent crimes in Central Sulawesi. Local police in Central Sulawesi continued to protect local churches and other prayer houses during religious services\textsuperscript{64}.

The mentalities of \textit{pribumi} are also changing gradually, especially the notion that all Indonesian Chinese are rich, a common perception during the Suharto years, when a select group of Chinese cronies controlled large, and high-profile businesses\textsuperscript{65}. Fortunately, this "doomsday scenario," which many feared was likely after the anti-Chinese riots of May 1998, has so far failed to materialize. In fact, the relationship between indigenous Indonesians and their Chinese compatriots is improving. Pessimists see this as "the calm before the storm." Optimists, on the other hand, see it as an indication that Indonesian society, if given a chance to deal with its diversity, will come

\textsuperscript{63} "Promotion and protection of Human Rights in Indonesia: A Reflection on Developments in the Period 2001-2002", \url{http://www.indonesiamission-ny.org/humanR/promotionham.htm}

\textsuperscript{64} International Religious Freedom Report, 2006, op. cit.

\textsuperscript{65} Fuller, 2006, op. cit.
up with the best solution. Yet no matter how one views the situation, there is clearly a need for a coherent public policy to address this problem.