

# REALITIES OF DISCRIMINATION IN INDONESIA: THE CASE OF THE CIVIL SERVICE

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## ABSTRACT

*Sejak bergulirnya reformasi tuntutan terhadap bidang administrasi untuk menghilangkan diskriminasi terhadap golongan minoritas terutama etnis cina juga semakin menguat, namun dalam tataran praktek upaya tersebut menemui kegagalan. Paper ini diawali dengan identifikasi upaya-upaya pemerintah untuk meniadakan diskriminasi institutional yang ternyata gagal membawa perubahan substantif kemudian penulis mengajukan usulan alternatif untuk menghilangkan ataupun mengkahiri diskriminasi tersebut melalui upaya-upaya pemerintah yaitu perubahan sistemik, perubahan prosedural, perubahan budaya organisasi dan perilaku pegawai negeri sebagai pemberi pelayanan administrasi.*

## INTRODUCTION

Social, political, and legal equality is a fundamental democratic principle and in a pluralistic society, the treatment of minorities is one of the important indicators of the entrenchment of democratic values. This is especially true to the Indonesian case as the vast archipelago hosts many different ethnicities, cultures, and religions, and is the fourth most populous country in the world. Therefore, given the diversity of Indonesia and the existence of ethnic, cultural and religious antagonisms, the search for a synthesis between these divergent groups must be a top priority for political reformers and pro-democracy advocates throughout the nation. While there are many manifestations to this problem, the purpose of the current study is to focus specifically on the issue of discrimination within the civil service against the Chinese-Indonesian minority in Indonesia.

In the era of *reformasi* there has been an increasing pressure on administrations to address the issue of discrimination against minorities, especially the ethnic Chinese minority, reflecting some of the liberal aspirations held by the public and progressive politician's. Unfortunately, many of the procedural efforts of post-New Order governments in Indonesia (such as

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constitutional amendments, legislation, decrees and legal revision) have failed to translate into substantive change, and thus the Chinese-Indonesian community continues to face discrimination. Likewise, the deeply rooted antagonism between *pribumi* (indigenous) and *non pribumi* still proves socially and politically divisive in Indonesia. Given these facts, the challenge for observers is to identify why government initiatives to end institutional discrimination have failed to translate into substantive change. We must then begin to propose alternative means to bring an end to racial discrimination in Indonesia. To resolve the problem at hand it is useful to make clear analytical distinctions between systemic / procedural changes and changes in institutional cultures and civil servant attitudes when addressing the problem of racial discrimination in Indonesia.

## **BACKGROUND: GRIEVANCE AND ANTAGONISM**

Historically, the process of nation-building in Indonesia, the world largest archipelago with approximately 13,000 islands and some 300 distinct ethnolinguistic groups, required the development of some basic imperatives such as the principle of pluralism — ethnic, cultural, linguistic and religious. (Mattaliti, 2000) Plurality is reflected in Indonesia's motto "Unify in Diversity" (*Bhineka Tunggal Ika*), which signifies that the existence of minorities is not only recognized but that their rights are to be fully respected. (Mattaliti, 2000) At times in Indonesia's volatile history the principle of pluralism was abused and neglected, for example under the Dutch Colonial Rule and during the repressive New Order era, and Indonesia's ethnic minorities suffered from maltreatment and subjugation. The hope is that Indonesia can overcome the prejudices that have been passed on from previous generations and rid the nation of discrimination in all its manifestations - institutional, psychological, systematic and cultural.

Mistrust and prejudice against Chinese-Indonesians has very deep roots in Indonesian society, largely as a result of the Dutch Colonial legacy and the mal-administration of the New Order regime. It is an issue of high sensitivity in Indonesia because antagonisms between indigenous Indonesians and those of Chinese descent have culminated in moments of great violence and disorder. Take the riots in Bandung in 1997 and Jakarta in 1998, which produced horrible results such as killings of Chinese-Indonesians, gang rapes, and the burning of streets and stores. (Winarta, 2001) Grievances against the minority Chinese-Indonesian community run deep and have long historical roots that trace back to the Colonial era.

In brief, the origin of discrimination was at the time of the Dutch Colonial rule in Indonesia. (Djalal, 2001) During the Dutch Colonial era there was a deliberate campaign to rule by dividing the Indonesian population, the results of which had the nation divided into three groups: These were the Europeans, the foreign Orientals (particularly the ethnic Chinese), and Indigenous Indonesians. (Winarta, 2001) In the period roughly between 1819 and 1919 the ethnic Chinese were forced to live in separate urban neighbourhoods according to the “quarter system” designed by the Dutch, and could only travel out from their neighbourhoods with government permits. (Library of Congress, 1992) The Republic of Indonesia’s first president, Soekarno, upheld the prejudices against the Chinese community by banning them from trade in rural areas. (Djalal, 2001) In the 1960’s, the New Order regime implemented a policy akin to the Dutch Colonial era by prohibiting Chinese-Indonesians from exercising free choice of residence, requiring them to live in the cities. (Djalal, 2001) However, it was not until Jakarta accused Beijing of supporting a failed coup attempt in 1965 that racism became truly institutionalized in Indonesia as all ethnic Chinese were labeled ‘communist sympathizers’.

After the purges of 1965-66, in which at least 500,000 real or suspected communists were killed, a systematic campaign against the ethnic Chinese followed. The New Order regime promoted anti-Chinese politics in which the minority ethnic group faced exclusion from government, the military and national police forces, and had no real opportunities for political expression. (Winarta, 2001) University enrollment was circumscribed and limited, Chinese schools were closed, the use of Chinese names discouraged, and almost all the Chinese language newspapers were banned. (Djalal, 2001) The Chinese were only allowed to be active in the business sector, so they became an exclusive group segregated from indigenous Indonesians.

Much of the public resentment has been caused by the disproportionate economic and industrial successes of the Chinese community, and their association with the business and political elite. Figures vary, but it is widely known that Chinese-Indonesians constitute approximately 5% of the country’s population and dominate the private sector by controlling approximately 70% of the country’s wealth. (Saraswati, 2004) Often this culminated in violence and ethnoreligious hatred, a disturbing dynamic that persists to the present day in Indonesia. The ethnic Chinese connection with the power elite made it even worse, and caused anger among indigenous businessmen who did not enjoy those benefits.

During the New Order (1965-1998) when Soeharto was in power there were many attempts to use these facts to redirect public frustration and anger away from the regime and toward the Chinese-Indonesian community. In fact, for more than three decades the New Order *created* antagonism and conflict between “pribumi” and “nonpribumi”. (Winarta, 2001) In exploiting ethnocultural divisions for personal power, Soeharto “made a dangerous run on the reserves of civic decency in society, and threatened the most precious of Indonesia’s democratic resources: the depth of tolerance and nationalist pride among citizens of all faiths”. (Hefner, 2000:19). Many analysts have found evidence that ethnoreligious conflict is the result of political and military engineering by “shadowy forces” seeking to benefit from instability. (Cohen, 2002) In other words, there are elements of society that seek to exploit Indonesia’s ethnic, cultural, linguistic and religious diversity in order to manufacture conflicts and provoke violence. (Jusuf, 2002) Elites from the former regime and the military use such tactics to “mobilize people behind campaigns for a return to order and stability as a means of protecting their own interests”. (Collins, 2002:583) Thus we see that many of the persistent prejudices and antagonisms between Chinese-Indonesians and indigenous Indonesians were reincarnated by New Order era and continue to cause uneasy tensions within society.

Given the entrenchment of social, economic and cultural tensions between the Chinese-Indonesian community and other “pribumi” Indonesians, there has to be a comprehensive campaign to reestablish a synthesis between these divergent groups. Overcoming these deep-seated tensions will require greater integration of the Chinese community, greater education about the value of social tolerance and political pluralism, greater public enlightenment about issues of race relations and multiculturalism, and greater emphasis on truth and reconciliation in order to discredit the damaging ideas left behind by the New Order regime.

## **OFFICIAL RECOGNITION OF DISCRIMINATION AND PROCEDURAL REMEDY**

As a result of the mounting crisis facing Soeharto’s regime, the former president began to make concessions to the Chinese-Indonesian community, which had for so long been the scapegoat of the New Order regime. While the changes were inspired by political opportunism and were merely cosmetic, they did mark the beginning of a trend to address the issue of discrimination against minorities through the use of official channels such as presidential decrees and legislation. The fact that debates about social, cultural and ethnic relations have reached the

public forum and are being openly discussed shows that the anti-discrimination movement is gaining momentum. Progressive politicians hoped that the end of the repressive New Order and the beginning of an era of *reformasi* and multi-party elections would “give the Chinese Indonesians a political voice and the chance to tackle institutionalized discrimination after more than three decades of living in the shadows”. (Djalal, 2000) Indeed, it is widely accepted now that discrimination of any kind is socially and politically regressive, and that Indonesia’s institutions and civil service must become more adaptable and progressive to coincide with the democratic imperatives of the *reformasi* era.

Many observers focus their attention on procedural aspects for the protection of minority rights, pointing out that these legal and regulatory reforms create the foundation for a legitimate campaign against institutional discrimination. It also signifies a degree of responsiveness from within governing bodies with regards to the controversial issue of discrimination. However we have yet to bridge the gap between changes in political language and legal code and substantive changes that actually affects people’s lives. Not surprisingly the difficulty lies in the implementation of government policies meant to address discrimination and protect minority cultural and legal rights. For example, despite official recognition that the 1958 Law on Citizenship contains discriminatory clauses, efforts to revise this law have yet to succeed. (Moestafa, 2003) The reasons for such difficulties lie in the lack of administrative capacity to reform the civil service, parliamentary procrastination, the lack of genuine political will on behalf of the government, factional infighting, and the actual government employees themselves who can be resistant to reforms. For example, as a vital branch of the civil service, immigration offices in Indonesia have a responsibility to deliver services to the public in a professional manner and without racial discrimination, but their compliance was rarely monitored. (Kurniawan, 2003) Therefore the further entrenchment of a system of collusion, informal patronage networks, and petty corruption amongst the employees interferes with the process of democratic consolidation.

One of the discriminatory regulations having a lasting and visible effect upon the Chinese-Indonesian community is the *Surat Bukti Kewarganegaraan Republik Indonesia* or Republic of Indonesia Citizenship Certificate (SBKRI), which forces all Indonesian’s of Chinese descent to declare their status as Indonesian citizens belonging to a minority ethnic group. Chinese-

Indonesians are still required to have an SBKRI as stipulated in the Citizenship Law No. 62/1958. (Moestafa, 2003) Since 1958 Chinese-Indonesians have had to produce the SBKRI documents in order to renew or obtain passports and identity cards (*Kartu Tanda Penduduk*), to process credit applications and business licenses, and even to enroll at some state universities. (Saraswati, 2002) It is widely acknowledged by government officials, legislators, legal experts, NGO's, civil society, and advocates of human rights that the SBKRI requirement is a discriminatory regulation. By segregating one ethnic minority in Indonesia and demanding that they abide by a different set of citizenship rules than other groups is an illegitimate process that needs to be eliminated. Based on this premise there have been increasing efforts to revoke all discriminatory laws, regulations and practices in Indonesia since the political transition in 1998.

Anti-discrimination initiatives originating from the Executive branch of government began in 1996 when former President Soeharto made concessions to the Chinese-Indonesian community by issuing Presidential Decree No. 56/1996. (Unidjaja, 2003) By issuing this decree the former president sought to eliminate SBKRI and revoke other discriminatory regulations and laws relating to ethnic minorities (Saraswati, 2004). Prior to 1996 it was a New Order policy to openly discriminate against ethnic Chinese by restricting their behaviour, banning their cultural celebrations, enacting repressive legislation, and engaging in campaigns of incitement and propaganda meant to deepen resentment towards this minority. After facing a political crisis in 1996 the Soeharto regime sought reconciliation with various elements of society, including the Chinese community.

By issuing the Presidential Decree in 1996 Soeharto acknowledged that institutional requirements of SBKRI for Chinese-Indonesians was a discriminatory policy and it should be revoked. In the *reformasi* era, all three presidents (Habibie, Wahid and Soekarnoputri) have issued similar decrees ordering civil servants to treat all citizens equally regardless of their ethnicity (Saraswati, 2004). J.B. Habibie, the first president of the *reformasi* and the successor of Soeharto, banned any official use of the words "pribumi" and "nonpribumi". (Kwok, 2001) The regime then attempted to reinforce the initiatives of Soeharto in 1996 by issuing Decree No. 26/1988 ordering government bureaucrats to give the same service to everyone. (Saraswati, 2002). Later in 1999 the president also issued Decree No. 4/1999 ordering all government

officials to follow up on his earlier instruction barring government agencies and officials from discriminating against Indonesians based on their ethnic background. (Saraswati, 2002)

Indonesia's first elections since independence took place in November 1999, and as a result President Abdurrahman Wahid was empowered as Indonesia's new inspirational leader. Inter-ethnic, religious, cultural and linguistic tolerance was one of the principles on which the Wahid government was based, and in this regard the former president sought to revoke discriminatory laws and regulations as well as to modify public perception towards Indonesia's minorities. In February 2000 there was the revocation of Presidential Decree No. 14/1967 which has considerably limited the freedom to observe Chinese beliefs, customs, and traditions in the country for more than three decades. (Mattaliti, 2000) This revocation resulted in definite improvements for Chinese-Indonesians as they regained many cultural rights, however the real challenge was to address the issues of legal rights, and to date these efforts have been prostrated and circumscribed.

Since the rise of the PDI-P under the rule of President Megawati in 2001 the anti-discrimination movement seems to have gained momentum. In terms of cultural rights, the Chinese New Year (*Imlek*) is now celebrated as a national holiday, ethnic Chinese enjoy greater freedom to express themselves and engage in public celebrations and rituals, and the printed press is now open to publications in Chinese languages. (Anggraeni, 2002) In terms of legal rights, the General Director of Immigration received instructions from President Megawati to address matters of discrimination against ethnic Chinese, and subsequently issued a circular letter on 9 July 2002 to all immigration offices in Indonesia giving explicit instructions that applicants for Indonesian passports *no longer needed* to show SBKRI. (Jusuf, 2002) Consensus had been reached that birth certificates and identity cards were sufficient to prove that someone has an Indonesian identity / citizenship (Jusuf, 2002). The immigration offices of Indonesia are under the authority of the Ministry of Justice and Human Rights. Therefore, the circular letter issued by the General Director of Immigration resulted from an initiative of the Department of Justice and Human Rights, which issued its own letter (no. F\_um.06.01845) telling all immigration offices that SBKRI is *no longer required* for Chinese-Indonesian applicants (Jusuf, 2002). To further reinforce the governments apparent commitment towards antidiscrimination, the Minister of Justice and Human Rights Yusril Ihza Mahendra stated on 21 June 2003 that the

ministry *would not issue* SBKRI for Indonesians of Chinese descent as it is considered a discriminatory policy. (Peoples Daily, 2002).

A strict reliance on the public statements of Minister Yusril regarding the government's commitment towards anti-discrimination and the revocation of the SBKRI requirement can be misleading. Indeed, while the Minister of Justice and Human Rights (Yusril) was proclaiming to the public that SBKRI was no longer required by Chinese-Indonesians, he was at the same time contradicting these claims by issuing internal letters to his colleagues stating that his ministry could not revoke the SBKRI as it would go against the 1958 Law on Citizenship (Moestafa, 2003). In a letter dated 6 September 2002 Yusril wrote to the State Secretary Bambang Kesowo stating that the issuing of a ministerial decree revoking the SBKRI would run contrary to the 1958 citizenship law and Presidential Decree No. 52/1977 on demographic affairs (Unidjaja, 2003). The letter also stated that: "to avoid legal uncertainty, the revocation of the SBKRI requirement must await the House's deliberations of the new citizenship bill". (Unidjaja, 2003) It is the minister's belief that "for security reasons and due to citizenship technicalities, it would be difficult to revoke the discriminatory laws at the moment". (Unidjaja, 2003) Ultimately, Minister Yusril has been glad to publicly announce the revocation of SBKRI, however the politics and legalities of officially revoking SBKRI are far from complete.

While the attitude of Minister Yusril is conservative and his commitment to anti-discrimination is unclear, some of his concerns are in fact legitimate. Therefore, while presidential decrees have been issued by each of the last four presidents of Indonesia (starting with Soeharto in 1996), these only serve as policy directives to change the behaviour of civil servants and ministerial workers. Presidential decrees alone cannot change the constitution, the laws, and they are even below government regulations in terms of their ability to revoke the SBKRI. Therefore the claims made by Yusril that changes to the 1958 Citizenship Law require legislative deliberation in the House are in fact valid. Therefore it is useful to review some of the initiatives from within House of Representatives (DPR) and the Peoples Consultative Assembly (MPR).

Efforts to address changes to the Constitution of 1945 and to eliminate discriminatory clauses have begun from within the Legislative branch of government. In 2000, for example, at the Annual Session of the People's Consultative Assembly (MPR), the agenda focused on the



Second Amendment to the 1945 Constitution with the aim of adding a new chapter on human rights. (Winarta, 2001) The new chapter which was concerned with anti-discrimination was added in August of 2000, and in Article 28 I paragraph 2 it was stated that: “Everyone has the right to be free from any discriminative action on whatever basis and is entitled to a protection from such discriminatory action” (Winarta, 2001). Legal experts hold the opinion that any attempts to repeal discriminatory laws and regulations in Indonesia should begin from the constitution itself as the supreme law of the country. However these efforts have yet to translate into any substantive change.

At present there are deliberations within parliament regarding a citizenship bill meant to revise the 1958 Law on Citizenship. According to a member of the National Commission on Human Rights, Saafroedin Bahar, if there was enough commitment towards anti-discrimination, legislators should have no problem deliberating the citizenship bill. (Moestafa, 2003) The government reportedly asked the National Commission on Human Rights and several other NGO’s to help draft the bill, indicating that when the bill was submitted to the House there was already a broad understanding among legislators to end discrimination. (Moestafa, 2003) With the aim of abolishing discriminatory laws and regulations in Indonesia, a working committee comprised of legal experts and members of the National Commission on Human Rights debated possible changes to Law no. 62/1958 on Citizenship. (Wulandari, 2001) The proposals they eventually put forth were meant to allow a child born in Indonesia to obtain citizenship regardless of the parents’ nationality. This principle, known as *jus soli*, determines citizenship by place of birth, and is meant to replace the currently applied principle of *jus sanguinis* that determines citizenship based on the parents’ nationality (Wulandari, 2001). The committee also underscored the waiver of the SBKRI for Indonesian citizens of foreign descent, as it does not comply with antidiscrimination regulations or principles. The committee submitted the list of changes to the House of Representatives (DPR) as an alternative to similar government initiatives, and hoped that the ensuing citizenship bill would be consistent with the desires of antidiscrimination advocates.

From the initial stages of drafting the bill to the process of debating the bill, circumstances changed dramatically as politicians began to renege on earlier promises to address anti-discrimination. It is even reported that the government and the House is in the process of

reinforcing existing discriminatory laws. In the final draft of the citizenship bill the government makes no attempt to reverse regulations requiring Chinese-Indonesians to obtain the controversial SBKRI. (Moestafa, 2003) Director for State Administration at the Ministry of Justice and Human Rights Ramly Hutabarat proclaimed that his ministry had not yet included an article on the revocation of the SBKRI requirement in the bill. Minister Yusril reinforced the unwillingness of his ministry to support changes by adding that: “it would be impossible to revoke the SBKRI ruling as there would be too many citizenship documents that would need to be revised in such an eventuality”. (Unidjaja, 2003) Therefore we are left only to conclude that the procedural remedies sought to eliminate discrimination against Indonesia’s ethnic Chinese minority have yet to culminate in any genuine change.

## **REALITIES OF DISCRIMINATION IN INDONESIA: THE CASE OF THE CIVIL SERVICE**

Despite the efforts of both government and non-government organizations to eliminate systematic discrimination of minorities in Indonesia there has been little substantive change. Regardless of presidential support for anti-discrimination since 1996, senior government officials concede that lower ranking bureaucrats, civil servants, and even some in the private sector continue to request SBKRI despite the apparent abolition of such a requirement (Wulandari, 2001). The reality for Chinese-Indonesians is that they still face social, legal and cultural discrimination, as an investigation in West Java and Jakarta has revealed. Unlike Indonesian’s other minority ethnic groups, such as Indians and Arabs, Chinese-Indonesians are required to obtain a court order to be officially recognized as Indonesian citizens (Saraswati, 2004). From the time that their birth certificate is issued with a mandatory stamp denoting their ethnicity, Chinese-Indonesians are forced to prove their citizenship at many stages throughout their lives by producing the SBKRI (Goldner, 2002).

Many institutions such as immigration still require SBKRI on the grounds that there are no operational rulings that enforce the decrees meant to revoke the SBKRI requirement (Kurniawan, 2003). Most government offices do not implement the decrees due to the lack of ancillary regulations on the implementation process. There are also claims that a lack of technical instructions have been provided by the government when issuing decrees and anti-discrimination regulations, leaving the various institutions with no guidelines for implementation and little

pressure to comply with regulations and decrees. (Kurniawan, 2003) The monitoring of institutions for their compliance with regulations is also insufficient. To compound the technical problems and the deficiencies found in the civil service, there is also a lack of political will on the part of some government officials to enforce the governments decisions, culminating in the continued discrimination against minorities, especially the Chinese-Indonesians.

There have been efforts to reform the institutions in terms of their functions, their professionalism, and the behaviour of the civil servants and officials. Unfortunately such initiatives have also fallen short. After conducting several investigations into Indonesian immigration offices, the pressure group Solidaritas Nusa Bangsa (National Solidarity) concluded that “bureaucratic squeezing” and petty corruption was still rampant, and that the monitoring of this institution was insufficient. (Jusuf, 2002). Some observers feel that government officials and civil servants fail to respond to demands for reform because they have grown accustomed to the acceptance of bribes. (Saraswati, 2002) For example, to many civil servants the SBKRI requirement represents a “gold mine” and is continually exploited as a source of additional income.

An analysis provided by the World Bank gives a comprehensive illustration of the system in place that “validates” institutional corruption and discrimination in Indonesian’s civil service. Formally, all civil servants are “paid from the central budget - either through the central allocation for personnel (DIK), or through the Subsidi Daerah Otonom or DSO grant to the regions”. (World Bank, 2002) From within this formal system a new arrangement has evolved which the Bank calls “informal patronage behaviour” within the Indonesian civil service. The basis for the informal patronage system is abuse of procurement, supplemental salaries, and discretionary allowances. Within immigration offices, for example, these factors allow top officials and senior officers to build comprehensive networks of loyalty and patronage, which filters throughout the institution and affects all the employees<sup>63</sup>. A system currently exists which grants top officials discretionary powers over the allocation of salaries and funds. This discretion allows top officials to distribute funds to their subordinates in exchange for loyalty and, frequently, collusion in malfeasance. (World Bank, 2002)

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<sup>63</sup> Corruption and discrimination in the civil service resulting from “informal patronage networks” is often mistaken for a “culture of corruption” supposedly shared by all civil servants and top officials. It seems more likely, however, that the persistence of corruption is a symptom of opportunism and structural deficiency rather than one of culturally inclined corruption within the civil service.

Membership in such personal loyalty networks is reputed to be pervasive, ensuring that officials can accept bribes and kickbacks without fear of reprisal, since their colleagues are likely to be engaged in the same practice. The existence of discretionary allowances locks staff into a loyalty network that enables extra-budgetary transactions to be conducted and shared under protected conditions. (World Bank, 2002)

How does the 'informal patronage behaviour' identified by the World Bank manifest itself in the day-to-day reality of Indonesian immigration offices? For one, the persistence of the SBKRI requirement and the disproportionate fee system used when dealing with ethnic minorities fits into such an informal system. The requirement that Chinese-Indonesians produce the SBKRI to obtain passports and VISA's is still commonplace in Jakarta and West Java despite official acknowledgment that SBKRI is discriminatory. For example, an investigation into the South Jakarta Migration Office by Solidaritas Nusa Bangsa (SNB) revealed that the office firmly demands that Indonesians of Chinese descent show SBKRI before obtaining or

renewing passports. (Jusuf, 2002) Immigration officers require minorities to pay higher fees than *pribumi* Indonesians for the processing of documents, sometimes as high as four times the standard fee. (Peoples Daily, 2002). Recent cases of discrimination have been recorded throughout immigration offices in Jakarta, Bogor, Tangerang, and Bandung, illustrating a wider trend that exists throughout Indonesia.

Personally, I witnessed a situation involving discrimination and bribery in the Bandung Immigration Office, which also requires Chinese-Indonesian citizens to produce SBKRI documents for the issuing and renewing of passports and VISA's. A Chinese-Indonesian woman aged 24 went to the Bandung Immigration office on 18 January 2004 to apply for passport renewal. She was born in Indonesia, as were her parents and even her grandparents. Regardless, she does not qualify as 'indigenous' Indonesian so she had to produce a series of documents that are not needed for non-Chinese citizens. There were no less than 9 documents provided by the applicant. These included (1) the old passport, (2) the birth certificate, (3) the identity card, (4&5) both her parents' birth certificates, (6) the declaration of name change for her family from Chinese to Indonesian, (7) the SBKRI, (8) the family card (Surat Keluarga), (9) and her fathers declaration of Indonesian citizenship which revokes the family ties to China. In contrast,

Indonesian citizens classified as *pribumi* only need to show the first three documents listed above.

Despite providing all of the “necessary” documents demanded of her, the immigration officers would not allow the applicant to pay the standard fee of *Rp. 260,000*. Instead, based on a vague excuse about a problem with the reference number on her father’s declaration of Indonesian citizenship document (which was issued in the 1960’s), the immigration officers demanded *Rp. 1,050,000* for the processing of her passport. Often the paperwork that Chinese-Indonesians have to provide is obtained through the courts, and therefore may not be recognized in the immigration offices as the records have not been transferred, and this is also used as an excuse to charge higher rates. Several officers approached the applicant, sometimes outside of the immigration building in informal and obscure settings (such as the canteen), to offer their personal services. For example, the applicant was given the chance to pay extra to “speed up” the process, but she declined. In the end (as a result of some protest) the applicant had to pay a fee of *Rp. 750,000* to have her passport renewed. There are no receipts issued for the purchase of documents or the renewal of passports in the immigration office in Bandung, and so there are uncertainties as to where the excessive fees paid by the Chinese-Indonesians actually end up. The Jakarta and Bandung cases convey symptoms of a greater national problem, one that extends well beyond these capital cities. They also reinforce the findings of the World Bank about the willingness of employees to demand bribes without fear of reprisal.

In a related case, it was found that public services provided by hospitals in Jakarta have openly discriminatory policies as well. In the Center for Childbirth — Jakarta, for example, there is a public notice on the wall stating that the cost of making a Certificate of Birth for Chinese-Indonesian babies born there was higher (*Rp. 150,000*) than that of a baby of any other descent (only *Rp. 35,000*), adding the hospitals to the list of government institutions that discriminate against the Chinese-Indonesian minority (Jusuf, 2002). In some cases Chinese-Indonesian students are still required to submit the SBKRI when enrolling at certain universities, particularly state universities (Saraswati, 2004). To the present time it is nearly impossible for Chinese-Indonesians to join the Indonesian military (TNI) or the National Police, and they are restricted in their political activities and eligibility for political posts.

## RECOMMENDATIONS FOR THE IMPROVEMENT OF IMMIGRATION OFFICES IN INDONESIA

Issues dealt with and services provided by immigration offices in Indonesia are of a sensitive nature as they raise questions of equality, minority rights, citizenship and identity. The persistence of a situation in which Chinese-Indonesians born in Indonesia continue to face discrimination from governmental employees and immigration officers is unacceptable. Identifying someone as a member of the Chinese (orang Tionghoa) ethnic group is not an easy matter, “because physical characteristics, language, name, geographical location, and lifestyle of Chinese-Indonesians are not always distinct from the rest of the population”. (Library of Congress, 1992) Most of the young Chinese-Indonesians today are fully integrated into society, speak Bahasa Indonesia as well as local languages (ie Sundanese), have never even been to China and cannot speak Chinese languages. Given these facts, how can the government go about eliminating the discrimination against this minority that runs rampant throughout its ministries and its civil service? Perhaps we can set aside the prostrated arguments about legal revision and constitutional amendment for a moment. Likewise, lets avoid getting bogged down in a political debate about new legislation and bills which seek to provide a remedy to this problem, and which never seem to develop into substantive change. Rather, taking a pragmatic approach to the simple and yet fundamental changes that need to take place in Indonesia’s immigration offices will help to promote equality for all citizens.

Rather than sharing Minister Yusril’s concerns about the process of changing hundreds of thousands of citizenship documents in the effort to revoke the SBKRI, officials could be instructed to leave the documents as they are and simply ignore the presence of SBKRI. The government should issue a brand new series of application forms for the various official documents that people apply for at immigration — passports applications, identity cards, VISA’s, etc — omitting any mention of the SBKRI and only requesting the regular forms of identification for all citizens, regardless of descent. Officials should replace the old public notice boards with new, clear and legible notices giving simple details of the changes that have been made, with a specific reference to the fact that SBKRI *is no longer* required. Then have a new notice board that is clearly visible to all that enter the immigration office that states the various fees for passport renewal and other such document requests, so that there is no debating the price

and the fee. These fees must be standardized for all citizens of Indonesia regardless of ethnicity or descent; this prevents immigration officials from “negotiating” with people about the price for services and document processing, closing off channels for petty corruption. Of course, success in this regard is contingent on the willingness of the government to freeze the funds that are used by top officials for discretionary allowances and the maintenance of informal patronage networks.

It is important to include on the new public notice boards the exact time it takes to process the requested documents, for example three working days for passport renewal. Have a system for queuing that operates consistently, so that when a person enters they know that the morning hours are for applications and the afternoon hours are for document collection. This serves to reduce the amount of people who are queuing for documents and reduces the pressure upon immigration officials. Upon entering the applicant will take a number and queue in an appropriate way, waiting to be summonsed by the immigration official so as to prevent officials from demanding bribes for faster service. Once a person has completed the necessary application forms and provided the necessary documents, then he or she must pay the stated amount, and receive a receipt for the amount paid. When the person comes back to retrieve their documents they only have to show the receipt as proof that the transaction took place, and then they can receive the document they requested. While it sounds so simple and logical, the issuance of receipts for all financial transactions in the immigration office is absolutely essential in order to make the new system work. Many immigration offices in Indonesia still do not issue receipts for all the money transactions that take place between employees and citizens, allowing extra funds to travel unaccounted for through informal and illicit channels.

Several preconditions must first be met before the government can expect these reforms to be implemented successfully. First, the salaries of civil servants and government employees (in this case immigration officers) must be raised and adequate benefits accorded to these employees. At present the standard wage rates for civil servants are similar to those in the private sector, ranging from Rp. 575,000 to Rp. 879,100 per month for Level 1 employees (the lowest level) and Rp. 1,068,600 to Rp. 1,800,000 per month for Level 4 employees (the highest officials). (Pemerintah Republik Indonesia, 2003) The low basic salary of civil servants causes them to search for alternative channels for the generation of income, most often through petty

corruption and bribery. This is important, as employees will need higher wages and salaries to offset the losses they suffer from the dismantling of their informal patronage systems. Second, the working conditions of these employees and officials must be improved. Office maintenance must be a priority, as a clean environment improves morale and encourages greater professionalism amongst the workers.

Once these preconditions are met, the probability for the successful implementation of the proposed reforms will increase substantially. The government must generate the appropriate amount of funds to make this project feasible, and then approve of the necessary budgetary changes to finance the project. The project should begin in the capital cities and then become scaled-down to the provinces, the districts, and so on. A first phase of immigration reform that begins in the capital cities of Java, for example, would have a lasting effect on the quality of the immigration service in Indonesia, and create a model for other reforms to come in the future. These lasting changes would improve Indonesia's reputation and would systematically eliminate the channels for corruption and discrimination in the immigration sector.

Once the project has been initiated there should be an oversight committee empowered by the government to oversee the implementation process. This committee should be comprised of both state and non-state actors to ensure impartiality when conducting on-site inspections of immigration offices, as well as monitoring the procedural changes that are taking place. It should put emphasis on financial controls to ensure that the money collected by the office matches the receipts issued to people requesting documents. There should also be a hotline or toll-free phone number for citizens to call in the case that they have a grievance or they witness some illicit behaviour. This hotline would be a direct link to the oversight committee that is in charge of the implementation and monitoring process, as well as the process of penalizing wrongdoers. Such reforms in the administration of immigration services and the behaviour of government employees will be faced with stern resistance, and may take years of monitoring before substantive change is realized.

## **CONCLUSION**

There must be a clear and comprehensive agenda on how the elimination of discrimination towards Indonesia's ethnic minorities (especially the Chinese) can be achieved if Indonesia wants to be considered as a modern, progressive and civilized democratic state. Lobbying for an



appropriate legislative response to the issue of discrimination must continue in order to eliminate clauses in the 1958 Law on Citizenship that make ethnic distinctions between indigenous Indonesians and those of Chinese descent. Because this is a painfully slow and circumscribed process, we must also dedicate resources towards the effort to force institutional change. For example the immigration service requires changes in its procedures, its financial system, its hierarchical structure, and its employee mentality. Civil servants have grown too comfortable with the system of petty corruption and bribery that exists in the immigration offices, and the issue of discrimination is tied directly to this mentality.

Advocates of minority rights in Indonesia propose many remedies for racial discrimination against ethnic Chinese. Some feel the impetus for change must come from the political sphere: “Politics was seen as the best way to protect and represent the interests of Chinese-Indonesians”. (Djalal, 2000) Besides advocating greater lobbying of government, ethnic Chinese are attempting to work through Indonesia’s big parties (mainly the PDI-P) that appear to be committed to racial harmony. (Djalal, 2000) Others have taken the legal approach that seeks to amend the constitution and revise old laws and regulations that are discriminatory. There are also advocates who believe that the best way to end discrimination in Indonesia is to engage in a comprehensive educational campaign to change the mentality of the public: “An education geared to the promotion of open-mindedness and mutual tolerance is one of the keys to resolving the many conflicts involving minorities”. (Mattaliti, 2000) Some point to the social sphere and suggest that there has to be greater integration of Chinese-Indonesians into society, reducing the primary association of Chinese-Indonesians with the business class and private sector. Each of these approaches has its merits and good intentions, but there has been very little progress thus far as each movement discovers formidable barriers to reform and change.

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