

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

- 1. Please provide information on the ABRI.**
- 2. Please provide information on the current situation of the treatment and attitude of the Indonesian authorities to the Chinese minority.**

RESPONSE

1. Please provide information on the ABRI.

Reports indicate that the Indonesian security forces were previously known as *Angkatan Bersenjata Republik Indonesia* [Armed Forces of Indonesia] or ABRI, and contained both the military forces and the civilian or police forces. In 1999 after President Suharto resigned and the New Order regime came to an end, the military and police forces were divided, and the military became known as *Tentara Nasional Indonesia* or TNI.

The TNI is still a dominant force in Indonesian society, and has a high degree of power and influence amongst the civilian population, for a number of reasons. One is that early in its history, the military was given a dual function [*dwifungsi*], which meant that it had both political and military power, and was not easily subject to control by civilian politicians. Although since the reforms of the past few years the TNI no longer has its own candidates in the Indonesian parliament, it can still act independently of government control.

Another reason is that from its beginning the TNI has never been given enough government funding to run itself and to pay its officers and enlisted men. Even today, the government supplies less than a third of the military services' budget. The balance is supplied by a wide range of business activities run by the TNI, both legal and illegal, which extend throughout Indonesia. Webs of patronage exist throughout the services which mean that inadequate

incomes are often supplemented directly by handouts from more senior officers, creating personal loyalties which bypass the formal ranking structures.

A further reason is that there are many grey areas within the formal duties of the TNI, and weak accountability procedures. This means that when TNI members commit human rights abuses they often act with impunity; there have been few successful prosecutions when such cases have come to court.

There have been a number of detailed analyses of the TNI in recent years, as various commentators have examined the success or otherwise of post-Suharto reforms. Some relevant extracts follow.

A 2005 background note on Indonesia by the US Department of State summarises the background of the TNI:

NATIONAL SECURITY

Indonesia's armed forces (Tentara Nasional Indonesia, or TNI, formerly ABRI) total about 350,000 members, including the army, navy, marines, and air force. The army is by far the largest, with about 280,000 active-duty personnel. Defense spending in the national budget is only 1.8% of GDP but is supplemented by revenue from many military businesses and foundations.

The Indonesian National Police were for many years a branch of the armed forces. The police were formally separated from the military in April 1999, a process that was formally completed in July 2000. With 250,000 personnel, the police represent a much smaller portion of the population than in most nations.

Indonesia is at peace with its neighbors. Without a credible external threat in the region, the military historically viewed its prime mission as assuring internal security. Military leaders now say they wish to transform the military to a professional, external security force but insist that the armed forces will continue to play an internal security role for some time.

Throughout Indonesian history the military maintained a prominent role in the nation's political and social affairs. Traditionally a significant number of cabinet members had military backgrounds, while active duty and retired military personnel occupied a large number of seats in the parliament. Commanders of the various territorial commands played influential roles in the affairs of their respective regions. With the inauguration of the newly-elected national parliament in October 2004, the military no longer has a formal political role, although it retains important political influence (US Department of State Bureau of East Asian and Pacific Affairs 2005, *Background Note: Indonesia*, May, p.8-9 – Attachment 1).

A 2004-5 working paper by John Bradford for the Institute of Defence and Strategic Studies in Singapore examines closely the structural problems of the TNI, and the failure of many recent attempts to reform it. Judging the TNI against the three key professional criteria of “responsibility, expertise and corporateness”, says Bradford,

...reveals that the TNI is a strong, independent institution with a powerful sense of duty. However, ability to fulfil its duty is undermined by lack of expertise, factionalism and excessive pursuit of self-interest. Such an elucidation of the TNI's institutional behaviour contributes to understanding its behavioural choices in the democratization process (Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of Defence and Strategic Studies, Singapore, p.2, <http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP73.pdf> – Accessed 12 May 2006 – Attachment 2).

Bradford states that in the post-Suharto era,

...the popular outcry of antimilitarism and the TNI's voluntary reforms have served to strengthen the civil government and removed TNI officers from the parliament and other fields of practical politics. However, those reforms have neither curtailed the TNI's independence nor eliminated its socio-political function. Although the TNI has given the civilian great latitude to institute reforms, it remains distrustful of the civilian elite. Events such as the 2001 impeachment of President Abdurrahman Wahid have only reinforced the impression that civilian leadership may not be up to the task of leading Indonesia. Furthermore, the 2002 constitutional amendments reinforce the TNI's guardian role by tasking it with "defending, protecting and preserving the unity and sovereignty of the State", but never defining the body which should identify threats thereby leaving military commanders great latitude in identifying determining when as well as how it should act to fulfil its constitutionally sanctioned role as defender of Indonesia's Pancasila Democracy.

Indonesia history dictates that the military and the civil government must be seen as parallel entities, inextricably linked and co-dependent, but also unable to fully subvert one another... (Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of Defence and Strategic Studies, Singapore, p.8, <http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP73.pdf> – Accessed 12 May 2006 – Attachment 2).

Bradford states that the present form of the military has its origin in its formation in the independence period:

The concept that the TNI holds both security and socio-political functions dates to the war for independence period when the guerrilla resistance blurred the distinction between military and political roles. The doctrine was later formally enunciated by Army Chief of Staff General Abdul Haris Nasution in 1958 when he developed the concept of the "middle way" arguing that the TNI was neither an "instrument of government" nor a military regime, but an independent force responsible to and a part of the people. In 1965, the "middle way" evolved into the doctrine of "Dual Function" which affirmed that the TNI should function both as a "military force" and as a "socio-political force" and placed military officers in prominent government positions including the cabinet, parliament, the bureaucracy and regional administration.

In August 1998, Dual Function was officially replaced with the "New Paradigm" which removed the TNI from its direct role in politics and shifted the TNI's focus towards external defense and the preservation of unity. The New Paradigm reforms have been a mixed success. The TNI has given up its seats in parliament, severed its direct ties with the Golkar political party, removed most references to socio-political roles from its doctrine and espoused an apolitical stance. However, the reforms have neither diminished the political influence of the territorial commanders nor reduced the involvement of the TI in local affairs (Kingsbury, 2003: 173). For example, the TNI retains its territorial development role that includes improving social conditions and can involve the mending of domestic ethnic and religious divides. In any case, even if it were to be fully implemented, the New Paradigm is not synonymous with a complete disengagement of the military from politics or submission to unquestioned civilian control. The TNI continues to affirm its professional responsibility to actively defend the unitary Pancasila state against all threats and instill patriotism in the Indonesian citizenry ... (Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of Defence and Strategic Studies, Singapore, p.10-11, <http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP73.pdf> – Accessed 12 May 2006 – Attachment 2).

Of the funding for the military, Bradford states:

The civil government does not provide the TNI with adequate resources necessary for even its most basic functions. Although a lack of transparency make the shortage difficult to quantify, it is estimated that the official defence budget covers less than one third of the TNI's operational expenses. Official salaries are small for officers and, for junior enlisted, insufficient for basic sustenance (Rebasa and Haseman, 2002: 71). Therefore, in order to sustain itself and fulfil its responsibilities, the TNI is expected by the civil government to acquire resources independently of the state financial system. In fact, since the military took control of Dutch-owned enterprises in 1957, business management has been central to the TNI's role and ethos (Crouch, 1988: 258-9).

TNI officers assigned to the management of state enterprises have been directed to divert profits to the military. Furthermore, TNI-managed cooperatives and foundations function at both the national and command levels to supplement operational and personnel costs not covered by the official budget. Many individual officers are also involved in private businesses which rely on either military resources or the coercive power which is associated with the military in order to sustain profitability [a footnote gives the example of using military trucks to haul produce to market]. Although such activities are often technically illegal, they are commonplace. At all levels there is relatively little distinction between public and private funds. Regardless of the sources of funding, officers consider both conducting operations and providing for the families of their soldiers as part of their professional responsibility ... (Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of Defence and Strategic Studies, Singapore, p.11-12, <http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP73.pdf> – Accessed 12 May 2006 – Attachment 2).

Bradford comments on the resultant blurring of the distinctions between private and professional life, and on the context of the Indonesia ethical framework:

Although TNI officers are ideologically and legally bound to fulfil a social responsibility, many officers use their position in furtherance of their personal or economic interests. In order to evaluate the ramifications of such activity on the TNI's professionalism it is not enough to evaluate behaviour against either Indonesian legal codes or against the norms of Western societies. Instead, behaviour must be judged in terms of its support or interference with the fulfillment of responsibility to society.

Western cultures tend to draw clear lines between individuals' professional and private lives, and there is a clear sense of legitimate and illegitimate uses of power derived from vocation. However these delineations are vague or non-existent in Indonesian culture, particularly among the Javanese to whom power is not seen as being derived, but as simply "being"... As powerful individuals always have access to that mystical force which is power, little distinction can be drawn between that person's "occupational" and "personal" life. Such concepts are clearly reflected within the TNI where distinctions between both public and private duty and personal and military resources are weak. Furthermore, the traditional patronage system expects those with power to accumulate personal wealth not only to provide for their subordinates, but also to demonstrate the extent of their power.

These concepts do not absolve TNI officers from responsibility or condone behaviour which is detrimental to society. Indonesian ethical behaviour is that behaviour which provides for both personal interest and the interests of society as a whole. Therefore, behaviour, which results in excessive personal profit to the distress of others, is unacceptable (Magnis-Suseno, 1977: 220-4). Considering the social expectation for TNI officers to accumulate wealth, "excess" is the best standard with which to measure the pursuit of self-interest against the officers' professionalism. As it is a relative term, exactly what constitutes "excess" is difficult to define, but a general consensus exists within the TNI that during the New order the accumulation of excessive wealth became commonplace. In comparison, members of the contemporary military elite seem far more concerned with the negative ramifications of unrestricted pursuit of self interest at the expense of

society and have taken steps to constrain its members. Despite these efforts, excessive pursuit of personal gain continues to plague the professionalism of the TNI (Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of Defence and Strategic Studies, Singapore, p.13-14, <http://www.ntu.edu.sg/idss/publications/WorkingPapers/WP73.pdf> – Accessed 12 May 2006 – Attachment 2).

In a 2004 paper, Damien Kingsbury states that “of the TNI’s total income, the ‘black’ income is thought by various analysts to be in the order of double its legal off-line income” (p.14). He expands on the kinds of business activities that the TNI engages in:

Off-line TNI income is derived from three revenue streams. The first is the ...businesses owned and operated by branches of the TNI, usually through (still tax-exempt but now theoretically auditable) *yayasan* and co-operatives, including businesses in natural resources and agribusinesses, finance, real estate, manufacturing, construction and transport. The second is through “grey” areas such as the leasing out (or imposition) of military services (such as security/protection and construction) and surcharges imposed on purchases, along with mixing private and military business interests and imposed local monopolies on the distribution of primary goods such as coffee beans.

The third and most lucrative source of income is through the black market, in particular smuggling, of oil or oil products, and illegal mining and logging and also automobiles and consumer goods. Other criminal activities, generally practiced at the Kodam level, include extortion/protection rackets, prostitution and gambling, and drug smuggling and distribution. While the TNI has the upper hand in criminal activities, it has engaged in a number of conflicts with the National Police over control of various criminal enterprises, and murders and gun fights between members of the two services have occurred on a relatively regular basis over the last several years (Kingsbury, Damien 2004, *‘The blessing of September 11’: The ‘War on Terror’, Reform and the TNI*, 5 July, Fullbright Symposium, p.17 – Attachment 3).

Kingsbury comments on the patron-client relationships that exists within the TNI, which tend to complicate and subvert formal military procedures and command structures (p.16). He states of other structural obstacles to reform:

Beyond the “New Paradigm” was the issue of the TNI’s Territorial function, by which it has instituted itself throughout the archipelago, and which has been widely attributed as the key obstacle to military reform. This structure locates relatively senior officers (usually brigadier-general rank) next to provincial governors, and embeds the TNI in the provincial economy, through developmental projects, its own businesses and the black market and criminal activities. There was considerable debate within the TNI about the reduction of the Territorial structure or doing away with it altogether, instead employing a deployable “professional” defence force intended to respond to external threats if and where necessary, which was to some extent undertaken by Kostad (Komando Cadangan Strategis Angkatan Darat – Army Strategic Reserve Command). However, this proposal developed other than was initially planned...(Kingsbury, Damien 2004, *‘The blessing of September 11’: The ‘War on Terror’, Reform and the TNI*, 5 July, Fullbright Symposium, p.8 – Attachment 3).

A 2004 report by the International Crisis Group examines the grey areas within the formal security functions of the TNI, such as “counter-insurgency, counter-terrorism, and the circumstances under which the TNI should provide back-up support to the Police”. It points to the fact that the guidelines for these activities are vague and there is not enough government oversight, so that the military often follows its own judgement about when to step in, and what action to take (p.5-7). Page 11 of this report contains a summary of the September 2004 law which lays down the responsibilities of the TNI apart from actual war.

Pages 18-19 discuss strategies for improving the accountability of the security services in a number of areas, including human rights abuses, and the obstacles to such reforms (International Crisis Group 2004, *Indonesia: Rethinking Internal Security Strategy*, 20 December,

http://www.crisisgroup.org/library/documents/asia/indonesia/090_indonesia_rethinking_internal_security_strategy.pdf – Accessed 12 May 2006 – Attachment 4).

Three 2005 reports by Human Rights Watch discuss the impunity and self-interest in the Indonesian military [see also p.21 of Attachment 2 on the subject of impunity]:

- ‘Indonesia: Acquittals Show Continuing Military Impunity: 1984 Massacre of Demonstrators Goes Unpunished’ 2005, *Human Rights Watch*, 12 July, http://hrw.org/english/docs/2005/07/12/indone11309_txt.htm – Accessed 15 May 2006 – Attachment 5.
- Misol, Lisa 2005, ‘High Time for the Government to Take Over All Military Businesses’, *Human Rights Watch*, 7 October, http://hrw.org/english/docs/2005/10/08/indone11843_txt.htm – Accessed 15 May 2006 – Attachment 6.
- ‘Indonesia: Keep Pressure on Abusive Army: U.S. Should Maintain Conditions on Assistance to Indonesian Military’ 2005, *Human Rights Watch*, 11 October, http://hrw.org/english/docs/2005/10/11/indone11859_txt.htm – Accessed 15 May 2006 – Attachment 7.

2. Please provide information on the current situation of the treatment and attitude of the Indonesian authorities to the Chinese minority.

Question 3 of a December 2005 RRT Research Response examines whether the Indonesian police and other authorities are willing and able to protect the Chinese minority or minorities in general. The response states that the sources consulted indicate that historically the Indonesian security forces have often not offered adequate protection to the ethnic Chinese. Some sources indicate that there have been real efforts in recent years to improve the level of police protection. However, critics say that minority groups are still disadvantaged in this respect. There are also reports that there is corruption within some sections of the police force and that sometimes protection is only offered to businesses that are able to pay for it (RRT Country Research 2005, *Research Response IDN17690*, 5 December – Attachment 8).

Question 6 of a 2003 RRT Research Response looks at efforts made by the authorities since 1998 to protect or enhance the security of Chinese Indonesians. Question 7 examines whether the police have ignored criminal actions against Chinese Indonesians. In general, most reports indicate that some efforts have been made to improve the security of Chinese Indonesians, such as extra security forces during the Chinese New Year and Christmas. However, some sources felt that if anti-Chinese violence flared up again as it did in 1998, the authorities would not be able to prevent it (RRT Country Research 2003, *Research Response IDN15918*, 27 May – Attachment 9).

The latest US Department of State report on human rights practices in Indonesia states that during 2005 “instances of discrimination and harassment of ethnic Chinese declined compared with previous years” although some institutional discrimination against the ethnic

Chinese still had to be addressed (US Department of State 2006, *Country Reports on Human Rights Practices 2005: Indonesia*, 8 March – Attachment 10).

The following reports provide some recent information on the situation of Chinese Indonesians.

A May 2006 news report was the only recent one found that specifically mentions anti-Chinese feeling and the steps taken by security forces to deal with it. No physical violence had actually taken place at the time of writing, partly due to the actions of the police, but the report does indicate that the potential for such flare-ups continues to exist:

Hundreds of students are threatening to launch a sweeping operation against Chinese-Indonesians in Makassar, South Sulawesi, within 48 hours if the police fail to investigate the death of a maid after she was allegedly tortured by her Chinese-Indonesian employer.

Some 1,000 students, who claimed to represent an alliance of native Indonesians, raised their demands with the Makassar Police on Wednesday, under the watchful eye of hundreds of police personnel.

The students caused massive traffic congestion in the city and forced some stores, which had earlier reopened after closing Tuesday due to growing protests, to close their premises.

The protest was triggered by Saturday's death of domestic helper Hasniati, 20, after she was allegedly tortured by her Chinese-Indonesian employer Wandu Tandawan.

The students' spokesperson, Maulana, urged the police to thoroughly investigate the case, impose a heavy penalty on Wandu Tandawan and reject the presence of Chinese-Indonesians in the city.

The students said that if the police failed to enforce the law within the next 48 hours, they would conduct a sweeping operation against Chinese-Indonesians.

Despite the threats, security remained under control, although several students pelted stones at stores, forcing some stores to put up signs that the store "belongs to native Indonesians" or "belongs to native Muslims" ('Makassar tense as students threaten ethnic Chinese' 2006, *The Jakarta Post*, 11 May, website of Action in Solidarity with Asia and the Pacific, <http://www.asia-pacific-action.org/ietnews.htm> – Accessed 16 May 2006 – Attachment 11).

A February 2006 report from *The Jakarta Post* describes a speech by the Indonesian President on the duty of the government to protect the rights of minorities to practise their religion, but states that the reality is not so "rosy". Confucians, who were mostly Chinese, still experienced discrimination, and Christians were finding it harder to establish new churches. Some followers of the "heretical" Muslim Ahmadiya sect in Lombok had recently been attacked by about 2,000 Muslims and "police sent to protect the families were far outnumbered and helpless to stop the attackers from burning the houses". Fortunately there were no deaths, but the attack apparently "had the tacit approval of the local administration and Muslim ulema" ('Religious persecution' 2006, *The Jakarta Post*, 7 February – Attachment 12).

A February 2006 report from *The Economist* comments that apparently "Indonesians' attitudes towards their ethnic-Chinese compatriots are changing fast". There are several Chinese media outlets; many ethnic Chinese are exploring and celebrating their own culture; and there have been far more Chinese running for political office. Some structural discrimination remains in areas such as dealing with government officials ('Indonesia: The

happy Chinese: At last, Indonesia is coming to terms with its Chinese community' 2006, *The Economist*, 2 February – Attachment 13).

A December 2005 report by Minority Rights International indicates that as a minority the Chinese in Indonesia are better off than other minority groups such as the Papuans and Acehnese:

There was some positive news, however. Several laws that discriminated against the ethnic Indonesian Chinese have been scrapped, including the infamous Indonesian Citizenship Certificate (SBKRI) decree. Under this decree, ethnic Chinese Indonesians were given a special code in their ID which identified them as Chinese and gave the bureaucracy the opportunity to discriminate against them. Former President Megawati cancelled the decree in April 2005.

In the 2004 elections, there were several parties that openly claimed to be representing ethnic Chinese, something that was unheard of during the rule of former president Suharto. Although none of these parties made any headway, they did raise the profile of the Chinese community. Many senior Indonesian officials openly proclaimed their Chinese ancestry (Minority Rights Group International 2005, *State of the World's Minorities 2006 – Indonesia*, December – Attachment 14).

A March 2006 report by *Jane's Islamic Affairs Analyst* does not mention the ethnic Chinese, but is of interest because it discusses the growing influence of fundamentalist Islamic groups such as the Islamic Defenders Front or FPI which over the past year has taken several actions to enforce its ideas. These have included violent attacks on the premises of another Islamic group and forcing the closure of restaurants and cafes on a holy day. On the other hand, the group helped to defend Christian churches during the Christmas period when there had been warnings of attacks by Islamic extremists ('Indonesia wrestles with decency' 2006, *Janes Islamic Affairs Analyst*, 24 March – Attachment 15).

List of Sources Consulted

Internet Sources:

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. US Department of State Bureau of East Asian and Pacific Affairs 2005, *Background Note: Indonesia*, May.
2. Bradford, John 2005, *The Indonesian Military as a Professional Organisation: Criteria and Ramifications for Reform*, January, Working Paper No.73, Institute of

Defence and Strategic Studies, Singapore, p.2.
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3. Kingsbury, Damien 2004, *'The blessing of September 11': The 'War on Terror', Reform and the TNI*, 5 July, Fullbright Symposium.
4. International Crisis Group 2004, *Indonesia: Rethinking Internal Security Strategy*, 20 December.
(http://www.crisisgroup.org/library/documents/asia/indonesia/090_indonesia_rethinking_internal_security_strategy.pdf – Accessed 12 May 2006)
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7. 'Indonesia: Keep Pressure on Abusive Army: U.S. Should Maintain Conditions on Assistance to Indonesian Military' 2005, *Human Rights Watch*, 11 October.
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8. RRT Country Research 2005, *Research Response IDN17690*, 5 December.
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10. US Department of State 2006, *Country Reports on Human Rights Practices 2005: Indonesia*, 8 March.
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12. 'Religious persecution' 2006, *The Jakarta Post*, 7 February. (FACTIVA)
13. 'Indonesia: The happy Chinese: At last, Indonesia is coming to terms with its Chinese community' 2006, *The Economist*, 2 February.
14. Minority Rights Group International 2005, *State of the World's Minorities 2006 – Indonesia*, December.
15. 'Indonesia wrestles with decency' 2006, *Janes Islamic Affairs Analyst*, 24 March.