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## **INDONESIA: MINORITIES, MIGRANT WORKERS, REFUGEES, AND THE NEW CITIZENSHIP LAW**

**A Writenet Report by John T. Sidel**

**commissioned by United Nations High Commissioner for Refugees,  
Status Determination and Protection Information Section (DIPS)**

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## Acronyms

DOM	Daerah Operasi Militer (Region of Military Operations)
DPR	Dewan Perwakilan Rakyat (People's Representative Assembly)
DPRD	Dewan Perwakilan Rakyat Daerah (Regional People's Representative Assembly)
FPI	Front Pembela Islam (Front for the Defenders of Islam)
GAM	Gerakan Aceh Merdeka (Free Aceh Movement)
ICMI	Ikatan Cendekiawan Muslimin se-Indonesia (All-Indonesian Association of Islamic Intellectuals)
IDPs	Internally Displaced Persons
KTP	Kartu Tanda Pengenal (Identification Card)
MPR	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
MUI	Majelis Ulama Indonesia (Council of Indonesian Islamic Scholars)
OPM	Organisasi Papua Merdeka (Free Papua Organization)
PDIP	Partai Demokrasi Indonesia – Perjuangan (Indonesian Democratic Party of Struggle)
PKS	Partai Keadilan Sejahtera (Prosperous Justice Party)
PNG	Papua New Guinea
SBKRI	Surat Bukti Kewarganegaraan Republik Indonesia (Indonesian Citizenship Certificate)

## Executive Summary

This report<sup>1</sup> looks at trends and developments in Indonesia over the past five years with reference to problems of displacement, statelessness, and other issues related to citizenship in the country. In contrast with many reports written during the early years of Indonesia's transition from authoritarian rule, this report suggests a broad pattern of improvement with regard to the conditions of some of Indonesia's most vulnerable citizens, though also identifying some areas of continuing concern.

Overall, the report details a pattern of declining conflict, violence, and displacement in areas of the Indonesian archipelago in which contestation over sovereignty or communal violence caused considerable loss of life and dislocation in the early period of transition from authoritarian rule. This pattern is evident in the belated Indonesian acceptance of East Timorese independence since 1999, and in the new special autonomy package and peace accords agreed by the Indonesian government and the Free Aceh Movement (Gerakan Aceh Merdeka or GAM) in Aceh. This pattern is also evident in the absence of large-scale communal violence in areas like West and Central Kalimantan, Maluku and Maluku Utara, and the Central Sulawesi regency of Poso, all of which experienced protracted episodes of communal violence in 1999-2001, causing thousands of deaths and forcing hundreds of thousands of residents to flee their homes and communities. That said, the report also notes the ongoing conflict in Papua and the continuing problems of displacement both within the province and across the border in Papua New Guinea, as well as the large numbers of IDPs from the other conflicts who have not been able to return to their homes and communities, and for whom "resettlement" has been in most cases a makeshift, minimalist "solution" of sorts.

In addition, the report traces the improvement of conditions for Indonesia's ethnic-Chinese and Christian minorities, who were seen to suffer from a special vulnerability to harassment, intimidation, persecution, and violence in the early years of transition from authoritarian rule. Here it departs from some other observers' alarmist accounts of Islamist aggression and oppression of these vulnerable minorities. But the report also draws attention to a small but growing minority of Indonesians whose citizenship rights remain compromised and complicated, namely the increasing numbers of migrant workers labouring and residing abroad, most notably in neighbouring Malaysia.

Against this backdrop, the report considers the implications for Indonesia's most vulnerable citizens of the new Citizenship Law passed in 2006. On paper, the new Citizenship Law of 2006 represents an improvement on the 1958 Citizenship Law and on previous treatment of Indonesians of ethnic-Chinese origins and other vulnerable minorities. But in practice, many questions remain as to how the implementation of the law will benefit Indonesia's most vulnerable citizens and resolve problems of statelessness and other problems in the years to come.

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# 1 Introduction

## 1.1 Recent History

Over the past decade, Indonesia has experienced dramatic political change. These changes began with the fall of long-time president Suharto, a retired Army general who ruled the country from 1966 through May 1998, when he resigned. His resignation was the result of mounting student protests as well as internal defections from long-time supporters in both the civilian and military establishments underpinning his regime. With Suharto's resignation and the ascension of former vice-president B.J. Habibie to the presidency in May 1998 came a process of political liberalization, with Indonesia's first freely competitive elections since 1955 held in June 1999. A new multi-party parliament (People's Representative Assembly or Dewan Perwakilan Rakyat – DPR) was elected, and the supra-parliamentary People's Consultative Assembly (Majelis Permusyawaratan Rakyat – MPR) elected a new president, Abdurrahman Wahid, in October of the same year. At the same time, new legislation was passed, mandating the devolution of fiscal and administrative powers to the local level (especially to regencies or *kabupaten*), empowering local assemblies (Dewan Perwakilan Rakyat Daerah – DPRD) to elect local executives (mayors, regents, and governors), and thus extending the democratization process from Jakarta throughout the entire sprawling Indonesian archipelago.<sup>2</sup>

From 1999 to 2004, additional changes were made to the evolving structure of democratic governance in Indonesia. In 2001, pressures building up in parliament in advance of the annual session of the MPR forced President Abdurrahman Wahid to resign and facilitated the elevation of Megawati Soekarnoputri to the presidency in July of that year. This experience of protracted conflict between the executive and legislative branches encouraged a shift to direct presidential elections by 2004, even as analogous problems between local executives and fractious DPRD's in many localities foretold a parallel shift to direct election of mayors, regents, and governors phased in at the same time. Thus the first six years of Indonesia's transition from authoritarian rule saw a series of shifts in the institutional framework of the country's emerging democracy.<sup>3</sup>

These shifts were accompanied by diverse forms of violent conflict in various parts of the country, and by heightened problems for Indonesia's ethnic-Chinese and Christian minorities during this period of pronounced political uncertainty. The years 1995-1997 witnessed a pattern of escalating riots which included attacks on Chinese-owned business establishments and Christian churches, and May 1998 saw large-scale rioting in Jakarta cause untold damage and loss of life and force tens of thousands of ethnic-Chinese residents to flee the country.<sup>4</sup> From 1999 through 2001, moreover, a series of inter-ethnic and inter-religious conflicts in several localities around the country unfolded, causing hundreds, even some thousands, of deaths and displacing hundreds of thousands of people from their homes and communities.<sup>5</sup>

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<sup>2</sup> Dijk, K. van, *A Country in Despair: Indonesia Between 1997 and 2000*, Leiden: KITLV Press, 2001

<sup>3</sup> See, for example, National Democratic Institute, *Law on the General Election of the President and Vice-President Passed by the DPR on 8 July 2003*, Jakarta, July 2003; National Democratic Institute, *Law on the Structure and Composition of the MPR, DPR, DPD and DPRD's: a Short Guide*, Jakarta, July 2003

<sup>4</sup> Purdey, J., *Anti-Chinese Violence in Indonesia, 1996-1999*, Honolulu: University of Hawai'i Press, 2006

<sup>5</sup> Sidel, J.T., *Riots, Pogroms, Jihad: Religious Violence in Indonesia*, Ithaca: Cornell University Press, 2006, pp. 132-95; Klinken, G. van, *Communal Violence and Democratization in Indonesia: Small Town Wars*, London: Routledge, 2007

The same years also saw considerable violence in areas of contested sovereignty, most notably in East Timor following the 1999 referendum and accompanying its transition to independence. This is also true of the province of Aceh, where martial law was introduced and an aggressive military campaign waged against separatist forces. There was also renewed fighting in Papua. Thus the country's transition to democracy was often described in alarmist, if not apocalyptic terms, as threatening the disintegration of the Indonesian nation-state.<sup>6</sup>

Since 2004, however, Indonesia has been experiencing a much more orderly and peaceful process of democratic consolidation. Parliamentary and direct presidential elections held in 2004 were widely seen as free and fair, and led to an orderly and peaceful transition to a new administration led by Lieutenant General Susilo Bambang Yudhoyono, a retired Army officer. Over the following few years, moreover, a series of local elections (*pilkada*) were held for local executive positions around the country, for mayors (*walikota*), regents (*bupati*), and provincial governors (*gubernur*). Together with the first direct presidential elections, these local elections suggested that the inter-related processes of democratization and decentralization, under way in Indonesia since the fall of President Suharto in May 1998, are continuing to unfold.<sup>7</sup>

To be sure, these processes have run up against enduring obstacles. Critics of Indonesia's fledgling democracy have noted that the new administration, including the president and vice-president, represents a set of individuals and interests associated with Suharto's authoritarian regime, an oligarchy of sorts reconstituted under formally democratic auspices. In the national parliament, the strongest party remains Golkar, Suharto's election machine, and in local politics, the dominant pattern is for entrenched local elites – civil servants, military officers, businessmen, and even criminal elements – to dominate competition for the spoils of office, with money and machinery playing a key role in electoral competition. Clearly there are real limits to what democratization means in practice in Indonesia, in terms of popular control over a state whose civilian and military apparatuses have long enjoyed considerable autonomy and insulation from public scrutiny, and in terms of the empowerment of Indonesia's largely poor population vis-à-vis an entrenched political-cum-business elite.<sup>8</sup>

## 1.2 Current Social-Political Trends

That said, the steady consolidation of this democracy, for all its evident imperfections, has had a set of important and largely salutary consequences for the exercise of citizenship rights in contemporary Indonesia. First of all, the transition from authoritarian rule has entailed various forms of political liberalization, ranging from the release of political prisoners, the termination of official censorship in the press, and the elimination or reduction of large numbers of restrictions on civil rights. While this liberalization has been limited and compromised by the persistence of legal and extra-legal constraints on the full exercise of these rights, the meaning of Indonesian citizenship has been considerably expanded over the past several years. There is far greater freedom of belief, association, and expression today in

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<sup>6</sup> *Ibid.*

<sup>7</sup> For a broad overview of these trends, see the various essays in Erb, M., Sulistyanto, P. and Faucher, C. (eds.), *Regionalism in Post-Suharto Indonesia*, London: Routledge Curzon, 2005

<sup>8</sup> See, for example, Robison, R. and Hadiz, V., *Reorganising Power in Indonesia: the Politics of Oligarchy in an Age of Markets*, London: Routledge Curzon, 2004

Indonesia than was found under the Suharto regime.<sup>9</sup> The government has also considerably reduced its efforts to monitor and control the population, as seen in its largely tolerant approach to the prolonged illegal stay of small numbers of asylum seekers and refugees in the country.

Secondly, the consolidation of democracy has led, if not to a seamless resolution of the violent conflicts of preceding years in Indonesia, then to various forms of imposed settlement, thus drastically reducing the direct use of force, the disruption of everyday life, and the displacement of thousands of people in localities previously identified as “conflict zones” around the country. This pattern is evident in areas of communal violence, such as West and Central Kalimantan, Maluku and Maluku Utara, and the Central Sulawesi regency of Poso. Meanwhile, in the aftermath of the 1999 referendum, East Timor has finally achieved independence, and with the signing of the Helsinki agreement in 2005, moreover, violent conflict in the province of Aceh has subsided. Only Papua remains as a disputed territory where forces demanding independence today face a sporadic campaign of repression by Indonesian government forces, and where the threat and practice of violence causes continuing displacement to this day.

Third, the consolidation of democracy has also led, if not to an elimination of resentment towards Indonesia’s small but important ethnic-Chinese minority, then to an easing of the legal, political, and social forms of discrimination, extortion, and persecution which this minority seemed to face in the late Suharto period and in the first years of transition to democratic rule. This pattern is evident in the decline – indeed, the virtual disappearance – of incidents of violence against ethnic-Chinese Indonesians since the heyday of anti-Chinese riots in the mid-late 1990s, and in a series of legal reforms and social and political changes which have allowed “Indonesian Chinese” far greater freedoms of expression, association, and political activity.

Fourth and finally, the consolidation of democracy has also led, if not to the disappearance of Islamist organizations and aspirations – or of inter-religious tensions and conflicts – from Indonesian politics and society, then to the drastic diminution of violence in the name of Islam and threats to Indonesia’s small but sizeable non-Muslim (especially Christian) minority. This pattern is evident in the dramatic decline of inter-religious violence across the archipelago and in the reduction of so-called *jihadist* violence to rare terrorist bombings and small pockets of vigilante activity. This pattern is also evident in the pronounced tendency for Islamist organizations and parties to accommodate themselves to the prevailing system of machine politics, multi-faith co-existence, and official state protection of religious diversity in the country.<sup>10</sup>

To be sure, as noted in the pages below, these trends have been neither uniform nor all-encompassing in their implications for Indonesia’s most vulnerable citizens. But the overall picture in Indonesia today is one in which the realities and dangers of discrimination and persecution, and of conflict, violence, and displacement have considerably diminished. The broad direction of change has been largely positive.

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<sup>9</sup> For an overview of the developments outlined in this section see, e.g., United States, Department of State, *Country Reports on Human Rights 2005:Indonesia*, Washington, March 2006

<sup>10</sup> Sidel, *Riots, Pogroms, Jihad*, pp. 196-217; see also Sidel, J.T., *The Islamist Threat in Southeast Asia: a Reassessment*, Washington DC: East-West Center Washington, 2007

That said, as discussed further in this report, the past five years have also seen evidence of trends that point to continuing – in some ways growing – problems that have complicated and compromised the citizenship and civil rights of certain groups of vulnerable Indonesians. The most pressing problem in this regard concerns migrant workers from Indonesia residing in the neighbouring country of Malaysia or further afield (e.g. in the Middle East). The various problems of Indonesian migrant workers in Malaysia and elsewhere are discussed at some length in the pages below.

Finally, this report treats the new citizenship law recently passed by the Indonesian Parliament and signed by President Susilo Bambang Yudhoyono in 2006. The new law contains provisions with important implications for some groups in Indonesian society – notably migrant workers and the ethnic-Chinese minority – whose citizenship and civil liberties have been in various ways complicated and compromised over the years. Thus the pages below offer a survey of the changing parameters of citizenship in Indonesia, with special attention to groups whose vulnerability has been a cause for concern over the years.

## **2 Conflicts over Indonesian Sovereignty**

The transition from authoritarian rule that began to unfold in 1998 opened up to renewed contestation – and violent conflict – enduring questions and problems concerning the nature and extent of Indonesian sovereignty. The Indonesian nation-state, after all, has been one brought into being in large part through colonial rule and then anti-colonial nationalist revolution in the mid-twentieth century. It was then further extended with the UN-brokered incorporation of Papua in the 1960s and the invasion of the former Portuguese colony of East Timor in 1975. Under conditions of centralized military rule, the nature of Indonesian control over its territories was determined and delineated by the presence of large numbers of Army troops and by the consistent use and threat of violence by the coercive apparatuses of the central Indonesian state. Under conditions of liberalization, democratization, and decentralization after 1998, however, the authority of the Indonesian state over its diverse territories entered a period of pronounced uncertainty, especially in those three territories whose inclusion within Indonesia was deemed most problematic: East Timor, Aceh, and Papua.<sup>11</sup>

In large part, the problem lay in the continuing presence and role of large numbers of troops under centralized Armed Forces command in these three territories, thus excluding them from effective enjoyment of the processes of democratization, decentralization, and demilitarization experienced by the other provinces of Indonesia at the time. In all three territories, separatist – or, seen differently, nationalist – sentiment and mobilization had provided the justification for a significant military presence, with the Armed Forces playing such a role in local government and the local economy that in some ways these territories had developed into securitized fiefdoms of the Armed Forces, eluding effective normalization within Indonesia proper. With the resignation of Suharto and the ascension of Habibie in mid-1998, under conditions of liberalization in Jakarta, and the demilitarization and decentralization of power elsewhere in the country, it was perhaps inevitable that continuing military dominance in East Timor, Aceh, and Papua would face unprecedented contestation around the turn of the century, leading to a period of renewed violent conflict in these territories.

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<sup>11</sup> For an excellent overview of the issues surveyed in this section, see Bertrand, J., *Nationalism and Ethnic Conflict in Indonesia*, Cambridge: Cambridge University Press, 2004



Indeed, the period from mid-1998 through 2004 witnessed a double movement of sorts in East Timor, Aceh, and Papua. First, in all three territories the political opening provided by Jakarta spurred an expansion of peaceful political participation and mobilization by elements of civil society that demonstrated widespread popular demands for the removal of Indonesian military forces, as well as for a shift in the status of these territories. Second, and in response to this pattern of mobilization, all three territories saw a counter-mobilization by the Indonesian military in the form of harsh violence and repression. This pattern played itself out in various forms – and with markedly diverging outcomes – in East Timor, Aceh, and Papua in 1998-2004, with the renewed violence claiming hundreds, indeed thousands, of lives and leading to the displacement of hundreds of thousands from their homes and communities during this period.

By 2005, however, it appeared that a measure of resolution – or at least re-equilibration – had been achieved with regard to these three troubled territories on the fringes of the Indonesian nationstate. In the case of East Timor, independence was finally achieved in late 1999 after nearly 25 years of Indonesian occupation, and in the face of continuing Indonesian resistance and refusal to acknowledge the results of the August 1999 referendum. In Aceh, after many years of armed separatist struggle and harsh Indonesian military repression, including a period of martial law and aggressive counterinsurgency in 2003-2004, an agreement was signed in 2005 in Helsinki between representatives of the Indonesian government and the Free Aceh Movement (Gerakan Aceh Merdeka or GAM), paving the way for the cessation of hostilities, the implementation of special autonomy for the province, and the reintegration of GAM fighters and supporters into local political life. Thus the pattern of widespread violence and forced displacement that was observed in many parts of Aceh in 2003-2004, and which led to the flight of tens of thousands of Acehnese (including many who fled to neighbouring Malaysia), has been replaced by one of peaceful return, repatriation, and reintegration of those displaced in the conflict.<sup>12</sup>

Overall, the situation is markedly improved for those living in areas whose inclusion within the Indonesian nation-state has been contested by forces demanding independence. But, as detailed below, these conflicts over sovereignty have also left a number of enduring problems in their wake.

## **2.1 East Timor**

In the case of East Timor, effective resolution to the problem of contested sovereignty over the territory came in 1999 under conditions of considerable violence and displacement for the population. East Timor had been occupied by Indonesian military forces since the invasion of 1975, with continuing armed resistance and popular resentment over the years of harsh military rule and repression. With President Habibie's decision to hold a referendum on the status of the territory in August 1999, however, came an unprecedented opportunity for a peaceful transition to independence in East Timor, given the widely anticipated victory of pro-independence forces against those favouring continued "integration" into Indonesia.

In the months leading up to the referendum, however, the Indonesian military began to encourage and assist the formation of armed militias mobilized in support of integration with Indonesia and engaged in a campaign of harassment and intimidation of the electorate. When in August 1999 it became clear that this campaign had failed and voters had overwhelmingly

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<sup>12</sup> International Crisis Group, *Aceh: A New Chance for Peace*, Jakarta, August 2005

backed independence in the referendum, the militias and their military patrons responded with considerable violence, conducting large scale attacks on pro-independence communities and forcing tens of thousands – probably in excess of 250,000 – men, women, and children to flee across the border into neighbouring West Timor. Thus even as Australian and other international troops began arriving under a UN peacekeeping mission to help restore peace and order to East Timor and assist in a belated transition to independence, a new refugee crisis was unfolding on the border of the new nation-state.<sup>13</sup>

Since that time, the refugee problem has been considerably reduced if not entirely resolved. The majority of the refugees returned to East Timor in 1999-2002, and still more returned after the 2002 elections in East Timor. Of the thousands still residing in West Timor at this juncture, and following UNHCR's cessation of refugee status at the end of 2002, the great majority have accepted the Indonesian government's offer of citizenship, issued in 2003. Estimates vary, but it seems clear that tens of thousands remain in West Timor, many facing enduring problems of finding secure access to land and livelihoods. Remnants of some of the militias retain a presence among these communities and along the still troubled border with East Timor and are still trying to keep their membership and links to the Indonesian military alive. In terms of efforts to repatriate some of these refugees to East Timor, movement has slowed to a trickle in recent years, with violence in Dili and elsewhere in East Timor in the first half of 2006 further discouraging and delaying progress on this front.<sup>14</sup> It is also clear, however, that many former East Timorese have not only adopted Indonesian citizenship but have also travelled back to East Timor to claim East Timorese citizenship, thus effectively obtaining dual nationality, which is not allowed under Indonesian law. At the same time, hundreds of Indonesians in East Timor appear to remain in legal limbo, lacking East Timorese citizenship despite their desire to stay in the country, given the requirement of marriage to an East Timorese citizen or 10 years of residence prior to naturalization.<sup>15</sup>

## 2.2 Aceh

In Aceh, the situation has moved in a somewhat similar direction of partial resolution but continuing problems for members of the population displaced over the course of a protracted conflict over the sovereign status of the province. Here the conflict dates back at least to 1976, when a small armed separatist movement called the Free Aceh Movement (Gerakan Aceh Merdeka or GAM) was formed, mounting small-scale armed resistance to the Indonesian government and facing a harsh counterinsurgency campaign in the late 1980s and early 1990s, when the province was officially designated as a "Region of Military Operations" (Daerah Operasi Militer or DOM).<sup>16</sup> When in mid-1998 political liberalization allowed for student protests and other forms of mobilization in civil society in Aceh, demands for the investigation and prosecution of human rights abuses by the military, and for the removal of military troops from the province, grew increasingly popular, as did calls for an East Timor-style referendum on the status of Aceh.

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<sup>13</sup> For alternative accounts of these developments, see, for example, Martin, I., *Self-Determination in East Timor: the United Nations, the Ballot, and International Intervention*, Boulder CO: Lynne Rienner, 2001; Hainsworth, P. and McCloskey, S., *The East Timor Question: the Struggle for Independence from Indonesia*, London: I.B. Tauris, 2000

<sup>14</sup> See, e.g., International Crisis Group, *Managing Tensions on the Timor-Leste/Indonesia Border*, Jakarta, May 2006

<sup>15</sup> Hundreds of Indonesians in East Timor Virtually Stateless, *Jakarta Post*, 22 May 2004

<sup>16</sup> Kell, T., *The Roots of Acehese Rebellion, 1989-1992*, Ithaca: Cornell Modern Indonesia Project, 1995

But this pattern of mounting popular mobilization against the presence and role of the government's security forces in Aceh was met with considerable resistance by the Indonesian Armed Forces. By 2001, the Army had begun expanding its presence and activities in Aceh, ostensibly in pursuit of a resurgent GAM, and in May 2003, following the breakdown of a ceasefire agreement signed in December 2002, martial law was declared in the province, as a large-scale military campaign was launched. This military campaign involved considerable loss of life, displacement, and hardship for the local population, as the Indonesian Armed Forces swept through many parts of the province, moving from village to village to root out GAM and its alleged supporters. Against this backdrop, more than 100,000 Acehnese were estimated to have been displaced by the violence, including thousands who fled beyond the province, many to neighbouring Malaysia. With the devastation of the December 2004 tsunami, moreover, additional tens, indeed hundreds, of thousands of Acehnese faced massive loss of life, property, and means of livelihood. The scale of the humanitarian crisis in the province was acute and attracted considerable international attention and intervention.<sup>17</sup>

Against this backdrop, the year 2005 saw the signing of a peace agreement in Helsinki between the Indonesian government and GAM, thus paving the way for a resolution of the conflict and the resettlement of the many thousands of Acehnese left homeless because of the violence and the tsunami.<sup>18</sup> Since that time, many Acehnese who had sought refuge outside the province have returned to Aceh and to their communities, even as many of those who had fled to more secure locations within the province have also returned to their homes. With the success of GAM candidates in the local elections held in the province in December 2006 (most notably the victory of GAM's candidate for the governorship), the prospects for the continuing integration of armed separatists into legal parliamentary politics appear to remain quite bright.<sup>19</sup>

But recovery and reconstruction from the December 2004 tsunami are still proceeding slowly and local problems continue to complicate the process of return and resettlement. The lives of many Acehnese families and communities remain severely damaged and disrupted – for many, permanently so.<sup>20</sup> With hundreds of thousands said to have been displaced by the violence in 2003-2004 and by the tsunami in 2004, the scale and complexity of this continuing problem in Aceh should not be underestimated.<sup>21</sup>

### 2.3 Papua

Meanwhile, the situation in Papua has not improved markedly from the troubled early years of Indonesia's transition to democracy and it today remains a territory with unresolved issues of national sovereignty. These issues date back to the very process by which Papua was

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<sup>17</sup> Hedman, E-L. E. (ed.), *Aceh under Martial Law: Conflict, Violence, and Displacement*, Oxford: University of Oxford Refugee Studies Centre, July 2005; International Crisis Group, *Aceh: How Not to Win Hearts and Minds*, Jakarta, May 2003

<sup>18</sup> International Crisis Group, *Aceh: A New Chance*

<sup>19</sup> International Crisis Group, *Indonesia: How GAM Won in Aceh*, Jakarta, March 2007

<sup>20</sup> Internal Displacement Monitoring Centre, *Indonesia: Support Needed for Return and Re-Integration of Displaced Acehnese Following Peace Agreement: a Profile of the Internal Displacement Situation*, Geneva, July 2006

<sup>21</sup> International Crisis Group, *Aceh: Now for the Hard Part*, Jakarta, March 2006

integrated into Indonesia in the course of the 1960s.<sup>22</sup> When Indonesia was granted independence by the Netherlands at the end of 1949, the Dutch government retained control over what it called “West New Guinea” – and the Indonesian government called Irian Jaya – with promises to allow for a subsequent transition to Indonesian sovereignty under the supervision of the United Nations. But successive Dutch governments continued to delay this process of belated decolonization throughout the 1950s despite mounting Indonesian protests and mobilizational campaigns, with the process of transfer not beginning until 1962 when the Dutch finally relented.

Thus the incorporation of what became known as Irian Jaya did not occur until more than a decade after an independent Indonesia had been formed, and its incorporation was fraught with controversy and complications. The dispute over the territory, after all, had been waged at the international level, with the preferences of the population itself not accorded much attention. Indeed, when in 1969 the Indonesian government held a hasty consultation exercise under rather loose UN supervision, the display of consent was hardly conclusive or compelling. Thus subsequent years saw rising evidence of local resentment against Indonesian incorporation under Suharto’s centralized authoritarian rule, including the formation of a small armed separatist movement known as the Free Papua Organization (Organisasi Papua Merdeka or OPM). Although the movement never succeeded in mobilizing a large fighting force or imposing much control over the vast, sparsely populated territory, its activities helped to justify a significant military presence, somewhat similar to the situation in Aceh but with somewhat less violence over the years.

Against this backdrop, the political liberalization initiated by Habibie in mid-1998 saw a period of unprecedented peaceful popular mobilization in what was then called Irian Jaya, with the formation of civic groups calling for independence or otherwise giving voice to local grievances against continuing military rule and other problems enduring from the Suharto era. As in Aceh, the period 1999-2001 saw some efforts to resolve these problems with promises of special autonomy, demilitarization, and other concessions, including a change of the name of the province to Papua as demanded by many local representatives of the population. But with the ascension of Megawati Soekarnoputri, a proponent of strong central government and a close ally of the Armed Forces, to the presidency in mid-2001, Jakarta became much less conciliatory, and a pattern of renewed repression by the Indonesian military set in, including stepped-up counterinsurgency activities around the province and the assassination of a prominent Papuan political figure, Theys Eluay. Subsequent years have seen Jakarta effectively renegeing on the special autonomy package enacted in 2001 – but never fully implemented in Papua – with the subdivision of the province into three separate new provinces.<sup>23</sup>

Since that time, separatist sentiment has remained strong, even as continuing government intransigence has made for a still unresolved conflict over the sovereignty of Papua. Today, the Indonesian security forces still conduct periodic operations against the small, weak OPM, and with the broader goal of reasserting their authority. These military operations are reported

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<sup>22</sup> For background see Saltford, J., Irian Jaya: United Nations Involvement with the Act of Self-Determination in West Irian (Indonesian West New Guinea) 1968 to 1969, *Indonesia*, No. 69, April 2000, pp. 71-92; for the further development see Chauvel, R. and Bhakti, I.N., *The Papua Conflict: Jakarta’s Perceptions and Policies*, Washington DC: East-West Center Washington, 2004

<sup>23</sup> International Crisis Group, *Ending Repression in Irian Jaya*, Jakarta, September 2001; International Crisis Group, *Dividing Papua: How Not to Do It*, Jakarta, April 2003

to have forced thousands of villagers to flee their homes out of fear of harassment, intimidation, and violence.<sup>24</sup>

In addition to the unknown and fluctuating numbers of IDPs generated by the continuing conflict in Papua, at least one small pocket of Papuan refugees has remained encamped in neighbouring Papua New Guinea (PNG), without asylum or other fixed legal status. This pocket of refugees can be traced back to 1984, when an Indonesian military campaign against the OPM led to the flight of several thousands of villagers across the border. While many of these refugees have returned to Indonesian Papua, those who remain are now accompanied by children, teenagers, and young adults, born in the PNG and thus lacking Indonesian citizenship.<sup>25</sup>

### 3 Areas of Communal Violence

The overall situation has also improved in areas of Indonesia that experienced inter-communal violence in the early years of transition from authoritarian rule, most notably West and Central Kalimantan, Maluku and Maluku Utara, and the Central Sulawesi regency of Poso. However, serious problems remain for the many thousands displaced by these conflicts. The peak conflict years of 1999-2001 generated thousands of casualties as well as hundreds of thousands of internally displaced persons (IDPs), only a small portion of whom have managed to return to their homes and reintegrate themselves into conflict-torn communities.

Since 2002, this pattern of large-scale collective violence has given way to various forms of local accommodation, based on formal peace accords signed by representatives of different ethnic and religious communities, as well as informal understandings among local politicians and the by now largely segregated communities they claim to represent. Thus, despite occasional episodes of violence and continuing tensions and resentments across the communal divide, the past five years have proceeded without a resumption of sustained large-scale collective violence such as that witnessed in 1999-2001. Overall, inter-communal violence in this ethnically and religiously diverse archipelago has been restricted to only a few localities and to the early years of transition from authoritarian rule. The broad pattern is one of enduring inter-ethnic and inter-religious peace.

It must be stated, though, that the Indonesian government's policies of decentralization and devolution of responsibility for IDPs to local governments has made efforts to resettle and repatriate IDPs complicated and compromised. This is particularly evident in localities where local elected officials and their supporters oppose the return of displaced minority communities (e.g. Central Kalimantan since the eviction of thousands of Madurese residents). Today, hundreds of thousands of people remain unable to return to their communities of origin, or to reclaim and rebuild their homes, with "resettlement" elsewhere the prevailing default option. To be sure, since 2002, the elimination of large-scale collective violence in

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<sup>24</sup> Papuans in Hiding after Protest, *ABC Radio Australia* [Canberra], 23 March 2006; Thousands of Papuans Displaced, Say Clergy, *ABC Online*, 17 January 2007, <http://www.abc.net.au/pm/content/2007/s1828762.htm> [accessed February 2007]; Hunger Threat for Papua Refugees, *Jakarta Post*, 30 January 2007.

<sup>25</sup> On the refugees in Papua New Guinea, see: May, R.J. (ed.), *Between Two Nations: the Indonesia-Papua New Guinea Border and West Papuan Nationalism*, Bathurst: Robert Brown, 1986; Glazebrook, D., *Dwelling in Exile, Perceiving Return: West Papua Refugees from Irian Jaya Living at East Awin in Western Province, Papua New Guinea*, Ph.D. thesis, Australian National University, 2001; Kirsch, S., *Reverse Anthropology: Indigenous Analysis of Social and Environmental Relations in New Guinea*, Stanford: Stanford University Press, 2006

these conflict zones has prevented these problems from growing, but the failure to provide adequate assistance and acceptable options to those displaced by the violence is having considerable impact, given the scale of the numbers of people involved.<sup>26</sup>

### **3.1 West and Central Kalimantan**

Perhaps the most neglected of such areas of inter-communal conflict are those parts of West and Central Kalimantan where minority Madurese immigrant communities faced large-scale violence and forcible eviction at the hands of armed Dayak and Malay groups, first in 1997 and then in 1999-2001. More than a thousand Madurese men, women, and children lost their lives in what was probably the single worst incident of “ethnic cleansing” in Indonesia during the peak years of transition from authoritarian rule. Many more thousands were forced to flee their homes and villages during this period. Many sought refuge in nearby cities like Pontianak, the capital of West Kalimantan, or went to other, seemingly more secure pockets of Madurese population elsewhere in Indonesian Borneo, or in other parts of the archipelago, including the island of Madura and nearby Madurese settlements along the northern coast of East Java.<sup>27</sup>

Since 2001, there has been only minimal success in the repatriation of these displaced Madurese IDPs to their homes and villages in West and Central Kalimantan. In no small measure, the intransigence of Dayak and Malay politicians in these localities, now empowered as local elected officials enjoying the fruits of decentralization and democratization, has thrown up considerable obstacles to repatriation of Madurese IDPs.<sup>28</sup> In addition, there has been little interest in Madurese IDPs in the national or international press, or indeed among policymakers in Jakarta, given their insignificance and lack of effective representatives in national politics, their irrelevance to the “Global War on Terrorism”, and the enduring stereotype of Madurese as hardy immigrant workers and pedlars, “rootless and ruthless”, and thus undeserving of empathy and assistance.

### **3.2 Maluku, Maluku Utara, and Poso**

Meanwhile, a similar but distinct pattern of restabilization but largely failed resettlement of IDPs has been observable in areas which suffered from violent inter-religious conflict in 1999-2001, namely Maluku, North Maluku (Maluku Utara), and the Central Sulawesi regency of Poso. In all three areas, the first years following the fall of Suharto saw rising tensions between rival Protestant Christian and Muslim networks of local politicians, civil servants, military and police officers, businessmen, and gangsters, as they faced the shift to a system of open electoral competition for control over local state offices and resources under conditions of religiously divided local electorates. Beginning in 1999, these areas saw the onset of large-scale collective violence across the religious divide, as armed gangs of Christians and Muslims fought over “turf” in towns and cities, and as entire neighbourhoods and villages were burnt to the ground or otherwise forcibly cleared of residents of one or another faith. With Protestant Christian forces seen to be committing widely publicized atrocities in late 1999 and enjoying the upper hand in some areas in early 2000, Islamist groups in Java and elsewhere in the archipelago began to recruit, arm, and train militias and

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<sup>26</sup> Duncan, C.R., Confusing Deadlines: IDPs in Indonesia, *Forced Migration Review*, No. 17, May 2003, pp. 35-6

<sup>27</sup> International Crisis Group, *Communal Violence in Indonesia: Lessons from Kalimantan*, Jakarta, June 2001

<sup>28</sup> See, for example, World Bank, *The Roots of Violence and Prospects for Reconciliation: a Case Study of Ethnic Conflict in Central Kalimantan, Indonesia*, Washington DC, February 2005, pp. 45-6

dispatch them to Maluku, Maluku Utara, and eventually Poso, thus leading to renewed fighting in late 2000 and 2001, with the infamous group Laskar Jihad playing a prominent (if perhaps somewhat exaggerated) role in the fighting.<sup>29</sup>

With Megawati Soekarnoputri's accession to the presidency in mid-2001, however, these inter-religious conflicts were brought to an effective close. Even before Megawati had assumed office, her allies in the Armed Forces had initiated an aggressive campaign against Laskar Jihad, and once she assumed office, her administration was especially concerned to protect the Protestant Christian communities in Poso, Maluku, and Maluku Utara. Megawati's party, the Indonesian Democratic Party of Struggle (Partai Demokrasi Indonesia – Perjuangan or PDIP), after all, enjoyed tremendous support from non-Muslim populations, including the Protestant pockets in these areas of inter-religious violence, and Christians close to the President were especially concerned to protect their co-religionists against Muslim attacks. Thus the final months of 2001 saw protracted fighting until the government was able to impose effective cease-fire accords on the local populations, with Christian and Muslim politicians committing themselves to settlements in these areas by early 2002.<sup>30</sup>

Since that time there have been only sporadic, small-scale incidents of violence in Maluku, Maluku Utara, and Poso. National and local elections have been held without a return to the large-scale inter-religious pogroms of 1999-2001, with "peace" between Protestant Christians and Muslims reinforced by the redrawing of local administrative boundaries and informal power-sharing arrangements among local Christian and Muslim powerbrokers. Thus the past five years have witnessed a dramatic improvement in the situation in these previous conflict areas. Occasional incidents of violence – and enduring alarmism in some quarters – notwithstanding, there appears to be no real threat of a resumption of the large-scale inter-religious bloodletting of 1999-2001.<sup>31</sup>

That said, the past five years have also seen only very limited progress towards amelioration of the myriad problems created by the conflicts of 1999-2001, most notably the many thousands of people displaced during this period. Tens, indeed hundreds, of thousands of IDPs fled their homes, neighbourhoods, and villages in 1999-2001, seeking refuge among their co-religionists elsewhere in Maluku, Maluku Utara, or Poso, or elsewhere in Indonesia. Since that time, repatriation and resettlement of those displaced by these conflicts has been impeded by the Indonesian national government's abandonment of effective responsibility for IDPs, and by the lack of will or wherewithal of local governments with limited resources as well as recently established territorial boundaries, religiously divided constituencies, and "consociational" understandings among local Christian and Muslim powerbrokers. The vast

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<sup>29</sup> See Aragon, L., Communal Violence in Poso, Central Sulawesi: Where People Eat Fish and Fish Eat People, *Indonesia*, No. 72, October 2001, pp. 45-79; Klinken, G. van, The Maluku Wars: Bringing Society Back In, *Indonesia*, No. 71, April 2001, pp. 1-26; Davis, M., Laskar Jihad and the Political Position of Conservative Islam in Indonesia, *Contemporary Southeast Asia*, Vol. 24, No. 1, April 2002, pp. 12-32; Hasan, N., Faith and Politics: the Rise of Laskar Jihad in the Era of Transition in Indonesia, *Indonesia*, No. 73, April 2002, pp. 145-69

<sup>30</sup> Sidel, *Riots, Pogroms, Jihad*, pp. 196-217

<sup>31</sup> International Crisis Group, *Indonesia Backgrounder: Jihad in Central Sulawesi*, Jakarta, February 2004; International Crisis Group, *Indonesia: Violence Erupts Again in Ambon*, Jakarta, May 2004; International Crisis Group, *Jihadism in Indonesia: Poso on the Edge*, Jakarta, January 2007

majority of IDPs from the violence of 1999-2001 are still unable to return to their communities to reclaim and rebuild their homes and their lives.<sup>32</sup>

## 4 Ethnic-Chinese Indonesians

On a somewhat more positive note, the past five years have witnessed the unfolding of a set of social trends and legal reforms in Indonesia which have improved the position of certain minority groups long considered to be especially vulnerable to discrimination, extortion, harassment, and intimidation. Most notable in this regard is the case of Indonesia's small ethnic-Chinese minority, whose representatives include most of the wealthiest businessmen in the country, but whose more modest ranks have long suffered from various forms of legal and social forms of segregation, discrimination, and, at times, active – sometimes violent – persecution. These problems have a long and tortuous history.

### 4.1 Colonial and Early Independence Eras

Indeed, the pattern of treating immigrants from China – and their offspring – as a stigmatized, problematic alien minority in the Indonesian archipelago dates back to the Dutch colonial era and a set of legal restrictions and regulations governing the status, residence, mobility, and administrative arrangements of “the Chinese”. In the mid-nineteenth century in particular, as the Dutch colonial regime began to consolidate its rule on Java and elsewhere in the archipelago after the Java War, to intensify the extraction of agricultural commodities through the so-called Cultivation System, and to impose a more direct and bureaucratized form of administration, the inhabitants of the Netherlands East Indies were divided into three groups, namely “Europeans”, “Natives”, and “Foreign Orientals”, the latter consisting of “Indian”, “Arab” (i.e. members of the Hadhrami trading diaspora, originating in Yemen), and “Chinese” immigrants. These three groups were subjected to different sets of regulations and restrictions, including those governing residency, mobility, and taxation. So-called Foreign Orientals, for example, were restricted to urban ghettos and were required to apply for special passes to travel, reside, or conduct business in rural areas. Thus even as immigrants from China – and the officially designated “Chinese” offspring born to “Chinese” fathers and “Native” mothers – came to serve as the key middlemen in the growing cash economy of the archipelago, as merchants, moneylenders, rice millers, and so forth, they were stigmatized as “foreign” and placed in the position of a “pariah entrepreneur” community.<sup>33</sup>

With independence in 1950, moreover, the new nation-state of Indonesia inherited this colonial system of regulating the ethnic-Chinese minority – including native-born offspring of Chinese immigrants and native mothers – and perpetuated it under nationalist auspices. As enshrined in the 1945 Constitution, citizenship was awarded to “native Indonesians” (*orang Indonesia asli*) and to those “of other races” (*orang-orang bangsa lain*) who obtain citizenship by legal means. With Chinese law extending Chinese citizenship to the children of emigrants according to *jus sanguinis*, and the People's Republic of China signing agreements with Indonesia allowing first for dual nationality, and then for voluntary renouncement of Chinese citizenship, this option became available for people of Chinese ancestry residing in

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<sup>32</sup> Duncan, C.R., The Politics of Going Home: the Future of North Moluccan Internally Displaced Persons, *Cakalele: Maluku Research Journal*, Vol. 11, 2005, pp. 81-108; Duncan, C.R., Unwelcome Guests: Relations between Internally Displaced Persons and Their Hosts in North Sulawesi, Indonesia, *Journal of Refugee Studies*, Vol. 18, No. 1, 2005, pp. 25-46

<sup>33</sup> On this historical background, see, for example, Rush, J., Placing the Chinese in Java on the Eve of the Twentieth Century, *Indonesia*, July 1991, pp. 13-24



Indonesia who were so inclined. Some members of the ethnic-Chinese minority did acquire Indonesian citizenship after Independence, but even so they were still treated according to a separate set of regulations. Many others were left as “aliens”, whether accepting the offer of Chinese citizenship extended by the People’s Republic of China in the 1950s or remaining stateless. Indeed, by some estimates, more than 1 million (of an estimated 2.1 million) ethnic Chinese in Indonesia remained as aliens, more than half of whom were effectively stateless. Over time, even as Chinese immigration slowed to a trickle, the numbers of “alien” and stateless ethnic Chinese continued to grow with procreation among ethnic-Chinese families already resident in Indonesia.<sup>34</sup>

## 4.2 Suharto Era

Under the Suharto regime (1966-1998), a set of new regulations were devised to deal with the ethnic-Chinese minority, but the overall pattern persisted. In the preceding Soekarno period, the 1958 Law on Citizenship had required applicants for Indonesian citizenship to use the court system, which guaranteed a lengthy, costly, and time-consuming process.<sup>35</sup> In 1980, however, new procedures for naturalization were enacted that allowed “aliens” to obtain so-called citizenship certificates (*Surat Bukti Kewarganegaraan Republik Indonesia* or SBKRI) from the sub-district (*kecamatan*) office of the government, and hundreds of thousands of such “aliens” appear to have obtained these certificates in subsequent years. That said, the extraction of bribes by officials in sub-district offices from those applying for an SBKRI was said to have also raised the price of obtaining citizenship to a level that was prohibitive for many “alien” or stateless ethnic-Chinese. Thus, as one observer has noted, “many are left effectively stateless and, if married, often do so illegally, with children officially born out of wedlock, as their marriages will not, in practice, be accepted for registration. Many poor Chinese thus find themselves locked in a ‘statelessness’ trap, often existing outside the system in a sort of legal limbo.”<sup>36</sup>

Meanwhile, a host of other discriminatory laws and regulations were enacted over the long Suharto period which created a strong legal basis for extortion, intimidation, and persecution of the ethnic-Chinese minority. Not only were colonial-era regulations for civil registration of ethnic-Chinese continued; new regulations drawn up in the mid-late 1960s, in the aftermath of the alleged Chinese-backed Communist coup and Suharto’s counter-coup of late 1965, effectively punished ethnic-Chinese Indonesians for their Chineseness. These regulations limited the public use of the Chinese language, whether in advertising or in publications, permitted the establishment of restrictive quotas for ethnic-Chinese Indonesians in schools and impeded access to state employment as well. These measures were publicly justified on the basis of promoting “integration”, but in practice they helped to preserve and promote the stigmatization of the ethnic-Chinese minority.<sup>37</sup>

In the final years of the Suharto era, moreover, ethnic-Chinese Indonesians seemed to become even more vulnerable to harassment, intimidation, and outright violence. Ironically, this trend came in the aftermath of Indonesia’s restoration of diplomatic relations with the

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<sup>34</sup> Coppel, C.A., *Indonesian Chinese in Crisis*, Kuala Lumpur: Oxford University Press, 1983

<sup>35</sup> See further below, Section 7.1

<sup>36</sup> Lindsey, T., Reconstituting the Ethnic Chinese in Post-Soeharto Indonesia: Law, Racial Discrimination, and Reform, in Lindsey T. and Pausacker H. (eds.), *Chinese Indonesians: Remembering, Distorting, Forgetting*, Singapore: Institute of Southeast Asian Studies, 2005, p. 49

<sup>37</sup> *Idem*, pp. 55-7

People's Republic of China, China's revocation of claims over ethnic-Chinese migrants in Indonesia, and the naturalization of more than 100,000 Indonesians of Chinese ancestry. Beginning in 1995 and continuing up through 1997, a series of so-called "anti-Chinese riots" unfolded in provincial towns and cities around the archipelago, in which Chinese-owned business establishments – shops, department stores, supermarkets, and shopping malls – were burned to the ground, along with non-Muslim houses of worship (mostly Christian churches) and government buildings (most notably police stations). These riots unfolded against the backdrop of rising Islamist assertiveness against the dominant position of non-Muslim (i.e. "Chinese") businessmen in the Indonesian economy and in the context of increasing efforts by the Suharto government to incorporate and appropriate the energies, organizations, and symbols associated with Islam within its orbit.<sup>38</sup>

Thus as the Asian economic crisis hit Indonesia in 1997-1998, it was unsurprising that both Islamist forces in society and opportunistic elements within the Suharto regime tried to divert rising popular grievances against the ethnic-Chinese "pariah" entrepreneurial class. Thus the first months of 1998 saw a series of small, and seemingly not spontaneous, "food riots" targeting Chinese shops in towns around the archipelago, against the backdrop of unprecedented official attacks on "speculators" and "hoarders". May 1998, moreover, witnessed large-scale rioting in Jakarta and other major cities, leading to the destruction of very large numbers of Chinese-owned business establishments and hundreds of casualties. Tens of thousands of ethnic-Chinese Indonesians fled the country, to Singapore, Malaysia, Australia, and beyond. This massive flight – of Chinese and foreign businessmen, and of capital – helped to precipitate Suharto's resignation less than a week after the riots, with his vice-president, B.J. Habibie, assuming the presidency.<sup>39</sup>

#### **4.3 Recent Developments**

With the transition from Suharto's authoritarian regime to democracy, however, anti-Chinese violence gradually faded away. It was certainly the case that the second half of 1998 and early 1999 saw manifold forms of popular mobilization and attacks on property across the archipelago, with countless land seizures, lootings, and other such acts under conditions of considerable uncertainty and vulnerability for the country's – overwhelmingly ethnic-Chinese – business class. However, such attacks on property soon dwindled as the Habibie government, eager to restore investor confidence in Indonesia and to win business backing in the elections held in mid-1999, re-established order and reassured ethnic-Chinese Indonesians of their place in Indonesian society.<sup>40</sup>

Indeed, since 1999, Indonesia's ethnic-Chinese minority has enjoyed unprecedented gains in terms of its emancipation from previous forms of discrimination, harassment, and persecution. Restrictions on the public use of Chinese characters, on the public display of Chinese culture, on Chinese-language education, and on Chinese forms of religious worship were eliminated. Confucianism was accorded official state recognition, and the Chinese New Year was made into a public holiday. Direct participation in politics by ethnic-Chinese Indonesians became possible and attracted the energies of many members of this small but disproportionately wealthy and well-educated community. The turn of the twentyfirst century saw the proliferation of new associations, NGOs, and political parties founded and led by

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<sup>38</sup> Sidel, *Riots, Pogroms, Jihad*, pp. 68-105

<sup>39</sup> *Idem*, pp. 106-31

<sup>40</sup> Lindsey, *Reconstituting the Ethnic Chinese*, pp. 57-63

ethnic-Chinese Indonesians. The establishment of competitive elections as the mechanism for gaining control over local and national state office, moreover, increased the leverage of private businessmen – including those of Chinese descent – vis-à-vis politicians, civil servants, military and police officers. In both formal and informal terms, in politics and society, the position of the ethnic-Chinese minority has thus been considerably improved.<sup>41</sup>

## 5 Religious Minorities

### 5.1 Colonial and Early Independence Eras

Like the ethnic-Chinese community, Indonesia's Christian minority has been distinguished by a problematic colonial history and by disproportionate representation in the ranks of the wealthiest and most powerful in the country for many years. The early period of Portuguese imperial influence, after all, left a lasting legacy of Catholicism among many communities in eastern Indonesia, and the subsequent period of Dutch colonial rule saw the establishment of Protestant missions who combined conversion with education among small pockets around the archipelago. Thanks to their access to modern education, their literacy, and their faith, these Christian "natives" came to occupy crucial niches in colonial society, as civil servants, soldiers, and members of the small professional class. Over the course of the twentieth century, moreover, increasing numbers of educated and wealthy Chinese businessmen converted to various Christian denominations and became active churchgoers and lay leaders. Thus even as the vast majority of Indonesian Christians have been poor people in remote, often upland, villages, a minority within this minority has been very influential and powerful in Indonesian society, politics, and economic life. This pattern was particularly pronounced under the greater part of the Suharto regime, with Christians holding the key economic and security portfolios in the Cabinet well into the late 1980s.<sup>42</sup>

### 5.2 Suharto Era

In the 1990s, however, the Suharto regime's efforts to coopt and control an ascendant Indonesian Muslim middle class, and the Islamist forces claiming to speak on their behalf, came in part at the expense of the country's Christian minority. Christian patronage networks within the state now faced unprecedented competition from Muslim counterparts, not only nationally but also in areas of the country where Christians formed a substantial portion of the population. Against this backdrop, the broader climate of inter-religious tolerance also changed, with increasing difficulties experienced by Christians trying to promote their faith (e.g. to build new churches) in a predominantly Muslim country, and in a context in which Islamicization was being assiduously promoted against the perceived threat of Christianization. Indeed, the early 1990s saw a rising number of incidents of inter-religious violence, with Christian attacks on Muslims in areas of eastern Indonesia and growing numbers of church burnings, both in the "anti-Chinese" riots described above and in separate incidents.<sup>43</sup>

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<sup>41</sup> *Idem*; see also Purdey, J., Reopening the Asimilasi vs. Integrasi Debate: Ethnic Chinese Identity in Post-Suharto Indonesia, *Asian Ethnicity*, Vol. 4, No. 3, October 2003, pp. 421-37; Suryadinata, L., Chinese Politics in Post-Suharto Indonesia: Beyond the Ethnic Approach, *Asian Survey*, Vol. 41, No. 3, May-June 2001, pp. 502-24

<sup>42</sup> Sidel, *Riots, Pogroms, Jihad*, pp. 36-7, 45-50

<sup>43</sup> *Idem*, pp. 68-105

### 5.3 Recent Developments

With the fall of Suharto in mid-1998 and the accession of Habibie to the presidency, fears of persecution continued to grow among Indonesia's Christian minority. Habibie, after all, had long served as the chairman of ICMI (Ikatan Cendekiawan Muslimin se-Indonesia, the All-Indonesian Association of Islamic Intellectuals), a broad patronage network with links to a diverse array of Islamist organizations and with very considerable influence within the state. Just as his rise to the presidency was seen by aspiring Islamists – and opportunist Muslim businessmen, bureaucrats, and politicians – as an unprecedented opportunity for advancement, so too was it viewed as a dire threat by Christians around the country, whether powerbrokers fearing continued loss of patronage, or clergymen concerned about the security of their flock.<sup>44</sup>

These hopes and fears combined with the shift to a system of competitive elections in 1999 to set the stage for inter-religious violence in some areas of the archipelago where large numbers of Christians and Muslims lived in close proximity. Thus, as noted above, 1999-2001 saw unprecedented inter-religious violence in Maluku, Maluku Utara, and the Central Sulawesi regency of Poso, with armed groups of Christians and Muslims committing atrocities that left hundreds, even some thousands, of casualties, and forced hundreds of thousands of residents to flee their homes. This violence, which remained restricted to only a few areas of the country and a small percentage of the population, both reflected and reinforced a sense of heightened tension between Muslims and Christians throughout Indonesia during this period. Indeed, Christmas Eve in December 2000 witnessed a series of bombings in churches around the archipelago.<sup>45</sup>

Since 2001, however, Indonesia has experienced not only a dramatic reduction of inter-religious violence, but a broader pattern of re-equilibration in its religious politics. Mid-2001 saw the elevation to the presidency of Megawati Soekarnoputri, the head of PDIP, a party known not only for its ecumenical orientation and antipathy to Islamist causes, but for its sizeable non-Muslim (especially Protestant Christian) constituency. More than one third of its parliamentary slate consisted of non-Muslim (mostly Protestant) MPs. Even as Megawati began to consolidate power, armed Islamist militias in Maluku, Maluku Utara, and Poso were harshly attacked by government troops, and peace accords were imposed on these areas. Meanwhile, Islamist parties and politicians in Jakarta were forced to make their peace with the new administration on its own terms, accepting not only a very limited share of state patronage but also the futility of their long quest for legal – and constitutional – recognition of Islam as a crucial basis of the Indonesian state. This dramatic reversal in Islamist fortunes served as the backdrop to the Bali bombings of October 2002 and subsequent explosions, as disappointed, embittered Islamist activists sought to bring new energy to a declining cause.<sup>46</sup>

Against this backdrop, and in the context of the “Global War on Terrorism”, there has been continuing concern about the safety and well-being of Indonesia's Christian minority. While large-scale inter-religious violence between Christians and Muslims petered out in late 2001 and terrorist bombings have been limited to a single annual explosion in subsequent years,

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<sup>44</sup> Bruinessen, M. van, Genealogies of Islamic Radicalism in Post-Suharto Indonesia, *South East Asia Research*, Vol. 10, No. 2, March 2003, pp. 117-54

<sup>45</sup> Cerita dari Mosaik Bom Natal [Stories from the Mosaic of the Christmas Bombings], *Tempo* [Jakarta], 25 February 2001

<sup>46</sup> Sidel, *Riots, Pogroms, Jihad*

other forms of Islamist influence and other kinds of inter-religious violence and intimidation have still been in evidence. Islamist vigilante groups like the Front for the Defenders of Islam (Front Pembela Islam – FPI), for example, have engaged in intimidation and extortion in Jakarta and other localities, using campaigns against prostitution, gambling, and other vices as an excuse for broader harassment of Muslims and non-Muslims alike.<sup>47</sup>

Thus the Indonesian and foreign press has focused considerable attention on the danger of the resurgence of Islamist forces in local politics. The year 2005, for example, saw a series of widely publicized attacks by FPI and other Islamist groups, coalescing in an “anti-apostasy movement” against churches in West Java accused of operating without licenses and of attempting to spread Christianity among the Muslim population. In 2006 press coverage of local politics in Indonesia had begun to focus on the supposedly growing number of regencies where local assemblies had imposed regulations in the name of Islamic law, banning gambling, prostitution, and alcohol, for example, or imposing restrictions on women’s dress code and comportment in public. In the province of South Sulawesi alone, at least 6 of 24 regencies were cited as localities where various forms of *shari’a* law were in place. The case of a young woman detained for alleged “prostitution” in the Jakarta suburb of Tangerang for being “improperly” dressed while awaiting an evening bus home from work similarly attracted national and international publicity.<sup>48</sup>

Meanwhile, the past few years have also seen press coverage of the Islamic Ahmadiyah sect, whose members have faced persecution in Indonesia as elsewhere (most notably Pakistan).<sup>49</sup> Members of this sect, who are estimated to number more than 200,000 in Indonesia, follow the teachings of Mirza Ghulam Ahmad (1835-1908), an Indian Muslim who members claim was the last prophet of Islam after Muhammad, a belief rejected by other Muslims. The quasi-official Council of Islamic Scholars (Majelis Ulama Indonesia or MUI) issued a *fatwa* in 1980 condemning the Ahmadiyah sect as a heretical deviation from Islam, and recent MUI statements reaffirming this stance have also helped to justify efforts to harass and intimidate Ahmadiyah members and to restrict their religious activities. Over the past few years, local Islamist groups in parts of West Java, Southeast Sulawesi, and West Nusa Tenggara provinces have launched local campaigns against Ahmadiyah members.<sup>50</sup> In the summer of 2006, such attacks on the island of Lombok in West Nusa Tenggara province reportedly led to the forced flight of dozens of families affiliated with the Ahmadiyah sect, including some whose homes were set on fire.<sup>51</sup> Some of these Ahmadiyah members from Lombok reportedly visited a number of foreign consulates in Denpasar, the provincial capital of neighboring island of Bali, and raised questions about the possibility of seeking asylum abroad in the face of continuing persecution.<sup>52</sup>

Yet this alarmist picture of widespread Islamist activism, aggression, and influence – and of the increasing imposition of Islamic law – around the Indonesian archipelago is highly exaggerated and distorted, obscuring the broader trends at work in local politics. Indeed,

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<sup>47</sup> Sidel, *The Islamist Threat*

<sup>48</sup> *Ibid.*

<sup>49</sup> Khan, A.M., Persecution of the Ahmadiyya Community in Pakistan: An Analysis under International Law and International Relations, *Harvard Human Rights Journal*, Vol. 16, Spring 2003, pp. 217-44

<sup>50</sup> See, for example, Ahmadiyah Mosque Vandalized in Southeast Sulawesi, *Jakarta Post*, 1 May 2006

<sup>51</sup> Ahmadiyah Gets Fresh Attack, House Razed in Lombok, *Jakarta Post*, 20 March 2006

<sup>52</sup> See, for example, It’s up to Ahmadiyah to Leave: MUI, *Jakarta Post*, 26 July 2006

compared to the preceding decade, the most striking feature of local politics in Indonesia is the relative absence of violence – nothing like the anti-Chinese/Christian riots of 1995-1997, the widespread mayhem of 1998, or the incidents of communal violence of 1999-2001 that occurred over the past several years. Even in the Central Sulawesi regency of Poso or the provinces of Maluku and Maluku Utara, where inter-religious violence caused several thousand deaths in 1999-2001, there has been virtually no resurgence of large-scale communal conflict. Indeed, the rising incidence of church burnings documented by concerned Christian groups in the 1990s has tapered off and virtually ceased since the turn of the twenty-first century.

Overall, the pattern throughout Indonesia is one of accommodation between Muslims and non-Muslims in local politics, as evident in the success of the ecumenical parties Golkar and PDIP in the majority of local parliamentary elections and the prevalence of cross-cutting inter-religious coalitions in the elections for local executive posts. To be sure, Islamic parties like the Prosperous Justice Party (Partai Keadilan Sejahtera – PKS) enjoy popularity and influence in certain localities, some regional assemblies dominated by Islamist parties have enacted local *shari'a* regulations in a number of localities, and groups like FPI do exert more informal forms of influence and intimidation in the name of Islam. Yet the areas – and episodes – of Islamist activism are hardly representative of the broad trends in the vast majority of localities around the extensive Indonesian archipelago, with its majority-Muslim population of 225 million people.

Moreover, insofar as the PKS and other Islamic forces have enjoyed some success in local politics in recent years, it is far from clear that this trend should be viewed solely with trepidation. After all, the basis of PKS local appeal – and the focus of its local campaigning energies – has been the struggle against local corruption, as embodied in the realm of machine politics dominated by the two largest ecumenical parties, Golkar and PDIP.<sup>53</sup> And in many provinces, alongside the PKS and other Islamic parties, Islamic university student organizations and other Islamic associational networks have provided virtually the only effective counterweight in civil society to the vast patronage resources and regulatory powers of the state.<sup>54</sup>

It also seems clear that not all Islamist politics should be seen purely in religious or ideological terms: groups like FPI (and their backers and collaborators) have used the threat of violence in the name of Islam for extortionary purposes, and local assemblies' enactment of so-called *shari'a* legislation has likewise served to expand the regulatory powers of the local state, the discretionary privileges of local politicians, and the rent-seeking opportunities of local enforcers. Even in South Sulawesi, where the spread of local *shari'a* regulations appears to be most advanced, knowledgeable observers report that Islamist parties and politicians remain involved in all manner of opportunistic horse-trading and collusion with their non-Islamist counterparts in Golkar and PDIP. In short, the picture of aggressive Islamist forces threatening Indonesia's non-Muslim minority in recent years is not only overly exaggerated and sensationalist, but fundamentally misrepresentative of the overall direction of social and political trends, towards the incorporation, domestication, and

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<sup>53</sup> Henderson, J.V. and Kuncoro, A., "*Sick of Local Government Corruption? Vote Islamic*", Cambridge MA: National Bureau of Economic Research, March 2006

<sup>54</sup> Collins, E., *Islam and the Habits of Democracy: Islamic Organizations in Post-New Order South Sumatra, Indonesia*, No. 78, October 2004, pp. 93-120

transformation of Islamists within the context of democratization, decentralization, and the liberalization of public life in Indonesia.<sup>55</sup>

## **6 Migrant Workers**

### **6.1 General Overview**

Even as various domestic problems for minorities across the Indonesian archipelago appear to have been considerably eased if not eliminated over the past several years, the difficulties experienced by Indonesian migrant workers beyond the borders of the country have come to assume a greater prominence and significance. Over the past two and a half decades, the numbers of Indonesians working outside the country have continued to rise, with hundreds of thousands formally registered for overseas labour today and more than two million estimated to be illegally residing and working abroad as of this writing. The majority of these overseas migrant labourers are found in neighbouring Malaysia, many of them women working as housemaids and children's nurses, and many others employed in factories, on construction sites, and in plantation agriculture. Still other Indonesian workers have made their way to Singapore and Hong Kong, or to wealthy countries in the Middle East (e.g. Saudi Arabia) that are also highly dependent on migrant labour.<sup>56</sup>

This pattern of international labour migration is accompanied by a growing set of problems of citizenship rights and status for those Indonesians leaving their home country for residence and work overseas. Even for those finding overseas employment legally, the restrictions on civil liberties can be considerable. The legal route to overseas contract labour is channelled through recruitment agencies licensed by the Ministry of Manpower. These recruitment agencies confine their workers in training centres for weeks and months prior to departure, keep their passports and other personal documents (as well as pre-departure payments), and restrict their movements during this period. Human rights groups have documented a pattern of initial abuses occurring under such conditions of forced confinement.<sup>57</sup>

Once overseas and installed in legal employment, moreover, those overseas contract workers who left Indonesia under the auspices of these recruitment agencies find themselves under even more problematic circumstances. For example, recruitment agencies sometimes alter these workers' passports, thus leaving them with documents whose validity is questionable, and which render them vulnerable to problems with the authorities.<sup>58</sup>

### **6.2 Malaysia**

The prevailing pattern in Malaysia, is for Indonesian workers to be forced to surrender their passports either to the recruitment agencies' representatives or to their employers. Thus workers are left without access to the key means of proving their official status in the

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<sup>55</sup> Sidel, *The Islamist Threat*

<sup>56</sup> For a fairly recent overview of these patterns, including estimates of numbers of legal and illegal migrant workers, see *Asian Migrant Yearbook 2004: Migration Facts, Analysis and Issues in 2003*, Hong Kong: Asian Migrant Centre/Migrant Forum on Asia, 2004, pp. 171-82

<sup>57</sup> See, for example, Human Rights Watch, *Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia*, New York, 2004, pp. 30-5

<sup>58</sup> Jones, S., *Making Money off Migrants: the Indonesian Exodus to Malaysia*, Hong Kong: Asia 2000, 2000, pp. 39-52

country, or of facilitating the extension of their working permits. Their vulnerability to exploitation and abuse at the hands of employers and recruitment agencies is very clear.<sup>59</sup>

The situation of the larger number of illegal migrant workers in Malaysia is even more problematic. In the absence of proper documentation, such workers are in a very weak position as far as negotiation of wages and working conditions is concerned. In the absence of legal status, formal contracts, and other forms of protection, illegal migrant workers have faced a variety of difficulties, including unpaid wages, long working hours, poor health and safety conditions, restrictions on movement, and intimidation and violence at the hands of employers and labour brokers. There is also a pattern of human trafficking, with thousands of Indonesian women brought to Malaysia to work as prostitutes and subjected to harsh sexual abuse and exploitation.<sup>60</sup> The Malaysian authorities have also engaged in periodic crackdowns on illegal immigrants, with thousands herded into crowded detention centres, subjected not only to long periods of detention but also to canings, and forcibly deported to Indonesia.<sup>61</sup>

In addition to the problems of legal and illegal migrant workers themselves, the large and growing ranks of Indonesians living and working overseas have come to include rising numbers of children born outside Indonesia and lacking citizenship. In the Malaysian state of Sabah alone, a recent report suggested that there could be some 36,000 such “stateless” children lacking Indonesian or Malaysian citizenship and living under precarious conditions on and around palm plantations or elsewhere in the state.<sup>62</sup> As for long-term Indonesian migrant workers residing in Malaysia, there is also a problem with lapsed Indonesian citizenship. The provisions of the 1958 Citizenship Law stipulate that Indonesians living overseas for more than five years will lose their citizenship, unless they notify local Indonesian embassies or consulates of their intention to renew their status, and the new Citizenship Law of 2006 leaves these provisions essentially intact, without any indication of effective change on this front. Thus there is a growing problem of “statelessness” in Malaysia, for those of Indonesian origins but lacking both legal Malaysian status and recognized Indonesian citizenship. This may in fact constitute the most pressing problem of citizenship in Indonesia today.

## **7 The New Citizenship Law**

It is against this backdrop of apparently improving circumstances for residents in Indonesia’s conflict zones and for members of Indonesia’s most important minorities, but continuing if not growing difficulties for Indonesia’s rising numbers of overseas migrant workers in Malaysia and elsewhere that the new Citizenship Law of 2006 should be seen. And it is with these vulnerable members of Indonesian society in mind that the new law must be evaluated, in terms of the access to citizenship and to civic rights it affords.

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<sup>59</sup> *Idem*, pp. 53-63

<sup>60</sup> Warren, K., *Trafficking of Women and Children in Indonesia*, Working Paper presented at the Asia Regional Consultation of the Global Alliance Against Traffick in Women, Bangkok , 22-24 September 2004

<sup>61</sup> See, for example, Human Rights Watch, *Malaysia: Migrant Workers Fall Prey to Abuse*, New York, 17 May 2005 (press release); United States, Department of State, *Country Reports on Human Rights 2004: Malaysia*, Washington, March 2005; Suara Rakyat Malaysia, *Malaysia Human Rights Report 2005: Civil and Political Rights*, Petaling Jaya, 2006, pp. 115-22

<sup>62</sup> Reuters, *Stateless Children in Malaysia in Limbo*, 26 July 2006



## 7.1 Basic Provisions of the Old Citizenship Law

The Citizenship Law of 1958 served for nearly five decades as a restrictive basis for claims to Indonesian citizenship.<sup>63</sup> The law was mainly written with immigrant Chinese Indonesians and their offspring in mind, as evident in references to “aliens born and domiciled in the territory of the Republic of Indonesia” (*orang asing yang lahir dan bertempat tinggal di dalam Wilayah Republik Indonesia*), and with a complicated process of naturalization for such “foreigners” through the court system sketched very briefly in the legislation (Article 4). Candidates for naturalization were restricted to adults born in Indonesia, or resident in the country for five consequent years or a total of ten years, competent in the Indonesian language and familiar with Indonesian history, willing and able to pay a set of fees, and unencumbered by citizenship of other countries. Additional qualifications made for a clearly cumbersome process of naturalization for those inclined to apply (Article 5). The law did not allow for dual citizenship, and it also stipulated that in matters of citizenship, wives followed their husbands, and children their fathers, either in the awarding of citizenship or in its retraction (Articles 7-16).

## 7.2 Provisions of the New Citizenship Law

By contrast to the 1958 Law, the new Citizenship Law, passed by Parliament and signed into law by President Susilo Bambang Yudhoyono in 2006, provides a much broader, more generous, and more gender-neutral definition of citizenship.<sup>64</sup> Citizenship is now awarded to all children who have at least one Indonesian citizen as a parent, whether as mother or father, whether the parents are married or not. Citizenship is now also extended to children born in Indonesia to parents of undetermined national citizenship, or to parents whose identity or whereabouts have not been determined. Citizenship is also provided to children born outside Indonesia to parents who are both Indonesian citizens. The gender bias of the previous Citizenship Law of 1958, under which wives followed husbands and children followed fathers in matters of citizenship, has now been effectively eliminated (Articles 5 & 6).

In addition, the new Citizenship Law of 2006 also promises a much easier process of naturalization for those wishing to obtain Indonesian citizenship. Qualifications for naturalization are now restricted to age (18 years – or younger if married), residence in Indonesia for 5 consecutive years or 10 years in total, competence in the Indonesian language, assent to the principles of Pancasila and to the 1945 Constitution, a clean criminal record (no jail sentences longer than one year), and evidence of fixed employment or source of income (Article 9). Spouses of Indonesian citizens may now also become Indonesian citizens through a simple naturalization procedure (Article 19). Naturalization proceedings may take no longer than three months (Article 13), with officials facing fines and prison sentences if they obstruct this process (Article 36). The government may only refuse an application for naturalization on clearly justified grounds to be detailed in writing with the official letter of refusal (Article 13).

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<sup>63</sup> Indonesia, *Undang-Undang Republik Indonesia Nomor 62 Tahun 1958 Tentang Kewarganegaraan Republik Indonesia*, at [http://www.indonesia.sk.wni/uu/uu\\_62\\_1958.pdf](http://www.indonesia.sk.wni/uu/uu_62_1958.pdf); unofficial English translation, *Law No. 62 of 1958, Law on the Citizenship of the Republic of Indonesia*, <http://www.unhcr.org/home/RSDLEGAL/3ae6b4ec8.html> [accessed February 2007]

<sup>64</sup> Indonesia, *Undang-Undang Nomor 12 Tahun 2006 tentang Kewarganegaraan Republik Indonesia*, Jakarta, 2006, <http://www.indonesia.nl/download/UURINO12TAHUN2006.pdf> [accessed February 2007]; unofficial English translation, *Law of the Republic of Indonesia No. 12 Year 2006 on Citizenship of the Republic of Indonesia*, <http://www.unhcr.org/cgi-bin/texis/vtx/rsd?search=legal&source=REFLEG&ISO=IDN> [accessed February 2007]

Finally, the new Citizenship Law of 2006 is also explicit in its identification of the bases on which Indonesian citizenship can be revoked (Article 23). Loss of Indonesian citizenship follows upon naturalization, enlistment, or government service under the auspices of another country, or possession of a passport from another country. Crucially, citizenship will still be lost by those Indonesians living abroad for more than five years without reporting to an Indonesian embassy or consulate their continued intention to remain Indonesian citizens, or after a subsequent period of five years during which they have not responded to written requests for renewal of their intentions in this regard (Article 23, paragraph i).

### 7.3 Impact of the New Citizenship Law

What are the implications of the new Citizenship Law for various affected groups such as Indonesians of Chinese ancestry and migrant workers living overseas? As of yet, it is difficult to determine the real impact of the new legislation, for the simple reason that the government has yet to announce – or perhaps even to outline – the supporting body of regulations that will clarify the terms of its enforcement.<sup>65</sup> Thus there are ample grounds for scepticism in terms of the new Law's much-publicized salutary effects on Indonesians of foreign ancestry, married couples of mixed nationality, and others whose access to citizenship rights is said to have been markedly improved since the replacement of the 1958 Citizenship Law.<sup>66</sup> Likewise the promise of reducing the time and money necessary for naturalization, of restricting and punishing corruption by officials, and of addressing the concerns of Indonesia's more vulnerable citizens and would-be citizens has yet to be translated into a concrete reality. Only time will tell.

That said, a close reading of the original text of the new Citizenship Law of 2006 does allow for a better informed assessment of the problems and limitations contained within the new legislation. For example, the law appears to limit the extension of citizenship to children born outside Indonesia whose parents are *both* Indonesian citizens, thus leaving those born to couples of mixed Indonesian-Malaysian parentage, for example, effectively excluded from coverage (Article 4, paragraph L). More generally, insofar as the new law requires evidence of parents' citizenship, birth certificates, and other supporting documentation – perhaps still including the SBKRI (*Surat Bukti Kewarganegaraan Republik Indonesia* or Indonesian Citizenship Certificate) so crucial for the naturalization of “alien” applicants under the 1958 Citizenship Law – it is easy to anticipate continuing problems for the thousands of undocumented migrant workers in Malaysia and beyond whose papers are not in order, and whose vulnerability to official harassment, intimidation, detention, and deportation renders the process of registering the birth of their children a particularly hazardous enterprise. If one recalls the common pattern wherein employers, overseers, and labour recruiting agents retain these workers' passports and other documents, and wherein passports and other documents are often altered, falsified, or otherwise tampered with, then the presumption of easy access to citizenship rights as stipulated in the new Citizenship Law of 2006 is immediately called into question.<sup>67</sup>

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<sup>65</sup> Govt Finalizing Implementation of Citizenship Law, *Jakarta Post*, 9 October 2006

<sup>66</sup> See, for example, Berakhirnya Kecemasan Marcellina [An End to Marcellina's Worries], *Tempo* [Jakarta], 23 July 2006, p. 26-29; Terusir dari New Hampshire [Expelled from New Hampshire], *Tempo* [Jakarta], 23 July 2006, p. 30

<sup>67</sup> Human Rights Watch, *Help Wanted*, p. 29

Similar problems can also be anticipated with regard to the revocation of citizenship from Indonesians living abroad for more than five years at a time without renewing their citizenship status through a nearby Indonesian embassy or consulate. The exact wording of the new law does qualify the revocation of citizenship to such Indonesians – “...as long as the incumbent does not become stateless ...” (“...sepanjang yang bersangkutan tidak menjadi tanpa kewarganegaraan...” Article 23, paragraph i), and loss of citizenship by parents is said not to apply automatically to their children. Indonesians who have lived overseas for more than five years without reporting to an Indonesian embassy or consulate are afforded an additional three years since the passage of this law as a window of opportunity to resecure their citizenship rights (Article 42). But those Indonesian migrant workers in Malaysia and elsewhere who lack proper documentation or are otherwise constrained in their movements and their access to information are unlikely to be in a position to avail themselves of these provisions of the law, so long as their basic rights remain unprotected in the countries where they work and reside.<sup>68</sup>

In addition to these problems with the new Citizenship Law for Indonesians living and working outside the country there are also those that affect Indonesians in Indonesia itself. The new law does officially repudiate the racial basis for discriminating against ethnic-Chinese Indonesians, as the meaning of “native” (*asli*) is determined by the citizenship of parents rather than their origins or ethnicity. Official forms of discrimination are said to have been eliminated.<sup>69</sup> Yet recent reports point to a broader, and more worrying problem with regard to the access of ordinary Indonesian citizens to the basic documents needed to establish citizenship in the country. As many as 60% of children under five years old are said to be without birth certificates today, with the numbers of such undocumented children estimated as high as 15 million.<sup>70</sup>

Thus crucial questions remain with regard to the implementation of the new Citizenship Law and the many regulations yet to be promulgated in support of the 2006 legislation. Here it is worth noting that the process of obtaining and filing documents necessary for establishing citizenship in Indonesia (e.g. ID cards, known as *Kartu Tanda Pengenal* or KTP) still centres on the sub-district (*kecamatan*) level, with the office of the *camat* remaining to this day as a crucial node of local government authority, but one that has not yet been properly subordinated to the logic of democratization. Village headmen (*kepala desa*) are directly, freely elected, as are members of new councils to oversee their functions. Mayors (*walikota*), regents (*bupati*), and provincial governors (*gubernur*) are now also directly elected, as are the members of the local assemblies (*Dewan Perwakilan Rakyat Daerah* or DPRD), who are now, under conditions of decentralization, empowered with regard to legislation on local regulations and taxes. But the *camat* has remained an appointive rather than an elective post, even though its centrality in terms of the exercise of local government authority has not been diminished. Moreover, among the successful candidates for mayor and regent in many localities around the Indonesian archipelago are countless former *camat*, who appear to have the money and machinery necessary to outpoll their opponents in local elections. Against this backdrop, it is perhaps unsurprising that the fine print on the regulations undergirding the

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<sup>68</sup> See, for example, Mereka Tak Lagi Diakui [They Are No Longer Acknowledged], *Tempo* [Jakarta], 23 July 2006

<sup>69</sup> See, for example, Berakhirnya Kecemasan Marcellina [An End to Marcellina’s Worries], *Tempo* [Jakarta], 23 July 2006

<sup>70</sup> Jutaan Anak Tidak Punya Akta Lahir [Millions of Children Do Not Have Birth Certificates] and Politik Negara Dipertanyakan [State Policies Called Into Question], *Kompas* [Jakarta], 2 December 2006

new Citizenship Law has yet to be spelled out or made publicly available. Thus there is still ample reason for concern that ordinary Indonesians, and not only those of Chinese ancestry, may continue to face various mundane impediments – unjustified delays, extortion, and so forth – to their attempts to obtain the basic documents necessary for full enjoyment of citizenship in contemporary Indonesia.<sup>71</sup>

## 8 Conclusions

Overall, the pattern of change in Indonesia over the past five years has been in a largely positive and peaceful direction, towards the “normalization” of the country, the resolution of various problems, and the reintegration of those people dislocated in various conflicts or left in legal limbo or in a state of vulnerability by various forms of discrimination and persecution. This pattern is evident if we consider the winding down of large-scale violent conflicts in areas of contested sovereignty like East Timor and Aceh, and in areas of communal violence like West and Central Kalimantan, Maluku and North Maluku, and the Central Sulawesi regency of Poso. This pattern is also evident if we examine the improving position, *de jure* and *de facto*, of minorities such as ethnic-Chinese and Christians around the archipelago. These trends reflect the effects of transition from authoritarian rule, the consolidation of democracy, and the percolation of the effects of democratization and decentralization “downwards” from Jakarta to the towns and villages all over Indonesia.

That said, the considerable limitations to democratization in Indonesia have likewise constrained the positive impact of these trends and limited their effectiveness as far as key vulnerable populations are concerned. Thus, overall, while separatist or nationalist struggles against inclusion in Indonesia are much lower in intensity and less violent today than during the early transition period, and in East Timor and Aceh appear to have been resolved, the remnants of these struggles still include persistent problems of homelessness and statelessness for some of those displaced over the course of these protracted conflicts. In these areas, where violent conflicts have essentially drawn to a close, tens if not hundreds of thousands of IDPs remain without serious prospects of repatriation or compensation for lives and homes lost under conditions of violence and forced dislocation. In Papua, the continuing conflict, however low in intensity, still makes for small-scale dislocation of residents of the province, and for the perpetuation of a pocket of refugees across the border in PNG. The effective abdication of responsibility for these IDPs by the central government, and the rather limited responsiveness of many local governments must be noted and regretted. The continuing legal limbo of some East Timorese residents in West Timor, Indonesian residents in East Timor, and Papuan residents in PNG is likewise an unfortunate residue of these protracted conflicts.

As for Indonesia’s minority Chinese and Christian populations, they have come to enjoy much greater freedom and security over the past five years than appeared possible during the troubled first years of Indonesia’s transition from authoritarian rule. Formal and informal restrictions on ethnic-Chinese Indonesians have been reduced or eliminated, as have various forms of violence against Christians in the country. There remain serious problems of inter-ethnic and inter-religious tension and conflict in this vast, diverse archipelago, as well as restrictions on religious freedom in a society where all citizens are required to declare their

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<sup>71</sup> See, for example, Hikayat Heni, Gadis Tionghoa [The Story of Heni, a Chinese Girl], *Tempo* [Jakarta], 20 August 2006

adherence to one of the handful of officially recognized monotheistic faiths, but the broad trends are clearly favourable to Indonesia's ethnic-Chinese and non-Muslim minorities.

That said, problems of citizenship have become increasingly acute for another group in Indonesian society, namely the growing numbers of migrant workers outside the country. Indeed, today what appears most striking is not the importance of Indonesia's oft-noted ethnic and religious diversity and the dangers of continuing discrimination and persecution along communal lines, but rather the abiding significance of social class and the enduring burden of poverty on millions of ordinary Indonesians. It seems apparent that the new Citizenship Law will help to ease, clarify, and secure the legal status of ethnic-Chinese Indonesians whose situation has markedly improved since 1998, in terms of economic, political, and social advancement. Indonesians of Chinese ancestry may still face petty extortion and other impediments to the full exercise of citizenship in their encounters with officialdom, but in this they experience the everyday realities of real existing citizenship for their fellow-countrymen, most of whom remain under severe economic constraints today.

Instead the most serious problem now seems to be the large and growing population of migrant workers moving to and from Malaysia and other sites of employment where their citizenship rights and status have become complicated and compromised. It is unfortunate that neither in the new Citizenship Law, nor in its most recent Memorandum of Understanding with the Malaysian government, has the Indonesian government succeeded in crafting ways to reduce the serious and growing problems of an illegal, stateless, and often criminalized underclass of Indonesian migrant workers in Malaysia. As in other parts of the world these problems are complex, enduring, and unlikely to be resolved through legislation alone. It is only to be hoped that in the implementation of the new legislation there will be a conscious and consistent effort to extend Indonesian citizenship rights to some of the most vulnerable members of Indonesian society, with attention to their plight elevated to the level of international and domestic concern long reserved for small, in some ways vulnerable, but in other ways privileged, minorities.

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