



## Voting Rights for Indonesian Armed Forces (TNI) Personnel: Yes, No or with Reservation?

by Fitri Bintang Timur

- After being shelved for so long, the issue of Indonesian military personnel's voting rights resurfaced again. What is different is that now President SBY changed his position to support the returning of military voting rights which indicates changing gestures of the government. Due to TNI's over-involvement in the country's history, it is understandable that every tendency to re-involve them in non-military issues will be highly speculated and questioned.
- For the side that support the plan, TNI voting rights are seen as part of citizen's rights that need to be given. It is also a way for the military to be involved in determining the country's future through democratic elections. Meanwhile the opposing side demands that the military's past crimes, especially on gross human rights violation, have to be solved first. Also the TNI territorial command has to be erased before the military can enjoy their voting rights.
- Actually, Indonesia can give or not give the military their voting rights because both actions are still in the corridor of democracy. It depends more on the historical-political conditions behind the policy making process. The article also shares the practice of German military voting rights as a comparison and reference.

The debate on giving back voting rights to the Indonesian military (TNI) is not new and has been raised several times in recent years, usually around national election time. Until now the response from civil society and from the government's higher ranks has been a unified "no". However, after twelve years of democratic transformation, some parts of society feel that the military members are ready to bear the same political rights as regular citizen. At the same time, there is still widespread doubt as to whether Indonesia is ready to give the right to vote to its soldiers while other crucial reform demands on military institutions have not been thoroughly fulfilled.

This article will examine the outcome of TNI's post-1998 reform in the context of granting military personnel the right to vote. This article will then map the stakeholders' stances by analyzing the statements of representatives of the interest groups related to the issue. As a comparison for how military voting rights may be regulated, Germany's

policy towards members of its Army - the *Bundeswehr* - will be discussed. Finally, the unique historical role of the Indonesian Armed Forces will be discussed which will then allow for some conclusions as to whether TNI voting rights should be reinstated for the next elections.

### Chronology and Context

After being shelved for so long, the issue of TNI personnel's voting rights resurfaced again in 2010. The trigger was a statement by TNI Supreme Commander Djoko Santoso in mid June 2010, which suggested that his institution would review the prospect of military personnel to be granted voting rights in a reversal of the taking away of such rights as part of Indonesia's so called *reformasi* process which began with the fall of Soeharto in 1998. Several days after Santoso's remarks, President Susilo Bambang Yudhoyono stated that he agrees for TNI members to vote in elections, both at the national and local levels. The President ar-

gued that “speaking of human rights, TNI member’s political rights should not be castrated, should not be taken away. In other countries, military personnel can vote”.<sup>1</sup> This statement was a surprise for many security sector actors, since it is rare that SBY – as the President is commonly known in Indonesia - would give comments or make a firm gesture on issues that are popularly discussed by civil society.

The debate over TNI voting rights has resurfaced regularly since the beginning of the *reformasi* – the period of social and political reforms taking place since the fall of Soeharto in 1998. It has been a controversial topic because the TNI was known to be actively engaged in politics and business since its birth, making the military an influential actor in almost all aspects of Indonesia’s political, social and economic life.<sup>2</sup> TNI also gave strong backing to Suharto’s authoritarian regime. Due to this history, every tendency to re-involve TNI in non-military issues is viewed with a high degree of suspicion by many Indonesians. The following section overviews the historical background of Indonesia’s military voting rights.

The 1955 election under President Soekarno has arguably been the only time that the military has been able to vote freely and independently in a general election in Indonesia. In that election, the military casted their ballot without creating a security disturbance<sup>3</sup> although some critics say that the personnel still brought their political aspiration to the barracks.<sup>4</sup> This caused polarization in the hierarchy of the military body at that time. The problem in later years was that the military chain-of-command allows its leaders to gather support from their subordinates which in the end can be used as a bargaining tool for demanding support for the

military’s interest from party representatives in parliament. This was the case with the Col. Bambang Supeno and Gen. A.H. Nasution conflict in 1950s, that brought parliament to interfere in the internal military conflict. At that time the power contest between the two military leaders extended into the parliamentary deliberations on Indonesia’s military reorganization and leadership. There were at least three parliament fractions that gave proposals on military’s reorganization and a motion of disbelief toward the Defense Minister. These fractions were Indonesia’s National Party (PNI); Catholic and non-party.<sup>5</sup> Parliament interference then got so severe and triggered demonstrations that demanded President Soekarno to dismiss the parliament.<sup>6</sup> This demand, which became known as “17 October 1952 Event”, was seen as a ‘*would be coup*’ for Sukarno because some of the military leaders that lost influence over the parliament -including Nasution- were said to have backed the event and had already aimed their cannons toward the presidential palace.<sup>7</sup>

In the New Order era under Soeharto the Indonesian military had been given its own channel to politics. Not by giving votes to certain political parties but by directly being allowed to send its representative to national parliaments. The military representation was placed in the same fraction as Golkar, an organization which claimed to be apolitical but sided with the government by gaining votes from civil servants. In this way, military representatives had access to state policy making and a strong influence towards national leaders. Furthermore, they were also being used to support the established status quo because a prospective military representative to the parliament needed to be appointed, and therefore needed to receive

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<sup>1</sup> “Pengembalian Hak Pilih TNI Menimbulkan Bias Tradisi Komando” (Returning TNI Voting Rights Can Create Command Tradition Bias), *Suara Media*, 21 June 2010.

<sup>2</sup> Harold Crouch, *The Army and Politics in Indonesia*, (Singapore: Equinox, 2007), p. 22.

<sup>3</sup> Jaleswari Pramodhawardani, “Hak Pilih TNI” (TNI Voting Rights), *Kompas*, 24 June 2010.

<sup>4</sup> “Sepatu Lars di Bilik Pemilu” (Boots Behind the Ballot Chamber), *Berita Liputan 6*, 10 June 2002, 08:55 WIB, accessed from <http://berita.liputan6.com/progsus/2002/06/35728/quotSepatu.Larsquot.di.Bilik.Pemilu> on 12 July 2010, 13.30 WIB.

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<sup>5</sup> Rosihan Anwar, “Peristiwa 17 Oktober 1952” (The Event of 17 October 1952), 16 October 2004, accessed from <http://www.sejarah TNI.mil.id/index.php?show=script &cmd=loadnews&newsid=300> on 12 July 2010, 14.40 WIB.

<sup>6</sup> Rosihan Anwar, *Sukarno, Tentara, dan PKI: Segitiga Kekuasaan Sebelum Prahara Politik* (Sukarno, Soldier, and PKI: the Power Triangle before Political Catastrophe), (Jakarta: YOI, 2006), p. 55 and 155.

<sup>7</sup> “Ibrahim Isa Berbagi Cerita: Pergolakan di Mana-Mana” (Ibrahim Isa Shared Stories: Turmoils Everywhere), *Kabar Indonesia*, 2 December 2007.

presidential consent.<sup>8</sup> During most of the New Order regime, the ABRI (the former name for TNI) had 75 seats out of 500, or around 15%, of the national legislative seats. Combined with Golkar's 261 seats, the government sided fractions was almost reaching 70% of the voice in legislative, making a situation that supported the prolonged existence of Soeharto in power.

**Table of Military Number in State's Constitution Bodies**

Year of Election	Seats in National Parliament (DPR)	Seats in People's Consultative Assembly (MPR)
1960	35 of 283 Seats in DPR- GR (Transitional Parliament) (12.4%)	-
1966	36 of 283 Seats in DPR-GR (12.7%)	-
1966	39 of 242 Seats in DPR-GR (16.1%)	-
1967	43 of 350 Seats in DPR (12.3%)	-
1968	75 of 460 Seats in DPR (15%)	-
1972	75 of 460 Seats in DPR (15%)	155 of 920 Seats in MPR (16.8%)
1977	75 of 460 Seats in DPR (15%)	155 of 920 Seats in MPR (16.9%)
1982	75 of 460 Seats in DPR (15%)	155 of 920 Seats in MPR (16.8%)
1987	100 of 500 Seats in DPR (20%)	151 of 1000 Seats in MPR (15.1%)
1992	100 of 500 Seats in DPR (20%)	150 of 1000 Seats in MPR (15%)
1997	75 of 500 Seats in DPR (15%)	113 of 1000 Seats in MPR (11.3%)
1998	38 of 500 Seats in DPR (7%)	38 of 695 Seats in MPR (5.5%)

Source: "Metamorfosis Cilangkap", Majalah Tempo, 21 May 2010 and Sekjen MPR-RI, Majelis Permusyawaratan Rakyat Republik Indonesia: Sejarah, Realita dan Dinamika, (Jakarta: Sekjen MPR-RI, 2007), counted by author.)

After *Reformasi*, ABRI seats were contested in the first People's Consultative Special Assembly in November 1998. There were demands to erase the fraction all together, but consensus was reached to gradually lower the number of military representations before the military was eventually totally removed from parliamentary politics. This meant that ABRI still obtained 38 seats in 1999 while conducting its separation with the police force (Polri) and transforming itself into a pure military force under the name of *Tentara Nasional Indonesia* – TNI. In the next election military members were not allowed to vote and no longer had direct official access to parliamentary or executive power. However, the regulations that administered this reform was only Election Law No. 12/2003 Article 145 which stated "In the 2004 election, members of Indonesia National Military and Police Forces shall not use their voting rights." This article opens another 'gray zone' as to whether military personnel might or might not vote in election beyond 2004.

Approaching the 2009 election, it was inevitable that the debate resumed. Sides that are in favor of giving the TNI voting rights were quoting Constitution UUD 1945 Article 27 (1) that "All citizens are equal before the law and must enact the law and order with no exception" and then extended this to include the political rights of citizen. At the same time, the opposing side pointed to Article 39 of TNI Law No.34/2004 which states that "TNI member are forbidden to engage in (1) activities as members of a political party; (2) practical political activity; (3) business activities, and (4) to stand for office in the legislative in general election and other political position", meaning that military personnel are not allowed to participate in any political activity in order to maintain their neutrality.

The debates reoccurrence is nothing new because the issue is usually highlighted in local election (*Pilkada*) where TNI is still keeping their posts in every sub-district nationwide under the Territorial Command System. This system is one of the New Order inheritances that uses territorial officers to monitor political and social developments and "prod" their civilian counterparts where

<sup>8</sup> Miriam Budiarmo, *Dasar-Dasar Ilmu Politik* (The Basic of Political Science), (Jakarta: PT. Gramedia Pustaka Utama, 2003), p. 196-197

necessary.<sup>9</sup> The big networks that are built by the system are reaching all the way to grass root levels. In sub-districts there is the Military Rayon Command (*Koramil*) and below this are representatives from the army at the village level (*Babinsa*). This network is potentially a very effective political machine and another channel that can be used to raise votes beside the regular party line. Before *Reformasi* it was common practice that military students of the Army Training School *Seskoad* would conduct "Guidance Operations" called *Opsgalangan*<sup>10</sup> as territorial intelligence exercise during run-up of election.

### Mapping of stakeholders

Apart from the TNI members themselves, there are other actors that can benefit from giving back voting rights to all military members. This has been acknowledged by the legislative, the head of TNI and the President. Supreme Commander Djoko Santoso issued the instruction No.Ins/1/VIII/2008 of 'TNI Neutrality Pocketbook in Local and National Election' which is in line with Law UU 10/2008 Article 318 that prohibits TNI to vote. President Susilo Bambang Yudhoyono, in facing the last general election, has publicly demanded TNI to be neutral, since he feared that certain parties would mobilize them to vote for specific candidates in the presidential election.<sup>11</sup> Namely, several candidates for Vice President were former military members.

Nevertheless, recently President SBY changed his position to support the voting rights to be given back to TNI by stating at a media conference in mid-June that "for me, if there is no obstruction or problem, which can trouble the unity and else, subsequently TNI will be given their rights to be able to vote. We will see whether it's already appropriate for 2014."<sup>12</sup> Furthermore, he said that TNI

political rights form part of human rights that should not be taken away.

Agreement then came from political parties aligned with President SBY's Democrat Party. Head of central executive board of Golkar Party, Priyo Budi Santoso, said that the permit to allow the military to vote is progressive and that since they had already proposed the idea since the last period they were now supportive of SBY's statement.<sup>13</sup> Support was also given by Prosperous Justice Party (PKS) Secretary General, Anis Matta, who said that the TNI had done sufficient self restructuring and would be ready to vote by 2014. Matta argued that "in the next election, it will be 17 years after TNI dual function is erased. Reforms in TNI run quite well, it's even better than other institutions."<sup>14</sup>

However, opposing political parties and human rights activists were not so optimistic. For example, head of the Indonesian Democratic Party-Struggle PDI-P fraction in parliament, Tjahjo Kumolo, stated that his fraction is against giving TNI voting rights at least for another 10-20 years. He warned that "if there is pressure, it will be clear who will take advantage in the 2014 (parliamentary) election and also in the future presidential election."<sup>15</sup> Likewise, the Commission for Disappearances and Victims of Violence (*KontraS*) stated in a press release that recovering TNI participation in elections is not a priority.<sup>16</sup> For more than 12 years of reform, there are still some unfulfilled military reform demands, such as a revision of the Military Court Act and re-organization of the businesses owned by TNI.

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[74/SBY-Setuju-TNI-Diberi-Hak-Pilih](#) on 16 July 2010, 10.30 WIB.

<sup>13</sup> "Golkar Sambut Baik Wacana Hak Pilih TNI Dikembalikan" (Golkar Welcome the Discourse of Returning TNI Voting Rights), news on 21 June 2010, accessed from <http://www.detiknews.com/read/2010/06/21/160552/1382994/10/golkar-sambut-baik-wacana-hak-pilih-tni-dikembalikan> on 18 July 2010, 12.30 WIB.

<sup>14</sup> "Sekjen PKS Setuju TNI Ikut Pemilu 2014" (PKS General Secretary Agree TNI Participation in 2014 Election), *Media Indonesia*, 20 June 2010.

<sup>15</sup> "Sekjen PKS Setuju TNI Ikut Pemilu 2014" (PKS General Secretary Agree TNI Participation in 2014 Election), *Media Indonesia*, 20 June 2010.

<sup>16</sup> "Pemulihan Hak Pilih TNI Bukan Agenda Prioritas dalam Reformasi Militer" (TNI Voting Rights Recovery is Not a Priority in Military Reform), *KontraS* Press Release, Jakarta, 23 June 2010.

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<sup>9</sup> David Jenkins, *Suharto and His Generals: Indonesian Military Politics, 1975-1983*, (Singapore: Equinox, 2010), p. 28.

<sup>10</sup> *Ibid*, p. 29

<sup>11</sup> Wisnu Dewabrata, "Netralitas TNI Dipertanyakan" (TNI Neutrality Questioned), *Kompas*, 4 February 2009.

<sup>12</sup> "SBY Setuju TNI Diberi Hak Pilih" (SBY Agreed TNI Being Given Voting Rights), MetroTV News on 18 June 2010, accessed from <http://www.metrotvnews.com/index.php/metromain/newscat/polkam/2010/06/18/208>

Meanwhile, other experts and military personnel have more neutral position on the voting rights. Andi Widjajanto, a defense expert from University of Indonesia sees an opportunity in gradually giving TNI back their voting rights by arguing that “2010-2014 is (are the years) for conducting civic education, in 2014 (the military should) not yet participate in national election but instead only vote for local election. In 2019 they can fully participate.”<sup>17</sup> In an interview with military member, Leut.Col.(Inf) Dwi Lestiyono,<sup>18</sup> he stated that basically TNI is keeping their neutrality in politics and only act following the regulations issued by the state and the head of TNI. Lestiyono viewed that so far the military had already done their part of reformation and is still working on ‘what is left of it’, “For example the Law on National Security and Law on Reserve Component”, he said.

In one interview with Kusnanto Anggoro, an Indonesian military expert, he stated that to give or not to give TNI their voting right is more of a political decision, but either can be considered democratic.<sup>19</sup> If they are given their political right to cast ballot, it means that the military will have a share of responsibility on deciding the future of the country. It is also a way to give incentive for the TNI to continue their reform. On the other hand, if they are not yet given voting rights for the next election, it is also acceptable because Article 28 J (2) of the Constitution of UUD 1945 allows limitations of people’s rights based on law. Nevertheless Anggoro commented that the concern that the military can be mobilized to vote for a certain party or candidate is ungrounded because the total number of Indonesian military personnel is only around 400,000 which is low when compared to the whole population of 230 million people with 171 million voters. He further said that Indonesia can learn from other democratic countries in regards to their policy towards military voting right.

Another stakeholder, journalist Bersihar Lubis, observes that the majority of Indonesian society is returning their trust to the military.

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<sup>17</sup> “TNI Kaji Ikut Pemilu” (TNI Review Participation in Election), *Kompas*, 17 June 2010.

<sup>18</sup> Interview conducted in Jakarta, on 22 July 2010, 13.00 WIB.

<sup>19</sup> Interview conducted in Jakarta, on 22 July 2010, 12.15 WIB.

He argues that “the winning of SBY in the 2004 and 2009 elections demonstrates that people trust military figures to lead civilians. This is caused by the absence of competent civilian figures that have leadership ability and thoroughness”.<sup>20</sup> In this situation, it will be favorable for the TNI as a whole to return to politics. Sadly, the argument of civilian’s lack of capability is also used to justify many government posts given to retired military personnel, both in national and local level, for example in Aceh.

### **German Experiences on Military Voting Rights**

There are several different ways of allowing the military to exercise their political rights in democratic elections. Countries such as Australia, Bulgaria, China, Canada, France, Germany, the Philippines, UK and US allow their military members to cast ballots. There are also countries that prohibit military members to vote, for example Argentina, Chad, Colombia, Honduras, Guatemala and Senegal. There are also countries like Brazil and Uruguay that only extend the right to vote to military personnel in certain ranks.<sup>21</sup>

There are different reasons behind countries’ policy on whether they allow member of their armed forces to vote or not. The reasons are mostly related to the historical background of the military activity in the respective country, not only to the degree of democracy itself. For example, countries with a history of military coups, such as the Democratic Republic of the Congo has not given its military vote rights, while countries such as South Africa highly supports its armed forces to vote because the military is one of the state’s institutions that underwent the integration process after the end of apartheid.<sup>22</sup> In this paper, Germany’s experience will be portrayed as a reference on how to manage military voting right.

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<sup>20</sup> Bersihar Lubis, “Sipil Tak Siap, Militer Tampil” (Civilian Not Ready, Military Took Stage), *Riau Pos*, 26 June 2010.

<sup>21</sup> Alexandra Retno Wulan, “Hak Memilih TNI” (TNI Rights to Vote), *Koran Tempo*, 10 July 2010.

<sup>22</sup> “Voting Rights of the Military: Excerpts from Legal Framework of Various Countries”, accessed from <http://aceproject.org/ero-en/topics/legal-framework/military-voting-000717.doc/view?searchterm=Legal%20Framework> on 30 July 2010, 1.53 WIB.

**Table of Country Policy on Military Voting Rights**

Give voting rights to the military	Do not give voting rights for the military
Armenia	Angola
Australia	Argentina
Belize	Brazil (bellow Sergeant rank)
Bolivia	Chad
Bulgaria	Colombia
Canada	Dominican Republic
China	Ecuador
Czech Republic	Guatemala
France	Honduras
Germany	Indonesia
Israel	Kuwait
New Zealand	Paraguay
Nicaragua	Peru
Philippines	Senegal
Poland	Tunisia
Russia	Turkey
South Africa	Uruguay (bellow Corporal rank)
Sweden	
United Kingdom	
United States	
Venezuela	
Ukraine	
Vietnam	

Source: "Voting Rights of the Military", *The Electoral Knowledge Network*, accessed from <http://aceproject.org/electoral-advice/archive/questions/replies/204229904> on 30 July 2010, 2.11WIB.

Like Indonesia, Germany's Constitution *Grundgesetz* avowed the rights of every citizen to vote and to stand for office in elections. A difference is that the post Cold War Germany used the concept of "Citizen in Uniform" for its military. This means that members of the *Bundeswehr* (Germany's military force) do not lose their citizen rights when they are in military assignment although of course there are certain rights limitations for military personnel in terms of political activity.<sup>23</sup>

In Germany's Military Law, military personnel's political activity is divided into three

<sup>23</sup> Saiful Haq, *Hak Pilih Anggota TNI: Hak Asasi yang Belum Saatnya* (TNI Voting Rights: Human Rights That are Not Yet the Time), Unpublished Writing, June 2010.

main principles.<sup>24</sup> First is the educational principle, which states that each military unit must give civic education to their soldiers. The responsibility is given to the head of a military unit to give technical information on how the election runs; on the right of every soldier to hold different opinions; and also on technical regulations that might restrict them when they conduct political activity. Using this principle, it is prohibited to give political interpretation on clear technical regulation.

Second is the principle that clarifies the soldiers' rights as citizens and their obligations as military members. Various basic codes regulate this field. For example it is forbidden to conduct political activity inside military institution. It is also prohibited to use military uniform or attributes when a soldier is engaged in political activity. Nevertheless German's military leadership education (*Innere Führung*) guarantees the citizens in uniform the same civil rights as enjoyed by other citizens: they may participate in the shaping of political opinions and will.

Any military personnel may also become a member of any constitutional party and have the right to vote and to stand for public office. This obligates them to serve loyally, to respect the free democratic basic order laid down in the constitution, and to help to maintain it.<sup>25</sup> This obligation demands of the soldiers to keep their distance from groups and endeavors that attack, fight or defame the state, its constitutional organs and the effective constitutional order. Therefore, *Bundeswehr* members are only allowed to be involved with political parties that have parliamentary representation in order to show their loyalty and to prevent them from supporting parties that are banned by the government. Since they have access to coercive power as well as arms it can be risky if it falls into the hands of groups that are opposing the democratically elected government.

<sup>24</sup> *Ibid* and "Aktivitas Politik Anggota Militer, Khususnya pada Pemilihan Parlemen Tingkat Eropa, Federal, Negara Bagian dan Komunal (Versi Terbaru)" (Military Member Political Activity, Particularly in Europe, State and Community Level), *VMBI 1980 HAL* 533, 1988, p. 25.

<sup>25</sup> Frizz Wittmann, "Integration of Armed Forces in Democratic State Under the Rule of Law", *African Defense Review*, Issue No. 14, 1994.

In German Military Law it is also stated that no senior or higher rank officer can abuse their position to influence their subordinate in any way. If rank misuse occurred, the military soldier has the right to report and sue the abuser, and also has access to a fair independent trial if there is an element of coercion or rank abuse by his/her superior.

The *Bundeswehr* member also has the right to stand as a candidate in elections. The usage or assertion of the military personnel's rank is allowed in the writing of the candidate's name. Nevertheless it cannot be stated in speeches, publications, or other forbidden publications. This regulation lasts even when the person has already retired from the military.

The third principle regulates the legal sanctions that come into force when there is a breach in the principles and codes. It is stated that any breach in the political regulation must be reported as an "extraordinary incident", and therefore must be placed in a civil court, rather than an internal disciplining court. Various punishments are listed as sanction, starting from suspension or dismissal from the military force, up to imprisonment.

### **Conclusion**

Every country has its own history and characteristics in regards to its military's role in politics. Indonesia cannot copy-and-paste how military voting rights are regulated in other countries because there is no ideal prescription on the matter. The Germany's "Citizen in Uniform" concept only shows that there is no harm in giving military personnel their rights to vote and to stand for public office, as long as the legal foundation is

strong and well implemented. In the end, it is a question of the political will of the country's stakeholders and the availability of civilian political education. Seen from the optimistic side, Indonesia might be able to give TNI the right to cast ballots, although there are still some adjustments to be made. Firstly, military members and civil society need to be properly educated in political matters, which mean a strong system of political education is required. Secondly, the legal foundations that regulate soldiers to vote need to be clearly formulated along with effective regulation and a sanctions mechanism, should breaches occur. Lastly, a strong system of internal and external oversight needs to be implemented so that the armed forces themselves as well as civil society have clear oversight of the process.

Nevertheless, it is advisable that before TNI is given the right to vote they should fulfill the leftover demands of the *Reformasi*, which are reviewing the military territorial system and sprucing up the connectivity of the military-civilian court system to anticipate the violation of rank abuse and other legal problem that may occur. Due to the many issues currently faced by the nation, the TNI voting rights debate might for now be drowned out by other more important issues. But no one doubts that it will reappear before the next general election of 2014.

### **About the Author**

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