

**INDONESIA: RETHINKING INTERNAL
SECURITY STRATEGY**

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INDONESIA: RETHINKING INTERNAL SECURITY STRATEGY

EXECUTIVE SUMMARY AND RECOMMENDATIONS

A major challenge facing Indonesia's new president, Soesilo Bambang Yudhoyono, is reform of the internal security sector. He could make an important contribution by initiating a comprehensive review of policy and operations, in order to develop a roadmap to guide organisational reform, a legislative agenda and a strategy for conflict prevention and resolution. Only presidential leadership can trump institutional rivalries and launch a process that is vital to Indonesia's democratisation.

Major problems include:

- ❑ unclear institutional division of labour, particularly between the police and the military (Tentara Nasional Indonesia, TNI);
- ❑ contradictory or ambiguously worded legislation on some aspects of internal security and no legislation at all on others;
- ❑ lack of accountability of the security services;
- ❑ inadequate oversight of operations; and
- ❑ no strategic direction.

One of the thorniest issues is the precise division of labour between the police and military. Formal responsibility for internal security has rightly been allocated to the police but there are "grey areas", such as counter-terrorism and counter-insurgency, where the roles are poorly defined. Moreover, even in areas that are exclusively police responsibility, such as upholding law and order, police capacity remains weak. The force needs to be doubled and its performance markedly improved before the military can be confined to external defence, the ultimate goal of most reformers. The question is how to define a transition role for the military in internal security while police capacity is being developed, without further blurring the lines between them. A law on TNI

support to the police is currently being drafted, but has become a source of friction.

Intelligence is another difficult area, particularly in light of Indonesia's terrorism problem. The intelligence functions of the police, military, and National Intelligence Agency (BIN) overlap, and coordination is not smooth. The government needs to work out an appropriate division of labour, probably through legislation, but in a way that ensures that all three maintain political neutrality, are subject to civilian oversight, and do not acquire powers beyond what is acceptable in a democratic society.

The president has several options for addressing another problem, the lack of any clear policy direction or control over internal security. One possibility is to strengthen the office of the Coordinating Minister for Political, Legal, and Security Affairs, his old job. Another is to create a U.S.-style National Security Council, an idea much talked about but difficult to implement without a legislative mandate. He could also give the internal security portfolio to an existing ministry, or create a new ministry for the purpose. But any new bureaucratic arrangement would require funding, and the president would have an uphill battle to secure the necessary support from an obstreperous parliament he does not control.

No reforms are likely to succeed, however, without effective, professional oversight mechanisms involving the parliament, the courts, parts of the executive branch itself, and civil society. Without both fiscal and human rights accountability, legislative or bureaucratic changes can only go part way toward solving the problems.

As a first step toward a comprehensive review of internal security, the Yudhoyono government should consider producing a concept paper that defines the

problems, allocates responsibilities among different bodies, provides guidance on capability development, and identifies how these will change as conflict is resolved and capacity improves.

RECOMMENDATIONS

To the Government of Indonesia:

1. Produce a publicly available concept paper on internal security, including counter-terrorism, as the basis for the division of responsibility, legislation, transition planning, and resource allocation.
2. Affirm unambiguously that the police have primary responsibility for internal security.
3. Define clearly the transitional and ongoing military (TNI) contribution to internal security without compromising civil control.
4. Allocate clear political responsibility to an appropriate minister or executive agency for preventing and resolving politically motivated internal conflict.
5. Initiate a five-year police development plan to raise capabilities to the desired level.
6. Initiate an intelligence policy paper, as a follow-on to the internal security concept paper, to lay out the basis for legislation and operational development of the intelligence agencies and executive, parliamentary and judicial oversight mechanisms.
7. Define the role and responsibilities of regional governments for security.
8. Following comprehensive review of the issues, test desired internal security arrangements in a pilot project in a relatively conflict-free province, including increasing police numbers and effectiveness and streamlining the army territorial command.
9. Use and support the expertise that can be marshalled by NGOs and other elements of civil society interested in security sector reform.

To the TNI:

10. Accept that security sector reform based on democratic norms, including the lead role of the police, is essential for Indonesia's security and prosperity.

11. Work constructively with the police and civil society to ensure that a draft law on TNI assistance to the police is quickly produced and made available for public discussion.
12. Demonstrate commitment to democratic reform by participating in the processes suggested above and by exploring options for streamlining the territorial structure to meet transitional internal security requirements and likely ongoing commitments.

To Donors:

13. Provide technical and financial support to the government for a comprehensive internal security review clarifying the roles of the TNI, police and BIN and planning reform and development accordingly, with particular attention to command and control arrangements, strengthening judicial and legislative oversight mechanisms, and conflict prevention and resolution.
14. Continue to assist the police as the primary agency responsible for internal security but find ways to re-engage with the TNI, in particular by:
 - (a) assisting with legislation on intelligence activities and military assistance to the civil authorities and revision of the emergency powers law;
 - (b) establishing a forum in which donors can discuss the reform agenda, capacity development and policy planning directly with the TNI; and
 - (c) augmenting or reinstating specific training and educational opportunities for members of the TNI in defence and budgetary planning and management.
15. Coordinate assistance to avoid duplication in security sector reform and consider measures in assistance packages that might reduce the problem of inadvertently fuelling competition and rivalry among the security agencies.

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INDONESIA: RETHINKING INTERNAL SECURITY STRATEGY

I. INTRODUCTION

Any Indonesian government interested in political reform will have to confront the sensitive and endlessly complicated issue of internal security. The country faces everything from armed insurgencies to terrorism, with sporadic outbreaks of communal and ethnic conflict thrown in for good measure. The government needs to be able to respond to these threats with policies that are effective in preventing violence, punishing crime, and protecting citizens, yet are at the same time consistent with democratic principles of accountability, transparency, and civilian control.

The security agencies, civilian and military, tasked with handling these threats emerged from an authoritarian past. The police only separated from the armed forces in 1999 and while they now have the legal mandate for upholding law and order, they often lack the capacity to respond to serious violence. The military (TNI) does have the capacity, built up over three decades of taking charge of internal security during the Soeharto years, but to turn to it, as all Indonesians are aware including most senior army officers, would be to turn their back on the process of reform.

That said, the military is uncomfortable with the new rules of the democratic game and often contemptuous of the civilian leaders to whom it has to submit -- as well as of the police, who for years were its junior partner. The lack of any major external threat hampers efforts to define a new role for the military, and the revenue that both police and military derive from conflict areas intensifies the competition over who is in charge.

The government needs to conduct a comprehensive review of internal security to:

- give strategic direction to the handling of internal security problems, particularly in terms of how to resolve conflicts and prevent violence;
- clarify the roles and responsibilities of the various security agencies; and
- establish a mechanism that can direct and supervise their operations.

In the absence of a national policy framework, there has been little effort to define either the TNI's legitimate long-term internal security functions or those it needs to fulfil on a temporary basis, while police capacity is developed. Resolution of these issues is critical to conflict resolution, institution-building, the principle of civilian supremacy, and respect for the rule of law. Failure to resolve them would almost certainly keep the military involved in domestic politics and hinder efforts to reorient it to external defence.

II. POLITICAL BACKGROUND

The dysfunctional nature of Indonesia's internal security practices is a legacy of President Soeharto's New Order rule (1966-1998). Soeharto kept responsibility for internal security highly centralised and gave sweeping powers to various agencies, principally the army, to maintain control. The underlying national security concept was founded on an escalating threat assessment that began with petty crime and ended in global war. The unified threat spectrum incorporated internal and external threats and justified merger of the police into the armed forces as the junior service in 1961.¹

Ideological enemies -- communists, liberals, religious extremists, or anyone else the government deemed a threat -- were rooted out by agencies such as Kopkamtib (Command for the Restoration of Security and Order) and its successor Bakorstanas (National Stability Coordinating Agency). These were led by military officers, given extensive powers of investigation, arrest and detention, and backed by a court system that almost invariably found the accused guilty.

Operations against separatists, especially in East Timor, Aceh and Papua, were undertaken by the military without political or judicial scrutiny except when the magnitude of abuse or a chance encounter with foreign journalists drew world attention. International pressure sometimes forced cosmetic changes, such as the replacement of commanders or the reorganisation of command arrangements, but the underlying logic of authoritarianism remained.

Covert operations were among the range of options open to the security forces. These included manipulation of competing elites, blackmail, threats, extortion, kidnapping, counterfeiting, employment of hoodlums, incitement of violence, and murder. Such activities, often associated with protecting the government rather than the state, undermined the legitimacy and the image of the military as guardians of the nation standing above parochial interests. By the 1980s, public pressure had begun to mount, even from some elements within the military, to distance the armed forces from the government and for the

police to be given greater authority for law enforcement.²

This pressure eventually led to the rewriting of the criminal procedure code (KUHAP), the abolition of Kopkamtib in 1988, and the passage of a new police law in 1997 reclaiming police functions from the military.³ But the very nature of the New Order government, especially Soeharto's personal control over the appointment and dismissal of senior military, police and intelligence commanders, and the subordination of the police within the armed forces, ensured that the military remained above the law.

The military, known throughout the Soeharto years as the Armed Forces of Indonesia (ABRI), completely dominated internal security. Its territorial command expanded during the New Order to mirror the administrative structure of the state, giving it the same coverage as the police and the capacity to assume governmental functions at all levels. This organisational structure was complemented by the special powers conferred on Kopkamtib/Bakorstanas and a pervasive intelligence system that made use of military personnel seconded to nearly all departments and agencies of government, not only for monitoring and surveillance but also to ensure the military got its share of contracts and payoffs to supplement the pitifully small budget allocations and enrich certain privileged officers.⁴

The military also dominated internal security intelligence collection, especially during the late General Benny Murdani's tenure as chief of military intelligence and later as ABRI commander. A national intelligence coordinating agency, Bakin, was independent of the military, though staffed largely by military personnel, but it only dabbled in domestic intelligence since its primary focus was external

1 Crisis Group Asia Report N°13, *Indonesia: National Police Reform*, 20 February 2001.

² For example, see the writings of former police chief Jenderal Polisi (Pur.) Prof. Dr. Awaloedin Djamin, *Menuju POLRI Mandiri yang Profesional -- Pengayom, Pelindung, Pelayan Masyarakat* (Toward a Professional Autonomou POLRI, Guardian, Protector and Servant of the People), Yayasan Tenaga Kerja Indonesia (Jakarta, 2000).

³ Kopkamtib was replaced by Bakorstanas, technically a coordinating agency rather than a military command, but its functions were almost identical.

⁴ Robert Lowry, *The Armed Forces of Indonesia* (St Leonards, 1996), pp. 134-146.

threats, including overseas dissidents and communist infiltration.⁵

The military again had the dominant role in internal security operations, although beginning in 1993, the paramilitary police, Brimob, was increasingly called on to deal with demonstrations and outbreaks of violence. Internal security policy was in the hands of President Soeharto, with almost no public discussion tolerated and very little in the way of formal policy processes or operational oversight. Soeharto, for example, launched a military offensive in Aceh in 1990 that lasted with varying degrees of intensity until his resignation. There was no declaration of a state of emergency, no serious attempt to seek a political solution, and no debate.

The final years of Soeharto's rule were marked by intensified jockeying between competing elites and mounting criticism of the military. As the end neared, the TNI struggled to formulate a new role for itself that would meet the demands for reform without compromising core interests. When Soeharto resigned, it surrendered the institutions and sinecures not vital to its primary concerns and accepted the separation of the police.⁶ It disbanded the apparatus that had institutionalised its role in socio-political matters in 1999, agreeing to end military and police representation in parliament. However, it retained the source of its political significance: the army territorial commands.

But just as the momentum of *reformasi* -- the political movement for reform -- was pushing the TNI away from its monopoly on internal security, the situation on the ground demanded increased military participation. Large-scale demonstrations and riots in the capital, Jakarta, marked the political transition in May 1998, and communal tensions erupted violently between November 1998 and November 1999 in Jakarta; Kupang; West Timor; Poso; Central Sulawesi; and, most devastatingly, Maluku.⁷ Although in some cases

there was evidence of involvement or negligence by military personnel, these outbreaks also revealed police weakness and lack of preparedness.⁸

The political leadership that should have resolved the problem was weak, divided and distracted. Soeharto's successor, B.J. Habibie, needed the support of the military and was consumed by the fall-out of his decision to offer a referendum on independence to East Timor. He was succeeded in October 1999 by Abdurrahman Wahid, known as Gus Dur, a popular, pluralistic, and pro-reform Muslim leader who proved to be a disastrous president. As the Indonesian parliament, the military, and much of the political elite became increasingly troubled by his erratic moves, there was a spike in political violence across the archipelago. Observers attributed some of the outbreaks to the TNI, angered by Wahid's attempts to challenge the military establishment and promote what he saw as reformist officers, and by what it saw as his dangerously naïve approach to trouble spots, particularly Aceh and Papua.⁹

The Wahid government, beginning in 2000, rapidly expanded the police role -- in this case, Brimob -- to address some of the new security challenges, but this only exacerbated problems, as thousands of under-trained and ill-disciplined forces quickly lost the respect of the people they were supposed to protect.¹⁰ The police wanted to prove they did not need the TNI to help with disturbances and unrest, and the TNI was reluctant to provide assistance. This was partly out of sensitivity to public antipathy to the military's role during the New Order and its mishandling of, or suspected complicity in, outbreaks of violence during the transition process, but also out of a desire to underscore that the police were not up to the task, and the military was still needed.

In circumstances that demonstrated the military's residual political power, President Megawati Sukarnoputri came to power in July 2001, following Wahid's impeachment. She chose to leave the military largely to its own devices, and security sector reform

⁵ For a history of Bakin (now BIN) from its own perspective, see Ken Conboy, *INTEL Inside Indonesia's Intelligence Service* (Jakarta, 2004).

⁶ For a critique of the police in this period, see Awaloedin Djamin, *op. cit.*

⁷ See Crisis Group Asia Briefing, *Indonesia's Maluku Crisis: The Issues*, 19 July 2000; Crisis Group Asia Report N°10, *Indonesia: Overcoming Murder and Chaos in Maluku*, 19 December 2000; Crisis Group Asia Report N°31, *Indonesia: The Search for Peace in Maluku*, 8 February 2002; and Crisis Group Asia Briefing, *Indonesia: Violence Erupts Again in Ambon*, 17 May 2004.

⁸ See Maluku reports listed in footnote 7 above, as well as Crisis Group Asia Report N°19, *Communal Violence in Indonesia: Lessons from Kalimantan*, 27 June 2001; and Crisis Group Asia Report N°74, *Jihad in Central Sulawesi*, 3 February 2004.

⁹ Crisis Group Asia Report N°24, *Indonesia: Next Steps in Military Reform*, 11 October 2001.

¹⁰ For example see "Reforming the Indonesian Police Mobile Brigade (Brimob)", Partnership for Governance Reform in Indonesia, 16 February 2004.

slowed to a crawl, exemplified by the president's refusal to appoint a new or even interim defence minister after Matori Abdul Jalil, the incumbent, was incapacitated by a stroke in August 2003. Matori had never been at the front line of reform, but in the absence of a minister, even the sputtering efforts came to a halt. Attempts to pass legislation on the role of the TNI lapsed in response to opposition from the public on one side, and the TNI itself on the other. Megawati allowed the military substantial influence over policy-making with respect to conflict areas, and throughout her tenure, the government effectively abandoned reform and focused on defending its baseline policies, structures and economic interests.

The one exception to the Megawati government's inertia on the internal security front was terrorism, and even then it moved only in response to the 12 October 2002 bombs in Bali. Two presidential instructions issued immediately afterwards broadened police powers to apprehend and detain terrorist suspects and strengthened the role of the National Intelligence Agency (BIN) in coordinating intelligence; these later became the basis of new anti-terror legislation passed by the parliament.¹¹ (Widespread public opposition quickly stifled calls from some in the government, first after Bali, then after the August 2003 Marriott hotel bombing, for an internal security act, such as those in Malaysia and Singapore.)¹² However, the failure to prevent these attacks emphasised the need for further role definition, better coordination, and reform of the security agencies.

The Bali attack forced Indonesia to accept the reality of a domestic terrorist threat, and it produced a surge in international aid, directed overwhelmingly at the police. But it did not prompt any serious review of national security policy, capacity, or strategy from the executive branch. Indonesia's highest legislative body, the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR), had spelled out general aims and objectives relating to internal security the year before Megawati took office. But with no evident interest or direction from her, security policy under her administration was generally reactive rather than proactive. Where initiatives were

moderately successful, such as in Poso and Maluku, they were not sustained.¹³

In the absence of any strategic direction, interagency competition and overlap in what the TNI commander described as unresolved "grey areas" -- including counter-insurgency, counter-terrorism, narcotics interdiction, and response to serious outbreaks of violence -- continued until Megawati left office.¹⁴ This is the legacy that President Yudhoyono has to contend with.

¹¹ Presidential Instructions Nos. 4 and 5 of 2002 to the Coordinating Minister for Politics and Security and Head of the National Intelligence Agency respectively and Government Regulation 1/2002 on the Elimination of Criminal Acts of Terrorism, subsequently confirmed as Law 15/2003.

¹²"Maelstrom over Indonesia's anti-terror bill", Asia Times Online, 26 August 2003.

¹³ Peace agreements were concluded between the warring factions in Poso and Maluku on the initiative of Yusuf Kalla, at that time Coordinating Minister for People's Welfare, and others, especially General Susilo Bambang Yudhoyono, at that time Coordinating Minister for Politics and Security, in late 2001 early 2002.

¹⁴"Panglima TNI dan Kepala Polri Sebaiknya di Bawah Kementerian", *Kompas*, 15 April 2004.

III. THE "GREY AREAS"

A brief look at three of the grey areas -- counter-insurgency, counter-terrorism, and the circumstances under which the TNI should provide back-up support to the police -- gives an idea of both why a comprehensive review of internal security is needed and some of the entrenched institutional interests involved.

A. COUNTER-INSURGENCY: WHO'S RESPONSIBLE?

There are currently only two areas, Aceh and Papua, with serious armed insurgencies. Until 2000, the TNI had responsibility for tackling them but in a well-meaning effort to make internal security the preserve of a civilian agency, the government turned the task over to the police, and particularly to Brimob. The move did not work, in part because the process was rushed and the training woefully inadequate, but fundamentally because the scale of internal security challenges at the time was beyond Brimob's capacity.

There is also, however, a basic conceptual problem with putting the police in charge of counter-insurgency. Tasking the police with a combat role compromises their relationship with the community and blurs the distinction between the police and the military. It also risks undermining efforts to instil in the police a perception of themselves as civilians after 30 years under military command.¹⁵

Some police officers have no problem with Brimob's relinquishing the counter-insurgency role and would rather the military, with its better equipment and more appropriate training, not only confront the threat from armed insurgents, but also take the heat for public criticism of the way the operations are conducted. Others, however, see involvement in counter-insurgency operations as a key to extra funding, quite apart from the opportunities that both Aceh and Papua have provided for extra-legal income.¹⁶

Leaving counter-insurgency with the TNI, however, has its own problems, because in the past, those operations have been associated with human rights abuses and lack of transparency in funding, and it has

been largely left to the military to judge the point at which law enforcement efforts have to be abandoned in favour of armed force. If the military continues to have counter-insurgency functions, it is essential that its role, the capabilities required, and the command and control arrangements be defined and mandated by the government rather than assumed by the TNI. When and under what circumstances the military is authorised to assist with internal security should be a question of political judgment and decision. Only then should it be endowed with the necessary powers to conduct the assigned mission, either under the provisions of a declared state of emergency or other specific regulations. In all circumstances, military assistance should remain under the political direction of designated national or regional civil authorities.

One function of an internal security review could be to examine the appropriate division of responsibility between the police and military, help separate what is currently feasible from what is theoretically desirable, and set strategy for how to move from the first to the second. Equally important, though, is to set out criteria to help determine:

- when civil strife moves into armed insurgency on a scale that justifies military assistance, and when armed insurgency has been brought under control to the point where military assistance is no longer required;
- who will provide the necessary oversight and ask probing questions about the need for extensions of emergencies;
- how those oversight bodies can be assured of getting accurate information; and
- who will ensure financial accountability.

B. COUNTER-TERRORISM

Since 2000, the police have been given primary responsibility for and control over all counter-terrorism operations.¹⁷ They can be assisted by the military with certain assault, support and incident management tasks, but retain responsibility for first response, including establishing command and control arrangements; isolating the location; conducting negotiations; coordinating emergency services; and liaising with government. In instances where the president authorises military force, command would be handed to the military for the conduct of an assault

¹⁵ Crisis Group Report, *Indonesia: Next Steps in Military Reform*, op. cit, and "Reforming the Indonesian Police Mobile Brigade (Brimob)", op. cit.

¹⁶ Crisis Group interviews, February 2004.

¹⁷ MPR Decrees V, VI and VII of 2000.

and returned to the police when the scene had been secured for subsequent investigation and recovery operations.

Operational guidelines for counter-terrorism were prepared under presidential instruction in October 2002¹⁸ but never formalised by the president because the TNI claimed it should have more responsibility for internal security in general and counter-terrorism in particular.¹⁹ After the Marriot Hotel bombing on 5 August 2003, new national strategy and operational guidelines were prepared by President Yudhoyono's old office, the Coordinating Ministry for Political and Security Affairs, which proposed a framework consistent with democratic practice for counter-terrorism.²⁰ The guidelines reaffirmed the lead role of the police, but provided an ongoing role for the TNI, since military assistance would still be needed in areas such as the provision of land and maritime assault teams, maritime security, aerospace security, chemical, biological and radiological decontamination, intelligence, and logistical support.

However, according to then Minister for Justice and Human Rights (now State Secretary) Yusril Ihza Mahendra, the government was looking at ways to empower the Kopassus as a "special anti-terror squad". Yusril claimed there was resistance to placing the TNI under the operational control of the police, and the government was considering revisions to the anti-terror law (15/2003) to give the TNI a role.²¹ These had not emerged by the time the government changed, but the new TNI law states explicitly that a main task of the military "other than war" is to overcome terrorist actions.²²

A particular point of friction between the military and police has been Detachment 88.²³ Formed in 2003 with \$16 million²⁴ from the U.S. and trained by personnel

from a variety of U.S. agencies ranging from the Secret Service to the CIA, it comprises about 400 personnel and has intelligence, investigative and assault capabilities, as well as state-of-the-art equipment. It is not a Brimob unit but falls under direct command of police headquarters in Jakarta and began to be actively employed in counter-terror investigations in 2004.

In Crisis Group interviews conducted in May-June 2004, military officers had no argument with the intelligence and investigative elements of Detachment 88. They felt strongly, however, that TNI rather than the police should handle assault functions, such as storming a hijacked plane or rescuing hostages, and that the new unit needlessly duplicates military capabilities, particularly those of Kopassus's Unit 81, which has been trained to do exactly the same thing. These concerns are intensified by the money, equipment and foreign expertise that Detachment 88 is receiving. (Some officers also believe that only the TNI, not the police, has the capacity to infiltrate terrorist organisations and prevent future attacks, and, therefore, that more counter-terror funding should be directed its way.)²⁵ It is clear that two issues have to be clarified between the police and military. The first is how to avoid duplication when developing capabilities. The second is how the use of assault capabilities will be authorised. For example, will Detachment 88 have the capacity to resolve all forms of aircraft hijacking or the seizure of an offshore oilrig after negotiations have failed, and if not, at what point does the TNI step in and through what process? Only if the division of labour is spelled out will there be a basis for developing joint policy and operational procedures.

Within the military itself there is a need to rationalise the special forces of the three services. The diversity of the task and Indonesia's geography require some degree of specialisation, especially between land and maritime environments, but some roles are needlessly duplicated. For example, both the army and air force have the capacity to assault hijacked aircraft. There may be differences in the level of capabilities but the military cannot claim to be short of resources and at the same time be supporting redundant capacity.

As in every other "grey area", resolution of interagency tensions in counter-terrorism requires direction from

¹⁸ Presidential Instruction 4/2002, 22 October 2002.

¹⁹ Crisis Group discussions, senior officials on counter-terrorism desk, 23 April 2004.

²⁰ "Strategi Nasional Pemberantasan Terorisme and Pedoman Operasi Terpadu Dalam Penanganan Terorisme (Joint Operations Guide for Handling Terrorism)", Menkopolkam, Jakarta, 2003.

²¹ "Digodok, Peran TNI dalam Satuan Antiteror", *Kompas*, 20 September 2004.

²² Article 7(2) Law No. 34/2004 on the TNI.

²³ The name comes from a misunderstanding: American trainers referred to the unit as the "ATA" detachment, an acronym for Anti-Terrorist Assistance. Indonesians heard the name as "88", and so it became. John McBeth, "Elite Force", *Far Eastern Economic Review*, 13 November 2003.

²⁴ Figures in this report denoted in dollars (\$) refer to U.S.

dollars unless otherwise stated.

²⁵ U.S.-Indonesia Society (USINDO), "Enhancing the U.S.-Indonesian Security Relationship: An Opportunity Not to be Missed", December 2004, p. 16.

the top. The one bureaucratic effort made to address the problem after the Bali bombing, creating the Coordinating Desk for the Elimination of Terrorism, an office in the Coordinating Ministry for Political and Security Affairs, has not worked as intended, in part because the office has been hamstrung by lack of executive authority.

The Desk, headed by a respected police inspector-general, Ansyad Mbai, was supposed to have twenty staff members, but most were temporary; and in other assignments the permanent staff was skeletal. It had no analysts, no resources, and no ability to compel the agencies it was theoretically coordinating to provide information. The failure of these arrangements became evident immediately following the Australian embassy bombing on 9 September 2004, when the government announced formation of a task force, to be headed by the Director of BIN, to coordinate the counter-terrorism response of all intelligence and law enforcement agencies -- precisely what the Coordinating Desk was supposed to be doing.²⁶

The Yudhoyono administration is now moving to elevate the Coordinating Desk to an agency ("Badan"). With Ansyad Mbai as director, it would have five coordination centres (pusat koordinasi) responsible respectively for intelligence and political strategy; prevention, security and handling of the aftermath of terrorist incidents; enforcement (ensuring, for example, that police, prosecutors and judges shared a common understanding of national policy and anti-terror legislation); international cooperation, training, and foreign assistance; and public information, to ensure that Indonesians were kept informed of the nature of the threat and of counter measures.²⁷ Turning the Desk into a Badan would be done through a presidential instruction, but getting adequate funding depends on the parliament -- a much tougher proposition.²⁸

C. TNI BACKUP TO THE POLICE

Another major unresolved issue is exactly when and under what circumstances the military is to assist the police. As noted, the police currently lack the capacity to fulfil their internal security mandate satisfactorily. Bringing that capacity up to the

required level will take time, and the military will have to play a crucial role during the transition. Its role, however, should be strictly delimited, and the command arrangements with the police clearly defined. Will those forces be under police direction, will they have discrete statutory responsibility as implied in the TNI law, or will they operate under conflict-specific authority, such as a declared state of emergency? Efforts to address these questions through legislation have thus far fallen foul of military-police rivalry, as will be seen below.

1. Current police capacity

There are about 280,000 police, including 33,000 Brimob (paramilitary) troops, giving a total police to population ratio of 1:810, compared with a generally accepted desirable ratio of 1:400 or less.²⁹ Ideally, Indonesia should at least double the size of the force, but it should not rush toward expansion without a strategy for improving the quality of its performance at the same time.

At present, the force is very inefficient. Salaries are low, encouraging officers to seek additional income from other sources, both legitimate and illegitimate. They often spend time that should be devoted to official duties supplementing salaries by licit and illicit means, such as protecting illegal logging, gambling and prostitution rings. A retired senior police officer suggested only half jokingly that an unannounced roll call for most police and military units would be answered by about a third of the personnel supposed to be on duty.³⁰

Despite police success in capturing the Bali bombers, several polls suggest that public perceptions of the force's capacity have grown steadily worse over the last two years.³¹ In one poll, respondents listed police passivity as a major factor in outbreaks of public disturbances.³²

²⁹ For example, Australia 1:415, www.aic.gov.au; Malaysia 1:260, www.rmp.gov.my; U.S. cities with populations over 250,000 1:330, Japan, 1:480 and UK 1:286, "Global Report on Crime and Justice", UN Office of Drug Control and Centre for International Crime Prevention, New York, 1999, p. 24.

³⁰ For more details, see Crisis Group Report, *Indonesia: National Police Reform*, op. cit.

³¹ "Jajak Pendapat 'Kompas', Penegakan Hukum Memburuk", *Kompas*, 29 November 2004.

³² "Rekomendasi Arah Kebijakan Keamanan dan Ketertiban Masyarakat Serta Penegakan Hukum", *ProPatria*, 24 October 2004.

²⁶ "New Intelligence Force to Sideline Police", *Laksamana.Net*, 16 September 2004. In fact, the task force never materialised.

²⁷ Crisis Group telephone interview, December 2004

²⁸ Crisis Group telephone interview, November 2004.

Not only are police numbers grossly inadequate, but the force is also grossly under-capitalised. There is a great unmet need for police stations, building maintenance, vehicles, communications and information systems, aids to investigation, and the accompanying expertise. Inculcating norms of community policing, and in particular encouraging public cooperation with the police, is doubly difficult under such circumstances. A manifestation of this is a tendency for communities to dispense summary justice when petty criminals are caught in the act, rather than report the trouble to the local police station. Several hundred deaths result from such vigilante violence each year.³³

Crisis Group elaborated a series of reform options in earlier reports, including recommendations on expanding the force, but these are medium- to long-term improvements that will take several years to achieve.³⁴ In the meantime, there is little option but to continue making use of the army to assist the police in certain aspects of internal security.

The government should consider formulating a police development plan, informed by the internal security review recommended above, to meet its obligations nationwide. It should be coordinated with reform of other state institutions, not least the justice sector, and phased in accordance with government resource projections. Bappenas (National Development Agency) arrangements call for the submission of five-year plans to support annual budget submissions to parliament. A five-year plan for the police might serve as a roadmap for how capacity to address internal security should increase and how the reliance on military back-up could be gradually reduced.

2. Current military commitment in internal security

The military is fulfilling a variety of police functions. Most of the 347,000 men and women of the TNI -- 268,000 army, 54,000 navy and 25,000 air force -- are engaged more in internal security than external defence.³⁵

The TNI will continue to do counter-insurgency, as in Aceh, for some time. It is also often used to assist with law and order tasks, especially for major events like nationwide elections. For example, 35,000 troops were deployed to help the police secure the second round of the presidential elections in September 2004.³⁶ As capacity is strengthened, responsibility for this kind of task should be transferred to the police.

But the bulk of the military's internal security commitment, some 180,000 troops, is the army territorial command, the structure that parallels civilian administration down to the village level. Every day, in most parts of the country, the territorial units are doing work that should gradually be transferred to the police.

The doctrinal strategic concept that underpins the territorial commands remains valid -- to organise a guerrilla campaign against technologically superior foreign forces -- but in the absence of any major external threat, there is no reason why the command structure could not be radically overhauled. The central commands, Kostrad, Kopassus and the Marine Corps, could represent the future core mobile forces, organised and equipped to deal with contingencies short of massive invasions that would justify large-scale mobilisation. While police deficiencies will continue to necessitate military assistance with certain internal security functions during a transitional period, the command structure could be tailored to perform those limited functions more effectively in areas of most need, with other areas being whittled away to representational and administrative requirements, such as community liaison and provincial recruitment and training.³⁷ Article 11 of the new TNI law does call for deploying TNI troops in areas of greatest need, in accordance with a national strategy, but is silent on the question of abolition, or even change, of the current structure.

The army will fight a strong rearguard action to retain the territorial commands for a number of reasons: fear of separatism, the economic advantage flowing from access to resources nationally, institutional ambivalence about democracy, and contempt for the governing capacity of many civilian politicians. Defence Minister Juwono Soedarsono

³³ Bridget Welsh, "Mobs and myths: Krismon, democracy and vigilante violence", paper presented at UNESCO-LIPI conference on "Conflict In Asia-Pacific: State Of The Field And The Search For Viable Solutions", Hotel Nikko Jakarta, 22-24 October 2003.

³⁴ Crisis Group Report, *Indonesia: National Police Reform*, op. cit.

³⁵ "Keamanan Nasional", Monograph No. 2, ProPatria, Jakarta,

16 February 2004, p. 35.

³⁶ "Govt to deploy 220,000 police, 35,000 soldiers in September elections", *The Jakarta Post*, 4 August 2004.

³⁷ Crisis Group Report, *Indonesia: Next Steps in Military Reform*, op. cit., p. 5.

told a reporter, "My military friends say that they would bow [to] civilian supremacy only when civilians are of supreme quality".³⁸

D. THE NEED FOR AN INTERNAL SECURITY CONCEPT PAPER

A systematic attempt to define internal security strategy and responsibilities as the basis for legislation and policy would be the first step toward sorting out these grey areas. The 2003 defence policy paper, "Defending the Homeland in the Early 21st Century",³⁹ assesses the global, regional and domestic threats, but because it was drawn up as the basis for TNI development, does not address the needs of the police or intelligence services or broader internal security policy and management issues. (That said, a criticism from Jakarta-based military analysts was that it focused far too much on internal security threats and was seen in some quarters as a statement of the TNI's determination to stay involved on this front.)⁴⁰

A parallel policy paper for internal security should cover:

- ❑ the nature of the threats;
- ❑ policies for addressing the causes of conflict and resolving existing conflicts;
- ❑ policies for preventing, countering and recovering from outbreaks of violence whether resulting from a breakdown of public order or political motivations;
- ❑ the division of responsibility between national and local government, departments and agencies; and
- ❑ capability requirements, including expected changes over time, especially for the police, military and intelligence services.

Without such a paper, there is likely to be continuation of ad hoc approaches to short-term problems and failure to focus on longer term needs and goals.

IV. DEFINING RESPONSIBILITY IN LAW

Laws and regulations, if backed by strong political commitment to their implementation, also could go a long way to clarifying grey areas, but in some cases, legislation has simply added to the confusion. There is no disagreement that the military is responsible for defence or that the police are responsible for law enforcement and public order, but both are given responsibility for aspects of internal security.

One aim of any internal security review would be to identify the shortcomings and contradictions of existing laws and recommend amendments or new laws as needed. The government would then have to lobby to get its legislative agenda enacted. If the wrangling within the parliament (Dewan Perwakilan Rakyat, DPR) in late 2004 was any indication, this will be no easy task.

Seven key legislative documents relate to the division of responsibility for internal security: the 1945 Constitution as amended; Decrees V, VI and VII of the MPR; Law No. 2/2002 on police; Law No. 3/2002 on defence; and the new TNI law enacted in September 2004.

A. THE 1945 CONSTITUTION

The original 1945 Constitution was a short document that provided for a strong presidency within a broadly democratic framework. It gave the president supreme authority over the armed forces and the power to declare a state of emergency. It also obliged citizens to participate in national defence. The second amendment to it, passed during the 2000 session of the MPR, added the following provisions:

- ❑ national defence and security was to be implemented in accordance with the system of Total People's Defence and Security, with the military and police as the primary force and the people as the supporting force;
- ❑ the military -- army, navy and air force -- was an instrument of state to defend, protect, and maintain national sovereignty and unity;
- ❑ the national police force was an instrument of state to safeguard security and public order with responsibility for protecting, guiding, and serving the public, and upholding the law; and

³⁸ "Transparency will be instituted in defence ministry", *Jakarta Post*, 4 November 2004.

³⁹ "Mempertahankan Tanah Air Memasuki Abad 21", Department of Defence, Jakarta, March 2003.

⁴⁰ "Rekomendasi Arah Kebijakan Keamanan dan Ketertiban Masyarakat Serta Penegakan Hukum", ProPatria, Jakarta, October 2004, p. 16.

- the structure and disposition of the military and police, their authority to perform their tasks, and the conditions for public participation in defence and security, as well as other matters related to defence and security, would be addressed in subsequent legislation.

Although the reference to "total people's defence and security" seems to be an innocuous statement of philosophy, it became contentious when the TNI in later legislation claimed the right to interpret its relevance for the organisation and structure of the military. The second and third points differentiated military and police functions. Point three allocated responsibility for internal security to the police but reference to national sovereignty and unity in the second point opened the door to military involvement.

B. MPR DECREES

The MPR approved a series of decrees in the same 2000 session to guide subsequent legislation relating to constitutional amendments. MPR Decree V/2000 on Stabilising National Unity and Integrity critiques past practice under Soeharto and provides a context for corrective measures across all relevant sectors, including the subsequent decrees on the police and military. It briefly identifies the problem, sets out the desired outcomes, gives policy direction for achieving them, and outlines performance measures. It calls for improved professionalism in the military and the police and the restoration of their images to create a sense of security and social order. It requires that the military be made an effective instrument of the state for defence and the police for security and calls for restoration of the integrity of both as part of society.

MPR Decree VI/2000 on the Separation of the TNI and the Police of the Republic of Indonesia mandates separation of the two bodies. Without attempting to define "defence" or "security", it clearly specifies that the role of the military is defence, and the role of the police is maintenance of security, but it requires them to cooperate with and assist each other. It then stipulates that their roles will be established by a subsequent MPR decree and mandates implementing legislation.

MPR Decree VII/2000 on the Role of the Indonesian National Army and the Republic of Indonesia Police repeats that the military is an instrument of the state whose primary role is defence but adds that its principal task is to uphold national sovereignty, defend the boundaries of the Unitary Republic of

Indonesia, and "protect all Indonesians from threats and disturbances to the unity of the people and the country". This clearly implies an internal security function. It further stipulates that the heads of both bodies will be under the president's authority and requires the military to assist the police on request, with specifics to be regulated in subsequent law. The police are required in turn to assist the military on request in defence emergencies, again with specifics to be provided in later legislation.

Because of clear inconsistencies in the constitutional amendments and MPR decrees -- not just those relating to internal security -- the MPR in August 2003 set up a Constitutional Commission, composed largely of academics, to reconcile some of the differences. It produced lengthy recommendations for the MPR to consider in its 2004 session, but its work was largely ignored, and it is not clear what will happen to the recommendations.⁴¹

C. THE POLICE LAW

Law 2/2002 on the Indonesian Police of January 2002 defines policing as fostering security and public order, upholding the law, and protecting, guiding and serving the people. It specifies that the police are a national force under control of the president and spells out powers of arrest, search and seizure. The law also authorises the police to request TNI assistance as needed, with modalities to be spelled out in subsequent regulations, and obliges the police to assist the military in times of defence, emergency or war.

⁴¹ Crisis Group telephone interviews, November 2004. With respect to national security, the Commission recommended clarifying the division between police and military by defining the role of the police under clauses on justice and law enforcement rather than under defence and security; by stressing the TNI's defence role; and by extending the meaning of security to embrace "human security" so that not only the army and police but many other agencies as well as civil society would have legitimate roles in maintaining it. The Commission noted, however, that at an April 2004 seminar, neither the TNI commander nor the national police chief were particularly interested in changing the status quo. The commander stressed that the continuing existence of "grey areas" gave the military a political and legal umbrella to address security issues, and the police chief wanted references in the constitution to his forces kept under the security heading rather than under justice. See Komisi Konstitusi Nasional, *Kajian Komprehensif Komisi Konstitusi Tentang Perubahan UUD 1945* (Jakarta, 2003), pp. 216-227.

D. THE DEFENCE LAW

Law 3/2002 of January 2002 defines national defence as all endeavours to defend national sovereignty, the unity of the Unitary Republic of Indonesia, and the safety of all citizens from threats and disturbances to the people's and the nation's unity. The explanatory notes make it clear that this includes external and internal threats that might take the form of external or domestic terrorism, or a combination of the two; armed revolts; and civil wars. The law specifies that "national defence will be organised in accordance with democratic principles".

Authority for deployment of the military lies with the president, with concurrence of the parliament. All matters related to TNI organisation, structure and functions are to be left to subsequent legislation. The law also mandates establishment of a National Defence Council (Dewan Pertahanan Nasional, DPN) under the president, with authority to assess and advise on national defence policy. Because it comes under the defence rubric, it has a strong military bent, in both terms of reference as outlined in the law, and composition.

E. THE TNI LAW

Law No. 34/2004 on the TNI was finally passed in September 2004, but only after a battle between a military establishment that wanted a larger role in internal security and, by implication, statutory authority independent of the police and even the government in certain circumstances, and a public that remained committed to institutionalising civilian control.⁴² The law removed some of the most contentious aspects of earlier drafts and instituted some useful provisions on bringing military businesses under government control, but it also perpetuated blurred lines of responsibility for internal security by listing several areas of military responsibility "other than war". These included:

- overcoming armed rebellion and separatist movements;
- overcoming terrorist actions;
- safeguarding Indonesia's borders;
- securing strategic installations;

- protecting the president and vice presidents and their families;
- assisting in local governance;
- assisting the police in maintaining law and order;
- assisting with disasters and with search and rescue operations; and
- helping the government guard against hijacking, piracy, and smuggling.⁴³

Some of these categories are shared with the police (counter-terrorism) or seem to go beyond a normal military role (assisting in local governance). Others need to define more clearly the scope and modalities of military assistance to the police. For example, in dealing with communal conflict, what sort of threats might arise, what might be the military's potential role in addressing them, how would it coordinate with the police, and under what authority?

The debate over the TNI law served as a healthy public airing of views over the role of the military. The TNI's own desire for statutory authority was expressed by inclusion of what was commonly (but inappropriately) referred to as the "coup clause" in an early 2003 draft.⁴⁴ That clause would have allowed the military to deploy forces in an emergency without presidential authorisation for up to 24 hours. Explaining the need, then Defence Minister Matori Abdul Djilil said the military considered the civilian elite too slow to react because of partisan political considerations and worried that it would respond late to crises.⁴⁵ The military should, therefore, be left to define what constituted an emergency as well as to authorise troop deployments in the first instance. Strong opposition in the parliament and beyond killed the draft but the need for a quick response to emergency situations remained a valid concern.

⁴³ Undang-Undang Tentang Tentara Nasional Indonesia, Article 7(2), September 2004. In the 2003 Defence White Paper, these tasks are divided into three main categories: politically motivated violence (terrorism, separatism, radical groups, communal conflict); law enforcement (piracy and theft of marine treasures and resources, illegal migration, illegal fishing, marine pollution, illegal logging, and smuggling); and emergency management (assistance with national disasters, refugees, search and rescue, and protection of vital objects). "Mempertahankan Tanah Air Memasuki Abad 21", op. cit., p. x.

⁴⁴ "Draf Rancangan Undang-Undang TNI Kudeta TNI Akan Sah", *Koran Tempo*, 27 February 2002.

⁴⁵ "Kewenangan Panglima TNI Harus Terbatas", *Kompas*, 3 March 2003.

⁴² Crisis Group interviews with a retired senior officer on the drafting team and others.

A revised draft TNI law was resubmitted for consideration in August 2004, during the closing days of the parliament. It had been prepared by the TNI without broader public consultation and although it omitted the "coup clause", it asserted a sweeping mission and gave the military functions and tasks that would legitimise its own concept of defence policy, strategy, structure and responsibilities. One critique described it as riddled with clauses that could obstruct democratisation.⁴⁶ These included limits on the president's authority to order TNI deployment, provisions for seconding active-duty military personnel to non-military appointments in other government departments and agencies; limitations on parliament's role in appointing the TNI commander, retention of a cabinet post for that commander, continuation of the TNI's direct reporting line to the president rather than through the Ministry of Defence, and inconsistencies with the 2002 Defence Law.

In short, the new draft contained too many clauses that undermined civilian control. Some, but not all, of these concerns were addressed in the version finally adopted in September 2004. The parliament, for example, consistent with the Defence Law, now has to approve the use of force within 48 hours after the president orders deployment, an improvement on earlier drafts. The task now is to differentiate between the long-term internal security commitments that will require the development of specific capabilities and those of a transitional nature that can be reduced as police capacity improves.

F. EFFORTS TO DRAFT A LAW ON TNI ASSISTANCE TO CIVILIAN AUTHORITIES

The 2002 Police Law mandated the enactment of subsequent legislation regulating the circumstances under which the military would assist the police on internal security matters, but thus far, institutional rivalries seem to have thwarted efforts. Early in 2004, a joint police-military team drafted a regulation on TNI assistance that it sent to TNI for approval. TNI responded by proposing to prepare a full-fledged law rather than a regulation. Some in the police believe this was a stalling tactic, because the TNI law gave the military the vague mandate it wanted to address

all situations "other than war" -- without defining a division of labour with the police. They think that parts of the TNI would prefer no law on military assistance because it would narrow the leeway just acquired to address internal security.⁴⁷

Military assistance to the police is only one aspect of the broader requirement for military assistance. Legislation on this matter should be broadened to encompass military assistance to the civil authority, including to the police for incident management and to designated civil authorities in the case of an established insurgency.

⁴⁶ Rizal Sukma, "Kontroversi RUU TNI, Kompas", 5 August 2004. In fact, while critics wanted to see the TNI subordinated to the Ministry of Defence, this itself would have been inconsistent with the 2002 Defence Law.

⁴⁷ Crisis Group interviews, Jakarta, June 2004.

V. IMPROVING INTELLIGENCE COLLECTION AND COORDINATION

Intelligence collection and analysis on internal security matters is another area where there is an urgent need for presidential direction. At present, the intelligence services are marked by blurred lines of authority, interagency rivalry, lack of coordination, unnecessary duplication, lack of adequate oversight, and the legacy of an authoritarian past. But good intelligence has never been more important, and according high priority to this function could produce relatively quick, efficient and lasting returns.

There is a considerable body of literature on "best practices" for overhauling intelligence services in newly democratic countries, and any comprehensive review of internal security policy might want to consider some of these models.⁴⁸ The danger is that the imperative of responding to Indonesia's terrorism threat will lead to the creation of new bodies or to additional powers being granted to existing agencies without much thought for what principles should govern intelligence collection; what different capacities are needed for the collection of criminal, internal security, and external intelligence respectively; or what the intelligence system as a whole should look like.

Three separate agencies are tasked with intelligence collection and analysis. The National Intelligence Agency (Badan Intelijen Negara, BIN) is responsible for coordination but also engages in some collection and analysis related to terrorism, potentially dangerous political and religious movements, and other internal security matters. Since the Bali bombs, it has been using the threat of terrorism to press for extensive powers of search, arrest and detention normally reserved for the police. The national police (Polri) have traditionally been responsible for criminal intelligence -- collecting information about criminal networks as a crime prevention and law enforcement tool -- but are now developing a

capacity for collection and analysis of internal security intelligence, particularly in relation to terrorist threats. The TNI's Strategic Intelligence Agency (BAIS) is engaged largely in collection of foreign and counter-intelligence and analysis, but also, through its territorial command, is still deeply involved in domestic collection.

In addition to these three, the prosecutors, immigration and customs have specialised intelligence functions. For example, an intelligence directorate in the immigration office of the Justice Ministry was established in October 2004 to keep a better record of people entering and leaving the country and help track individuals possibly involved in transnational crimes such as terrorism and trafficking in drugs and people.⁴⁹

There is an urgent need to clarify responsibilities among these agencies, particularly the big three. The obstacles are rooted in a combination of the agencies' institutional cultures and current aims.

A. BIN, THE NATIONAL INTELLIGENCE AGENCY

BIN's forerunner, the National Intelligence Coordination Agency (Badan Koordinasi Intelijen Negara, BAKIN), was established in 1967 as a non-departmental agency under control of the president to collect intelligence and coordinate collection and assessment of all intelligence, including military and immigration. By the time Soeharto fell, it had ceased to be of importance, was demoralised and largely ignored by the agencies it was supposed to coordinate, and was looking for a role.⁵⁰

The Wahid administration markedly increased its budget, and in January 2001 changed the name to emphasise its operational function and the diminution of its coordinating role. When Megawati became president in July 2001, she appointed Lieutenant General A.M. Hendropriyono as head of BIN and elevated him to ex officio cabinet status. He was a Kopassus officer who had served in military intelligence and as Minister of Transmigration under President Habibie from 1998 to 2000. Criticism after the Bali bombing on 12 October 2002 of the lack of intelligence coordination prompted the Megawati government, through Presidential Instruction 5/2002,

⁴⁸ See, for example, DCAF Intelligence Working Group, "Intelligence Practice and Democratic Oversight -- A Practitioner's View", Geneva Centre for Democratic Control of Armed Forces, Occasional Paper No. 3, August 2003, and Sandy Africa and Siyabulela Mlombile, "Transforming the Intelligence Service: Some Reflections on the South African Experience", Project on Justice in Times of Transition, Harvard University, 15 October 2001.

⁴⁹ "Immigration Gets Intel Directorate", *Jakarta Post*, 16 October 2004.

⁵⁰ Conboy, *Intel*, op. cit.

to resurrect BIN's coordination function and strengthen its operational functions.

Hendropriyono had tried unsuccessfully to have extensive police powers granted to BIN in the presidential instruction of October 2002.⁵¹ Not long after, a draft intelligence law, dated January 2002, was leaked. It had been prepared by BIN after Hendropriyono's appointment and after the 11 September 2001 attack on the U.S., but before the Bali bombing. It proposed extensive powers of arrest, detention, investigation and search along with restrictions on legal representation and the right to remain silent. This draft had not been through the formal government process and was subjected to heavy criticism, despite the shock of Bali, from the vice president, chief justice, police chief, director general of legislation in the department of justice, and community groups, who agreed that BIN should not be granted such powers. The chief justice and police chief held that the powers exercised by the police and prosecutor's office were sufficient.⁵²

Leading Indonesian human rights organisations voiced concerns that the draft bill threatened a rollback of hard-won civil liberties, particularly if combined with the restrictive provisions on freedom of information, state secrets, and anti-terrorism in a number of other draft laws.⁵³ The late rights advocate Munir declared that the series of draft laws would make BIN a "state within a state".⁵⁴ After this barrage of criticism, the BIN draft seemed to be laid to rest, at least temporarily.

However, the government's announcement in early 2004 that it intended to authorise BIN to open regional offices and institute regional coordination bodies to be chaired by governors and district heads re-ignited public disquiet.⁵⁵ Various groups raised questions about the expansion of BIN's role, the mobilisation of the bureaucracy for intelligence purposes, and indications of increasing surveillance and control of Islamic sermons and meetings.⁵⁶

Feisal Tamin, minister for the state apparatus, tried to calm such fears by emphasising that the move was designed to improve rather than expand BIN's intelligence gathering at the national, provincial and district levels.⁵⁷ However, some members of parliament and other commentators expressed concern about the possible return of the intelligence culture of the Soeharto era and suggested that legislation was needed to spell out the functions of the intelligence agencies and keep their powers within acceptable bounds.⁵⁸

The fact that Hendropriyono, the head of BIN, was a member of the central committee of President Megawati's party was also cause for concern, since any BIN head controls what intelligence is collected and how it is used and exercises political discretion in relation to interagency coordination.

BIN continued to press for additional powers until the last days of the Megawati government. In response to the Australian Embassy bombing on 9 September 2004, the government announced the transfer of some police intelligence functions to BIN, despite good work done by the police in arresting terrorist suspects. The government said that it would establish a new taskforce, headed by the BIN chief, to coordinate the intelligence agencies of the police, army, navy and air force.⁵⁹ Then a third draft of the intelligence bill first discussed in 2003 began circulating, again including broadly defined arrest powers.⁶⁰

With the transfer of power to a new government, all these moves are on hold, and the door is open to the Yudhoyono team to rethink the purpose and scope of the intelligence services in a more comprehensive fashion.

B. POLICE INTELLIGENCE

The police have their own intelligence agency that has traditionally gathered information on organised crime, narcotics, possession of guns and explosives,

⁵¹ "BIN usulkan Pasukan Penculikan", *Koran Tempo*, 6 March 2003.

⁵² "Maulani Minta DPR Tolak Permintaan BIN", *Koran Tempo*, 27 February 2003.

⁵³ "Intelijen Negara", *Detik.com*, 5 March 2003.

⁵⁴ Interview with Radio Netherlands, 5 March 2003.

⁵⁵ The idea of regional offices had first been raised in the aftermath of the Bali bombs. See "BIN Akan Buka Cabang Hingga ke Daerah", *Tempo*, 27 November 2002.

⁵⁶ "Intelligence body will have offices in regencies", *The*

Jakarta Post, 8 January 2004.

⁵⁷ "Pemerintah Tingkatkan Peran Intelligence Negara", *Koran Tempo*, 1 August 2004, and "BIN Ingin Membangun Angkatan ke-IV", *Sabili*, 13 February 2004.

⁵⁸ "Intelligence body will have offices in regencies", *The Jakarta Post*, 8 January 2004.

⁵⁹ "New Intelligence Force to Sideline Police [including detachment 88]", September 16 2004, *Laksamana.net*

⁶⁰ "Intelligence Function and Society", Opinion by Begi Hersutanto, Centre for Strategic and International Studies, *The Jakarta Post*, 4 August 2004.

and security of major buildings and installations. When Polri was also made responsible for internal security, it had to broaden its intelligence gathering to include individuals and groups employing or likely to employ politically motivated violence, such as separatist movements and terrorist groups.

But terrorism concerns have produced at least two other intelligence-gathering units, and it is not clear how well they coordinate. After the Bali bombing, a special task force was established to investigate and prosecute terrorism suspects. This was a legitimate organisational response but it caused frictions because the task force reported directly to the Chief of Police, rather than through the chief of criminal investigation, whose remit also includes the intelligence directorate. Because the task force had access to its own information, some analysts expressed concerns that it might lead to duplication of efforts or, worse, hoarding of information, thereby reducing the effectiveness of both intelligence and criminal investigation.

An intelligence unit was also created under Detachment 88, again with a trade off: the police have added to their capability to gather and assess information on groups involved in terrorist acts, such as Jemaah Islamiyah, but they may be increasing the risk that vital information is not shared within a single agency, let alone with groups outside the police.

C. MILITARY INTELLIGENCE

The TNI's Strategic Intelligence Agency (BAIS) had a domestic intelligence-gathering role until the MPR transferred responsibility for internal security to the police in 2000 and reoriented it to external defence. In fact, however, it remains actively engaged in domestic intelligence collection and is committed to retaining this function. This was evident in August 2004 when the then army chief of staff, Lt General Ryamizard Ryacudu, stated that the army needed to improve territorial intelligence to deter social conflict and take preventive action against certain external and internal groups.⁶¹ Except where a state of emergency has been declared, BAIS is conducting these activities on its own authority on behalf of the TNI, without presidential or parliamentary authorisation.

The new TNI law contains clauses that would at least implicitly grant authority to continue nationwide internal security intelligence operations. For example, this could be done under Article 6(2), tasking the TNI to defend the nation from armed threats from inside and outside the country, and Article 7(2), listing the main tasks of the army "other than war".⁶² To carry out these tasks, the TNI will need access to basic intelligence since it cannot be deployed blind.⁶³ The question relevant to civil control is whether the military should collect its own current internal security intelligence or draw on civilian agencies, i.e. the police and BIN.

At a minimum it should collect basic intelligence that is relevant to its external defence responsibilities. But if it is authorised to support the police, or if troops are sent into an area under a state of emergency or deployed to assist with natural or manmade disasters, TNI will want to collect its own intelligence, instead of relying wholly on civilian agencies. The limits on its doing so need to be debated and regulated. Also, if BAIS is currently making a significant contribution to domestic intelligence collection, and the government or parliament decides that this role is to be curtailed, a transition process will be required to ensure that any critical gaps are filled. Obviously, any specialised assistance it might render, such as communications intercepts obtained in the course of authorised operations, should not be denied to the overall intelligence effort.

D. THE NEED FOR A COMPREHENSIVE REVIEW

There is obvious duplication in internal security intelligence collection. The military is still deeply involved, the police are increasing their capability, and until the last days of the Megawati government, BIN was trying to expand its role. But the problem goes deeper than institutional overlap. Indonesia has undergone fundamental political changes in the last six years and needs intelligence institutions that can both respond to new threats like terrorism and serve the needs of a democratic society. That is why the

⁶¹ "Pemerintah Tingkatkan Peran Intelijen Negara", *Koran Tempo*, 1 August 2004.

⁶² Undang-Undang Tentang Tentara Nasional Indonesia, Article 7(2), September 2004.

⁶³ Basic intelligence refers to factual information about geography, the composition of populations, the economy, political structures and dynamics, etc. Current intelligence relates to information on current events and incidents that might allow the successful conduct of operations by deployed forces.

experience of governments that have undergone similar transitions might be particularly fruitful.

South Africa, for example, produced a White Paper on Intelligence after its first democratic elections that started with a statement of the principles to govern the intelligence services. These include subordination to the rule of law; political neutrality; accountability and parliamentary oversight; maintenance of a fair balance between secrecy and transparency; separation of intelligence from policy-making; and an ethical code of conduct for intelligence agency personnel.⁶⁴

A comprehensive review by the Yudhoyono administration could ground Indonesia's intelligence services in similar principles; set priorities; lay out clear divisions of labour among military, police, and BIN; and examine checks and balances in place to ensure appropriate control and oversight. The government and parliament should resist any quick consideration of the draft intelligence law currently being circulated for discussion and await such a review, so that a law can be drafted based on its findings and recommendations.

The Geneva Centre for Democratic Control of Armed Forces suggests that any law contain the following elements:

- ❑ the basic mission of the intelligence services;
- ❑ the areas of their responsibilities;
- ❑ the limits of their competences;
- ❑ the methods of operation and the restrictions imposed on their activities;
- ❑ the organisational structures in general;
- ❑ the relations among intelligence and security services associated in an intelligence community;
- ❑ the means by which the services will be controlled and held accountable;
- ❑ the mechanisms of executive and judicial control and supervision and legislative oversight; and
- ❑ the legal means provided to deal with complaints in cases of violation of rights.⁶⁵

Such a law could help to secure Indonesia's democratic gains.

VI. POLICY DIRECTION AND CONTROL: THE OPTIONS

The lack of sustained internal security policy-making and supervision is evident in the responses to almost all crisis areas. Major General (ret.) Kiki Syahnakri, for example, drawing on the lessons of East Timor, has highlighted the problems that will be confronted in Aceh if effective measures are not implemented to win the loyalty of the population.⁶⁶ This is a matter of policy and strategy; the conflict in Aceh will not be resolved by military operations or law enforcement alone. A critical part of a comprehensive review would be to determine what bureaucratic arrangement would best facilitate better interagency coordination and policy-making on internal security, conflict prevention, and conflict resolution.⁶⁷ At present, no ministry has the portfolio for these issues.

President Yudhoyono has at least four options: to strengthen the authority and resources of his old office, the Coordinating Ministry for Political, Legal and Security Affairs (Menkopolkukam); to create a director general for internal security within another ministry; to create a new Ministry of National Security; to set up a National Security Council, appropriately staffed and empowered; or some combination thereof.

The office of the Coordinating Minister for Political, Legal and Security Affairs (Menkopolkukam) as currently constituted is designed to assist the president in coordinating the implementation of policies produced by other ministries.⁶⁸ It is not staffed to make and implement policy itself. When Yudhoyono, as Coordinating Minister, was asked to develop a policy on counter-terrorism,⁶⁹ he had to borrow staff from other relevant ministries. Noted economist Umar Juoro once recommended that coordinating ministries should be scrapped, "because

⁶⁴ Sandy Africa and Siyabulela Mlombile, op.cit. p. 5.

⁶⁵ Occasional Paper No. 3 of the Geneva Centre for Democratic Control of Armed Forces, op.cit.

⁶⁶ "Aceh Pascadarurat Militer -- Sudah Siapkah Konsep Otoritas Sipil", *Kompas*, 17 May 2004.

⁶⁷ Comprehensive reviews were crucial to devising national security strategies in South Africa, Rwanda, Kenya and Uganda, which then provided the foundation for designing appropriate policy, as well as improving interagency cooperation. See Ann Fitzgerald and Anicia Lala (eds.), "Providing Security for People: Security Sector Reform in Africa", Global Facilitation Network for Security Sector Reforms, 2003.

⁶⁸ Responsibilities of coordinating ministers are laid out in Presidential Decree 100/2001.

⁶⁹ Presidential Instruction 4/2002 dated 22 October 2002.

their roles are nothing more than being the government's public relations officers".⁷⁰ Although unfair, this comment underscores the difficulties when a wide-ranging brief is linked to extremely limited executive and budgetary powers. President Yudhoyono is well aware of the office's limitations and reportedly would like give it more power but even the terms of reference for incorporating legal affairs in its mandate have yet to be drafted.

Another option is to give the internal security portfolio to an existing ministry. One possibility would be Home Affairs.⁷¹ It has links to provincial and district governments and responsibility for decentralisation, but the traditional practice, which President Yudhoyono has continued, of choosing a retired army officer to head it, might make it more difficult for the minister to stand above the institutional rivalries that need to be sorted out. Still, the pros and cons of establishing a new directorate general for internal security within the ministry, headed by a non-military figure and staffed by appropriately qualified people, including those with skills in conflict prevention and resolution, might be worth considering.

There is also a strong argument for placing the police in the Justice and Human Rights Ministry. That would facilitate coordination among different parts of the legal system and help underscore that the aim of good police work is justice as much as protection and security.

If the TNI is to be subordinated to a ministry, the only serious option is Defence, and a broad range of analysts committed to strengthening civilian control has recommended it -- as has Defence Minister Joewono Soedarsono himself.⁷² A working group made up of representatives from the ministry and TNI headquarters was established in November 2004 to consider, among other issues, this subordination.⁷³

⁷⁰"Rainbow Cabinet Unprofessional, Say Observers", *The Jakarta Post*, 10 August 2004.

⁷¹ Indeed, Defence Minister Juwono Sudarsono suggested in an interview that he expected the TNI to be placed eventually under his ministry and the police under Home Affairs. "Transparency will be instituted in defence ministry", *The Jakarta Post*, 4 November 2004.

⁷²"Real military reform depends on civilians", *The Jakarta Post*, 24 June 2004, and ProPatria, "Naskah Usulan Perubahan Konstitusi tentang Keamanan Nasional", Jakarta, 23 January 2004, p. 5.

⁷³ *Koran Tempo*, 8 November 2004. The working group's main task is to bring the military businesses and foundations

The stated aim was to complete the process within two to three years, but there is already talk of integrating TNI into the ministry, rather than subordinating it, with the defence minister and armed forces chief on an equal footing.

The president could subordinate the military to the minister or, as a stepping stone, have him report through the minister, when he appoints the next TNI commander, although this would be politically tricky even without the controversy generated by Megawati's having sought to replace the commander days before she left office.⁷⁴ The military would likely oppose such a move but its opposition might be tempered if the police were subordinated to a minister at the same time. There would have to be a clear understanding that the military would be under the national policy direction of the minister, not the civil service.

Another option would be to create a ministry of national security to incorporate military, police, and BIN, but the political obstacles would almost certainly be insurmountable. The heads of all three bodies are presently directly under the president, although Yudhoyono has taken the important step of ending the practice of allowing the Director of BIN to sit in the cabinet as an ex-officio member. It would be difficult enough to get any of the three under the control of a ministry, let alone bringing all under a single roof, since they would see such moves rightly as an effort to weaken their independence.

Finally, President Yudhoyono could move forward with a much-discussed National Security Council, which might well improve policy control, as it has in several African countries.⁷⁵ Some people close to the

under the control of the government. It will also consult with the parliamentary commission on defence and security.

⁷⁴ President Megawati submitted a letter to the parliament appointing Ryamizard Ryacudu as armed forces chief on 8 October, twelve days before she left office. President Yudhoyono revoked the letter almost immediately, reinstating Endriartono Sutarto, but the majority faction in the parliament, which is loyal to Megawati, approved the letter that had already been revoked. The matter has still not been resolved. See, "Bullying Losers Stall SBY Reforms", *The Australian*, 8 November; "Legislators Defy President over TNI Chief", *Laksamana.net*, 30 October.

⁷⁵ The creation of National Security Councils or National Security Coordinators in conjunction with oversight procedures has helped to improve the management and coordination of security issues and been a crucial element of security sector reform in several African states, including South Africa, Ghana and Sierra Leone. Crisis Group e-mail correspondence with South African security expert. See also

president have proposed a U.S.-style NSC, with a national security adviser. However, Indonesia has no law mandating the creation of an NSC, and without one, it may be difficult to justify, let alone fund. By contrast, the creation of a National Defence Council and a National Police Commission are mandated under existing laws, and President Yudhoyono appears to be moving forward with both. They could well become useful but an overarching executive body embracing national security policy and covering all aspects of national security, including both military and police matters, would probably go further toward improved coordination and control.

VII. ACCOUNTABILITY OF INTERNAL SECURITY SERVICES

One of the most sensitive issues for Indonesia is how to improve the accountability of its security services, through executive, legislative and judicial oversight and other mechanisms. The problem is not simply the reluctance of those services to be subjected to more supervision; it is also been the lack of interest and poor calibre of some of the civilians tasked with oversight responsibilities.⁷⁶

The parliament's role in budgetary authorisation is clearly its main check on the executive branch. Parliamentary commissions, however, are also increasingly active in requesting information from the government, holding hearings, and generally subjecting the executive branch to greater scrutiny than ever before -- indeed some have expressed concern that the DPR is trying to usurp some executive functions.⁷⁷

The parliament's Commission 1 is responsible for foreign affairs and defence and security issues and is becoming a valuable forum for debating the issues, despite its lack of research support. But in reviewing the various bills on internal security that have come before it since the fall of Soeharto, it has not always identified and removed provisions inconsistent with democratic practice; nor have hearings been as frequent as many critics would like.⁷⁸ Even if Commission I wished to exert more oversight, however, the absence of laws on intelligence and on regulating military assistance to the civil authorities and police leave it without legislative criteria for doing so. A good intelligence law consistent with democratic principles could enable it to provide a check not only on how intelligence was gathered for internal security purposes, but also how it was used.⁷⁹

Dr Rocky Williams, *Human Security and The Transformation of the South African National Security Environment from 1990 - 2004: Challenges and Limitations*, unpublished manuscript; Anicia Lala, "Picturing the Landscape: Police, Justice and Intelligence Reforms in Africa", in Chris Ferguson and Jeffrey O. Isima (eds.), *Providing Security for People: Enhancing Security Through Police, Justice and Intelligence Reform in Africa*, Global Facilitating Network for Social Security Reform; Laurie Nathan, "Obstacles to Security Sector Reform in New Democracies", Berghof Research Centre on Constructive Conflict Management, available at: http://www.berghof-handbook.net/articles/ssr_%20nathan.pdf.

⁷⁶ Rizal Sukma and Edy Prasetyono, "Security Sector Reform in Indonesia: The Military and the Police", Working Paper No. 9, Conflict Research Unit, Netherlands Institute of International Relations -- Clingendael, February 2003, Section V, pp. 29-35.

⁷⁷ A power struggle between the president and parliament was underway in November 2004 over who had the final say in the appointment of a new military commander. See fn. 73 above.

⁷⁸ Sukma and Prasetyono, *op. cit.*, p. 32.

⁷⁹ For a discussion on legislative oversight, see Geneva Centre for Democratic Control of the Armed Forces, Occasional Paper No. 3, *op. cit.*, pp. 36-38. Indonesia has an Ombudsman

Any review of internal security should take into consideration the legitimate prerogatives of parliament to legislate and oversee internal security matters, so that its role in relation to the executive branch is clearly understood, but a review could also examine other ways of strengthening checks and balances in this area. Given the particular sensitivities of intelligence data, some countries have established independent intelligence review committees in addition to, or in some cases, instead of parliamentary committees. Norway, for example, has a seven-member Committee for Monitoring of Intelligence, Surveillance and Security Services, elected by the parliament, but MPs are not permitted to be members.⁸⁰

Accountability can also be strengthened through the executive branch. During the debate over the TNI law, a number of proposals emerged for strengthening civilian control and oversight of the security services. For example, again with respect to intelligence, an intelligence coordination and control board could be considered that would report to the president, the Coordinating Minister for Security, Law, and Political Affairs, or a National Security Council. Composed of people without links to any intelligence agency, the board could have a mandate that included setting priorities, reviewing programs and budget proposals, and evaluating intelligence "products", as well as investigating any activities that raised ethical or legal concerns.⁸¹

On the police front, as well as parliamentary oversight through Commission I, some have called for a civilian review board, in addition to the National Police Commission mandated by the 2002 law. The latter's role, according to one expert, was envisaged as being less oversight and accountability than thinking through "grand strategy" and nominating candidates for chief of police.⁸² The law does say, however, that the Commission would have the authority to "receive suggestions and complaints from the public about the work of the police and convey them to the President".⁸³ The Commission

was to be established through a presidential decree (keputusan presiden or kepres), and in 2003, the police drafted an implementing decree to bring into being both the National Police Commission and a separate civilian complaints mechanism. The draft was rejected by the cabinet secretary as deviating too far from the original police law, which has no mention of a separate complaints mechanism.⁸⁴ Indications are that the Yudhoyono government is serious about creating a commission with teeth, and public hearings are underway to solicit opinions about how it might function.

In terms of accountability for human rights violations, President Yudhoyono has taken an important step by selecting a person of known integrity as Attorney General: Abdul Rahman Saleh, a former human rights lawyer. Ultimately the willingness of his office to prosecute cases will be more important for accountability than the performance of either the National Human Rights Commission, which has steadily lost influence since the fall of Soeharto, or the soon-to-be-created but seriously flawed Truth and Reconciliation Commission.⁸⁵ (It was the Attorney General's office that failed to build strong cases against any of those accused of crimes against humanity in East Timor.)

Accountability of the security agencies would also be strengthened through improved judicial oversight, which in turn depends on badly needed legal reform. Finally, the importance that civil society organisations have played and will continue to play should not be underestimated, but an effort needs to be made to draw in community representatives beyond the handful of individuals and organisations in Jakarta that have developed recognised expertise in the security sector.

Commission, set up by a presidential instruction in 2000, which can receive complaints from citizens about misdeeds committed by the government apparatus. Eventually there is supposed to be a law setting out the role of the Ombudsman more clearly. See <http://www.ombudsman.or.id>.

⁸⁰ Geneva Centre for Democratic Control of the Armed Forces, Occasional Paper No. 3, op. cit.

⁸¹ Ibid. pp. 43-44.

⁸² Crisis Group conversation with Adrianus Meliala, 4 November 2004.

⁸³ Article 38, Indonesian Police Law No. 2/2002.

⁸⁴ Crisis Group interview, 4 November 2004.

⁸⁵ The creation of this Commission (Komisi Kebenaran dan Rekonsiliasi) was mandated by a law passed in the last weeks of the 1999-2004 parliament. Its weaknesses are described in the International Centre for Transitional Justice's report, "The Struggle for Truth and Justice: A Survey of Transitional Justice Initiatives throughout Indonesia", January 2004.

VIII. DONOR ASSISTANCE

Aid to security sector reform in Indonesia has grown from close to nothing to something on the order of \$30 million a year, although exact data is difficult to obtain. The U.S. is one of the biggest donors, spending an average of \$9 million over the last four years.⁸⁶ Donors play an important role in everything from professionalising the police to strengthening mechanisms for democratic accountability. But they also inevitably become players in the struggle for control over internal security policy in different ways:

- donor interests and priorities -- for example, to strengthen counter-terrorism capacity -- can skew the reform agenda, with at least a widespread public perception that programs supporting democratic reform and building civil society have been left in the lurch;
- donor aid can inadvertently exacerbate institutional rivalries. Aid to the police, for example, can fuel TNI resentment, if the military begins to feel that it gets nothing out of the donor relationship; and
- donor aid to the security sector, if clumsily handled, can incite a nationalist backlash, impeding further reform. That police are getting more aid than the military is seen in some TNI quarters as evidence the police have been "bought" by foreigners or are open to foreign manipulation.

If the Yudhoyono government is able to develop and begin to implement a long-term strategy for reform of the internal security sector, aid to the TNI could become more palatable to donors. Such assistance, in addition to aid to the police, would be far more attractive to many donor governments if the TNI were shown to be moving toward a focus on external defence. A policy review of internal security that carefully defined the division of labour between police and military and, despite the new TNI law, set

clear limits for the latter's involvement in internal security might make some donors reconsider assistance to the TNI for defence programs. Some clauses of the TNI law, however, make that difficult.

Several donors note that what the TNI really wants from donors is equipment, not training. But the military's problem is not hardware -- which it can purchase when it has the money.⁸⁷ It is rather to sort out policy and strategy as the basis for making decisions about structure, organisations, personnel and equipment.

A. AID TO THE POLICE

Bilateral assistance programs provide most of the security sector aid to Indonesia. The major bilateral donors are Japan, the U.S., Australia, and the UK, with other nations also making contributions, and the emphasis is on law enforcement, particularly building police capacity, and counter-terrorism.⁸⁸

Japan began a long-term program to assist the police in 2001. Since 2002, a senior resident adviser has overseen Japan's training assistance, primarily in community policing, training and investigation techniques and skills. A trial community policing project that includes a major communications project to assist the direction and management of police operations has also begun in the Bekasi district, just outside Jakarta, in 2004. If successful, it will be extended to other district-level police stations.

The U.S. provides assistance on a wide range of fronts. Phase III of the U.S.'s International Criminal Investigative Training and Assistance Program (ICITAP) began in 2003. It will have trained 3,000 personnel in 2003-2004 in various skills designed to improve capacity in management, training and the use of modern technology in the maintenance of law and order and police investigations. The program is expected to be continued. The Diplomatic Security Service of the State Department, through the Anti-Terrorism Assistance program, is training the assault element of Detachment 88, as well as providing

⁸⁶ The U.S. ambassador reported that Washington had contributed \$36 million over the last four years to police development, including support to D-88. "U.S. Gives \$9.3m for Indonesian Police Reform", *The Jakarta Post*, 1 October 2004. This figure includes funding from three major programs, Anti-Terrorism Assistance (ATA); International Criminal Investigative Training Assistance Program (ICITAP); and International Narcotics Control and Law Enforcement (INCLE).

⁸⁷ Crisis Group interview, May 2004.

⁸⁸ As explained below, there is also support for a wide range of civil society organisations working on aspects of security sector reform, civil-military relations, and civilian control or oversight of security agencies. Police Watch, ProPatriaRIDEP, KONTRAS, and Elsam are some of the nongovernmental organisations involved in such work.

accommodation and training facilities, equipment and weapons. The U.S. gave \$10.2 million for this program in 2002-2003 and an additional \$8 million in 2004. By the end of 2004, 144 officers of the assault element of Detachment 88 will have been trained in six batches.

Australia has committed AU\$38.3 million [\$27.7 million] over five years to support establishment of the Jakarta Centre for Law Enforcement Cooperation (JCLEC) at the police academy in Semarang, Central Java, staffed by Indonesian and Australian intelligence officers and lawyers. The aim is to improve intelligence, investigation techniques and skills, and case management. It also assists with development of the intelligence and investigative arms of Detachment 88; the operation of the Transnational Crime Coordination Centre in Sentul (Bogor); and the financial intelligence unit of the Ministry of Finance. Australia's overall contribution is estimated at between \$7 to \$8 million annually over the next five years.

UK assistance to the police is much less but includes education and training, and study tours. The Partnership for Governance Reform in Indonesia (the UN Development Program and the Indonesian government) has instituted a forum involving donors, Indonesian NGOs and government officials designed to develop and fund police reform programs. It has spent about \$4 million over three years, with major commitments to promoting community policing, reforming training and education, and assisting the police with financial management.

B. THE DILEMMA OF AID TO THE MILITARY

Most donors distinguish between Official Development Assistance (ODA) and military assistance. ODA by definition cannot be used to support militaries, although it can be used to support law enforcement and police reform. Where bilateral military aid is possible, some donors, including the U.S., have conditioned it on accountability for human rights violations or other factors. Others, like the UK, have relatively small training and technical assistance programs, for example offering methodologies for producing defence policy and plans.

But under certain circumstances, donor aid might assist the government formalise and minimise the TNI's internal security role. If donors could assist with an internal security review and other measures

that helped the government develop policy-making skills to direct and oversee the development of military and police capabilities, and if funding could be used for areas both of mutual interest and less controversial, such as maritime security, assistance to the TNI might not be as problematic as it is now. Donors need not get involved in supplying hardware.

Australian cooperation with the military declined markedly in 1999 during the East Timor crisis, when the Indonesian military was widely accused of funding and training local militias to prevent a pro-independence vote. Since the Bali bombings, the Australian government has made efforts to restart a modest program of cooperation in counter-terrorism with Kopassus, in the belief that only Kopassus has the capability at present to react rapidly to hostage crises in which Australian citizens might be involved.⁸⁹ Concerns in the Australian public about Kopassus's human rights record and government restrictions on granting visas to officers suspected of human rights offences have slowed implementation. The attendance of Kopassus officers at a regional special forces conference in Australia in July 2004, however, could mark the beginning of more concrete measures.

The Bush administration's efforts to re-engage the TNI and resume military training for Indonesian officers were set back by the August 2002 killings in Papua of two Americans and an Indonesian employee of the giant Freeport McMoRan mining company. Congress, which had voted to lift the ban on Indonesian participation in the International Military Education and Training (IMET) program imposed in 1992, extended that ban until "the Secretary of State determines and reports to the Committees on Appropriations that the Indonesian Government and Armed Forces are cooperating with the Federal Bureau of Investigation's investigation into the August 31, 2002 murders of two American citizens and one Indonesian citizen in Timika, Indonesia".⁹⁰ (A member of the pro-independence guerrilla group, the Organisasi Papua Merdeka, later confessed to the shooting and was formally indicted

⁸⁹ "Australia needs to resume working ties with Kopassus", *The Jakarta Post*, 11 November 2002.

⁹⁰ U.S. Senate Report No. 108-346 on "Making Appropriations for Foreign Operations, Export Financing, and Related Programs for the Fiscal Year Ending September 30, 2005, and for Other Purposes", 16 September 2004; "Human Rights and Counter-terrorism in America's Asia Policy", IISS Adelphi Paper 363, February 2004.

by the U.S. Justice Department in April 2004 but many aspects of the case remain murky.)

Former U.S. Ambassador Ralph Boyce also indicated that Indonesia would need to show greater progress on accountability for human rights violations, especially in relation to East Timor, if cooperation and assistance were to be restored.⁹¹ In 2003, the U.S. provided \$17 million to a Defence Department program for fellowships for TNI officers in counter-terrorism, and in 2004, formal talks between the two militaries resumed with the visit of senior staff of the U.S. Pacific Command and resumption of bilateral defence discussions at a ministerial level.

In general, however, donor conditions have greatly curtailed the TNI's overseas training and education opportunities in recent years. At the same time, donor aid to the police has generated additional tensions between the police and military, arising not from its monetary value, which is relatively small compared with the overall budgets of both services, but from the domestic and international status it confers.⁹² Broadening overseas education and training opportunities to appropriately qualified officers and assisting with the reform of military education and training would enhance the military's prestige and reduce its fear of foreign conspiracies designed to weaken Indonesia and threaten its territorial integrity.

IX. CONCLUSION

Security sector reform is necessarily a lengthy process. Indonesia has made substantial progress over the last six years but this is at risk of stalling unless a number of key issues are addressed. Among the most important are to reclaim government policy leadership and affirm the lead role of the police in internal security, clearly define the ongoing role of the military in internal security, resolve the "grey areas", and institute appropriate mechanisms for political direction and parliamentary and judicial oversight mechanisms.

The first step in the process should be production of a comprehensive internal security paper that thoroughly examines existing arrangements and seeks to locate the challenges and identify the process, structural and resource issues involved in maintaining an acceptable level of internal security. It should determine the role and functions of BIN, military and police intelligence in internal security; identify the military capabilities and dispositions required for internal security (land, sea and air); identify priority areas for police development and expansion; provide guidance on political control and oversight, command and control, and conflict resolution; suggest how military commitments and structures might be adjusted over time as police capacity improves; and indicate resource allocations and management for all relevant bodies. It is essential that current realities and limitations be acknowledged as the baseline for transition processes and planning.

The paper should likewise cover the role of regional governments in internal security and make clear recommendations about control, coordination and financing of the security operations and forces at province and district level.

The president should sponsor production of such a paper. Its preparation should be chaired by a highly respected public figure with no ties to BIN, the police or the military. Its production should involve all stakeholders and the public but no participant should have a veto. The government and parliament would then have a firm basis for making decisions on internal security policy.

The paper should also lead to:

- review of national intelligence services to ensure clear division of labour, effectiveness,

⁹¹ "Defence Chief Aims to Resume U.S. Military Ties", *Laksamana.net*, 22 October 2004.

⁹² Precise figures are difficult to obtain but the combined total allocated to the security sector bodies is unlikely to exceed \$30 million per annum.

- better coordination and provision for executive control and legislative and judicial oversight;
- examination of the laws and amendments to existing legislation needed to improve security policy and resolve inconsistencies with democratic practice. Among new legislation needed are an intelligence law, based on the recommendations of the above review; an updated emergency powers law; and a law on military assistance to the civil authorities that clarifies what powers the military has in relation to internal security and when and under what circumstances they can be exercised;
 - new bureaucratic arrangements that improve policy direction and control;
 - a long-term plan to improve police effectiveness, with priority on qualitative improvements. The plan should address the fact that the police are grossly under-resourced to fulfil their law and order mandate; aside from assisting with police development, it could also provide the military with guidance on prospects for shifting resources from police support to defence functions; and
 - a more active role for all tiers of government in conflict prevention and resolution, which should not be left to the military or police.

The measure of success in internal security should be a decline in armed conflicts, improvements in respect for law and order as police performance improves, and restriction of the military to its agreed long-term internal security commitments.

As the experience of the last six years clearly demonstrates, political leadership is the principal prerequisite for any reform. While legislation and structural changes are important, it will ultimately be up to the government in general, and President Yudhoyono in particular, to see the process through.

Jakarta/Brussels, 20 December 2004

APPENDIX A

MAP OF INDONESIA



APPENDIX B:

GLOSSARY OF TERMS

ABRI	Angkatan Bersenjata Republik Indonesia, Armed Forces of the Republic of Indonesia, old name for the Indonesian military
BAIS	Badan Intelijen Strategis, Strategic Intelligence Agency, military intelligence
BAKIN	Badan Koordinasi Intelijen Negara, State Intelligence Coordinating Agency, no longer in existence
BAKORSTANAS	National Stability Coordinating Agency, no longer in existence
BIN	Badan Intelijen Nasional, National Intelligence Agency
Brimob	Brigade Mobil, the paramilitary police
Detachment 88	a new counter-terror unit within the Indonesian police
DPR	Dewan Perwakilan Rakyat, the Indonesian parliament
IMET	International Military Education and Training, a U.S. program
JCLEC	Jakarta Centre for Law Enforcement Cooperation
Kopassus	Indonesian army special forces
KOPKAMTIB	Command for the Restoration of Security and Order, internal security agency no longer in existence
Menkopolukam	Coordinating Ministry for Political, Legal, and Security Affairs
KUHAP	Kitab Undang-Undang Hukum Acara Pidana, Criminal Procedure Code
MPR	Majelis Permusyawaratan Rakyat, People's Consultative Council, Indonesia's highest legislative body consisting of the parliament and a council of regional representatives.
Polri	the Indonesian National Police
TNI	Tentara Nasional Indonesia, the Indonesian military