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# Unfinished Business: Reform of the Security Sector in Democratic Indonesia

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Conservative members of Indonesia's military establishment are breaking a self-imposed silence to critique the country's thirteen-year-old democracy and call for a restitution of a direct military role in the machinery of government. It underscores two realities of present Indonesian politics more than a decade into the new democratic era: the fragility of the political system and the failure to complete the goal of security sector reform to assert civilian prerogatives. The unfinished agenda is substantial, and the political opportunity exists to push it through if executive government, the legislature and civil society have the will. Such an agenda could include further institutional reform of the military and police, stronger parliamentary and legal oversight of the security services and a resolution of the political status of Papua. Yet with presidential and parliamentary elections looming in 2014, there are doubts Indonesian leaders are willing to finish the reform task.

After many years of being sidelined by democracy, Indonesia's military men and their fellow travellers in the conservative civilian elite are again feeling confident enough to challenge their exclusion from the political mainstream. Their disquiet has reached the point where some now openly advocate the restoration of a direct military role in politics, as they have in interviews in recent weeks, and quietly canvas the conditions under which such a return to a more direct political role might occur. The views of conservative generals and their allies in business and politics are often blended with simple nostalgia for the pre-democracy days when they enjoyed prestige, influence and opportunity. And yet they have a serious point: Indonesians of all political colours, rich and poor, decry the quality of their democracy.

In the thirteen years since the fall of the authoritarian regime of former president Suharto, there has been undoubted progress in establishing a more open and liberal political system. Indonesia has surmounted a chaotic transition from 1998, in which three presidents took the oath of office in three years, and has started to consolidate democracy from 2004 under Susilo Bambang Yudhoyono, the first president to possess a direct mandate from the people.

But Indonesians today are less inclined to celebrate the immeasurable benefits of civil freedoms and elected government than to complain about the self-interested behaviour of politicians, the absence of effective national leadership, the re-emergence of sectarian tensions, and (sometimes erroneously) the decline in living standards or (more accurately) the decline

in the quality of life. The political class is frequently vilified in the media and in street-corner discourse for condoning or contributing to a national malaise of corruption, inefficiency and opportunism.

This situation has blotted Indonesia's democratic record. It is today also contributing to a reversion in thinking in some quarters about the kind of system that best serves effective government. To outsiders, Indonesian democracy would appear to be consolidating, especially in light of the 2004 and 2009 direct presidential elections. But Indonesian democracy, for all its apparent success, has a growing body of critics. For those who witnessed the transfer of power in the late 1990s, it is not surprising that the strongest opponents of what came next happen to be those who benefited most from the former autocratic regime and its devices. The new liberal democratic political class compete energetically with their New Order forebears, but the contest is still somewhat unequal in experience, networks and access to resources. Thirteen years on, many aspects of the transition remain incomplete.

Reform of the security sector remains a vital part of the unfinished transition. It also persists as one of the most important fields of contention in the debate over the future shape of Indonesian democracy. Indonesia can point to an admirable record in reforming the role of its security services since the heady days of *reformasi*, a catch-all term for the change agenda which ended Suharto's thirty-two-year New Order. Since then, the military (*Tentara Nasional Indonesia* or TNI)<sup>1</sup> has relinquished its guaranteed allocation of seats in a range of national and regional parliamentary bodies that enacted legislation, amended the constitution and selected presidents. It has ended the practice of allowing serving officers to fill positions in civil administration. It has removed the police from under military control, thus turning over most of the burden of internal security, including counter-terrorism, to civilian law enforcement. And civilians have been consistently appointed as defence minister, breaking a tradition of several decades. In doing so, TNI formally abandoned a long standing doctrine that Indonesia's stability required it to play a socio-political role, although not entirely its suspicion of civilian abilities or its conviction it could do better.<sup>2</sup>

The first wave of security sector reforms is interesting because many of them were the work of the military itself. That also highlights its strengths and limitations. TNI has proved capable of embracing reform, but it has been able to choose the type and pace of reform. Considerably more needs to be done. Civilian oversight of internal security and defence policy remains weak, too often the security services are seen as a law unto themselves and

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<sup>1</sup> During the New Order period, *Tentara Nasional Indonesia* (TNI) was known as *Angkatan Bersenjata Republik Indonesia* or ABRI.

<sup>2</sup> Rizal Sukma and Edy Prasetyono, 'Security Sector Reform in Indonesia: The Military and the Police', Working Paper 9 (Clingendael: Netherlands Institute of International Relations, 2003).

certain institutional vestiges of the New Order security state survive largely intact. The net result is that the security services—the military, the police and the intelligence agencies—are still seen as retaining too much autonomy. Progress in consolidating democracy and civilian control over the security services remains fragile and far from irreversible. Yet it is highly uncertain whether a second wave of reform is possible. This is important because numerous studies have shown that consolidating reform of this type is a necessary pre-condition to establishing a secure, fully-democratic polity.<sup>3</sup>

For many of the old military and civilian elite, reform has already gone too far. They see a direct trade off between the level of political liberty and the stability and effectiveness of the political system, including the incidence of corruption. “I’m one of the most pessimistic about Indonesian democracy now”, comments former defence minister Juwono Sudarsono.

It’s not functioning as it should, particularly the corruption within the parties, the parliament, the police, the judiciary, the prosecutor’s office and the lawyers. All my friends in civil society have failed me.<sup>4</sup>

The concerns about the excesses of the system have spawned a disparate—often poorly-formed—collection of ideas and policies in recent times that share a common thread: they would restore a degree of influence and authority to the security forces that was lost over the past thirteen years. At one extreme, it envisages what Juwono refers to as an “authoritarian light” political system. Juwono warns:

My feeling now is that sometime in the next four years the military will have to step in again to save Indonesia from this democracy, because this kind of democracy is getting us nowhere... I think it will be sort of light authoritarianism. But it has to be led by a military man. He has to work with a coalition of parties to maintain some degree of firmness and yet also retain the democratic aspect of it.<sup>5</sup>

The thinking has echoes of the move by first president Sukarno in 1959 to consign parliamentary democracy with a system of “guided democracy” under which political parties were subject to numerous “army-implemented controls”.<sup>6</sup> In modern form, it would presumably entail returning to the military a degree of its former influence, fewer political parties, the curbing of certain liberties and the establishment of a government that is both more centrally-controlled and conscious of maintaining public order. Other, milder, variations on this theme would see the return of guaranteed seats for so-

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<sup>3</sup> Aurel Croissant and David Kuehn, ‘Patterns of Civilian Control of the Military in East Asia’s New Democracies’, *Journal of East Asian Studies*, vol. 9, no. 2 (2009), pp. 187-217; Marcus Mietzner, *Military Politics, Islam, and the State in Indonesia: From Turbulent Transition to Democratic Consolidation* (Singapore: ISEAS Publications, 2009).

<sup>4</sup> Conversation with Juwono Sudarsono, 15 March 2011.

<sup>5</sup> *Ibid.*

<sup>6</sup> Herbert Feith, *The Decline of Constitutional Democracy in Indonesia* (Ithaca: Cornell University Press, 1962), p. 593.

called functional-group representatives, including military officers, in the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* or MPR), the supra-parliamentary body that has the power to amend the constitution, set broad policy guidelines and impeach presidents.<sup>7</sup>

On one level, the desire for a firm guiding hand over Indonesian democracy simply reflects a longing for the perceived stability of rule by ukase that was the mark of Suharto-era leadership. If they do not propose the return of an authoritarian presidency, its advocates desire at least a stronger and more decisive one, capable of instilling more discipline in the political system and enforcing a firmer line against threats to public security and stability. This could be viewed as no more than a sentimental backward glance to the apparent security of the past, common in many post-authoritarian political environments. From the start of the reform era, hardliners have fulminated against the behaviour of politicians and resisted the growth of civilian control over the institutions of state security and defence.

But it does represent more than the grumbling of a disaffected rump. The decision to speak 'on-the-record' about the restoration of military influence is itself highly unusual and perhaps a sign of the mood. Veteran Indonesia watchers say exponents of military engagement in politics strongly prefer anonymity, ensuring such views are normally confined to "coffee shop conversation"<sup>8</sup>. Indeed, some have gone so far as initiate discussions with senior serving officers on the conditions under which TNI might be prepared to adopt a more active political role.

Liberal reformists are also concerned about a wider trend of policymaking aimed at enhancing the powers of the government and its security services to deal with threats to internal security and public order, particularly those emanating from separatism and terrorism. Those who worry over the potential for a creeping return to New Order security practices point to two draft laws, one covering national security and the other intelligence operations. These two bills, currently before the national legislature, the People's Representative Council (*Dewan Perwakilan Rakyat* or DPR), have evoked widespread criticism for their potential to resurrect New Order-style security practices, particularly in an emergency. There is a case for both bills, particularly codifying the powers and institutional relationships of the intelligence agencies. However, taken together, the bills are seen by leading civil rights activists as endangering political liberty by widening the powers of security services and giving the TNI, and TNI-dominated intelligence agencies, the opportunity to recover some authority over internal security ceded to the police.

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<sup>7</sup> Conversation with Lt. Gen. (rtd) Kiki Syahnakri, 18 July 2011. This view was supported by several other retired and serving military officers in confidential discussions.

<sup>8</sup> Conversation with Kevin Evans, former diplomat and governance adviser to United Nations, 9 September 2011.

The recent trends do point to security sector reform having reached a high point and stalled. Ironically, a significant part of the problem would appear to lie with the civilians themselves. Parliament, via its Commission 1 for foreign affairs and defence, has had its authority to monitor military budgets and operations enhanced by laws issued early in the reform era, yet the capacity and will seems frequently lacking. If another effort at security sector reform is to occur, and the genie of authoritarianism kept in its bottle, it will require a concerted effort by civilian politicians and civil society actors to finish the job of democratic consolidation while the security services are not in a politically strong position to resist. It is not even clear many see the necessity.

In light of these conditions, this article will assess the current state of security sector reform, focusing primarily on the roles of the two most importance security actors, the TNI and the police. It will also assess some of the governance challenges that need to be overcome to permit another wave of reforms to occur. First, it will consider the impressive progress made to date in establishing civilian control over the security sector. Secondly, the article will examine the unfinished reform agenda. It will do this from two broad perspectives, which reflect the historic patterns of involvement by the security services in domestic affairs and the fields of most current contention: TNI's role in society and politics and the challenge of internal security. Under the first heading, it will consider some remaining institutional and cultural legacies that touch on military organisational structure, financing and justice and the codification of intelligence gathering powers. Under the second heading, it will consider the balance of roles between the TNI and the police in internal security and the potential dividends for security sector reform from a settlement on the status of Papua that matches that already achieved in Aceh. Finally, it will conclude by assessing the prospects for consolidating and advancing reform and its implications for Indonesian politics and the country's international partners, particularly Australia. It is possible, and necessary, to put reform back on track. But this will require greater capacity and will in the parliament, renewed vigour from civil society and a clear directive from the president—a tall order in the current environment. Failure will leave Indonesian democracy vulnerable to set back.

### **Taming TNI: Thirteen Years of Security Sector Reform**

With the fall of Suharto in 1998 and the automatic elevation of his vice president B. J. Habibie, Indonesia embarked helter-skelter on overturning many of the most stifling features of New Order rule. On the day of his inauguration, Habibie appeared overawed. But he proved to be energetic and surprisingly liberal, given his long years of tutelage under the dictator. The liberal turn was all the more remarkable because Habibie had no real mandate, and was not confident of his support among the military—most vitally—or the majority of the political elite, let alone the people. In a flurry of reform within days of taking office, Habibie started releasing political

prisoners, freeing the press, discussing a permanent settlement to the status of East Timor, and steering the country in the direction of the first free elections since 1955. But Habibie lacked the powerbase or the confidence to direct military reform, one of the biggest items on the democratisation agenda. This Habibie left almost entirely to the generals.

Given their provenance, the military reforms in this era of democratic restoration were impressive. Demonstrating the generals were not impervious to popular sentiment, the armed forces commander Wiranto, who largely owed his ascension to a period as adjutant to Suharto, initiated a series of measures to withdraw the military from political activity. In addition to those noted above, TNI severed its formal links to the then ruling Golkar party, which had been used by Suharto to engineer successive election victories, and pledged neutrality in elections. Serving officers were proscribed from running for political office, departments in the TNI charged with overseeing its social and political role were abolished and so was the system of *kekaryaan*, in which jobs were found for serving and retired generals in everything from state-owned enterprises to regional governments.<sup>9</sup> This officially brought to an end the doctrines of the 'middle way' and *dwi fungsi*, or dual function, which had justified the vast military engagement in society and politics since the 1960s.

Thereafter, security sector reform proceeded with a mix of advances and regressions. Some areas proved intractable. The army's system of territorial deployments, justified partly as a defence concept and partly as an internal security concept, was retained. It was by way of territorial deployments that TNI maintained a military structure that paralleled civil administration all the way down to the village. It facilitated access to both information and control that helped underpin the authoritarian state. TNI proved equally reluctant to give up ownership of a great web of business enterprises, legal and illegal, ranging from conglomerates to small businesses or to make its soldiers subject to legal censure for a litany of past human rights abuses.

In the following years, the course of reform was largely linked to the qualities of successive presidents, the mindset of the senior officer corps and the state of security conditions in the country. The stop-start pattern of reform that emerged after Habibie's electoral defeat in 1999 has been thoroughly catalogued elsewhere and will only be briefly described here.<sup>10</sup>

Under Abdurrahman Wahid, an attempt was made to consolidate civilian control over the security sector by replacing generals closely associated with

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<sup>9</sup> Leonard C. Sebastian and Iisgindarsah, 'Assessing 12-year Military Reform in Indonesia: Major Strategic Gaps for the Next Stage of Reform', RSIS Working Paper No. 227 (Singapore: S. Rajaratnam School of International Studies, 2011).

<sup>10</sup> Mietzner, *Military Politics, Islam, and the State in Indonesia*.

the New Order with officers known for reformist ideas. Wahid abolished some state bodies associated with the security state of Suharto, appointed a civilian defence minister, initiated the practice of rotating the post of armed forces commander among the three services and encouraged proposals to unwind the territorial command system. But his erratic leadership and eventual impeachment in 2001 brought security sector reform to an abrupt end. From 2001, security sector reform languished under Megawati Sukarnoputri and the “reform sceptics”<sup>11</sup> she appointed to senior military positions. An attempt at a ceasefire and peace settlement in the bitter separatist conflict in Aceh, opposed by military hardliners, eventually failed and resulted in one of the biggest military operations against the rebels. Nonetheless, some important gains were made during Megawati’s tenure. First, the terrorist attacks on the United States in 2001 and, especially, in Bali in 2002 saw the police gain access to greater resources and training, particularly in partnership with international police and aid agencies. The policing breakthroughs in the Bali bomb investigation and subsequent operations against Jemaah Islamiyah won the police kudos for effective law enforcement and helped to assert its role in internal security and as the leading counter-terrorism agency. Secondly, parliament passed the 2002 State Defence Act and the 2004 TNI Act on Megawati’s watch. In theory at least, these two laws strengthened the capacity of parliament to monitor budgets and operations, increased the role of civilians in formulating defence policy and enabled the transfer of military businesses to state control.

But none of these reform opportunities were implemented under Megawati’s presidency. It was not until Susilo Bambang Yudhoyono won Indonesia’s first direct presidential election in 2004 that the country appeared to have a leader with both the unquestioned popular mandate and experience to push further security sector reform. Yudhoyono was a moderate former general and had served as coordinating minister for political and security affairs under both Wahid and Megawati. Indeed, Yudhoyono made an enduring contribution to getting the army back to the barracks by overseeing a successful peace agreement in Aceh. The resolution of the conflict might have had just as much to do with the devastating effect of the 2004 tsunami on combatant forces and the international scrutiny that accompanied the massive humanitarian aid effort as with the individual agency of the president. But even if Yudhoyono was favoured by external forces, he still deserves credit for seizing the opportunity to lead the peace. The settlement of the separatist conflict resulted in the retreat of the TNI from one of the last parts of the country where it could exercise a free hand in internal security. It had been a bloody battleground on which the security forces had been regularly accused of abuses of basic rights and human rights crimes.

On other measures of security sector reform, Yudhoyono proved a disappointment, on which more will be said below. Now two years into his

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<sup>11</sup> *Ibid.*, p. 227.

final five-year term, Yudhoyono is yet to show he is willing to tackle a substantial unfinished agenda in this field, without which civilian control over the security sector will remain incomplete. Edward Aspinall has noted the effect of the past thirteen years of reform has been to all but eliminate the military's role in "high politics". But he is one of a number of analysts who fears that "future crises—whether precipitated by economic problems, electoral paralysis, or some other cause—could see a return to military intervention".<sup>12</sup> The bulwark against such a scenario is the consolidation of civilian control over the security sector, the challenges to which are addressed below.

## **Toward Civil Supremacy: The Reform Challenge**

### **THE MILITARY IN POLITICS AND SOCIETY**

The official line from TNI headquarters that the military will stay out of politics does little to allay the suspicions of civil society actors, particularly those with memories of the repressive policies of the New Order. It is perhaps for this reason that TNI commanders still feel a need to periodically deny any preferences or interests in the course of national politics. On 11 July, TNI chief, Admiral Agus Suhartono, made the kind of declaration that most defence force chiefs would feel entirely unnecessary when he said the organisation would not support any individual candidate for the presidency in 2014. "We do not offer support (to anyone)", he said. "That is what is called neutrality".<sup>13</sup> The repeated assurances from Suhartono and others of TNI's commitment to democracy reveal the extent to which the reputation of the military remains dogged by the past. But the promise to keep a distance from overt politics has been in evidence in successive elections since 1999. It is also borne out in a dramatic reduction in the number of former officers holding office in regional administrations and national and regional legislatures in recent years.<sup>14</sup>

Despite the record of military neutrality in elections, the failure to address several institutional and attitudinal impediments stand in contrast to the TNI's expressed desire to remain outside politics and focus its energies on becoming a professional armed force. There are four obvious problems that need to be addressed. First, the elaborate structure of territorial deployments remains in place. Secondly, the absence of sufficient budget funding leaves territorial units to engage in self-financing activities, including smuggling and illegal resource extraction. Thirdly, soldiers are still regarded as either above the law or subject to light treatment if they are found guilty of breaking it. And finally, the quality of civilian supervision over the military is poor and the lines of its authority remain blurred.

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<sup>12</sup> Edward Aspinall, 'The Irony of Success', *Journal of Democracy*, vol. 21, no. 2 (2010), p. 24.

<sup>13</sup> 'Panglima Agus Suhartono: TNI Tidak Mendukung Capres 2014', *Republika*, 20 July 2011.

<sup>14</sup> Marcus Mietzner, 'Overcoming Path Dependence: The Quality of Civilian Control of the Military in Post-Authoritarian Indonesia', *Asian Journal of Political Science*, forthcoming.

The survival of the territorial system is regarded by numerous analysts as the single greatest weakness in the security sector reforms carried out to date. Even before the fall of Suharto, proposals were put forward by individual military officers and civil society groups to either wind back or abolish the elaborate structure that matches a military command post to every level of government from the province down to the district, sub-district and village. Its defenders in the army maintain it continues to be relevant to Indonesia's concept of total people's defence and can contribute to combating potential separatist or terrorist threats. They insist it has nothing to do with either monitoring or controlling legitimate political activity.

There is a valid argument that the territorial system is less significant than it used to be for two reasons. First, the police appear to have eclipsed the army as an internal security force in the regions. Secondly, the vibrancy of regional democracy has helped sideline the military from local politics. Another argument for its retention is that territorial units are a vital part of TNI's employment structure. Of a 300,000-strong army about two-thirds are in territorial units. TNI would have to figure out what to do with all those redeployed soldiers and their officers, who would lose a long-established promotional pathway, meaning sudden abolition of the territorial structure could cause a whole new set of problems. For a start, redeployment would come at a considerable cost in infrastructure and salaries. One virtue of the territorial structure—at least from a TNI headquarters point of view—is that it is relatively low cost. That is in part because territorial units engage in small-scale or petty business to help fund themselves.

But the arguments for regarding the territorial system as a benign legacy of Indonesia's defence and security system are challenged by a logic that is familiar to strategic analysts. It is not intentions that count, but capabilities. Opponents of the territorial system contend that it could provide a key tool for the military to stage a successful intervention in politics should it chose to do so in the future. Agus Widjojo, a retired TNI commander of the territorial system, argues the lower echelons of the territorial system should be deactivated, but be able to be revived under emergency conditions.<sup>15</sup>

The second problem is the self-financing aspects of the territorial system. Although TNI might have sold or transferred to the state its large business enterprises, as it was required to do under the 2004 TNI Act, the territorial system continues to implicate regional units in a range of illegal business activities, including logging and mining. Even small-scale legitimate business can help form bad habits, creating a potential conflict between the soldier as servant of the state and the soldier as rent seeker or entrepreneur. At a national level, the continued reliance on off-budget funding, which by various estimates still ranges from 20 to 30 percent of total allocations even after years of large increases, undermines civilian oversight and effective

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<sup>15</sup> Conversation with Lt. Gen. (rtd) Agus Widjojo, 25 March 2011.

defence planning. It can also reduce the degree of centralised control over army.

The third problem, which has its own links to the territorial structure, is the discipline of soldiers in their dealings with the civilian population. Soldiers are accused of too readily resorting to the use of force or the threat of force to resolve all manner of conflicts, including social disputes. Territorial units are often regarded as the worst offenders because of a lack of discipline and training and the fact they are embedded in communities. This behaviour is encouraged by the weakness of legal sanction against soldiers who are alleged to have broken the law. If convictions are awarded, as in the case of soldiers whose torture of Papuan villagers was shown on YouTube in late 2010, human rights groups often regard them as too lenient.<sup>16</sup> The alleged offenders in that instance were sentenced to eight to ten months in prison.

The matter of legal impunity has been an abiding concern since the fall of Suharto. Indonesia has largely avoided plangent reflections on the long record of human rights abuses in places like Aceh, Papua and East Timor, let alone shown any enthusiasm to uncover the truth and pursue culprits. Marzuki Darusman, a former attorney general and member of the DPR's Commission 1 under various administrations, said the courts in celebrated human rights cases had succumbed to a general mood in which avoiding "stigmatisation of the armed forces" as an institution was more important than individual prosecutions.<sup>17</sup>

But Darusman, who had responsibility for mounting the post-1999 human right cases over East Timor, does see improvement. Unlike the Suharto days, he argues that when human rights violations now occur they are likely to be the product of individual behaviour rather than of the institution and the soldiers are prosecuted. The exception, he notes, is Papua where "impunity continues to prevail". The sentences meted out to the offenders in the YouTube case "did not reflect the sense of justice of the community".

Leadership from the top on the issue of military justice is mixed. After the Papuan case made headlines, the Indonesian Government called in diplomats from several countries, including Australia and the United States, to inform them that investigations would be pursued and prosecutions would be swift. Still, there are doubts the prosecutions represent a significant change in approach to dealing with human rights abuses. The Papuan case gained notoriety because of a video of the soldiers' actions appeared in the Internet. Proposals for systematic reform of military justice continue to languish. A draft military justice bill that would allow offences committed by

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<sup>16</sup> 'Indonesian Soldiers' Sentence for Papuan Abuse Video Too Light', Amnesty International, 24 January 2011, <<http://www.amnesty.org/en/news-and-updates/indonesian-soldiers'-sentence-papua-abuse-video-too-light-2011-01-24>> [Accessed 13 August 2011].

<sup>17</sup> Conversation with Marzuki Darusman, 16 July 2011.

off-duty soldiers to be tried in civilian courts, among other reforms, has been awaiting parliamentary approval for years.

The legislative delay highlights the fourth problem. Since the election of Yudhoyono in 2004, there has been a noticeable loss of momentum in finishing the job of security sector reform. The president's caution and deliberative style are frequently cited as reasons for policy inertia. The government has even avoided some simple and symbolic measures. Strangely, the TNI commander continues to have a seat in the Cabinet, which undermines the role of the civilian defence minister and confuses the chain of authority. Yudhoyono has insisted soldiers alleged to have committed human rights abuses face justice, as he did in the YouTube case, but he has avoided institutional reform such as pressing for changes to the territorial structure or passage of military justice law.

The absence of progress cannot be ascribed to Yudhoyono alone. The parliament, and Commission 1, its main organ in military matters, are viewed as not up to the task of supervision because of the "limited expertise" of legislators, the lack of expert staff, "political rivalries among civilian elites" and insufficient information provided by the Defence Ministry.<sup>18</sup> The lack of policies or guidance from the major political parties further constrains the debate over military issues or the confidence of legislators to take a stand on an issue. Mietzner has argued for the greater significance of individual agency over structural constraints in influencing the course of security sector reform in Indonesia since 1998, and this is especially evident in the performance of the parliament, the political parties and the government in dealing with the unfinished reform agenda.<sup>19</sup> There is no question the democratic institutions have acquired the legal instruments to improve oversight and implement further reform. They are simply not utilised.

If the parliament or the government chose to press for another wave of security sector reform, the military would not be in a strong position to resist. The reluctance is due to a combination of factors, including an ill-founded view among political elites that enough has been done to bring the military under civilian authority and further reform might be counterproductive. According to Darusman: "There has been a push back, that we have done enough reform, as much as the armed forces can take without pushing them into a corner; without completely disabling them as a force".

The push back is evident in suggestions put forward by retired deputy army chief, Kiki Syahnakri, and backed by several colleagues, for the military and other so-called 'functional' or professional groups to have their right to permanent seats in the MPR restored. Syahnakri colourfully argues Indonesia is now drunk on democracy. "It's like wine", he said. "One or two

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<sup>18</sup> Sebastian and Iisgindarsah, 'Assessing 12-year Military Reform in Indonesia', p. 29.

<sup>19</sup> Mietzner, 'Overcoming Path Dependence'.

glasses are good for your health, but with two bottles you become drunk. Now we are too drunk on liberalism.”<sup>20</sup> The implication is that the military might one day need to play a stabilising role, curbing some of the excesses of the political parties.

Civil rights groups and lawyers are less sanguine than the politicians about the persistence of such views. It is why they are inclined to speak emotively about the dangers of a return to New Order days at the first hint that security agencies might receive new powers.<sup>21</sup>

The two laws currently before the parliament on national security and intelligence both fill necessary legal gaps. The absence of regulation and coordination of intelligence agencies is a missing piece of security sector reform. But there are concerns that the laws could hand too much power to agencies that were central to the repressive apparatus of the New Order. News reports that the State Intelligence Agency (*Badan Intelijen Negara* or BIN) has provided information to the president on the activities of political parties lend validity to those concerns.<sup>22</sup>

The focus of complaints has been on proposals in the intelligence bill to give BIN powers of detention, ‘intensive interrogation’ and wiretapping in cases of suspected terrorism, separatism or subversion. There are also concerns over whether the national security bill would expand the security powers of the president, particularly in determining threats to national security and employing emergency authority. Debate over the two bills has some way to go and there are good prospects that parliament will impose sensible limitations on the use of additional powers of investigation and detention.

Nonetheless, the combination of the inactivity of the government and parliament in security sector reform and proposals to strengthen the powers of key security agencies suggests efforts to entrench the institutional control of civilians over security matters are at an end, at least for the remainder of Yudhoyono’s term. If anything, the trend is in the other direction.

### **THE CHALLENGE OF INTERNAL SECURITY**

The second front on which the contest over the appropriate role of the military is being waged is internal security. There are numerous aspects to this issue, but only two will be considered here because of their potential to have a significant impact if dealt with effectively. The first is the relationship between the police and the military in managing internal security, and the readiness of the police to do so. The second is the issue of the low-level insurgency and demands for independence in Papua.

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<sup>20</sup> Conversation with Kiki Syahnakri, 18 July 2011.

<sup>21</sup> See for example, Koran Tempo, “Sejumlah Pasal RUU Kamnas Dinilai Berpotensi Munculkan ‘Kopkamtib’”, 29 June 2011; Koran Tempo, “RUU Keamanan Nasional Nihil Berpotensi Munculkan Konflik HAM”, 4 July 2011.

<sup>22</sup> ‘SBY Blames Others for Dems’ Turmoil’, *Jakarta Post*, 30 May 2011.

Following separation from the military in 1999, the police emerged as the preeminent agency in managing internal security. In the early period of the economic transition, the outbreak of large-scale sectarian and ethnic conflicts in provinces like Maluku, Sulawesi and Kalimantan proved it was ill-equipped to manage the task. Perceptions started to change with the emergence of terrorism as the politically-dominant internal security challenge. The ability of the police, with the assistance of international agencies, to quickly capture most of the key figures behind the October 2002 Bali bombing was the catalyst for a remarkable transformation in the assessment of its competence to handle a complex threat. Several other bombings occurred in the following years, although nothing on the scale of Bali, as the police succeeded in largely containing the threat of Jemaah Islamiyah.

But the fundamental issue of the balance of responsibilities between the police and the military in internal security operations remains unresolved. The existence of myriad internal security threats, and of a relatively benign external threat environment, has meant that the military has historically viewed its mission of protecting Indonesia's territorial integrity as a fight against separatism and civil conflict. Despite the presumption that TNI should increasingly focus on external defence, it is widely accepted that it needs to be available to meet high-intensity internal security threats. The laws enacted since 1998 in an attempt to codify the role of TNI under democracy are deliberately vague about the circumstances which might require domestic deployment.

The only way that to ensure TNI becomes a professional defence force, focused on meeting external challenges, is for the police force to increase its capacity to meet the almost inevitable civil conflicts that will arise in a country as religiously and ethnically diverse as Indonesia. Given the valid concerns about internal stability, it is likely abolition of the TNI territorial structure would only occur in tandem with increased confidence in the capability of police in the regions. Yet capacity-building and structural reform of the police is an often-neglected part of the discussion about creating a more modern, democratic security sector. The millions of dollars in international aid that has been channelled into the police since the emergence of the JI threat have largely been spent on building high-end capabilities in police science and investigation. Foreign trainers and aid agencies working with the police say there are still significant gaps in basic policing standards and oversight which grow the further police are located away from the cities.

The focus by international partners on improving technical sophistication is understandable. It is in the interests of foreign governments to see improvement in the ability of the Indonesian police to cooperate on transnational crime, including terrorism, people smuggling, drug trafficking and money laundering. For all its obvious merit, improved capability in these areas means little to ordinary Indonesians. Their expectations of the police

are far more mundane. And it is in the performance of mundane duties that the role of the police can have the greatest impact in either strengthening or undermining democracy. The everyday experience of Indonesians with the police, whether through scandal in the media or personal contact, is not always good. The increased responsibility of the police for maintaining security and order has opened new avenues of commercial activity and corruption. Moreover, the police enjoy a sense of legal impunity that is as great, if not greater, than the military.

There are numerous areas where reform could be pursued from improved oversight to law and order capability. A new police law was passed by the parliament in 2002 to bring the police into the democratic era. But the changes police have made are often criticised for being cosmetic, such as the adoption of a less martial uniform and rank structure, while accountability is poor.<sup>23</sup> One obvious anomaly in supervision is that the chief of police still reports directly to the president. This is especially strange given that Abdurrahman Wahid drew on this authority in an attempt to obtain the intervention of the police against his impeachment in 2001. A simple and overdue administrative reform is to have the police answer directly to either the ministries of home affairs or justice. This could also have the benefit of easing some of the civil society concerns about the planned national security and intelligence laws. But the bottom line is that one of the greatest contributions to improving civilian authority in the security sector will be the creation of a more professional and capable police force that is not above the laws that it is supposed to uphold.

The second internal security challenge addressed here is the low-level insurgency in Papua.<sup>24</sup> As in the case of Aceh, a political solution to the Papuan problem has the potential to greatly strengthen civilian authority in the security sphere. As Mietzner noted, as long as conflict persisted in Aceh “the military was unlikely to subordinate itself to democratic rule”, budgetary supervision or accepted human rights standards.<sup>25</sup> In theory, the reduction of internal conflict also narrows the political space for the army.

Papua represents the last of the major separatist conflicts. Separatist sympathies exist in pockets elsewhere in the country, but none have the political, economic or security salience of Papua. Therefore, reaching a lasting agreement on the political status of Papua would pay enormous domestic and international dividends. It would be a big fillip to security

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<sup>23</sup> Arifah Rahmawati and Najib Azca, ‘Police Reform from Below: Examples from Indonesia’s Transition to Democracy’, in Reginald Austin et al (eds), *Democracy, Conflict and Human Security: Further Readings* (Stockholm: International IDEA, 2006).

<sup>24</sup> The name Papua is used here to describe the western half of the island of New Guinea and associated smaller islands. In 2004, Indonesia divided the territory into two provinces Papua and West Papua. The independence movement prefers the title West Papua for the whole area.

<sup>25</sup> Mietzner, *Military Politics, Islam, and the State in Indonesia*, p. 299.

sector reform and to strengthening democracy. And it would go a long way to erasing lingering suspicions among a critical international audience that even democratic Indonesia still harbours authoritarian tendencies. It would certainly ease the way for deeper security sector cooperation with countries like Australia and the United States.

The clear lesson of Aceh is that a military solution will not work. Ironically, the level of the military challenge posed by the Free Papua Movement (*Organisasi Papua Merdeka* or OPM) is sufficient to justify a significant military presence—estimated to be about 15,000 troops—but too small to ensure Papua receives the political urgency that was accorded to Aceh, leading to the 2005 settlement. The Papuan problem is also likely to prove more complex and resistant to resolution than Aceh for a combination of historical and internal reasons. For a start, Papua was a late addition to the republic and the disputed validity of the instrument of incorporation, the 1969 Act of Free Choice, has helped keep the issue of Papua's ultimate status alive among pro-independence Papuans and a disparate group of international politicians and activists. In the years since Papua's integration it has experienced a level of spontaneous and government-sponsored migration that has made it a less ethnically and religiously homogenous society than Aceh. The Papuan independence movement also lacks the cohesion of the Free Aceh Movement (*Gerakan Aceh Merdeka* or GAM). GAM might have suffered breakdowns in discipline at a tactical level, but was surprisingly unified at a strategic level, including between its military and civilian arms. The OPM is more a loose collection of armed groups opposed to Indonesian rule and the influx of outsiders than a united guerrilla force. The size and geographical and tribal diversity of Papua make it harder to achieve the political solidarity and unity of purpose enjoyed by the earlier independence movements in Aceh or East Timor. It is also worth noting the ultimate catalyst for a solution in Aceh was probably not an epiphany by enlightened men but an act of God, the 2004 tsunami.

There are signs that Yudhoyono is serious about trying a new approach in Papua. One of those favoured to lead a renewed effort by Jakarta to find a solution is Bambang Darmono, who was military commander of the Aceh military region at the time of the tsunami and 2005 peace deal. Darmono, now retired, was a moderate officer who would like to see the early withdrawal of Indonesian troops from the field in Papua.<sup>26</sup> He acknowledges one of the biggest obstacles to a solution has been the absence of drive and coordination from Jakarta, which could be rectified with the creation of a dedicated unit in the government to deal with Papuan issues, a long-discussed idea that is yet to be acted on. Darmono would like to see the government embrace a bold initiative, including explicit legal recognition of Papuan land rights, which he describes as fundamental to "recognition" and "dignity" for Papuans. At the time of writing, there were indications that

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<sup>26</sup> Conversation with Maj. Gen. (rtd) Bambang Darmono, 19 July 2011.

Yudhoyono was about to issue a presidential regulation to clear the way for a new Papua strategy.

The instincts of TNI are likely to be to resist any arrangement that it perceives as creating political space for the OPM. Many senior officers still smart over the way the Aceh settlement allowed GAM to dictate the political agenda under autonomy. In the mindset of the conservatives this was a betrayal of what they view as the sacrifices of blood made in the fight against the insurgency. There is little evidence that the experience in Aceh has fundamentally altered TNI's approach to counter-insurgency. It has vowed to aggressively pursue OPM rebels after some shooting incidents in early August in which two soldiers were killed and it appears to have no effective strategy for winning over the population in operational areas.<sup>27</sup>

Therefore, any attempt at a settlement by Jakarta faces the old dilemma of having to overcome military suspicions as well as those on the pro-independence side. Recent efforts at opening a dialogue have only resulted in a hardening of positions. If Yudhoyono is sincere and wants to advance a solution, he will also need to break the pattern of a cautious presidency. There are clearly considerable dividends, domestically and internationally, for him and the country from a political solution in Papua. It would help secure his personal legacy. But great deeds are getting harder to perform as the end of the president's term nears in 2014.

## Conclusion

Since 1998, Indonesia has experienced a remarkably successful democratic transition. Democracy, however, is far from having consolidated. It has its critics. Disappointment with the way the political game is played, the ubiquity of corruption and the failure to end a patrimonial business culture has led many Indonesians to question the benefits of democracy. For those conservatives from the military and civilian elite who have favourable memories of the stability of the New Order, if not always the means by which it was achieved, the pendulum has swung too far in favour of liberty at the expense of effective government. Given the opportunity, they would gladly see something of a restoration of military influence in politics and society and are more open in discussing such scenarios than at any time since the fall of the New Order. Serving officers are careful to at least publicly reiterate their support for democratic politics and disinterest in the machinations of the political parties, but the senior ranks of TNI grew up under the New Order and undoubtedly share some sympathies with the views of more outspoken retired colleagues and conservative civilians. For now, the criticism of democracy is constrained by the weight of public opinion that there is no obvious alternative than to try to make it work, despite its many failings. That said, a recent opinion poll in the newspaper Kompas found that about

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<sup>27</sup> 'Military Vows Crackdown in Papua Province', *Jakarta Post*, 7 August 2011.

half of Indonesians in lower and middle education categories (the majority of the population) preferred the next president to have a military background<sup>28</sup>.

Security sector reform will be one of the main fields on which the contest over the direction of democracy is played out. Although the reforms made to date have been essential to securing democracy, they are far from complete. The military has significantly retreated from political and social life and turned over much of its role in internal security to a stronger police force, while intelligence agencies have been operating under normative constraints that are more consistent with democratic practice. Another wave of institutional reform would entrench that state of affairs and provide some insurance against regressive ideas. The current state of Indonesian politics suggests that is unlikely. At a time of growing political uncertainty, ahead of 2014 presidential elections at which Yudhoyono must step down, there appears to be little appetite to push for further institutional concessions from the security services in the name of democratisation. The current attitude of the government is to favour vigilance against security threats and instability over the less tangible rewards of greater civilian authority over security matters—as demonstrated by its support for the new security provisions in the intelligence and national security laws. This has prompted some concern among civil society groups about a potential democratic rollback.

The state of security sector reform also has international significance. Australia and the United States have a strong strategic interest in trying to rebuild defence cooperation with Indonesia, which never quite recovered from the depths it fell to during the crisis over East Timor. Loss of momentum for security sector reform would make engagement potentially more difficult and more important. Defence cooperation is obviously easier to sell to domestic constituencies in the West if Indonesia avoids controversy over issues like legal impunity for human rights violations and the conduct of security operations in Papua. On the other hand, international engagement can help bring about the desired changes in behaviour. It can give Canberra and Washington crucial leverage on sensitive topics like a new approach to Papua. US officials regret the loss of influence they experienced with the Indonesian military when the defence relationship, including military supplies, was cut-off in the 1990s. Australia too has never restored the closeness of its relationship on security matters to the levels experienced before the conflict over East Timor, notwithstanding the intense cooperation between Indonesian and Australian police in counter-terrorism.

If the security sector reforms of the past decade are to be secured and moved forward, the initiative will not come from the security services themselves. They feel they have conceded enough. In any case, the problem is not so much one of military recalcitrance as civilian weakness. One of the lessons of the democratic transition is that the actions of

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<sup>28</sup> Kompas, "Menakar Sosok Calon Presiden", 15 August 2011.

individual political leaders and the degree of unity among political elites is one of the main determinants of the quality and quantity of government policies to reform the security services.<sup>29</sup> For the policy momentum to be restored, it will require a president and a parliament capable of uniting around a new reform agenda. The chances of that happening in the lead-up to the 2014 elections are low.

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<sup>29</sup> Mietzner, 'Overcoming Path Dependence' has highlighted the significance of conflict among civilian elites and human agency in shaping the direction of security sector reform.