

INDONESIA: NEXT STEPS IN MILITARY REFORM

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INDONESIA: NEXT STEPS IN MILITARY REFORM

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The first two years after President Soeharto's fall from power in May 1998 saw substantial changes in the Indonesian National Military (TNI) as it withdrew from direct involvement in political matters. Thereafter reform slowed in the absence of government policy, the TNI's absorption in security disturbances across the country, and the political crisis that led to the fall of Abdurrahman Wahid from the presidency and the elevation of Megawati Soekarnoputri to that position on 23 July 2001. In an address on 16 August, the day before Indonesia's national day, President Megawati committed her government to reviving military reform.

The presidential crisis showed the dilemma that continued TNI representation in parliament presents. It is impossible to be represented in parliament and at the same time remain aloof from day-to-day politics, especially at moments of high political drama. Inevitably the TNI was seen to be partisan and thus the integrity of the security forces on the streets was compromised.

This is not to deny that TNI should be deeply engaged in providing advice and assistance with drafting relevant documents but it should not dictate the objectives of the review or its outcomes. There is some concern that in the absence of government policy and with continuing distrust of civilian politicians, TNI has been attempting to control the military reform agenda. For example, referring to the doctrine of total people's defence in the draft defence law and other legislation, the TNI has begun planning the reshaping of the army territorial organisation. This is a lower order reform that should stem from government policy

that determines the future mission, size, shape and organisation of the defence forces rather than being determined by the TNI on the basis of a vague philosophical concept contained in legislation.

The first task of the new government, the legislature, the media and defence interest groups is to monitor the passage of defence legislation to ensure that no time bombs are left that might justify TNI political imperatives or limit government policy options. Effective government leadership is the best hedge against this possibility.

It has been over twenty years since a comprehensive review of defence policy was undertaken. The change of regime, the economic crisis, and the chronic state of the TNI demands a comprehensive review to guide force development, make best use of scarce resources and assets, and reorient it to external defence as internal security imperatives decline. This is an opportunity for government to seize the initiative and regain control of the defence reform agenda.

TNI reformers not only need government policy guidance, they also need to implement reforms that will lead to behavioural changes in the field that are consistent with their declared aspirations. They have gone part of the way by reforming education and training in human rights and rules of engagement but they have yet to impose the penalties for violations of these rules that will force change. President Megawati has committed herself to uphold respect for human rights but it has yet to be seen what this means on the ground, particularly in the troubled provinces of Aceh and Irian Jaya.

Reform of the national and military intelligence organisations will be fundamental to ending their propensity to act independently of civilian political control. Effective intelligence services are an essential element in combating terrorism and internal security challenges but they must be subject to government policy direction and external oversight, and not undermine democratic freedoms. Again, a government review is called for along with legislation to set the ground rules for the operation of the intelligence services, including military intelligence that might be engaged in internal security.

As pointed out in previous reports, no government institution can be reformed in isolation but there is much that can be done in the defence field pending broader reforms that will generate the government funds needed to finance the armed forces. Currently only about a quarter of the defence budget is covered by central government funds. The rest is raised by the military through various legal and illegal means. Without full government funding of the armed forces, declared policy objectives will be distorted by the demands of a diverse band of paymasters.

President Megawati's commitment to seeking solutions to the various conflicts in Indonesia, if successful, would be an enormous boost to reform across the board, particularly for the military and police. If she is willing to make the concessions necessary to have a chance of success, the international community should be ready to support the search for peaceful solutions to these conflicts.

The scope for foreign assistance for military reform is largely dependent on the TNI's willingness to commit itself to reform the conduct of its troops in the field. Only then will some members of the international community be able to convince their constituents that they should re-engage with the TNI. Meanwhile, the international community should assist with planning, education and training, and information that might be required to set reform in motion.

RECOMMENDATIONS

TO THE GOVERNMENT OF INDONESIA:

1. Initiate a comprehensive review of defence policy.
2. Open military income and expenditure up to public scrutiny by publishing a defence budget.
3. Freeze defence numbers and creation of new reserve forces (cadangan) or militias (ratih), new headquarters, or purchase of major equipment until the defence review is complete.
4. Review the defence and police bills to ensure that they are complementary and not unnecessarily prescriptive.
5. Initiate a review of national intelligence requirements, structures and controls, and legislation.
6. Consider reducing army manpower (by limiting recruitment) as an interim measure to force qualitative reform, especially in the army territorial structure.
7. Pending completion of legislation, produce executive guidance for the employment of the TNI in internal security, law enforcement, and civil assistance tasks.
8. Establish Human Rights Courts, as provided for in the November 2000 law, as soon as possible and prosecute appropriate cases involving military personnel in these courts.
9. Adopt appropriate legislation, including amendment of the Military Courts Act, to provide for the prosecution of military and police personnel for civil crimes in civilian courts.

TO THE TNI

10. Take firm action to dispel the common impression that the TNI is protecting personnel from prosecution for human rights offences, including by vigorously applying the law.

11. Implement proposed reforms of the army headquarters foundation and extend them to all TNI foundations and cooperatives.
12. Capitalise on the TNI's improved public image and consider initiating withdrawal from the legislature after the draft defence law is passed into law.

**TO THE INTERNATIONAL COMMUNITY
(PARTICULARLY THE U.S., THE EUROPEAN
UNION AND ITS MEMBER STATES, AND
AUSTRALIA)**

13. Maintain existing limits on cooperation until there is evidence of effective punishment of human rights abuses but provide assistance with legislative drafting, planning, education and training, and software that might help with policy reviews and professional management of reform.

Jakarta/Brussels, 11 October 2001



INDONESIA: NEXT STEPS IN MILITARY REFORM

I. INTRODUCTION

Over the last three years the Indonesian National Military (TNI) has withdrawn or been pushed back from the heights of political power but, as the presidential crisis of 2001 has shown, it still exercises political influence at national and regional levels and the capacity, although currently not the intent, to recapture the political heights. Leaving aside intent, a coup d'état would be short-lived due to internal divisions and domestic and international condemnation. Nevertheless, for many officers, the presidential crisis validated their historical view that civilians are incapable of governing in the national interest and will resort to any means to preserve individual or sectoral interests.

On the other hand, the August 2000 decision of the People's Consultative Assembly (MPR) requiring parliamentary endorsement of the appointment and dismissal of the commander of the TNI and the police chief, although legally contentious in application, demonstrated the benefit of constitutional and legislative arrangements to define the limits of executive power over law enforcement agencies and the military. Arguably, Indonesia was saved from a more traumatic crisis by these provisions, enacted and upheld by civilian politicians.

Former President Abdurrahman Wahid's attempt to co-opt the military and police in his fight for political survival shows the urgency of clarifying the president's power in relation to the military because of legal contention over the status of various legislative products. President Megawati Soekarnoputri also spoke of her intent to push military reform more generally in her address on

16 August 2001, the day before Indonesia's national day.¹ This report updates and carries forward a previous ICG report that surveyed the substantial changes in the TNI from the fall of Soeharto to late-2000 and identified areas needing reform, in particular political representation, doctrine, finances, discipline, intelligence and force structure.²

In the long-term, reform in these areas should achieve four outcomes: end the military's political role, establish government control over defence policy and the application of force, clarify TNI responsibilities for internal security, and create professional military forces.

¹ 'Mari Bekerja Sama untuk Keluar dari Krisis', *Kompas*, 18 August 2001.

² *Indonesia: Keeping the Military under Control*, International Crisis Group Asia Report No.9, 5 September 2000.

II. ENDING THE MILITARY'S POLITICAL ROLE

Although Admiral Widodo, commander of the TNI, endorsed the concept of civilian supremacy in February 2000, it is not altogether clear what that means. For example, the former deputy chairman of the TNI parliamentary faction, Lieutenant General (Retired) Hari Sabarno, now minister for home affairs, expressed a common TNI view when he claimed a role for the military as the 'guardian and escort of the Constitution' and asserted that the military will 'defend to the death' the Pancasila³ as the ideology and foundation of the nation along with the introduction to the 1945 Constitution [containing the Pancasila ideology], Indonesia's unity and cohesion, and the unitary structure of the state.⁴

These are explicit claims to political prerogatives and suggest that the TNI's commitment to full civilian supremacy is not without reservation. These declared prerogatives need not necessarily impede reform but they might be a factor in forming the atmosphere in which reform is debated or delay implementation. Moreover, TNI attitudes are shared by some civilian politicians. Both officers' views are likely to be reflected in debate on several defence and security bills currently before parliament, in TNI responses to political crises, and in shaping the military reform process.

Ending the military's political role will require the withdrawal of legislative representation, ending residual influence in the executive, dismantling or reorienting the army territorial structure, and reform of national intelligence structures.

A. WITHDRAWAL FROM PARLIAMENT

In August 2000, the MPR stipulated, in a decision that will guide future legislation, that the TNI is the prime component of the defence system of the

state. It laid down that it should be subject to policy direction by the government; be politically neutral; support democracy and the rule of law and human rights; and, although military personnel do not have the right to vote, that TNI be represented in the national parliament (DPR – currently 38 seats) and regional parliaments (DPRD) until 2004 and in the MPR (currently 20 seats) until 'at the latest' 2009.⁵

The same decision stipulates that the police are an instrument of the state for the maintenance of security and public order, law enforcement, and protection of and service to the public. The police too are obliged to be politically neutral and forfeit voting rights in return for DPR representation among the 38 seats mentioned above until 2004 and MPR representation until 2009.

The contradiction between maintaining political neutrality while being represented in parliament was illustrated by the political machinations preceding President Wahid's downfall. In February 2001, the TNI parliamentary faction, on instructions from armed forces headquarters, voted in support of the first memorandum giving President Wahid three months to correct the deficiencies noted in it. In response, angry crowds ran amok in East Java taking no heed of troops sent to quell the riots and accusing them of taking sides against Gus Dur.

Some generals criticised TNI support for the memorandum as breaching a promise of April 1999 that TNI would maintain equidistance from all parties. Reflecting the TNI's dilemma, the chief of territorial affairs, Lieutenant General Agus Widjojo, said it was the appropriate moment for the TNI to withdraw from parliament. He went on to say that the commander of the TNI, Admiral Widodo, agreed but said that it must be analysed, discussed and formulated in an MPR decision.⁶

As the expiration of the warning approached, it became clear that parliament would issue a second and final memorandum that could lead to Wahid's impeachment. The president questioned the constitutionality of the process and acquiesced in a plan by his supporters to conduct a mass prayer

³ The five principles that guided the drafting and application of the 1945 Constitution, among others a belief in God, without nominating a state religion.

⁴ Letjen TNI Hari Sabarno, 'Hubungan Sipil-Militer dalam Kerangka Politik Elite, Posisi dan Peran TNI Serta Masalah Keamanan Wilayah', a paper presented to a roundtable discussion organised by the Research Institute for Democracy and Peace (RIDeP), 24 March 2001.

⁵ MPR Decree 7/2000 concerning the role of the TNI and the police.

⁶ 'Letjen Agus Widjojo: "Apa Bisa Dijamin Gus Dur Selalu Benar"', *Forum Keadilan*, 18 February 2001, p. 16

meeting in Jakarta just prior to the issue of the second memorandum at the end of April. The security forces were responsible for guarding the parliament and other vulnerable areas from the possibility of invasion by the president's supporters. The integrity of the security forces in the eyes of the president's supporters would be compromised if police and TNI parliamentary representatives voted in favour of impeachment.

Consequently, it was decided that TNI would abstain from voting on the second memorandum. That this was not a unanimous decision was shown two days before the vote when nine members of the TNI parliamentary faction were replaced.⁷ Fortunately for the TNI and police, the second memorandum was passed overwhelmingly so that their vote had no part in deciding the fate of the president. Had their vote been decisive it would have shown the absurdity of their ambition to remain aloof from party politics while remaining in parliament.

The TNI's public image, at a low ebb as a result of its close association with Soeharto, was boosted by its refusal to buckle to Wahid's intentions. The political fallout of this has yet to be seen. Will the TNI seek early withdrawal of its parliamentary representation, as suggested above, or will the whole experience lead it to seek an extension of its role given the critical part it played in the drama and the support of some members of parliament for such a proposal?⁸

As long as the security forces are represented in parliament the fundamental dilemma will remain and could easily arise again under less favourable circumstances. Moreover, should TNI seek to extend its parliamentary representation it would forfeit the much-needed boost to its public image and would be widely condemned at home and abroad.

Assuming the TNI will not seek to extend its parliamentary representation, the options open are to live with the dilemma until the expiry of the arrangement in 2004 and 2009; to voluntarily withdraw their representatives from the DPR and MPR and regional parliaments before the expiry of

those deadlines; or for the MPR to rescind TNI and police political participation and restore their members' right to vote in general elections.⁹ A declaration that it will abstain from voting on matters related to the election and dismissal of the president and vice president is not a viable alternative. Regardless of such a declaration, if TNI votes were decisive on such issues it would still be seen to be partisan and potentially divisive within the TNI. Nevertheless, TNI policy seems to be that it will adhere to the 2004 and 2009 deadlines.¹⁰

There is little point in political parties or interest groups expending political capital to force an early exit from parliament although representation in the MPR post-2004 might be reviewed. Apart from voting to extend their representation in the MPR beyond 2004, there is no evidence that TNI presence has hindered democratic transition although some fears have been expressed that they might play a role in hindering human rights trials.¹¹ The test will come when defence related legislation is finalised. If the letter and spirit of the MPR decision mentioned above is incorporated in the legislation, TNI will have had a role in ushering it through the parliamentary process and will find it hard to deny its provisions at some future date. Constant media and community scrutiny will be needed as the legislation is deliberated to ensure that time bombs are not included that might legitimise future military intrusions and that it does not unnecessarily constrain government policy making.

The eventual withdrawal of military parliamentary representation will reduce but not eliminate the incentive for politicians to seek military support for partisan political projects. If early withdrawal of TNI parliamentary representation is sought by civilian politicians or interest groups it should be accomplished by convincing the TNI leadership to seek amendment of the relevant legislation. However, given the enormous reform challenges

⁷ ICG discussion with former TNI faction member. Also see 'Netral, tapi Berpihak', *Tempo*, 6 May 2001, p.26.

⁸ 'Hasan: Jangan Libatkan TNI dalam Kabinet Megawati-Hamzah', *Koran Tempo*, 2 August 2001.

⁹ There is some support for TNI withdrawing parliamentary representation among both serving and retired officers but it is obviously not the most decisive view. See, for example, Lieutenant General (Retired) A. Hasnan Habib, 'Fraksi TNI/Polri yang Anakronistis', *Tempo*, 13 May 2001.

¹⁰ ICG interview with deputy chief of army 8 August 2001.

¹¹ 'Letnan Jenderal Hari Sabarno: Juru Runding Militer', *Forum Keadilan*, 5 August 2001, p.40-3.

that Indonesia faces there is little to be gained by trying to force an early exit, except from the MPR. This could become an item in proposals to amend or rewrite the constitution.

B. TNI REPRESENTATION IN THE EXECUTIVE

Former TNI officers still hold some key positions in the cabinet and regional administrations. While there is no evidence that they represent TNI in any institutional sense they do, to varying degrees, bring past attitudes and reservations about democracy to the core of executive government. There are several reasons for their continued presence including the president's political considerations and the knowledge and authority they possess, especially over some potentially disruptive elements of the previous order.

Three former military officers have been brought into the Megawati cabinet, one less than the previous cabinet, including the coordinating minister for politics and security – General Susilo Bambang Yudhoyono, the minister for home affairs – Lieutenant General Hari Sabarno, and the minister for transport – Lieutenant General Agum Gumelar. The commander of the TNI and, for the first time, the head of the national intelligence agency, BIN, also have *ex officio* cabinet status.

General Susilo Bambang Yudhoyono served in the previous cabinet and brings continuity and experience to a range of chronic security and law-and-order problems facing the government. A civilian could do this job but it might be argued that at this early stage of political transition, especially before the TNI is placed under the minister for defence, a retired officer might be better placed to influence the outcome of events, assuming the government's strategy is workable.

General Hari Sabarno serves two functions. He denies political parties the opportunity to use the department of home affairs' nation-wide network for electoral purposes and his military background makes it easier to exercise control over the residual influence of retired military personnel in this critical ministry and in regional governments. With the completion of regional electoral cycles and consolidation of regional autonomy by 2004, the case for a military officer in this post should have diminished.

The return of General Agum Gumelar to the ministry should be seen more as a reward for loyal service during the presidential crisis and for many years prior to that rather than a political necessity. However, it also maintains military representation without introducing another generation of military officers to the cabinet.

The promotion of the head of BIN, currently Lieutenant General Hendropriyono – a Megawati loyalist – to cabinet status reflects concern with the failure of the intelligence services to predict outbreaks of violence and to detect the masterminds behind the politically motivated bombings that have plagued the country since 1999. It also shows concern about growing domestic linkages to foreign terrorist organisations and international crime and weak coordination across the intelligence agencies. BIN and its predecessors have been headed by, and largely staffed by, military officers since 1966.

Although theoretically the senior intelligence body, BIN has been overshadowed by military intelligence. The elevation of its head to cabinet status will help it to recapture functions taken over by the military during the Suharto Era (1966-1998). As discussed later, a major review is needed in this area.

Former military personnel are widely scattered across the bureaucracy and regional governments and in some cases old loyalties and attitudes prevail but these loyalties have been weakened by the diffusion of party loyalty among the retired military community. In some cases, regulations forbidding public servants to draw a salary and a pension simultaneously have also forced former military personnel out of the bureaucracy. In addition, provincial elections have invariably seen the exit of incumbent military office holders but at district level there is more scope for some officers to be re-elected. Nevertheless, former military personnel should not be discouraged from seeking public employment or public office after their retirement from the security forces.

Some fears have been expressed that Megawati's election to the presidency has unleashed a conservative resurgence as evidenced by police application of previously ignored restrictions on political protest, the arrest of political activists for trivial reasons, and the Jakarta governor –

Lieutenant General Sutiyoso – insisting on eliminating pedicabs from the streets of Jakarta.¹² However, all these actions were in accordance with existing national or regional legislation. Although the executive authorities might be accused of being over-zealous, perhaps the legislation and parliamentary and public accountability mechanisms need to be addressed rather than casting blame on the executive authorities, some of whom are former military officers.

C. THE ARMY TERRITORIAL STRUCTURE

TNI intends keeping the territorial structure for several years as a hedge against political instability and disintegration. At a workshop held in Jakarta in January 2001 the chief of TNI territorial affairs, Lieutenant General Agus Widjoyo, concluded that there were two strategies that could be applied. In the short-term, the current territorial structure had to remain in place to create a sense of security, especially to stabilise the economy, but without excessive military intervention in politics, law and order issues or the economy. In the longer-term, it was envisaged that priority would be given to the navy.¹³

Although there is some self-interest in this approach it needs to be remembered that the territorial system grew from Indonesia's experience in the war against the Dutch, it was developed to counter rebellions and insurgencies that followed independence, and only in the 1960s did it become the vehicle for the army's political dominance.

For the former tasks it creates a national structure providing intelligence, the capacity to organise local resistance, mobilise local logistic support, and liaison with local authorities. Reinforcements sent for internal security or external defence operations can 'plug-in' to an existing command structure that provides those services. Nevertheless, its residual political influence needs to be purged. Recognising this, the TNI conducted a workshop in Jakarta in August 2001 to examine how the defence functions could be retained

without retaining the territorial structure in its current form.¹⁴

Lieutenant General Agus Wijoyo, chief of territorial affairs and initiator of the workshop mentioned above, envisaged that the bottom three rungs of the territorial structure would eventually be disbanded, that is the village non-commissioned officer and sub-district and district headquarters.¹⁵ However, the debate is still in its early stages. Other senior officers, including the army chief, General Endriartono Sutarto, see this as one of a number of options while others, including the Jakarta military commander, Major General Bibit Wiloyo, believe that the current structure should be retained.¹⁶

Despite massive failures in preventing violence in Maluku, Poso, Kalimantan, Aceh and elsewhere, in some areas the army does play a role in preventing conflict so that it should not be withdrawn before newly autonomous political and social structures and the police have time to assume that role. As these structures are in some cases underdeveloped, premature withdrawal could potentially invite conflict. However, where local government and the police are well established there is no reason why the territorial structure cannot be adjusted as has occurred on a limited basis in Jakarta and Surabaya.

TNI is contemplating a long phased adjustment of the territorial system. However, the form, scope and timetable for reform of the territorial system and structure should not be left to the TNI. It should be one of the central elements of an overall defence and security review initiated by the government.

D. INTELLIGENCE AGENCIES

During the Soeharto era, domestic intelligence was conducted by military intelligence and separate military-controlled bodies with general and sectoral interests, such as Kopkamtib (Operational

¹² For example, 'Musim Bungkam Bersemi Lagi', *Gamma*, 22-28 August 2001.

¹³ 'Semiloka Territorial di Mabes TNI: Keberadaan Wilayah Komando teritorial Masih Perlu', *Kompas*, 26 January 2001.

¹⁴ A workshop was conducted by the TNI's chief of territorial affairs in Jakarta 14-16 August 2001 on this subject. ICG attended the workshop.

¹⁵ 'Kaster TNI Letjen Agus Widjoyo: TNI Tak Ingin Lagi Tangani Fungsi Teritorial', *Kompas*, 22 August 2001.

¹⁶ 'Panglima Kodam Jaya Nilai Koter Sekarang Sudah Ideal', *Kompas*, 29 August 2001.

Command for the Restoration of Security and Order) and its successor Bakorstanas (National Stability Coordination Agency), Opstib (Bureaucracy Oversight Operations) and Jamintel (Prosecutorial Intelligence). With Soeharto's downfall Bakorstanas was disbanded, opening the opportunity for BIN, the national intelligence agency formerly known as Bakin, to regain some of its leading role in the intelligence community.

As well as retaining its national coordination and analysis function, BIN has also expanded its domestic intelligence operations and intends to establish branch offices in all provinces.¹⁷ Meanwhile, the TNI's strategic intelligence agency, BAIS, still carries most responsibilities in this area and for foreign intelligence. Although the police have assumed more responsibility for internal security, they have not taken over or duplicated the operational domestic intelligence functions to any significant extent.

An air force officer has been appointed to head BAIS but the air force chief of staff, Air Marshal Hanafie Asnan, was reported in the press in early 2001 as saying that military intelligence was still largely run by the army. In the past, he said, it had wide-ranging responsibilities including spying on common people and businessmen and was thoroughly unprofessional. He also agreed that the intelligence system was weak 'because currently bombings occur without prior warning or detection. But, I wonder whether the bombings occurred because of our poor intelligence capability, or whether our intelligence personnel are involved?'¹⁸ The conduct of intelligence units in Aceh and elsewhere also indicates a chronic level of brutality and absence of control.¹⁹

Coordination and cooperation between the intelligence branches of the police and military deteriorated with the fall of Soeharto and the separation of the police and the military. The police, at least in Jakarta, are keen to restore this cooperation by reactivating the 'intelligence

community'.²⁰ Apparently BIN has yet to fulfil its mandate in this area, most probably due to inter-agency competition and the absence of legislation and executive control.

There is an obvious need to rationalise and reform the intelligence services, define their roles and the limits of their authority and establish government control and legislative oversight of their activities. As one study warned, 'without decisive action an authoritarian intelligence apparatus will remain a state within a state and prevent democratic consolidation'.²¹ The structure of the intelligence community should be the outcome of a government-sponsored study that addresses the following issues:

- ❑ Foreign and domestic intelligence requirements.
- ❑ Structure of the intelligence community.
- ❑ Role, scope and responsibility for foreign and domestic intelligence collection and analysis bodies.
- ❑ Executive and parliamentary control and oversight.
- ❑ Active independent oversight mechanisms.
- ❑ Powers of intelligence agencies, including search, surveillance, electronic communications and postal intercept, and information system searches.
- ❑ Responsibilities and limitations on arrest, interrogation, and prosecution.
- ❑ Intelligence community coordination.
- ❑ Limitations on the conduct of intelligence agencies to safeguard legitimate advocacy, protest and dissent, and to proscribe support for individual or sectoral interests.
- ❑ Reporting obligations.

This should result in the establishment of civilian intelligence agencies responsible for foreign and domestic intelligence collection, analysis and oversight.²² The police and attorney general would

¹⁷ 'Hari Sabarno: "Kita Bukan Negara Federal"', *Tempo*, 2 September 2001, p.42.

¹⁸ 'How reformist can the Indonesian Military be?', *The Jakarta Post*, 9 January 2001.

¹⁹ *Aceh: Why Military Force Won't Bring Lasting Peace*, ICG Asia Report No.17, Jakarta, 12 June 2001.

²⁰ 'Menjelang Dilantik Sebagai Kapolda Baru Sofjan Jacob Siap Teruskan Berantas Preman', *Koran Tempo*, 5 May 2001.

²¹ Thomas C. Bruneau, 'Controlling Intelligence in New Democracies', *International Journal of Intelligence and Counterintelligence*, 14 : 3, 2001, p.337.

²² Dewi Fortuna Anwar, *Negotiating and Consolidating Democratic Civilian Control of the Indonesian Military*, East-West Centre Occasional Papers, Politics and Security Series No.4, Hawaii, February 2001, p.38.

retain responsibility for criminal intelligence. Military intelligence should be limited to foreign military intelligence and tactical domestic intelligence.

TNI is still deeply involved in domestic intelligence operations, especially in contested regions such as Aceh, Maluku and Irian Jaya. This will continue until a civilian agency assumes responsibility for domestic intelligence and territorial intelligence functions are confined to the collection of basic intelligence appropriate to defence needs. Nevertheless, the military will still need a tactical intelligence capacity for internal security operations to complement domestic intelligence provided by BIN or a new agency. However, tactical intelligence should only be activated in the area and for the duration of authorised military operations. The control and oversight of military intelligence should also be included in the study suggested above.

III. ESTABLISH GOVERNMENT CONTROL OVER DEFENCE POLICY AND THE APPLICATION OF FORCE

The complement to dismantling the structures of military political power is the passing of legislation and the production of government policy that provides civil society, all branches of government, and the military with a clear understanding of who is authorised to form, structure and set the role of the armed forces and who has authority to use them. Former President Wahid's attempted dismissal of the police chief and his efforts to induce changes in the military leadership in his bid to retain power underline the need to cement moves in this direction.

A. THE CONSTITUTION

The 1945 Constitution, as amended, specifies, among other matters, that defence will be based on a system of total people's defence, that the TNI is an instrument of state tasked to protect and preserve the unity and sovereignty of the nation, and the police are an instrument of the state responsible for guarding public security and order and tasked to protect, guide, and serve the public as well as uphold the law. It also stipulates that the entire human and physical resources of the nation can be mobilised in its defence if required.²³

The constitution invests the president with supreme authority over the army, navy and air force but this authority is not without constraints. For example, MPR decisions require that the DPR approve the appointment and dismissal of the chief of police and commander of the TNI, and annual budgets have to be approved by the DPR.

Nevertheless, further measures are needed to clarify presidential powers. For example, the constitution authorises the president to declare states of emergency. That power is set forth in the 1959 emergency powers law that authorises the president to declare states of civil or military emergency as well as a state of war and to exercise broad-ranging authority for as long as she so

²³ 1945 Constitution of the Republic of Indonesia, Amendment 2, Section 30.

decides. There is no provision for parliamentary endorsement or periodic review. Judicial review is also limited to the testing of regulations - assuming that there was a functioning and impartial judicial system. The recent crisis clearly demonstrated how these powers might be abused if the president had military support.

Resolving and clarifying these issues in the constitution and legislation will be an essential element in limiting the prerogative of the executive to engage the security forces in partisan politics and in providing clear guidelines for the conduct of senior security force commanders.

B. DRAFT DEFENCE ACT

The draft defence law prepared by the department of defence in the latter half of 2000 was heavily criticised for ignoring the guidance of the amendments to the constitution and the MPR decisions, particularly those relating to civilian control, policy direction and parliamentary oversight. Consequently, the new minister for defence, Professor Mahfud MD, commissioned a revised draft with major input from a community group composed of academics and representatives of non-government organisations.

Besides minor quibbles with the draft there were two provisions that caused substantive debate and delay. The first was the inclusion of the concept of "total people's defence" in the draft law that some community groups fear could be used as a mandate for retention of the army territorial structure that underpinned political power during the Soeharto era and the army's tentacles into the economy nation-wide. They also fear it might be used to envelop many aspects of day-to-day life within the ambit of security and to militarise the community in the name of national security.

This concern, however, seems to be exaggerated. For a nation with limited resources and Indonesia's physical and human endowments the concept of total people's defence retains its currency and does not grant the TNI the prerogative to determine implementing strategies or structures. Moreover, it is nothing more than a statement of the obvious potential of all nations. Its insertion in the defence law does not limit the executive or legislature in determining the scope of the military's demands on society or constrict government in deciding how its

resources might be employed to defend the nation or its interests at any given time. The question of what strategies and structures might be employed is a matter for subsequent government policy.

The other aspect, related to command and control, is whether the TNI should be placed within the portfolio of the minister for defence or whether it should continue to be responsible directly to the president. TNI is resisting changes to the current arrangement enshrined in the MPR Decree 7/2000 and believes that the recent presidential crisis proved the validity of not subordinating the commander to the minister, a staunch Wahid supporter. For TNI, remaining independent of the ministry and retaining *ex officio* cabinet status preserves their political relevance, lessens the potential of political interference by the minister and civil servants, and gives them direct access to the president. It does not help that the police chief, formerly the junior partner in TNI, is also responsible directly to the president.

This arrangement leaves the minister for defence with no executive authority over the armed forces making it difficult to coordinate policy and produce agreed development and acquisition plans and to coordinate and control expenditure. Professor Juwono Sudarsono, minister for defence until August 2000, suggested that the police be placed under the minister for home affairs and the TNI under the minister for defence by January 2002 but this was rejected by President Wahid. At that stage he needed their political support. This suggestion should be reconsidered for inclusion in the defence and police bills even if implementation is phased over two to three years.

A decision of the MPR already requires the president to seek the approval of the DPR in the appointment and dismissal of the commander of the TNI. The draft defence law restricts the president's choice to current or former service chiefs of staff. The draft defence bill also authorises the president to appoint and dismiss service chiefs of staff after taking advice from the commander of the TNI. This device essentially restricts the president's choice of commander of the TNI to a very limited group that has in turn been selected by the military. In most cases that will produce satisfactory outcomes but it also bars the president from reaching down to select a talented officer who might be out of favour with his superiors or trapped within an ossified system.

The TNI's concern to keep politics out of the military is understandable and held by all defence forces but the government should have the freedom to select the senior leadership that it thinks will produce the armed forces it wants for the future or that it needs to cope with particular circumstances. Appointments at this level are inevitably influenced to some degree by political considerations as well as professional competence. In particular, the latent operational powers or veto that the army chief will continue to exercise during the political transition warrants DPR oversight of appointments to this position. The DPR should therefore consider implementing Juwono Sudarsono's recommendation that service chiefs of staff also be appointed by the president with the approval of the DPR, both as a check on executive power and on the TNI.²⁴ In addition, as political transition progresses, consideration should also be given to deleting the provision in the draft defence law that restricts the choice of commander of the TNI to current or former service chiefs of staff.

The draft defence law makes no changes to senior military command arrangements. When they were adopted in the early 1980s it was intended that the service chiefs would be one rank lower than the commander of the TNI. This reflected the intention that the service chiefs be responsible for raising, preparing and sustaining their forces while the commander of the TNI is responsible for using them. However, Soeharto chose to ignore those intentions and constrain the authority of the commander of the TNI by promoting all service chiefs to the same rank as the commander. Depending on personality, patronage linkages, and circumstance this effectively gave the army chief de facto operational control of his forces at certain critical times or at least a veto over their use.

The government might consider whether the practice of promoting service chiefs to the same rank as the commander of the TNI is still necessary to prevent the emergence of a military strongman and, if so, whether there are advantages in strengthening this control by replacing the commander of the TNI with a chief of joint staff as some people, including Juwono Sudarsono, have suggested.²⁵ A chief of joint staff would act in the name of the president rather than in his own name.

In the aftermath of the recent political crisis, however, this option would find little support.

Moreover, in a relatively small force the present structure has many advantages and allows the government the prerogative of adjusting the commander TNI's authority administratively as political conditions vary without changing structures. For example, as well as varying the rank of service chiefs it could require notice or authorisation of the movement of units. If the TNI was placed under the ministry for defence the commander would no longer be so deeply engaged in cabinet politics and routine cabinet meetings and could give more attention to professional military matters.

The passage of both the defence and police bills was delayed during parliamentary consideration on the pretext that they should be subordinate to an overarching national security bill. The intention of those members, especially the TNI faction, supporting such a bill was to claw back responsibility for internal security transferred to the police in 1999. This objection was overcome when agreement was reached allowing the TNI greater latitude to engage in internal security by the inclusion of responsibility for the 'safety' (keselamatan) of the people within the ambit of defence without contravening MPR decree VI/2000 that the police should be responsible for maintaining 'security' (keamanan).

Another issue to be clarified in these two draft laws is the division of responsibility for maritime law enforcement. The police claim jurisdiction from the shore to the outer edge of the exclusive economic zone. While this has been implicit in the past, in fact, the navy and air force have been responsible for most patrol and law enforcement operations beyond the territorial seas. Given Indonesia's resource limitations it would seem sensible to leave the police with the responsibility for the investigation and prosecution of maritime crime but to leave the navy and air force to provide the means with limited powers of search and apprehension. This question is largely outside the scope of this paper except that anything that diverts the police from developing the capacity to uphold the rule of law on land will delay military reform and political reform generally.

Both these draft laws are scheduled to be signed into law by the end of 2001.

²⁴ Written response to ICG draft.

²⁵ Ibid.

C. SUPPORTING LEGISLATION

As suggested above, the 1959 emergency powers law should be replaced as soon as practicable to limit executive prerogatives, incorporate legislative oversight, and clarify the responsibilities and limits of powers of civil authorities and security force commanders operating under the legislation. A new law, covering most of these aspects, was passed during the Habibie era but was never implemented due to public opposition. Another draft law or revisions to the rejected law have yet to be completed by the department of defence.

The 1960 law regulating military assistance under normal conditions and under states of emergency will also need to be revised to take account of the proposed change to the 1959 law and provide clear guidelines for the employment of force in cases of domestic emergency and assistance to civil authorities. The Habibie era law, mentioned above, cancelled this law so that if the Habibie law is activated without amendment, other legislation will be required to regulate military assistance to civil authorities under normal conditions. This should also cover the employment of the navy in sovereignty protection tasks.

Currently, there is no legislation covering the intelligence organisations and their oversight. There is an urgent need to review national intelligence arrangements and to pass legislation to regulate their conduct as discussed above.

Other legislation covering recruitment, personnel management, termination of service, promotions and appointments also needs revision or replacement. President Wahid followed Soeharto's practice of exercising extensive influence over officer appointments down to district level army commanders in some cases.²⁶ This was seen to be necessary to maintain political control while proper systems of personnel management were implemented and the TNI's regional political and economic interests remained in play. As Wahid's political authority waned, TNI regained control of all appointments. Rather than interfere in army

appointments the executive needs to use the chain of command or find other means to influence outcomes when military and political interests intersect. However, the fundamental problem will remain until issues of defence policy and financing are addressed.

D. FORMULATION OF DEFENCE POLICY

At least within a conceptual framework, defence-related legislation defines who has the authority to raise, control, employ and demobilise the armed forces. Some form of explicit or implicit national strategy will define the role and functions of all sectors of the state in advancing national prosperity and security. Defence policy then defines what the armed forces might be employed to do, what their structure will be, under what circumstances they might be used, and how they will be funded. Defence force development is then implemented through more detailed long-term programs and annual budget submissions.

The government has yet to formulate or release a national strategy. The National Resilience Council (Dewan Ketahanan Nasional) is charged with this responsibility but obviously cannot undertake such a task without some preliminary direction from the government of the day. The draft defence law also provides for the establishment of a national security council giving rise to debate about whether the National Resilience Council would then be redundant.²⁷ However, this is a second order debate about bureaucratic effectiveness and efficiency rather than a matter of principle. If national strategic guidance is not forthcoming from such bodies, relevant considerations and assumptions, gleaned from foreign and domestic policy and intelligence assessments, have to be included in defence policy.

A defence policy paper has been drafted but is believed to be in the same form as previous papers, that is, it is a general philosophical document rather than a practical guide to what sort of defence Indonesia aspires to, how it would use its forces, and what their general structure and equipment holdings would be. Lacking this level of detail, it does not provide any guidance for force development planning. It is unclear whether this is

²⁶ 'Juwono Sudarsono: "First-Echelon Defense Posts with Civilian Officials Slated for March 2001"', *Tempo*, 10 September 2000, p. 49. According to Juwono's written response to an ICG draft, contrary to the content of this article, he did not advise Wahid to follow this practice but he understood Gus Dur's reasoning.

²⁷ 'RUU Pertahanan: Mencegah TNI Setengah Hati', *Forum Keadilan*, 1 April 2001, p.84.

due to lack of political direction, a lack of expertise, or a desire to control the policy agenda through the antiquated classified defence planning mechanism (Renstra).²⁸

Whatever the case, it is twenty years since Indonesia conducted a comprehensive defence review. The change of regime, the economic crisis, and the parlous state of the TNI provide good reasons for the new minister for defence to initiate a "Back to Basics" or "Top to Bottom" review of defence and security that brings defence planning into the modern era and establishes government rather than the TNI as the maker of policy.

This is not to deny that TNI should be deeply engaged in providing advice and assistance with drafting relevant documents but it should not dictate the objectives of the review or its outcomes. There is some concern that in the absence of government policy and with continuing distrust of civilian politicians, TNI has been attempting to control the military reform agenda. For example, referring to the doctrine of total people's defence in the draft defence law and other legislation, the TNI has begun planning the reshaping of the army territorial organisation. This is a lower order reform that should stem from government policy that determines the future mission, size, shape and organisation of the defence forces rather than being determined by the TNI on the basis of a vague philosophical concept contained in legislation.

The first task of the new government, the legislature, the media and defence interest groups will be to monitor the passage of defence legislation to ensure that no time bombs are left that might justify TNI political imperatives or limit government policy options. Effective government leadership is the best hedge against this possibility.

Since October 1999 Indonesia has had civilian defence ministers and the department of defence has been restructured to include more civilians at senior policy making levels but more are needed.²⁹ In early 2001, civilians were appointed to fill four

of the eleven senior positions in the department.³⁰ To assuage possible unease within TNI, the minister said that academics or professionals would fill these vacancies rather than political party appointees.³¹ Military officers will continue to fill important posts within the ministry but the question really is what sort of organisation is required to provide the necessary expertise, continuity and civil control of defence policy. Part of the review should be directed at command and control arrangements and the capacity of the ministry to assume responsibility for the TNI.

E. DEFENCE STRATEGY

Despite the turn to democracy, Indonesia's defence policy and strategy is unlikely to change fundamentally. Its non-aligned 'free and active' foreign policy will continue to proscribe participation in active defence alliances unless there is an imminent and unequivocal threat but it will seek to re-invigorate defence cooperation, primarily with nations in its immediate region but also with other nations as it recovers the capacity to do so.³² Like other countries in the region, it is concerned about where China is headed but it does not regard a Chinese threat as inevitable.

In his guidelines for democratisers, the American political scientist Samuel Huntington suggested that the armed forces be redeployed to the boundaries of the state and be given modern equipment to distract them from domestic politics and give them a useful role.³³ Huntington's recommendations are not so easily applied to Indonesia where units are often linked into supplementary sources of income in their home stations and because, in contrast to most military-dominated regimes which used their political power to raise military salaries to reasonable levels, salaries in Indonesia remain very low. Also, switching to a conventional defence mode would diminish the role of the army, the dominant service

²⁸ For details see Robert Lowry, *The Armed Forces of Indonesia*, Allen & Unwin, St Leonards, 1996.

²⁹ Professor Juwono Sudarsono was replaced in August 2000 by Professor Mahfud MD who in turn was replaced by Matori Abdul Djilil August 2001.

³⁰ 'Ministry of Defense in big reshuffle', *The Jakarta Post*, 9 January 2001.

³¹ 'Dephan Bukan Departemen Militer', *Panji*, 24 January 2001, p.71.

³² 'Menko Polkam Diminta Identifikasi Ancaman', *Kompas*, 14 August 2001.

³³ Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, University of Oklahoma Press, Norman, 1991, p.251-3.

in the island state of Indonesia. Nevertheless, a defence review that outlines the size and type of forces that Indonesia requires, where they should be stationed, and how they should be financed would undoubtedly, over time, make some significant changes in present TNI deployments and refocus the TNI mission to external defence.

Indonesia's primary concern for many years to come will remain sovereignty protection, especially of its maritime domain, and internal security. If democracy takes hold, the effort and resources allocated to internal security should be greatly reduced allowing a shift of focus to external defence. Although Indonesia's geography would suggest a maritime defence strategy, economic weakness, continuing domestic conflict, and the economic and institutional imperatives of the army will combine to make its achievement a protracted process.

In the absence of a pressing external threat there is no need for a rapid reorientation of defence strategy but there is a need to define, through a government defence review, how it should evolve as conditions develop and resources allow. For example, a priority should be to develop the capacity for air and maritime surveillance and interception to combat piracy and protect the maritime environment and resources.

F. BUDGETARY PROVISIONS

As President Megawati acknowledged in her National Day address, an essential step in military reform is providing sufficient funding.³⁴ The current defence budget is about U.S.\$1 billion, less than 1 per cent of GDP or less than 4 per cent of the 2001 government budget. It is claimed that the military then generates about U.S.\$3 billion more from legal and illegal enterprises ranging from legitimate airlines to oil smuggling and drug smuggling and distribution.³⁵

³⁴ 'Mari Bekerja Sama untuk Keluar dari Krisis', *Kompas*, 18 August 2001.

³⁵ *Indonesia: Keeping the Military Under Control*, ICG Report, op. cit., p.16. The interaction between legitimate business and criminal activity involving collusion between senior TNI officers and shady businessmen was recently highlighted in 'Laporan Khusus: Konglomerat Berbaju Militer', *Gamma*, 8-14 August 2001, pp.73-83.

These figures are disputable, and TNI needs cannot be accurately quantified without more extensive analysis. However, a rough idea of the scale of the problem might be useful. Assuming the government wanted to fully fund TNI and that the figures quoted above are correct, the government would need to quadruple the defence budget to run the TNI as it exists today. This figure would equate to what Singapore spends on defence

However, the current force is an undeveloped and depreciating asset. Much of its infrastructure is inadequate and poorly maintained, much of its major equipment is in need of replacement or extensive maintenance and overhaul. A shortage of operating funds has degraded skill levels, especially in high skill positions in the air force and navy. For example, the air force chief recently reported that, on average, only 105 of his 233 aircraft were operational.³⁶

So to maintain the existing force and modernise its infrastructure and equipment would probably demand a budget of about U.S.\$6 billion. That is about 4.6 per cent of GDP or 23 per cent of the 2001 budget. In GDP terms, it is about the same as Singapore but it is an impossible leap as a percentage of the government budget.

There are three possible options. Cut the forces to fit the budget, increase the budget to cover the current force, or something in between combined with efficiency measures. The first option would leave Indonesia with inadequate forces and expose it to the political dangers of enforced demobilisation. The second option would be a waste of money because of endemic corruption and inefficiency.

There are three possible sources of funding; government funds, foreign assistance, and the proceeds of asset sales and other efficiencies. Government funds could come from general government-wide reforms that boost economic growth and taxation revenues. Foreign assistance is unlikely to be substantial and would be provided for specific purposes and for limited time scales. The proceeds of asset sales, both of defence-managed government-owned assets and military

³⁶ 'Operasi Militer Terbatas di Aceh: TNI AU Siap Berikan Perlindungan Udara', *Kompas*, 16 March 2001.

businesses,³⁷ could provide funds to jump start reform. For example, the TNI could sell some of its large land holdings scattered all over Indonesia, including in the major cities.

However, only sustained economic recovery and government-wide reforms will provide the taxation revenues to fund TNI beyond any initial boost given by one-off asset sales or foreign support. Again, a full-scale defence review is required to ensure that increased defence expenditure is channelled to priority areas.

G. FINANCIAL ACCOUNTABILITY

Viewed from a broader perspective, the immediate problem is not one of increasing the burden of defence on the national economy. The challenge for the government is to increase taxes and budget expenditure while simultaneously reducing corruption so that the overall public-sector burden on the economy is not unduly increased.

The military leadership will have to be engaged in the process, primarily to enforce compliance while the justice sector is being reformed. The process involves enforcing accountability for government funds, accountability of military business enterprises, accountability for solicited contributions from government and business, and the abolition of condoned criminal activities.

Juwono Sudarsono estimated that 30 per cent of the non-salary component of the defence budget, about U.S.\$90 million, is lost through corruption in the process of buying equipment and supplies.³⁸ Much of the diverted money is used as tactical funds (for discretionary purposes by senior officers) or to supplement incomes. Fixing the problem requires increases in official salaries as well as application of existing or revised accounting, audit and disciplinary provisions.

Substantial financial assistance is also forthcoming from various government agencies and private

corporations. For example, the national petroleum company, Pertamina, and most mining projects make a contribution to funding TNI facilities and operations in areas of actual or potential unrest and provide tactical funds or gifts to influential senior officers to facilitate uninterrupted operations. This form of funding should also eventually be formalised if effective control over policy is sought.

The military business empire is managed by a number of foundations (*yayasan*) but no effective central control is exercised over the activities of these foundations or the use of their funds. It is not possible to estimate the value of the funds accumulated or how they are used. However, it is thought that these funds represent only a small fraction of non-budget income. Historically, they have not been subject to audit but a preliminary check of some military foundations by the national audit agency (BPK) in September 2000 found that internal control and supervision was virtually non-existent, that financial management was totally uncontrolled, that the relationship between the foundations, their businesses, and the units that operated the foundations was unclear, and that most funds were not used for the purposes for which the foundations were established. The report then made a series of recommendations to reform the management of some foundations and disband others that wasted public funds and made no contribution to the welfare of soldiers or their families.³⁹

In January 2001, the army commissioned two international accounting firms to conduct an audit of the army-headquarters foundation and make recommendations to reform its management. Their report was presented to the army chief in August. The recommendations assume that military business interests will be sold in seven years time and suggest instituting professional management arrangements and accounting procedures to make that outcome possible. The measures suggested will also ensure a greater flow of funds for the general welfare of the troops rather than for other purposes. The Letter of Intent recently signed with the IMF also obliges the government to proceed

³⁷ The military owns or has interests in about 250 business units. Written reply by Juwono Sudarsono to ICG draft.

³⁸ 'Indonesia's Defense Minister Concedes Difficulty Cutting Military Corruption', *Wall Street Journal*, 8 December 1999. In a written response to an ICG draft Juwono Sudarsono stated that mark-ups had gone as high as 60 per cent on some contracts in the last five-ten years.

³⁹ I Gde Artjana (Member of the BPK), 'Audit Terhadap Yayasan Militer', presented at a seminar in Jakarta 17 May 2001.

with the audit of eight military foundations.⁴⁰

Genuine accountability would have three important side effects: it would cut the ability of commanders to fund patronage networks; it would cut off a channel of financing for independent intelligence and political activities; and it would cut personal incomes of some senior officers.

The first two of these effects would contribute to bringing the military under civil control so the BPK's recommendations should be given full support. However, legitimate operations will have to be adequately funded. It will be extremely difficult and probably irrelevant to determine how much military business units contributed to funding operations by historical analysis of the foundation accounts. The most effective way to cover such costs is through the formal planning and budgeting process.

The effect on personal incomes is a more complex issue because current arrangements probably provide incomes to some officers well above what the state could afford for many years to come. Senior officers have become accustomed to being provided with cars, houses, schooling for children and much else. Only some of this comes from foundations but where it does there might be attempts to divert assets and contracts from the business units concerned to private companies. Some regulations to prevent this already exist. For example, officers and their wives are forbidden to engage in defence-related business activities but such regulations are easily side-stepped and rarely enforced.

Once adequate government funding and control is forthcoming, the foundation and cooperative business enterprises should be privatised and share holdings divested as most would not be competitive in a free market. They distort the economy and encourage illegal actions that besmirch the name of the institution. For example, a military-owned or partially-owned timber company might be tempted to knowingly accept timber from unauthorised logging sites in the interests of keeping particular saw mills operating or a company might be wary of rejecting a military contractor, or military-sponsored contractor,

tendering for particular services because of fears that it might lead to security problems.

In some cases money is donated for political or private advantage. For example, Kostrad recently used money from its foundation and sought private subscriptions to fund the training of reconnaissance platoons.⁴¹ Among the donors was a member of the Soeharto family, which has good reason to retain the goodwill of the military.

Considerable funds also flow to some members of TNI through criminal activities like smuggling, drug running, illegal mining and logging, prostitution, gambling and protection rackets. For example, the newly appointed police chief of East Kalimantan, inferred that individuals from all government departments and agencies were involved in petroleum smuggling when he told reporters in early 2001 that it was difficult to bring prosecutions because possibly only the Department of Religion was not involved.⁴²

Establishing and maintaining financial accountability requires a broad-based approach within the TNI propelled by government-wide reforms. Transparency and accountability of the current budget should be established; the military acquisition system overhauled; military business interests made transparent and eventually privatised or shareholdings divested; contributions from other departments and private enterprise regularised; the defence budget allocated in accordance with revised defence policy; and the rule of law applied to all areas.

Such changes will have distributional effects detrimental to the gross income of some senior officers and will curtail some discretionary expenditure used to build patronage networks and pursue other interests not necessarily consistent with policy. This problem can be addressed by structuring salaries and benefits to maintain the status of the officer corps, or at least the central elements of it, and by pursuing broad reforms that will increase the risk of public exposure, condemnation and punishment. TNI has already shown some willingness to make progress in this area as action on auditing of the army foundation

⁴⁰ 'Bisnis Militer: Meneropong Gurita Hijau', *Gatra*, 8 September 2001.

⁴¹ 'Peleton Seharga Rp1 Milyar', *Kompas*, 6 August 2001.

⁴² 'Penyulundupan: Menikmati Kencing Solar', *Gatra*, 10 February 2001, p.89.

shows. The key to more substantive progress is to encourage and engage the military leadership in the process.

IV. INTERNAL SECURITY

The New Order threat spectrum allowed the authorities to deem almost any activity a security threat, an attitude not compatible with democracy. Nevertheless, there is no doubt that Aceh, Maluku and Irian Jaya do present internal security challenges. The level of violence is, at least sometimes, beyond the capacity of law enforcement agencies to control. The same periodically applies to crowd control for some sporting events or major political rallies and demonstrations.

However, the core challenge in safeguarding democracy is to decide at what point the military should be involved in internal security and law enforcement, who can authorise their involvement, and how military force should be controlled and integrated with other state and societal responses. Some of the jurisdictional issues between the police and military were resolved earlier this year, as mentioned above, but despite some significant changes, Indonesia is still laden with a military organisation and culture that assumes it is almost automatically involved at all times.⁴³ This legacy needs to be broken by organisational reform, new legislation, and more assertive political leadership at all levels of government.

Political compromise and active government programs could do much to resolve existing conflicts, especially in Aceh and Maluku. Irian Jaya, can be managed if not solved, at least in the medium term, but political compromise can do much to narrow the scope for armed separatist forces.⁴⁴ Nevertheless, the size of the country combined with the size and diversity of the population means that relatively large forces will be required periodically to manage outbreaks of violence, like that in Kalimantan in early 2001,⁴⁵ to counter armed separatist movements, or for crowd control.

⁴³ 'Susilo questions separation of army and police roles', *The Jakarta Post*, 17 January 2001.

⁴⁴ *Aceh: Can Autonomy Stem the Conflict?*, ICG Asia Report No. 18, 27 June 2001 and *Indonesia: Ending Repression in Irian Jaya*, ICG Asia Report No. 23, 20 September 2001.

⁴⁵ *Communal Violence in Indonesia: Lessons from Kalimantan*, ICG Asia Report No.19, 27 June 2001.

A. FORCES

There are three options for providing such large mobile forces; expand the police mobile brigade (Brimob), use the army, or create a third force for domestic security tasks.⁴⁶ The forces required are light infantry battalions and associated support, trained for counter-insurgency and crowd control, with specialist teams for tasks like bomb disposal and counter-terrorist operations.

Increasing police responsibility for internal security could delay and complicate its switch in focus to law enforcement.⁴⁷ Despite separation of the police from the military and the change in doctrine to “community policing”, the legacy of 32 years of the police being an extension of the military cannot be erased overnight, and enlarging the para-military wing of the police force to deal with internal security against politically motivated armed movements will only perpetuate that legacy. Community policing can only succeed where there is community respect for the police and the rule of law and that is where the focus of Indonesian police reform and resources should be concentrated.

Brimob is in urgent need of role definition, consolidation and retraining. It should be restricted to providing security to police stations, back-up for police officers in the execution of their duties in dangerous areas, and the front line in crowd control and specialist services like bomb disposal, armed-offender-response teams, and cordons for terrorist incidents. Beyond that, the provision of forces for internal security and counter terrorism should remain the responsibility of the army or a third force, if raised.

A third force could be created by combining elements of the territorial forces and Brimob. It would be an independent force on the lines of the Argentine National Gendarmerie with domestic security responsibilities for internal security, border security, resource protection, assistance with the security of public facilities and infrastructure, and assistance to the police with crowd control and demonstrations and to the army

during times of defence emergency or war.

The main advantage of such a gendarmerie is that it facilitates specialisation of the police and the military. It also provides a rationale for a total shake-up of defence and security during political transition. The main disadvantage is that it creates another administrative overhead and another agency to integrate and coordinate within the state. Moreover, forming a gendarmerie does not by itself keep the military out of politics or prevent coups d'état, and it does not automatically improve the performance or conduct of the security forces. The army might still be required periodically to re-enforce its operations.

Creating a third force is not a panacea and would inspire political and administrative opposition at a time when there are many more pressing issues. Leaving the task with the TNI also provides a greater array of forces that can be used in a more flexible and integrated way. Consequently, the military and police should be given the opportunity to show that they can reform their structures and conduct but if that fails, consideration of a third force might become a more attractive option.

B. CONTROL

The next question is at what point should the armed forces be involved, who should authorise their employment, and who should decide their operational objectives. The criteria for employing the armed forces and designation of the responsible civil authorities should be laid down in the legislation discussed above. However, the decision to employ the armed forces in any particular case will be the outcome of political considerations. Whenever military forces are employed, some civil authority (even though it might be headed by a military officer or former military officer) should have full authority to control their employment and ensure that military operations are coordinated with the actions of other state agencies and conform to national policy.

The civil authority will not interfere in the actual conduct of authorised operations beyond setting the desired outcome, limitations on the use of force, and coordination requirements, and assessing outcomes. The forces should also be subject to national and international humanitarian law relating to their individual and collective

⁴⁶ For the suggestion of a third force see ‘TNI dan Polisi’, *Tempo*, 1 April 2001, p.17.

⁴⁷ *Indonesia: National Police Reform*, ICG Asia Report No.13, 20 February 2001.

conduct of operations. As pointed out above, the emergency powers bill has yet to be deliberated, and the laws regulating the use of the armed forces have yet to be revised. In the meantime, temporary arrangements should be put in place to ensure these safeguards are met.

C. PUBLIC ORDER

An integral part of maintaining public order is the control of “civilian armies” that provide mass support to various political parties in the absence of mature political institutions and norms. Various parties have the potential to mobilise hundreds of thousands of supporters sometimes far beyond the capacity of the police to control. In January 2001, in the lead-up to the threatened mobilisation of up to half a million people in support of President Abdurrahman Wahid, the minister for defence warned that intelligence reports indicated that two groups had met in a town in East Java to plot the seizure of government after inciting a mass civil disturbance between the pro- and anti-Wahid forces in Jakarta’s central business district.⁴⁸

Neither event occurred, indicating both the dubious nature of the intelligence and the caution of political elites aware of the potential danger of mass mobilisation. Much bluff and theatricality was also employed by both sides in the crisis. Nevertheless, the police must be prepared for the possibility that mass political rallies will occur requiring the preparation of large bodies of police and troops to control crowds and minimise death and injury as well as damage to property. Inevitably, the army must be prepared to assist the police with crowd control but only in exceptional circumstances. To do this effectively they need appropriate training and practiced procedures to respond effectively in cooperation with the police.

Within the army, prime responsibility for riot and crowd control has been given to the territorial forces although Kostrad will continue to provide assistance if police and territorial forces cannot manage.⁴⁹ The police and military have had much practice in these operations over the last four years and their performance has improved markedly.

⁴⁸ ‘Awas, Malari Jilid Dua, Katanya’, *Tempo*, 21 January 2001, p.26-7.

⁴⁹ ‘Kostrad Serahkan Peralatan “Antihuru-hara ke Kodam Jaya’, *Kompas*, 28 May 2001.

This is one area where foreign assistance has shown results, primarily because most stakeholders shared common interests.

However, it is to be hoped that Kostrad commander’s statement that if his troops had to step-in they would not hesitate to shoot was part of a deterrence strategy in the lead up to the MPR session rather than a statement of how his troops would respond in the first instance if deployed.⁵⁰

D. RULE OF LAW AND HUMAN RIGHTS

The rule of law is an essential element of military reform generally, and upholding respect for human rights is the keystone to successful internal security operations. Transforming a military that was the law to an organisation that is subject to the law requires behavioral change, education and training, respect for the agents and institutions of the law, and effective sanctions.

A sign that military behaviour might be changing for the better is the introduction of 140 hours of instruction in human rights and the law in the three-year army-officer academy (AMN) curriculum. Many of these classes are taught by lecturers from the Gadjah Mada University. The AMN has also forbidden some dehumanising practices including, for example, allowing senior cadets to slap or punch junior cadets.⁵¹ According to the deputy chief of army, similar changes have been introduced at all levels of training.⁵² Soldiers oaths and mottos that imply ‘seniors can do no wrong’ or that TNI must ‘support the government without reserve’ also need to be revised.⁵³

Other signs of possible change have also appeared. Special training in areas including Acehnese culture, human rights and rules of engagement is given to soldiers before being dispatched to Aceh. The military commander in Irian Jaya recently apologised for the shortcomings and transgressions of the security forces there and promised that the

⁵⁰ ‘KSAD Yakin SI MPR Tak Ganggu Stabilitas’, *Koran Tempo*, 12 July 2001.

⁵¹ ‘Kurikulum Baru, Paradigma Baru’, *Panji*, 9 May 2001, p. 60-61.

⁵² ICG interview, 8 August 2001.

⁵³ ‘Major General (Retired) Suwarno Adiwijoyo, ‘Mengapa TNI Tidak Kembali Ke Barak?’, *Suara Pembaruan*, 26 April 1999.

command will strive to improve and give its best efforts in future.⁵⁴ The special forces (Kopassus) commander also said recently that it has been stressed that his soldiers must not abuse, impose on, or accept gifts from the people.⁵⁵ However, these measures can only be effective if they are universal and if offenders are likely to be apprehended and sanctions are sufficient to encourage adherence to the rule of law.

Pursuant to a law passed in November 2000, human rights courts are in the process of being established. Although they will not have jurisdiction over crimes committed before the human rights law was enacted, provision has been made for the establishment of ad hoc human rights courts to try gross violations of human rights retrospectively. However, despite differing opinions on retrospectivity in human rights cases, human rights lawyer Todung Mulya Lubis concluded that 'bringing perpetrators to court under current law is totally futile'.⁵⁶ Moreover, according to Deputy Chairman Munir of Indonesia's legal assistance foundation (YLBHI), the political parties show little enthusiasm for prosecuting human rights cases. For example, he claimed that the Indonesian Democratic Party – Struggle, headed by Megawati, would not pursue investigation of possible breaches of human rights during the attack on their head office on July 1996 because they were afraid it might become a stumbling block to obtaining military support in future.⁵⁷ Nevertheless, while retrospectivity is not a prerequisite for military reform, it may be an essential element in resolving existing conflict in places like Aceh and Irian Jaya.

The test of TNI's commitment to the rule of law arrived with the execution of three human rights workers (the RATA case) by civilian accomplices of the army intelligence unit based in Lhoksemawe, Aceh, in December 2000. There are also suspicions, currently being investigated, that the security forces were responsible for the massacre of over 30 civilians and the wounding of

several others at the PT Bumi Flora Plantation in Banda Alam subdistrict of East Aceh on 9 August 2001.⁵⁸ The latter incident was reportedly in revenge for an attack on a security force post by the insurgent group GAM the previous day that inflicted several casualties. Both crimes were committed after the passage of the human rights law in November last year and present a perfect opportunity for prosecutors, the judiciary, and the army and police to prove their commitment to the rule of law.

The RATA case has been investigated by the Indonesian Human Rights Commission and charges laid but the measure of progress will be not only whether the perpetrators are brought to justice but whether the senior officers who authorised the operation are also; whether the court process is fair and just, including sentences; and whether those sentenced to imprisonment actually serve their sentences. For example, the special forces (Kopassus) officers and soldiers convicted of kidnapping in the last days of the Soeharto era have not been jailed despite being sentenced to terms of imprisonment. The device being used to justify this situation is indefinite delay of appeals while ways are explored to obtain amnesties.⁵⁹

The army has not yet come to grips with the human rights challenge. The RATA case is the tip of an iceberg and is only being prosecuted because one of the intended victims escaped. By way of mitigation a senior TNI officer explained recently that the officer involved in the RATA case had been called to investigate a GAM kidnapping. He failed to find anyone at the nominated house but was told that one of the RATA people was involved.⁶⁰ He and his companions then incidentally intercepted the RATA group on the road. The beatings and executions were carried out by civilian accomplices not by the military officers, who departed the scene shortly before the executions. The four civilian accomplices were subsequently arrested but reportedly managed to

⁵⁴ 'Panglima Kodam Trikora Minta Maaf', *Kompas*, 2 August 2001.

⁵⁵ 'Danjen Kopassus Mayjen TNI Amirul Isnaini: "Dihujat itu Sudah Jadi Risiko"', *Tempo*, 29 April 2001.

⁵⁶ 'Culture of impunity detrimental to the economy', *The Jakarta Post*, 30 December 2000.

⁵⁷ 'Konflik Meluas Akibat Intimidasi Kekerasan oleh Aparat Militer', *Kompas*, 26 July 2001.

⁵⁸ The case will be investigated by the Indonesian Human Rights Commission. Human rights abuses by both sides in Aceh are covered in *Indonesia: The War in Aceh*, Human Rights Watch, 13:4(C), August 2001. For the 9 August incident in 'Pembantaian, see Aceh Merintih dalam Gelap', *Gamma*, 15-21 August 2001, p.34-35.

⁵⁹ 'Menanti Kabar Tim Mawar', *Tempo*, 29 April 2001, p.74.

⁶⁰ ICG interview.

“escape”.

This explanation has a familiar pattern. First, it isolates involvement to the group that committed the crime, that is, because it was an incidental encounter, senior officers could not possibly have been involved in authorising the operation. Secondly, by implying that one of the RATA people had associations with GAM, killing them, even though they were unarmed, was understandable if not permissible. Thirdly, the actual murder was conducted by civilians supposedly absolving the military members of responsibility even though they left these unarmed suspects in the unlawful custody of unlawfully armed thugs.⁶¹ There are some real issues of law involved in this case but there is little doubt that responsibility rests with the TNI.

Until this fundamental challenge is confronted no amount of education and training will prevent abuses of power. Furthermore, failure to enforce sanctions undermines the objective of winning hearts and minds in operational areas and winning domestic and international respect for the TNI.

Why the military seems incapable of taking this step is not altogether clear but there are several possible explanations related to lack of justice sector capacity to process suspects, a belief in guilt by association as shown by the treatment of friends and families of the PKI and other enemies of the state,⁶² the difficulty officers have in controlling the conduct of troops once their passions are engaged, and a belief that complying with national and international law will unduly restrict their capacity to deal effectively with insurgents.

On some occasions, policy considerations encourage unquestioning acceptance of the dissembling reports that normally come from the field on such occasions. For example, if it is shown that the security forces were responsible for the 9 August massacre, attempts to obfuscate the

incident might be intended to avoid international condemnation and pressure to accept international mediation. The 9 August incident will be a test of President Megawati's commitment in her 2001 national day address to uphold human rights by insisting on a credible investigation. Further government and international encouragement will be needed to achieve progress on the rule of law and human rights.

E. MILITARY/POLICE RELATIONS

Military/police relations have been strained over the years because of the subordination of the police to the military during the New Order, competition for legal and illegal business opportunities, and conflicts over women, gambling debts and ego. Armed clashes occur frequently, the latest being in Madiun, East Java, on 15 September 2001 when fighting broke out after an argument at a petrol station. Three high-school students were inadvertently killed in the clash.⁶³ This followed a conflict in Serui, Irian Jaya, in August 2001 when two soldiers were killed and several soldiers and police were wounded seemingly as a result of a clash of egos.⁶⁴

In February 2001, an undercover army intelligence officer was arrested in Ambon. Rather than wait for his case to be processed, a combat-ready platoon from his unit was sent to pry him from police custody.⁶⁵ And, during the Sampit incident, in Kalimantan, in the same month, TNI and police exchanged fire over a dispute relating to who was regulating the loading of passengers for evacuation, resulting in one INI death and several TNI, police and civilian casualties. To avoid further clashes the two forces were given responsibility for separate geographic areas.⁶⁶ These are just a few examples of the most recent clashes but the most serious breakdown in military/police relations occurred in Maluku during 1999-2000.

⁶¹ For an eyewitness account of this incident see www.hrw.org/press/2000/12/acehtestimony.htm; for other implications see *Aceh: Why Military Force Won't Bring Lasting Peace*, ICG Report, 12 June 2001, pp.19-21.

⁶² Under the New Order it was assumed that the children of PKI members would inherit their parents sympathies and were subject to discrimination. For example, they were banned from seeking public employment or political office.

⁶³ 'Dan Yonif Linud 501 Kostrad Dicopot', *Kompas*, 18 September 20-01.

⁶⁴ 'Brimob-Yonif 611 Bentreok, Dua Tewas', *Kompas*, 29 August 2001.

⁶⁵ 'Polri - TNI Nyaris Baku Tembak', *Republika*, 16 February 2001.

⁶⁶ 'Pangdam Tanjungpura: Anggota Brimob tidak Mengindahkan Prosedur', *Republika*, 2 March 2001.

Many members of the military are having trouble adjusting to the fact that under the draft defence law they will be subject to civil law upheld by the criminal justice sector for civil crimes. Compounding this insult the police will be freed from the jurisdiction of military law and be subject only to civil law when the draft police law is passed. The military view the police as being incompetent and corrupt. They therefore ask the question "who will police the police if they are freed from military law?"

There is a degree of self-interest in this question because freeing the police from military jurisdiction would give them the opportunity to intrude on soldiers' economic interests, like large-scale petroleum smuggling, protection rackets and drug distribution. Nevertheless, before law reform takes hold, transition measures might be needed to contain tensions between the military and police, like the continuation of joint military/civil courts. Alternatively, some sort of review process might be needed to reassure the military that their personnel will not be unfairly subjected to prosecution or harassment and that there will be some independent oversight of police discipline.

Restoring respect for the police and the justice sector as a whole will be a central element in bringing the military under civil control. It is also an essential element in ensuring unified management of internal security and law-and-order issues in which both forces are involved. The leaderships of both forces are aware of the problem and have acted quickly to resolve particular cases but the underlying structural and behavioural causes will take longer to resolve.

V. COMPETENT MILITARY FORCES

Producing competent military forces able to secure the archipelago and deter or defeat foreign aggression is a long-term project. Fortunately, Indonesia faces no threats from its immediate neighbours or larger regional actors requiring it to maximise defence capacity for that purpose. Some capacity for maritime sovereignty protection, internal security operations, and law-and-order tasks will be needed for some years to come.

However, developing a conceptual idea of what Indonesia's defence strategy and forces might look like in five to ten years would assist in determining what land and infrastructure should be retained and what assets could be sold to finance reform. It would also help in making short-term decisions about the retention, disposal or replacement of existing major equipment that might ease the strain on current expenditure. A comprehensive government policy paper, as suggested above, should be the starting point of this process.

TNI personnel numbers are small in relation to the size of the country and its population when compared with other countries but that is irrelevant if necessity and economic limitations are to guide force development. Pending a government policy review, and assuming no major shifts in regional relations and some progress in resolving Aceh and Maluku, army strength could be halved to no more than 100,000 men and women within a few years.⁶⁷ Most of the cuts could be taken from the territorial structure, territorial units and administrative overheads and still leave territorial units in critical areas. The question of whether reserve forces (Cadangan) should be raised or the population given compulsory basic military training is a longer-term issue. At a minimum, navy and air force manpower should not be allowed to grow beyond current levels, of around 47,000 and 21,000 respectively, until a review is done.

There are advantages in beginning to shed army manpower immediately. This could be done without undue political fallout simply by limiting recruiting to reduce overall army strength by about

⁶⁷ The army comprises 230,000 soldiers and 50,000 civilian bureaucrats. 'Data 280.000 Anggota TNI AD Disiapkan', *Kompas*, 4 September 2001.

30,000 over the next two to three years. This would not threaten the incomes of current members but it would have the advantage of freeing funds, forcing the army to review its organisation and rationalise manpower, and give training regiments time to review and revise programs for new recruits, continuation training, and instructors.

Some operational doctrine has been revised but tactical doctrine should be reviewed to ensure that it is consistent with current demands, and national and international law. The army training system also needs to be reviewed to ensure that curricula are consistent with doctrine, that training is systematic and coordinated with personnel policy, and that training managers and instructors are competent. Although all of these areas are compromised by resource limitations, improvements can be made that might provide a base for reform. There is some support for this as evidenced by deputy army chief Lieutenant General Kiki Syahnakri's recent comment that the army knew its shortcomings from comparisons made with the UN force in East Timor and that this was the time to improve professional military skills. He went on to say that they could feel the decline of those skills over the years because they were too involved in politics and did not want to repeat the mistake.⁶⁸

The doctrine of total people's defence can remain as the last ditch in national defence but it does not mean that the territorial command structure that exists today is appropriate to the future or that it needs to be anything other than an option for the future should there be a major change in international relations. Nor is it essential to retain the structure for internal security. Operational commanders could cooperate directly with designated civil authorities responsible for overcoming particular crises. Nevertheless, some form of geographic command structure might still be appropriate.

The geographic disposition of units is a separate issue that can be left to government policy direction. The important thing is to begin slicing away the territorial structure without denying the validity of the concept of total people's defence or compromising internal security; identify efficiencies and assets that might help fund reform;

and begin the qualitative reforms that could improve the army's performance and public standing.

The more ambitious goal of creating modern combined forces that can defend the nation against major conventional forces is a much longer-term undertaking awaiting government direction and resources.

⁶⁸ 'Peleton Seharga Rp1 Milyar', *Kompas*, 6 August 2001.

VI. INTERNATIONAL COOPERATION AND ASSISTANCE

International cooperation in defence and security was severely curtailed in the prelude to and aftermath of the act of free choice in East Timor in 1999. Nevertheless, several governments and international organisations are showing renewed interest in military reform as an essential element of government-wide reform. Some are interested in providing information or other assistance that would enable the Indonesian government and military to determine the objectives and direction of reform as well as formulate detailed plans.

However, some governments, particularly the US, have been cautious in raising expectations that more concrete assistance (notably, combined exercises and major equipment sales) will be forthcoming before more progress is made in curtailing the abuse of human rights by the security forces in places like Aceh, Maluku and Irian Jaya; and greater energy is shown in seeking political solutions to these complex disputes.⁶⁹

That position should be maintained but activities that support the acquisition of intellectual frameworks and information, such as visits, individual education and training, training exchanges, and workshops should be encouraged where there are obvious measurable benefits. This should include educating a civilian cadre for the department of defence. Cooperation in areas of common interest, such as combating piracy, could also be increased as a means of showing the benefits of reform.

Despite competing commercial interests in some cases, countries and international institutions contemplating providing assistance in this field would benefit from at least knowing what other nations and institutions are doing to minimise overlap and ensure that priority areas are covered. Donors need to take care that their assistance is outcome focused and does not become just another source of patronage for senior officers to bestow.

Transforming domestic intelligence into a civilian operation is an essential element in reducing the

military's residual political power. Assistance with the review and reform of the intelligence services will be controversial but there might be benefits in assisting with legislation, oversight mechanisms, and the promotion of public accountability.

Assistance with police and justice sector reform more generally would also reduce the necessity for military involvement in day-to-day security and law-and-order issues and make its members more accountable for their actions.

Current programs designed to create and strengthen defence interest groups, informative press coverage, and parliamentary legislative and oversight capacity should also be continued.

However, the initiative is with the TNI to actively support President Megawati's declared intention of pursuing substantive military reform. Only then will foreign governments and international institutions obtain public support to increase cooperation and mutual assistance programs.

⁶⁹ *Indonesia-U.S. Military Ties*, ICG Indonesia Briefing, , 17 July 2001.

VII. CONCLUSION

Some actions that might help propel reform, such as the draft defence law and progress in revising training curricula and exploring financial accountability have been taken since ICG last reported in detail on reform in September 2000⁷⁰ but there has been little progress in other substantive areas, particularly in the prosecution of human rights offenders.

As identified in previous ICG reports, structural constraints and the scale of the challenge mean that reform will be slow, grudging, and long-term. It has yet to be seen whether the Megawati government has the capacity to generate the government-wide reforms needed to fund the bureaucracy and government agencies to the levels required to make a concerted attack on corruption possible. Nevertheless, some things can be achieved in the meantime.

A. PARLIAMENTARY REPRESENTATION

The presidential crisis showed the tensions that parliamentary representation creates for the security forces in the field. There would be some resistance from within the military and their supporters to the early withdrawal of military representation from national and regional parliaments. Although there has been some talk of extending the term of their parliamentary representation, it is unlikely that the TNI leadership would risk the domestic and international condemnation that would invite or the loss of the gains to their public image over the last few months.

Conversely, there appears to be no short-term gain in pressing for the immediate withdrawal of military and police representation from parliament unless they themselves are prepared to lead on the issue. As indicated above, there is some support for that view that the government might encourage. The option of trying to reduce TNI's vulnerability to partisan politics by declaring that its members will not vote on virtual matters of confidence in the government or the president is not a convincing

alternative. TNI has to live with the dilemma or initiate its withdrawal from parliament.

B. REPRESENTATION IN THE EXECUTIVE

Military representation in the cabinet is still influential but there is no evidence that they dominate executive government. Moreover, given residual military influence in some areas of the national and regional executives and the bureaucracy, military representation in cabinet is probably still beneficial to the government, at least until the next elections. The abolition of central military control over former military personnel in public employment and the diffusion of party loyalties has weakened their former influence. The passage of time will see their residual influence decline rapidly as most of the military personnel who entered the public sector did so towards the end of their military careers.

C. INTELLIGENCE AGENCIES

This is an area awaiting government policy direction. Thereafter, considerable effort will be needed to review intelligence roles and responsibilities, produce legislation, and form new organisations to conduct and oversee foreign and domestic intelligence. Priority should be given to reforming domestic intelligence as that will be an essential element of extracting the military from politics without undermining legitimate internal security interests. This is another area where foreign assistance could be forthcoming, especially with advice on how to structure and regulate intelligence agencies to make them accountable to the government and the legislature.

D. LEGISLATION

Much more work is needed to revise defence legislation. The defence and police bills will probably pass by the end of 2001 but much more legislation is required to set the framework in which the defence forces will operate. Meanwhile, temporary government policy guidance is needed to clarify when, by whom, and for what purpose the armed forces might be employed domestically and how they would be controlled. This is another area where foreign assistance might be useful.

⁷⁰ ICG Report Indonesia: Keeping the Military under Control, op.cit.

E. FORMULATING DEFENCE POLICY

In the absence of government guidance, no progress has been made in developing defence policy in the last three years. A major defence policy review is urgently needed to guide reform of doctrine, structure, manpower, and geographic distribution of units, and to provide a basis for making judgements about infrastructure and major equipment management.

The defence planning and budgeting process should also be tailored to meet Indonesia's particular circumstances. It is far too complex and its content bears no relationship to TNI's limited resources.

F. FINANCE AND ACCOUNTABILITY

This is an area where major progress will be dependent on government-wide reform. However, even here the TNI can make progress once policy is forthcoming by producing a funding transition plan - including real estate management - by reforming and privatising military businesses, and divesting share holdings, and by improving the management and control of its own budget. Because of confidentiality concerns, the employment of consultants might be considered more appropriate than foreign government-sponsored assistance.

G. INTERNAL SECURITY

Immediate and radical reforms are needed in this area. First, the government needs to take the lead in conflict resolution and not leave it to the police and military. Secondly, credible civil authorities should be established in the areas of conflict to control all government agencies and responses to conflict. Thirdly, Brimob needs to be restricted to law enforcement tasks. Continued and increased foreign assistance might be useful in helping to resolve particular conflicts although sensitivity will have to be shown to the new government's desire to manage these conflicts domestically.

The army and police should be given the opportunity to reform their conduct of internal security operations but if that fails consideration might be given to forming a gendarmerie that will, at least, be able to specialise in this area. However,

the formation of a gendarmerie should not be seen as a panacea for internal security problems.

H. RULE OF LAW AND HUMAN RIGHTS

The TNI has taken some measures in this area to improve education and training and change the behaviour of its troops. However, unless sanctions are enforced, such efforts will have only a marginal effect. Neither the government nor the TNI has acted to bring human rights cases to court. This is a major stumbling block to improving the conduct of troops on operations. This measure does not depend on government-wide reform. The military's willingness to pursue clear-cut violations would not only improve the performance of its troops but also help convince the public that it is serious about reform. The government should direct the military to pursue the enforcement of sanctions. Increasing direct foreign pressure on the TNI in this area is unlikely to be effective but existing measures should be retained except where they conflict with the recommendations of this report.

When passed, the defence law will leave military personnel subject to civil courts for civil crimes, and the police law will free the police from military jurisdiction. Some care will have to be taken to ensure this does not increase tensions between the two forces. Bridging arrangements might be necessary to reassure the military that the police do not take undue advantage of their newly won release from military authority.

I. COMPETENT MILITARY FORCES

Building competent military forces oriented to external defence is a long-term project requiring government-wide reform. Meanwhile, policy that gives some indication of where the forces are heading is needed to guide decisions on personnel management, resource allocations, asset management, and geographic disposition.

Pending more considered guidance, imposing a sharp manpower cut on the army would force it to start reordering its priorities and propel the thinning out of the territorial system.

J. INTERNATIONAL ASSISTANCE

Despite the resurgence of 'realpolitik' considerations in relation to Indonesia in the U.S. military, the U.S. government and some other nations are constrained by political pressures or wary of re-building defence linkages with the TNI on the pre-1999 scale until more evidence of reform is forthcoming. There are areas, however, where foreign governments might want to assist in providing the means that will help guide reform. Such assistance inevitably provides political succour to the TNI but it is also an investment in the future.

It is important that foreign assistance is consistent with Indonesian defence policy and does not attempt to replant overly complex planning processes that, in many cases, are not fully understood even in their countries of origin.⁷¹ Planning methods should be simplified and adapted to Indonesia's conditions so that those charged with implementing reform are not overawed by process and lose focus on outcomes.

K. PHASING

Not all the activities discussed above can be implemented simultaneously because they are dependent on external inputs. However, they could be divided into those things that can be done before full government funding is achieved, and those things that must await government-wide reform. This list is representative rather than comprehensive of the actions that would contribute to reform.

1. Actions, Not Dependent on Full Government Funding

- Government leadership of conflict resolution.
- Complete the defence-related legislative program.
- Initiate a government defence policy review.
- Review strategic and operational doctrine.
- Review national intelligence arrangements and produce legislation.
- Professionalise military business enterprises.

- Education and training of military and civilian defence planners.
- Produce a funding transition plan.
- Review defence planning and materiel acquisition processes.
- Review personnel, logistic and training management.
- Implement the rule of law in selected areas, especially for crimes of physical violence.
- Withdraw MPR, DPR and DPRD representation in 2004.

2. Actions Dependent on Full Government Funding

- Enforce the rule of law across the board, making no further allowances for special TNI concerns for morale, leadership limitations or economic arrangements.
- Enforce full accountability of funds and assets.
- Complete reforms resulting from reviews undertaken above.

Jakarta/Brussels, 11 October 2001

⁷¹ See, for example, the critique of Australian defence policy in Alan Hinge, *Australian Defence Preparedness*, ADSC, Canberra, 2000.

APPENDIX A

GLOSSARY OF ACRONYMS

AMN – National Military Academy (Akademi Militer Nasional)

BAIS – Strategic Intelligence Agency (Badan Intelijen Strategis – TNI)

BAKIN – National Intelligence Coordination Agency (Badan Kordinasi Intelijen Negara)

BAKORSTANAS – National Stability Coordination Agency (Badan Kordinasi Stabilitas Nasional)

BIN – National Intelligence Agency (Badan Intelijen Negara)

BPK – Financial Audit Agency (Badan Pemeriksaan Keuangan)

BRIMOB – Police Mobile Brigade (Brigade Mobil)

Cadangan – Reserves

Dewan Ketahanan Nasional – National Resilience Council

DPR – National Parliament (Dewan Perwakilan Rakyat)

DPRD – Regional parliaments (Dewan Perwakilan Rakyat Daerah)

GAM – Aceh Liberation Movement (Gerakan Aceh Merdeka)

IMF – International Monetary Fund

JAMINTEL – Prosecutorial Intelligence (Jaksa Agung Muda Intelijen)

KOPASSUS – Special Forces Command (Komando Pasukan Khusus)

KOSTRAD – Army Strategic Reserve Command (Komando Strategis Cadangan Angkatan Darat)

KOPKAMTIB – Command for the Restoration of Security and Order (Komando Pemulihan Keamanan dan Ketertiban)

MPR – People’s Consultative Assembly (Majelis Permusyawaratan Rakyat)

OPSTIB – Bureaucratic Order Operations (Operasi Ketertiban)

Ratih – Trained population (Rakyat Terlatih)

SARA – Ethnicity, Religion, Race and Class (Suku, Agama, Ras dan Antar-golongan)

TNI – Indonesian National Military (Tentara Nasional Indonesia)

YLBHI – Indonesian Legal Assistance Foundation (Yayasan Lembaga Bantuan Hukum Indonesia)

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.

ICG's approach is grounded in field research. Teams of political analysts, based on the ground in countries at risk of conflict, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports are distributed widely to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's internet site.

ICG works closely with governments and those who influence them, including the media, to highlight its crisis analysis and to generate support for its policy prescriptions. The ICG Board - which includes prominent figures from the fields of politics, diplomacy, business and the media - is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; former Australian Foreign Minister Gareth Evans has been President and Chief Executive since January 2000.

ICG's international headquarters are at Brussels, with advocacy offices in Washington DC, New York and Paris. The organisation currently operates or is planning field projects in nineteen crisis-affected countries and regions across four continents: Algeria, Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone, Sudan and Zimbabwe in Africa; Burma/Myanmar,

Indonesia, Kyrgyzstan, Tajikistan, and Uzbekistan in Asia; Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia in Europe; and Colombia in Latin America.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United Kingdom. Foundation and private sector donors include the Ansary Foundation, the William and Flora Hewlett Foundation, the Charles Stewart Mott Foundation, the Open Society Institute, the Ploughshares Fund, the Sasakawa Foundation, the Smith Richardson Foundation, the Ford Foundation and the U.S. Institute of Peace.

October 2001

APPENDIX C

ICG REPORTS AND BRIEFING PAPERS*

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La concorde civile : Une initiative de paix manquée, Africa Report N°24, 9 July 2001

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Unblocking Burundi's Peace Process: Political Parties, Political Prisoners and Freedom of the Press, Africa Briefing, 22 June 2000

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Africa's Seven Nation War, DRC Report N°4, Africa Report N°17, 21 May 1999

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