

## **Security Sector Reform in Indonesia**

### *Introduction and Context of Reform*

The dysfunctional characteristic of Indonesia's security sector can largely be attributed to President Suharto's 'New Order' during his thirty-two years of autocratic and unchallenged rule. Since its establishment in 1945, the Indonesian military (reorganized after Suharto as the *Tentara Nasional Indonesia* or TNI) has played an influential role in Indonesian politics, legitimized by a doctrine that gave it a strong role in nation-building. Suharto controlled the security apparatus and gave sweeping powers to various agencies, particularly the army, to maintain internal security, and, in particular, to combat ideological enemies of the state. Operations against separatists were undertaken by the military without any political or judicial regard.

In the mid-1990s, economic hardship began to fall on Indonesia, followed by intense rioting and widespread protesting calling for the resignation of Suharto. The fall of President Suharto in May 1998 allowed Indonesia the opportunity to embark on a major process of political reform. The transitional Habibie administration that followed created political reform legislation that did not change the 1945 Indonesian constitution, but formally set up new rules for the electoral system, the House of Representatives (DPR), the People's Consultative Assembly (MPR), and political parties. The political movement for democratic transformation and reform that began in 1998, known as *Reformasi*, also initiated and pushed for security sector reform (SSR) in Indonesia. However, after the initial forceful push towards reform, a series of political leaders has feebly attempted to carry Indonesia towards a more democratic and peaceful path of development, often undermining security reforms in order to deal with the continued internal insecurity. Among one of the greatest challenges to Indonesia's path towards democratization, including the political instability that has emerged in the post-Suharto period, is the increase of internal conflict. The demands for independence in Aceh and West Papua, which have resulted in armed separatist movements, have defied Indonesia's sovereignty, and added another challenge to its troubled security sector. Intense religious and ethnic intolerance and conflicts in various regions of the country have raised the prospects of national disintegration.<sup>1</sup> Combined with lack of political will for reforms, absence of a comprehensive national policy framework for security matters, and continued corruption and incompetence stemming from many of the state's institutions, regional and local conflicts continue to cast a shadow on Indonesia's reform process. The 2004 presidential elections won by Susilo Bambang Yudhoyono, a retired General, have potentially serious implications for the democratic process in Indonesia, particularly the security sector. However, Yudhoyono has expressed his desire to continue fostering democratic development by cooperating with both

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<sup>1</sup> Crawford and Hermawan, 2002, p. 212.

houses of parliament.<sup>2</sup> Some observers believe that perhaps Yudhoyono's status as a former TNI senior officer may enable him to finally bring the armed forces under firm civilian control, so that *reformasi* in Indonesia may be completed.<sup>3</sup>

### *Military Reform*

Establishing civilian supremacy over the military has become a core aspect of democratization in Indonesia. Reform of Indonesia's security forces thus far has been limited, and has proven to be a particular challenge for SSR, considering that the military has retained substantial strength and power from the Suharto era. More specifically the doctrine of '*dwifungsi*' (dual function), in where the military acted both as an agent of security and defense, and an important social and political force, entrenched its crucial position in the maintenance of Indonesia's authoritarian regime. Its territorial command mirrored the administrative structure of the state, and thus allowed it to assume governmental functions at many levels, including policing functions. Military officers occupied key positions in public offices, including the House of Representatives and the People's Consultative Assembly. Officials with military background governed practically all provinces of Indonesia.<sup>4</sup> As a result, the military exerted its influence in almost all aspects of daily life, contributing to the promulgation of state ideology, determining various strategic policies, and securing Suharto's initiatives, including repression.

After the fall of Suharto, the TNI continues to be a significant political force, although a program of reform is in place with the stated objective to see the armed forces withdraw from the political process. Within the army structures, there has also been some acceptance of a gradual withdrawal from the political sphere, "in an apparent response to the growing tide of public discontent towards their presence in politics."<sup>5</sup>

After the departure of Suharto, the TNI attempted to formulate a new role for itself that would meet the demands for reforms, but without necessarily compromising core interests. A document was published in 1999 by the Indonesian armed forces admitting their role in Suharto's authoritarian government, followed by a major reform program called the '*New Paradigm*' carried out by General Wiranto. Some of the consequences of this reform program included the separation of the police from the armed forces, the disassociation of the military from the Golkar Suhartist political party, and the requirement of officers to retire from service before undertaking civilian careers.<sup>6</sup> Other reform efforts to the TNI included in 1999 the removal of some 100 officers from their posts.<sup>7</sup>

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<sup>2</sup> Henry, 2005, p. 156.

<sup>3</sup> Ibid.

<sup>4</sup> Crawford and Hermawan, p. 206.

<sup>5</sup> Henry, 2005, p. 151.

<sup>6</sup> Lachica, 2003, p. 5.

<sup>7</sup> Henry, 2005, p. 152.

In August 2002, it was decided to scrap the military's and police's automatic quota of 38 seats in the national parliament in 2004. In the 2004 elections, furthermore, the military and police personnel were excluded by law from voting.<sup>8</sup> In 2004, a law was passed to end the strong economic influence of the military through the operation of legal and illegal businesses. The so-called TNI Law requires the military to divest all commercial business interests by 2009. However, there are widespread doubts in Indonesia that this will happen. Privatization has started without a proper framework to preclude personal gains by active or retired military personnel also diminished.<sup>9</sup>

However, these reform measures stand in contrast to some other trends, Indonesia's internal security situation deteriorated in the post-Suharto period, the military was allowed to play an increasing role in the restoration of security and stability. Between 1998 and 2004, successive governments sent more troops to the large-scale conflicts erupting in Aceh, West Papua, Ambon, and Central Sulawesi.<sup>10</sup> As part of the Aceh peace agreement of 2005 troops were withdrawn from that area, they remain stationed in other troubled regions.<sup>11</sup> The military today continues to fulfill a variety of policing duties, and in fact, out of the 350,000 soldiers that make up the TNI, most are engaged in internal rather than external defense.<sup>12</sup>

The military has also been strengthened since the 9/11 terrorist attacks. Previously, the United States was the primary provider of military assistance to Indonesia, until reports of serious misconduct by the Indonesian military in East Timor caused the US-American Congress to suspend aid. The current US-American Government views Indonesia as a crucial ally in the war on terrorism, and since 2001 has pushed Congress to provide the Indonesian military with weapons and military training.<sup>13</sup> Although Indonesian officers were restricted by law from receiving public support under the IMET program for participation in US military training, there have been some exceptions to this rule, and a number have participated in counter-terrorism activities for instance.<sup>14</sup> In August 2005, the US announced that it would restore full military cooperation with Indonesia, citing an improvement in democratic governance as the key factor for re-engagement.<sup>15</sup> The US has recommenced substantial military aid programs particularly in order to help the Indonesian military to suppress militant Islamic groups.

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<sup>8</sup> Indonesia Backgrounder, 2003, p. 16; Muna 2004.

<sup>9</sup> Rieffel, 2004; Human Rights Watch, 2005.

<sup>10</sup> Kammen, 2003.

<sup>11</sup> Wandelt, 2005.

<sup>12</sup> US DOS & "Keamanan Nasional", Monography No. 2, ProPatria, Jakarta, 16 February 2004, p. 35.

<sup>13</sup> Berrigan, 2004.

<sup>14</sup> Lachica, 2003.

<sup>15</sup> Agence France Presse, 2005. "US confident of resumption of full military ties with Indonesia." 3 August.

Other factors also have been mentioned as retarding military reforms after their promising start immediately post-Suharto. One of the reasons appears to be the retirement of military leaders such as Generals Widjojo and Yudhoyono who envisioned and carried out the reforms.<sup>16</sup> The top echelon of the military following after the first post-Suharto generation seems to have been less reform-oriented than those leading the military during and immediately after the fall of Suharto. Other experts point out that donors, such as the US, Japan and EU countries have disproportionately given aid to the Indonesian police, while paying little interest to the military, or in the case of the US, giving conflicting signals.<sup>17</sup>

The Indonesian Ministry of Defense published a defense white paper in 2003, which outlined the Indonesian government's perception of threats to Indonesia and the strategies needed to deal with these threats. According to critics, the white paper was simply an attempt to halt any further security reforms within the Indonesian military,<sup>18</sup> thus arguably still reflecting the domination of military views and interests on defense issues. The *Jakarta Post* further argued that although the Ministry of Defense may be led by a civilian, however, those running the show, including those who drafted the white paper, came from the TNI.<sup>19</sup> Although the TNI has undergone some substantial reforms and nominally reports to the President, it does not strictly abide to the principle of civilian supremacy. The Defense Minister has no direct authority over the armed forces, and the Indonesian parliament and the finance ministry can only weakly enforce control through the budgeting process.<sup>20</sup>

### *Intelligence Reform*

There are three separate agencies tasked with intelligence gathering and analysis in Indonesia, and they include the National Intelligence Agency (BIN), the National Police, and the TNI's Strategic Intelligence Agency (BAIS). It has been noted in the recent past, though, that the intelligence services "are marked by blurred lines of authority, interagency rivalry, lack of coordination, unnecessary duplication, lack of adequate oversight, and the legacy of an authoritarian past."<sup>21</sup> Post-Suharto, there have been attempts to reform these agencies, albeit without much success in clearly defining the role of each agency. Despite the fact that the military intelligence agency (BAIS) was forced to transfer responsibility for internal security to the police in 2000 and reorient its activities to external defense, it continues to be engaged in domestic intelligence gathering. Furthermore, the BAIS conducts these activities on behalf of the TNI, without presidential or parliamentary oversight.

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<sup>16</sup> Lachica, 2003, p. 6.

<sup>17</sup> Lachica, 2003, p. 8.

<sup>18</sup> Agung, 2003.

<sup>19</sup> Ibid.

<sup>20</sup> Lachica, 2003, p. 17

<sup>21</sup> International Crisis Group, 2004, p. 15

Other reform efforts include diminishing the coordinating role of the National Intelligence Agency (BIN), as proposed by the Wahid administration in 2001. However, following the Bali bombing of 2002 President Megawati's government re-strengthened the BIN's coordinating and operations functions.<sup>22</sup> The threat of terrorism has made the need for good intelligence increasingly important. All these agencies, despite the continued inefficiencies and obstacles, have moved in some regard towards developing a capacity for collection and analysis of internal security intelligence particularly related to terrorism.<sup>23</sup> However, the growing preoccupation with terrorism has made Indonesian human rights organizations worried. There have been several intelligence bills drafted, the third one being in 2003. These controversial bills among other things, propose to expand the role of the BIN and grant it broadly defined arrest powers, which many observers fear will be used with little regard for human rights.<sup>24</sup>

### *Police Reform*

The Indonesian National Police (INP) was the first to respond to the call for '*reformasi*' in 1998, and since then has been the subject of major institutional change. Various reforms were initiated revolving around three main focus areas: structurally, by altering the relationship with the military and with various levels of government; revising doctrine and missions; and behaviorally, in order to change attitudes and performance towards civilians.<sup>25</sup> Most importantly, the INP has been removed from their role as a branch of the military and is now an independent civilian force answerable to the President, although this too remains a somewhat contested issue. The Indonesian National Police itself has taken several steps to address the need for police reform. In 1999, the INP released a blue book on police reform and in 2000 issued a paper addressing a variety of other police-related issues.<sup>26</sup> However, the severance from the military has brought capacity-related problems, most notably a loss of funding and institutional support.<sup>27</sup> This has created intense rivalry with the armed forces that sometimes developed into struggles for resources and over responsibilities.<sup>28</sup>

Still, the Indonesian National Police, according to a resident police advisor, "is widely regarded as a deeply troubled institutions and one that remains resistant to reform."<sup>29</sup> Another expert has estimated that it would take the INP 30 years to reform, assuming that the current leaders initiated the necessary planning and

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<sup>22</sup> Ibid. p. 13-14.

<sup>23</sup> Ibid. p. 13.

<sup>24</sup> Ibid. p. 14.

<sup>25</sup> Masters, 2002.

<sup>26</sup> International Crisis Group, 2001, p. 13

<sup>27</sup> Lindsey, 2004, p. 27.

<sup>28</sup> Roosa, 2003.

<sup>29</sup> Lindsey, 2004.,. 27.

management practices now.<sup>30</sup> There has been a disconnect between the orders for reform and their actual implementation. No concrete steps have been realized to improve police accountability or make the police more representative of the population, nor have target dates been set or measure of progress been instituted.<sup>31</sup> Like other Indonesian institutions undergoing reform, the police continue to suffer deep problems of institutional weakness and competence, as well as continued problems of corruption and politicization.<sup>32</sup> Despite these serious obstacles, civil society has been actively engaged in attempting to reform the police, with some evidence of success. Some successful, yet limited projects include cooperation in relation to violence against women, or programs to develop better approaches to dealing with ethnic conflict.<sup>33</sup> There have also been initiatives from the Ministry of Justice and Human Rights to improve knowledge, attitudes, skills and competence on human rights issues within the INP.<sup>34</sup>

The police force, a national organization, has about 285,000 officers, a number that is inadequate to cover Indonesia's population.<sup>35</sup> Although mandated to uphold law and order, they lack capacity to respond to serious violence.<sup>36</sup> Since 2000, the Indonesian police has been given the responsibility for all counter-insurgency/terrorism operations.<sup>37</sup> One problem that has arisen with tasking the police with counter-insurgency duties is that it compromises its relationship with the community, and once again blurs the distinction between the police and the military. However, the apprehension of many suspects of the Bali bombing, with the assistance of US, Australian, and other foreign police agencies, has helped to strengthen the credibility of the Indonesian police both locally and overseas.<sup>38</sup>

The INP has received substantial foreign assistance. According to donor statistics, the Indonesian police received as much as US \$50 million a year in grants and technical assistance during recent years.<sup>39</sup> At the same time, the police has reportedly continued to suffer from an inadequate national budget.<sup>40</sup> Countries such as the US, the Netherlands, Australia, and New Zealand support training programs, while Britain and Japan provide models for community policing.<sup>41</sup> The police has also received attention from the Partnership for Governance Reform, a donor

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<sup>30</sup> International Crisis Group, 2001, p. 1

<sup>31</sup> Masters, 2002.

<sup>32</sup> Lindsey, 2004, p. 27.

<sup>33</sup> Ibid.

<sup>34</sup> Witoelar, 2004, p. 3.

<sup>35</sup> Masters, 2002.

<sup>36</sup> International Crisis Group, 2004, p. 1.

<sup>37</sup> Ibid. p. 5

<sup>38</sup> Lachica, 2003, p. 8.

<sup>39</sup> Lachica, 2003, p. 9.

<sup>40</sup> Masters, 2002.

<sup>41</sup> Lachica, 2003, p. 9.

coalition with a cross-cutting agenda led by the UNDP, the World Bank and the Asian Development Bank.<sup>42</sup>

### *Non-State Security Actors*

There is a variety of non-state security actors affecting Indonesia's security sector, that have yet to be incorporated or addressed in the reform efforts. The social and economic changes have given rise to crime and insecurity, and since the post-Suharto period over 200,000 private security guards have surfaced.<sup>43</sup> Similarly, another security actor that remains actively engaged in Indonesian life are '*satgas*.' These are the security forces or 'taskforces' of political parties, who may be called in to perform an array of tasks such as food distribution.<sup>44</sup> Particularly, in recent years *satgas* associated with militarism and violence have emerged and grown, a trend sometimes associated with increased recruitment of persons disenfranchised from the regular forces in *reformasi* related programs.<sup>45</sup> These para-military groups often dispute among each other and compete for the control of illegal economic activities. *Satgas* have also been associated with kidnapping members of the opposition and even beating up journalists.<sup>46</sup> In the democratic period, these non-state security actors continue to actively and freely operate, and are legitimized by their association to official political parties.

The most troubling security actors that remain active in Indonesia are the different separatist rebels. Conflicts and violence continue throughout the country, even after the peace in Aceh, for instance in Irian Jaya, Ambon and other Maluku areas. Economic hardship and tremendous social and political uncertainty fuel these conflicts.<sup>47</sup> These armed struggles have made it difficult for the military to completely withdraw from their internal security duties, particularly because it has taken the police some time to develop counterinsurgency skills. A strong belief among the military that a decisive victory is possible has only encouraged successive governments to deal with these regions by sending more troops. The crucial and 'important' role of the military in maintaining the sovereign integrity of Indonesia is quite problematic within the context of security sector reform, particularly because it becomes increasingly difficult to convince the armed forces that doctrinal and structural reforms are required.

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<sup>42</sup> Ibid.

<sup>43</sup> International Crisis Group, 2004, p. 7

<sup>44</sup> King, 2003.

<sup>45</sup> Ibid.

<sup>46</sup> King, 2003.

<sup>47</sup> Fortuna Anwar, 2001.

*Legal and Judicial Reform*

Before 1998, the Indonesian legal system was weak and vulnerable to intervention by power-holders, and failed to protect individuals. As a result of the corruption and systematic abuse of the legal system, these institutions lost all credibility in the eyes of most Indonesians. One observer has noted, “The court system is still widely regarded as a state-run mafia.”<sup>48</sup> The legal reforms established post 1998 have aimed to strengthen actors and institutions that have responsibility for the due process of law.<sup>49</sup> The Ministry of Justice has undertaken measures to promote good governance through the revision of legislation, policies to promote the supremacy of the law, and steps to improve the discipline of public officials.<sup>50</sup> Some of the post-Suharto reform initiatives designed to reform the judicial system include the removal of corrupt judges from their posts, and the appointment of 18 new Justices to the Supreme Court in 2003.<sup>51</sup> Furthermore, judges are now chosen through a parliamentary process in which a special Commission on Legal and Domestic Affairs applies an extensive selection process. The Supreme Court (*Mahkamah Agung*) has begun a wide-ranging program of institutional reform.<sup>52</sup> It has also taken measures to reform the judiciary, such as establishing an internal supervisory arm in the Supreme Court. Finally, recent constitutional amendments also introduced a Judicial Commission that will have, among other things, supervisory power over all judges.<sup>53</sup>

While all these reforms are important, the Supreme Court and the courts it oversees continue to be plagued with allegations of corruption and incompetence. Indonesia’s Supreme Court is Indonesia’s final court of appeal and has legislative power to enforce existing laws and the implementation of reforms. However, due to the legal hierarchy of Indonesia, the Supreme Court ends up hearing all sorts of cases, including trivial ones such as petty thefts and traffic violations. Although the reform process initiated post-Suharto depends on the enforcement of regulatory reform by all courts, because of its position within the legal system the final responsibility for *reformasi* in the Indonesian legal sector ultimately also falls on the Supreme Court. Still, the reform process has been hindered by low skills and competence levels of judges. In addition, courts are backlogged with many pending cases.<sup>54</sup> These factors combined with political interference and corruption within the judiciary make the implementation of legal reforms a complex issue.

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<sup>48</sup> International Crisis Group, 2001, p. 11.

<sup>49</sup> Crawford, 2002, p. 212.

<sup>50</sup> Witoelar, 2001, p. 4.

<sup>51</sup> Lindsey, 2004, p. 22.

<sup>52</sup> Lindsey, 2004, p. 22.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid. p. 21

There has also been a great deal of popular disappointment in the failure of Indonesia's judicial system to convict the armed forces', in their complicity with militias that killed many civilians in East Timor, following its vote for independence in 1999. Only a handful of military and civilians implicated in the violence were convicted in the human rights tribunal. It is noted that many defendants were acquitted due to judges being ill prepared to handle the complexity of the cases, and the fact that some witness were intimidated into silence.<sup>55</sup> These challenges to building an accountable and efficient legal sector are compounded by the continued social unrest in Indonesia, which makes implementing reform processes quite difficult, and by a ruling elite which continues to exploit the law for its own advantages.<sup>56</sup>

Despite its problems, the legal reform process is supported by a variety of donors. These include AusAID, IMF, JICA, USAID, the Partnership for Governance Reform, the World Bank, the Asian Development Bank, and the Netherlands government.<sup>57</sup> Other donor countries include Germany, France, Sweden, and Taiwan who have provided various forms of assistance on a lower scale.<sup>58</sup>

#### *Oversight Mechanisms*

During Suharto's regime, the concept of 'checks and balances' did not exist in Indonesia. One of the keystones of Indonesia's political system, rooted in the 1945 Constitution, is a strong presidency. As a result, an integral component of SSR in Indonesia has been how to improve accountability and oversight of the security services through legislative and judicial mechanisms. Through a set of constitutional amendments adopted between 1999 and 2003, certain check and balances have been added to the political system. The parliament has been tasked with authorizing security budgets, and relevant parliamentary committees are increasingly active.<sup>59</sup> The parliament's 'Commission 1' is in charge of foreign affairs and defense and security issues. However, despite its growing expertise, it has been noted that the committee has not always identified bills on internal security that are incompatible with democratic forms of governance.

Additionally to parliamentary oversight, following numerous demands for investigations of various past incidents of state violence, independent commissions have been established. Despite serious efforts to investigate human rights violations, there have been only a few instances of appropriate legal action taken by the

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<sup>55</sup> Lachica, 2003, p. 6

<sup>56</sup> Crawford, 2002, p. 212.

<sup>57</sup> Lindsey, 2004, p. 23.

<sup>58</sup> International Crisis Group, 2004, p. 13.

<sup>59</sup> International Crisis Group, 2004, p. 27.

government.<sup>60</sup> Lack of expertise has been identified as a major hindering factor for these oversight bodies.<sup>61</sup>

There are also non-governmental organizations in Indonesia, such as the 'Military Watch' or INFID (International NGO Forum on Indonesian Development) which uphold the view, and are working toward activities that promote civilian supremacy over the military as a priority.<sup>62</sup>

Despite remarkable legal and practical changes for more accountability of security services, some crucial loopholes remain such as the absence of laws regulating oversight on intelligence and on military assistance to civil authorities. Without legislative criteria in place, democratic oversight of the security agents is a difficult task.

There has been assistance from the international community to develop a more democratic civil-military relationship. For example, in 2001, a USAID team of civilian military experts drafted defense related legislation which the Indonesian parliament chose to adopt instead of the TNI's original submission.<sup>63</sup> USAID has also been supporting civilian participation in the drafting of a defense white paper. If this drafting process is successful, it will go a long way to provide definition and transparency to the TNI's missions. DFID has also supported oversight initiatives.<sup>64</sup>

*Conclusion: An overview of Indonesia's SSR process*

There is not doubt that since the fall of Suharto in 1998 Indonesian politics have undergone tremendous change. These changes have posed great challenges for the successive government to reform many aspects of national affairs, including the security sector. International donors, including the Consultative Group on Indonesia, the World Bank-led consortium of donors, have all made security a major part of their agenda and continue playing an active role in its reform development. However, Indonesia's democratization is still fragile and security sector reform has been a victim to the countries political instability. The myriad of problems that the country continues to face, such as threats to territorial integrity, economic crisis, lawlessness, and poor governance, threaten democratic consolidation.

Many observers have commented on the slow process of democratic reform in Indonesian politics. Considerable progress has been made, and reforms in almost all areas of the security sector are in have been put in place. Undeniably the TNI has evolved from their 'dual-functions'. Presidents Habibie and Wahid consistently tried to bring the TNI under civilian control, but were greatly limited by TNI leaders who wished to conduct *reformasi* according to their own timetables.

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<sup>60</sup> Crawford, 2002, p. 207.

<sup>61</sup> Fortuna Anwar, 2001.

<sup>62</sup> Crawford, 2002, p. 206.

<sup>63</sup> Lachica, 2003, p. 9.

<sup>64</sup> Ball 2004.

The government's commitment to democratic policy reform however declined in the new century, particularly during the leadership of Megawati. Megawati appears to have adopted a 'no policy' stance, especially in the area of reform of Indonesia's security apparatus, in order not to alienate the military in her approach towards internal conflicts and against terrorism. In addition, her inability to tackle further the continued problem of widespread corruption eventually led to her political demise and to the democratic ascendancy of former TNI general Yudhoyono.

Yudhoyono's personal history and his track record of supporting the reform movement have raised hopes that Indonesia will continue a path towards peace and democracy. The Aceh peace agreement seems to confirm these hopes. However, among the many elements needed for further reform to occur, a coherent strategy must be implemented to address a corrupt bureaucracy and a security elite that is largely unwilling or at least apprehensive, to reform the security forces that have (and continue to) serve their interest. Finally, the internal security situation in Indonesia, in a global context in which the security discourse has become pre-eminent, means that security sector reform in Indonesia requires careful balance and a strategic comprehensive plan.

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