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**Bridge Over  
Troubled Water**  
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Convergence and Divergence  
in the Formulation of National Security Bill  
in Indonesia

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## Introduction

# Evaluation of the Process of Establishing National Security Draft Bill

Until today Indonesia has not reached any consensus on the use and definition of national security concept. Although there was a tendency towards a common understanding that security is a multidimensional concept that needs to be handled by various institutions which have appropriate technical competencies, there are still substantial differences in the way those institutions look at the policy level, scope and authority relating to national security, as well as in terms of the level of national resources that should be allocated towards the management of what-so-called national security.

From the legal aspect, threat and security are two sides of a coin. There are no security issues that do not derive from threat and a threat that has not materialized is not significant enough to be considered as threat towards national security. However, both statements have differences. The tendency in every discussion on national security focuses on the objects that are threatened, i.e., comprehensively covers the components of a nation state: the people (individual and citizen), sustainability of performing state and its governing function as well as the sovereignty and territorial integrity of the state.

On the other hand, the gravity in the discussion of threat tends to focus on the nature of the threat (military or non – military), sources of the threat (from within or from outside of the country) and characteristic of the threat (potential to spread or escalate). Not all threat appears physically and can directly threaten the safety and security of the citizen, the sovereignty of the government or territorial integrity. Threats towards state are not necessarily threat towards the people. Violation of state sovereignty does not necessarily threaten territorial integrity; however, it may threaten the safety and security of the citizen.

The scope of national security policy seems unclear since the government has not yet established fixed and operational security strategy. For that reason, the government should eventually formulate strategic security policies which specify the purposes of national security, dynamic strategic environment, development of threats, state capacity building and participation of the society in dealing with national security issues. Such policy is useful for technical institutions to develop sectoral policies. To achieve an integrated national security system, these policies need to be coordinated with the central government. And such integration will only be possible if there is clarity on the level of authority of each security actor. Clarity on the level of authority will eventually contribute to the state's efforts to strengthen national security system.

Although Indonesia has just marked its tenth year of reform and democratization process, the discussion and debate on the need and the process to re-formulate the regulation framework in national security is not yet over. National security paradigm and conception are still the main issues to discuss and debate upon. For that reason, this

mimeograph becomes relevant since it reflects the dynamics of the stakeholders' thoughts that have transpired in numerous forums that ProPatria facilitated over the past eight years. The mimeograph is also a proof of ProPatria's track record involvement on the process and drafting of national security bill which previously used the nomenclature of state defence and security.

The time setting of the mimeograph was over the period of 2005-2006 when the discussion towards the draft bill initiated by the Department of Defence was at its peak. However, it is important to acknowledge that the idea and conception of the discussion started after the legalization of defence draft bill and POLRI draft bill back in 2002. At that moment, the whole discussion and debate were focused on the need to coordinate defence and security actors within the national security perspective under the authority of the National Security Council.

Post 2006, the discussion of the issue reflected public's reaction which was not necessarily affecting the revision of Department of Defence's draft bill. However, this period could also be considered as a turning point for POLRI to comply with the stratification of national security and by own initiative POLRI managed to formulate a draft bill on state security which, undeniably, served as a counter-draft bill of Department of Defence's national security draft bill.

Regardless the controversy on the different points of view that Department of Defence and TNI (on one side) with POLRI (on the other side), the process being recorded in this mimeograph will be very interesting for those who are interested in Indonesia's public policy making. By understanding the process and the flow of logic, we will see that the whole mechanism of the management of national security will end up in this status quo without any significant changes and tendency of political and policy omission from a democratic government resulted from a reform process.

Last but not least, this mimeograph is intended to stimulate the thoughts and critical responses to complement the weaknesses of the mimeograph as well as a form of contribution towards the security sector reform in the future.\*\*\*

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## Policy Process on National Security: Bringing Outside into Inside

Nothing is more contested than the idea of “national security”. Draft on National Security Bill, prepared by the Department of Defence, has dragged in political turbulence for more than three years. Discussion has proceeded for quite some time, involving policymaking establishments and implementing agencies. Most agree that Indonesia is facing more serious, complicated spectre of threats than ever before – ranging from traditional-non-traditional axis, national-transnational boundary, as well as symmetric-asymmetric character of threats. Perception converged on the need for comprehensive perspectives to deal with national security challenges. However, divergence evolves on other issues, especially whether a distinctive system of national response are necessary. Comprehensive understanding does not resolve the question of whether an all-embracing bill is necessary. This chapter is to provide background as well as a couple of factors that appeared to have become hindrance in the discourse of national security. Indeed, it has to be admitted since the beginning, that national security process is more than a just national security bill. However, the debate over the bill may suggest enduring complexity that Indonesia is to live with for some time to come.

### *Nation-State and National Security*

Indonesia is the state of becoming, not yet of being. State is indeed a modern construct, and was expected to be instruments for nation building. The luxury of a stable modern nation-state as the European enjoyed was simply absent, in which most state building are able to claim titular nationality such as the German in Germany, the French in France, and the British in the United Kingdom. Since Westphalia Treaty until the immediate aftermath of the Cold War, nation building was rarely an issue. Some exception as in Spain, Canada, and Northern Ireland are an exception is not rule. War occurs among states, conflict over ideational of state is rarely occurring. Nationhood had already solid before the state was established; and there is no series need for a state to be the instrument of nation building.

Such luxuries experience of the West was very much lacking in the developing world, particularly those emerged from the remnant of colonial powers. Indonesia was not an exception. As evident, political trajectory that Indonesia has embarked for than a half century, nation building develops along the line of state building. Bureaucracy, security apparatus, political system used to be the crucial elements of nation building. Even more abstract, normative entities such as *Pancasila* (ideology), *Wawasan Nusantara* (national outlook), and *Bhinneka Tunggal Ika* (slogan) are moral anthem instrumental for nation building. Colonial-type authoritarian rule and governance, including the excessive use of coercive measures, has become instrumental for state building. Departing state-society relations was complete.

With more than 500 ethnic groups, yet geographically diverse, demography becomes social and cultural hindrance of nation building. Indonesia nationalism has always contested, because Indonesia does not the same with Java, Sumatra, Sunda and other titular nationality. Struggle over resources, political authority and local identity blended into attempt at dissociating local from national, regional from central government. Added by troubled, unresolved past such the case of Aceh and Papua, this regional identity could become serious challenge for national state. Imagined or otherwise, the use of coercive measures by state apparatus was threats to sub-nationalities. Consolidation of

central government and strengthening state capacity becomes rallying point for societal forces to question the state's legitimacy. The zero sum game is almost complete. Cycle of perception reinforces contestation over the legitimacy of a nation state of Indonesia.

This remains unchanged even after the downfall of Suharto in 1998. To the contrary, the ghost of the insertion of seven words of Jakarta Preamble, incorporating Syariah Islam to the State Constitution, fervent regional insurrection of the 1950s, communist abrupt coup of 1965 remain in the back mind of national government. Emerging communal conflict in Kalimantan, Central Sulawesi, Maluku and other areas were self-evident that social harmony remain in flux; the enactment of *syariah* laws in some regional decree posed another imagery that nation building remain confront serious challenges. The flare of identity politics into communal violence poses serious challenges to human security as well as authority of the state.

Indonesia may not be facing threats of disintegration to the scale of Soviet Union and Yugoslavia. Benedict Anderson is however correct in saying that Indonesia is a creation, an imagined-community to which territorial border of the state does not reinforces emotional boundary of sub-nationalities. In the context of cultural fabric and post-colonial polity, the development is intriguing. Indonesia proclaims to be a unitary state. Diverse culture, archipelagic, physical distances, and perhaps level of colonialization in the past create some problems in the process of both nation – and state-building. Many in the resources rich area felt that the relationship between central government and local government resembled colonial patterns. Still, these national in-statements are "an imagined political community – and imagined as both inherently limited and sovereign."<sup>1</sup>

As Barry Buzan suggests,<sup>2</sup> in such circumstances, physical based of the state -- comprise mainly of population and territory, indeed to include all natural and man-made wealth contained within its border – is only one among other important element. Beside territory, ideational-based of the state is of particular importance. *Wawasan Nusantara* (national outlook), for example, is therefore instrumental to devise both nation and state building. Ideational-based of the state are locus in somewhat amorphous components roots in the history, psychology and imagined being. Equally importance is institutions based of the state that comprise entire machinery of government by which they operate. It includes constitutions, branches of government, political systems, laws, norms and procedures by which they operate.

One of the most central issues in defining scope of national security is whether the object is the nation or the state. What is meant when one use the term of "*komponen bangsa*" (components of the nation), "*kepentingan bangsa dan negara*" (interests of the nation and the state) are contextual of nation-state, either as territorial construct, authoritative government as well as unity of people. It is simply nation-state. Law No. 3/2002 on the State Defence (*UU Pertahanan Negara*) was constructed in the period of transition to democracy.<sup>3</sup> The Law refer to defend of the state, but the very foundation of the ideational construct is nation-state. State defence, which in the modern Western countries suffice to mean defending territory, is mean as defending overall construct of

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<sup>1</sup> Kusnanto Anggoro, "Nation-building and state-building", in *Challenges of the New Government* (Jakarta: CSIS, 2004).

<sup>2</sup> Barry Buzan, *People, State and Fear: The National Security Problem in International Relations* (Brighton, Sussex: Wheatsheaf Book, 1983), especially pp. 44-64.

<sup>3</sup> The initial draft of the Law No. 3/2002 on the State defence was "national defence". The use of state defence only began in mid-2001, when the formulation of the Bill already assumed into stage of policy consultation. At the time, amendment of the State Constitution had been taking place for two years. It is important to note however, that chapter XII of the Constitution was yet to redefine. Nevertheless, the national police (POLRI) had no longer part of the armed forces, and the National Assembly Decrees No. VI and No. VI (2000) already authorized POLRI to be responsible in "security affairs", while the armed forces in defence affairs.

nation-state. National security in Indonesia is therefore more than simply protection of territory.

Post-Cold War world had brought about other issues, especially transnational security. The history of countries such the Soviet Union and Yugoslavia were self evident that threats to state collapse not only come from externally driven threats but also from within, because of demographic change, social disintegration, and others. External dynamics may either actively penetrates the inside or simply provide demonstration effects to the populace. Islamic Revolution in Iran in 1979 have influenced more Islamic fervent in Indonesia. So have student protests in Kwangju (South Korea) in the late 1980s. Boundary eroding is thus become a serious threats in itself. This deterritorialization of threats complicates conventional approach to national security that relies on deterrence, law enforcement, as well as on functioning government. In this context, the modern state becomes an ensemble of institutional arrangements for rule, which imposes sets of rules from continuously operating offices of administration over a territorially bounded society. Rule boils down to giving commands, and getting compliance to them from those who are ruled within the state's territory.

### *Culture and the Politics of Language*

Language can be powerful instrument to grab political gain and institutional primacy. In the other said of the coin, language is also the instrument of defence. The impact of language upon societal relation is trivial, depends upon circumstances. It could not be separated from context. The importance of communication strategy presumes knowing of other as well as comprehension of self. War and peace may start from and end by language. Agreement or disagreement in the most part is ability to impose argument, though convergence of ideas can only be reached through a somewhat conciliatory approach and willingness of accommodation.

The *bahasa* suffers serious flaws. *Negara* is more often referred as combinatorial elements of territory, population (natural and human resources), government, and international recognition. *Negara* is also meant a country. They are all a complicated construction of thinking, not only to include sovereignty and/or authority over, as state in English, but also other element. Nations are comprised of ethno-nationality; and, thus, a social construct with all facets of sociological notions. Something national is therefore problematic, as it conceptualized an aggregative element of the nations. It should simply means to expose totality, express the need of cooperation and coordination. The use of term such national security or state security could become contentious debate.

Even *Negara Kesatuan Republik Indonesia (NKRI)*, the unitary state of Indonesia) has always become controversy. "*Kesatuan*" (unitary) is interpreted more often as unified which in *bahasa* means "*persatuan*"; though it also referred to as united as opposed to federation. For the civilian, for instance, "defending unitary state of Indonesia" can only be no more than contracted terms of defending territorial intact against aggressions, invasion or other form of externally driven threats but also against separatist movements. For the military, the *NKRI* appear to be catch phrase for unity, solidarity, and well-being of populations, coherence relationship state-societal relations, and the stability of governance as well as government.

This should not necessarily become serious contention if both the civilian and the military prepare to understand the context. The military may be using the language not only simplifying what they have in mind, talking to themselves, and expressing their concern as citizens. In similar vein, the civilian's resistance to the term are not an expression against the military but simply represent their worry to authoritarian practices, centralization of power, and the possible use of coercive apparatus against them. A common ground must be agreed upon that, one, the military should defend democracy,

not define it; and, two, pluralism of ideas and different means of expression should be used responsibly.

Another contested terminology is “military”. In English, military is an adjectives, and it normally links to others, such as military personnel, military doctrine, and military instruments. English use soldier, or armed forces, to denote institutions and/or agencies that have military character. In *bahasa*, military (*militer*) is a noun. It often refers to mean agency and organization (*tentara*) as well as profession (*militer*). In the same vein, civil refer to civilian personnel, rather than civility, peaceful resolution of dispute, political solutions, and elected authority. Civil-military relations are therefore interpreted as mere relation between those in the military and those are not in. There is no appropriate word for civilian in *bahasa*.

The word “security” (*keamanan*) is no less controversial.<sup>4</sup> It can be an abstract noun denoting situation and condition, but it cannot stand alone. It must specifically refer to particular object; otherwise, confusion will certainly arise. Global security, national security, environmental security, and other are self evident that security cannot be separated from their own object. National security is therefore should therefore be understood as security of the nations comprising of territorial integrity, sovereignty as well as well being of the populace. As en efforts to secure all these object, security function of government may reflects in public safety, community protection, law enforcement and good order, and, last but by no means the least, national defence.

It is apparent therefore that word can be corrosive; and this may reflect Indonesian limit to put something in relevance context. A national security policy should comprehend a system of managing resources, employing strategy, and taking measures relevant to security of the [nation] state. While security has always been the state of being, defence should be understood as the dynamics of taking action. As the state of being, security must derive into series of act by authoritative implementing agencies. The fallacy of identifying internal security to the police is as erroneous as equating defence to the armed forces. If function is to be the benchmark, then the correct term should be defence and policing, military security and non-military security, or even external security and internal security.

Beyond institutional, there may be more serious problem Indonesia is facing: that is the making of mind, the knowing of self, and the inclusion of other. This demands tremendous efforts. The legacy of colonial years, fragmented geography, besieged mentality appear in the similar line to the seeds of liberty, modernization of government management, and suspicion of others. It is not going to be easy to bridge this volatile contradiction. Understanding of national security as a comprehensive concept requires at the same time the necessity of disaggregating threats and differentiating response. Discussions is to find a new consensus; and they may achieve point of convergence should those involved in perceived as provide for them opportunity to gain benefit of some sort. Discourse thus rises to the ascendancy of importance. However, imposing an agenda, subject of discussions as well as predisposed conclusion appears to be just a bridge over trouble water.

### *The Voice of the Exile*

Democratization and globalization have brought with it tremendous impact upon state and society, and thus their relation. Critical is the need for legitimate policy making process. One may argue that such demand is paramountly important in the public sphere, to which national security issues may not fully apply considering that at policy level the issues still become the prerogative of elitist circles. However, at the same time,

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<sup>4</sup> See “*Keamanan Nasional (National Security)*,” *Mimeograph*, No. 2, (Jakarta: ProPatria Institute, 16 February 2004), p. 4.

it would also be difficult to deny that national security policy may imply to societal life. National security measures are by definition relates to how the state may use their authority to employ coercive power, including military power that can bear serious consequences.

Inclusion of actor in wider audience is therefore crucial. Discussion on the national security bill cannot separate themselves from dynamics taking place in other quarter of society. As many has argues, the immediate aftermath of the Cold War and wave of democratization have brought with it many ideas, primarily the importance of human security and the need for democratic governance in realm of security policy. State officials may argue that the importance of human security does not necessarily reduce the primacy of state security. Civil society can be in the opposite, prioritizing on the human side of the security referent. If the state is consistent to their own assessment that Indonesia is not confronting serious external threats, then it is only natural that the state should not prioritize to military defence. They assumed that human security has to be defined as a negation of, not complement to, national security measures.

Indonesia's civil society in 2005, the first time when the national security bill became public issues, has already engaged in many global activities and networks. They absorb new ideas as well as concerned from what occurring at the international level. They are all worried on the impact of the American war on terror upon democracy and civil liberties. They note that the American war on terror has created remilitarization of the state. Strengthening state capacity to deal with terrorism restricts public space everywhere. The formation of the 'International Coalition Against Terrorism', which embraces anti-democratic governments throughout the world, has served as a pretext for the governments of Asia to extend and intensify the use of national security laws to suppress movements for democracy and human rights.

To the civil society, national security regime is representing either colonial past, anti-communism during the post Second World War, or modern day development. The September 11 was reinforcing repression. National security laws in India, the Philippines, and South Korea are not aimed at providing security so much as consolidating state power and intensifying the suppression of pro-democracy and human rights movements. Such was indeed legitimate concern in any democracy. Nevertheless it also equally importance to note that the civil society did not distinctively see the difference between national security policy, national security laws and national security measures. Most of them simply assume that national security law is like Malaysian and Singaporean internal security act that constitute abrogation of the rule of law, and violate principles articulated by international human rights instruments, such as the International Covenant on Civil and Political Rights. Their primary objective is to control misconduct of the security apparatus, though some of them went further, demanding the adoption of human security as an alternative concept to state security.

Another social circumstance that emerges and need to be taken into account is academics and researcher concerned to national security issues. Those with academic background on international relations and strategic studies worries about the emergence of non-conventional threats that are not likely to be confronts with sort of asymmetric deterrence; those with special background in politics and government disrupt with abuse of power committed by security apparatuses during Suharto's days and demands for democratic security governance; those annoyed with political army are tempted to focus on the professionalization of the armed forces. The bottom line for these in this circle is by a large the needs for devising national security policy that assures both professionalization of security apparatus and protection of democracy. System building appears to be the most importance approach to achieve these goals.

Proliferation of media has opened opportunity for civil society activist and academics to expose their concerns to wider public outreach. They appear to become voice of the exile, especially in the context of policy formulation. However, no one denies that civil

society has becoming power in some sort. Whether they were able to influence state policy continues to generate debate in both academic circle and policy-making communities. The influence is usually indirect, and it is achieved by convincing those with power to advocate for and/or action their ideas. Academic can be a source for intellectual resources for stakeholders, including those in the government. On the other hand, civic organization can obviously set some agenda of concern.

### *Democratizing Policy Process*

When the idea of drafting a bill on national security put in the air by the Department of Defence, Indonesia has already changed from what it was during Suharto years. National security policy has become an issue not only for reasons for policy coherence with other dimension of statecraft, but also for its possible implication for human rights, democracy as well as accountable government. Meanwhile, management of statecraft has also changed somewhat. Many in the government, the Department of Defence is no exception, open the door at least for a certain circle of the society. They cannot deny the importance of democratizing policy process. As always in other democratic society, public debate is an importance source for legitimacy. The questions are to what extent and to what objectives the policy process is to be open up.

It is importance to note in the first place that until today, the national security bill, drafted by the Department of Defence, has not yet officially made public. The last draft of January 2008 stamped as restricted and officially numbered, perhaps to avoid unofficial circulation. This does not at all suggest that national security has never become important issue. Since late 2000, the ProPatria Institute has put themselves into a bridging, mediating role through some focus group discussion on the issues. In fact the Institute proposed national security bill in 2003 and since has published dozens book and mimeographs on the subject.<sup>5</sup> However, it should be understood that the Bill has not yet reached a complete circle of policy process. For sure, it has its own relevance to some sequence of the policy process, especially to the stage of agenda setting and policy initiation. It should be discussed in the context of policymaking and policy implementation, though some dynamics in the earlier stages may reflect what might and would be happening in future.

Discussing the Bill at this early stage of policy process, however, can be instrumental to understand the politics of policy process. Those in charge of initiating it, for example in form of preparing initial draft, could well shape the agenda and perhaps also promote and secure their own preferences and interest. Agenda setting is by definition a stage to set the political agenda by defining certain problems as issues; and determining broadly how these issues is to be address. The identified issues and strategy to address it may reflect institutional interest. Suspicion of the police and civil society to the possibility of the military to use the Bill to regain their past role are obviously legitimate, though it cannot be justified without go into detail through technical provision within the Bill. Meanwhile, the Department of Defence officials cannot just say, "we do not have the intention to taking over authority of the police" without clearly defined it into provisions.

Beyond defining issues, the important aspects of agenda setting are the projection of those issues to a wider agenda. This projection may be taking place in an interagency meeting. But often the political struggles and debates associated with public agenda setting are played out in the many venues of social and intellectual interaction within civil society: classrooms, universities, seminars and, in particular, the media. Projection of

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<sup>5</sup> The Propatria Institute has played considerably substantial, if not significant, role to the process. Later in 2004, Pacivis, a research centre at the University of Indonesia, plays similar role, though perhaps more concern to academic perspectives rather than policy relevance. Many other can certainly be found across the country.

ideas may serve double objectives, i.e. to disseminate as well as to absorb ideas. A wider audience in this stage may also necessary to test the water, for example to know possible coalition building in the deliberation process of the Bill.

No one can deny that such process is highly political. The way the discussion is taking place, the argument forward, and respect for dissenting voice are certainly represent institutional behaviour, including how far democratic reform has gone through in all stakeholders involved. It is normal in any discussion that ideas varies, argument can be overheated, and any element might proposed their own ideas and preferences. Politizing one particular issue, while avoiding the other, can be more importance than simply reflect technical competence. They also represent institutional interests. As long as such interests are predominant, then it would be too much to expect that the discussion will reach a common denominator.

Different of opinion is indeed normal in democracy. The dynamics to watch are not whether any differences exist altogether. Rather it is all about how they are being projected, express, ad instrumentalized by stakeholders. Communication becomes a key, if convergence is to reach. Successful negotiation, reaching convergence, requires “communicative rationality”, preparation for giving, or at least accommodating. In practices, however, agencies tend to adopt “instrumental rationality”, super ego embedded in their professional competence and, perhaps political interests. There may be no reasons to say the Department of Defence is using the Bill to integrate the police into the Department. The way the Department of Defence’s officials project their arguments and, on the other hand, tyranny of suspicion in the national police, converge into a turbulence water of negotiation. Inclusion into the process of policy initiative, for this matter, could well be instrumental of forging a consensus.

Academics and civil society activists, too, are susceptible to instrumental rationality either because of their conviction of what they think as academic objectivity or what they claim as interests of the society. In fact, they are both member of the society as well as citizen of the state. In the same vein, state officials represent the authoritative state and bureaucratic preference as well as servant to the public. They can be vulnerable to public pressure as well as bureaucratic fighting, and thus incline to instrumentalize their institutional authority. This is a fragile relationship. Temporal politization of issues is always possible. Instrumental rationality cannot take over communicative rationality. Rather, the opposite are prerequisite for reciprocity, by which adjustment can take place. As such, policy process is no more than imposition of ideas.

This is to suggest that there is no other way to secure the process but to make it since the very beginning as part of deliberative process. This requires not only every stakeholders to move beyond purely self-interested adversarialism. Common ground can only be reach in a win-win solution, feeling of inclusion, and of course, respect to others. As is the case putting a particular issue in or out, convergence and divergence could be more than simply technical preferences among stakeholders. For such reasons alone, the process of formulating the national security bill, limited period as it may, should reflect more than simply institutional rivalry between the military and the policy but also tell the process in which democratic maturity is taking place in Indonesia.

### *Final Notes*

Before we go through, it is important to note that this mimeograph is not to document what have been achieved during the process of national security bill since early 2005. Neither is it intended to debate a sort of “academic truth” in the conceptualization of national security. Instead, this mimeograph concerns to understanding what have been taking place as a process as they were.

There are two reasons for this standpoint. *First*, academic truth can be much as objective as trivial. Theories should always be contested for the sake of their own intellectual maturity. Our reading of literature may have also been constrained from what is available, rather than what we actually need. The politicization of concept has always a significant part in the history of science, including that in political science and strategic studies. More importantly, such limited understanding may in the end up with narrow mindedness that is against the very nature of academic life. Still academic truth, if any, are not necessarily relevance yet feasible as a policy option. Only sky limits academic truth. Policy has to confront more restricted surrounding, including but not limited to political feasibility. The height of desirability is obviously far beyond the reach of achievability.

*Second*, there has no material outcome yet, as the Bill has not passed through deliberation. There is no one even know whether it will be recanted in the immediate future. Yet understanding process can be important and hopefully beneficial to anticipating future. Not only was the process is political, and thus involve the rationality of power, primarily as manifested in institutions such as the Department of Defence and the national police (POLRI), but also the relative autonomy of institutional preference. Understanding the process is also necessary to know that cultural changes are more difficult than that of organizational. Reforms that have been taking place for almost a decade have produce a lot. But the way we comprehend national security issues appear to be immune for such changes.

The following chapter will go through several aspect, all of them are to gain our understanding of the process. The next is to provide a background, and to some extend also context, that can be relevance throughout the process. It discusses constraints and opportunity that the official at the Department of Defence might have gone through during the early stage of drafting the Bill. The immediate next chapters that follow it is to review trajectory that the draft have gone through. It is understood that the January 2008 draft is not the only one. Before this, other three drafts had been discussed. Subtle changes in these drafts may reflect how circumstances and actors adjust to external as well as internal pressures.

Chapter on actor's preferences and institutional interests, war of the roses, and voice of the exile discuss dynamics process. War of the roses is simply the most intense rivalry between the military and the police, likely the most affected by the bill, if it became a law. Yet they also represent the most troubling relations since the separation of the police from the military command. It is not entirely true, however, that the gap between these two siblings is unbridgeable. A more conciliatory approach, yet a more inclusive space for discussion, may heal the wound. Voice of the exile is necessary to explain what implication is likely to occur should the battleground is becoming more diverse.

*Lemhannas* proposal was a case where a deadlock in policymaking may need political intervention. For this reason alone, the proposal itself would deserve special attention. So would other proposal, drafted by POLRI on *Keamanan Negara* (State Security). Regardless of how the process will be developing, both *Lemhannas* and POLRI's proposal are self evident that the battle of ideas is not over. This is by no means suggesting that an intense battle of ideas, even among governmental agencies, imply chaos and anarchy. Very likely that such a lack of cohesion or uneven dispersal of power mean that the final outcome may not be what was first envisioned by initiator of the proposals.

## Conception on National Security and the Politics of Policy Initiative

External and internal factors do play some role on the conception of national security as devise in the Bill, drafted by the Department of Defence. Officials of the Department of Defence, especially those in the Working Group to prepare the draft, were not working in vacuum. They learned that incomplete regulations in national security affairs have impeded some importance aspects of security measures. Their capacity is of course determined to large extent by changes in the Department and in the Military Headquarters. Regardless shares experiences and institutional origins, both the Department of Defence and the Headquarter has nonetheless grown in their own institutional interests; and the Department is likely to use opportunity of drafting the Bill to get more. Such aims however must also taking into account relative autonomy that the headquarters may still retain. A somewhat maximalist stance is necessary to set the agenda, if only in the end they may prepare to give in some claims. This chapter is to assess how these factors interplay and affect politization of national security issues.

### *Sailing into Uncompleted Regulatory Changes*

Reform has been started. Regulations are in place. Many are still in the wing. But, then, 6 years of reform, post-Suharto Indonesia succeeded only few law, among other Law of the State Defence (*UU No. 3/2002 tentang Pertahanan Negara*) and Law on the State Police (*UU No. 2/2002 tentang Kepolisian Negara*) and on Combating Terrorism (*UU No. 15/2003 tentang Tindak Terorisme*) and on the UU No. 34/2004 on the Armed Forces.<sup>6</sup> Some already in the selves, not sure where is to be discussed, such as on Intelligence, State Secrecy, and on Defence Resources (National Reserves). Further remote in the horizon may include that on Defence Space, Patriotism, Basic Military Training and many others. Less than 30% scheduled for parliament (2004-2009) materialized, much lower than previous parliament.

There is no one can be sure how many law actually required. It depends on design and how far they will regulate issues of substance. Yet, number may be less important. In the past, a long list of bill had never completed with academic draft and draft of bill. Initiative from within may be hold back by many problems, including ideas and budget. Initiative from the outside is less likely, as regulation of defence and security matters normally not in the shopping list of, say businessmen, who benefits from new laws and thus prepare for provide financial support. The Law No. 3/2002 alone requires dozens derivate, less than 40% already completed.

One may even worry with new stipulation in the amended Constitution that requires other bunch of law. As understood, the articles 30 of the State Constitutions need more regulation in some respects. *First*, specialization of function for the military and the national police respectively in defence and security functions; *second*, the need for regulating the cooperation between the two; and that the TNI and national police (POLRI) are the primary component in dealing with defence and security. They will serve

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<sup>6</sup> See Kusnanto Anggoro, "Reformasi Sektor Keamanan, Kewenangan Negara, dan Partisipasi Publik," in Andi Widjajanto (Ed.), *Reformasi Sektor Keamanan Indonesia* (Jakarta: ProPatria Institute, 2004), p. xv.

only as a supporting component in dealing of threats that are not in their primary function. Left behind is the issue of competence, differentiating the source of threats and management of resources.

Throughout the discussion during the process of drafting the Law on State Defence in 2000-2002, national defence was used instead of state defence. The official title of the Bill until June 2001 was Bill on National Defence. Definition and scope of what then understood as “national defence” (*pertahanan nasional*) was much alike to national security in recent concept. It comprised of protecting territorial integrity, maintaining state sovereignty, and preserving social welfare for the whole nations. When the Bill becomes law, definition and scope of relevance remains unchanged from their original notion. There is no specific referent to military threats and/or those possibly inflicting physical damage to civilian targets. Defending national security can thus mean the employment of defence, more than simply military, resources to neutralise the threats. The spirit was much alike law that it replaced, Law No. 20/1982 on Basic Laws on Defending State Security (*UU Pokok-Pokok Pertahanan Keamanan Negara*). The dominant logic at that time was that should functioning government in defending security is to be separately managed, say between that on external defence and internal security, thus the successor of the the Basic Law must be those regulate policy making in defence affairs and, similarly apply, to those policy making in security affairs, with their own main implementing agencies, the TNI and POLRI respectively.

Until today that remains a hope. Foundation for defence policy may have been fairly completed, separation of policy making and implementing agency has already cemented into Law No. 3/2002 and Law No. 34/2004. There are many derivatives law in demand, but the very bases for specialization of function between policy making and policy implementation was already in place. If there are regulations to complete the picture, it is those on defence resources, some institutional designs to strengthen defence governance, and a couple of repository measures to professionalize core competence of the TNI. To some extent, the Military Headquarters already take their own initiatives to complete these regulations.

That was not the case for regulation in “security sphere”. Law No. 2/2002 on the National Police was ambiguous with regard of policy making and policy implementing agency. Derived from Law No. 20/1982, and more importantly in lieu of amended State Constitution, Law No. 2/2002 should have read Law on State Security or Law on Policing [Function of the Government] instead. This is becoming more confusing as throughout this Law the term of state police (*Kepolisian Negara*) referred to both policing as government function as well as institutional agency (read: POLRI). Other implementing agencies in policing was recognised, but left untouched.

Emerging new threats to national security as already elaborated in previous chapter cannot be resolved only by little amendment to both Law No. 3/2002 on the State Defence and Law No. 2/2002 on the National Police. Nor will what is mandatory to the Constitution. Indonesian sovereignty over territorial water may be maintained by policing function of the government, but the implementing agency could hardly be the POLRI. On the other hand, it is acknowledged that Indonesia must have sufficient capacity to cope with epidemic diseases; and there is some element of defence function to handle such threat to human security. But only in particular circumstances, especially with regard to restoration, should the TNI can be deployed.

Come into the fore in such cases is military operation other than war as a strategy to employ the armed forces in stability and support operations. But this issue has become flash point between the Department of Defence and the TNI in the one hand and POLRI on the other. According the Law No. 3/2002 on the State Defence, supporting role of the armed forces must be regulate in Law. In the Law No. 2/2002 on the National Police, the issue can be tackled by government regulations. There is no agreement on settling the issues. Democratic perspectives will obviously prefer laws to regulate, as they are more

democratic than mere governmental regulations. Bureaucratic perspective may opt practicality, thus governmental regulations may serve the objective.

This complicated picture offered two possibilities for the officials at the Department of Defence. *First* is to wait for completion of sectoral laws, combined with some necessary amendment to the existing laws, especially Law No. 2/2002 and Law No. 3/2002 on National Police and State Defence respectively. This option should take considerable time, and thus bring with it a prolonged vacuum of regulations. Waiting for completion could well be less assuring as it depends on the initiatives to department and/or agencies other than the Department of Defence. *Second* is to initiate a new but all-embracing law that is likely to initiate new agenda and/or instigate other necessary regulations.

### *Civilianization of the Defence Ministry*

Civilianization of the Defence Ministry is an importance benchmark for democratic control of the armed forces. This should include personnel, policy directions, and character of defence posture. The later may not be important factor for Indonesia. Defence capability of Indonesia is so lacking that there is no projection capability. Even an offensive posture of Indonesia's force structure should not threaten other countries. With such limited defence posture, and more importantly with a defensive strategic outlook, Indonesia's defence orientation has been basically for defensive purpose.

The Department of Defence was changing, no longer under the shoes of the Military Headquarters. Civilian in the helm since the downfall of Suharto, irrespective of political background, are all proven to be fairly effective in the Department of Defence and were instrumental in reforming the department as well as the TNI. Mohammad Mahfud, Defence Minister under Abdurrahman Wahid administration, was successful especially in initiating the State Defence Bill into a law. Matori Abdul Djilil, the successor of Mahfud, under the Presidency of Megawati Sukarnoputri, signed ministerial decree to introduce the application of humanitarian law to ranks and files in the military. He was also the one who initiate special task force to formulate drafts Bill of TNI, once he bill lost from public space in the last second quarter of 2004. Currently serving Minister Juwono Sudarsono has also contributed much internal reform in the Department of Defence.

Whether the ministers are really able to established control over the military is different ball game. Political supremacy does not easily transform into operational control. Personal capacity does matter, more than political clout possibly would. With no background of defence issues, Mahfud and Djilil were considerably successful. Juwono Sudarsono, a professor in international relations at the University of Indonesia is well regarded as the doyen in strategic and security studies. As former ambassador to Britain, and in fact also Defence Minister under President Baharuddin Jusuf Habibie, immediate successor of Suharto. Juwono enjoyed respect from the military. Civilian control has always been a matter of degree. Juwono, despite of being respectful by the military, was unable to secure his preferred civilian candidate, Indra Djati Sidi, for the post of Director Generalship in the Department of Defence.

The TNI meanwhile have passed thorough changes as well. No one dispute that the military is less and less involved in politics. Cilangkap Pope initiated depoliticization of the armed forces, at least at official and national level. Marshall Djoko Suyanto was well known of his reluctant commenting on political issue. His predecessor, General Endriartono Sutarto might have been somewhat political, yet his leadership was more or less in timely change parallel to stronger civilian control, and thus in different balance of civil-military relations. Current Chief of the Armed Forces was known for his concerned on national disintegration, but keep silence. To varying degree they are all instrumental to further depoliticize the armed forces.

Nevertheless, civilianization is not only a matter of number and presence of civilian personnel, but also the question of assertion and capacity. One may have use political authority, euphoria, and pressure to civilize the Department of Defence. Without capacity, however, civilianization may be no more than symbolic supremacy. This appears to be the case. The relationship between Department of Defence and the Military Headquarters remains at best mutual in[ter]dependence. As many developing democracies has shown, a civilian at the helm should not necessarily become sufficient for pacifying military. In the case of Indonesia, such mutual interdependence is fairly adequate to drive a modest defence orientation.

At the operational levels handful civilian has ever control important post in the Department of Defence's bureaucracy. With the exception of Mas Wijaya, Director General for Budgetary Planning under Megawati's Presidency, others bureaucrats of civilian background were in less influential post. Budi Susilo Supanji and Lilik Hendradjaja, both university professors, oversee directorate generals for defence resource and research and development respectively. The later had been in the civilian post for more than 8 years, beginning with former Indonesia's Academy of Sciences' Head Sofyan Tsaury. More strategic post, including secretary general, and directorate generals for Strategy and Planning have always been in the hand of active military generals.

The significant of such structure may be seen from some perspectives. Supremacy at the top as it may, the Military Headquarters may still be able to retain some sort of control over policy direction. It is a matter of debate whether the control is asserted through systematic control or simply consequential of matching culture. In theory, the officers are answerable to Defence Minister; but in practice Chief of the Armed Forces retains his full authority. Article 45 (5) Law No. 34/2004 on the Armed Forces reads that the Military Headquarters remain in charge of disciplinary measures to their officers. Nevertheless, this potential authority was not always transformed into an institutional power. No action was taken when Major General Sudrajat, then Director General for Defence Strategy, challenged the Military Headquarters in 2004 on issue of automatic military deployment in case of emergency.

This was an interesting development. One may argue that the relationship between the Department of Defence and the Military Headquarters have not read the ideal form of functional supremacy that is supremacy of the department in policy direction, and thus subordination of the military head quarter for that matter.<sup>7</sup> It might still be in the stage of equal partnership in some sort. The question is whether any contestation is any is to be resolved by imposition or consultation. No one deny that power is important, be it institutional (politics), intellectual (conceptual), or even personal. Current Secretary General Sjafrie Sjamsuddin was regarded as an effective officials in driving internal reform in the Department of Defence, beside becoming effective bridge to the headquarter.

It may be fair to conclude that institutionalisation of proper roles have already been started. Conflict between the Department of Defence and the Military Headquarters, if it occurs, should be perceived more in bureaucratic, institutional terms rather than political. It would be too go too far to suspect that general in the Military Headquarters take form of ministerial turnover, in which the headquarter take on initiative without consulting the Department of Defence. The headquarter's relative "autonomy" was result of institutional structure of defence policy establishment, formal constitutional powers of the core

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<sup>7</sup> Kurnanto Anggoro, "The Department of Defence of the Republic of Indonesia", in Beni Sukadis (ed.), *Almanac Indonesia 2007 Security Sector Reform* (Lesperssi and DCAF, Democratic Control of the Armed Forces, August 2007), pp. 5-18.

generals over defence policy, and nested in interlinked policy subsystems. Law No. 3/2002 on the State Defence authorizes the Department of Defence to drive policy formulations. The Chief of the Armed Forces was to operationalize it into an operational strategic policy. Should decision matter most, then consultation over policy may already fulfill the objectives of working relationship between the Department of Defence and the headquarters. One cannot expect more than that.

### *Elite Circulation in the Military*

There is no doubt that Indonesia's military is modern organization, with clear hierarchy, and well established practices for mobility. All criteria are there. In a matter of second one should know ranks of particular individual, since their early joining of the armed forces till a point where such criteria is needed in elite circulation. During Suharto years, political consideration may be dominant. Now such an informal network may still exist. No system is perfect. Generals have always been a political post, for sure – particularly in a country with a long tradition of political army.

But unlike practices in the past, nowadays deviation is practically low – especially at the middle ranks and lower ranks. Gone are adagium of the past such as “if you want to be regent, joint the military academy”. So does if you want to be president, governor or other important post. Younger generation in the armed forces would likely to adopt such value. They are becoming less political than their superiors. Psychology of a professional army in Indonesia is such that those in the ranks and files are more respectable than those in the outside. Commandership is to be respectful; serving the corporate interest of the armed forces is more respectable, if not preferable among ranks and files.

But at the same time, they are also confronting more serious competition. The impact of recruitment pattern to serve the interest of authoritarian regime, to which the military assume dominant role in internal security, affects personnel planning. This makes a civilian post is necessary sometime to complete the circle of tour of duty. Many stayed in civilian post simply to get opportunity to get back commandership. Post in the Military Headquarters and/or in the territorial command are becoming so competitive, and no much choice for those want to step up should be in the civilian post for some time. Priorities is given to those suffer from black spot in military carrier and/or those racing again time of retirement.

Interestingly, all director general for strategy, in fact the most important actor in drafting new bill until 2007 were “US alumni”. Both Major General Sudrajat and Major General Dadi Susanto had serve as defence attaché in Washington. In most cases, international exposure force someone to be more open minded and open to new ideas. This is becoming important, especially as Indonesia sailing around global politics and more fluid yet complex strategic environ. Such person often brought new idea, including that on defence and security matters. For sure, there were not alone and must discuss with their superior in the headquarter – from which most overseas trained officers were not so popular, enjoyed less respect and, thus, low credibility.

There is no pattern, except that there is some flavour of rotation among services. Director General for defence resources has experience leadership of Rear Admiral Bambang Murgiyanto, Rear Admiral Dharmawan, and now, Professor Budi Susilo Supanji. Secretary Generalship goes from Lieutenant General Johny Lumintang, Rear Marshall Suprihadi and now Lieutenant General Sjafrie Sjamsuddin. Defence Planning back and forth from civilian Mas Widjaja to Rear Admiral Tedjo Edy Purdijanto, before to Major General Gunadi. It is not quite clear whether the Navy have more opportunity than the other. Neither nor the leadership of person like Sjafri Sjamsuddin should indicate more than his personnel capacity to lead, not because the need for the army to gain more clout in the internal affairs of the Department of Defence.

As far as policy on national security is concern, especially when it come to system legislation and policy document, the Directorate General for Strategy is paramountly important. The Directorate General oversees drafting the bill and, of course, other policy document such as Defence White Paper, Defence Doctrine and Defence Strategy. Personnel like Sudrajat and Dadi Susanto was obviously qualified; they were then the only candidate proposed for the post by the Military Headquarters. Whether this is for their capability or other reasons is something else. Sudrajat was in some occasion in the loggerhead with his compatriot in the Military Headquarters. He even had serious argument with his classmate, then, Chief of the Armed Forces Endriartono Sutarto, in the case of article 19 of the Armed Forces Bill in the first quarter of 2004. There was no disciplinary measure against Sudrajat. However, the proposed Bill that Sudarajat and Minister Matori Abdul Djalil were unofficially convening was intercepted on the way to the Office of State Secretariat, before deliberations in the Parliament were to take place.

This was the politics. The Military Headquarters has changed since. Under the leadership of Marshall Djoko Sujanto, the Headquarter was less political. The Department of Defence has also changed more people in the Directorate General for Strategy has more preparation to draft regulation on national security issues. Their engagement with academic circle since 2002 might have strengthened their intellectual capacity to absorb many ideas that is necessary. Some of second echelon officers in the directorate are also intellectually more able; some of them acquired master degree in international relations with thesis on defence and security matters. But Major General Dadi Susanto cannot take it for granted. The opportunity as it may, he ought to be cautious for not outraging other in the Military Headquarters. Sure he is in the advantage, being a former intelligence officer on his own. More importantly, he was also dealing with Chief of the Armed Forces that was presumable less political than his predecessor.

This is all suggesting that the instrumentalization of the Department of Defence by the Military Headquarters appear to be waning. No one knows whether this is a temporary and coincidental with changes in both institutions or will be institutionalized somehow. Considering a greater tendency for natural elite circulation in the armed forces to go along natural line, rather than political, it is fair to assume that decoupling between the Department of Defence and the Military Headquarters is taking place. For the foreseeable future however the Department of Defence is likely still depend on the Military Headquarters for resources in the first echelon. However, pressure for the Military Headquarters to use the Department of Defence as part of tour of duty will be less in future.

#### *The Fall out of Reforming Security Actors*

The downfall of Suharto has created tremendous opportunity for changes. The military, the most powerful actor during Suharto years, became the most targeted institutions. Human rights issues, democratization, and misconduct and misbehaviour of security actors come to the surface. The military was then in the defensive, in part due their own disorientation after Suharto begun to look at another direction for support; in part also because of turbulence within due to power struggle for leadership. Either way, an internally driven reform had become an important agenda. Some reformist officers aired many ideas. What so called new paradigm (*Paradigma Baru*) already on the air since sometime in the mid-1990s. Unnoticed, generational changes, and of course, internal power struggle in the armed forces, opened up situation in which officers appear to unsecure of their own corporativeness.

What role should military play in such perilous change is not clear as yet. Indonesia's armed forces are a complex history. They represent the most sustained legacy of a

colonial movement, integrative elements of people resistance, militia, and regular army.<sup>8</sup> Education and training in the armed forces has follows more or less a conservative approach, which must be understandable as the military around the globe, according to military historian Michael Howard, is known for their conservatism. Thus it is only fair to posit that generational changes do not entirely erase non-professional elements of it. Indeed, it may no longer the days of orthodoxies, as in the past when they used their birth rights as to justify becoming political army. For better or worse they are the best, well organized structure with a strong hierarchy, command, and thus order; and obviously such organizational structure should stabilized relationship between general at the tops and ranks and files down under. Personalities of the Chief of the Armed Forces, thus, could well be instrumental.

During the period under the study (2005-2008), the Indonesia armed forces was under the leadership of Marshall Djoko Sujanto who, as an air force Marshall less incline to adopt political stance, different from his army counterpart. Nevertheless, deep in the heart and mind of most military, especially middle and high ranking officers, who experienced through formatting years under Suharto rule, it is a conventional wisdom to assume they were in the mid of combined sentiment of nation building, strong state, and stable government. More importantly, because of a considerably strong self identification to the state, it would be nigh impossible for them to tolerate phenomenon such as national disintegration, challenged government, and suffered people. This is particularly important with regard to how military personnel perceive what imminent threats are.

Indeed, what is and is not in the perception should not necessarily become part of policy. The military is no longer the main actors in devising policy choice. As stipulated in the Law on the State Defence and in the Armed Forces, military is basically an implementing agency of policy devised by the Department of Defence. They may still in important position of setting agenda, perhaps also initiating some, tough they were, at least in theory, no longer in a predominance position. They were confined in circumstances of wider space, including but not limited to, the Department of Defence. The presence of active military officers in the Department of Defence therefore may be indicative of how the military retains well established channels of policy process.

Separation of the police from military command (1999) soon cemented in some National Assembly Decree,<sup>9</sup> and then in the amended State Constitutions. Laws that regulate function, role and task of the armed forces and the police appear to be constructed in harsh way. National security is confusingly interpreted as combining government function in protecting the nation state against external threats by way of military means and maintaining internal order by way of national police. Democratic reform in security governance appeared to have produced false meaning that organizational separation of the police from military command is also separation of maintenance of internal order from external defence. Criticism against the TNI as backbone of Suharto authoritarian years opens opportunity for the police to gain international cooperation, a relatively autonomous from external oversights bodies, and more importantly blame of their past wrong doing.

Reform happened to be blessing for the police. They are no thirst into the forefront of security. Long discredited, being a junior partner, and deprived, they were now handling the biggest internal threats of contemporary Indonesia – terrorism, communal violence and separatist conflicts. For many civil society activists, the rise of the police represents an essential tenet of democracy – civilian supremacy in matters of security and a military firmly lodged in its barracks. To the military, it is a perverse inversion of the old familial

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<sup>8</sup> See, for instance, Salim Said, *Genesis of Power: General Sudirman and the Indonesian Military in Politics 1945-1949* (Singapore: ISEAS, 1991).

<sup>9</sup> See National Assembly Decree No. VI/2000 on Institutional Separation of Armed Forces and National Police; National Assembly Decree No. VII/2000 on Role Separation Armed Forces and National Police.

relations inside the security apparatus. In ABRI – the militaristic institution that administered the police, army, navy and air force under Suharto's New Order years – the police were the junior partner of the armed forces.

### *Final Notes*

Legal vacuum, civilization of the defence ministry, elite circulation in the military and the fall out of reform provided subjective circumstances to which a somewhat progressive and yet overarching agenda. The need for redefining security is to be best serving by introducing a new law on national security. Like it or not, the Department of Defence must accord themselves to the amended constitution, for ideological purpose as well as political. They were in the need of modernizing total defence as well as regulate the working relations with POLRI. A new bill is more likely to provide snow ball impact, rather than expecting amendment of Law No 3/2003 as well as Law No. 2/2002. More importantly, if the initiatives succeeded, they may their jealousy of POLRI being an autonomous body. Efforts to strengthen the position of the Department of Defence vis-à-vis the Military Headquarters is also in the agenda especially because to a certain degree being a civilian bureaucrats would likely offer longer years of service before retirement. This could be true especially for middle rank officer in the Department.

Priority wise, however, agenda for civilization of the Department of Defence may not in the same urgency as to have more authority over the headquarters. Having military background themselves, the Department of Defence officials know only too well that the level of military entry in the civilian sector will naturally reduce, not because political intervention, including endorsement of a new law, but because the headquarter will be sort of middle ranking officers in the next few years. Less likely would the headquarter sacrifice their own corporate interests by inserting more officers in the Department. Indeed, this should go along the line of strengthening civilian capacity on defence matters, which remain problematic because of bureaucratic impediment. Strengthening institutional power of the department vis-à-vis the headquarter is likely to serve their personal interest more than their counterpart in the headquarter.

This suggests that a progressive yet all encompassing bill is likely be more preferable as it will impose further reform not only in the Department of Defence but also in other security sectors. Such progressive idea should reach wider audience, because the Department of Defence officials may need supports from other stake holders. Agenda to be addressed in the Bill are therefore could be seen as politization of agenda setting. They will likely to impose the agenda, if necessary with building coalition of ideas with others. As Chapter 5, War of the Roses, is to figure out, this maximum strategy did not work as expected.

## The Department of Defence's Proposal

The final draft of National Security Bill, that then was given to the Office of Coordinating Minister for Politics, Legal Affairs and security, had gone through a long journey. Four drafts were discussed between mid-1995 to early 2007. The first two drafts, in May and June 2005, were officially named Bill on Defence and Security of State. The other two, used the term of national security bill instead, was finalized in December 2006 and January 2007. There are some points of continuity and change, perseverance and vacillation, as well as similarities and differences as far as arrangements are concern. All of them are comprehensive understanding of defence and security as well as national security. Referent objects always include territorial integrity, sovereignty, and safety of the nations from any kind of threats, military or otherwise that stem from external as well as internal sources. This chapter is to trace the trajectory, looking at the four draft Bills and, pin point to some elements of importance. It is necessary to emphasize that all of the draft should be seen as policy initiative by the Department of Defence.

### *Tales of Two Approaches*

The original State Constitution 1945 dealt no considerable portion of defence and security issues. Except provision on the President's emergency power and paramount position as Supreme Commander of the Armed Forces, the Constitution mention only the right and obligation of the citizen to in defending the country. There was no elaboration on what popularly known as people's total defence (*hankamrata*). Neither nor provision on role and function of the military as well as the police. There are regulated in part in the Law No. 3/2002 on the State Defence and Law No. 2/2002 on the National Police. Security remains keep in the dark and contentious. Indonesia constitution regulate far less than that in, for example, South Africa, India, Pakistan and some East European countries in which defence and security are detailed in same provisions.<sup>10</sup>

The amendment of the 1945 constitution is therefore meant to clarify such systemic perspective and to regulate how the system should work. Another reasons, at least intentionally, might also to adopt spirit of reform. In practice, the amendment produces more confusion rather than solution. At first glance, the newly amended Constitutions emphasize the distinctive role of military and police, the first being military instrument to protect the nation-states against external threats; while the latter is to protect security in internal affairs. Such an external-internal, territorial nexus is not the most importance characteristics. According to some member of the DPR, the primary intention of the article is in fact to stipulate organizational separation of the two agencies; indeed assuming that cooperation between the two should have become inherent part.

Article 30 of the amended Constitution elaborated its original provision, trying to cover three element necessary relates in some way with professional competence of the military and the police, people as inherent element of system responsible for defence

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<sup>10</sup> Some of them directly refer to armed forces and police as state agencies, reducing problems of unclarity. Other simply emphasize the Presidential authority over the armed forces (Armenia and Nigeria); Pakistan 1977 regulates role of the Armed Forces (art. 143-145); so does Brazilian (1986) and the Portuguese (1997).

and security, and inter-relations between the military and police. Such spirit was embodied in all constitutions that Indonesia have ever had: UUD 1945, *Konstitusi Republik Indonesia Serikat* (the Constitutions of the United States of Indonesia) and UUDS 1949 (*Undang-undang Dasar Sementara*, Interim Constitution). These constitutions considered people's total defence (*hankamrata*) as national beliefs and doctrine, without elaborating it into strategic and tactical level. "Guerrilla warfare" is easily slipped from its doctrinal element to tactical, from doctrinal resolve to strategic instrument, spirit of history to devised future. Guerrilla is rarely seen as a mere tactical, circumstantial option that a defending weaker party is to confront the aggressive yet stronger occupying power.<sup>11</sup>

Comprehensive understanding of issues is not match to capacity of making it into workable instrument. Doctrine, strategy and tactics are concept well disseminated in the text book in military academy but not a distinctive feature easily grasp in public discourse. Systemic approach has always become obsession of all, without which Indonesia could not survive, national system may unable to work. System, including that in national systems, has always been understood in comprehensive way, but failing to make it down to earth at strategic and tactical level. Quite rare is reference made that *hankamrata* is relevance only for self-defence against incoming, in fact unavoidable aggression. More importantly, such system was primarily seen as interaction among subsystem, not integration among instruments that make the subsystems works.

For old generation of the armed forces, guerrilla warfare is a strategy, and thus something inseparable from context, threats and availability of resources. Member of Commission I Raja Kami Sembiring Meliala (Democratic Party of Struggle, PDI-P), a retired two star army general, explained it well when saying that guerrilla warfare is strategy, it exists in parallel, may be complement to other strategic option, and always used in defensive way against aggressor and invader. According to Meliala,

"Guerrilla strategy "should only be applicable if we are being invaded by aggressive power. It is defensive strategy in lieu of stronger power, like the Dutch in the past. There is no issue of human rights though the guerrilla strategy may involve ordinary citizens. We do not use those citizens to invade others but to defend our own survival. Life and death is not something you can opt for."

Meliala's argument explains that the use of people is not unconditional. He also added that, "it was a last resort. Should we can afford, we would love to protect our country in the first perimeter, with air force and navy".

Come to conception of "national security", "defence and security of state", "national defence" or something else, it is unclear whether the notion is being used as individual, distinctive context subsystem or as an approach. Grand strategy, national policy, and national strategy are term that quite often did not exist in Indonesia, but perhaps more due to incorrect use of term rather than simply absence; one may refer to GBHN as sort of grand strategy, though another term may also apply should as blue print, general planning, plan of action (*Rencana Kerja*) may also apply; there is varieties in using whether "national" to become attributive to "policy" and "system", and thus national policy and national system; or, instead, national is to be aggregative instruments and/or integrated responses. In the latter case national systems should comprise of subsystem

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<sup>11</sup> It is therefore understandable that guerrilla warfare, for example, have become an issue in civil military relation for some time. Civilian argue that *hankamrata* is against human rights, humanitarian law and pose civilian to become target in any violence conflicts. Meanwhile the armed forces appear to be too sensitive and simply refuse to clarify what they meant. Guerrilla was then taken as synonymous parsimony to people's total defence.

that responsible for maintaining security of the nation-state, indeed in its modern understanding is to include human security as well.

In similar vein, national policy should be reflected only at cabinet level, while ministerial posts are basically responsible for their own portfolio. They are all responsible for planning and programming, among other, of developing national capacity, indeed by management of resources, adopting strategic option as well as devise instrument for response particular challenges. Nation state is indeed to have policy on national defence. The President should prepare general outline of how to defend the country against all spectrum of threats. But Department of Defence is basically department of preparation for war, and the portfolio is restricted only to develop military capability. The President should also devise policy of national policing, national law enforcement and even national policy to provide public services. Law enforcement agency should subordinate to any department that in essence to devise policy relevant to the implementing agencies of maintaining law and order.

Without such disaggregation of responses, there will no clear distinction responses. Particular measures to neutralise threats, for example annihilation, will become normal practices. More importantly, national security policy may assume national policy and become national strategy at the same time. The use of force, laws as well as other punitive instruments could become primary option, if only because the inability of diffracting them into particular context. In fact, the use of force is legitimate only for self defence against threats of violence. Laws should be applied to acts against the law. Violation of public law should not be confronted with military operation. Without such disaggregation of threats and, at the same time, differentiation of response, there will be a strong tendency for securitization. It is undeniable need thus to distinguish security agents from securitizing agency.

Worst case scenario should not and could not become a culture. It must be devised in a wise way. If it is to contain in a national policy, it must only be reflected in preparation, alerts, and early detection. Needless to say, in such perspectives, capability should always been maintained. Anticipating security dynamics needs comprehensive understanding of national security comprehensively, but also disaggregation of threats and differentiation of response. Securitization should be limited in time, simply using emergency power as inherent executive power, as it primarily devise to defuse tension, minimizing costs, and restore order. Securitizing agency is needed only to decide whether available resources should be first mobilize and normal function of government should well equipped, and in the worst case scenario, supplanted by extraordinary efforts, security approach, and thus either military and other coercive instruments.

#### *Legality, Self-restraint, and Confusion*

In January, Minister of Defence Juwono Sudarsono met delegation of Propatria's Working Group of Security Sector Reform. In the meeting, the Minister said that the Department of Defence is prepared for proposing a draft on defence and security of the state (*RUU Pertahanan dan Keamanan Negara*). According to the Minister, the regulation is importance not only to be an umbrella of other laws related to maintaining defence and security of the state but also to close the gap created by new regulations since 2002. Minister Juwono also emphasizes the need for accommodating the newly amended Constitution that again reemphasised "*sishankamrata*" (*Sistem Pertahanan Keamanan Rakyat Semesta*, shortly total defence and security). Some time in March 2005, before Commission I of the DPR, Minister Juwono Sudarsono said that the Department of Defence is to draft a bill on "national security", with primary objective of elaborating constitutional mandate, devise legal backing for coherence national security policy, and regulate how cooperation between military and police can be organized.

In his *Kompas* article,<sup>12</sup> the Minister says, “should the term of state defence and state security be used as standard terminology referring to the title of the Chapter XII of the Constitution, then, there must be a law on State Security that the Law on national police should refer”. Minister Juwono was trying to appease the national police when he says that “There is no intention of the Department of Defence to integrate, amalgamate, or put the armed forces and the national police together into defence-security type in the past, when the national police was subordinate to the Department of Defence”. Nevertheless, it is understood however that what the Minister had in mind was that the Bill should be instrumental, at least in theory, to security sectors, governance and actors. To the dismay of the police, Minister Juwono continued that

according to Law No. 3/2002 on the State Defence, the state defence are not only to be the responsibility of the armed forces, and thus the law on state security should also devised that state security is not only the responsibility of the national police. ...as the Law on the Armed Forces has stipulated that in future the armed forces should be integrated into the Department of Defence, thus the Law on state security should also integrate the national police into civilian institution (for example, Department of Home Affairs).

Needless to say, the Bill was also meant to open the way for more reform in security management. In one way or another, it could then be expected that the Bill may comprises set of elements of civilianizing policy-making process in defence and security affairs.

As mentioned elsewhere, already established regulation, suffer from serious defect. Law No. 3/2003 does not go far enough to devise role and function of the Department of Defence. It says little on the relationship between the Department of Defence as policy making bodies and the Military Headquarter as implementing agencies. There is no even law on intelligence, strategic information, management of defence resources or other that in practice should always be instrumental in national policies on defence and security. Meanwhile, Law No. 2/2002 on National Policy even justifies concentration of power in the hand of the Chief of National Police. One official in the Department of Defence grumbled that “the police is in fact the most independent actors in this country...they are accountable to no one but to themselves”.

To the Department of Defence, national security is a cumulative and summative concept, comprises of defence of the state and security of the state. The first is basically deal with military, traditional threats. Defending territory is the most important part of the military's job. No one disagreed that the TNI is the most prominent, competence, and yet authoritative to take such action. The Department of Defence should formulate and decide force planning. This imply that devising defence policy should be okay as long as it limit themselves with the core competence of the armed forces, which is combat, military operation against external military threats. The second was somewhat ambiguous concept comprises of internal security (*keamanan dalam negeri*) and public order (*keamanan dan ketertiban masyarakat*). It was acknowledged that police must become agency responsible primarily to the area of criminal offences and public order (*ketertiban umum*).

Thus the most contentious issue would likely be any threats that either from non-state actors but capable of inflicting serious damage to the nation-state and non-military threats that likely to escalate into those of military. Such threat could fall into the category of defence and policing. Even if these threats may fall into function of law enforcement, the military and other may get involve in efforts. Threat as such could manifested themselves in form of armed robbery, piracy and international terrorism as

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<sup>12</sup> “*Pertahanan dan Keamanan Negara*” (State's Defence and Security), *Kompas*, 10 March 2005

well as internal military threats such as armed separatist, rebellion and widespread communal conflicts. Though some of them may also be seen as transnational in nature, yet disaggregating them into a specific referent object could well be necessary.

The Department of Defence might have ultimate objectives of overarching reform in the security sector. They know only too well however that the legitimacy that they have in drafting the bill might have been contentious. For better or worse, reform has created a particular circumstances and psyche that the military is primarily to defend against external threats; and that the Department of Defence should limit themselves in war machine. Many outside the Department that said that the military were not supposed to get involve in internal security. The national police are not subordinate to the Department of Defence; and by drafting the Bill, the Department of Defence was acting beyond his capacity and constitutional duty.

Such psyche is strong and has been around for years, intensified by military-police rivalry. But whistle had already blown. In March 2005, the Department of Defence already set up an internal working group to prepare the bill on defence and security of the state. The Working Group, comprises of dozens officials under Directorate General for Strategy, came up with first idea. They appeared to limit themselves to gather all experience of the actors responsible with national security issues, conduct a studious effort to identify all necessary regulation relevance to national security, to coordinate with the Agency for Development of National Law (BPHN, *Badan Pembangunan Hukum Nasional*). The Department of Defence even went too far for consultation with Constitutional Court, and to write an academic draft of national security. Last but by no means the least, the Working Group emphasized another important issues, which quite rare being discussed at the time, i.e. the need for rethinking of emergency law and law on internal security act.

The Department of Defence come with their first proposal sometime in the mid-2005 (Bill on Defence and Security of State). The name suggests that Department of Defence would have avoided constitutional controversies, since the Constitution used the term, instead of much more controversial "national security". In a concept paper, it was understood that defence and state security is all-inclusive. National security is understood as concentric, beginning with *keamanan negara* in the centre, circled by human security, public security and state security. The military appears to think about referent object comprising of individual (human security), societal (public security) and nation-state (state security).

There are some interesting points of the proposal. For a better or worse, the draft was progressive. At least three elements are important at this juncture. *First*, Joint Chief of Staff was officially mentioned as part of the structural change in the armed forces. It did not go further to supplant the chief of the armed forces, but the Joint Chief of Staff will be responsible to develop and maintenance of forces while the *Panglima* will be responsible for force deployment. *Second*, seven department portfolio was identified as elements to policy decision. They were Department of Foreign Affairs, Home Affairs, Department of Defence, Research and Technology, Industry, other state agencies as well as the Coordinating Minister for Politics, Law and Security. *Third*, there was of clear delineation between policy formulating agencies (departments) and implementing agencies such as the military and the police. The military is to task for defending the country against any threats and the police is to law enforcement agencies. For the military, referent object is "*bangsa dan negara*" (nation and state), a loose and controversial concept as it blurs physical characteristics with those of more ideational. The police concerns to public security.

The second draft (June 2005) was more elaborative. The term of National Security Council (NSC) was used for the first time to substitute the Council for the State Defence and Security in the earlier draft. While no specific membership was referred to in May, the later draft made it clear. Chaired by the President, the NSC is to comprise of eight

top ministerial post serve as permanent members and representation from non-state actors in the alternate, non-permanent member. To some extent, this is progression. However, the Council would have no authority on political decision making process. According to Sugeng Widodo, Head of Law Bureau in the Department of Defence, the Council will only design to look at studiously on short, medium and long-term strategic dynamics.<sup>13</sup> Interestingly, Widodo appeared not to be aware of other agencies that were similar in nature such as Institute for National Defence (*Lemhannas*) or the Council for National Resilience (*Wanhamkannas*).

There were element of change and continuity between the first and second draft.<sup>14</sup> One should not fail to note that the June draft was also more solicitous with regard to emergency, mobilization, and local government. Interestingly, conservative, traditional ideas were gone. Instead of using the term of “*kerakyatan*” (people), “*kesemestaan*” (totality) and “*kewilayahan*” (territoriality) that were explicitly embodied in the first draft, the second draft simply put more emphasize on optimalization of local resources, development of defence industry potential, and strengthening technical competence of the implementing agencies.

Indeed, the old thinking is by no means has gone. There is no point to debate the argument. But the most importance issue at place here is preparedness of the Department of Defence to find other, less controversial, if not normative, terminology. The drafter appears to have learned a lot from their engagement with those outside the establishment. The drafts were trying to accommodate democratic principles, good governance and protection of civil and human rights. In addition, an early sign of disaggregating threats and the appropriate instrument of response was emerging. Escalation is to be the most prominent principle before force, and other coercive measures are to be applied on the ground. In other words, the use of coercive measures was perceives as no longer unconditional. These already shows a clear jump from authoritarian shelves that have been in for decades.

#### *National Security: Comprehension without Disaggregation*

Security is understood as situation rather as condition. Thus it is dynamics. Most threat is either transformational or escalatory. And the military is in line with the ideas of gradual response as escalation of threats might have been progressing. Perhaps, this is one among important reasons for rethinking or emergency law which, until that date is rarely on the public discourse. The securitizing agency such the National Security Council is there to bridge between the President and the ministerial post (Department of Defence) and other department as well as non-departmental state agencies (*Lembaga Pemerintahan Non-Departemental*). Police is nowhere to mention.

The title of “Bill on National Security” was exercised for the first time in December 2006. The December draft used the term of “human security” instead of “individual security”. The use of “individual security” as one among others element of national security was as much interesting as confusing. On the one hand, this is a sign that the Department of Defence officials is trying to adopt more liberal security policy; but, on the other hand, they could have been gone too far. The state should not necessarily responsible to, except that concerned to non-derogable rights of the citizens. The Department of Defence appeared to make up their mind. In January 2007, draft, individual security was replaced by “human security”. The Department of Home Affairs was to be responsible as coordinator for, among other, disasters relief and post-conflict rehabilitation.

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<sup>13</sup> *Sinar Harapan*, 20 February 2005

<sup>14</sup> The two draft should not be treated as a real trajectory, except that the later is more elaborative and show that to some extent there should be learning process in the department of Defence. A month should not be enough time to expect huge progress.

Despite such progress, however, unclear ideas remain. The draft failed to distinctively disaggregating threats into a continuum of violent notches as well as degree of impact that referent object may suffer. This serious problems as one may fall into the trap of securitization, either at policy decision or at policy implementation, especially when there is commitment capacity gap in the ground. The draft tried to accommodate such threats by opening the possibility for the armed forces to support civilian authorities as well as international community. This includes involvement in peacekeeping operations and stability and support operation. Civic missions were also included as part of military operation other than war.

National security, in both December and January drafts are to comprise of individual (human security), public security, state security and defence. Human security and public security will be under responsibility of Home Affairs Minister. Minister of Defence is to control state security (*keamanan negara*) and other relevance ministers. This is when controversies have never been resolved. POLRI simply interprets the Department of Defence was intentionally design the Bill to undermine police authority. As known, POLRI defined role is in the public security realm, and thus could have been subordinate to Minister of Home Affairs.

The Department of Defence appeared not to quite firm about securitizing agency. The National Security Council is to be advisory body to the President on "national security policy and strategies coping with emergency and strategic issues". It would be ambiguous whether such phrase would be read "national security policy coping with emergency and strategic issues" and "national security strategy coping with emergency and strategic issues" or simply "national security policy" and "strategies coping with emergency and strategic issues". It would be more appropriate that the advisory role of the NSC is to apply only in extraordinary matters, include emergency and strategic issues. This would avoid conflicting interests between the Council and the Coordinating Minister and other, for example, the ineffectual Council for National Resilience.

Two other importance features in the new proposals deserves special note. *First* is that on strategic information. As already mentioned, the function of intelligence was bring up for the first time. So has idea of early detection, prevention and other minimizing measures. In this context, strategic information is important in itself for some reasons. Very likely, the inclusion is expected to be instrumental to other Bills being drafted such as state secrecy bill, intelligence bill, and freedom of information bill. These bills were in the hotbeds during the discussion on the Bill of National Security. *Second* is that on topical approach. January draft is for the first time for the Department of Defence to mention about "sectoral/functional security/deterritorialization of security". No less than 7 provisions stipulate on specific cases such as counter terrorism, maritime security, transnational crime, and how to cope with emergency situation as such strike, disaster relief, isolated areas, widening communal conflict and others. Especially in the transnational crime, the Department of Defence officials were cautious enough to mentioned about "actors form overseas".

### *Final Notes*

It has already noted in the introductory chapter that modern nation states in contemporary world confront serious challenges more serious that those in the past. As deterritorializing of threats is becoming more intense, military force might have been becoming less important; but management of resources could well be more complexes, as military capability needs not only modern technology but also support from non-military resources. The use of instrument for securing nation state against dynamic escalatory threats require integrative strategy that in essence is gradual approach, and fragmented policies, and differentiated implementing agencies (instrument of responses). This is not quite well tackled in the draft of the Department of Defence.

Changes in the conception of national security as well as how these concept to be included into the Bill shows important trajectory. A careful reading on the four drafts that evolve since May 2005 to January 2007 could well be indicative of some significant issues. One may notes, for instance, how securitising agent evolve from original ideas of Council of Defence and Security into a National Security Council. The last column notes some factors that evolving through out the period. The intriguing questions are among other how all these happen, why they happen, and what process is actually happening. There must be contestation in the whole process involving changes, negotiations, and instrumentalisation of political environ by security actor into that process. Perhaps such politization is manifested among others by the use of vague language, such as the use “minister who responsible for internal affairs” rather than “Minister of Interior” or “Home Affairs”; minister responsible to foreign affairs, instead of Minister for Foreign Affairs.<sup>15</sup>

More importantly, one may also notice how bureaucratic politics matter most. A time difference is very short both the first and the second draft, though the second draft was an obvious departs, especially with regard to National Security Council. Also in this period, the initial idea of reforming relations between the Department of Defence and Military Headquarters was fading away. Emphases in structural change within the defence establishment were practically gone in June 2005. Meanwhile, role of intelligence function in national security issues was beginning to emerge. Very likely, that in this period, there should be relatively intense discussion among the Department of Defence Officials with Military Headquarters. External dynamics that could have been instrumental for making more confusion was public outrage on the Bill of Intelligence Agency.

Such politics of time was also repeated in the case of the third and the fourth draft. Detailed elaboration on supporting role of the armed forces were devised in term of specific missions, among others counter terrorism, disaster reliefs, maritime security, transnational crimes, and local government. In this issue, the third draft focus only on depolitizing military deployment, for example by giving more authority to the President to deploy military forces without Parliamentary approval, indeed only apply to restore emergency. Besides, the use of POLRI in national security measures, of course other than that already part of policing function as devised in Law No. 2/2002 on the National Police, was embedded in the third draft. Interestingly however, special reference to the policy was no where in the fourth draft.<sup>16</sup>

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<sup>15</sup> Another interpretation is that the Department of Defence is not quite certain with the future ministerial post in the cabinet. The may be learning from the past in which particular minister was erased; or scope of authority was gone some where such in the case of “trained people” (*rakyat terlatih*) that previously under Minister for Defence and Security Affairs. The artificial separation of defence and security forced the *rakyat terlatih* is now practically under control of Home Affairs Minister.

<sup>16</sup> Such significant changes could not have occurred in 20 days (inclusive of Christmas and New Year pause). Overall, significant learning process might have taken place from June 2005 to end of 2006. It is going to be a difficult to prove whether such learning, if existed at all, was sort of strategic gambit to avoid direct conflict, or else.

## The Actors: Institutional Preferences and Technical Competence

Discussion, seminar, symposia are public area in which issues converge. They play a magnitude of importance, especially for those initiate particular policies to expose their ideas for wider audience. Others should also enjoy similar opportunity, perhaps even to challenge ideas proposed by the policy initiator. It is different ball game whether such public forum are to produce convergence of ideas, and thus a more solid policy recommendation. This chapter is to map of different opinions and institutional stance in the discussion. It is acknowledged that stakeholders involve were the Department of Defence, the National Police, the Home Affairs, Military Headquarters, Department of Foreign Affairs and Intelligence Agency.<sup>17</sup> This chapter will only focus on emerging issues such scope, actors, managements, and how to tackle contingency threats. The meeting took place from 20 April to 27 July 2006. It is assumed that actors have institutional preference to promote interests and gain from negotiation. Nevertheless, technical competence that particular actors may have experience in the past was also matters.

### *The Department of Defence: Leading the Diverging Voice*

The original intention of national security bill, as explained in the previous chapter is so much system building as to handle immediate, urgent need for coordinated efforts in handling threat to national security. Multidimensionality of threats, but at the sometime comprehensive nature of the national security consequently affects structure as well as functioning state apparatus. As leading role in drafting the Bill, the Department of Defence was obliged to disseminate their ideas on comprehensive national security. Since the very beginning, there was strong impression that in fact assumption that security is in general of functioning government. As such, defence/military is to tackle primarily with military threats by way of military operations; while the police are likely to limit them in by way of law enforcement. The other department will, of course, function as normal, according to their sectoral function.

Nevertheless, normalcy may not effectively be able to manage stability, reducing threats as well as preventing threats to emerge. And second that many emerging threats are emerging, to which conventional approach will less likely to be effective. Terrorism is the case in point in which prevention is getting more difficult. The country is becoming more vulnerable, not only from physical threats but also from changing perception of people that possibly lead into delegitimization of states, loyalty to government officials as well as possible widening communal conflict. Loosening of central government to region may pose other challenges, especially because of depolitization of the armed forces. This is worrying, especially because the Department of Defence have no direct control. There is

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<sup>17</sup> It is acknowledged that reference made to intelligence agency was not those from special meeting in the office of State Intelligence Agency, but from the agency's officials attending to the meeting. The meetings referred to was organized by Propatria Institute between 20 April – 27 July 2006. As mentioned in the introduction and disclaimer, the organizer adopted the Chattam House Rule in the meeting. Name, designation are therefore reserved to be anonymous. However, attribution to agencies and/or institutions is disclosed only to emphasize different organizational character, institutional flavour and perhaps also individual preference. Data for verification are available on request from the author.

not yet Regional Offices to Department of Defence. Their role, if any, is still conducted unofficially by military bureaucracy.

How to deal with such challenges remain serious problems, easier to say, difficult to implement. One may opt for systemic and structural changes. This would serve longer-term perspectives of reforms, and thus grass rooted new emerging values and best practice, including democratization, adoption of global values such as human rights and human security in general. This may also open the way for democratizing the Department of Defence itself. System management is very important.

Two important principles are differentiation of structure and specialization of function. National security problems cannot be tackling by single agencies. Joint efforts, inter-agency cooperation, and coordination are paramount important. But this can only be done in new perspectives, considering laws and other constraints, let alone unfinished institutional reform in Indonesia. Democratic principle can only be done with a strong flavour of “democratization” which, in systemic perspectives means differentiation between policy makers and implementing agencies. At the time of debate, the TNI has already in the Department of Defence. Meanwhile, some implementing agencies such as intelligence and national police remain untouched. They are answerable only to the president, and thus reduce some elements of democratic government in.

At the national level, hierarchy of policy is important. Since there was no Policy Blue Print like GBHN (*Garis-garis Besar Haluan Negara*), a five-year policy guidance during Suharto’s years, consistency over policy in the longer run became questionable. According to Director General for Strategy Major General Dadi Susanto, for example, the President is oblige to have national security policy (general outline of security and defence policy) to which all government sector should then laid their own sectoral policy upon. The Department of Defence is to write Strategic Policy on the development defence capability; the Department of Foreign Affairs should have strategic policy on diplomacy and foreign policy; the Home Affairs should have strategic policy on, for example, governing administrative unity. Needless to say, all department government should have strategic policy in their respective institutional competence.

That idea is embedded very strongly on the drafts of national security devise by the Department of Defence. The Department of Defence, assumed a somewhat self-appointed leading role to write a draft on national security bill. But there are some constraints that the Department of Defence is facing. *First* is that the administration of Indonesia appeared to have adopted a three prong approach: politics, law and security (*polhukkam*), economic, and social welfare. What so called security approach is those on the portfolio of coordinating ministers for political and security affairs. Health, education, and religion could well be under the Coordinating Minister for Welfare; economic, monetary, trade and industry may be under auspices of Coordinating Minister for Economy. It remains unclear how to establish specific measures to tackle measures such as economic security, health security, epidemic, and environmental security. They do contain some elements of functioning government in particular sector. The failure of this governmental sector to tackle their competency, however, may bring with it a possible danger to the society.

*Second* is ambiguity between the government’s portfolios on defence. The Department of Defence covers defence issues in a very wide sense – which is defending the country against any kind of threats. Sectoral portfolio suggests that the Department of Defence should have had competence on developing military capability, or at the most defence capability, against military threats. Relevant to that is of course military capability, reserve and software necessarily for defending country such as patriotism, basic military training, and education of citizenship. But at the same time, such category may as a matter of fact fall beyond particular department, such as department for national education, health, and so on.

## *The National Police*

According to Law No. 2/2002 on the National Police, police is responsible for maintaining public security and law and order. POLRI is one of the most widely known as primary actors in public security, though the Law also mention other agencies responsible for law enforcement. Using the appropriate terms of national security, they may include those responsible for custom, immigration, as well as local police. In general they are implementing agencies for government function to provide "security and safety of the public" through law enforcement and public services in securing the ultimate objectives of maintaining internal security".

Focusing on internal order as well as transnational issues, the Police relies on law as the most important parameter. Enforcing law is the most important efforts that any government should do to protecting their national interest. Their concern is in fact not on national security per se but on "*keamanan negara*" (state security). Confine to their scope as law enforcement within national territory, and expecting that the military is to focus their role on external defence, they are very much obsess about *keamanan negara*. It is primary important to resolve many problems, including that grey areas that may still preserves.

State security, in the words of Inspector General (Pol.) Farouk Mohammad, "is to include the existence of the state, territorial integrity as well as state's sovereignty, and safety of all components of the nations and state". According to Brigadier General (Pol.) Syafridi, also from Police Headquarter, national security should concern to threats that originates from external as well as internal sources. He added, however, that external threats should be handled by the Department of Defence, Department of Foreign Affairs and the TNI. The police and sectoral governments will be dealing with internal threats. Too the policy, the bottom line of external-internal nexus is territorial border of the country.

Differ from the Department of Defence's proposal that need a structural change, the police played safe, working within the constraint of existing regulations, primarily Law No. 2/2002 on the National Police and the State Constitution 1945. As known, the amended State Constitution 1945 sees parallel arrangements of "*pertahanan negara*" (state's defence) and "*keamanan negara*" (state's security). The first part, state's defence, has already been arranged into more detailed regulation, i.e. Law No. 3/2002 on the State's Defence and Law No. 34/2004 on the Armed Forces. As POLRI have already well-arranged in the Law No. 2/2002 on the National Police, POLRI assumed that what is left in the dark was "state's security" (*keamanan negara*). If a Bill is necessary at all, it must be that on Basic Law on the State's Security (*Undang-undang Pokok Penyelenggaraan Keamanan Negara*).

In an inside paper circulated in the police in early January 2007, short a while after the last draft of the Department of Defence make public, the police response candidly. The short paper underlined many issues of worries: legality of the Bill on National Security, police conception on "security", political background for diminishing the urgency of the Department of Defence initiated Bill, and cost benefit analyses should POLRI is to subordinate to particular ministry of department. Almost 12 month later, the police are in fact less controversial. To some extent, Farouk Mohammad recognizes how importance is interagency cooperation to cope with all challenges. They do not challenge multidimensionality of threats and the need for comprehensive understanding of security issues. It remains unchanged. The National Police consistently argue since the very beginning that state security is "to cover the existence, territorial unity and integrity, sovereignty, and safety of all components of the nation and state".

### *Department of Home Affairs*

Security has always been understood in comprehensive perspective. There is no question that Indonesia is still embarking upon nation building; and state building is the most important aspect to nation building. Geographic structure, plurality of ethnic nationalism, as well as level of educations and social economy of most of Indonesia populations are perceived to become an impending factor for nation and state building. Unlike the military, however, the Department of Home Affairs officials repeatedly said that development approach should be the emphases; and only in a specific circumstances should security approach, which is efforts relies on coercive and force, might be used, with a very strict condition.

Developments components of the approach include not only provide physical infrastructure but also non-physical such as strengthening idea of the state (*wawasan nusantara, kesatuan bangsa*). Home Affairs since the very beginning was quite aware of such challenges. Departmentalization is manifested in, for example, Directorate General for Unity of the Nations and Politics (*Kesbangpol*) and General Government (*pemerintahan umum*). The first is to focus on forging ideational based of the state. The second is to provide services to the populations. With regards to national security issues, it is within the later directorate general that the Department of Home Affairs plays role in the protection of the society, natural disaster and border management. However, they noted that there is no need to include individual security in the bill of national security. Public security, according to Hadi Susanto, Director for Unity of Nation of the Department of Home Affairs, convinced that public security is in essence already serve to the interest of citizens, and thus individual security.

With the focus on governance and services, early detection is to be the most importance stage during which the Department of home Affairs can play some role. It is also in this role that the Home Affairs exercise detection function through their Local Intelligence Community (*Komunitas Intelijen Daerah*) and Early Warning Forum (*Forum Kewaspadaan Dini*). They are to support relevance actors to national security in the region. Hadi Susanto, high ranking officials at the Department of Home Affairs, did not used regional security or regional order. He was using national security in the region. This is so for some reasons. *First*, that national security should remain in the hand of central government, despite autonomization. *Second*, two important elements of securing national security is central government apparatus, that are the military and the police. Local government play some role on maintaining local stability and order as they were also equipped with implementing agencies such as local police (*pamong praja*), *pertahanan sipil* (civil defence) and trained people (*rakyat terlatih*). Home Affairs, according to Mohammad Roem of the Department of Home Affairs, should take the lead in strengthening citizens' alert, awareness on laws, and respect to authority.

### *Department of Foreign Affairs*

Department of Foreign Affairs is the executive branch responsibilities for foreign policy. Within the executive branch, the Department of State is the lead foreign affairs agency and the Secretary of State is the President's principal foreign policy advisor. The Department also supports the foreign affairs activities of other government's entities, including the Department of Commerce and the Agency for International Development. In addition, as the lead foreign affairs agency, the Department of Foreign Affairs has the primary role in leading interagency coordination in developing and implementing foreign policy as well as leading and coordinating the government representation abroad. The Department of Foreign Affairs conveys the government policy through embassies and consulates in foreign countries and diplomatic missions to international organizations.

As such, department of foreign affairs officials are not new in discourse being disseminated by the Department of Defence. The department of Foreign Affairs is quite

aware of the fact that in globalized world, separation between national and international are almost impossible, what occur beyond territory might affect nation states, either through simple demonstration effect that change people preference, direct intervention on the bases of modern internationalism such as human rights and responsibility to protects, but also more subtle penetration by using soft power. Threats to national security are thus becoming more difficult to come by. Heri Saepudin It should be almost impossible for a country to unilaterally decide that they wanted to do without considering international diplomatic landscape.

Nevertheless, Department of Foreign Affairs officials war that military solution, as important as it may, should take serious consideration. Specialization of function is paramountly important. In the words of Ahmad Bawazier of Department of Foreign Affairs, the “scope of national security bill should be flexible/accommodate/functional role of all security actors”. Foreign policy begins at home, according to L. H. Moerdani, another official at the Department of Foreign Affairs, and Indonesia’s diplomacy can only be successful if security governance does not create repercussion abroad. He specifically alluded to the need of reform, especially on behaviour of security apparatus on the ground.

Department of Foreign Affairs has no objection to proposal of Department of Defence. They understand scope of national security as their counterpart in the Department of Defence does – national security should comprises of defence, state security, public security, and human security. *RUU Keamanan Nasional* may be useful. State security is problematic terminology in international relations. They hope that National Security Bill could well become foundation for systemic advancement.

### *The Military Headquarters*

There is strong, determine perception among military officers that military is still the best organization in the country; that the country remain confronting serious challenges. International change as well as domestic challenges provides profound effect upon the very foundation of the nation states. Deterritorialization of threats, in terms of emerging transnational threats as well as their repercussion in domestic affairs, creates a situation to which internal security cannot be separated from external security. National security is a combinatorial function of external defence, internal security, public (law) and order. They way he put the argument suggests that their version of “internal security” could well be what that “state security” is to the police.

Assign primarily to defend the country against external as it may, there must be some role to play for the military in internal security. National security is, in essence, combinatorial threats between what originates outside ad well as inside. Nevertheless, it is interesting to note that professional competence, service background appear to determine how military ranks and files look at the challenges that the country is facing. Rear Marshall Rio Mendung, of the Military Headquarters, argue that the Department of Defence and the military should focus on military threats, not that on non-military.

As important as it may, internal threats can be resolve by those agencies that primarily responsible for it. Only in particular situation will the military should play role in internal affairs. To Rio Mendung, involvement of the military is basically on request by other domestic agencies, and, more importantly, based on political decisions by political authority. The political decision should basically respond to escalation of threats. Rear Marshall Sagom Tamboen concurred, emphasizing that approach to resolve national security threats should be done according to professional competence of any agencies. To most in the military, the problems with the Department of defence draft on national security bills is not the scope, but that it does not provide sufficient assurance to tackle emergency situation.

## *Intelligence Agency*

Intelligence is important. The world is becoming not only borderless, but also space less. According to official at the State Intelligence Agency, Indonesia is confronting double challenges – not only to keep up with globalization but also with another, contradictory trends, strengthening localization. Within this two contradictory trends, state are in more difficult position. There almost loosing sovereignty. External threats are real. It is a matter of time before sort of demonstration effects that Indonesia citizens get from the outside thorough modern technology will bring serious impact upon social and political structure. In essence, Indonesia was confronting. National security bill should be able to lay foundation for state apparatus to. React effectively to such threats. Armin Sugito of the State Intelligence Agency identify that the most daunting task for Indonesia is to tackle an exhaustive list of threats, among others, challenge for state ideology and constitution, border management and disaster reliefs.

Sugito suggests, however, that military capability should not be used in the first place. Intelligence is key elements to the very survival of modern statehood. It function not only to minimize threats, but also to take some legible anticipatory measures. Functioning government is necessary conditions for the survival of nation states. Only in the last resort is military capability allowed to be used. This is not without conditionality; and, thus “political decision is a must for state security agencies to be deployed in emergency situation”. National security bill is necessary to build the systems. Sutikno from the intelligence agency emphasize role of intelligence in information gathering and strategic analyses. Only with adequate information and analyses will we be able to come with serious threats in future.

### *Discord and Accordance*

As **Table-1** show, POLRI attendance in the series of meeting to discuss national security issue was extremely low. Even when the meeting was held at the PTIK (20 April 2006), only 28% attendance was police background, 3% of which is retired police officers. This was stark contrast to the military, with level of attendance varied from 19% in the Department of Home Affairs (12 July 2006), 80% in the Military Headquarters (29 June 2006). In the PTIK meeting, attendance with military background represents of 46%. Even in the case of the Department of Home Affairs meeting, the attendance of TNI (19%) compensated with paper presenter and former military officers that already in the Department of Home Affairs. Director of Political and National Outlook, Hadi Susanto, is an active Brigadier General.

Major General Dadi Susanto was in predominance position. He was obviously the man on the show, presenting paper in all the meeting but that in the Military Headquarters (28 June 2006) when, one of the paper presenters was Rear Admiral Soedjiwo, Director for Strategic Policy. It is interesting to note that the Department of Defence officials was also the paper presenter in the PTIK (High school of Police Science). Such determination is also evident in the five subsequent meeting that discussed more topical issues, such as terrorism, disaster management and communal conflict (30 August – 28 December 2006).

The high degree of military attendance should not necessarily evident of their effectiveness in selling the idea. There are no open challenges to the proposal, except, as predicted, by the police. Significant change however should be alluded to some changes. It is interesting for example that those who initially refused the inclusion of “individual security” to be part of national security was Hadi Susanto, a retired general, at the Department of Home Affairs. Some active military in the Military Headquarter demanded the Department of Defence to focus on military threats rather than non-military threats. There was discord among military officers, perhaps not on how to define national security, but on how the military should play their role in the system.

There was some element of convergence with regard to the need for coherence national security policy; and that national security bill may provide some foundation to establish such systems. This is not suggesting that the process of policy formulation in the realm of national security will be less problematic. In relations among equals, leading role has always problematic. The Department of Defence used to be at the centre stage of Indonesia, especially on national security issues. During Suharto years, it named the Department of Defend[ing] Security (*Departemen Pertahanan Keamanan*), with a clear reference to security as objectives and defends as means. Both the TNI and POLRI were also implementing agencies to policy devised by the Department. Conflict between these two sibling were quite rare, though later become evident that gruesome, feeling of deprivation, and complains had always occurred.

Reform has disturbed these relations. There is no more “security” in the official name of the Department of Defence. The amended Constitutions uses “state defence and security” (*Pertahanan dan Keamanan Negara*), instead of national security, defending security, state security or other term that clearly refers to particular function of government. Moreover, TNI and POLRI are the only implementing agencies in the Constitution. While the TNI has already subordinated to Minister of Defence, at least in theory, the POLRI have no obligation to anyone but the President.<sup>18</sup> Convergence of outlook, let alone strategic resolve, to national security issues is likely to remain problematic.

### *Final Notes*

In relations among equals, harmonization is understood as a multi-agents and institutions-centered process in which negotiation among actors occur preceding intra-agency implementation. In the case of process formulation national security bill, the harmonization should represent willingness of, say, police to voluntarily adopt conception of the Department of Defence. The other possibility is imposition, through which an exportation of ideas, values and principle taking place unilaterally, perhaps with some threats of compliance. The last process is diffusion, an indirect communication of ideas in a wider audience to reach adoption voluntary by an increasing number of parties. Power is important, be it intellectual (conceptual), institutional, or even personal. Considering relation among equal, the most likely process is harmonization through diffusion and/or harmonization. Less likely the process will take in form of imposition. Unilateral, domineering tendencies is likely to succeed.

It is necessary to note, however, that in addition to actors mentioned above, there two other importance actors: *Lemhannas* (Institute for National Resilience) and *Wanhanannas* (Council for National Resilience). Both are answerable to the President. Most *Lemhannas* works are studies on strategic issues, including defence, foreign policy, and security as well as preparing for future national leadership. *Wanhanannas* concerned more on contingency response, though under Suharto’s years primarily identified as institution closely related to National Strategic Policy (GBHN, *Garis-garis Besar Haluan Negara*). They are all civilian institutions, though *Wanhanannas* until today remain under the leadership of a military top brass. Like the Department of Defence, high ranking officers from the military and the police remain in the dominant position.

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<sup>18</sup> Quite a few people read “state police” (*Kepolisian Negara*) as a government function of policing. Most of them, including or even particularly the police, interpret state police as the state’s police (POLRI), an implementing agencies of policy making devised by government function responsible for policing. Law No. 2/2002 on the State Police regulates the government function of policing but only deal with POLRI as the implementing agencies. The Law recognises other policing agencies such as custom, immigration and other implementing policing role of some sectoral department but says that they remain under their respective department.

Considering their concerns on strategic and/or contingency issues, *Lemhannas* and *Wantannas* may claim their institutional rights to get involved in the national security bill. As a non-departmental organization, both *Lemhannas* and *Wantannas* do not have implementing agencies. Unlike the military and the police, which have strong network and bureaucratic clout, *Lemhannas* and *Wantannas* are directly answerable to the President, and thus may claim some sort of institutional power. Whether they are able to assert such claim, however, depends on circumstances. Indonesian politics is fluid, personal relations matters; and informal politics could lead institutional power.

## War of the Roses: Military and Police in the Loggerhead

As previous subchapter notes, the most contentious relations among security actors is that between the Department of Defence (and the military) and POLRI. Psychology of reform, post-separation of the police from the military command, reinforces conflicting perspectives. To some extent, the diverging point of view between the two may also switch on technical competence, including different mode of operation that the military or the police carry out to fulfill their respective tasks, and flare up further at conceptual level. Such differences can only be resolve through timeless efforts. Adjustment is perhaps needed on both sides. This subchapter will go through several issues, beginning from troubled relations on the ground, different outlook on national security, and how POLRI opt for conceptual contests by drafting alternative bill. As observed, the final assault that the police use in their strategy was to correct the balance, trying to assume prominent role in policy initiative.

### *Where Have All the Flowers Gone*

Clashes between military and police officers are becoming day-to-day event since they are institutionally separated in 1999. The first fight initially involved individuals expanded out to include a greater number of soldier and officers. This has occurred in many places. Personnel spats occurs between army and the police, especially army battalion permanently stationed in a region against mobile brigade, the paramilitary police force controlled centrally and seconded to regional police stations, or police personnel stationed at sub-district command (Polsek). Police and army personnel killed or wounded in the clashes are always from the second-lowest and lowest bands of officers. These foot soldiers are doing the bulk of the fighting, suggesting either problems of discipline or economic impulses.

No theory is able to satisfactory explains the root of the matters. One may argue that conflict over resources was the most prominent causes of the brawl. Newly emboldened police a demanding a larger share of the funds generated by control of the supply and distribution of commodities or the provisions of security to black economy. However, clashes also occurred in Bulukumba and Binjai and other places that have no economic clout. On the other hand, in other places, police and military personnel routinely coordinate their work even in everyday security operations such as controlling public demonstrations, border control and transport security. A joint military and police task force raided roof riders in Jakarta's train.

Undoubtedly, the roots of the conflicts deserve special attention and must be seen in wider perspectives. Dynamic at middle rungs of the hierarchy could well cover another issues, the future politics of management in security sectors. Generals are tinged with unease about the tenure of police authority over internal security; police top leader harbour anxiety that security politics might one-day trip back in favour of the army. Conceptualization of internal security is becoming political battle, representing not only the issues of economic resources, but also personal dignity, institutional glory, and access and loyalty only to the Presidency.

In public, statements quite often add more tension. Brigadier General Sugeng Widodo, then, Head of Law Bureau in the Department of Defence said that "it was a mistake not to let the military get involve in internal security.....TNI is the ultimate power (*senjata*

*pamungkas*) in many cases...should TNI be unable to cope with challenges, then, the state is in real danger".<sup>19</sup> General Widodo was referring to what is stipulated in the Law No. 34/2004 on the Armed Forces, and also elucidating the role of the TNI in time of crisis. He should have focused his argument on gradual, escalatory measures instead of saying something that may ignite the wound of the past, arrogance, as well as superiority of the military over civilian institutions.

Understandably, the national police are especially annoyed with such statement. Widodo argument that there is no turning back from the draft, and let the DPR decide, may put more fire. In the view of the police, Widodo was by passing the police in the process of initiating the draft. They wanted to be involved in the process. The POLRI felt marginalized. As a matter of fact, the Department of Defence, then, had not set up their own working group, let alone planning for inter-agency task force that normally takes place a while after an initial draft, as preliminary material for discussion, is completed. The working group started only in March 2005.

Inclusion into the process is of importance to build trust and to communicate ideas. Nevertheless, the problems that the police confront were not only about trust. Their reluctance to discuss draft on national security bill was also due to other reasons, especially resistance of talking about possible amendment of Law No. 2/2002 on the Police. They are already suspicious to many parties having the idea of putting Chief of the Police under particular department. Their objection was part of politicizing agenda setting intentionally intended to shape policy initiative of the Department of Defence.

In this politicisation, two technical issues are prominent. *First* is on the legitimacy of using military in stability and support operation (military operation other than war). To the police, military operation other than war is no more than the military (and the Department of Defence) conceptualization of term to undermine police's authority. *Second* is on the inclusion of such operation into a law, as the police believe that such technical, operational matter should only be regulated by government regulations (*peraturan pemerintah*). These two issues were too sensitive for the police to discuss. They simply did not want discussion on national security bill become a Pandora box to uncover other sensitive issues.

In many occasion actually the Department of Defence officials explained that nothing to worry about military operation other than war. The use of the military in such role will not undermine political authority of the civilian government. Colonel Jan Pieter Ate of the Department of Defence, a member of the Working Group on the National Security Bill, clarifies:

"It should be understood that the assessment that we have in the Department of Defence seriously taken into account critical point to which the use of military force and capability is justifiable. The use of military in internal affairs must be based on political call by political authorities. Military should not judge in their own assessment. Some threat to internal security, for example, radicalism should only be considered as threats to internal security when they reached critical point."

However, Ate did not elaborate further, how such critical point to intervene is decided. It will be based on political decision. For those involved in series meetings to which this issue was being discussed should be aware of how difficult it will to decide the critical point. Law No. 23/1959 on Emergency Situation is based on subjective securitization; and in fact some provision in the Bill was trying to detail what still keep in the dark in the

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<sup>19</sup> See, *Sinar Harapan*, 20 February 2005.

Law No. 23/1959. In December 2006, Director General for Strategy Major General Dadi Susanto said in private conversation that

“...we do need such a things are regulated somewhere. We also need specific task assign to military units going to taking up military operation other than war. I am not quite sure if we can regulate in detail in the Law [that we are discussing; read: national security bill]. We do hope however that by putting it into the Law, not quite detail as it may, this may oblige implementing agencies to equip themselves with internal regulations.”

In part, these show to some degree how ideas were evolving in the Department of Defence. A year earlier, ideas hardly came up thus far. There was no open recognition that a law would be instrumental to internal reform, especially on issue important to accountability of the military. Nevertheless, it is equally important to note that it would not be easy for Major General Dadi Susanto to convince his compatriot at the military headquarters. Detailed regulations are always good for accountability, but at the same time they may bring with additional burden for commander in the field. What eventually came up in this respect in December 2006 draft was in fact limited to, *first*, political side of the military operation other than war, especially that it must be based on political decision; and, *second*, the emphases on the need for interagency cooperation.

The police were unimpressed. Until sometime in mid 2008, many in the POLRI remain in the position that there is no need to regulate such a thing into a law. Inspector General Aryanto Sutadi says that “cooperation might be regulated in thing lower than *undang-undang*”. Nanan Sukarna, another police general, argues, “in fact there were already legal bases for the use of the military and police in particular security matters. The questions are not so much on what to regulations is, but instead how to harmonise and synchronise chain of command and code of operational conduct when actors are assigned in one particular issue”.

One can only guess that the police had something else in mind. Institutionalization of security operation, in lieu of military as well as policing function is likely to bring about further changes. They correctly perceive that once something is in the law, then it will be obligatory to any security actors to obey. And this may run against the way the police understand role of the military in internal security affairs. For quite some time, they consistently argue that such role must be based on emergency situation, according to contingency planning, and legalized by political decision of political authority. In the mind of the police, political decisions have always been ad hoc in principle and contingent in nature. Regulating it into a law would indirectly institutionalize such role into a “permanent” base. Should things become permanent, they will affect priorities; and for the police, as aired by a retired police general Momo Kelana, “the top priority should be strengthening capacity of the police”.

### *Discord and Convergence*

The police top brass involve in the discussion are mostly two stars general, including those already retired. All of them experienced their formatting years under military corporate. They joined the police, then part of the armed forces, in mid-1970s and reached maturation as middle ranks officers in late 1990s. More than three decade in the services; half of it as junior partner of the armed forces, the other half during the time of searching recognition as “civilian” police. They are just like at the cross road to get raid off their own militaristic experience. Younger generation in the police may be different. But difference is always double-edge sword. They may be more confidence, knowing where they really are, and thus may see their military counterpart more objectively. On

the other hand, there is also possibility for further departure as there was no more common experience. Only time will tell.

In the foreseeable future, discord is likely to strengthen. Convergence could well be more difficult to reach. Beyond psychology of relations, there are substantial differences between the police and the military, i.e. understanding on national security issues, threat perceptions, and range of response. As **Table-2** shows, it is not going to be easy to close perception gap between police and military personnel. The scope of national security issues as defined in the Bill by the Department of Defence can become a problems not so much about the scope itself but different perception on how to handle them. The inclusion of human security and public security may not become serious problems. In one way or another, the police authority over public security is not directly challenged. However, deterritorialization of threats and multidimensionality of threats are problematic. The military would likely to opt for securitization, as this is the only way to handle grey areas issues and other threats that might not be solved by criminalization. On the other hand, the police appear to be at ease themselves with functionalization of security actor. This would secure their own role, while preventing the military from assuming wider role. Selective securitization may to some extent narrow this gap of perception.

Nevertheless, to close this perception gap, appropriate response is required. This may be another source of contention, not necessarily because military-police rivalry as some analyses suggests, but simply because different logic embedded in both policing function and military function. The police, as law enforcement agency believe that law is, of course, the ultimate instrument; and that criminalization should be sufficient to deter threats (to public order). For the military, law may not be able to cope with emerging challenges, as in the case of terrorism, or inapplicable such in the case of transnational crimes, piracy in international waters, and other transnational issues. Nevertheless, opt for military solution may end up with excessive use of force. Without strict restriction, military operation other than war may erode authority of policing function.

Therefore, selective securitization should be of paramount importance. This is the only way to minimize damage that military operation may entail. As **Table-2** shows, stability and support operation, defined properly, maybe sufficient strategic option for closing commitment-capacity gap. Unfortunately, stability and support operation has not yet defined in specific regulation. More importantly, stipulation about military operation other than war is vague. Both Law No. 3/2002 on the State Defence as well as in Law No. 34/2004 on the Armed Forces preferred to use the term military operation other than war both as part of military role and as mode of operation. Law No. 34/2004 refers "restoration" as embedded military operation, not as specifically tasking operation of the armed forces.

In so doing, restoring order could be ordinary task of the armed forces. Unlike the use of military force in deterrence and defence, which assumes threats is eminent and existential, and thus requires active undertaking, restoration is to bring situation back to normal. As such, no more than responsive feat is required. It is well nigh impossible to assume this as simple technical terms of military operation. Clarity is needed, if not for erasing suspicious of hidden agenda behind the Bill, is to elaborate derivative regulations in demands.

**Table-2** may be also useful to see discord and convergence between the Department of Defence and the National Police. It shows how the Department of Defence's formulation on threats and range of response can be at the loggerhead with the police. Both the military and the police are likely to agree that emergency law should have become bases for regulation. Escalatory or otherwise, it is political decision that should take the lead. Nevertheless, it is interesting to see that in the draft of national security bill, the Department of Defence should bother to regulate "civil order", which from the police perspectives should be no need of regulation, as it can be handle by normal functioning

of government instrument, including civilian administration and sectoral management of issues. Perhaps more importantly, the military interprets “political decision” to include in law and other government policy. The police understand it as an ad hoc decision by political authorities. At this point, the Department of Defence intention to institutionalized political decision in the Bill is seen by the police as the military systematic attempt to reinstate their role in the past.

The final horror for the police is, of course, is status of the Chief of the Police which, according the Department of Defence proposal, must subordinate to particular minister. One should not fail to notice that since early proposal in May 2005, the Department of Defence had persistently argued the need for such subordination, indeed not only for the Chief of the Police but also for the Chief of the Armed Forces. It has to be admitted that such design is a good sign of democratization, as democratic security sector governance demand subordination of any implementing agencies to political authorities. Depoliticization of security actors will never be completed without such subordination.

In current political context however, in which mutual suspicion among security actors was high, the police may have seen to other direction. There is no point whether such perception is correct or otherwise. Nor is necessary to judge whether the direction valid or fabricated. Politics is always perceptual. Perception matters. When perception goes bad, so does reaction. Lacking of consultation, and the way the Department of Defence officials presented their proposal may have transform such perception into hostility. Beginning in August 2006, police-military relations was entering into new, more serious crises.

Thorough reading to the last draft of the national security bill, however, one may find a lot of improvement, if not even significant departure from the previous draft. The previous subchapter already notes some of important points. For now, it is suffice to say that, despite of insularity of ideas and perhaps some misconception, the final draft shows how the Department of Defence appear to be accommodative, if not significantly adjust their previous formula to changing circumstances. Some of the ideas that emerged in the series discussions, as mentioned in previous chapter, also included into the new draft. Some of those changes deserve special attention. One is that on the elaboration of military operation other than war, especially within the context of support and stability operations, the bill is now more elaborative. The approach is more topical, according to specificity of threats, such as counter terrorism, disaster management, maritime security, transnational crimes, supporting local government, and crisis management. Indeed, elaboration does not necessarily more clarity. The emphases on obligation for the military to provide support may contradict to the nature of support operation, to which political decision, and thus request from other security actors is mandatory.

### *The Police Strike Back*

The police was in despair, disappointment, and frustrating. They were not in correct position to challenge directly the Department of Defence proposal. They were not in the position to amend the Law No. 2/2002 on the National Police, as the regulation have given a lot room of manoeuvring and independency, if not autonomous, position. Position of Chief of the Police, under new constitutions and the Law is equal to that of the Chief of the Armed Forces. They would fight for any idea to change the amendment that is likely to reduce such privilege.<sup>20</sup>

Therefore, the police contend when the Department of Defence proposes a bill on national security that comprise of state defence, state security, public security (maintenance of the law and order) as well as individual security. Part of individual security can be protected by law, while the rest is, as the military would agree, under the

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<sup>20</sup> See *Kompas*, 6 February 2007

auspices of normal government function. Defence against external military threats is an obvious threat that the military should confront with. There was no objection from the police. The contentious issues is in fact on what is called as “*keamanan negara*”, or, in the police understanding, “internal security”. They could well be more receptive should the proposal by the Department of Defence can clarify the different between “*keamanan negara*” and their own “internal security”.

This is not an easy task. Military’s understanding of state’s security (*keamanan negara*) appear to be much wider than that of the police. Military may resort to the use of force, as management of violent is their expertise and core competence. The police thought differently. Force can be used only to the last resort. We may content as the indication is growing. The police has the authority and legal basis to prevent any possible worst-case scenario, with pre-emptive, preventive and, if necessary coercive measure. *Penal Code* is instrument to which the police had in mind. As law enforcement official they ought to believe in the power of law, and everything can be solved by laws.

There is nothing left, even an emergence of threat, say radicalism or terrorism, may be contain by law. Book 2<sup>nd</sup> of the Penal Code equips protection to the state, citizens as individual as well as group. Reaching to a certain degree, which is breaking the law, rebellious idea to change the constitutions, just to name it as an example, is against the law. Unlawful challenges to ideational bases for the state, as understood by scholar like Buzan, can also be contained by law. Any unlawful act by citizens against referent object is likely to be declare as violation of law; and thus can be solved by law. Internal security is in the domain of the policing works.

Such different perspective yielded seriously. Annoyed by the Department of Defence proposal, the police reacted. Not long after the second draft of the Department of Defence, police headquarter published an “academic paper” to counter Department of Defence idea. This was not cohesive paper. It was indicative of politics, rather than substance. Perhaps the police themselves had not crystallized the idea yet. Some of them may be aware of the fact political circumstances during the amendment of the Constitutions; and that the transformation of term from “*pertahanan negara*” into “*pertahanan dan keamanan negara*” as embodied in chapter XII of the Constitutions could well be problematic.

The political paper that the police circulate, indeed in very limited audience, used legal basis as well as political assessment. It was mentioned, among other, that there is no priority to discuss the draft Bill on National Security because it was not even on the agenda of the Parliament; that the proposal was inspired by Western ideas promoted by Propatria; that we cannot simply cut and pasting regulating from other part of the world that may not be suitable to Indonesia; and that the Bill should started with academic paper that is prepared by an interagency taskforce consisted of security actors having stake in “national security”.

More importantly, the “political paper” also defends the benefit that the country already had from current situation, justifying the propriety of current status of the POLRI is best to everyone.<sup>21</sup> They tried to convince that reform that had taken place already demilitarized the police, making it to be suitable for democracy and interests of the people. They argued that in current status, the policy could avoid from politization that is surely to occur should the police is subordinate into government department. They confused themselves, however, when wrote that “even according to any theory of statecraft, from Montesquieu to van Vollenhoven, provide independency (*kemandirian*) to “kepolisian”. Montesquieu did not say anything on the police, as he concerned more on the separation of power between executive, legislative and judicative. At best, POLRI should have had in the judicative “camp”. It is something of saying the need for independent judiciary, and that the police can be part of judicial or criminal justice

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<sup>21</sup> See *Suara Karya*, 20 December 2006; *Media Indonesia*, 10 January 2007

systems, but an independence judiciary should not by any means lead to an independent police from state power. They worried to a minister that can be a political appointee, and, as a result, the police to be used as political instruments, without being aware that the President, to whom no the Chief of the Police accountable to, is always an elected officials through of political process, election. President is the ultimate political organ, if not individual.

This is to suggest that POLRI appeared to have politicized the issue of whether Chief of the National Police should not be made subordinate to political authorities. Civilian-supremacy alike that applicable to democratizing civil-military relations was not at the POLRI's agenda. To the POLRI, a closed-accountability, exclusively within POLRI's organization, not between POLRI and others, would have been sufficient to ensure police's accountability. This argument should be clear from statement made by Brigadier General (Pol.) Syafridi, expert staff at the Police headquarters, that

“... differentiation of structure, distinguishing political and operational responsibility has been embedded in current structure. Chief of the National Police holds political responsibility, while operational responsibility is in the hand of Head of Security Maintenance (*Badan Pembinaan Keamanan*), Agency for Crime Prevention (*Badan Reserse Kriminal*) as well as Regional Police's Chiefs.”<sup>22</sup>

Meanwhile, the police appear also intensify sort of studies. “Working Group” was set up to find legal foundation.<sup>23</sup> The Constitutions, National Assembly Decree, Law and other regulations was under scrutiny. More solid paper was produced, *Role and Function of the Police According to the State Constitutions*. This is more academic work with its own merit. Those legal bases are indeed creating more problems rather than solution to Indonesia's chronic problems. Contradiction, disharmony, miss synchronization among one regulation to the other were all giving a constricted legal lie that is difficult to break. Stability is the only option, for not creating problems that are more serious in future; or, alternatively, change should be planned comprehensively, considering all regulations at the same time. Such an option was simply unfeasible.

In addition, the police are not seeking feasibility. They appear to yearn for breathing space. Buying time to prepare final assault. The assault was finally emerging in January 2007, when the police published, again in limited circulation, an academic paper on State Security (*RUU Keamanan Negara*). The paper was a “comprehensive” response to the Department of Defence January draft. Based on the State Constitutions, the police's draft elucidates *siskamrata* (system for people total security), a parallel completion to *sishanrata* (*sistem pertahanan rakyat semesta*). The draft proposed that *RUU Keamanan Negara* should regulate, among others, management of security management, use of resources, rights and obligation of citizens and some other issues of concerned. For now, the substances are not as important as its political echo. They are subject to change somehow.

Perhaps the most intriguing aspects of the police's draft are in fact that the police strategic gambit appears to be intensifying. Their June paper is fall sort of solidity, but a political paper. The later academic paper is more than that; it was a serious challenge to the Department of Defence's proposal. It reads, “POLRI should be the leading role in the establishment and development of comprehensive state security system”. On the other hand, as last part of the previous chapter suggest, the proposal of Department of

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<sup>22</sup> *Tempo*, 2 November 2006.

<sup>23</sup> “Police forms Working Group” (*Kepolisian Membentuk Tim Penyusun*), *Tempo Daily*, 8 January 2007.

Defence was getting more accommodative. Discords were still there, the process however appear to lead in asymmetric directions. One may find point of equilibrium, if not meeting of mind. Both the police and the military are keeping their eyes for system building; they acknowledged that anyone needs the other to solve national problems.

### *Final Notes*

It remains to be seen whether departing police-military relations is temporary or somewhat permanent conflict, rivalry, discords or mutual misperception. History will tell. Even if no politics, agencies may have their own ego, if only for reasons of technical competence or nature of organization. Police and the military is no exception, perhaps the most potentially severe rivalry. The historical past, and yet relatively uneven distribution of reform in post-Suharto era may even widen the gap. That the police response to the Department of Defence proposal of national security bill should be telling of this widening gap. So was the tradition of going it alone in the Department of Defence as well as their preoccupation with system building that unavoidably lead to structural change, including the most contentious issue with the police.

Indeed, building up a better, capable system of national security is deadly necessary. It is not quite clear, whether a single, all compassing regulation is necessary in the first place. Most of the point in the draft has already been stipulated somewhere, for example emergency response in Law No. 23/1959. They answer could be possibly yes, but most probably no. It is a possible yes should we are to institutionalized democratic reform, especially to use legislation as an instrument of controlling security actors. But it could well be no if what we want is assuring effective response to immediate challenges. For the time being, the military headquarters already completed 7 out of 14 code of conduct, i.e. standard operating procedures necessary for military operation other than war. This internal regulation may be instrumental to enact behavioral reform and disciplinary measures in the TNI.

It emerged in the discussion that police officers are quite aware of the fact that prevention is important, though it might not be sufficient.<sup>24</sup> Some threats to [national] security may system from low intensity threats; some other may escalates quite fast. A systematic approach is necessary but there is still some room to contingency planning. It is within the context of contingency planning will other actor may be involved in domestic affairs. Some of police officers do not directly challenge the idea of the military role in internal security matters. However, in most cases they said that it must depend on the issues, as far as issue can be handle locally by functional agencies, indeed there is no need for asking help. Remain unresolved, however, what should primarily consider as public security and internal security problems is. A militarized perspective of escalatory threats, as quite often bring about by military and intelligence officials, could potentially lead to diverging contentions with police officers.

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<sup>24</sup> The police should also devise as an agency to be responsible for early detection and assessment of threats. Bibit Riyanto, another retired police, reminds his police compatriot however that the early detection is only limited in policing function, that are social dynammics that potentially could lead to public security. This is in fact also important point to note, as most police officers taken it for granted, if not menion only implicitly – a discourse that some time rise contentions with other officials, especially military in territorial structure.

## Voice from the Exile and the New Battleground

Chapter 5 has reviewed debate on substantial issues that took place in official forum, professional and institutional point of views, as expressed by legitimate actor, active security actor. This chapter is to map the outsider, indeed part of public that can be civilian and/or retired military. They represent different culture and may pursue different interests. Rather than perceiving different group of actors as pre-given entities, and subsequently measure their impact, this chapter is to construct representations of different type of actors. It is importance to stress in the first place that security (and foreign) policy is elitist. Services produce to public by these genre of policy are in essence silence impact. This does not apply to security actors, to whom public may suffer severe consequences from their misconduct. Citizens may therefore fragmented. They may ally to whom they may have convergence interest.

### *Widening Political Battleground*

There is no agreement among civilian with regard department to which the POLRI should subordinate to. Some of them, among other Constant Ponggawa (Peace and Prosperity Party),<sup>25</sup> had the Department of Home Affairs to oversee the POLRI. Yuddy Chrisnandy of Golkar Party preferred the Department of Law and Human Right Affairs.<sup>26</sup> Sidharto Danusubroto (PDI-P) was the only parliamentarians publicly reject the subordination of the police.<sup>27</sup> Such diverse opinion may not necessarily reflect power balance in future deliberation. The Draft of January is not even conclusive to what department POLRI should subordinate to. Unlike earlier version of the draft, the January draft simply elucidates “minister responsible for internal affairs” instead of Department of Home Affairs. Some parliamentarians argue further that it would be possible for the police to have their own Department, as was during the early 1960s, or develop into something like Department of Homeland Security in the United States.

In the executive branch, Governor of *Lemhannas*, Prof. Dr. Muladi was the only civilian supporting the idea of POLRI under Department of Defence.<sup>28</sup> His stance was change later, saying that “to which department the POLRI should subordinate is a secondary issue. The most urgent task is now to provide legal bases for the possible use of the military in non-defence affairs. We do not well equip as yet on how to put these two pillars of security actors can coordinate in the field”.<sup>29</sup> It was not clear whether the waning preference of Muladi is a political or bureaucratic stance. The *Lemhannas* by that time has already assigned to write up an alternative academic draft for National Security Bill, tough officially the draft by the Department of Defence was at the Coordinating Minister for Politics, Legal and Security Affairs.

Regardless of such quandary, it will be fair to say that most civilian was for the subordination of the police into a department. The bottom line is clear, under democratic

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<sup>25</sup> *Suara Pembaruan*, 18 January 2007.

<sup>26</sup> *Kompas*, 4 January 2007

<sup>27</sup> *Kompas and Tempo Daily*, 10 February 2007

<sup>28</sup> *Suara Karya*, 27 January 2007.

<sup>29</sup> *Kompas*, 22 December 2007

system, it is a must for security implementing agency to subordinate to policy making bodies. Superbody, combining the power of formulating and implementing role, would be detrimental to democracy, weaken the agency's accountability. It is political option whether the decision should be taken right away or in due process. For a better or worse, what all civilian appear to have in mind are all about democratic control rather than effective policing. It is something else whether this demand can be met through indirect strategy, for example by creating specific mechanism to ask for accountability, or directly put it into department.

Most civil society organizations were in the same booth, the Bill on National Security is of great significant to strike the balance between the need for security and the necessity of democracy. Muhammad Asfar from *Pusdeham* (Center for the Study of Democracy and Human Rights),<sup>30</sup> for example, says that discussion on the National Security Bill would be thoughtful, include but not only to decide the status of the POLRI. Subordination of the POLRI to governmental department is necessary condition for strengthening democracy and strengthening civil society. He did not mention however whether such subordination would also provide better opportunity for police professionalism.

Indonesia Police Commission (KKI, *Komisi Kepolisian Indonesia*), allegedly a civil society group close to the national police, was the only civil organization reject the Bill on National Security,<sup>31</sup> arguing that "the Bill is to undermine professionalism of the police". Since as early as November 2005, the Indonesia Police Commission was consistently against the *RUU*. According to the Commission, "the bill is a political conspiracy to undermine police authority". Police commission alluded draft bill on national security as an attempt at militarizing the national police. This was, according to the Police Commission, violation to Geneva Convention.<sup>32</sup> Months earlier, the Commission sent similar letter to Speaker of the Parliament as well as Head Fraction and Commission I of the Parliament, accusing of the Department of Home Affairs, arguing that the Minister of Home Affairs was a former military officers.<sup>33</sup>

Debate was already on the air. No one can certain whether comments are based on expectation or feasibility. The draft was not yet openly circulated. Even those who was lucky enough to get the draft may have their own institutional interest and, thus, looking at different perspectives.<sup>34</sup> Some may comment without knowing what provision are actually in.<sup>35</sup> Meanwhile, the ghost of the past is not entirely erase in the memory of people. Despite of reform, TNI is still a powerful organization, and, like it or not, the most able manager of violence. Many discourse in the background, especially the draft of intelligence bill, state secrecy and national reserves may have shaped public perception that the military is about to back. That the Department of Defence was preparing National Security Bill might have be perceived by other as opening windows opportunity for the military to regain what they had in the past.

Such position is strong especially in civic organization, primarily those concerns to human rights issues. Al Araaf, Research Coordinator of Imparsial (Human Rights defender) and member of Study Forum for People Initiatives (*Forum Belajar Bersama*

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<sup>30</sup> *Suara Karya*, 19 January 2007

<sup>31</sup> *Suara Karya* and *Antara*, 23 January 2007

<sup>32</sup> Letter No. 149/KKI/TH IV/2006, 26 May 2006.

<sup>33</sup> Letter No. 25/THOO/KKI/2003, 17 September 2005)

<sup>34</sup> *Kompas*, 15 January 2007

<sup>35</sup> In one of the series of discussion, a special adviser the Chief of the Police, even mistakenly identify the national security bill as internal security act. In private he admitted that he have yet to read the proposal by the Department of Defence.

*Prakarsa Rakyat*), was suspicious that draft on national security bill is to strengthen role and function of the military in the past".<sup>36</sup> The Bill will not only retrogressive of security sector reform that we have already achieved but also put democracy in danger". He was firm that,

"... the military is taking over role and function of the President as the only political authority has power to deploy the armed forces. This can be seen from how the draft is trying to insert provisions to authorize the military of taking actions against military threats from other countries, without President's authorization, and later report it in no less than 1 x 24 hours."

Al Araaf was not alone. Criticism of the Bill also comes from Patra Zen of the Foundation of Legal Aid,<sup>37</sup> who warns that the Bill is likely to reinstall the military influence throughout the country.

Nevertheless, it is equally important to see that their criticism is by no means a rejection of regulating national security issues. Zen recommends the police to draft their own version of regulation on the matter. Al Araaf further suggested about what actually should be in the bill. One cannot doubt Araaf support for the regulations when he wrote that, "as part of security sector reform, the Bill must proportionally regulate role, function, and status of all security actors in lieu of democratic politics". Such support is self evident that national security is becoming public concern, and thus cannot discuss behind close door.

It is probably just too luxurious to expect this emerging common ground will result in stronger policy representation of interest group. Indonesia is not yet reaching coherent policy network. Different public opinions and viewpoints in the policy process were important on their own merit, not necessarily as a distribution of power in the process. It is still long way to go to expect coalition building to promote public interest through web of networks. Layer of civil society interested in discussing national security is thin, growing by years as it may. Within the limit to their own activism of promoting particular issues, civic organizations, including but not limited to human rights group, may put themselves critical for setting agenda. On the other hand, Member of Parliament, could constrains themselves to politicking, and thus do not display consistency.

This suggests that civilian sides are not yet pre-given entities. Reactions from parliamentarians and civil society should therefore be learnt cautiously, as they may not really reads thing as they were intended. The civilians may not be aware of the fact that the stipulation is also not unconditional. In fact the articles also demands limited action for the military. The article 30 (5) of the draft reads that such response by the military must be "limited and proportional". This is not to say that they play no important role. As a matter of fact they did. Policy process is not only about truth and false, correct or incorrect, and precise or imprecise, but also problems of negotiation. In any negotiating table, diffusion, diversion, and distortion of issues could have become tactics in some sort. One should be optimistic for the future. The underlying ideal of democratic political tradition is that public debate is necessary for establishing legitimate closures in the form of solutions to public concern; and this is already in the horizon.

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<sup>36</sup> Al Araaf, "RUU Kamnas: Ancaman bagi Demokrasi", *Sadar Tahun III*, Edisi 31, 2007

<sup>37</sup> *Kompas and Tempo Daily*, 19 February 2007

### *Politicizing Policy Expertise*

Following the transition to democracy, political decision-makers in Indonesia were unfamiliar with contemporary debates on security and defence and with the range of policy options that were open to them. They were daunted by the uncertain consequences of their choices. The more technical a policy and the more radical the required change, the greater was the difficulty in this regard. It is therefore natural that they may incline towards conservatism. A reliance on 'experts' from the former regime, including security officers, is natural in these circumstances. This tendency might be reinforced by politicians' awareness of the dangers that flow from misguided policies in the security realm.

Academics put more emphases for comprehensive conception of national security. It would not be possible to separate policing function from defence function. For some reasons, there should be link and coordination between the TNI and the POLRI. Chronic problems, no adequate conception, lacking of policy designs, contradiction among laws, and ego sectoral could well be an exhaustive lists. Emerging new security issues, commitment-capacity gap need immediate solution; and *RUU Kamnas* should be instrumental to devise both. This is to suggest that system building and problem solving are important. *RUU Kamnas* should resolve once and for all, it windows of opportunity to use the momentum to resolve problems starting from policy making, implementation.

National security issues have been in the agenda for academics involved in security sector reform for some time. Besides those focus themselves in strategic and defence studies, these academics also include those have primary academic background in international relations, politics and government, and law. Based in university and/or research centre, some of them loosely organized in a working group devoted themselves in defence and security affairs, independent media writer, and/or with civic organization. The needs of state institutions for second thought and support paper, has open the opportunity for these academics to participate in policy process. Whether these academic has an impact is difficult to measure. Nevertheless, it is undeniable that their opinion matters, if not for policy makers it is for public at large. Their thoughtful analyses could well resonate in the media, and sometimes also in the policy making establishment.

As was the case with politicians and civic organization, the academic is not a homogenous entity. They may differ one from the other. Academic background is importance factor of explaining how these academics look to the problems. In a large degree, however, most of these academic are in favour of national security overhaul. They believe that change both in international sphere as well as domestic landscape has profound impact on how national security policy should be manage. It would not be possible to draw clear line between external and internal. Neither nor between military and non-military threats. Thus, first, conception on national security should be comprehensive.

In the midst of many domestic contexts, as those already mentioned in previous chapter, completion of regulations is in order. So is coherence policy with implementation. One may also add the needs for professionalization of security actors, either in relations to technical competence and their public accountability. There must be clear guidance for these to materialize. And despite law is only one among many other instruments, momentum should not be missed. The Bill should enable laying foundation of building more reliable national security system. This is the most dominant views, far than those who opt for solving immediate concerns. National Security Bill should resolve once and for all, it windows of opportunity to capitalize on the momentum to resolve policy problems.

That some academic has political preference, if not advocacy for democracy, is neither new nor problematic; they are citizen after all. However, a problem exist when, in the

case of their inclination to support system building, the implicitly or explicitly equates academic preference to political arguments, and in the process reinforces a simplistic and misleading view of how academic perspectives support policy. Very much lacking is adaptive strategy to changing circumstances. It is problematic whether this is because their political naïveté, or otherwise academic partisanship. One can only say that one major barrier to academics' effective participation in the policy process and state actors' ability to use their advice is the importance of context for state actors. Academics tend to minimize the importance of context: there is only one answer, which is total reform. For policy-makers, on the other hand, context will always be a key concern, so they are not looking so much for the answer as for an answer.

Reforms have created more space to include progressive ideas, including that on human rights, democratic governance, and responsible agencies in national security affairs. Democratization goes on; and so does space for discussions. National security is no longer an issue discussed inside the wall. Politicians, civil society and the media could play a very important role. Sometimes these non-state actors are afforded little more than an opportunity to advocate on behalf of the policies they favour, but at other times they are involved in a more meaningful role, actively advising on policy development and programme design.

Most of the academics involved in the discourse have already in a melting pot for quite some time. Affiliated to particular institutions, they are also frequent participants as well as resource persons on focus group discussions organized by civil society organizations such as ProPatria or research centres such as Pacivis at the University of Indonesia. Some of them were in some way resource persons at the meetings organized by state institutions such as the Department of Defence, National Police and the *Lemhannas*. It remains to be seen how they are able to influence policy. They are all for the establishment of a coherent national security system to deal with multidimensionality of threats. System building, institutionalization of policy process, clear regulation for implementing agencies such as the military and the police are necessary.

Specialization and core academic competence does matter. A generalist such as Indria Samego, himself an Adviser to the National Police Chiefs and a Research Professor at the Indonesia's Academy of Sciences (LIPI), emphasizes a general idea. According to Samego, "reform is needed for sure; and a system building is required. A law does help, but it may not be sufficient in itself. Also required are bureaucratic reform and professionalism of the security actors, in which paradigmatic shifts are required". Kurniatmanto, a professor of Constitutional Law at the University of Parahyangan, Bandung, was more specific, saying that "there is no need of a new regulation to resolve contradictions among laws. According to him, the Professor, contradictory regulations can be resolved by political decisions of the higher authority.

Such different emphases do not justify more serious divergence. To most of the academics, a law on national security to resolve institutional rivalries once and for all. Particular background could well be more relevant to national security issues than the others. However, a legal background could well be more useful in the context of defining what national security is, and not necessarily useful to how to devise regulation on national security. Though there are no significant differences in the scope of national security, there is some divergence in strategic approach, for example whether all regulations on national security should be in a single document or otherwise. Most of the academics are in the high hope for the Bill to become an umbrella regulation and thus resolving contradiction, disharmony as well as unsynchronized existing regulations. Quite a few of them openly support a possibility of drafting some laws, considering that contradiction among laws can also be resolved by inter-disciplinary regulations. Law does help, but it should also be complementary to other, including bureaucratic reform, professionalism of the security actors.

In some occasions they shared the views of civil society activists. Araaf arguments mentioned before, for instance, was also aired by academic Ikrar Nusa Bhakti of the Academy of Sciences and Kusnanto Anggoro of the Centre for Strategic and International Studies during the debate on controversial article 19 of the Armed Forces Bill in 2004. It is secondary whether the civilians were correct or incorrect. There is no point of saying whether they comprehend the substance of defence and security matters. They joined the public debate perhaps in their capacity for conscientization of human rights and professional military, more than for substantiate the provision. The message is clear, that provisions in the drafts must define clearly and leave no hole for distortion as well as interpretation. This is sort of politicizing policy expertise. In the midst of deadlock on the discussion on the national security bill, such politization grew significantly. Criticism was then targeted to the President rather than to, say, the Defence Minister and Chief of the Police.

### *Lemhannas Academic Paper*

Instead of using four categories as in the Department of Defence earlier proposal, *Lemhannas* offer a simplified version. National security is to cover security of people (human security and public security) and security of the [nation]-state. The later is primarily defined in term of internal and external threats against territory, sovereignty as well as authority of the state. National security is comprehensive efforts of all element of the country to protect and maintain national interest from all specter of threat from internal and/or internal sources that directly or otherwise can and may disturb the foundation of national culture, economy, politics as well as defence and security". As comprehensive efforts, the national security system must be able to develop capacity necessary for specific function – early detection, prevention, action and rehabilitation – through sectoral as well as coordination and cooperation among sectors.

More importantly, the adopted approach appears to be more systemic rather than emergency principle to deal with extraordinary situation; and thus there is no emphasis on instrument of response against threats to national security. In *Lemhannas* views, "defence and security" is only one among other sectors of national security system. Defence and security should be capable to maintain their own effective functioning against threats. As such, contestation over the notion "defence" and "security" will be as much avoided as unresolved. Specific domain of "defence and security" in *Lemhannas* academic paper comprises of nature-specific threats such as, among other, cyber crimes, terrorism, separatism, anarchical radicalism, sabotage, military invasion, fall out of nuclear technology. Securitization is left to emergency power of the president, as already established in the existing law.

*Lemhannas* proposal appear to comprehend national security as comprehensive issues but does not really focus on emergency and/or extraordinary measures. Integrated is not referred to as proportional act against imminent threats but as a coordinated measure among implementing agencies. A proposed Council, not specifically referred as National Security Council, would not be a securitizing agent. *Lemhannas* writes that the Council is "to manage and coordinate as well as advice to the possibility of use integrated potential of the nations" and, in so doing to maintain solidity and synergy of all government's implementing agencies. Chaired by the President as it may, the draft does not specifically refer the Council as securitizing agency. Chief of National Police and the Chief of the Armed Forces are to be member of the Council.

It has to be noted that *Lemhannas* proposal is an academic paper to guide legal draft. Some ideas in the paper would not easily be operationalized into provisions. The most contentious issue of role of the armed forces in stability and support operations us not well managed in detailed. The Paper simply emphasizing the need for coordination among state agencies, not even specifically mention the TNI and the POLRI. Though some principles are being accommodated, with vague notions of unnecessary suffering

and proportionality of using force”, demands for institutionalizing such constraint through standard operating procedures are weak. In this score, the earlier draft by the Department of Defence has gone a lot detailed. The paper quoted academic circles that argue the comprehensive nature of security, multidimensionality of threat as well as the importance of human security. Less appeared are those who argue the need for differentiated and aggregated strategy to cope with these overarching threats. It comes to the need for interagency coordination and cooperation among stake holders. But does not offer whether this should be accommodate directly or indirectly into adequate strategic response.

From systemic perspectives, *Lemhannas* proposal does not contribute significantly to previous drafts. As **Table-3** shows, the proposal may convergence to the Department of Defence on the issues of approach to “national security problems” and preference to emergency. The proposals also converge in the issues of system building. The difference may on the basic assumption, while *Lemhannas* perceived security and prosperity is basically two distinct approaches, the Department of Defence and the Police perceived as dynamic condition. Both *Lemhannas* and Department of Defence proposal however may be at the loggerhead with the police with regard to source of legitimacy in coping with crises. The most serious problems with emergency approach are subjective justification.

Meanwhile, the POLRI's contingency approach is adequate with regard to crime prevention, and low intensity conflict, but maybe insufficient to manage transformational and/or accidental conflicts that requires more than control but also preponderance level of coercive instruments. However, the Police are likely to less resistance against *Lemhannas* proposal, especially because the later does not touch the issues of structural and/or organizational changes affecting the POLRI. According to Governor *Lemhannas* Muladi the academic paper is significantly depart from the previous draft by the Department of Defence. The Governor did not elaborate further what the differences are. He assures however that there will no change in organizational structure of the Police, remain an independent agency as it have been.<sup>38</sup>

Besides such convergence and divergence, there remain unresolved issues such as definition and scope of national security, defining threshold for managing emergency situation, and role and function of the “National Security Council”. Department of Defence, the Police and *Lemhannas* appear also converge on the issue of early detection, prevention and action as a sequential response. Remain highly contested issue is on how such sequential response concurred with disaggregation of threats. In view of interagency cooperation, extremely needed are, among other, clear rule of engagement and well defined standard operating procedures to apply for security actors.

National security bill will remain in the hotbed for sometime. For a while in the Office of the Coordinating Minister for Politics, Legal Affairs and Security the Bill is now back again to the Department of Defence. It remains to be seen when deliberative process is to restart. The Department of Defence may consider some new input, primarily that from an academic paper on National Security System by the Institute of National Defence (*Lemhannas*).

### *Final Notes*

Policy process is always political. At the agenda-setting stage, potential policy problems are politicized and put on the public agenda. This is not a straight forward matter. There is often conflict over the wisdom of politicizing an issue, such as "subordination of the

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<sup>38</sup> *Antara*, 30 July 2008

Police into department", that some would like to see left in the hand of the President. Also, during agenda-setting, competing understandings of the policy problem struggle for acceptance and debate ensues regarding the issue's urgency. Sometimes agenda-setting goes on within fairly closed networks of bureaucrats, politicians, policy lobbyists and an "attentive public" of very limited size.

These habits of oldies appear to changes. To a significant degree, the underlying ideal of democratic political tradition is in the horizon. Views are crystallizing that public debate is necessary for establishing legitimate closures in the form of solutions to controversies. Nevertheless, it is important to note that infrastructure to facilitate such public debate is very much lacking. The draft of the national security bill had never been made in public. Many have the information from second hand resources, including media coverage that in many occasion lacking of accuracy, if not losing context. This brings about serious implication, i.e. the contraction of discourse. One should not fail to notice that in public space, attention was giver primarily to reintegration of POLRI into the Department of Defence, though in fact there is provision in the Bill suggests as such.

Issue of the establishment of a national security council shifted from the actual need for decision making during the time of crises into concentration of power in the hand of the President. In fact the original idea of the National Security Council is to institutionalization of policy decision, especially during the time of crises and/or emergency. Without the Council, the President may decide everything with his or her own judgment. Justified from what might be called inherent executive power in Presidential system of government, centralization of power is against the principle of democracy. For Indonesia, the National Security Council is also useful not only to strengthen institutional memory and wisdom of the Presidency, but also to reduce draconian effect of Law No. 23/1959 on Emergency Situation that provide no space for the President's accountability.

In similar vein, attempt at regulating stability and support operation of the military become an issue of retrogression of the military to reassume their role. The original idea of regulating this secondary role of the military is to provide legal bases for more effective but democratically military operation. Much as avoiding controversies on how the military would be use in internal security affairs, it remain necessary to discuss other task that the military would and could likely to play, such as in international peacekeeping, or have already been playing for some time with less accountability as in the case of their civic missions. More importantly, many provisions in the draft are in fact to oblige the President to devise a national security policy as guidance for any department, not only the Department of Defence, to devise their won strategic policy planning. Such Plan will be instrumental to maintain continuity of development, and thus assurance of public accountability.

This is not to suggest that the bill is free from void, lack clarity of ideas, and offer quite a few repetition of what has already stipulated in other regulation. In the case of authorization for the military to take action before decision by political authority, the military confused themselves not knowing whether they want legal basis for or capability to act. According to the Department of Defence, the provision is meant to give legal bases for the military to intercept if there was an intruder entering into Indonesia's territory. Such argument is not only unconvincing but also self evident that the military was not aware of their military duty. Patrolling territory is a routine task for the TNI, and they oblige to act against aggressor, or anyone who shows intention of hostility. Every soldier knows that rule engagement apply in that circumstances. If it happened, it would be a self-defence act. The point here is to suggest that the Bill should be devise in such a way that provisions are relevance to what they are for. Political decision to use military force is needed to extraordinary role, not to routine tasks.

## A Concluding Note: Bring Deliberative Process in

Debate on national security remains inconclusive. There are no clear signs that controversies over the National Security Bill, on the air for more than three years, will come to a conclusive end. The Department of Defence completed a preliminary draft of the Bill, but failed to earn support of submitting it to the Parliament. Minister of Defence Juwono Sudarsono claimed the Department of Defence as the leading role to formulate the Bill, especially because the Department is to manage national defence covering wider domain than defending the territory and sovereignty of the state against external military threats. President Susilo Bambang Yudhoyono has never made his support publicly to the Minister's claim. In fact the President seemed to be indecisive, if not conciliatory, to accommodate reluctant General (Pol.) Sutanto, then, the Chief of the National Police.

Since sometime in mid 2007, the Bill was in the office of the Coordinating Minister for Politics, Law and Security Affairs. It was unclear why the Bill should be there in the first place. The initial idea was that the Coordinating Minister was to set up a new Working Group to discuss and devise a new draft. The Office may have higher political standing than a ministerial level, but they are lack of legal authority to submit the Bill to the Parliament. According to Law No. 10/2004 on Legislation Procedure, it is governmental department and/or agencies that have rights to submit bills. The Police may not be happy with the process. They perceived the Coordinating Minister office is dominantly occupied by military personnels. Meanwhile, the Department of Defence was hoping that they would remain in control. Outgoing Director General for Strategy Major General Dadi Susanto, who had oversee the Department's Working Group, was expected to chair to new Working Group.

It was very likely that the President and/or the Coordinating Minister were cooling down the debate. It is something else that such decision may not narrow the differences among stakeholders, especially between the Department of Defence and the National Police. On the surface, the objective was fulfilled. In an unofficial gathering, the President instruct to the Defence Minister, the Chief of the Armed Forces and Chief of the National Police to stop the controversies over the Bill. Discussion on the national security bill is to resume after 2009 election. However, the President made nothing is clear whether the construction of the Bill would remain the same. He alluded that national security is responsibility of all components of the nations.

With these backgrounds, it would be difficult to judge whether future discussion on the Bill will be more constructive. The battleground appears to be wider than it was when the original draft was initiated by the Department of Defence in 2005. More importantly, during the last six months, while the draft of the bill on national security was in the Office of Coordinating Minister, two other drafts were proposed. In July 2008, *Lemhannas* (Institute for National Defence) completed an academic paper on national security system.<sup>39</sup> The National Police had earlier completed their own version of academic draft on state's security, basing themselves on National Assembly's Decree of 2000 and

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<sup>39</sup> Interestingly, until sometime in March this year, *Lemhannas* had not use the term of national security. Roundtable discussion in *Lemhannas* discussed instead academic draft on law on state's defence and security, a reminiscent of all-at-once style of "national security law" in the 1980s, called Basic Law on Defending Security of the State.

amended State Constitution 1945. Therefore, it is fairly reasonable to presume that, after nearly three years, national security bill was nowhere to go.

Nevertheless, the process itself suggests a couple of importance phenomenon. *First*, Indonesia comprehends national security as a wide ranging concept. Most would agree that security is a state during which part and/or whole of the referent object are in a good shape and able to pursue their interests. This may include survival, maintenance, and advancement basic interests. Such a comprehensive understanding, however, fails to reach common ground on how the state should response to the threats. Remain untouched is the issues of disaggregating threats and differentiating response. There were no clearly distinctive measures – especially between a sequential of early warning, deterrence, defence, and, in the context of accidental threats such as natural disasters, also reconstruction and rehabilitation.

*Secondly*, no common agreement has been reached on what defence function of the government actually is. The Department of Defence officials were reluctance of limit themselves to define defence as act of repulsions of military threats, which is either systematic or organized used of violence or those of likely to inflict serious damage, by using military capability. Force continuum appears not to become criteria for security issues. On the other hand, the National Police predisposed themselves to understand the function of policing, i.e. maintenance of law and order, to the role of POLRI as stipulated in Law No. 2/2002 on the National Police. Since the notion of state include not only physical territory and external sovereignty but also internal sovereignty, thus the military and police may have overlapping role on state's security.

*Third*, there was no common agreement whether regulation on national security affairs is to be a single regulation, comprising of many aspects, but do not touch on practical issues or on the other hand, a detailed regulation directly applicable in the ground. Despite discussion many stake holders have different ideas on what national security is all about. Comparative study shows that there is not template for what so called national security laws. In the United States, National Security Act (1947) is no more than a simply formation of National Security Council, without defining what national security is all about. In China, "national security law" (1994) is called law on state security, with a wide perspective, to include not only threats to the very survival of China as [multi] nation states but also the political stability and functioning state institutions. Until today, the United Kingdom does not regulate national security in a law.

*Fourth*, reforms have created more space to bring in progressive ideas, including that on human rights, democratic governance, and responsible agencies in national security affairs. Wider discussion has opened the way for particular security actors to pursue their own institutional objectives. For a better or worse, democratization goes on; and so does space for discussions. However, such an expanding scope appears not go hand in hand with deepening understanding of national security affairs. Discussion forum is yet to accommodate proliferation of stakeholders. As such, public debate is limited, and may not positively contribute to agenda setting, let alone to policymaking process. Social and political background, institutional affiliation and technical competence of actors in the debate may determine what issues to be in the hotspot, despite their relevance to national security issue.

*Fifth*, national security is no longer an issues discussed inside the wall. Politicians, civil society and the media could play very importance role. It does not really matter whether institutional rivalry, technical competence, or paradigm shifts that spur the debate into an inconclusive end. Words matter; so is ability to negotiate and adeptness to alternative ideas. Process is therefore become an importance dynamics to watch. Discord and collaboration is always part of the process of negotiation. How much space can be negotiated and how such space may contract may determine common ground. On the other hand, unprepared stance for negotiation may hide more importance reasons than mere technical differences and institutional competence. An inclusionary process of

discussion may become a room for reaching such common ground. The discussion should be in atmosphere of mutual trust, in which communicative rationality precedes instrumental rationality. This can only be possible if stake holders in national security affairs must be free of self-interested craftiness and characterized by a high degree of reciprocity, respect and understanding.

*Six*, civil-military relations remain important issues to discuss. The civilian-military gaps go beyond political relations between civilian authorities and the armed forces. Even in their own respective quarter, difference nature of operations may create relational problems. Civilians generally do not have an appreciation for what happens “behind the scenes” of any successful military operation. Without getting into the weeds, military officers need to explain what could be accomplished with the use of military forces, and what the limitations are. However it is well established in democracy that military should defend, not define, democracy. They may speak at consultation meetings to give their best military advice on the issue at hand as most of the civilians have little or no experience with military operations.

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## The Epilogue

### Capacity-Building, Coalition of Ideas, and Policy Strategic Bridge

National Security Bill (*RUU Keamanan Nasional*) has gained wide coverage of discussion. Attention have focused on substantive issues, including scope of national security issues as division of labour among policy making bodies and implementing institution. Two document by civil society that especially produce to response of the Draft. One is that of Pacivis, a research centre at the Faculty of Political and Social Sciences, University of Indonesia.<sup>40</sup> Pacivis focus is on system building, and national security system was perceived as elements of a wider national system. Pacivis suggest that to build a functioning national security systems requires a single law on national security, amendment of existing laws, especially those on state defence, armed forces, national police and on emergency, and a formation of a National Security Council. Pacivis put emphases on the need for systemic approach to ensure regularity, predictability and, indeed, legitimacy of security policy.

The second assessment is by the ProPatria Institute.<sup>41</sup> Recognizing the importance of system building, the Institute focus was on contingency planning and emergency. This approach is not to substitute the need for a national security system, to which the Institute has been in for more than eight years, even before the Department of Defence initiating their Draft.<sup>42</sup> It is rather to complement the existing proposal. ProPatria emphasise the need of bottom up approach. Ad hoc regulations could well be possible at the lower level, i.e. at the implementing agencies' unit on the field. Such approach may be able to break the impasse of the National Security Bill.

This mimeograph does not concern itself with system building or contingency approach. There is no preoccupation with academically correct system building or with reasonably feasible practice on the ground. System building is necessary and sufficient prerequisite for a responsive state, but may not necessarily adequate in political context. Divided bureaucracy, incoherence culture of security agencies, as well as incomplete regulations and partial policies however should be resolved in the first place. A national security system is combined among structural specialized agencies, and also at the same time an integrative adequate sequential actions that in each stage considers escalation of threats must be confront with adequate level of coercive measures. Therefore, a sectoral approach is always possible. As time goes, system building can be achieved by

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<sup>40</sup> Dwi Ardhanariswari and Yandri K. Kassim (eds), *Sistem Keamanan Nasional: Aktor, Regulasi dan Mekanisme Koordinasi* (National Security System: Actors, Regulations, and Mechanism for Coordination), Jakarta: Pacivis, June 2008).

<sup>41</sup> "Pengaturan Tindak Kontingensi dalam Kerangka Penataan Sistem Keamanan Nasional (The Arrangement of Contingency Operation in the Framework of National Security System)," *Special Report*, (Jakarta: ProPatria Institute, June 2008).

<sup>42</sup> The Propatria Institute has earlier studied many aspects of national security issues and published it in, among others, *Defending Security of [democratic] State* (2006) and *National Security: The Needs for Integrative Perspectives versus Political and Policy Omission* (2007). Earlier study by ProPatria already shows the very evidence of more serious problems, ranging from contradictions, incompleteness, and emerging new loopholes of new regulations. See, for example, "Kajian Kritis Paket Perundangan di Bidang Pertahanan dan Keamanan" (Critical Studies of Regulations on Defence and Security Affairs), *Mimeograph* No. 7 (Jakarta: ProPatria Institute, 12 September 2006).

differentiation of structure and specialization of function, but also by insulating it from public debate.

The main objectives of this mimeograph are to portray how discourse was taking place. Perception does matter, it is not quite relevance whether perceptions is genuinely project to achieve institutional objectives or simply making noise to affect negotiation. This is to say that this mimeograph is more interested in the process of negotiation. Differences of opinion among stakeholders can be political, but may nonetheless stem also from indifferent nature and competence among stakeholders. The way stake holders setting agenda and formulating issue of concerns are thus normal process to reach a convergence. In the process of transition, process could well be as importance as that of substance. Process of formulating a policy and that of national security issues could well become an exemplary case, reveal more important political conjuncture, including contestations, and negotiation among stakeholders involved. This mimeograph is therefore to fill the void, by uncovering the level of understanding among stakeholders on national security, bureaucratic and ideological contestations among government institutions as well as technical constraints that have so far hampered a more viable option. That said, the way ahead should bring in a more deliberative process.

As noted somewhere, security sector reform in Indonesia has moved beyond military politics. Depoliticizing the military may have reached point of saturation, at least considering political constraints as well as limited initiatives outside the military to shaped agenda of reform in the armed forces. Reforms in the military would likely concerns to internal reform, such as in the area of disciplinary measures, strengthening the TNI as repository institutions, and enhanced their technical competence. The last four years, attention appear to have been given to transitional issues like military law and military business, which should have relied on political decision rather than on systematic designs. Such two issues are defined to be transitional matters in the Law No. 34/2004 of the Armed Forces. Importance as they may, they do not resolve more structural problems of the armed forces.

As for reform in defence affairs, particular attention is to be made on appropriation of defence role in national security. Wide coverage of defend to include non-military defence may be correct in academic discourse but it might invited unnecessary debate on what appropriate role the Department of Defence is to play. It has always relevance to discuss defence planning, force structure, and thus national resources to be allocated for defence purposes. Nevertheless, contextualization of the Department of Defence's role into military threats, or at least threats that is likely to inflict physical damage, should be instrumental to avoid policy discrepancies and, more importantly, to functionalized the Department within the context of governmental portfolios. As such, topical issues should become top priorities. These may include, among others, border management, defence industries, and defence cooperation.

Meanwhile, security sector reform should be seen as a process of strengthening democratic governance in security affairs rather than as combined-among-sectors. It is necessary to discuss reform in military, national police, intelligence agencies as well as specific agencies like immigration, custom as well as policing-agencies attached to local government. How far the reform can probably go is depend on resources available. The most adequate approach would likely be looking at stages of policy making process in which the government is to be in the driver seats while parliament and public is to focus on control, regulations, and monitoring works. Needless to say, in such perspectives, strengthening capacity of parliament as well as civil society is of paramountly importance.

Lesson learned from the process of National Security Bill suggest, that constituent for security sector reform remain weak. Perception gap among actors remain as serious as it have been. Even without politics, the gap may continuously exist for different actors have different institutional preference and technical competence. Widening policy

process to accommodate more deliberative process is therefore a prerequisite for narrowing perception gap, avoiding unnecessary debate, and reaching more convergence. Policy makers, security officers, academic and civil society organization should actively involved in the process of national security policy. At the centre stage of this multiple actors is strategic bridgehead, which can be played by those already gain credibility, competence, and trust from all those actors. This strategic bridgehead can play dual role, provides policy alternative to policy makers, build coalition of ideas and interests to shape policy agenda and process, and also to bridge the gap between the state and society.

Discourse on national security should go well beyond policy as well as academic domain. It is necessary to conceptualized national security into adequate perspectives, considering both academic precision and policy relevance. Such perspectives may however encounter serious contradictions stemming from different institutional interest, technical competence, and policy consequences. Comprehension of national security must be precisely put into context (national security problems and national security challenges), relations among functional actors (national security system), and/or disaggregated instruments of response (national security measures). The term of "national security", without such contextualization, does not explain anything but confusion. To avoid securitization, national security issues may be best dealt by a differentiated approach.

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## Appendix\_1

### Recommendation for Short-term Measures: More Active Assessment and Engagement for National Security Bill

A *paradigm shift* is a contemporary in nature in Indonesia in this reform era. The 10 – year experience of reform, particularly in defence and security sector, demonstrated that various measures have been done to reform the TNI and POLRI institutions including establishing legal basis for both institutions to carry out their respective function and roles. However, legal reform in this sector is not enough. To achieve optimal result, it needs more reform starting from the institutional design, up to reform in work paradigm, ethic, and culture of the institution. Further arrangement is also needed to identify the best model for multi – actors coordination, especially when the country is faced with a security situation that requires response nationally. Therefore, over the past two years many actors have been trying to find a systemic framework of national security policy appropriate for Indonesia by combining at least three major elements: military, intelligent and police force.

#### *Policy on Defence and Military*

As stipulated in Law No. 3/2002, article 13 sub – article (2), the President has an obligation to determine state defence general policy that constitutes a reference for planning, implementation and supervision of the state defence system. Furthermore, as stated in the same Law, article 16, the Defence Minister of the Republic of Indonesia is obliged to, among others, determine policy on the state defence implementation, develop white book on defence as well as to determine policy on bilateral, regional and international cooperation in defence sector. The Defence Minister has to also determine policies on budgeting, procurement, recruitment, management of national resources and development of defence industry and technology required by the TNI and other defence components.

Over the past year, the Defence Ministry has developed several documents relating to the Defence White Paper, Defence Doctrine, Defence Strategy and State Defence Posture. Each of the documents contains some aspects that directly or indirectly become the foundation for the building and development of the state defence capacity. As a policy, the substances of the documents need to be placed as part of national policy and at the same time they should be able to respond to the changes at national and international level.

According to the Article 16, sub – article (4) of the Law No.3/2002, the White Paper is a “statement of defence policy as a whole ... disseminated to public, both at national and international level, to create mutual trust and eliminate conflict potential”. Whatever the document looks like, a defence white paper should not only inform the state defence identity and direction of defence capacity that is required to support the state

governance function in regards to state defence, but also has to clarify its function in confidence building measures.

Therefore, state defence doctrine plays a key role as policy guidance on defence. At the operational level, the defence doctrine constitutes a reference for military ethic when the armed forces carry out their function as defence component. Alignment between the defence doctrine and strategy will ensure that the doctrine is flexible enough to anticipate the defence threats and at the same can be carried out consistently.

While the defence strategy is a derivative of the defence doctrine, it also provides space for flexibility at strategic level. As part of the state policy, defence strategy focuses on efficiency of the national resources utilization to achieve the defence's objective.

A state defence posture is an actualization of the state defence power that reflects the integrated power, capacity and utilization of national resources. In the state defence system, the posture must reflect credible and sensible yet realistic balance between the main component and the reserved component. Eventually, the defence posture must be reflected in the synergy between the TNI's and reserved component's postures that take into account the competency, rights of the citizens and international law.

#### *Policy on Internal Security and Police*

The dynamic development of the strategic environment at global, regional and national level in many instances influenced the state policy on defence and military sectors. Simultaneously, in the conceptualization of today's security, the state's capability in producing and managing political goods for its citizens – governance capacity – becomes a key variable to measure a holistic capacity of a political system (the state). Moreover, as agreed upon in many literatures, police force is the main actor in the creation and also management of security for the citizens.

In the context described above, POLRI needs to take all necessary measures to improve its capacity in carrying out its main tasks and its authority as mandated by the Law No. 2/2002. One of many important issues faced by POLRI is to formulate its strategic role priority that needs to be exposed given its limitation and escalating social problems. POLRI should stop being a "fire extinguisher" in implementing its main task and function as law enforcer, as most crimes arise from and are rooted in social problems. POLRI must take all necessary steps and measures to anticipate and eliminate the potential impact of the social dynamic. In this case, pre-emptive measures should be prioritized before a social problem becomes a crime.

Within this context, the policy of the Chief of National Police issued in Decree No. Pol.: Skep/737/X/2005 on Policy and Implementation Strategy of Community Policing Model in the POLRI's Tasks, later on followed by Decree No. Pol.: Skep/433/2006 on Implementation of Community Policing, requires commitment of all police organization structures. Therefore, in addition to carrying out its tradition policing works, police has to also find a way to express the philosophy of community policing by exploring proactive strategies aimed at resolving problem and/or preventing a problem from becoming a crime or getting worse.

### *National Security Policy*

Referring to the two policies explained above, it seems that further arrangement of the national security system framework that constitutes an integration of various security sector policies is still needed. However, until today none of the existing policies specifically regulates issues relating to intelligent's authority. Therefore, the whole mechanism of national security management, from normative framework, policy guidance, organizational structure, resource allocation, show of force, up to control, need to be reformed or otherwise it would remain in status quo condition. Maintaining such status quo can be interpreted as political ignorance against structural problems that exist in the national security system as mandated by the National Strategic Development Plan 2005 – 2025.

In today's context, the Indonesia's national security policy needs to at least demonstrate coherence and consistency with the defence doctrine and strategy; establishment, maintenance and development plan on defence force as well as specific capacity such as intelligent, logistics and technical expertise and other institutional capacity in the criminal justice system such as police force, attorney, immigration and customs; making sure the state budget capacity to ensure the development and improvement of highly qualified national security posture without disturbing the other tasks of the state government.

### *Recommendation for Short-term Measures*

Considering the results of various assessments conducted directly or indirectly on national security regulation framework, national security policy framework as well as separate assessment on defence and military – intelligent – security and national police policy, joint dialogue to organize the existing policies involving various strategic stakeholders is the least we can do in the short-term. This joint dialogue need to be organize to solicit inputs for two different level. *First*, an arrangement of policy framework in defence and military – intelligent – security sectors and national policy focusing on management and implementation strategy of various policies within a systemic framework of national security. This first choice requires focus on discussion aimed at mapping out the fundamental problems and scenario for capacity building for each actor according to its specification. *Second*, joint dialogue on overall changes in regards to the major functions of the defence and military – intelligent – security and national police, focusing only on the creation of new regulation, i.e. national security act. This second choice has a consequence of overall changes.

## Appendix\_2

### Tables

**Table-1**  
**Level of Attendance**

Date	Host	Topic	Attendance (%)				Self-defined Role on National Security
			Military	Police	Intelligence	Civilians	
20 April 2006	National Police	In Search of National Security Bill	46	25	10	14	Public security (maintenance of law and order)
7 June 2006	Department of Defence	Essence and Objective of National Security	52	-	4	38	Defence (military and non-military threats)
28 June 2006	Military Headquarters	Scope of National Security	80	3	-	14	Primary and secondary role as stipulated in the law
12 July 2006	Department of Home Affairs	Authority and Security Actor	19	-	3	78	Early detection of potential threats to national integration, protection of the society, as well as "human security"
27 July 2006	Department of Foreign Affairs	Authority and Security Actor	31	-	4	58	Diplomacy, including public diplomacy
	Intelligence Agency						Intelligence function: information, analyses, strategic option intelligence

**Table-2  
Difference Perception on National Security Issues**

	Department of Defence	National Police (POLRI)	Possible Discord	Accommodation
<b>Scope</b>	Defence, state security, public security, human security	Defence, homeland/internal security (state security), public order.	State security, homeland/internal security, domestic security.	Not so much about scope, but the need for disaggregating threats and differentiating response measures
<b>Threat Perception</b>	Deterritorialization of threat the unsuitability of conventional deterrence Multidimensionality of threats (needs for securitization)	Functionalization of security actors; external defence and internal security	Grey areas issues, ungoverned territory of security response	Selective securitization, desegregation of threats, differential response, integrated strategy
<b>Range of Responses</b>	Deterrence Defence	Prevention, pre-emption, repression Criminalization Law enforcement	Law suppression capability vs. possible excessive use of force Military operation other than war	Stability and support operation as means of closing commitment capacity gap Restoration, rehabilitation

	Department of Defence	National Police (POLRI)	Possible Discord	Accommodation
<b>The Nature of Military and/or Militarized Threats</b>	Escalatory, transformational, accidental Additional concept of civil order; disaster emergency	Escalatory No need of securitizing civil order (normal condition)	Different nature of tactical operation Threshold of intervention	Standard operating procedures, rules of engagement
<b>Closing the Threat-Response Gap</b>	Institutionalization of emergency approach	Contingency planning Ad hoc political decision	Role of army's territorial structure Politization of commitment-capacity gap (of the police)	Political decisions on deployment of military forces Special task force or authoritative agency
<b>Institutional Design</b>	Systemic restructuring	Functionalization; strengthening capacity of government function	Reposition Chief of POLRI under certain department.	Transitional management, Indirect policy approach

**Table-3  
Comparing Three Proposals**

	<b>Department of Defence</b>	<b>National Police (POLRI)</b>	<b>Lemhannas</b>
<b>Scope</b>	Defence, state, public, human security	Defence, internal security (state security), public security	Human security (individual, public security) and State security  Security and prosperity
<b>Range of Approach</b>	Early detection, prevention, deterrence, defence and rehabilitation  Perseverance	Early detection (crimes), prevention, and law enforcement  Maintenance	Early detection, prevention, action, rehabilitation  Resilience
<b>Dealing with Escalatory Threats</b>	Emergency (possible use of military operation other than war)  Subjective threshold (impact on normalcy)	Contingency (with possibility of joint task force)  objective threshold (violation of law)	Emergency  Subjective threshold (impact on normalcy)
<b>Institutional Designs</b>	Systemic restructuring	Sectoral functionalization	Stability (no specific proposal for structural change)