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'Governing the Ungovernable': Dealing with the Rise of Informal Security in Indonesia

Richard Robison, Ian Wilson, Adrianus Meliala

In a recent survey conducted by the respected Indonesian Journal, *Tempo*, Indonesian respondents cited uncertainties regarding security in everyday life as their major concern, ahead of worries about terrorism. An important part of this concern is the growing influence of infosecurity groups (ISGs) and various forms of militia operating at the margins of rule of law. While such organisations had been an important part of the former Soeharto regime, one key question is how they have survived and flourished despite the ending of authoritarian rule and the rise of democracy. This policy brief will examine the various policy and governance programmes introduced to deal with the issue and assess their relative effectiveness. It will provide recommendations for future policy design.

Problems of Definition and Scope

This study is focused on the informal security sector. By this we mean that sector where organisations provide (or impose) various forms of security and protection across a range of levels, largely outside the scope of rule of law and the reach of formal regulation. Such activities range from the ubiquitous imposition of parking levies encountered on every street and in every city and town, to the provision of security and protection to various levels of commercial and business activity and within the upper reaches of the world of politics. At the same time, the boundaries of informal security and protection are not so easily isolated and any analysis confronts complexities as protection shades into other types of informal authority:

- ISGs may simply offer a service that is needed and requested in a situation where formal policing is inadequate and the reach of the state limited. Or they may offer protection from their own retribution or that of other illegal organisations.

Richard Robison is
Emeritus Professor,
Murdoch University,
Perth, Western Australia
r.robison@murdoch.edu.au;

Ian Wilson is
Research Fellow,
Asia Research Centre,
Murdoch University
i.wilson@murdoch.edu.au,

Adrianus Meliala is
Professor of Criminology,
University of Indonesia.

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- Informal security may be one part of a larger function where such organisations also operate as militias on behalf of political interests or even as proxies for elements within the state administration. They may be used to control opponents or to mobilise support in elections or at times of political crises and enable political figures to impose extra-legal coercion in areas where the police or the military might not so easily tread.

In some cases, ISGs may shade into more clearly criminal organisations. Some claim a 'Robin Hood' status as protectors of the exploited.

- Some ISGs may claim a welfare function, providing jobs and income for unemployed or disenfranchised individuals, including former military and police, in very tight labour markets and where the state and the market is perceived to be ineffective.
- A more recent development since the decline of the centralised state are claims by some groups that they protect the rights of certain communities or religious groups against crime, injustice or moral assaults. In other words they perceive themselves as moral or law and order vigilantes.

This study looks at these overlapping dimensions of informal security and protection in the context of the shift from state to market as the defining variable and where such groups are concerned increasingly with economic self-sufficiency through the sale of their services.

The Evolution of the Informal Security Problem

ISGs in Indonesia have emerged from a specific set of historical experiences in which the distinction between formal and informal security has always been politically and legally ambiguous. It was not until the early 20th century that the archipelago had a standing police force. Prior to this, civilians, most commonly local strongmen known as *jago*, were regularly contracted by colonial and indigenous authorities to carry out a policing or social control role. This 'organic' relationship between formal and informal security continued into the new republic and was enshrined in the 1945 constitution. The constitutional reference to the responsibility of citizens to defend the nation has been used as a legal foundation for justifying the ongoing social and political role of civilian auxiliaries, militias and semi-criminal organizations.

The New Order's relationship with entrepreneurs in violence can be summarised as resting upon three central strategies: integration into state-created institutions; elimination via purges; and creating dependency based upon contingent patronage. The New Order state set a model for the contracting of private violence for both private and public ends, one that now has significant consequences for post-New Order Indonesia as new political players continued to use these same strategies, but in a dramatically different social and political context.

Although politically useful to powerful politicians in the New Order period, the proliferation of private providers of security and

protection, the largest of which evolved out of gangs and networks of recidivists, seriously compromised the institutional integrity and legitimacy of the police in their broader relations with citizens. To an important extent, it could be said that the police were 'criminalized' while gangsters were 'militarized'. The spread of gangs also caused alarm amongst the authorities who feared that if left unchecked they could grow and coalesce into larger structural organizations that posed a direct threat to state power. Indonesian critics have cited the Sicilian mafia and Japanese yakuza as examples of the types of organized crime that could emerge from the state's use of informal gangs for political purposes. Yet, even the authoritarian state of Soeharto had few options in dealing with this growing threat. In the early 1980s we saw a period of extra-judicial killings (the so-called *Petrus*) aimed at eliminating the increasingly powerful gangs and their leaders, most of whom had been the henchmen of various security and political agencies of the state. This drastic strategy was eventually halted when it became highly indiscriminate and threatened to spread beyond its original purposes.

The political and administrative reforms of the post Soeharto era have not solved the problem. Indeed, gangsters and vigilantes have emerged as major beneficiaries of reforms introduced to decentralize power in Indonesia in some cases. The greater autonomy and power to regional and local government has led to gangsters becoming a valuable form of political capital and influential power brokers in their own right. A variety of ISGs emerged to fill governance voids in the provision of security, protection and 'public order'. This trend was further heightened by the public's distrust of the police and military. The introduction of multi-party electoral democracy also created new opportunities for gangsters and entrepreneurs in violence both as 'rent-a-crowds', sub-contracted party paramilitaries, and in some cases, due to their influence in the local sphere, as political candidates themselves.

Specifically, a number of identifiable trends have emerged in the post-1998 environment in relation to the organization of informal security:

- The proliferation of private security companies. These range from international operations to highly localised groupings. Local companies are often run by former and sometimes serving members of the police or military
- Vigilantism, often religious in nature, whereby groups and communities claim a right to enforce 'order' and take on a state-proxy role due to the apparent absence of effective law enforcement by the police.
- An expansion and proliferation in local gangs, *preman* (thugs) and militias. In some instances the activities of these groups clearly fall within the sphere of criminal racketeering and extortion.
- The emergence of partisan political groups, such as the paramilitary wings of political parties, performing policing and security functions.

The overall result of this has been the emergence of a large, highly competitive and for the most part unregulated market in security. The desire for competitive advantage in this market has had a number of effects:

- Physical clashes over 'turf' and constituencies between rival groups.
- The fostering of alliances with political figures in order to assist in a territorial monopolisation over security.
- The invocation of religion and ethnicity as rationales for performing a role in security/protection.
- Informal arrangements regarding the provision of security that involve coercion and extortion.

Threats to Governance

The trends indicated so far pose serious and substantive challenges to endeavours to realize governance reforms. The opening up of markets has not been accompanied by clear laws and legislation, and where they do exist the state is ill-equipped to enforce them, resulting in a demand for alternative sources of protection. The process of decentralization and democratization has suffered from a lack of commensurate levels of law enforcement allowing informal security to grow in ways that threaten to undermine the political gains that have been made. Even military figures previously known for their patronage of particular gangs have conceded that in the current political environment they are not capable of controlling them as they previously did. The continued lack of transparency in the interaction of the police with ISGs has also done little to restore public trust in an institution still suffering a crisis of legitimacy due to its politicized role during the New Order.

Constructing the Policy Framework: The Players

While the government and various interests within it decided policy strategies towards informal security under the New Order, things are more complicated now. The fragmentation and diffusion of power from central to provincial government and from an authoritarian state apparatus towards the less controlled arena of party and parliamentary politics has contributed to the new complications and it is clear that business exerts a substantial influence over the operation of officials and public institutions.

Because of the hugely volatile influences at work on government policy we see mixed messages emerging from the central government and a failure to articulate a coherent policy statement. At the same time, private security in general has become more useful to fill a widening black hole where the capacity of the state to provide effective security is less certain.

National Government and Bureaucracy

Post-New Order governments have offered policies and statements, which in some cases provide tacit support and actively encourage ISGs and in others, seek to condemn or curtail them. This failure to adhere to a consistent line or articulate a coherent policy approach reflects the fact that these groups continue to serve the interests of different elements within the

state. At the same time the host of political parties and social and religious organizations now operating in the context of a weakened state also found militias and paramilitary groups politically useful to mobilise votes and intimidate opponents in elections.

The Military

The military has been at the forefront of using ISGs to impose authority without legal constraints. This was especially the case in East Timor and Aceh, where military sponsored militias operated, although it is less common in the main urban centers. On the one hand, the military is apprehensive at the growth of ISGs, especially when these have used uniforms and usurped the role of the military on behalf of other interests. At the same time there is little doubt that the military has used its own people out of uniform and sub-contracted groups to act on its behalf.

Local Government

The proliferation of local security groups has been an integral part of the decentralisation of government started in 2001. Because neither the military nor police were decentralised, local governments were left with no mechanism by which to ensure security. The formation and use of local security groups was portrayed as an empowerment of local communities to self-police. In particular, ISGs have proven useful to provincial governments in revenue raising exercises, particular the collection of taxes and levies which form a large part of local budgets. Overall, dependence upon civilian militias has made local governments susceptible to demands for concessions and political favours.

The Police

Overall the police oppose the existence and proliferation of ISGs because they threaten their authority, contribute to increased levels of crime and because ISGs compete for informal revenue-raising. While there is a natural inclination for the police to oppose these groups, there is an acceptance that different forms of accommodation are required simply because the police do not possess sufficient resources to guarantee public security and perform many other ancillary functions. Similar sets of problems also apply to other divisions of government law enforcement agencies, such as Public Ordinance Officers (*Tramtib*) and Municipal government enforcement officers (*Satuan Pamong Praja*).

Political Parties

Democratic reforms mean that parliament and elections have become the new frameworks of politics. Getting votes is no longer guaranteed by the power of a centralised state. It now involves money politics on a large scale as well as intimidation of opponents, not only in other parties, but also factions within the party. These dynamics mean that political parties have a much more direct interest in utilising the services of ISGs. Subsequently, the position of political parties regarding the existence of ISGs has been deeply

intertwined with political struggles and vested interests. This has led to contradictory stances, with parties opposing the existence of groups supporting a rival agenda whilst defending the legitimacy of their own paramilitary groups. Following the decision of parties to relinquish the use of their militias (*satgas*) in electoral contests at the last election, these militias are now largely used in relation to struggles for power and endorsements within the parties themselves.

Business

The costs to business of ISGs are substantial. They offer services that may be useful, not required or non-existent. In general it is estimated that the cost to companies of such illegal protection fees is around 2.1% of overall operational costs. For street traders the financial impact can be even more devastating, and this has been a factor leading to an increase in vigilante attacks.

The response of business has been varied, partly due to the different power and resources available to various levels of business. While business has been a vocal critic of ISGs it is also a major client. Big business is better able to protect itself and many have created their own security services. As a general rule, the bigger the business the less problems they have with ISGs.

Civil Society

Public concern over perceived increases in crime and the proliferation of ISGs has remained constantly high since the end of the New Order, and civil society groups have been the most vocal advocates of measures to curtail the activities of ISGs. Sectoral groups have lobbied and presented petitions to parliament. Overall however civil society organisations have failed to translate their agendas into policy within the government or the main players in the state apparatus.

At the same time, various elements of civil society have also been supporters of ISGs. The use of ethnic and religious symbolism by some ISGs has been used successfully to garner support amongst the broader community. Within poorer communities local ISGs are often relied upon as an agent of conflict resolution and intermediary with government agencies.

Foreign Donors:

Foreign donors have largely steered clear of the issue of ISGs due to its contentious nature and intersection with local political struggles. Instead the focus of programs funded by the UNDP, World Bank and others has been upon police reform and training, especially in relation to counter terrorism measures and community policing initiatives. Recently interest has been shown in further investing in the training and professionalization of the *Satpol PP* municipal police force.

Informal Security Groups

The ISGs themselves have increasingly become players in their own right, rather than simple appendages to larger political, social or economic forces.

This is especially the case in the context of decentralised politics where local politicians often consider the support of ISGs to be crucial to electoral success. As social and political conflict opens financial opportunities for ISGs they have also been linked to agitation and incitement aimed at provoking or prolonging conflict.

Constructing the Policy Framework: The Constraints of Existing Regulations and Policy

What are the existing laws and regulations that constrain or enable policy-makers and lobbyists in the construction of policy frameworks to address the problems of ISGs?

Ormas Laws

Public organisation (*Ormas*) laws were integral to giving a legitimate role to state-controlled organizations during the New Order. These still offer protection to ISGs. Regulation 8/1985 regarding the existence of public organisations contains provisions for the dissolution of groups proven to have breached one or more of three criteria: 1. disturbing public order; 2. receiving foreign assistance without government approval; and 3. assisting foreign interests in a way that conflicts with the national interest. In mid 2006 the laws became the object of heated public debate with suggestions that it should undergo revision to further clarify the circumstances under which an organisation could be disbanded. However modification of the laws held broader implications and concerns were expressed that it could be perceived as a retrograde move towards New Order style authoritarianism that might curtail legitimate civil society organisations. The end result has been that government has reiterated the best approach to be one of continued 'guidance'.

Police Regulations Facilitating Cooperation with ISGs

The constitution itself provides for role of citizens in provision of security and this is also reflected in police law. Article 30 of the 1945 Indonesian Constitution states that every citizen has a right and obligation to defend the state. Law No.3/2002 changed the concept of 'total people's security', which allows a role for citizens in law enforcement and national security, however it failed to establish the state as the sole legitimate body for the use of force. This is echoed in Police Law No.2/2002 which stipulates that in the carrying out of its policing role the police will be assisted by 'voluntary civilian security groups'. However the absence of clear guidelines for the actual interaction between the police and these groups has resulted in a lack of transparency and a high degree of informality.

Regulations Regarding the Security Industry

The significant growth of the security industry since 1998 has been accompanied by a number of formal registration procedures. Security companies are granted a license to operate issued by the Indonesian National Police Headquarters. Police have the authority to withdraw the

license of a security business if it fails to submit compulsory three monthly reports. However there is no evidence to suggest that unregistered businesses are subject to sanction and groups that have their licenses revoked are able to re-apply immediately.

Chief of Police Decision No. 1183/1999 states that security businesses also fall under the mantle of civilian groups able to assist the police in law enforcement. Despite this, the actual operations of security companies are not subject to police scrutiny with the reason that this is protected by partner-client confidentiality.

Public Order Laws

Public order laws such as Jakarta Regional Law no. 11/1988, recently revised in Law no.8/2007, allows for the arrest and removal of those considered to be creating a public disturbance. In principle these laws allow for the curtailing of ISGs, especially street-level gangs. However in practice the laws have also served to bolster the street level authority of the groups as the authorities have often turned to ISGs to assist *Tramtib* and *Banpol* in public order campaigns. In other instances local ISGs have come into conflict with the authorities when they have defended their clients or constituents.

Criminal Law

These include laws prohibiting extortion, racketeering, theft, robbery, assault and murder. There has been noticeable inconsistency in the application of these laws in relation to ISGs. The police have displayed inconsistency in the apprehension of ISG members, something they attribute to a lack of legal clarity and the interference of elite political interests. Members of groups on charges ranging from assault, destruction of property and extortion have also received light sentences or been acquitted after lobbying from the group's network of high profile supporters.

Attempts to Implement Policies and their Outcomes

Existing policy approaches to date have followed two general themes. One is 'elimination' via law enforcement drives and 'integration' through co-optation of ISGs into state-sanctioned security bodies as well as more specific measures aimed at regulating the security industry. The other approach is that if ISGs cannot be effectively controlled due to lack of capacity, the most pragmatic approach is to co-opt them. It is a common opinion within government that the existence of identifiable informal groups is a preferable option to their dissolution, as the groups are considered, at least minimally, to provide some degree of guidance and structure to their members. On the other hand there are elements and interests within government bureaucracy that vehemently oppose ISGs and urge a policy of no tolerance and imposition of rule of law. However the inability of the state to provide social welfare, employment opportunities or guarantee security has served to undermine its criticisms of ISGs.

Law Enforcement

The law and order approach towards ISGs has manifested itself primarily in so called 'anti-*preman* campaigns' usually conducted as part of broader public order drives. In practice, the campaigns have had a negative effect on two fronts. Firstly, the identification and ensuing arrest of *preman* has been conducted in a way that undermines the presumption of innocence and due legal process. The campaigns have been the sole responsibility of the police, with little or no co-ordination with other relevant arms of government such as the department of social welfare. Subsequently, those arrested have been detained for up to several weeks before being released back onto the streets.

Secondly, as with the *Petrus* campaigns of the 1980s, the campaigns have avoided targeting established organizations. Subsequently many criminal elements have joined these groups in order to gain 'invulnerability' from the law. Through out the duration of these campaigns public complaints of extortion and corruption on the part of the police increased threefold, suggesting that some police used the campaigns as an opportunity to reclaim sources of illegal rent extraction taken from them by ISGs.

Co-option

There have been a number of initiatives aimed at the co-option of ISGs. These have taken two directions; the granting of state sanction to existing private security groups, and the recruitment of informal security actors into a variety of state created bodies. These initiatives have to date been fraught with difficulties, frequently exacerbating pre-existing tensions between rival groups, creating serious legitimacy problems and failing to stop complaints of illegal protection fees.

Other co-option initiatives have included the establishment of a variety of largely temporary state-created security bodies. The largest of these initiatives has been the expansion of municipal police units (*Satpol PP*). The transformation of informal security into state sanctioned security remains fraught with dangers that are increased by the lack of police resources and the ad-hoc manner in which they have been carried out. In order to avoid further undermining of the institutional legitimacy of law enforcement agencies, future co-option initiatives need to be backed up with substantial consultation with local community stakeholders. In this way problems arising from the perception in the community that such groups lack legitimacy can be avoided.

Community Policing

As community policing initiatives, such as the Japanese government sponsored *Koban* trials in Bekasi, are still in their infancy, it is not yet possible to assess their impact. It is however important to recognise that such programs need to be aware of the constraints imposed by the authoritarian legacies of the past. In some communities efforts by the police to integrate into local communities have been greeted with suspicion,

reflective of a more general continuing distrust of the institution.

Policy Recommendations

Attempts to introduce policy solutions and constitutional or regulatory reforms have been undermined by:

- Obstruction within parliament and the bureaucracy, in part due to the ambiguous nature of relations between the security organisations and officials.
- The failure of the police and state more generally to provide adequate law enforcement and security, which can be linked to problems of capacity and human resources.
- Ongoing social and economic conditions that reinforce a flourishing informal sector and the opportunities this offers for the black economy and illegal rent extraction.

Despite high risks of failure, a law and order approach offers the only long term solution. This requires:

- Clarifying the constitutional and legal frameworks regarding the role of private and public organisations in security, such as Article 30 of the 1945 Constitution and Police Law No.2/2002.
- Basic law and order approaches aimed at eliminating criminal and illegal behaviour which can be best assisted by capacity building within the police. This should include extending community policing initiatives.
- Acceleration of governance reforms within the police and judiciary, especially those aimed at improving the quality and consistency of service.
- Efforts at more comprehensive regulation of the security industry, including the development of transparent mechanisms by which to accurately monitor groups and ensure compliance with clearly defined regulatory frameworks.

More broadly, though, policy and governances 'fixes' ultimately rely on long term shifts in politics and larger social reforms that address problems of unemployment and poverty. In the meantime however there are several policy opportunities, for example:

- Educational programs targeted at urban high-risk youth to circumvent their descent into gangs and criminality.
- Community based business initiatives to provide employment opportunities, especially in urban slums, which may modify the sort of problems and socio-economic conditions that lead to recruitment into informal security organisations.