RETHINKING TERRORISM IN INDONESIA: LESSONS FROM THE 2002 BALI BOMBING

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Abstract:

It is the main argument of this article that we need to rethink the issue of terrorism in Indonesia because considering the country's historical, political, and legal context, it could be used as a tool to strengthen the arm of the military and police. If the underlying notion of Indonesia's fragile democracy is considered, then any measure to deal with terrorism should be scrutinized. Finally, we believe that terrorism could be crushed by legal means, without overstepping civil liberties.

Keywords: terrorism; democracy; Indonesia.

Resumen:

El principal argumento de este artículo es que neesitamos pensar de nuevo sobre la cuestión del terrorismo en Indonesia, ya que considerando el contexto histórico, político y legal del país, podría ser utilizado como mecanismo para fortalecer a las fuerzas armadas y la policía. Si se tiene en cuenta la noción subyacente de la frágil democracia de Indonesia, entonces hay que analizar cuidadosamente cualquier medida para afrontar el terrorismo. Finalmente, creemos que el terrorismo podría ser aplastado por medios legales, sin interferir en las libertades individuales.

Palabras clave: *terrorismo; democracia; Indonesia.*

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Introduction

> "I don't think you can look at radical Islam in Indonesia
> without looking at manipulation by the [government] security forces."
> *Sydney Jones*[3]

> "[one of the] causes of the "paralysis" in dealing with terrorism
> was the very good connection between the security apparatus
> with terrorists and street hoodlums."
> *Abdurrahman Wahid*[4]

Today, terrorism has become a part of our life, whether we like it or not. Although as a phenomenon terrorism is not new in itself, never has terrorism throughout its history generated as much attention as it is today. For America and the world the turning point began on September 11, 2001 as the hijacked planes crashed into the World Trade Center and Pentagon. For Indonesia, and Southeast Asia, that moment was when Bali, the "Island of the Gods," exploded on October 12, 2002.

The suicide bombing served as Indonesia's wake up call that the threat of terrorism has manifested itself in its worst form at their most cherished Island. The Indonesian government under then President Megawati Sukarnoputri immediately responded to the threat. Among others, through the issuance of the Government Regulation *in lieu* of Law (*Peraturan Pemerintah Pengganti Undang-Undang* or *Perppu*) No. 1/2002 on Countering Criminal Acts of Terrorism, followed by the Perppu No. 2/2002 on the Implementation of *Perppu* No. 1/2002 on Countering Criminal Acts of Terrorism in the Bali Bombing of October 12, 2002.[5] The latter was enacted on October 18, 2002, while the former was finallay signed and enacted on April 4, 2003. In addition, the government and parliament also signed the Law No.15/2003 on Anti-Terrorism. The enactment of the laws and the subsequent arrests had repercussion beyond terrorism.

Most analysis out there focused on the root causes of the problem, on Islam, or on the operational capability or ideology of *Jemaah Islamiyah* (JI), suspected to be behind the bombings. The abovementioned quotes from Sydney Jones of ICG and former Indonesian President Gus Dur clearly shows that terrorism is not a clear cut issue. This paper will attempt to present a different kind of analysis to the issue of terrorism in Indonesia as it focuses on the impact or potential repercussions in the context of the reform and democratization process while grounding ourselves to three context: historical, political, and legal. For the purpose of analysis however, the main scope of the discussion would only be limited to the 2002 Bali bombings and its immediate impact. We wish to present several lessons drawn from this in order for us to rethink the issue of terrorism in Indonesia.

This article will look at several major parts. First, we will outline the existing literature and identify where our article lies. Second, we will analyze the three related areas and context of terrorism in Indonesia: historical, legal, and political. We believe that these three contexts

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[3] As cited by Dahlby, Tracy (2005): *Allah's Torch: A Report from Behind the Scenes in Asia's War on Terror,* New York, Harper Collins, p. 142.
[4] See Wahid, Abdurrahman (2006): *Islamku Islam Anda Islam Kita: Agama Masyarakat Negara Demokrasi,* Jakarta, The Wahid Institute, p. 292.
[5] These legal measures were considered in cases of "emergency." Indeed, Perppu No. 2/2002 employs a retrospective principle, which is unconstitutional. We will discuss this later on.

would help us demonstrate why there is a potentially more dangerous threat than the threat posed by terrorist, i.e. the threat to Indonesia's reform and democratization process. Third, we hope to show some rationale and lessons from all of the above. It is the main argument of this article that we need to rethink the issue of terrorism in Indonesia because considering Indonesia's historical, political, and legal context, it could be used as a tool to strengthen the arm of the military and police. If the underlying notion of Indonesia's fragile democracy is considered, then any measure to deal with terrorism should be scrutinized. Finally, we believe that terrorism could be crushed by legal means, without overstepping civil liberties.

1. Brief Literature Review

In terms of where this article stands, we profess that we are not offering something entirely new to the existing wealth of literatures on terrorism in Indonesia and Southeast Asia. However, we do try to highlight and bring forth some of the briefly-mentioned points by only a handful of scholars and remind the public of the importance of fighting terror without trampling on civil society, especially in a country like Indonesia.

In the aftermath of the Bali bombing, a wealth of literature on Southeast Asian terrorism has surfaced, written by Indonesians and non-Indonesians, both in English and Indonesian languages. Some focused on certain aspects more than the other, some tried to offer a more holistic, and complicated, approach to the subject. These literatures would be useful for us to get a glimpse of the voices out there. Getting a sense of the voices out there could highlight certain lacking aspects in the approach to terrorism in Indonesia that we try to redress in this article.

First of all, several governments produced official documents on the threat of terrorism, such as the Singaporean and Australian government.[6] The Indonesian police also published their own account of the Bali bombings in a "white book" outlining the impact of bombing to Bali, the early response from the Police as well as their investigation in solving the case, as well as mentioning several future challenges in dealing with terrorism in Indonesia.[7]

That being said, generally speaking, the approach to study of terrorism in Southeast Asia could be categorized into: international terrorism, regional security, and country specific.[8] All of these approaches have contributed their own nuance in understanding conflict and terrorism in Indonesia and the region. The global network, or international terrorism, perspective is perhaps most represented by the work of Gunaratna on Al Qaeda (AQ), in which he dedicated a chapter AQ's Asia network.[9] He then outlined briefly several radical

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[6] Ministry of Home Affairs (2003): *White Paper: The Jemaah Islamiyah Arrests and the Threat of Terrorism,* Singapore, Ministry of Home Affairs; Australian Government (2004): *Transnational Terrorism: The Threat to Australia,* Department of Communications, Information Technology and the Arts.

[7] Muhammad, Farouk and Sulistyo, Hermawan (eds.) (2004): *Buku Butih Bom Bali: Peristiwa dan Pengungkapan,* Jakarta, PTIK Press.

[8] Thayer, Carlyle: "New Terrorism in Southeast Asia," in Kingsbury, Damien (ed.) (2005): *Violence in Between: Conflict and Security in Archipelagic Southeast Asia*, Singapore, Institute of Southeast Asian Studies, p. 53. He mentioned that the "international" school is represented by figures like: Peter Bergin, Rohan Gunaratna, the "regional security" school: Zachary Abuza, Peter Chalk, Maria Ressa, Andrew Tan, while "country specific" school: Greg Barton, Michael Davis, Greg Fealy, Robert Hefner, Paul Nitze, International Crisis Group, and Martin Van Bruinessen.

[9] Gunaratna, Rohan (2002): *Inside Al Qaeda: Global Network of Terror,* New York, Berkley Books, pp. 222-293. A 7 page analysis was dedicated on Indonesia specifically.

groups operating in Indonesia and their "links" to AQ. This work however appears to be more descriptive and too brief to capture the larger picture and did not consider the Indonesian context, while some of the sources he cited also seem to be dubious.

Meanwhile, the regional security approach could be seen for example in the work of Tan[10] or Jones, Smith and Weeding who analyzed the process by which AQ has sought to co-opt essentially localized struggles in Southeast Asia into an evolving network of worldwide Jihad.[11] Moreover, they suggest that the roots of a Southeast Asian terror network can be traced to the Philippines and Indonesia, and that these groups were later combined through the auspices of AQ. This is not a new argument.

For example, the theme of Smith's edited volume seems to center on similar notions that Southeast Asia is vulnerable to international terrorism because of its physical "enabling environment" that fosters the growth of transnational violence, complicated by the common Afghanistan experience that has allowed JI, AQ, and other groups to propagate a pan-Islamic ideology to infiltrate many parts of the region.[12] This kind of view was also reiterated by the works of Abuza.[13]

Nevertheless, there are several edited volumes that might help us paint a bigger picture.[14] This might also lead to more complexities. One of the initial Indonesian literatures for example mentioned various possible variables in explaining the phenomenon, including the involvement of foreign terrorist network, the Indonesian military, or the possible linkages with past militant groups.[15] Others like Bratley, have focused on the complexities in dealing with Southeast Asian terrorism using JI as a case study and analyzed key factors: the strengths of JI's network and operations, Southeast Asia's current operational environment, the complications facing ASEAN, and the challenges of regional governments.[16] All the abovementioned appears to be signaling a "counter-terrorism" approach.

Recent work by Tan however, appears to be moving away from such narrow approach. He argued that "there has been a gradual appreciation that underlying terrorism within the region are fundamental grievances of a political, economic, and social nature that pre-dated Al

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[10] Tan, Andrew: "The New Terrorism: How Southeast Asia Can Counter It," in *September 11 & Political Freedom*, eds. Uwe Johanen, Alan Smith, and James Gomez, 86-113 (Singapore: Select Publishing, 2003)

[11] David Martin Jones, Michael L.R. Smith, and Mark Weeding, "Looking for the Pattern: Al Qaeda in Southeast Asia: The Genealogy of a Terror Network," *Studies in Conflict and Terrorism*, 26 (2003): 443-457

[12] See Paul J. Smith, "Introduction," in *Terrorism and Violence in Southeast Asia: Transnational Challenges to States and Regional Stability* , ed. Paul J. Smith, xii (London: M.E. Sharpe, 2005)

[13] Zachary Abuza, *Crucible of Terror: Militant Islam in Southeast Asia* (Boulder, CO: Lynne Rienner, 2003); Zachary Abuza, *Muslim, Politics, and Violence in Indonesia: An Emerging Jihadist-Islamist Nexus?* NBR Analysis, Vol. 15, No. 3 (September 2004); Zachary Abuza, "Tentacles of Terror: Al Qaeda's Southeast Asian Network," *Contemporary Southeast Asia*, Vol. 24, No. 3 (December 2002): 427-465; Zachary Abuza, "The War On Terrorism in Southeast Asia," *Strategic Asia 2003-2004*: 321-364

[14] See for example Damien Kingsbury, ed. *Violence in Between: Conflict and Security in Archipelagic Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2005); Kumar Ramakhrisna and See Seng Tan, eds. *After Bali: The Threat of Terrorism in Southeast Asia* (Singapore: Institute of Defence and Strategic Studies, 2003); Andrew T.H. Tan, ed. *A Handbook of Terrorism and Insurgency in Southeast Asia* (Cheltenham: Edward Elgar, 2007)

[15] S. Yunanto, et. al. *Gerakan Militan Islam di Indonesia dan di Asia Tenggara* (Jakarta: The RIDEP Institute and Friedrich Ebert Stiftung, 2003)

[16] See Brek Batley, *The Complexities of Dealing with Radical Islam in Southeast Asia: A Case Study of Jemaah Islamiyah* (Canberra: Strategic and Defence Studies Centre, 2003), 2

Qaeda and the events of 9/11."[17] He also offered a different typology of contemporary terrorism and insurgency in Southeast Asia.[18]

Finally, the "country specific" approach that has its own distinct focuses on the subject. Some are focused on Islamic-nuances of the issue (e.g. radical Islam, Islamism, etc.), on Jemaah Islamiyah or Darul Islam itself, on the political landscape, or even on regional conflicts in Indonesia. These are only a freckle of the specific aspects of the Indonesia-centric approach as each of these focuses has their own derivative sub-focus.

Using Islamic nuances and lens to understand and explain terrorism in Indonesia is perhaps the widest approach used. One of the most prominent examples of scholarship on Islam in Southeast Asia, and Indonesia, is perhaps Fealy and Hooker's work.[19] Prominent statesmen like Gus Dur also try to explain Indonesia's Islam in relation to terrorism.[20] Some tried to looks at Southeast Asian Islam, others tried to look at the bigger picture of Islam and politics in Indonesia.[21] Some even looked at the Javanese nuance as it relates to Islam and radicalism.[22]

Others like Turmudi and Sihbudi tried to give a comparative analysis of the radical movements in the Islamic world and Indonesia, while trying to present the general picture of Islamic radicalization in Indonesia as they zeroed in on the Islamic boarding schools (*pesantren*), implementation of Islamic Law, and the effort to establish an Islamic state and caliphate.[23] Jamhari and Jahroni are examples of those that deal with more specific parts, like Salafism and radicalism. They mapped out the broad picture of radical Islamic movements in Indonesia while grounding the analysis on social, historical, religious, and political context. [24] There are also those that focused on the radical Islamic ideologies of JI members and how to

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[17] Andrew T.H. Tan, "Terrorism and Insurgency in Southeast Asia," in *A Handbook of Terrorism and Insurgency in Southeast Asia*, ed. Andrew T.H. Tan, 3 (Cheltenham: Edward Elgar, 2007)
[18] Namely: separatist insurgencies, armed anti-government political opposition groups, radical Islamist groups aiming to overthrow the central government through the use of violent terrorist tactics and to impose a Muslim state run strictly according to Muslim laws, legitimate radical organizations that have known sympathies for radical Islamist ideology.
[19] Greg Fealy and Virginia Hooker, eds. *Voices of Islam in Southeast Asia: A Contemporary Sourcebook* (Singapore: Institute of Southeast Asian Studies, 2006)
[20] See for example Abdurrahman Wahid, *Islamku Islam Anda Islam Kita: Agama Masyarakat Negara Demokrasi* (Jakarta: The Wahid Institute, 2006)
[21] Azyumadri Azra, *Konflik Baru Antar Peradaban: Globalisasi, Radikalisme dan Pluralitas* (Jakarta: Raja Grafindo Persada, 2002); Azyumadri Azra, "Bali and Southeast Asian Islam: Debunking the Myths," in *After Bali: The Threat of Terrorism in Southeast Asia*, eds. Kumar Ramakhrisna and See Seng Tan, 39-58 (Singapore: Institute of Defence and Strategic Studies, 2003); Greg Barton, "Islam, Islamism, and Politics in Indonesia," in *Violence in Between: Conflict and Security in Archipelagic Southeast Asia*, ed. Damien Kingsbury, 75-104 (Singapore: Institute of Southeast Asian Studies, 2005)
[22] Greg Fealy, "Militant Java-based Islamist movements," in *A Handbook of Terrorism and Insurgency in Southeast Asia*, ed., Andrew T.H. Tan, 63-75 (Cheltenham: Edward Elgar, 2007)
[23] Endang Turmudi and Riza Sihbudi, eds. *Islam dan Radikalisme di Indonesia* (Jakarta: LIPI Press, 2005)
[24] Jamhari and Jajang Jahroni, *Gerakan Salafi Radikal di Indonesia* (Jakarta: Raja Grafindo Persada, 2004); Jajang Jahroni, "Gerakan Salafi di Indonesia: Dari Wahhadi sampai Laskar Jihad," in *Gerakan & Pemikiran Islam Indonesia Kontemporer*, eds. Rizal Sukma and Clara Joewono, 113-138 (Jakarta: Centre for Strategic and International Studies, 2006)

counter them.[25] One such work is by Hassan's theological work in rebutting the ideological justifications written by Imam Samudera, the convicted Bali bomber.[26]

Meanwhile, Abuza's recent book sought to "explore how three complex phenomena – the rise of Islam as a social and political force; the collapse of a centralized, authoritarian system of government; and the emergence of a marked upsurge in political violence and then terrorism – are related."[27] He began to give a relatively broader picture than usual as he began to distinct between JI and its related terrorism and other radical Muslim groups. Finally, he remarked that two future scenarios are more likely: rising Islamist influence and continuing violence or increasing Islamist influence but decreasing violence. He highlighted the Islamism however, without fully understanding the true nature of it.[28]

This leads us to the next type of literatures, the views from the radical circles themselves, whether activists or JI members. There are at least two biographies, by Imam Samudera, the convicted Bali bomber, and by the alleged spiritual head of JI, Abu Bakar Ba'asyir.[29] In his book, Ba'asyir explained his teachings on how to uphold Islam, based on his preaching activities while he was in prison. The first chapter was on his biography. Interestingly, at the end, he argued that suicide is wrong and forbidden under Islamic Law, but *istisyhad* (the search for martyrdom) is not and that recent bombing events were such practices, although he regrets that they were conducted in a safe zone.[30] Meanwhile, Imam Samudera's book was largely based on his prison diaries dealing with his childhood and experiences in Afghanistan, as well as his ideological and theological justifications for jihad and the Bali bombings.[31]

The Islamic "activists" have also published several books.[32] Although their overall arguments might seem biased and "conspiratory," some of the facts could be verified. Interestingly, they seem to be pointing to the role of Indonesia's domestic intelligence in "engineering" terrorism, although they eventually blame foreigners conspiring to destroy Islam. Their point that intelligence and military apparatus are trying to regain their political power using "terrorism" is an indication that they are not completely out of touch with the

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[25] Which was argued as one of the critical front in the strategic counter terrorism battle. For argument encouraging counter-ideology, see for example Rohan Gunaratna, "Combating Al Jama'ah Al Islamiyah in Southeast Asia," in *The Ideological War on Terror: Worldwide Strategies for Counter-Terrorism*, eds. Anne Aldis and Graeme P. Herd, 125-126 (London: Routledge, 2007)

[26] See Muhammad Haniff Hassan, *Pray to Kill* (Jakarta: Grafindo, 2006)

[27] Zachary Abuza, *Political Islam and Violence in Indonesia* (London: Routledge, 2007)

[28] For example, he argued that "almost all Islamists, both modernists and traditionalists, are bound by the belief that Indonesia should be governed by Islamic Law." Although he attributed "Islamists" as part of the "radical Islamic groups," his use of the term while adding "modernist and traditionalist" categories indicates his inability to grasp the nature and context of Islam in Indonesia. This is not surprising since he was never an Islamic scholar or an Indonesianist for that matter.

[29] Imam Samudera, *Aku Melawan Teroris* (Solo: Jazera, 2004); Abu Bakar Ba'asyir, *Catatan Dari Penjara: Untuk Mengamalkan dan Menegakkan Dinul Islam* (Depok: Penerbit Mushaf, 2006)

[30] Ba'asyir, *Catatan Dari Penjara,* 281-283.

[31] Several "encouragements," like hacking and perseverance, were later incorporated as well. Rumor has it that intelligence agencies in Indonesia have tried to get rid of the book from major bookstores fearing that it could be used as a "recruitment tool."

[32] See for example Umar Abduh, *Konspirasi Intelijen dan Gerakan Islam Radikal* (Jakarta: Center for Democracy and Social Justice Studies, 2003); Tim Cedsos, *Di Balik Berita Bom Kedutaan Besar Australia dan Skandal Terorisme* (Jakarta: CedSos and KAL-SMID, 2006).

reality of Indonesia today.[33] Thus, some of the facts could serve as bread crumbs leading to a different take on the situation.

After Islamic nuances, the focus on Jemaah Islamiyah (JI), and Darul Islam as its precursor, is the second most written subject relating to terrorism in Indonesia. On Darul Islam, there are several books published pertaining to their history and development.[34] Others have focused more specifically on the thinking and ideology of the leaders and organization.[35] While on JI, some tried to analyze very specific aspects of it, like the role of kinship, the interconnection of the network, or its founding charter.[36] One study on JI's charter, the General Guidelines of the Struggle of Jemmah Islamiyah (PUPJI) tried to explain JI's organizational behavior, principles, and practices aimed at highlighting JI's strategic, religious and tactical instructions.[37]

However, an excellent example of the history and development of the group itself is perhaps the one authored a former JI commander, Nasir Abas.[38] As a former insider, he offered many interesting information, including most of the names of JI members sent to Afghanistan and Philippines. His detailed description of the group is probably only paralleled by Conboy's and ICG reports.[39] Although Conboy's work may not be an academic work – it appears to be descriptive and narrative, the work reveals perhaps the most complete picture of JI as a group, as well as several of its most notorious members along with their activities and links with various actors in Indonesia and Southeast Asia. [40] He analyzed that "extremism in Southeast Asia – and especially Indonesia – may go into remission in the coming years, but it is almost certain to return in the future under different names."

Meanwhile, Barton's work on JI included a detailed account of how the 2002 Bali bombings were solved with the help of various foreign parties.[41] Islamic nuances were also strong in his arguments as it was aimed "to provide a contextualized understanding of Indonesian Islamism in all of its forms, and to offer an objective assessment of the risk Islamist radicalism presents to the social and political stability of the region."[42] This leads us

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[33] See for example, Tim Cedsos, *Di Balik Berita*, 3. For example, their description on the case of Umar al Farouq and his "handler" from the State Intelligence Agency (BIN), Abdul Harris, were confirmed by similar reports made the respectable *Tempo* magazine. See Abduh, *Konspirasi Intelijen*, 33-85.

[34] See for example C. Van Dijk, *Darul Islam: Sebuah Pemberontakan* (Jakarta: Pustaka Utama Grafiti, 1993); Holk H. Dengel, *Darul Islam dan Kartosuwirjo: Langkah Perwujudan Angan-angan yang Gagal* (Jakarta: Pustaka Sinar Harapan, 2005);

[35] See Al Chaidar, *Pemikiran Politik Proklamator Negara Islam Indonesia S.M. Kartosoewirjo: Fakta dan Sejarah Darul Islam* (Jakarta: Darul Falah, 1999); Kholid O. Santosa, *Jejak-Jejak Sang Pejuang Pemberontak: Pemikiran, Gerakan, dan Ekspresi Politik S.M. Kartosuwirjo dan Daud Beureuh* (Bandung: Sega Arsy, 2006). The biggest part of Chaidar's book however was dedicated to appendices consisting of various organizational documents of the movement as well as past media reports.

[36] On the role of kinship, see Noor Huda Ismail, "The Role of Kinship in Indonesia's Jemaah Islamiya," *Terrorism Monitor*, Vol. 4, Issue 11 (June 2006); on the use of social network analysis, see Stuart Koschade, "A Social Network Analysis of Jemaah Islamiyah: The Applications to Counterterrorism and Intelligence," *Studies in Conflict and Terrorism*, 29 (2006): 559-575.

[37] Elena Pavlova, "Jemaah Islamiyah according to PUPJI," in *A Handbook of Terrorism and Insurgency in Southeast Asia*, ed. Andrew T.H. Tan, 76-103 (Cheltenham: Edward Elgar, 2007)

[38] Nasir Abas, *Membongkar Jemaah Islamiyah: Pengakuan Mantan Anggota JI* (Jakarta: Grafindo Khazanah Ilmu, 2005)

[39] Later on he would help the police in their interrogation efforts as well as providing valuable information on the group's network and movement.

[40] Ken Conboy, *The Second Front: Inside Asia's Most Dangerous Network* (Jakarta: Equinox Publishing, 2006)

[41] Greg Barton, *Jemaah Islamiyah: Radical Islamism in Indonesia* (Singapore: Singapore University Press, 2005)

[42] Barton, *Jemaah Islamiyah*, 25

to another view focusing on the political condition in Indonesia as an impediment in the war against terror in Southeast Asia.[43]

Smith argued that Indonesia's "enabling environment" for Jemaah Islamiyah has been a widespread public disbelief about the threat posed and that Megawati's inaction is due to: elite political resistance of being seen to cave to foreign demands, hesitation to act against Islamic groups, and the denial that Islamist extremist represent much of a threat.

That being said, others have tried to respond to Smith's argument by focusing on Indonesia's response. For example, Wise described how Indonesia responded to the threat and how its international partners have assisted the Indonesian government.[44] The book detailed Indonesia's responses, including the laws, security mechanism and institutions erected in the aftermath of the Bali bombing[45], as well as the various financial aids. It concluded by offering short-term, medium-term, and long-term strategy that Indonesia could adopt in their effort to curb terrorism.

Another focus has been on regional conflicts inside Indonesia. There are certainly many works that have been done on it, but seldom relate it to the issue of terrorism. The latest study by Sidel tried to highlight the connection between the two as he takes analyzed the shifting pattern of religious violence in Indonesia: riots in provincial towns and cities (1995-1997), anti-witchcraft campaigns in Java and inter-religious pogroms in Sulawesi and Maluku (1998-2001), and paramilitary mobilization and terrorist bombings under the sign of "jihad" (2000-2005).[46]

The abovementioned "academic" work has also been challenged by those writing investigative journalistic accounts relating to conflict zones as well as the aftermath of the Bali bombing. Dahlby for example traveled throughout Indonesia before and after the bombings and offer some interesting information on the actual conditions on the ground as well as insights from several people he interviewed.[47] Ressa on the other hand, focused more on Southeast Asia, with a strong emphasis on the Philippines and used documents from various intelligence agencies.[48]

The final focus of terrorism in Indonesia looks briefly at the impact of the Bali bombing in terms of democratization and civil liberties. This is where our paper would fit in. Again, the issue of "political freedom" in the war against terror is not new. Jones and Smith for example posit questions on how authoritarianism in Southeast Asia might have impacted on understandings, or lack of them, of an evolving threat and concluded that increased surveillance of the ISD variety is part of the problem not the solution, and the development of

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[43] See for example Anthony L. Smith, "Terrorism and the Political Landscape in Indonesia: The Fragile Post-Bali Consensus," in *Terrorism and Violence in Southeast Asia: Transnational Challenges to States and Regional Stability*, ed. Paul J. Smith, 98-121 (London: M.E. Sharpe, 2005)

[44] William Wise, *Indonesia's War on Terror* (United States-Indonesia Society, 2005), 1

[45] Which interestingly highlight the role of both the military (TNI) and police in terrorism and reaffirmed the military's continued role in internal security.

[46] John T. Sidel, *Riots Pogroms Jihad: Religious Violence in Indonesia* (Singapore: NUS Press, 2007). He claims that his work is based on "the traditions of Southeast Asian scholarship and comparative historical sociology."

[47] See for example Dahlby

[48] Maria A. Ressa, *Seeds of Terror: An Eyewitness Account of Al-Qaeda's Newest Center of Operations in Southeast Asia* (New York: Free Press, 2003). As was the case with many others, she gained many access and interviews and unearth many facts, but took an overall less contextual conclusion. For example, she already mentioned possible military involvement in Banyuwangi killings and Moluccas conflict but did not elaborate more deeply and continue to highlight, if not obsessed, with JI's activity in the Philippines and Indonesia.

mechanisms that enhance community attachments to the state and its democratizing institutions is needed.[49]

The literature written by Indonesians tend to mention briefly the issue of the role of the military and police in the fight against terrorism, and how that should be done without empowering them too much. For example, two books by Abimanyu have mentioned several Indonesian view points on the matter.[50] Indonesian NGOs have also expressed their concern about the "security" approach employed. *Imparsial*, the Indonesian Human Rights Monitor, is among the most outspoken one.[51] One of their main points of contention concerning was the legal measures was largely due to two main reasons: the tendency of political control through military and intelligence organizations, and the concern that civil liberties in the society could be admonished, which would annul the democratization process.[52]

They argued that the abovementioned laws were not able to prevent subsequent terrorist acts. To make matters worse, under pressure, Megawati caved into the demands of intelligence agencies (BIN) and the TNI wanting to strengthen themselves through their involvement in the legal process by exploiting the loopholes in the Anti-Terrorism Law and the proposed Intelligence Law.[53] In addition, the necessity to provide security was in line with the need of the TNI and police to improve their tarnished image, and need to regain their legitimacy at the national stage. In the end, bombings and attacks coupled with issues of disintegration, provides "the TNI and Police to regain their economic access and power, while simultaneously strengthening their bargaining position in front of the political parties."[54]

This might be close to the work of Sebastian and Hafidz which focused on how Indonesia could curb the issue of terrorism without becoming a "national security state" or destroy Indonesia's fragile democracy.[55] Indeed, Hafidz argued that "Indonesia's war on terror could lead to a disruption of its fragile democratic consolidation process, as it would strengthen intelligence and security institutions that the reform movement has been seeking to reduce and to put under civilian control."

Although the paper provides an excellent insight into the domestic internal politics and controversies surrounding the Bali bombing, as well as the condition of the political and military elite, it did not provide a more comprehensive rationale behind her concern, especially the historical or legal arguments. It is these holes that we try to patch. This paper would later try to demonstrate the potential danger of "securitizing" terrorism against the

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[49] David Martin Jones and Mike Lawrence Smith, "Southeast Asia and the War Against Terrorism," in *September 11 & Political Freedom*, eds. Uwe Johanen, Alan Smith, and James Gomez, 142-173. (Singapore: Select Publishing, 2003), 162

[50] Bambang Abimanyu, *Teror Bom Azahari – Noordin* (Jakarta: Penerbit Republika, 2006); Bambang Abimanyu, *Teror Bom di Indonesia* (Jakarta: Grafindo, 2005)

[51] Tim Imparsial, *Catatan HAM 2004: Keamanan Mengalahkan Kebebasan* (Jakarta: Imparsial, 2004); Rusdi Marpaung and Al Araf, eds., *Terorisme: Definisi, Aksi, dan Regulasi* (Jakarta: Imparsial, 2003); Tim Imparsial, *RUU Anti Terorisme: Antara Kebebasan dan Keamanan Rakyat* (Jakarta: Imparsial, 2003)

[52] Tim Imparsial, *Catatan HAM 2004*, 22

[53] *Ibid*, 23

[54] *Ibid*, 78

[55] Leonard C. Sebastian, "The Indonesian Dilemma: How to Participate in the War on Terror Without Becoming a National Security State," in *After Bali: The Threat of Terrorism in Southeast Asia,* eds. Kumar Ramakhrisna and See Seng Tan, 357-382 (Singapore: Institute of Defence and Strategic Studies, 2003); Tatik S. Hafidz, "The War on Terror and the Future of Indonesian Democracy," IDSS Working Paper No. 46 (Singapore: Institute of Defence and Strategic Studies, 2003); Tatik S. Hafidz, "Assessing Indonesia's Vulnerability in the Wake of the American-Led Attack on Iraq," in *After Bali: The Threat of Terrorism in Southeast Asia,* eds. Kumar Ramakhrisna and See Seng Tan, 383-402 (Singapore: Institute of Defence and Strategic Studies, 2003).

process of democratization due to possible manipulations by the security forces through an analysis of the historical, legal, and political context in Indonesia.

2. The 2002 Bali Bombing and its Aftermath: A Brief Overview

Initially no group claimed responsibility for the Bali bombing. However, Osama bin Laden's threat against Australia at the end of 2001 provided a basis for the argument that a radical Islamic group, supported by Al-Qaeda, was the mastermind. Prior to the Bali bombings, western officials and media have dubbed Southeast Asia as the "second front" in the war on terror. This sentiment has been rejected by the Indonesian government.[56] The then Indonesian Defense Minister, Matori Abdul Jalil, later stated that the attack was the work of Al-Qaeda, which was a turning point since this would acknowledge that Indonesia was a safe haven for radical groups.[57]

The investigation of the Bali bombing was headed by Gen. (Pol.) I Made Mangku Pastika which focused on solid (scientific) evidences.[58] Using sophisticated instruments from international assistance, the international team he led could identify the vehicle carrying the bombs, and even the owner.[59] As a result, 30 arrests were made in Java and Kalimantan. Among those arrested, the most noticeable was Amrozi (confessed the motive), Ali Imron (showed how to assemble the one-ton explosives), and Imam Samudra (the leader).

In addition, evidences obtained overseas supported the investigation. Most notably was from the interrogation of Faiz bin Abu Bakar Bafana (imprisoned in Singapore), where it was disclosed that *Jema'ah Islamiyah* (JI) was involved in the 2000 Christmas Eve bombings. He also mentioned that Imam Samudra was involved in other bombings in Jakarta as well. Bafana also disclosed the meetings in Solo in which Abu Bakar Ba'asyir participated in discussions of terror planning[60].

The facts about JI also came to the fore from other sources. Documents found in Solo mentioned that Riduan Isamudin (a.k.a Hambali) was the coordinator of JI's Southeast Asian operation. It also mentioned the organization and procedures within JI, and identifying Abu Bakar Ba'asyir as "*Amir*"[61] and Osama bin Laden as "spiritual leader". Those documents confirmed the confession of some JI activists arrested in Singapore and Malaysia months before 9/11.[62]

Nevertheless, based on the investigations, Gen. Pastika declared on November 28, 2002, that the results had "ceased any doubt pertaining to the existence of JI in Indonesia."

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[56] Smith, 2003: 305.

[57] *Ibid*. 306.

[58] William Liddle once dubbed it as "more radical than Sherlock Holmes's way."

[59] He also tracked that the vehicle had switched hands seven times. T the break in the case (the chassis number of the van) was actually found coincidentally by one of the Indonesian officers. The number was actually behind a modified version of the engine block. The discovery happened when Pastika was praying in a temple. For more detail, see Barton, *Jemaah Islamiyah*, 7-24.

[60] Yet, Bafana's disclosure was difficult to be fully affirmed as he was imprisoned under Internal Security Act (ISA). Under ISA, suspect could be detained without trial, and the confession could be made under duress.

[61] Regarding the position of Ba'asyir in JI, read further "Laporan Utama", *Gatra*, May 8, 2004.

[62] They confessed that JI was planning bombing attacks against some targets in Singapore. Afterward, Singapore and Malaysia declared that the JI network exist in Indonesia. The declaration was "supported" by the fact that Hambali and Ba'asyir were in Indonesia.

Immediately, the International Crisis Group published a report arguing that the followers of Sungkar and Ba'asyir shared same characteristics: loyalty to Pondok Ngruki or its founder; commitment to continue the struggle by Darul Islam who rebelled in 1950s; and aspired to establish an Islamic state by initiating an Islamic community or *jemaah islamiyah*. Most of them were arrested in 1980s.[63] It based on these links between JI and Darul Islam that we enter our discussion on the historical context of terrorism in Indonesia.

3. Historical Cynicism

Most Indonesians today do not completely trust the government's explanation regarding the terrorism in Indonesia, even after the Bali bombing and subsequent bombings.[64] They consider that the issue was propagandized and exaggerated by the government; and the issue was used to force into a corner the Islamic movement which revives in the last decades. Coinciding with the current global issue, war on terrorism, nothing was more accurate than raising the issue of [Islamic] terrorism while checking the Islamic (movement) revival.[65] These sentiments however are largely due to historical cynicism related to the history and development Darul Islam as well as subsequent treatment and response on Islam enshrined during Suharto's time.

A brief mention of the Darul Islam or DI (literally "abode of Islam") seems necessary here. The movement, launched in West Java and led by Sekarmadji Maridjan Kartosuwirjo (a Javanese), was originally a cultural and language resistance initiative by the Sundanese.[66] Filling the post-Independence power-vacuum in West Java at the end of 1940s, Kartosuwirjo and his supporters, the "Indonesian Islamic Soldiers (TII)," proclaimed the "Indonesian Islamic State" (NII). Hence, he openly defied not only the Dutch, but also the nationalist government in Jakarta. Subsequently, DI mushroomed[67] in Aceh, Central Java, and South Sulawesi.[68] The DI struggle however, disintegrated after the arrest of Kartosuwirjo in 1962.

Ironically, the military, which for years pursued the Islamic rebels, subsequently united with the rebels to fight off the Indonesian communists. This was manifested in Ali Murtopo's

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[63] International Crisis Group, "Indonesia Backgrounder: How The Jemaah Islamiyah Terrorist Network Operates," *Asia Report* No. 43 (11 December 2002). "Several attacks" in Indonesia, Malaysia, and the Filipina since 1999 were conducted by loosely organized cells, with varying structures. At the lower structure, most of them were youngsters from the boarding schools chosen, before the attack, to commit dangerous activities, such as surveillance and bomb carrying. At the upper level, field coordinators supplied money and explosives, and chose team leaders consisting of locals. All levels however shared common beliefs and tradition, following the founder, Abdullah Sungkar — founded JI in 1995, died in 1999 — and Abu Bakar Ba'asyir. see also *ICG Indonesia Briefing Paper*, August 8, 2002

[64] The most noticeable were the Bali II, the J.W. Marriot, and the Kuningan bombings.

[65] See for example Anthony L. Smith, "The Politics of Negotiating the Terrorist Problem in Indonesia," *Studies in Conflict and Terrorism*, 28 (2005): 33-44

[66] The Sundanese always felt that they were under the shadows of the ancient Javanese kingdom in the eastern part of Java. To distinguish themselves, they kept distance from the influence of Hindu which had a deep impact on the Javanese. Devotion to Islamic faith is an expression of the Sundanese identity.

[67] Once supported by the American intelligence, CIA, in 1958, through paramilitary aid program. The program was part of the anti-communist campaign in Sumatra and Sulawesi.

[68] Led by Kahar Muzakkar who was initially assigned by Jakarta to mobilize the regional militias. Initially, he did not articulate an Islamic vision, but more a "Sulawesi-centric" vision. He articulated an Islamic vision after a meeting with Kartosuwirjo in 1952 (*ICG Briefing*, August 8, 2002). He himself was Sukarno's bodyguard in 1945. In 1947 he was in dispute with Let.Col. Soeharto, who would later become the Indonesian president.

Special Operations (Opsus) joining forces with the Islamic extremists.[69] In 1965, an Opsus officer, A. Sugiyanto, developed a contact with Danu Mohammad Hasan, a high ranking DI officer from West Java acquitted by the government. Danu would later become the commander of Regional Command III of the Jihad Command[70] covering West Java. Later on, Ali Murtopo assigned Major Pitut Soeharto to handle KJ.[71] As Opsus was would later be dissolved within the newly created State Coordinating Intelligence Agency (Bakin), Pitut would then lead the Opsus Directorate under Bakin's Deputy III controlling the KJ portfolio.[72] In 1974, Danu was promoted to head the Java command, and Haji Ismail Pranoto (a.k.a "Hispran") along Dodo Mohammad Darda bin Kartosuwirjo, became the commander and the chief of staff, respectively.

One could then conclude that KJ and JI converged from the beginning. "KJ" was a description used by the government and media to label former DI fighters who "revived" their activities. The term "KJ" has, ironically, never been used by the fighter themselves. Instead, the term "JI" came out of the prosecution in 1980s, where JI was an organization established by DI members. However, the indictment against JI personage failed to give evidence of JI as an organization with a palpable leadership.[73] The connection between KJ and JI came to light in the trial of Gaos Taufik in Medan.[74] Sungkar and Ba'syir were arrested in 1978 after meeting Hispran.[75]

We should go back briefly to Opsus operations here, as the nature of its operations has traumatized political activists until today and the paranoia of Opsus would later become one of the bases of resisting the use of intelligence report. Opsus' operations in 1970s became the feature of "engineering" methods and "political conditioning" by the intelligence agency in the New Order. Initially, Opsus was an intelligence operation unit under the leadership of the Commander of the Strategic Reserve Command (Pangkostrad), Maj.Gen. Soeharto, and headed by Ali Murtopo, Soeharto's intelligence officer when he was Commander of the

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[69] See further in Ken Conboy, *Intel: Inside Indonesia's Intelligence Service* (Jakarta: Equinox Publishing, 2004), 140

[70] Jihad Command (Komando Jihad or KJ) was founded in 1968 by first generation DI leaders in a meeting headed by Dodo Mohammad Darda bin Kartosuwirjo (Kartosuwirjo's son). The meeting was attended by his father's followers. They aspired to return the DI vision. Under the leadership of Adah Djaelani, a Kartosuwirjo loyalist, KJ divided Indonesia into seven regional commands, along the DI organization. See Conboy, *Intel*, 140.

[71] Pitut was assigned to approach KJ for the purpose of increasing Golongan Karya's vote (President Soeharto's political vehicle). In agreement with the state petroleum company, Pertamina, he granted petroleum distribution rights in Java — previously granted to Opsus — to the KJ leadership. Ibid, 142.

[72] *Ibid.*: 142.

[73] Alfitra Salam, from the Indonesian Institute of Sciences (LIPI), argued (in an interview with *detik.com*, October 30, 2002) that JI was a virtual organization created by the Malays and Singaporean governments. JI was a group for recitation of the Quran in Johor, Kelantan, and Kedah. The organization was "created" by the Mahathir administration to strike a blow against the groups voicing the establishment of an Islamic state and campaigning for the social justice. Anyway, Salam confirmed that Ba'asyir, Sungkar, and Hambali were openly active across Malaysia.

[74] Gaos, a former DI fighter in West Java, was accused as a KJ leader in Medan. After DI capitulated, he and other former fighters moved to Medan. In a meeting in 1975, he appealed to the participants to join JI. The meeting was reported to the state apparatus, and the participants were arrested (*ICG Indonesia Briefing Paper*, August 8, 2002: 6).

[75] The trial disclosed that, after meeting Hispran, Sungkar founded the military government of Indonesian Islamic State (NII) in Central Java and led *Jemaah Mujahidin Anshorullah*. Together with Ba'asyir, they recruited the followers to join JI. Nevertheless, it was not clear how *Jemaah Mujahidin Anshorullah* became JI (*ICG Indonesia Briefing Paper*, August 8, 2002: 7).

Central Javanese Diponegoro Division. The name of Opsus then became institutionalized and became a trademark of any intelligence operations.[76]

Opsus was deeply involved in the Election Control Agency (*Bapilu*) headed by Ali Murtopo himself. The agency took responsibility for the activities and the effort to win Golkar in the 1971 election. Its basic strategy was secularistic as it opposed and refrained Islamic groups from joining the agency.[77] Within Golkar itself — then the Joint Secretariat of Functional Group (Sekber Golkar) —, Opsus intervened in meetings and deliberations, manipulated leadership successions, including thwarting certain group to retain the leadership.[78]

Briefly, based on the above discussion, the background of the so-called "[Islamic] terrorists" can certainly be labeled dubious. Especially we consider that the entire network behind the terrorists, and the mastermind, was never revealed. Meanwhile, history has shown us that the Indonesian government's intelligence agencies were deeply involved in controlling or manipulating radical Islamist for their own interests (elections at that time). Finally, we argue that in order to eliminate the cynicism and skepticism of most Indonesians concerning terrorism in Indonesia, which many have argued as an obstacle in the fight against terror, it is necessary to disclose the history and development of the intelligence operations and its connections with the radical Islamic elements.

4. Terrorism's Legal Limbo

Despite of the abovementioned historical cynicism on the actors behind the Bali bombings, the general public was certainly enraged the public. They demanded that all who were responsible for the attack be brought to justice, and some even went further by demanding a regime change. However, the legal measures taken would remind us of the classic debate between the efforts to establish a security system with the curbing of civil liberties along the way. That being said, most states changed their national policy through the establishment of new legal systems protecting the society, activate organizations or instrument of repressions, or even constant surveillance on people considered linked with the perpetrators.[79] In this section we will attempt to demonstrate through the analysis of the legal context how the anti-terrorism laws are potentially threatening to the reform process and democratization.

Initially, several Indonesians did not consider the increasing bombing attacks since 1998 as a serious matter. Indeed, an anti-terrorism bill had been languishing for months in parliament, held up because of concerns that the measures undermined the human rights. Thus, attempts to produce a new anti-terrorism law, independent from the current law, was always unsuccessful. The Bali tragedy changed all that.

The government, without delay, issued the Perppu and accelerated the signing process. The Bill specifically meant for the Bali bombing was enacted on October 18, 2002. Meanwhile, the Anti-Terrorism Draft Bill submitted to the parliament and held up due to the

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[76] Not only in the military affairs, but also in the domestic and foreign affairs. See for example, "Ali Murtopo Telah Pergi", *Tempo*, May 26, 1984.
[77] Tim Peneliti PPW-LIPI, *Tentara Mendamba Mitra*:…., p. 133.
[78] Masahi Nishihara, 1972: 21.
[79] Munir, 2003: x.

human rights issue was signed and enacted on April 4, 2003. For the Bali bombings, the Perppu employed a retroactive law, which was considered as contravening the civilian rights.

In the Indonesian legal system, the implementation of a retroactive law overrode the Second Amendment of the Constitution of 1945, chapter 28I, which stipulates that nobody could be indicted retroactively. In international law, the implementation of retroactive law is only enabled in extra-ordinary crimes, which is regulated under the Geneva Convention of 1949. Meanwhile, the Rome Statute stipulates that an "extraordinary crime" would be gross human right violations, namely a crime against humanity.[80] The gross violation of human rights was considered as extraordinary because: *first*, the criminal act is systematic, and committed by the authority (as the crime committed by the authority, the trial could be summoned after the fall of the ruler); *second*, the crime is contradictive and deeply harmed the sense of humanity — committed by impairing or disregarding humanity.[81]

That being said, many people insist that terrorism acts are extraordinary. Indeed, the degree of "extraordinary"-ness was one of the bases for issuing the anti-terrorism Perppu as well as the implementation of a retroactive principle.[82] The implementation of such principle was supported by the National Legal Commission (KHN),[83] which argued that terrorism acts are an extraordinary crime because it is very difficult to solve due to its cross-border nature and international network. Regardless of the debate, both Perppu have been issued. Both new legal instruments subscribed the state — by its agencies, legal institution and security apparatus — to act resolutely.

However, chapter 20 of Perppu No. 1/2002 stipulates "… intimidating the investigators… hence the due process is disturbed, guilty of crime…" while chapter 22 stipulates "obstructing the investigation directly or indirectly…" Those two articles have all-inclusive conceptions and multi-interpretative. Such terminologies like: "intimidating", "due process is disturbed" and "indirectly" do not contain a clear-cut interpretation; hence it is difficult to interpret whether or not an act is in violation of the Perppu. As a result, a lot of people are concerned that their activities might be regarded as terror acts. In addition, press broadcasting or news with pungent views on the investigation process, as well as the trial of terrorist acts offending the investigator(s) or the judge(s), could all be qualified as terrorism.[84]

In addition to this ambiguity, another problem was the issue of primary evidence. Chapter 26 article 1 states that "to seize sufficient primary evidence, the investigators could employ every intelligence report." The exposition states that "intelligence report" is the report concerning and relating to national security issues, which could be obtained from the Ministries of Home Affairs, Foreign Affairs, Defense, Finance, as well as from the National Police, National Intelligence Agency (BIN), or any other related agencies.

Moreover, based on "intelligence reports" the suspect could be detained for six months (chapter 25 article 2). Meanwhile, an intelligence report has many classifications, and the

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[80] *Rome Statute*, chapter 7, article 1 stipulates what constitute of the crime against humanity as the systematic and expansive crimes in the form of assination, annihilation, slavery, deportation or forced eviction, imprisonment or deprivation of physical freedom, torture, rape, sexual slavery, forced elimination, apharteid, inhumane conduct.

[81] *Rome Statute*, chapter 7, explanation of article 1 mentions, specifically, the role of the ruler or authority in conducting the crime.

[82] Syafa'at, 2003: 62.

[83] Komisi Hukum Nasional, "Opini: Asas Retroaktif dalam Perpu Pemberantasan Tindak Pidana Terorisme Merupakan Pilihan Tepat" in www.komisihukum.go.id/opinikhn/asas_retroaktif.htm, February 1, 2003.

[84] Amiruddin, *et.al.*, 2003: 86.

Perppu does not explain which report is considered authentic or legitimate to be used. It is not impossible then to conjure the image that a report was engineered or manipulated by the intelligence services. The article also does not define what constitute of "national security."[85] This could be alarming since the notion of "national security" could have the potential to be invoked and abused as an instrument to secure the interests of certain political elites.

Meanwhile, chapter 26 implies the involvement of the intelligence agency, indeed they are "authorized" to do so. The complicity in due process however, could jeopardize the judicial system as the intelligence agency is a part of the judicial system. The due process could be easily interfered in the name of national security by the intelligence agency or the intelligence user, namely the executive branch. Consequently, the judiciary could become a rubber stamp to clear intelligence reports to arrest anybody identified as terrorist, or "disturbing national security." Again, based on chapter 22, "terrorist" could be a "nuisance," or one who disturbs the interest of the party defining the notion of "national security."

Unfortunately, the attempt to cope with terrorism in Indonesia does not, in parallel, strengthen other supporting legal instruments. For instance, regarding the bombings, policy and legal measures should be aimed at regulating the possession and utilization of explosives, determining which party is accountable for the explosion based on the materials used. In Indonesia, this would be a significant point of departure since the military are not the only ones using explosives, civilians such as fishermen or the mining industry also uses explosives.

Last but not least, the government and parliament should have been more thorough in their deliberations regarding bombing threats. For example, one argument states that the Perppu was drafted and implemented because no existing legal instruments could solve the problem. This is not true. Bombing attacks have taken place before the Bali tragedy of 2002. To investigate and prosecute these past cases, officials had used the Book of Criminal Code (KUHP) and the Book of the Criminal Procedural Code (KUHAP). Thus, there is no "absence" of legal bases.

Based from the abovementioned analysis of the potential loopholes, and the fact that some arguments promoting the laws due to "legal absence" are unfounded, it is hard not to conclude that there is no ulterior motive in pushing forward such draconian laws. This is especially more the case when we consider that BIN, through its Chief, Hendropriyono at that time, asked to be given more authority, including arresting suspected terrorists. These are dangerous indications that could potentially dwarf the reform process trying to bring the intelligence and military under control. Fortunately, the public agrees. From 951 respondents polled by Tempo, 57.6% rejected the idea that BIN could arrest people.[86]

5. Indonesian Politics Does Matter

In line with common beliefs, we do agree that Indonesian politics matter a great deal in the fight against terror. However, unlike those beliefs, we argue instead that the political obstacle in terms of public skepticism is not simply due to "conspiracy theories" aimed at destroying Islam out of spite. We believe that public skepticism toward the issue of terrorism was based

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[85] *Ibid.*: 88-91.
[86] "Intel Bukan Tukang Tangkap," *Tempo Online*, http://www.tempo.co.id/harian/hasil-poll/hsl-indikator-14032003.html (accessed on 12 September 2007)

on the suspicion that government's subsequent actions against the terrorists were based on ulterior motive(s), as we have seen in previous sections.

Additionally, the political context should also go beyond explaining government inaction in terms of fear of political backlash, but also incorporate issues like the "political comeback" or the empowerment of the authority challenged by the reform movement. To put it another way, as other exploitable "issues of concern" fades away (e.g. national unity, communism), it became necessary for the security elite to raise other issues (i.e. terrorism) to legitimize their domineering role.[87] The following analysis would try to locate bombing attacks within the Indonesian political context.

Bombing attacks are not "new" in Indonesian politics. During the Suharto era however, the terror attack seldom took place.[88] The attacks usually occurred in certain political moments, where one could assume that the perpetrators had an interest in that moment, or someone's interests were bothered.[89] That being said, bombing attacks increased after Soeharto's fall (May 1998), especially in 2001: from January until July, 81 incidents were recorded, 29 of them were cited in Jakarta and the rest occurred in other areas (excluding Aceh and Papua). The number of incidents increased annually (see table "Bombing Incidents, 1976-200).

Bombing Incidents, 1976-2000

Year	Cases
1976	1
1978	1
1984	2
1985	2
1986	1
1991	2
1994	2
1996	2
1997	1

[87] To give an illustration, according to a 2006 poll, 54% of 459 respondents from six major cities believe the terror acts in Poso are caused by "elite engineering," while only 22% put religious conflict as a source. Litbang Media Group, "Poso Bukan Konflik antar Agama," *Survei Litbang Media Group* (Jakarta, November 2006) available at http://www.mediaindo.co.id/mhi/default.asp?file=poso.html

[88] For further information regarding the bombing attacks see "Teror Bom di Indonesia (Beberapa di Luar Negeri) dari Waktu ke Waktu". *Tempointeraktif* (April 17, 2004) http://www.tempointeraktif.com /hg/timeline/2004/04/17/tml,20040417-01,id.html, accessed on September 19, 2007.

[89] Munir & al Makarim 2003: 37.

1998	6
1999	7
2000	32
2001	81
2002	4
TOTAL	142

Source: Open Letter from *Peaceful Indonesia Forum* (FID) no. 01/St-TPF/fid/2001; as quoted in Munir & al Makarim (2003: 37)

Before the 2002 Bali tragedy, several bombing incidents have occurred during the preceding three years, with several high-profile cases, the Jakarta Stock Exchange (BEJ) bombing of September 13, 2000, and the Christmas Eve bombings of December 24, 2000. The Christmas Eve bombings were phenomenal because it took place simultaneously in 10 cities, in more or less 38 different locations across Indonesia, including Jakarta, with churches mostly being the target.

An initial report by ICG (10 October 2001) mentioned that the Christmas Eve bombings were committed by supporters of the Aceh independence (later reports would seem to deny this). One of the suspects arrested for assembling the bomb sent to churches in North Sumatra and Riau, admitted that the explosives used were financed by the Free Aceh Movement (GAM). He was paid IDR 28 million to assemble and distribute the explosives.[90] Following the arrests of other suspects, several names came up: Amrozi, Abdul Aziz alias Imam Samudera, and Muchlas. Samudera admitted that the bombing was his work. However, *Tempo* connected the bombing to military intelligence as they tracked several phone numbers repeatedly contacted by the suspected bombers. In Medan, the suspects frequently contacted the military, which was later denied by the local Military Regional Command (*Bukit Barisan*). Meanwhile, in Bandung, in the pocket of one of the suspects killed, Akim Hakimudin, a phone-number of a Major General in Jakarta was unearthed.[91]

The BEJ attack meanwhile also showed that the perpetrators were professionals. Level P2 of the building was opened to any visitors which made the vehicles difficult to identify, including the one carrying the explosives. The timing of the explosion (3.30 pm) was set just before the market closes, which would put the stockbrokers busy calculating on buying or selling. Within 10 days, the police arrested the suspected perpetrators. The first one was Iwan Setiawan, who gave up other names: Tengku Ismuhadi Jafar, Ibrahim Hasan (last rank was 2nd Corporal in the Army, former member of the Strategic Reserve Command or Kostrad), Irwan Ibrahim bin Ilyas (last rank was 2nd Sergeant in the Army Special Forces or Kopassus), Ibrahim Abdul Manaf Wahab (last rank was Sergeant 1st Class in the Army, former Kostrad).

Based on the BEJ explosion, the Head of Chemical and Biological Forensics at the Indonesian National Police Headquarters, Superintendent Marsudi, pointed out that the explosives used had a basic ingredient of cyclotrimethylenetrinitramine or RDX, and the type

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[90] Munir & al Makarim 2003: 5.
[91] Sepriyossa, 2003: 42.

was either C3 or C4.[92] Considering the materials used, the assembly of the bomb would require special expertise. These later formed the underlying accusations of military involvement in the bombings. As the investigation of these bombings was progressing, the Bali bombings happened.

The Bali bombing resulted in the enactment of the laws considered as in the contravention of civil liberties. The then Coordinating Minister for Political and Security Affairs, Susilo Bambang Yudhoyono, asserted that the laws "does not endanger the democratization process or pro-democracy movements in Indonesia," which was meant to refute public concerns about the return of intelligence dominance (and the military) in Indonesian politics.[93] Interestingly, later on in 2003, he admitted that the revision of Law No. 15/2003 on Combating Criminal Acts of Terrorism was meant to provide a bigger role for the Indonesian Armed Forces (TNI).[94]

Historically, one of the characteristics of military strategy in Indonesia to legitimize its authority in the political and economic political realms is by means of "legal cavity." During the Old Order when the state of emergency was declared, the military (the Army specifically) intervened extensively in the political[95] and economic[96] realms. Subsequently, during the New Order, they took charge of all political life, and the implementation of the Subversion Act became one of the instruments of repression used by the military and intelligence services.[97]

Looking at all of this, certainly one could not be blamed for the concern that the new Anti-Terrorism regulation could be used to bring back the dominant role of the military and intelligence, or for that matter, other repressive power(s). In addition, the "war on terror" conducted by the Americans at the global level has allowed to some degree the empowerment

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[92] TNT, RDX, PETN, and C4 are military explosives, and could only be, legally, used by the military. See further in "Paketan Bom di Indonesia". In *tempointeraktif* (http://www.tempointeraktif.com/hg/narasi/2004/04/17/nas,20040417-03,id.html) Saturday, April 17, 2004. Accessed on September 19, 2007 at 7.30 pm.

[93] It is difficult to clearly distinguish between the military and the intelligence. In Indonesia, the backbone of the intelligence services has a military background. See further in Rabasa & Haseman (2002: 31-34).

[94] "Revisi UU Terorisme Akan Beri Perna Lebih Kepada TNI," *Kompas*, 10 September 2003

[95] They were officially involved after President Soekarno established the National Council on May 6, 1957. The Council was meant to assist the cabinet to implement the governmental programs, but it was actually to transfer the role of the political parties. As the parties were indirectly represented through "functional groups" consisted of youth, peasants, workers, women, intelellectuals, etc., the real power lied at the hand of Council's chairman and vice-chairman, Soekarno and Roeslan Abdulgani. Political parties were paralyzed (except the Indonesian Communist Party). Later on, the Army developed the idea of functional groups and proposed the re-implementation of the Constitution of 1945 (see further in Nasution, *Aspirasi Pemerintahan Konstitusional di Indonesia: Studi Sosiolegal atas Konstituante 1956-1959* (Jakarta: Grafiti, 1995).

[96] After the nationalization of Dutch corporations by the end of the 1950s, Army officers were mandated to manage plantations, mining, and financial sectors. The role of the military became wider as the military was assigned to oversee the British (1964) and the American (1965) corporations. See Danang Widyoko, *et.al.* (2003) *Bisnis Militer Mencari Legitimasi*, Jakarta: ICW.

[97] Originated from the clash between the Indonesian Communist Party (PKI) and the Army since 1950s, and climaxed in PKI's failed coup of September 30, 1965 (as the official history goes). On the following day, on Soekarno's order, Soeharto took personal command of the army, on condition that Soeharto himself had full authority to restore order and security. This authority was later institutionalized on November 1 with the creation of Operational Command for Restoration of Security and Order (Kopkamtib) (Ricklefs 2001: 346). In the process, the authority was expanded, including silencing the opposition (considered as subversion). The law concerning the subversion itself, the Anti-Subversion Act (UU no. 11/PNPS/1963), was inherited from the era of Dutch colonialism. Other regulations include the penal code referring to defamation of the president.

of the agency capable of confronting the terrorists, in this case, the military and the intelligence service.[98]

We have to bear in mind that during a transitional period in Indonesia, the problems during the New Order would become public. These include the role of the military in politics, military businesses, and graft cases (by the civilian and the military). The opening of these cases could be considered as a "disturbance" by the parties once involved in the New Order regime. Here, the Perppu could be implemented to safeguard the economic interest of the military or the civilian elite, particularly by defining the "threat" dubiously, and based on an intelligence report.

Imparsial for example found that in West Java several farmer unions in Cianjur and Garut involved in a conflict with the Forestry Department was threatened with the anti-terrorism laws.[99] Thus, the anxiety is not mere paranoia. It could be showcased by the fact that questioning the military businesses was considered as prejudiced against the military, the official line always argues the importance of such businesses for soldier's welfare.

Moreover, the possibility of "engineering" an intelligence report could mean that the apparatus could take action based on the perceived (or engineered) threat; or on the contrary, no action is needed as the threat is [considered] non-existent.[100] Marshal (Air Force) Hanafie Asnan, the appointed Head of the Strategic Intelligence Agency (BAIS), was quoted in early 2001, as saying that the intelligence system was weak, but he questioned whether the bombings were a result of such weakness or due to the involvement of intelligence personnel themselves. That being said, the action of intelligence units across Indonesia has proven to be lacking in control.[101]

In addition, the argument that the bombings were a result of "weak intelligence" could be questioned as the backbone of the intelligence agency is the Army. They on the other hand, have a vast network across Indonesia in the form of territorial commands (*koter*) as the implementation of the Armed Forces territorial doctrine.[102] This was designed to mobilize the people and to support guerilla operations and internal security. All of the command level has an intelligence function. The level above *Koramil* has an intelligence staff providing operational data, and is reported nationally to the Strategic Intelligence Agency (BAIS), and later to TNI Headquarters.

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[98] U.S. Congress had withheld the aid programs in the International Military Education and Training (IMET) in State Authorization Bill fiscal year 2004. But other aid and cooperation, in the forms of the counter-terrorism training and officers visit, were permitted. See Bara Hasibuan (2003) "Lagi-lagi soal IMET", *Kompas*, August 4, 2003).

[99] Tim Imparsial, *RUU Anti Terorisme,* 13-14. Other cases included threats made to activists from the Friends of the Earth (walhi) in North Sumatera involving the a pulp company. In fact in Blitar, farmer unions in the midst of conflicts with local companies and the Forestry Department, were given an education session on terrorism because according to the intelligence officer, their organization has been hijacked by political parties, just like in the communist days. Thus, their activity could be considered as acts of terrorism.

[100] This "culture of omission" has been showcased in the case of the sending of Laskar Jihad to the Molluca Islands during the sectarian conflict in the early 2000s, and previously, during the riot in, May 1998, that the apparatus failed to respond to the increasing tension in the capital of Jakarta.

[101] ICG Asia Report no. 24, October 11, 2001.

[102] the Non-Commissioned Officers (*Bintara Pembina Desa* or *Babinsa)* at the village level; above them is the Sub-District Military Command (*Komando Rayon Militer* or *Koramil)*, then the District Military Command (*Komando Distrik Militer* or *Kodim)* at the regent or municipal level; followed by the Sub-Regional Military Command (*Komando Resor Militer* or *Korem)* consisting of several *Kodim*, and at the provincial level is Regional Military Command (*Komando Daerah Militer* or *Kodam*).

During the Suharto years, the military intelligence was part of his power structure. Today, BAIS is organized into seven directorates and does not have an operational role.[103] Its function is to collect and to analyze information. The domestic sources of BAIS are independent units, collecting information on the field and reports directly to BAIS headquarters. The intelligence unit is a part of the territorial command structure. All reports are collected at the top of the military hierarchy, the Pangab. The report could be passed to the President at his discretion.

Unlike BAIS which reports to Pangab, the Head of State Intelligence Agency (BIN) reports directly to the President (in addition to the Chief of National Police). Theoretically, the President could forward BIN reports to the Department of Defense. BIN however conducts intelligence operations (with the support of TNI personnel), and collects and analyzes data. The Head of BIN, consequently, is the primary adviser to the President for intelligence matters. This agency has its own domestic and international networks, which collect and report political, economic, social, cultural, ideological, security, and defense matters, including, without a doubt, international and domestic terrorism, and subversion.

So far, there is no direct link between BAIS and BIN, though the intelligence officers meet periodically at the staff level and maintain an informal individual contact.[104] The TNI apparatus — the backbone of the intelligence network — which has a vast network down the village level has raised the suspicion of the "failure" of Indonesian intelligence in detecting the violence and identifying its sources. Hence one could argue that the intelligence agency (or the military) has its own agenda.

6. The *Leitmotif*

The post-Sohearto era was characterized by bombing attacks, ethnic conflict, violent demonstrations, and other form of societal breakdown, especially among the political elites. The following section offers an analysis of the environment and rationale of the military amidst the chaos, which would serve as a round-up of the abovementioned historical, legal, and political context.

It could be said that since the fall of Abdurrahman Wahid, there were two competing civilian factions: Nationalist and the Religious. The former was represented by Megawati's group and the latter by her VP, Hamzah Haz.[105] Megawati's presidency, who tried to soften the conflictual and erratic natures of Wahid's presidency, was characterized by the representativeness of the dominant streams in Indonesian politics, the Nationalist and the Religious, or widely known as "*Abangan*" and "Islamist". Both had different agendas and tried to win friends from like-minded individuals/groups in society in the run up to the 2004 elections.[106]

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[103] Internal Affairs (A), Foreign Affairs (B), Defense (C), Security (D), Psychological Operations (E), Budgeting and Administration (F), and Intelligence Outcome (G), which prepares reports for the Head of the Armed Forces (*Pangab*).

[104] Rabasa & Haseman, 2002: 33.

[105] Kontras (2003) "Analisis Kasus …". In Marpaung & Al Araf (eds.) *Terorisme: Definisi, Aksi, dan Regulasi*, pp. 38-42.

[106] *Ibid*.

In this context, the military entered the picture. As the issue of past abuses surfaced, and the position of the military in politics being questioned, the best option for them was to lay low. The military could capitalize on the fact that as those factions were trying to strengthen themselves, the military could consolidate, as they hold the key to stabilize the country. In this regard, Megawati looked toward the military to keep the integrity of the nation. Meanwhile Haz wooed the Islamist by, on one case, showing sympathy toward the jailed Laskar Jihad leader, Ja'far Umar Thalib.

This logic was taken a step further by Aditjondro as he argued that the chaos was a reflection of the following centralistic and comprehensive military agendas.[107] First, the empowerment of the administration by expanding the grip on the archipelago, that is by maintaining the "territorial structure" by the necessity of re-establishing the revoked military commands.[108] In other words, "to legitimize the fire department, set the fire!" Moreover, the territorial structure grows in parallel with the government, "state within state," which order came from above (the capital) down to the villages.[109]

Second, empowering the political power by a "divide-and-rule" among the oppositions. Although dual-function theoretically has been dismantled, it continues to use religious matters among the students or reformists. To counter the call for the liquidation of the dual function, the military established the Self-Help Security Unit (*Pam Swakarsa*). The logic behind it was that it shifted the clash between the students and the government (and the military) into the students against the masses, which had Islamic fervor (including Islamic students).[110] The clashes between the two masses then took place in some corner of Jakarta.

Third, repairing the broken network on the equator line, where the loss of Christian East Timor has weakened the Indonesian security chain. In the future, Christians in Mollucas could complicate the situation. For this reason, the Islamic militants were sent to strengthen the republic southeast wing against separatism or Austro-Western sympathy. Fourth, enlarging the military business by infusing assets into unaccountable foundations and conglomerates benefiting the officers and by opening small businesses for soldiers. This view was supported by McCulloch who argued that TNI's primary consideration is its own enrichment.[111]

Fifth, employing distraction to evade ongoing investigations. In other words, the riots were "permitted" to take place in the Mollucas whenever former President Soeharto was being questioned or when Gen. Wiranto was being interrogated for human rights violations in East Timor. In general, any attempt to bring the generals to appear in the court had been evaded by any means. This is why. many Investigating Commissions for the Violation (KPP) of Human Rights (HAM) established by the National Commission for Human Rights

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[107] Friend 2003: 484.

[108] Benny Moerdani as Joint Chief of Staff (Pangab) liquidated and merged some *Kodam*, and only 10 left in 1985. Later on, Wiranto implemented the 1999 restructuring and re-established the *Kodam* up to 17. See further in Kingsbury (2003: 80-85).

[109] *Ibid.*: 85.

[110] Pam Swakarsa consisted of the Moslem organizations, among others *GPI*, *Furkon*, *Brigade Hizbullah*, *KISDI*, *Liga Muslim Bandung*, *Remaja Mesjid Al-Furqon* Bekasi, *Banser & GP Anshor* (later were pulled out by the *kyai*,) *Mahasiswa Islam Bandung* (see Tim Peneliti Yayasan Insan Politika (1999: 186)).

[111] Quoted by Kingsbury (2003: 188).

(Komnas HAM)[112], failed to accomplish their mission. In this regard, any existing threat seemed to be useful to distract the public about the important issue of human rights.

That being said, the Bali tragedy appears to have brought about to the public and politicians a sense of awareness that a terror network does exist in Indonesia. There was a general sentiment among the public about the deployment of security apparatus across the country to diminish the fragility from the terrorist attack. Meanwhile, the military appears to be the only institution capable to safeguarding the country, in addition to its proven intelligence personnel. Thus, immediately after Bali, the government instructed the military leaders to act: thousands of military personnel were deployed to guard strategic locations (e.g. mining, electricity, and telecommunication installations) as well as public places.

In the end, the war on terror has brought back the Indonesian military to the political stage, along with the endorsement by certain circles to carry out measures considered as infringing on civilian rights. This has certainly threatened the political (and military) reform process and obstructs the progress toward full democracy. Although at first glance, involving the military in the fight against terrorism seemed effective.[113] This showcased an image that the military was more prepared.

Civilian was not the only one who "changed their mind" about the role of the military. Other countries which in the past were against military involvement in politics have also begun to rethink their approach. Australia, which lost the most lives in the Bali tragedy, through their]Defense Minister, Robert Hill, stated that the Special Forces must be involved in the war against terrorism as it is the most effective unit.[114] Thus, this move has given a green light for the Americans to do the same.[115] This possibility is not an illusion. Before Bali, in the visit to Jakarta, the U.S. Secretary of State, Colin Powell, stated his hope that the TNI could play an active role in the war against terrorism.[116] This was reiterated by Principal Deputy Assistant Secretary of State for East Asia and Pacific Affairs Donald Keyser in a testimony before the Senate Foreign Relations Committee in 2004, to continue training and expand the Indonesian National Police's Counter-terrorism Task Force.[117]

Unfortunately this meant that the aid could give the military political legitimacy, whose past misdeeds, mostly, have not been brought to justice. Furthermore, it is a fact that in the [military] budgeting process in Indonesia, only 25% of the budget comes from the state, the rest is funded by the legal as well as illegal military business. There is an opportunity, then, as the (foreign) military aid is received, that the other funds would be funneled to other posts.[118]

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[112] KPP HAM Timor Timur, KPP HAM Abepura, Papua, KP2 HAM Maluku, KP3T HAM Tanjung Priok, KPP HAM Sampit, KPP HAM Trisakti and Semanggi I & II, see Lay, Cornelius, and Pratikno (2002) *Komnas HAM 1998-2001, Pergulatan dalam Transisi Politik*, Fisipol UGM, the Asia Foundation, & USAID.

[113] Immediately, they claimed to have identified the bombers, while the police had severe difficulties to investigate the case, as was seen from Pastika's team

[114] The formal contact between Kopassus and their Australian partner, in joint trainings were suspended in the mid-1990s as Kopassus was implicated in human rights violations in Indonesia. See also Wilkinson, 2002.

[115] *Ibid*.

[116] He pledged $31 million to train police, $16 million to build a counterterrorism unit, and $4 million for army counterterrorism training for Indonesia over several years. "Indonesia Gets U.S. Aid Against Terror," *BBC News*, August 2, 2002. *BBC News*, (http://news.bbc.co.uk/2/hi/asia-pacifc/2778923.stm) accessed on September 21, 2007.

[117]"Fighting Terrorism Top U.S. Goal," State Department Press Release, March 2, 2004.

[118] "Bantuan Militer AS: Untuk Apa?" *Kompas*, August 15, 2002, p. 8.

Concluding Remarks

The historical analysis of the situation surrounding the Bali bombing showcased that the roots of terrorism is not clear yet, whether they are connected with the state [apparatus] or not. The clarification here is a necessity since terrorism has the potential to be used as an instrument to return to the political stage. Since the history is not clear, any measure to suppress terrorism needs to be scrutinized. Especially if the measures have the potential to be used as an instrument to suppress, not only the terrorists, but also the civil society whose views differ from the state apparatus. Terrorism could be crushed by legal means, without overstepping the civil liberties.

In the end, an analysis of Indonesia's historical, legal, and political context – and the interconnection in the leitmotif – have shown us that we need to seriously rethink not only our understanding of the problem of terrorism, but also our expectations and solutions to cope with it. As a final word, as terrorism, and the measures to cope with it, takes place in Indonesia which is undergoing a transitional process from authoritarianism to democracy, it is important for the people, especially those who care about the future of Indonesia, to escort the country out of the current crisis, thwarting any individual or group aspiring to sabotage the reform process as they bury and darken their past sins.