

## Response to State Department “Memorandum of Justification” for Waiving Congressional Conditions on Military Assistance to Indonesia

The administration chose to restart multiple military programs for Indonesia in 2005. In February, the Secretary of State resumed full International Military Education and Training (IMET) for Indonesia for the first time since 1992. In May, the administration resumed non-lethal Foreign Military Sales. Extensive counter-terrorism programs, in place for several years, continue to expand. The U.S. government has provided tens of millions of dollars for the Indonesian police, and the military is the world's largest recipient of the Pentagon's Regional Defense Counterterrorism Fellowship Program.

In November 2005, only two days after the FY 2006 Foreign Operations, Export Financing, and Related Programs Appropriations Act became law, the State Department waived conditions restricting Foreign Military Financing (FMF) and defense exports to Indonesia (Sec. 599F). Military assistance is now available without Congressional restrictions for that country for the first time in more than a decade. The State Department exercised the waiver on so-called national security grounds. The law's conditions – pertaining to justice for gross human rights violations and military reform – had not been met.

The Congressional conditions provided strong leverage to press for real change to Indonesia's culture of impunity and military insubordination to the civilian government. But the administration chose to abandon them.

The East Timor and Indonesia *Action Network* (ETAN) strongly believes that respect for human rights, justice for crimes against humanity, and a truly reformed Indonesian military are in the national security interest of the United States. The State Department provided a two and one-half page memorandum of justification explaining its position and utilization of the waiver. The memorandum is fraught with misleading and incomplete information. Below is ETAN's analysis:

Excerpts from Memorandum of Justification	ETAN Responds
<p><i>“The U.S. and Indonesia face immediate challenges to our mutual security interests in the region, including terrorism, potential threats to strategic sea lanes...and the omnipresent potential for natural disasters”</i></p>	<p>ACCORDING to Indonesian law, lead responsibility for addressing terrorism is assigned to the police, not the military. This is because Indonesia's terrorism threat comprises small cell operations requiring investigatory work for which tactical police units are best suited. Further, in recent years the Indonesian military has had demonstrable ties to various jihadist militia which have been used to terrorize civilians, thus making the military an unreliable partner in the “war on terror.”</p> <p>Congress had already addressed the potential threats to strategic sea lanes by allowing FMF for the Indonesian navy notwithstanding other restrictions. FMF for the Indonesian navy was legislated in 2005 and renewed in 2006.</p> <p>The December 2004 tsunami, the largest natural disaster in Indonesia's history, led to unprecedented cooperation between U.S. and Indonesian militaries. This cooperation occurred while restrictions on military relations between the two countries were in place and had no negative impact on the two militaries' ability to work together.</p>
<p><i>"As a matter of policy, the quality and quantity of our assistance will continue to be guided by progress on democratic reform and accountability, and carefully calibrated to promote these outcomes."</i></p>	<p>BUT specific "calibrated" benchmarks against which such "progress" is to be measured are not suggested in the memo, and State Department officials have indicated that no such benchmarks had been prepared, nor were any envisioned. The Congressional conditions that were waived did provide benchmarks.</p>

<p><i>"Carefully targeted U.S. assistance to specific, vetted military units would provide the incentives and necessary resources for assisting further reform and strengthening civilian control of the military."</i></p>	<p>PROMISES of "vetting" from the State Department are hardly reassuring. A July 2005 GAO report "Found no evidence that U.S. officials vetted an estimated 6,900 foreign security trainees (about 4,000 Indonesians) trained by Justice with State law enforcement assistance between fiscal years 2001 through 2004." While the State Department reportedly implemented new guidelines for vetting in February 2005, the apparent centerpiece of improved vetting, a human rights database called the Abuse Case Evaluation System (ACES), is in its infant stages and cannot yet provide sufficient means for monitoring by itself. Moreover, Indonesian forces used aircraft and other U.S.-provided weaponry in campaigns against civilian populations in East Timor, West Papua and elsewhere, which cost scores of thousands of lives. Prospects for end-use monitoring of future U.S.-supplied weaponry remain unclear.</p>
<p><i>"U.S. military assistance to Indonesia brings with it exposure to U.S. values, including military professionalism, respect for human rights and transparent business dealings."</i></p>	<p>"EXPOSURE to U.S. values" clearly had no discernable redemptive impact during the decades of close ties between the Indonesian and U.S. militaries -- until Congress imposed the first aid restrictions in 1993. Throughout this period, the Indonesian military committed massive violations of human rights. Many of those directly responsible for these abuses were trained in the United States. It was during this period of close association that the Indonesian military developed a vast empire of legal and illegal businesses, including drug and people trafficking, illegal logging, and extortion targeting domestic and foreign businesses. The government still only provides 25% to 30% of the military's funding.</p>
<p><i>"Other potential military suppliers have no such scruples, and it would be counter to U.S. interests for Indonesia to develop close military relationships with these other regional players."</i></p>	<p>THE "potential military suppliers" presumably are China and/or Russia. This argument has been tossed around and regurgitated for years by various U.S. administrations. Like its counterparts in ASEAN, Indonesia has a western orientation that seeks to be integrated into NATO and American weapons systems. While Indonesia may buy some equipment from other sources, its military is based on U.S. systems. Thus, it would be counter-productive for Indonesia to re-orient itself with Chinese or Russian weapons systems. Moreover, Indonesia for decades has been "anti-Communist," and this view remains strong within Indonesia's security forces and civilian government. Finally, Australia -- not China or Russia -- is providing the most extensive training to Indonesia's armed forces, including plans to resume training its most notorious elite Special Forces, Kopassus.</p>
<p><i>"Since the International Military Education and Training (IMET) program was restored in February 2005, the military has worked with the government to"--</i></p> <p><i>"transfer and make more transparent its business interests,"</i></p>	<p>REGULATIONS to implement a 2004 law outlawing such business interests by 2009 have not been issued, nor are there timetables or benchmarks for full implementation. Moreover, in the very limited action taken so far, the military has used a narrow definition of what constitutes a military business. Military cooperatives, which account for a significant component of the military's economic activity, do not appear to be covered by the law. Furthermore, there are concerns that those businesses subject to transfer to civilian control are being stripped of their most valuable assets and will end up little more than empty shells.</p>
<p><i>"the government has drafted a Defense and Security Bill that brings Armed Forces and Police more clearly under civilian control and advances the development of Indonesia's democratic institutions,"</i></p>	<p>THIS pending legislation is a mixed bag. By dealing with the military and police in one bill and possibly putting them under the same ministry, this bill could potentially blur the lines between the recently separated security forces. Moreover, the civilian defense minister still lacks the authority to fire military officers.</p>

<p><i>"the military and police have continued their good cooperation with the FBI in the Timika murder investigation to include deployments to Papua in August and October;"</i></p>	<p>THE conditions restricting FMF and lethal exports for Indonesia which Secretary Rice waived have absolutely nothing to do with the Timika case. Indeed, the Bush administration's invocation of developments in the Timika case to explain the waiver's utilization disingenuously conflates two unrelated matters.</p>
<p><i>"and Indonesia negotiated, concluded and is now implementing on schedule an historic peace agreement in Aceh."</i></p>	<p>THE peace agreement in Aceh does not negate accountability, civilian control, and human rights conditions legislated by Congress. While cautious optimism is merited, international pressure must be maintained, not eased, to ensure the military's compliance with the peace process, which is still in its early stages.</p>
<p><i>"We believe that other immediate and longer-term objectives, such as...a more consistent rule of law, accountability for atrocities committed in East Timor; and implementation of special autonomy in Papua could also be furthered through the closer relationship engendered by normalization of military relations and enhanced security assistance."</i></p>	<p>NO institution has done more to thwart special autonomy and peaceful negotiations in West Papua than the military. It is ludicrous to attempt to justify the waiver on these grounds. Further, the Congressional conditions waived were specifically designed to leverage justice for East Timor and application of rule of law in Indonesia. The State Department has squandered that leverage without seeing any real progress toward ending impunity.</p>
<p><i>The memorandum also cites areas of "considerable progress" in military reform, including the following --</i> <i>"The police have been separated from the military;"</i></p>	<p>THIS reform was instituted over six years ago and may be jeopardized by a new defense bill which would subordinate the military and police together under the command of the Coordinating Minister for Social and Political Affairs.</p>
<p><i>"The security forces have lost their reserved seats in the legislature;"</i></p>	<p>THE security forces have never relied on the legislature to exert their undemocratic power and influence. Rather, security forces have exerted such power through the executive branch at all levels. The military retains its key power structure under its largely intact territorial command structure. Under the territorial command, the army maintains 11 regional military commands, dozens of military resort (subregional) commands, hundreds of district commands and thousands of military subdistrict commands, as well as many noncommissioned officers stationed at villages nationwide. The new armed forces commander publicly supports retention of the territorial command concept. Moreover, the Indonesian military is finding new ways to exert power locally, where the money is flowing with decentralization.</p>
<p><i>"The practice of placing active duty military officers in civilian government positions has been all but discontinued (they occupy some positions in the Department of Defense); The military has supported the democratic political process by remaining fully neutral in the 2004 legislative and first-ever direct presidential elections;"</i></p>	<p>THE 2004 local government law partly reversed a prohibition on military officers running in local elections. Moreover, officers can occupy other security-related positions in addition to those within the Department of Defense, including intelligence and narcotics control. Moreover, senior officers in Indonesia remain powerful figures within and outside of the military even after retirement. They wield great influence over their former subordinates and continue to draw funds from military "businesses." The latest State Department Country Reports on Human Rights Practices noted for Indonesia, "The military and police continued to wield significant political power..." Furthermore, none of the leading candidates in the 2004 presidential elections threatened military prerogatives; two, including the ultimate winner, were retired generals.</p>

<p><i>"The Armed Forces have instituted international norms for its personnel; provided human rights training to soldiers in conjunction with the International Committee of the Red Cross; and in some cases have held individual soldiers accountable for violating human rights norms by trying and punishing violators."</i></p>	<p>IN REALITY, the armed forces continue to enjoy overwhelming impunity. The State Department's annual human rights report has consistently described this impunity and stands in stark contradiction to this memorandum's contentions. The latest report for Indonesia states, "Retired and active duty military officers known to have committed serious human rights violations occupied or were promoted to senior positions in the Government or TNI (Indonesian military)." Justice standards are nowhere near the level of established international norms. For example, not one Indonesian officer has served a day in jail for the scorched earth campaign in East Timor in 1999. The trials of Indonesia's Ad-Hoc Human Rights Court on East Timor are widely considered a sham meant to deflect international calls for accountability; the State Department said the Court was "seriously flawed and lacked credibility." In the small number of other cases that have gone to trial, defendants are low-level, sentences are not commensurate with crimes, and the courts are military courts. ICRC training extends back to 1997. Indonesian human rights advocates' contention that the training was a propaganda exercise seems accurate given the extraordinary abuses committed by the military in East Timor in 1999 and before, Aceh, West Papua, and elsewhere in the wake of such training. At the urging of U.S. officials, the Indonesian military has long sought to address its "bad press" through such devices as submitting its personnel to human rights training.</p>
<p><i>"The overall trend regarding security service reform is positive."</i></p>	<p>HOWEVER, the latest State Department human rights report summarizes, "Security force members murdered, tortured, raped, beat and arbitrarily detained civilians and members of separatist movements..."</p>

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