

Internal Security Services in Liberalizing States

Transitions, Turmoil, and (In)Security

Joseph L. Derdzinski

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JOSEPH L. DERDZINSKI
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ASHGATE

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The words from my friend and mentor Zoltan Barany, distinguished professor at the University of Texas at Austin, rang in my ears while on a long run during one of Colorado's stunning afternoons (we have many of these). "Write about something that interests you!" Zoltan had told me months before, "And it helps if you know something about it already." Well, this book is a reflection of that advice: my background as an internal security specialist as well as my education in comparative politics. This book, then, is clearly not just a culmination of research, editing, interviews and much thought. Instead, it reflects my professional experiences as well the numerous people I've had the opportunity to meet and work with who have breathed life into this work. These include Tim Sisk at the University of Denver, Lieutenant Colonel Troy Thomas, US Air Force, Jim Smith with the Institute for National Security Studies, and my colleagues at the US Air Force Academy's Political Science Department, most especially Paul Bolt, Dave Sacko and Fran Pilch, who have been a source of friendship and support of my academic and personal pursuits over these past years. Ultimately, I thank Kathy, who has supported my travels while researching this book, and Nicholas, Christopher, and Katherine Carmen, who have patiently waited through the hours I spent writing and editing long after the duty day was over. My wife and children's humor, energy, and commitment to each other make me proud to be their husband and father.

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List of Abbreviations

ABRI	<i>Angkatan Bersenjata Republik Indonesia</i> —Armed Forces of the Republic of Indonesia
AMDH	<i>Association Marocaine des Droits de l'Homme</i> —Moroccan Association for Human Rights
BAIS	<i>Badan ABRI Intelijen Strategis</i> —Strategic Intelligence Agency
BAKIN	<i>Badan Koordinasi Intelijen Negara</i> —State Intelligence Coordinating Body
Bakorstanas	<i>Badan Kordinasi Pemantapan Stabilitas Nasional</i> —Coordinating Agency for the Maintenance of National Stability
BIA	<i>Badan Intelijen ABRI</i> —ABRI Intelligence Agency
BIN	<i>Badan Intelijen Nasional</i> —State Intelligence Agency
DGSN	<i>Direction Générale de la Sûreté Nationale</i> —General Directorate of National Security
DPR	<i>Dewan Perwakilan Rakyat</i> —People's Representative Council
DST	<i>Direction de la Surveillance du Territoire</i> —Directorate for Territorial Surveillance
Front	Popular Front for the Liberation of the Sahara and the Rio de Oro
Komnas HAM	<i>Komisi Nasional Hak Asasi Manusia HAM</i> —National Human Rights Commission
Kopassus	<i>Komando Pasukan Khusus</i> —Special Forces Command
Kopkamtib	<i>Komando Operasi Pemulihan Keamanan dan Ketertiban</i> —Operational Command for the Restoration of Security and Order
KUHAP	<i>Kitab Undang-Undang Hukum Acara Pidana</i> —Criminal Procedures Code
KUHP	<i>Kitab Undang-Undang Hukum Pidana</i> —Indonesia's Criminal Code
LMDDH	<i>Ligue Marocaine pour la Defense des Droits de l'Homme</i> —Moroccan League for the Defense of Human Rights
MPR	<i>Majelis Permusyawaratan Rakyat</i> —People's Consultative Assembly
OMDH	<i>Organisation Marocaine des Droits de l'Homme</i> —Moroccan Human Rights Organization
PJD	<i>Parti de la Justice et du Développement</i> —Justice and Development Party

POLISARIO	<i>Frente Popular para la Liberacion del Sahara y Rio de Oro</i>
SGI	<i>Satuan Tugas Intelijen</i> —Intelligence Duty Unit
TNI	<i>Tentara Nasional Indonesia</i> —Indonesian National Military

Introduction

Democracy is making my job very difficult. Before, all I had to do was to break down a suspect's door if I thought he was a security threat. Now I have to speak first with a judge!¹

This study is about democracy and its non-democratic institutions in an era of stalled liberalization. In 1996, shortly after the heady days of democratization after the fall of the Soviet Union, there were 118 electoral democracies. Today, over ten years later, of the 193 sovereign states in the world, there are 121 considered electoral democracies.² And among these states, most have not moved beyond the mere procedures of democracy, the “gray area”³ of neither authoritarian nor democratic governance, which often leads to the “façade democracy” where partial, misguided, “captured” and incomplete transitions to democracy remain an entrenched procedural norm (Sisk, 2006). The processes of democratic change that were unleashed in this “third wave” failed to penetrate the resilient institutions that often remain the safe harbor of authoritarian thought, actors and legacies: the military, state-owned enterprises and the internal security services (Carothers 2004, 413). With this demise of *de facto* authoritarianism worldwide⁴ and the rise of international terrorism within these states, the nature and role of the internal security services in modern regimes becomes central to the problematique of ensuring democracy and security.⁵

1 Conversation between author and Mohammed, a captain in the Army of Bosnia-Herzegovina, near Tuzla, Bosnia-Herzegovina, May 1996. At the time, the author was a member of the initial US military component supporting NATO's Implementation Force, or IFOR.

2 From Freedom House, a non-profit, non-governmental international organization dedicated to the promotion of civil and political freedoms. All data cited are available on Freedom House's website, www.freedomhouse.org.

3 As termed by Thomas Carothers in “The End of the Transition Paradigm.” *Journal of Democracy* 13.1 (2002), 5–21.

4 There are multiple taxonomies to describe this idea of stalled or imperfect democracy, though one of the most telling terms is “façade democracy.” See, for example, Jaba Devdariani's “Georgia: Rise and Fall of the Façade Democracy.” *Demokratizatsiya* 12.1 (Winter 2004), 79–115.

5 Interest in the study of the relationship between civil and political liberties and personal security has increased tremendously in the past five years, especially in the wake of the attacks in the US in September 2001 with as much discussion centered on established democracies as well as liberalizing states. See, for instance, Tamar Meisels, “How Terrorism Upsets Liberty.” *Political Studies* 53.1 (March 2005), 162–81, and

With limited exceptions, the countries that changed politically during this period were dominated through powerful, pervasive internal security apparatuses. Varying nationally only by structure and resources, these internal security services have been forced to adapt to changed political environments. Problematized by regimes characterized by authoritarianism,⁶ in which security services were accountable solely to an individual or oligarchy, these services are now buffeted by demands for more accountability, professionalism and transparency. The purpose of this study is to understand the dynamics of institutional change stimulated by political transition.

But the word “transition” indicates that there is some “breaking point” after which a state can no longer return to its former, authoritarian self. Exposing the teleological nature of much of the previous transitions literature⁷ while representing the maturity of the field, Carothers (2002) argues the academic community needs to move beyond the “transition (to democracy) paradigm.” In Carothers’s view, contemporary scholarship on democratization has stalled in seeking methods to forward states along the determined post-authoritarian path. Scholars should seek to develop new frameworks of analysis and theories that serve to guide policy formulation for particular types of governments. Rustow’s (1990) assertion that the “demise of an authoritarian regime in no way guarantees the instant advent of democracy” is consistent with Carothers’s argument against assuming that a movement away from dictatorship is necessarily a movement toward democracy. It is with regard to such assertions that the actions and oversight of the internal security services provide great insight into the overall states of political transition and liberalization.

A final consideration of this study is the link between political liberalization, violence, and human rights. Democracy’s formalized institutional and informal norms of conflict resolution will, over time, likely lead to peace, but in the very process of democratization there will likely be threats to that peace as a result of the uncertainty and competition that democracies introduce into restive social environments (Sisk, 2006).⁸ Though not addressing directly the impact

Jeremy Waldron, “Security and Liberty: The Image of Balance.” *Journal of Political Philosophy* 11.2 (June 2003), 191–210.

6 The use of the term authoritarianism is widespread, most commonly to denote political systems unresponsive to the general polity. Though there may be a differentiation made between dictatorships, one-party systems, oligarchies and military rule, throughout this study authoritarianism may be used to denote all these systems.

7 For an additional example of this argument on the teleological nature of the democratic transitions scholarship, see Tatu Vanhanen, ed. *Strategies of Democratization*. Washington: Crane Russak, 1992, 165–7. Vanhanen does mitigate his enthusiasm for democracy by acknowledging that the “process of democracy is not automatic” (166).

8 See also Edward D. Mansfield and Jack Snyder. *Electing to Fight: Why Emerging Democracies Go to War*. Cambridge, MA: MIT Press, 2005. Though their work focuses on the increased chances for international conflict that stem from states that have weak political institutions needed for democracy to function, there is an acknowledged

of violence to human rights during times of political transition, Huntington (1968, 230) asserts that political transitions are characterized by increasingly widespread violence.⁹ The movement from authoritarianism in a state in which violence was a key part of government also means the “democratization of violence,” where numerous elements of society are involved in violence (Huntington 1968, 231). The *process* of democratization (or other political change) may provoke a cycle of violence that begins with the state and extends to the polity. As Rustow notes in an earlier work:

A century or two ago, vezirs might be banished or executed, sultans deposed or murdered: yet the average craftsman, villager, or nomad would scarcely notice any change. Today, by contrast, any political assassination or coup d'état—at times even a mere election—tends to be accompanied by extensive police or even military action, by mass arrests and deportations, by the suspension of newspapers, and by political trials. Instability, once a ripple on the surface, now engulfs the entire society.¹⁰

Societies and states that have made some, and sometimes halting, political transitions remain of central importance to the study of what promotes and hinders further democratization.

Context

Taking into account Machiavelli's looming assertion that “security for man is impossible unless it be conjoined with power,” nowhere is the discussion of the balance of the state's legitimate control over coercive means and maintaining democratic principles more clear than in states emerging from authoritarianism.¹¹ States that have yet to liberalize are ruled through powerful and shadowy state security apparatuses; studying those that have made at least an initial move toward political liberalization could have powerful policy implications toward

connection to increasing virulent nationalism and intrastate conflict and untimely democratization. See also Mansfield and Snyder, “Prone to Violence: The Paradox of the Democratic Peace.” *The National Interest* (Winter 2005/06), 39–45.

9 Huntington's 1968 work underscores some of the foundational observations on political transitions, but it's obvious that for many of the transitions in the 1990s there was no pattern of violence. But his subsequent idea that connects state-centered violence leads to violent transitions remains valid, underscored by transitions as Romania's.

10 Dankwart A. Rustow. *Politics and Westernization in the Near East*. Princeton, NJ: Center of International Studies, 1956, 17. As cited in Huntington (1968, 230–31).

11 As Whitehead (2002, 169) argues, the conceptions of threat and security that prevailed among conservatives and realist theorists during the cold war may enjoy a resurgence if global terrorism is viewed as an equivalent security threat.

nudging the holdouts.¹² This puzzle of democracy and security in liberalizing states is important to evaluate the following:

- The *mode of political transition* does have a material impact on how receptive the security elite will be to democratic accountability. The less these elites have been forced to adapt to changing political standards, the less ability a liberalizing regime will have to control security service actions, due in large part to the vagaries of transitional justice.¹³
- The security services will only respond to *institutional changes* when there are widespread, systemic changes.
- Where *political violence* exists (or for that matter widespread criminal violence) the negative effects on democracy are immediate. Human rights abuses from official instruments rise in conjunction with this violence, hindering further political liberalization.¹⁴

These tentative observations allude to the interlocking pieces that determine the contemporary nature and actions of the internal security apparatus: the relative importance of the political transition, the role of institutions in determining outcomes, and whether mechanisms meant to foster professionalism indeed positively impact the services.

Key Concepts and Research Questions

There are multiple factors that impact democratization: the role of masses and elites, transition modes, institutions, and economics are but some of the broadest lenses through which one may view political realities. This study focuses on one key aspect. How and when liberalizing states institutionally address their internal security services is critical to democracy's success; however, the

12 Freedom House's *Freedom in the World—2007* lists 43 states as “not free,” which comprises 22 per cent of the total number of recognized states. Many of these countries are in the Middle East, though there are some interesting exceptions such as Russia's reentering the “not free” category in the wake of Vladimir Putin's curtailing of popular liberties. Arguably, these developments and his former status as a senior officer in the Soviet-era KGB security apparatus are not coincidental.

13 This recognizes that the relation between security elites and political transitions is more complex. For example, the some elites will resist change in whatever form it may come, while others may be more pliant, due to factors such as levels of professionalism.

14 Though multiple examples of this relationship between political violence and “façade democracy” exist, Russia and Egypt provide among the more transparent examples. The extreme violence stemming from ideological movements (combined with secessionism in the Russian case), has allowed their leaders to continue with their authoritarian-leaning governments.

activities of the internal security services during political liberalization have largely been ignored in the transitions and democratization literatures, to the detriment of both.¹⁵

Political Transitions

Were one to wake from a Van Winkle-like, decades-long slumber, they would hardly recognize the contemporary political landscape. Most of the world's states have transitioned from overt authoritarianism to systems whose citizens enjoy varying degrees of political and civil freedoms. In fact, the past decade has been unparalleled in its movement toward democracy. The 1990s and 2000s saw a continuous wave of political liberalization, encompassing some 40 countries. The very public and widespread calls for more freedom in diverse political landscapes such as Georgia, Hong Kong, and Lebanon indicate this trend may continue for those states that have yet to transition to more open and contested systems. The turmoil that has often been associated with democracy's introduction demonstrates that there are special challenges that states face when transitioning from authoritarianism. While democracy may promote human security for its citizens, there may be an associated level of violence that can undermine this human security (Sisk, 2006, 69). The concept of political transition is developed further in Chapter 1, but it suffices to note here that there remains significant debate about whether studying national transition modes still can yield sufficient theoretical fruit.¹⁶

Of privileged interest is the impact of particular transition modes on the contemporary realities of the internal security services and the residual effects of authoritarianism. Cesarini and Hite argue that "the most glaring example of authoritarian legacies of the formal institutional kind is that of explicit 'enclaves,'¹⁷ 'reserved domains,' or other similar formal institutional shelters"

15 Jonathan Moran writes in his discussion of South Korea's intelligence and security apparatus during political liberalization that, "this process has apparently been neglected in studies of democratization since attention has often been directed at economic reform and the new electoral politics." In "The Role of the Security Services in Democratization: An Analysis of South Korea's Agency for National Security Planning." *Intelligence and National Security* 13.4 (1998), 1–32.

16 As Tim Sisk (in "Democratization after the Cold War: Managing Turbulent Transitions." *Democracy, Conflict and Human Security: Pursuing Peace in the 21st Century* (vol. 1), Stockholm: International Institute for Democracy and Electoral Assistance, 2007, 51) points out, "The very word 'transition' is rightly questioned," suggesting there exists a "point of no return" where the democratic *praxis* is consolidated so deeply as to discourage liberalization's backsliding.

17 As Cesarini and Hite note, the term "authoritarian enclaves" was developed by Manuel Antonio Garretón to describe the institutional protects of the 1980 Chilean constitution.

(2004, 8). Because of the special relationship between ruler and coercive powers, the transition helps determine whether the security services remain among the most indulged institutional classes or an eviscerated pariah. History shows the varying methods of dealing with the agents of political repression in a liberalized environment. Keane (2004, 2–3) notes that suspicions against violent actors are often expressed through sudden vengeance: members of the former regime are accused of murder; searches for the “disappeared” begin; mass graves are exhumed, often with the police forensics specialist’s techniques; citizens are encouraged to tell publicly of their suffering under the authoritarian regime. Though the methods of public catharsis during the transition may vary, or may in fact not exist, the political transition mode undoubtedly channels and affects the internal security services of the liberalized regime.

Institutions

Advocates of the intuitionist approaches are criticized for their seeming inability to forecast the correct mix of institutions to shape successful democratization, usually because of the inability to anticipate the impact—positive or negative—of preexistent institutions.¹⁸ However, there continues to be an emphasis on formal institutions as logical means to foster both security and liberal governance. Huntington (1968) describes precisely this concern with the importance of institutionalist approaches when he argues that the source for violence and instability is the “slow development of political institutions” in relation to rapid social change (1968, 4).

Scholars and practitioners have in recent years focused on the intersection of governance and peace-building, which underscores the importance of political institutions in promoting accountable governance.¹⁹ Within the conceptual domain of this intersection of security and institutions, tangible *incentives* offered to the security services help shape their behavior by providing alternatives to violence or other disruptions. The mix of formal institutions, including changes to judicial-legal structures, is usually bolstered through informal oversight institutions such as the media and other sectors of civil society.

Moreover, the concept of security has changed dramatically in the decade succeeding the cold war. Transitioning from the limited idea of defense of the state as the paramount security concern, *human security* now denotes all

18 See, for instance, David Stark, “The Great Transformation? Social Change in Eastern Europe.” *Contemporary Sociology* 21.3 (May 1992), 299–304.

19 See Call and Cook’s (2003) discussion of the nexus of peace building and democratization as an example of the growing body of literature that discusses the importance positive relationship between coercive institutions and political institutions in promoting democratic governance.

forms of threat to internal order, the viability of the state, and the quality of life for its citizens.²⁰ Assuming that a given political regime enjoys the capacity to conceptualize a range of available institutional alternatives, the problem is clear: what intelligence and security structures should a democratizing regime foster, realizing that all options may lead to the governing regime's own demise? Moreover, can extra-institutional mechanisms help foster security service actions that are more consistent with the ideals of democratic governance?²¹

Managing Political Violence

Many have noted that all political orders naturally rest on violence, whose "real" or "ultimate" purpose is to contain the violence capacity of others (see Keane 2004, 11). Democracies of course are no exception, and democratizing states that have yet to develop more publicly accountable mechanisms to control official violence are particularly prone to violent responses, especially when facing internal turmoil.²² There is little within the literature to affirm conclusively that there are certain, necessary preconditions to democracy; however, there is some agreement that there are minimum requirements for democracy's flourishing.²³

Instead of concentrating on the necessary mix of conditions for democracy, scholarship may have more success by centering on democracy's basic needs

20 For an early example of the broadening idea of national security, see J.A. Tapia-Valdes, "A Typology of National Security Policies." *Yale Journal of World Public Order* 9 (1982), 10–39.

21 Developed more deeply in the first chapter, this idea suggests that "civil society" has a principal role in fostering and promoting human rights standards. Despite the overall sanguine orientation as to the positive role of civil society (decidedly a fluid term), there is cause for a sober assessment of just how limited the impact may be. See Thomas Carothers, "Civil Society." *Foreign Policy* 117 (Winter 1999/2000), 18+.

22 Diamond (1999, 51) argues that the cases of Turkey and Sri Lanka are instructive of how difficult it is to protect human rights and protect the rule of law when the institutions of state face violent challenges from well-organized and ruthless insurgents, regardless of their motivations. The inadequacies of democracy in both cases were both a cause and an effect of this political violence.

23 Not to devolve too deeply into a discussion of the topical interests in the preconditions for democracy scholarship, the topic is worthy to mention because of the inordinate impact some conclusions have on contemporary US foreign policies. The general logic of the preconditions arguments is that democracy can only succeed when a mix of environmental factors are present, economic prosperity privileged above all. This stems from Seymour Martin Lipset's thesis 45 years ago that economic prosperity expands literacy, creates a secure middle class, and fosters cosmopolitan attitudes. Moreover, it fits the empirical record of the period when it was developed during the cold war when about a third of countries qualified as democracies and very few of them were poor. Adapted from Joseph T. Siegle, Michael M. Weinstein, and Morton H. Halperin, "Why Democracies Excel." *Foreign Affairs* 83.5 (Sep/Oct 2004), 57–71.

(Payne 2005). Political liberalization's success requires a degree of freedom from societal violence as well as freedom from violence in the political realm. Arguably, the presence of (or even the perception of) a politically-motivated actor employing violence to disrupt institutional processes hinders political liberalization.²⁴ A renewed interest in the impact of internal violence is wholly appropriate to the post-cold war context because of the continued involvement in peacekeeping by major states and IGOs (e.g., the UN); the promotion of democratic institutions (especially security sector reform) as a central pillar in the foreign policies of many developed states; the rise in non-state, international terrorism; and the continued increase in the number of poor, urban populations whose disaffected youth serve as a ready pool of recruits for violent actors.²⁵

States must indeed deal with multiple avenues of violence: from thugs who terrorize residents of housing blocs in urbanized areas to violent actors with political overtones. While the former is primarily "dealt" with by everyday policing, pursuit of the latter is through national and international intelligence and security services. This study will concentrate on the tête-à-tête between violent political actors: both those on behalf of the state and those against it.

The spectrum of political violence includes civil war and terrorism; this study limits discussion and interpretation of its impact solely to acts of terror and the concomitant official responses. Though governments may be horribly violent, terrorism is limited to violence by nongovernmental actors who have primarily a political aim, with a collective interest beyond the personal interests of the participants and the planners (Payne 2003, 136). In addition to terrorism's premeditated violence, it is almost always clandestine: the actors work in secret and plan for an element of surprise (Payne 2003, 137). It is this unique feature which forces specialization of police responses by identifying and recruiting penetrating sources, and employing sophisticated technologies of surveillance and monitoring. Because the terrorists work in secret, this forces the internal security apparatus to work outside public scrutiny.

24 Continuing this link between violence (or the absence of) and democracy, G. Bingham Powell, Jr argues that, "Widespread violence is generally accepted as a sign of failure of the democratic process ... Democracies that are able to avoid such disorder ... are better performers than those that are dominated by violence or that restrict freedom in the name of order." *Contemporary Democracies: Participation, Stability and Violence*. Cambridge, MA: Harvard University Press, 1982, 9.

25 This study does not seek to identify the underlying source of political violence, but instead focuses on state reactions to targeted violence. The field of conflict studies, though, has witnessed a renewal in recent years due in large part to the realities of many developing states in the post-cold war era. For example, Earl Conteh-Morgan asserts in an introductory text on the competing theoretical constructs on political violence that, "The increasing demand and intensity of violent political conflicts is creating a strong demand for courses on conflict, war, or peace." In *Collective Political Violence: An Introduction to the Theories and Cases of Violent Conflicts*. New York and London: Routledge, 2004, 1.

The Research Question

In sum, this study privileges the internal security services in analyzing political changes. It seeks to answer this question: given the dramatic decline of authoritarianism from the 1990s to the early 2000s, under what conditions do the internal security services respond to institutional and procedural oversight reforms, leading to improvement in human rights performance by these services in response to violent challenges?

The transition type, institutional changes and incentives, and the presence of political violence typify many of the experiences of states that have made political transitions in the past decade. Though there is a wealth of cases to choose from, Morocco and Indonesia present factors, a political culture influenced by Islam prominent among them, which make them especially relevant for the numerous states that are yet to liberalize.

Morocco and Indonesia Compared

In a too-often rare confluence of disciplines, theoreticians and practitioners both describe the importance of the internal security services in promoting or restraining democratic developments, especially where political violence is present. Morocco and Indonesia, geographically separated but with enticingly similar traits, offer the potential for universalized insights into this confluence.

These two cases' intrinsic features have strong comparative value, especially because of: 1) the dominance of Islam in their (political) cultures; 2) their high degrees of westernization, especially when compared to other states in their respective regions; 3) both Morocco and Indonesia have relatively more liberal political environments; and, 4) both face dual threats from ideational violence and secessionist movements. Despite real commonalities, there are genuine variations between these states, which add to the richness of the ultimate analysis by offering a potential application to a broader array of developing states.

The chief differences lie in geographic and population factors. Morocco's population of about 33 million pales when compared to Indonesia's 245+ million. Moreover, Morocco is a relatively compact state that is just slightly larger than the US state of California, with a geographic position that places it rather squarely in the Arab street. Indonesia, by comparison, is geographically dispersed over 16,000 islands, which span roughly the distance from Washington State to Washington, DC. Morocco's relative political quiescence is due in no small part to having only two major ethnic groups (Arab and Berber), while Indonesia's ethnic diversity represents over 700 identifiable groupings, which has manifested in multiple violent secessionist movements over its history. Indonesia and Morocco clearly provide two enticingly similar but clearly different cases of states that have made real commitments to transition from authoritarianism.

Because of their reliance on police and security entities during authoritarianism, the contemporary actions of the internal security services provide a real litmus test for the political realities within each that help bridge their commonalities and differences.²⁶

This study focuses on the actions of the internal security services during the political transitions of Morocco and Indonesia, the institutional developments meant to prompt changes to those services in the more liberalized environment and what the activities in the security sector may reflect on their professional developments and the overall democratization of Morocco and Indonesia, especially when faced with internal political violence. This study relies principally on four major sources of data: human rights reporting from official and non-governmental organizations; open sources from national and international print media; academic literature, especially peer-reviewed sources; and interviews with subject-matter experts. Of course, this study dismisses the very idea that all the details from these non-transparent security agencies are openly discussed. Instead, it aims to provide broad observation and analysis of the services' mandates and actions in the major political epochs studied here. The main goal is to methodically describe the internal security services in Morocco and Indonesia, using the theory-derived questions in Chapter 1, and then to compare the cases in the final chapter.

Structure

This study includes four chapters, beginning with the conceptual orientations concerning the role of security services in post-authoritarian, politically liberalizing regimes. By focusing on the contemporary literature on political change, the links between human rights and political violence, and institutional incentives and change, Chapter 1 analyzes the fitness of these intellectual paradigms to study the very specific role of the internal security services and attempts to explain why their study is still neglected.

Political Transition

The tremendous growth in the number of states that have made a transition from overt authoritarianism in recent years yields robust debate about the modes that lead to the greatest chances for democracy's success. There are some broad generalizations that can be made. For instance, a pact between

26 Kieran Williams makes a similar argument of the appropriateness of using the security services as a litmus test for democratic accountability in the post-communist states of Eastern Europe in the "Introduction" to Williams and Dennis Deletant. *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia and Romania*. Basingstoke, UK: Palgrave, 2001, 1.

authoritarian elites and reformers is the mode of transition that seems to maximize the prospects for quick and sustained democratization in the South and in southern Europe, but not necessarily in the post-Socialist transitions, which were typified by a thorough break with the regime led (see Bunce 2000, 716–17). This regionalized “flavor” may help link transition type to democracy’s success or failure.

Institutional Design

There is general agreement that institutions can exert a powerful influence on political behaviors, though the exact type of institutions may be best conceived of as not having a universal prescription but rather one designed to incorporate contextual particularities. This pride of place for institutions is an important first step for furthering liberal governance, but there are material limits to what institutions can do in practice.

Political Violence

The most interesting feature of political violence is its duality: the state has a reserved, legitimized domain in the use of violence but the bounds of legitimacy are stretched when other actors within the state’s boundaries resort to violence for political aims.

Chapter 1 continues by explaining the methodological peculiarities in studying security services and the inherent difficulties in collecting and analyzing information on secretive institutions in semi-transparent states. It concludes with the proposition that the internal security services are both reflective of and participants in the political events within a particular state. The services are rarely neutral. Rather, they may hinder or promote political liberalization, depending state-specific factors. This study isolates the mode of political transition and its impact on the services’ actions.

The second and third chapters are devoted to the cases of Morocco and Indonesia, respectively. Both states are liberalizing in an insecure internal security environment characterized by violence intended to disrupt the respective regimes. To enhance the comparative methodology, each chapter follows roughly the same framework: following an overview of the historical relationship between the authoritarian regime and the security services, the core of the study begins with the actions of the security services during the political transition and the impact of the internal security services in that process.

As explained more deeply in their respective chapters, Morocco’s transition is regime-centered, with the monarch fostering the majority of political changes while harnessing the most coercive tools of the state. Indonesia’s transition most closely resembles an ideal of the reformist transition, with political change fostered by a mass movement that overthrew the long-standing Suharto dictatorship. With over five years since liberalization for both Morocco and

Indonesia and peaceful elections and transfers of powers, these two cases yield important perspectives on the intersection of political transition and the internal security services.

The fourth chapter analyzes this study's research questions as reflected in the case studies. Morocco and Indonesia have demonstrated measurable strides toward political liberalization in the past five years, with reluctance to cede strong control over the internal security services. The net result is consistent human rights abuses perpetuated by the services, essentially with impunity. With the analyses in hand, this chapter summarizes the preceding work and forwards policy prescriptions, while helping to articulate a further research agenda on the relationship between a state's internal security services and its democracy.

Chapter 1

Democratization and the Internal Security Services: Principal Approaches and Findings

Democratization is a complicated and little-understood process ... As a result, we understand much better how democratic systems function than why and how they emerged in the first place.

Marina Ottaway¹

Yet the basic fact remains that the means of coercion are controlled exclusively by the state, and are deployed by the most secretive and least accountable of all its bureaucracies, usually in defense of established interests.

Robin Luckham²

The politics of the world have experienced revolutionary change in the past decade; while significant numbers of states in the post-communist world and Latin America consolidated democracy, much of the rest of the world consolidated little more than an “illiberal democracy.”³ Most of these states have been scrutinized through varied analytical approaches and across multiple dimensions, but the role of the security services before, during and after the political transition remains essentially untouched. The social, political and economic facets of each state are, of course, critical to understanding the shape and scope of the contemporary political dynamic. That the role of the internal security services has not been explored is a marked deficit in the scholarship.

The small but growing corpus of work on the internal security services tends to focus on the developed democratic states and their codified systems of

1 In “Facing the Challenge of Semi-Authoritarian States.” *Chronicle of Higher Education* 49.22 (7 February 2003), B11–14.

2 In “Faustian Bargains: democratic control over military and security establishments.” In Robin Luckham and Gordon White, eds. *Democratization in the South: The Jagged Wave*. Manchester, UK; New York: Manchester University Press, 1996, 120.

3 Fareed Zakaria’s best-selling work on the subject reflects one public intellectual’s thoughts, which lean toward pessimism, on the current state of democracy worldwide, including in many of the world’s established democracies. *The Future of Freedom: Illiberal Democracy at Home and Abroad*. New York and London: WW Norton and Company, 2004.

oversight, for obvious reasons. These (mainly) Western states have had decades of experience in democratic oversight and management, and tend to have greater capacity for scholars to peer into the security institutions themselves.⁴ The current state of the literature, then, is one that continues to focus on the institutional aspects of security, though there is a growing recognition of the importance of political transitions and how political violence forces institutional behaviors that diverge from democratic ideals. With a rise in liberalizing states globally and a simultaneous increase in internal conflicts, states are forced to rely increasingly on their internal security apparatus. This indicates that there remains much work to be done.

Trends, Patterns and Approaches

Consolidating the gains made in political liberalization during the past fifteen years is among the chief goals of national and international political leaders worldwide. Though the particulars may vary widely, in some cases necessitating a complete restructuring of the economy and state institutions, the post-authoritarian state consistently requires bringing the entire internal security apparatus—including the intelligence services and the armed forces—under accountable civilian control as a top priority among the transitional concerns. This is due not only to the legacies of authoritarianism, but to the tension in all states between the security apparatus and democracy.⁵ The sheer numbers of states that have made some form of transition from authoritarianism in the past decade provide impetus for a renewed emphasis on the role of security establishments in democratization.

Despite the global decline of the strictest forms of authoritarianism, a rise in the number of liberal, democratic regimes has not kept pace. The stalled deepening of democratic governance is emblematic of the tension between procedural democracy—what some term “pseudo-democracy”—and the consolidation not only of democratic mechanisms, but also the personal actions and liberties that invariably accompany democracy. Linking personal freedoms with the rise of democratic governance, the trend since the beginning of the “third wave” of democracy in 1974 has been toward a cumulative gain in the

4 See, for example, Hans Born, et al., eds. *Who's Watching the Spies?: Establishing Intelligence Service Accountability*. Washington, DC: Potomac Books, Inc., 2005.

5 One may infer readily from Bruneau's (2001) study of national intelligence services and democracy in transitional states that all agencies of repression from the authoritarian regime may hinder further democratization. He presents the essential paradox reflected throughout this study: a state cannot afford to not know what is happening within and without its borders. He argues that, in post-authoritarian states, “without decisive action an authoritarian intelligence apparatus will remain a state within a state and prevent democratic consolidation” (2001, 337).

number of “free” countries at a net deficit of states whose populace does not enjoy the same degree of personal liberties (Table 1.1).

Table 1.1 Global trends in freedom

Year under review	Free countries	Partly free countries	Not free countries
1974	41 (27%)	48 (32%)	63 (41%)
1984	53 (32%)	59 (35%)	55 (33%)
1994	76 (40%)	61 (32%)	54 (28%)
2004	89 (46%)	54 (28%)	49 (26%)
2007	90 (47%)	60 (31%)	43 (22%)

Sources: Freedom House, *Freedom in the World 2005*, “Selected Data From Freedom House’s Annual Global Survey of Political Rights and Civil Liberties,” and Arch Puddington, “Findings of *Freedom in the World 2008*—Freedom in Retreat: Is the Tide Turning?” 2008. Both available at www.freedomhouse.org.

The translation of personal freedom and democracy correlates well across different methodological approaches. The countries that enjoy a high degree of personal freedom also trend toward classification as democracy, with the rough correlations of Freedom House rankings and quantitative assessments of democratic and non-democratic states. As Marshall (in Marshall and Gurr 2005, 16) notes

The number of autocracies has decreased sharply since their peak in 1977 while the number of democracies, having nearly doubled in the late 1980s and early 1990s, continues to increase gradually in the first years of the twenty-first century. There were eighty-eight countries classified as democracies in early 2005 and only twenty-nine autocracies. At the same time, following a three-fold jump (from 16 in 1985 to 51 in 2000), the number of states that fall in our middling category of regimes, the anocracies,⁶ has declined slightly over the last few years (falling to 44 in early 2005).

This study advances the body of research on the role of the internal security services during political transition and change. The specificities of

6 Marshall (2005,18) defines *anocracies* as states that “are characterized by institutions and political elites that are far less capable of performing these fundamental tasks and ensuring their own continuity. Anocratic regimes very often reflect an inherent quality of instability or ineffectiveness and are especially vulnerable to the onset of new political instability events, such as outbreaks of armed conflict or adverse regime changes.” Similar trends for the 2008 update of *Peace and Conflict*.

a post-authoritarian state render the internal security services untenable. A majority of the internal security services in transitional states were repressive and functioned outside the rule of law, or in some cases there were informal methods of adjudication based in customary law that continue in the post-authoritarian period.⁷ Usually, these services were a powerful state tool to consolidate executive power, to identify and monitor dissidents, to neutralize any regime opponent, and to generate domestic apathy through a variety of means, including a controlled media (DCAF 2003, 60). The services are at the center of conspiracy theories and moral panics, but they are also expected to protect the people and advise the policy-makers in uncertain times (Williams in Williams and Deletant 2001, 1). Like a proverbial looking glass, the study of the internal security services may reveal the “true” nature of the regime.

Internal Security in Democratizing States

The ends and means of liberal revolution are in quiet conflict, with the cases of internal security services a poignant litmus test (Williams and Deletant 2001, 18). During authoritarianism, the internal security services were usually among the most powerful and most reviled institutions. All democratizing regimes face a similar choice as to the fate of the cadre who filled the internal security services during the authoritarian period: security agencies require a level of expertise that cannot be replaced easily, though these actors may have been the source of serious human rights violations during the authoritarian period. Some of the largest democracy deficits are in the security sector, a fact for many countries of the world (Cawthra 2003, 15). As already emphasized, democratizing states in particular face a curious dilemma: the need for strong internal security services in the face of knowledge that these services may undermine the very democracy that is promoting them.⁸ This section summarizes the major theoretical considerations that post-authoritarian states face when making a real transition away from their previous systems.

7 Mark Sedra's discussion of security sector reform in Afghanistan underscores the difficulty in overcoming entrenched practices and customs, especially where the central authority continues to have limited reach. “Security Sector Reforms in Afghanistan: The Slide Toward Expediency.” *International Peacekeeping* 13.1 (March 2006), 94–110.

8 Ottaway's (2002) conclusions that state security organs are an essential element in the post-conflict democratic reconstruction are consistent with this argument. “The world should not be fooled into thinking that it is possible to build states without coercion,” she writes. “Like it or not, military might is a necessary component of state building.” While furthering her argument in favor of strong internal security instruments in democratizing states, Ottaway (2003b, 31) recognizes the need for appropriate oversight mechanisms for a state's coercive devices.

The Security State

One virtually universal feature of authoritarian regimes (from autocracies to one-party rule), is a reliance on a pervasive and powerful security and intelligence network. Because these states usually lack popular legitimacy, they depend on internal security services to identify and neutralize internal opposition, as well as to manipulate the population to generate political apathy (Bruneau 2001, 324). These internal security services grow in size and power, becoming largely autonomous even within the authoritarian state (Stepan 1988). It is precisely these formal structures and institutions that emergent states must reckon in the immediate post-authoritarian period.

A brief contrast between the roles and limits of the internal security services in protecting the state in authoritarian and liberalized contexts furthers the idea of the link between these services and the state that developed them. First, in liberalized regimes, the security apparatus must be agnostic about the party in power. Directly in opposition to the relationship during the authoritarian period, in a democracy, the internal security services are no longer committed to preserving a party or ruler, but instead the preservation of the democratic *society* (Panner, 2). Second, a democratized security apparatus must follow a democratically-derived rule of law and not be allowed to act above the law. Not doing so may threaten the state itself. Last, there are much more restrictive limits on security service actions in the liberalized environment, coupled with real accountability for actions that exceed their mandates. Fundamentally, the idealized relationship between the regime, the state and its security institutions changes as one moves from the spectrum of authoritarianism toward liberalization.

Though culture helps to shape and frame all contemporary political realities, there remain powerful legacies unique to authoritarian regimes that survive the democratic transition and intervene in the quality and practice of post-authoritarian regimes.⁹ It is these regime-centered state institutions that problematize further transition and consolidation to democracy.

The Uncertainties of Transitions and the Security Services

Highly relevant to this study is O'Donnell and Schmitter's (1986) work on Latin America, which represents an intra-institutional analysis of the security structure

9 Adopted from Cesarini and Hite's (2004) discussion of the legacies of authoritarianism (see esp. their definition on p. 4). The broadest aim of their work is to demonstrate that there exist institutional and cultural legacies unique to post-authoritarian regimes that reformers must consider to enhance political liberalization. Also, Pfaff's (2008) overview of the attempts to reform Iraqi police forces places culture at the analytical center, reinforcing the imperative to adapt attempts at institutional change to varying cultural *milieu*.

in relation to social variables, in particular how security elites (usually from the military) derived the sense that intervention in politics is a “normal” function. They observe that “agencies of repression” (i.e., the internal security services), with their tools of “surveillance, intimidation, interrogation, internment and torture” ultimately may threaten the authoritarian regime itself if the agencies perceive their interests threatened (1986, 35). This points to a role that internal security services may have in the transition process (either toward or away from democracy).¹⁰ There remain, however, two major conceptual issues with applying the existing literature to the cases of many recent political transitions globally: civil-military relations and democratic legacies.

Civil-military relations—One major concern with the traditional scholarship on political transitions and the internal security services is that these works tend to focus on the role of the military, ignoring in many cases the functions and role of the other components of the security apparatus. One main reason for this neglect is the prominence of the military apparatus in public life, especially in the objectively-quantified terms of size and proportion to the national budgets, both of which tend to be bloated in authoritarian regimes. Additionally, Guenther (1998, 8) ascribes the neglect of the internal security services to the dominant comparative focus. “The size and function of the security services in Latin America and southern Europe,” Guenther argues, “were insignificant relative to the military; most often they were merely subdivisions of the armed forces.” Moreover, recent works suggests that there is little movement for the development of a distinct theoretical approach to apply to the non-military security apparatus. Bruneau and Dombroski (in Bruneau and Tollefson, 2006, 146), for example, note that, “Within the realm of civilian control of the armed forces as a subset of civil-military relations, probably the most problematic issue in new democracies is the control of the intelligence services,” which includes also “security intelligence” agencies.

The limitations on applying the existing transitions theory to the current environment then, is that it too often focuses on the military apparatus, while in many cases the internal security services were more often than not the primary repressive device. In the cases studies here, especially Morocco, the military was certainly seconded to the internal security apparatus; for Indonesia, the

10 The armed forces may divorce itself from the authoritarian regime for a variety of reasons; its degree of interest in the transition process is usually correlated directly with the perceptions of threat to its institutional interests (see O'Donnell and Schmitter, 1986, 34). The 2000 transition of the Federal Republic of Yugoslavia (specifically, Serbia) from the Milošević regime was instructive of this dynamic. When the leaders of the military and security establishments saw Milošević's demise as imminent, there was an almost immediate withdrawal from the dictator and a campaign to promote their status as protector of the Serbian people, with the obvious ultimate goal of preserving institutional prerogatives in the new government.

application of civil-military relations theory is easier, yet the mechanisms for repression were more akin to the security intelligence model than to the traditional military role of external defense.

Democratic legacies—Another gap in theory that Guenther argues for in his study of the Russian security services is that the “re-democratization” of the services cannot be applied in all transitions. Whereas in many cases countries had recent experiences with democracies, many countries did not—especially those in Asia and the Middle East (for which there are few comparative analyses of the security services). Morocco and Indonesia represent the latter: neither have had any long-term experiences with the culture and institutions that bolster democratic *praxis*. Centered on a monarchy and an oligarchy, respectively, the internal security services have maintained close relations with the power elite, so there is no democratic experience inherent in the internal security services.¹¹

Security Sector Reform

Since the end of the cold war, foreign donor states and international financial institutions (IFIs) have privileged their attention on military and security budgets for targeted states. As Luckham (1995) notes, financial cuts to resolve financial crises and satisfy donors have exacerbated the misfortunes of fragile regimes. In the past few years, however, donors and IFIs have now become more sensitive to insisting on cuts in military and security budgets in fragile democracies. The most current trend for state-centered and international organizations is an emphasis on “security sector reform” and democratically-accountable control over the security apparatus.¹²

Much of the discussion of security sector reform focuses on the political-institutional mechanisms that can achieve reform-minded goals (that are often defined by outside actors), ignoring some of the other conditions that facilitate the actual reforms. Though this study does privilege the processes of reform through institutional change, it is also reflective of the idea that the security sector is much larger than the police and the military. The security sector incorporates intelligence and police agencies, as well as the less formal

11 Of course, the colonial legacies of Morocco and Indonesia have conditioned their political culture, but each colonial experience used and promoted the existing political elites to maintain power.

12 For example, the UN Development Program has a Justice and Security Sector Reform (JSSR) Unit whose focus is on “broad initiatives designed to transform justice and security institutions into more effective, legitimate, and transparent structures that support the functioning of an equitable and rights-respecting state and are accountable to the citizens living within it” (<http://www.undp.org/bcpr/jssr/index.htm>).

militias, private security firms, guerillas and criminal networks.¹³ Moreover, there are multiple supra-state agencies that work toward reform of the security sector, to include members of the civil society. Most definitions of the security sector now include not only formal government agencies, judicial bodies and legislative oversight bodies, but media and civil society groups as well to ensure that security institutions remain accountable (Luckham 2003, 18). As the case studies illustrate, there is indeed a combination of players in the security sector. Any prescription for reform must incorporate all these internal and external bodies.

Elements of Analysis

The study of the internal security services in post-authoritarian states has not increased with the tremendous growth of the field of democratization studies in the past decade. Therefore, the body of theoretical literature on the role of internal security services in political transition and liberalizing states is still quite small and embryonic. What does exist tends to be more historical or descriptive of a particular institution.¹⁴ Despite this gap in the theoretical body, there are certain events in a political transition and subsequent liberalization when the services have had at least the opportunity to participate in the political events of a state. Understanding what little is available concerning the internal security services, what follows, then, is a logical progression through the existing broader literature from political transitions, to institutional and process changes, through an analysis of the impact of endemic political violence to the human rights records of the internal security services.

The Security Sector

In what one US observer termed a “Rubik’s Cube” approach to security sector reform, foreign aid programs must be spread across all security functions. Citing the failure of the US IMET program in the 1990s, foreign donors must not have

13 In interviews with US civilian security sector reform specialists (August 18, 2004, Washington, DC), they also included “all civilian aspects of defense, civilian oversight of the police, and NGOs that track the security sector” in their overall conception of how defining and promoting security sector reform.

14 See Julie Anderson and Joseph L. Albini, “Ukraine’s SBU and the New Oligarchy.” *International Journal of Intelligence and Counterintelligence* 12.3 (July 1999), 282–324; E. Peter Wittkoff, “Brazil’s SIVAM: Surveillance Against Crime and Terrorism.” *International Journal of Intelligence and Counterintelligence* 16.4 (October 2003), 543–60; and Ibrahim Al-Marashi, “The Family, Clan, and Tribal Dynamics of Saddam’s Security and Intelligence Network.” *International Journal of Intelligence and Counterintelligence* 16.2 (Summer 2003), 202–11, as well as other works noted in this study, to include Cawthra and Luckham (2003) and Chalk and Rosenau (2004).

a narrowly defined definition of the sector. Instead of aiming to influence only the military, outside reform must address the police and intelligence services as well.¹⁵ As the case studies demonstrate, in a post-authoritarian environment where the state has remained intact, a concept of the security sector cannot be isolated to one particular institution. Instead, there are multitudes of active and influencing bodies that interact to promote internal security, as Table 1.2 depicts.

Table 1.2 The security sector

Formal security institutions	Informal security actors	Supporting institutions
National police	Paramilitaries	Legal codes
Intelligence Agencies	Militias	Judiciary
Military	Organized crime actors	Executive
Gendarmerie	Privatized security	Civilian oversight
Executive guards		Civil society, especially the media and NGOs

Source: Author.

Political Change and Institutional Incentives

The changes in the global political landscape noted by Huntington (1991b) and others spawned theoretical approaches to explain *what* was happening and to *promote* policy effectiveness. Before the inception of the “third wave,” scholars attempted to clarify why states moved from one political system to another. Rustow’s (1970) seminal work, “Transitions to Democracy: Toward a Dynamic Model,” sought to uncover the conditions that made democracy not only possible, but allowed for its thriving. Influencing the transitions scholarship (and public policy) for the next two decades, Rustow broke from the scholarly tradition that argued that only countries with the correct “preconditions of democracy” (1970, 362) could succeed in democracy promotion. He demonstrated not only the inadequacies of the “conditions” arguments, but that the transition to democracy could be a lengthy process, and democracy could be learned across cultures.

¹⁵ Interview with author, April 4, 2005. The US’s International Military Education and Training (IMET) program for Indonesia was suspended because of the Indonesian armed forces’ flagrant violation of human rights abuses in Dili in 1991, with a partial restoration in the 1990s, and a cancellation again in 1999 after human rights abuses in East Timor. In February 2005, the US State Department approved the US’s resumption of providing IMET assistance to Indonesia.

Signifying an apex of the transitions scholarship, O'Donnell, et al.'s (1986) edited multivolume work on post-authoritarian states in Latin America and southern Europe sought universal conclusions for why societies begin to transition away from authoritarian regimes. Defining the concept of *transition* rather simply as "the interval between one political regime and another" (6), one of their most contentious conclusions is that domestic factors are privileged in bringing about democracy, particularly institutions. More current work brings the transitions literature to a new, and for now at least, a final stage.

To this end, most contemporary cases are no longer considered "transitional." But this does not diminish the need to explore how particular transitions impact a state's contemporary political realities. Moreover, though the literature contends that mechanisms of the state have been (and still are) one of the key variables in shaping the origins and the course of democratic transitions (Koonings and Kruijt 2002, 2), there is still little evidence to support this. Therefore, how the internal security services may have shaped the transition from authoritarianism, and in turn how the services were impacted during the transition process remain under-explored and important for further study.

Despite the shortcomings in the transitions literature as it applies to the internal security apparatus, there are good theoretical and practical reasons for studying the particular transitions. The first is that in identifying a gap in the theoretical literature, one is compelled to fill that gap to the extent possible. With many states still to transition from a variant of authoritarianism—including a significant number with a strong Islamic influence on the political culture—studying the mode of transition would add to the theoretical corpus. The second is that if one can identify patterns of behavior during the transition, then a set of policy alternatives already developed for universal application can be tailored to particular transitions, with the ultimate goal of increasing democracy's chances of successful instantiation.

Karl (1990) expands the transitions scholarship in arguing that the study of *different types* of democracies that emerge from distinctive modes of regime transition must complement "broad-gauge efforts" of the study of post-authoritarian regime transitions. Though a state's contemporary political climate is important, this study accepts Call and Cook's (2003) contention from their work on peace-building and democratization the importance of controlling for the transition variable. This study anticipates very different institutional outcomes from the respective transition types. Because of the lack of or limited violence associated with the majority of transitions in the past decade, and extending this trend into potential future political transitions, this study concentrates on the two most common forms of political transition—pacted and reformist—both of which are developed more deeply in the subsequent discussion of institutional change. The rest of this section focuses on two of the most significant aspects inherent in the established theory on political transitions: bargaining and transitional justice.

Bargaining and Survival

One of the most important perspectives noted in the transitions literature is forwarded by O'Donnell and Schmitter (1986) and Przeworski (1991). They note that a common feature in many democratization processes is the bargaining situation between reformers in the government and the moderates in the opposition, a principal feature of pacted transitions.¹⁶ The conventional wisdom is that in pacted transitions, the political agreements that were intended to consolidate further democratic transition have the paradoxical impact of actually compromising democracy. Practically an "article of faith" among scholars of democratic transitions and consolidation is that the pacts designed by outgoing elite and reformers actually consolidate a compromised or "frozen democracy" (Encarnación 2005, 182). Especially relevant to this work is the pacted transition's relationship to elite bargaining. As Karl (1990, 12) notes, there is a significant anti-democratic aspect to this elite bargaining, which seeks "to create a deliberate socioeconomic and political contract that demobilizes emerging mass actors while delineating the extent to which all actors can participate or wield power in the future." Dealing with the authoritarian past is essential for all liberalizing states to overcome injustices and prepare for continued liberalization.

In reality, though, how a state actualizes its responses are in large part a mixture of the transition type and the current balance of political power. As in the cases of Chile and Ghana, the elite from the outgoing security establishments extended extreme political energies to ensure that they would not face criminal prosecution in the more liberalized structure. As Cawthra and Luckham (2003, 312) note, "It may be more expedient for incoming democrats to 'leave the back door open' so the beast can slip out rather than be drawn into a battle, the outcome of which may be uncertain." In most cases, societies have required at least a minimal cathartic mechanism to allow the citizenry to vent their anger over the abuses at the hands of members of the outgoing regime, leading to the development of various mechanisms of transitional justice.

Transitional Justice

A necessary initial step in reforming the security sector is how to deal with the past in processes of confidence building to overcome legacies of authoritarianism (Lustgarten in Cawthra and Luckham, eds, 2003, 312). Important to any nascent political liberalization, especially when the regime's violence impacted a wide spectrum of the population, is the concept of transitional justice. Transitional

16 From Jakub Zielinski, "Transitions from Authoritarian Rule and the Problem of Violence." *Journal of Conflict Resolution* 43.2 (April 1999), 213–28.

justice covers many theoretical and practical considerations,¹⁷ generally most identified with the proliferation of truth commissions in the past two decades to deal with the human rights abuses committed during an authoritarian regime's rule. These truth commissions specifically and transitional justice more broadly have demonstrated utility and status across geographical regions and cultures.¹⁸ With the propagation of this judicial form and wide international support, there are several notable conclusions to promote the effectiveness of reconciliation mechanisms.

Hayner (2001) notes that to enhance a reconciliation commission's efforts that will lead to credible results including its having operational independence while balancing the need for political and governmental support, including financial support. There are distinguishing features particular to truth commissions,¹⁹ but the overall intent is to broaden the historical narrative to include the abuses that the previous regime so often diligently hid from public scrutiny, though more often these abuses were open secrets. A logical assumption is that the previous regime was authoritarian and illegitimate in terms of the precepts of liberal governance, though more liberal regimes must sometimes also contend with repressive pasts.²⁰ Whatever transitional justice mechanism is enacted, without real reforms the successor government may find itself in peril as truth without justice is an unsatisfactory solution to many victims of abuse (Hayner, 1998). The two cases studied here are notable in that they have enacted some mechanism of transitional justice, though with serious limitations in official mandate and support. If experience is a guide, these commissions may do little to atone for past sins. Simmering public dissonance, unvented by these commissions, may prove to work against the current political regimes.

17 The more notable general works in the area of transitional justice are Ruti G. Teitel, *Transitional Justice*. Oxford: Oxford University Press, 2002; Neil J. Kritz's edited, three-volume *Transitional Justice: how emerging democracies reckon with former regimes*. Washington, DC: United States Institute of Peace, 1995; and Carla Hesse and Robert Post, eds. *Human Rights in Political Transitions: Gettysburg to Bosnia*. New York: Zone Books, 1999.

18 The first reconciliation commission was established in Uganda in 1974, though its dictator refused to neither publicly release its findings nor implement the commission's recommendations. The most famous example, of course, is South Africa's Truth and Reconciliation Commission designed as catharsis to heal decades of abuses under that country's Apartheid system; however, throughout Latin America, post-communist Europe, Africa and Asia.

19 Truth commissions are also notable for what they are not: they lack the power to prosecute or punish human rights violators or to make judicial pronouncements, which differentiate them from the UN's internal *ad hoc* criminal tribunals. See Priscilla Hayner, "Truth Commissions." *NACLA Report on the Americas* 32.2 (Sep./Oct. 1998), 30–32.

20 This "paradigmatic transition" and the impact to transitional justice is explored by Fionnuala N. Aolain and Colm Campbell in "The Paradox of Transition in Conflicted Democracies." *Human Rights Quarterly* 27.1 (2005), 172–213.

Institutional Change in Post-Authoritarian States

As noted earlier, this study aims to study three broad aspects of the institutional impact of transitions on the internal security apparatus, where these services enjoyed a privileged status among other state agencies. This is explained more deeply in the ensuing pages; much of what follows rests on the following assumptions drawn from the existent literature:

- 1 The transition mode does have a material impact on the type of internal security services that emerge and their responsive to the executive. The major gap in the literature is that there is almost no specific application of the transitions literature to the internal security services. Instead, most of the related work focuses on the role of the military during and after the political transition.
- 2 The internal security apparatus is exceedingly resistant to institutional incentives for change. Though institutions are among the easiest facets to change, unless these changes are coupled with broader cultural and systemic changes, promoting more “democratic” standards remains very problematic.
- 3 Where politically-oriented violence exists, the internal security services’ human rights record is almost immediately impacted negatively.

Transition Modes and their Institutional Impact

Pereira’s (2001) overview of the legacies of authoritarianism in the new democracies of Latin America notes that the literature comes to three distinct, broad conclusions concerning the impact of legacies on contemporary political realities. The first conclusion: there are significant authoritarian legacies that provide for a high degree of continuity in the democratizing period. In contradiction to the first conclusion, the second denies such a continuity, arguing that there will be a convergence on modern, democratic institutions. And the third conclusion: institutional change is tied with the mode of transition. After a brief discussion of each, the implications of each for reforming the internal security services are described.

The first approach views the legacies of authoritarianism as so deeply tied to institutional processes that precedents are a real weight against further change. Institutional reform that seeks to limit substantive authoritarian-era prerogatives is difficult, if not impossible.²¹ From this perspective, the reform of the internal security services towards more responsiveness to democratic control and oversight would be extraordinary, and the authoritarian-era structures and procedures would remain.

21 See Brian Loveman, “Civil-Military Relations in Spanish America: the Past as Prelude,” conference paper, 1999. As cited in Pereira 2001, 558.

The second approach disregards the idea that the internal security services in the liberalized era are impacted by the legacies of authoritarianism. As Pereira (2001, 559) notes, "If some institutional arrangements and practices from the authoritarian period endure during the democratic one, it is not because there are legacies but because political actors repeatedly choose to preserve them to pursue their own interests." Any commonalities among democratic institutions that emerge in the post-authoritarian period are due principally to a universal need to resolve similar problems.²² The implications for the reform of the internal security services are that, in the long run, the internal security services will be shaped in similar ways: there will be greater civilian control and a continued erosion of security service prerogatives.

The last approach privileges the transition mode, concluding that institutional reform will vary with the type of political transition. Specifically, it is the role of the elite who attempt to control the process of change. Though developed more fully in the following sections, Pereira (2001, 559) suggests that, "By implication, sweeping reform of the institutions ... is probable only in transitions by rupture, not in transitions by pact or electoral liberalization."

Which of these three approaches can best explain contemporary realities in most post-authoritarian states? The empirical reality suggests that the first two approaches are unsubstantiated, but the transitions perspective does seem to hold some validity. This study will develop further the conclusion that transition mode has a privileged status among all factors, while examining two countries with divergent political transitions that continue to impact the internal security services.

Transitions and Institutions

Changing the nature of institutions that have long had intimate relationships with the authoritarian executive and little accountability to the general population is a difficult but necessary task all liberalizing states must pursue.²³ The theoretically-grounded logic is that institutionalizing procedures—both within and without the internal security services—will distance the services from a centralized power structure (e.g., the executive). As Huggins's (1998, 18) study of US-Latin American relations concludes, professionalization's

insistence on centralized and specialized police activities seems also to lead to devolution ...as the activities of professionalized, specialized and autonomous

22 Adam Przeworski, *Democracy and the Market*. Cambridge, UK: Cambridge University Press, 1991, 98–9. As cited in Pereira 2001, 559.

23 As argued in part by Bruneau and Dombroski. In "Reforming Intelligence: The Challenge of Control in New Democracies." In Thomas C. Bruneau, and Scott D. Tollefson, eds. *Who Guards the Guardians and How: Democratic Civil-Military Relations*. Austin, TX: University of Texas Press, 2006, 156.

national police agencies increasingly diverge from the centers of power that created them.

Her sanguine conclusions bolster national and international efforts to continue to increase security service professionals. But in states transitioning from authoritarianism, there may be significant reluctance to give up the prerogatives afforded them under the previous, authoritarian regime. These prerogatives are often consequential, including intelligence agencies being insulated from political control by; lack of routine legislative oversight over intelligence; the continued existence of special security agencies, as well as paramilitaries; special courts and legal procedures for security matters; security bureaucracies exempted from judicial scrutiny; and, the intelligence agencies being involved in manipulating the media and public opinion.²⁴ Moreover, in addition to the security elites' privileged status and benefits, multiple residual aspects endure, including perpetuation of a national security state and related ideology; a heavy burden of military spending; resorting to states of emergency during crises; the paramount position of secrecy in defense and security issues; an absence of parliamentary and/or media scrutiny of defense and security issues; the extensive network of ties between military, security, state and economic elites; and all with the overlay of weak legal protections against human rights abuses.²⁵ With these observation and assumptions regarding security service reticence to change, this study focuses on two of the most typical modes of political transition: pacted and reformist.

Pacted transition—A pacted transition is characterized by the internal construction of a grand opposition whose members unite to defeat the authoritarian regime (O'Donnell and Schmitter 1986, 79). As compared to the mass movement characteristic of a reformist mode, a pacted transition favors *elite ascendancy* in bringing regime transition (see Table 1.3). This transition is a series of agreements—metaphorical or empirical—negotiated by the military, economic, and party leaders resting on explicit institutional arrangements typify pacts. Pacted transition scores highly in terms of consensus, especially elite consensus, but poorly in terms of equality and mass participation. A built-in elite veto remains (Pinkney 2003, 188).

Because of its elite-centered nature, the pacted transition calls for significant involvement by military and security elites, whose desire for maintenance of their authoritarian prerogatives call into doubt the true democratic nature of the emergent regime. In the pacted transition, theory predicts that the security apparatus would not stage a coup but would instead work against any form of government that attempts to restrict security service influence and activities (Luckham 1996, 125).

24 Excerpted from Luckham and White, eds. 1996, 126–7.

25 Ibid..

Table 1.3 **Modes of political transition**

		Mode of transition	
		Compromise	Force
Relative actor strength	Elite ascendant	Pact	Imposition
	Mass ascendant	Reform	Revolution

Source: Author.

Reformist transition—Stemming from mass movement, a “transition from below,” a reformist transition is characterized by (usually) non-violent compromise between affected parties. A reformist transition occurs when mass actors, even temporarily, gain control over elites. Although the (former) civilian elite may have been politically disabled, the military leadership may still impose the ultimate veto (Pinkney 2003, 189). A reformist transition is likely to bring about fragile competitive democracies that assist in a return to authoritarianism (Karl 1990, 15). The logic underpinning this transition type is that the military will disengage itself from the crumbling regime and emerge as a separate entity, whether through violence or non-violence as the regime’s demise appears imminent.

Changing Institutions and Processes

With the conceptual framework that derived institutions are essential to the democratization process, Vanhanen (1992) neatly summarizes the logic of institutional strategies of democratization.²⁶ “Political institutions provide the framework that structures the struggle for power . . .,” he argues, “It is far easier to modify or change political institutions by political decisions than to adjust economic, educational or social structures” (1992, 6). Diamond (1999, 5–6) accepts this, while also stressing the need for popular access to central power. The underlying logic is that government institutions, electoral or bureaucratic, may foster principles consistent with liberal governance.

A primary organizing concept in the literature since Fukuyama’s (1989) declaration that the worldwide spread of democracy has brought the “end

26 The debate on the best approaches for sustaining democracy in divided societies is among the most interesting and vibrant scholarship on democratic institutions, enlisting many of the best contemporary social scientists and works. See, for example, Giovanni Sartori. *Comparative Constitutional Engineering*. New York: New York University Press, 1997; Donald Horowitz, “Presidents vs. Parliaments: Comparing Democratic Systems.” *Journal of Democracy* 1.4 (Fall 1990); and, of course, Arend Lijphardt’s *Democracy in Plural Societies*. New Haven, CT: Yale University Press, 1977 as well as works by Seymour Lipset and Juan Linz.

of history” is the distinction between the mere existence of democratic institutions and the actual practice of politics. The current state of the literature, as Luckham, et al. (in Bastian and Luckham, 2003, 14–59) make explicit, is the “pride of place” given to the “high politics” of the state over the “deep politics” of society. Contemporary academic discourse tends to emphasize institutional consolidation over the actual contestation inherent in politics. Moreover, the continuing debate further refines itself in that popular participation must not lead to despotism or the potential tyranny in majoritarian systems. Kant theorized that the path to perpetual peace lay in the acceptance of republican ideals and systems (think the US Constitution) rather than direct democracy (that of ancient Greece). Consolidating the formative logic of these dichotomous theoretical poles, the concept of democratization is as an institutional and civic movement away from authoritarianism toward participatory decision-making, particularly where the regime is ultimately accountable to the governed.

The term accountability itself carries weighty normative implications; Schedler’s two-dimensional axis (in Schedler, et al., 1999, 14) provides a reasonably encompassing view of what accountability may entail. The two basic connotations, he writes, are: *answerability*, “the obligation of public officials to inform about what they are doing”; and, *enforcement*, “the capacity of accounting agencies to impose sanctions on powerholders who have violated their public duties.” The latter is particularly reflected in the number and quality of plural sources of power, including the existence of independent civil society groups like human rights and anti-corruption nongovernmental organizations, as well as an engaged media (discussed below). Changing institutions, as well as processes to overcome the legacies and extensive prerogatives usually enjoyed by the authoritarian-era security services, require immediate and consistent attention by the reformers.

There are both normative and empirical ramifications surrounding the development, structure, and role of a government’s internal security services. In Western states, control over intelligence and security services has evolved over time into a complex mixture of institutional control and cultural factors, such as societal skepticism. In post-authoritarian states, there are no preexistent institutional mechanisms for controlling regimes in an open and accountable fashion suitable to liberal democracies.

Stepan (1988, 140) demonstrates that every major democracy in the world has intelligence services. Moreover, successful democracies such as the United Kingdom, France and the United States have been able to craft democratic mechanisms for the management, monitoring, and oversight of their intelligence services (under which he places internal security services) without seriously hampering their effectiveness or morale. Call and Stanley (in Stedman, et al., eds, 2002, 321) remind us that although internal security forces, especially the

police, can be the most rapidly changed security mechanism, judicial reforms often lag to hinder democratic consolidation.²⁷

A glaring lacuna in the literature is that the established democracies do not have a singular prescription for oversight mechanisms; those with advanced systems are more a function of history and political culture than intentional engineering. Some of the most recent work attempts to fill this gap in knowledge. Chalk and Rosenau's (2004) study of four advanced security intelligence apparatuses (the UK, Canada, France and Australia) helps form an ideal type of democratically-responsive internal security services. Especially in Canada and Australia, institutionalized checks and balances have formed an "integral component" of the intelligence structures, the net effects leading not only to a transparent medium to demonstrate the services' utility, but also developing public confidence that, "only balanced and controlled responses will be instituted in the name of national security" (2004, xiii).²⁸ This study reviews the formal and informal institutional procedures in liberalizing states to assess not only what mechanisms the liberalizing regime developed to oversee its internal security services, but to compare those developments with parallel developments toward political liberalness.

Institutional Oversight

One of the most important institutional aspects is oversight and control of security establishments, particularly the military and internal security services, though Elster, et al. (1998, 18) recognize that many of the institutional mechanisms from the old order cannot be relied on. Avant (1994, 2) proposes that institutional theory assumes that actors behave to enhance or ensure their institutional power. In other words, leaders of internal security services are responsive to the civilian leaders' goals when they believe they will be positively rewarded. But as Arceneaux (2001, 9) argues, "institutions do more than simply constrain or empower actors in pursuit of their goals," but influence formation of actor preferences and goals.

This study's concentration on the influence of variation in institutional design on the human rights records of internal security organizations

27 The judiciary is also a strong indicator of the actual level or state of democracy's health. As one of the government's main coercive mechanisms, the judiciary is eventually "cowed" in semi-authoritarian regimes, reflecting a one-sided grip on power (Carothers 2002).

28 Williams (2001, 17) maintains that, "Control and oversight rely on more than well designed institutions, and often require a culture of confidence—with healthy lashings of skepticism—in the people who run and monitor offices of state." The paradox is apparent. By relying on trust between the oversight mechanism and the services, there is a certain loss of independence coupled with an inability to decouple oversight with a particular personality.

reinforces Ikenberry's (1998) second level of relevant state institutions,²⁹ though these case studies by necessity will address both the bureaucratic processes as well as state-society relations. As Migdal's earlier work on state-society relations (1988, xvi) so ably noted, a solely state-centered approach, "for the Third World, at least, is a bit like looking at a mousetrap without at all understanding the mouse." Last, Schedler, et al. (1999, 1) sum the logic of studying institutions, particularly during the democratization phases. "We are witnessing today," they write, "a growing awareness that liberal democracy requires governments that are not only accountable to their citizens but also to the restraint and oversight by other public agencies ... the state must subject itself to multiple forms of self-restraint." This study of inter-institutional dynamics, as the internal security services face (theoretically) both executive and legislative oversight while working within a bureaucratic framework, should yield that institutions themselves shape and form the services' actions. In addition, internal actions should move the services toward bureaucratic professionalism.³⁰

Inherent in the actions and oversight of the intelligence services is the development of legalistic mechanisms that define the limits of the actions. But merely defining those limits does little to promote democratic practice. Instead, developing the rule of law is a necessary condition for further democratization of the internal security services. Adhering to democratic *praxis* extends far beyond compliance with the rule of law, which is only one component of it.³¹ However, the unique relationship of the authoritarian-era services and the absence of legal constraints make the development of legal strictures a most powerful tool in overcoming authoritarian legacies.

The existence of an independent judiciary and the development of the "rule of law" have become overarching mantras for international organizations and states involved in institutional reform in transitional states. There is a universal belief that this independent judiciary enforcing the rule of law has multiple

29 "The institutions that centralize and disperse power among state institutions, such as the legislature, administrative bureaucracy and the executive head of state." As cited in Arceneaux, 2001, 10–11. This study adopted some of Arceneaux's summation of Ikenberry's book.

30 The Geneva Center for the Democratic Control of the Armed Forces (2003), one of the more lucid institutes that seek to encourage professionalism of the internal security services, forwards that professionalism can be encouraged through a number of measures. The steps include careful recruitment, training and career planning; establishing a single intelligence school to inculcate democratic values; promotions based on an officer's actions consistent with democratic values; and selecting ethical and responsible managers willing to enforce strictly ethical obligations.

31 Lustgarten (in Brodeur, et al., eds) 2003, 323.

benefits, including promoting human rights records and reducing corruption. The empirical reality, though, is certainly mixed.³²

In the transitional period, developing a body of laws and then ensuring compliance with their spirit and letter remains among the most effective mechanisms to establish accountability in the internal security services. Establishing legal strictures:

- 1 enhances the psychological force of security service mandates, which may lead to compliance by the services' leadership;
- 2 provides avenues of redress for victims; and
- 3 shifts power from the sole purview of the executive to judicial and institutional bodies.³³

But Lustgarten's scathing assessment of the "rule of law" in practice in European states points to the limits of wholesale reliance on legal constraints. "Those seeking to prevent abuses of power by security institutions," he argues, "should concentrate their energies on political mobilization, financial limitations, and above all on strengthening the powers of the legislature and enhancing and legitimating the media as agents of accountability" (in Brodeur, et al., eds, 2003, 328). This serves to underscore the core idea that besides the state-centered formalized and legalistic oversight mechanisms, there must be extra-institutional forces to provide an enhanced check on state power.

Non-institutional Oversight

Much of the literature and the public policy alternatives of major international donor states and organizations focus on the institutional changes that conform to the realities of the developed states. There has been significantly less attention paid to the conditions that sustain a reforming momentum (Luckham 2003, 17) and the obstacles to continued reform. Two of the most critical factors—civil society and media—are certainly not given their due attention. A well-informed citizenry is undoubtedly a key component in ensuring that all state institutions remain democratically accountable and their actions consistent with the public good. Broadly, the constituent members of the civil society, most especially a vibrant and unfettered media, serve to enhance and check the actions of the secretive internal security services.

32 See Rebecca Bill Chavez. *The Rule of Law in Nascent Democracies: Judicial Politics in Argentina*. Stanford, CA: Stanford University Press, 2004. Chavez contends, in part, that, "Leaders have not taken advantage of the democratic opportunity to change the incentive structures that have encouraged the subordination of the courts. A politically malleable judiciary is one of the most entrenched obstacles in the way of the rule of law in Latin America" (3).

33 Ibid., 323–4.

Civil society—The strength or weakness of the civil society can determine the success of reforms efforts and the transparency and accountability of domestic government. Civil society consists of organized groups whose aim is to influence government policy but who remain autonomous from the state and other sub-state institutions, such as political parties (Chavez 2004, 21). Formalized organizations such as NGOs, lobbies, and human rights groups, political parties, professional, cultural, and other advocacy or special interest associations serve a useful supervisory function over the intelligence services. Moreover, public supervision helps ensure that the security objectives benefit the entire society, not just a specific political party or an elite group of individuals (DCAF 2003, 56).

Members of the civil society can ensure transparency and accountability of the security services in multiple dimensions, including articulating public demands for accountable governance and drawing attention to official infringements of civil liberties and human rights. Moreover, lobbies and advocacy and special-interest groups can educate and inform the public, while challenging government policies. Last, human rights organizations in particular can challenge the intelligence services through providing victims of internal intelligence and security services with access to information from security files, through litigation, assistance in drafting of new laws, and educating the public about intelligence issues (DCAF 2003, 57).

Involving civil society is a key component of post-authoritarian transitions and security sector reform (Cawthra and Luckham 2003, 313), though the specific constituent mix depends in large part on national considerations. In the transition from authoritarianism, civil society must not only be reconstituted, but in many cases established as well. Legacies of fear of police and intelligence agencies make the civil society dimension a very real consideration for transitioning states.

Media oversight of the security sector—As noted earlier, there is a direct connection between the necessary condition for secrecy and the internal security services' ability to act effectively, though this condition of secrecy is diametrically in opposition to the *praxis* of democracy. Insistence on absolute secrecy, usually from the executive, can do little to ensure that the security apparatus is functioning within the bounds of the established legal framework. There is little doubt that an active and inquisitive media can be even more effective than established legal mechanisms in ensuring at least a measure of public accountability (Lustgarten in Brodeur, et al., eds, 2003, 324), even when there are decades-long precedents. The case of Germany serves to establish the importance of media in ensuring this accountability to the larger populace.

Due in no small part to the legacies of oppression of regime opponents in the decade before the Second World War and the *Stasi* apparatus that was dismantled in the early 1990s, contemporary Germany has well-established official mechanisms to ensure compliance with liberal democratic norms. Despite

these mechanisms, including active legislative oversight consisting of standing and ad hoc committees and commissions, the German media remain an essential second pillar of *ex officio* oversight. In everyday reality, the German media serve a catalytic function of bringing security-related issues to public debate, as well as one in which the services themselves can exert influence over political decisions (Shpiro in Brodeur, et al., eds, 2003, 305). Germany's exceptional protection of the media, coupled with a national preoccupation (and skepticism) with its security services, coalesce into an extraordinary media scrutiny, including the largest print media. The end result of this unhindered media coverage is that the security services remain in the public spotlight, curbing activities that might otherwise lead to negative media coverage (Shpiro in Brodeur, et al., eds, 2003, 306). There is certainly a complementary relationship between the official oversight bodies in the German parliament and the German media. The *Bundestag* (Lower House) committees provide the professional forums for oversight and control, while the media give a public arena for exposing security service malfeasance. This very real fear of media exposure serves ultimately to affect internal policies to what amounts to another "set of brakes" against abuses of power (Shpiro in Brodeur, et al., eds, 2003, 308).

Certainly, the role media play in fostering accountability remains controversial. The informal supervision by the media tends to occur through scandal, which of course helps to increase circulation and revenue. Too often, the media overemphasize intelligence leaks, whistle-blowing, and security-service failures, while remaining thrilled by secrecy (DCAF 2003, 58). There is certainly the capacity to check official actions, but unless journalists are specialized in intelligence and security issues, there is a danger of sensationalism and personalization of intelligence issues, sometimes leading to multiple occurrences of media irresponsibility (Weller 2000, 185; DCAF 2003, 58). This highlights the dual aspects of relying on public media for oversight of the security services: while they certainly are indispensable to the promotion of accountable security institutions, their self-serving nature may unduly hinder security service actions.

Developing Professional Forces

Creating accountable, responsive internal security services centers on developing a competent cadre dedicated to fulfilling mission mandates. Bruneau (2001, 336) underscores the importance of addressing early on the development of a professional and accountable security apparatus:

Major efforts must be made in the new democracies to promote and inculcate a sense of professional responsibility by making intelligence officers and agencies accountable to the state via the democratically elected leaders. How to do this? By committing great attention and resources to recruitment and training of professionals

and requiring that they remain involved in the larger polity and society. The specifics of this prescription have to be defined separately for each nation.

In contrast to the patrimonial organizations described by Weber, an institutionalized bureaucracy has delineated standards for promotion based on merit, not politics, coupled with behaviors based on a service ethic and strict enforcement of a merit-based hierarchy. While authoritarian regimes are particularly conducive to patrimonial control over the security apparatus, democratic regimes are much more likely to produce professional, institutionalized internal security services.³⁴ The Geneva Center for the Democratic Control of the Armed Forces (2003, 62) attributes professionalism as being able to “bring more public support, a belief in democratic values and service to the public, greater concern for efficiency, an ethical code of conduct, pride and self-respect, and non-involvement in—and independence of—politics, to the intelligence services and their activities.”

There is little debate that a strong mix of parliamentary mechanisms and a vibrant civil society are required for effective oversight of internal security services, yet even when this mixture exists, there are still numerous holes that allow the security services to have a relatively permissive environment to act with little fear of accountability. In some instances, parliament may be no more than a façade to justify elite decisions made with impunity (Sammonds 2001, 213–14). There is, however, a real scarcity of empirical research and a paucity of theory based on the causes of security service violations of human rights. The theory that does exist is either fairly general or relates to certain types of violations (Uildriks and van Reenen 2001, 64–5). Though Uildriks and van Reenen (2001) discount security service actions (e.g., the police) in the context of violent internal conflict because of their subordination to the military, this study contends that with the exception of widespread civil war, the civilian security services remain the main instruments of state control.

In sum, Bastian and Luckham (2003, 2) emphasize the precise intention in this work: how to structure and reform democratic institutions to ensure they deliver democratic governance, and not further enhance poverty, social inequality, or ethnic conflict. Unchecked internal security services will resort to violence. “The control of violence, then, is not automatic,” Chevigny (1995, 26) contends, “it is a matter of policy effected through many institutions.”

Political Violence, State Responses and Human Rights

Though distinctions are made—including in this work—about the type of political transition’s impact to the existence of political violence (civil wars and terrorism), even countries that can claim to be consolidating their democracies,

34 See also Nancy Bermeo, “Myths of Moderation: Confrontation and Conflict in During Democratic Transitions.” *Comparative Politics* 29 (April 1997), 305–22.

like Chile and South Africa, must deal with problems of violence in one form or another. Many democratizing states, and indeed to varying degrees all states, face criminal violence, violence related to social exclusion, and often privatized violence.³⁵ As Luckham (2003, 19) contends, such problems are all the more severe where democratic governance and even the nature of the state are contested and fragile.

The process of democratization itself is asserted to be a principal cause of uncertainty and violence. Sisk (2006) notes that in virtually every world region there are multiple examples of democratic political competition exacerbating preexistent social tensions, threatening human security. The impact of violence on the democratizing state is rarely positive and may in fact undermine attempts to develop democracy further. Violence may weaken support for democracy by polarizing ethnic differences and warping social cohesion while concurrently undermining the human security and human development initiatives that are associated with democracy's ability to meet social demands (Sisk, 2006).³⁶ This study analyzes whether it is possible to reform the state internal security apparatus where politically-motivated violence, especially terrorism, exists. This is hardly a problem limited to transitioning states. Rather, it impacts them more deeply and severely.

State-Sponsored Violence

Within the contemporary literature on the development and control of intelligence and security systems is the continuum from *security intelligence* to *political policing*. The former describes the use of security and intelligence processing apparatuses to support democratically-chosen initiatives while the latter invokes a state where the security services function autonomously and work against the general populace for the benefit of elite. Moreover, the

35 Typifying a more contemporary and mainstream theoretical commentary on the role of internal violence and state development, Hannah Arendt's *The Origins of Totalitarianism* reifies terror as inhibiting further development of political liberties. The constant threat of terror and imminent violence become "bundles of reactions: that become incapable of any sort of action" (438, as cited in Troyer 2003, 270). Of course, though Arendt focuses on the importance of coercive mechanisms in maintaining totalitarianism itself, there can be a logical extension made that when an extra-state terror pervades, then there cannot be political and civil liberalism; therefore, a legitimate state must ensure some form of coercion that works to obviate a fear from terror.

36 There are multiple examples where political transitions have worsened political violence, including Algeria, Bosnia-Herzegovina, Congo, and Sierra Leone. In each case, the transition spawned uncertainty which forced citizens toward more fundamental associations and concerns. As a most poignant example, the dissolution of the Socialist Federal Republic of Yugoslavia sparked a return to sub-national associations, which became increasingly bellicose, further exacerbating the problems. The culmination, of course, was the bloody three-year ethnic conflict centered in Bosnia.

independent security state is “beyond manipulation and pursues its own agenda of observation and intimidation” (in Williams and Deletant, 2001, 3). The literature describes all three models: the democratically accountable domestic intelligence bureau, the still somewhat accountable political police, and the autonomous (and rogue) independent security state. The latter two are the most relevant for this study, for they appear exclusively in contested democracies and full-fledged authoritarian regimes.

Particularly in the politically-minded “high policing,”³⁷ the security services often turn to violence in order to intimidate the regime’s enemies, to “put them in their place.” Police violence occurs even in the most developed democracy (the infamous Los Angeles Police beating of Rodney King stands prominently), though what concerns this study is the use of systematically applied violence and not incidents in apparent isolation, particularly in the wake of an incident of political violence. Chevigny (1995, 12) forwards that, “It is not difficult to understand the temptation to use of torture against ideological or political enemies; it degrades them to the ... ‘enemies’ of the established order that they are imagined to be.” This study seeks correlations between the actions of the internal security services with the reported human rights abuses where there is significant political violence. There exists a wide variety and amount of cross-cutting human rights reporting to connect the actions of a government’s internal security services with the impact on human rights.³⁸ For instance, human rights abuses in the wake of Morocco’s May 16, 2003 bombings in Casablanca’s city center typify the backsliding of human rights since the “war on terror” began in the wake of the September 11, 2001 attacks in the United States.³⁹

One cannot assume simply that overlaying political institutions that function well in liberalized states will perform as well in states where there remains an omnipresent domestic and regional threat from political violence. The very nature of political violence constrains the room for political agency and choice (Luckham 2003, 19). Eldridge (2002) reminds us that democratic norms are integral to realize the enforcement of human rights standards, but these rights cannot be related with a particular style of democracy or governance. Security laws can override even constitutionally entrenched rights where the executive power dominates electoral procedures. Consistent with this logic of security

37 Jean-Paul Brodeur is among the earliest proponents of refining the definition and expanding the concept of “high policing.” (See “High Policing and Low Policing: Remarks About the Policing of Political Activities.” *Social Problems* 30.5 (June 1983): 507–20).

38 As explained in a previous note, this study examined a range of human rights reporting, but also employed interviews with persons knowledgeable of Morocco and Indonesia’s human rights records. Moreover, official state responses to specific human rights abuse allegations were found and examined whenever possible.

39 For a prime example of the intercession of human rights reporting and the actions of the state internal security services, see Human Rights Watch, “Morocco: Human Rights at a Crossroads.” 16.6 (October 2004).

concerns dominating others, this study argues that human rights abuses by the internal security services are more likely to occur when an internal “enemy of the state” exists, regardless of the institutional structures.⁴⁰ In conflict-rife states, gaps in public security tend to widen, law and order may or may not exist, insecurity is widespread and the military, police, and security agencies are often part of the problem (Cawthra and Luckham 2003, 323).

Human Rights

Ensuring that human rights standards are understood and protected is a multifaceted concern that transcends the state, though with varying degrees of receptivity. The dissemination of human rights standards and compliance that does occur involves a multitude of actors (such as states, IGOs and NGOs, individual experts, and business interests), different levels of action (including international, regional and the sub-regional) and a variety of approaches that range from establishing legal standards and litigation to mobilizing grassroots support (Shelton 2001, 424). Two complementary features make human rights and the state particularly important: its reserved privilege of legitimate use of force that established international precedents reinforce, and the domestic services’ secretive powers of surveillance and investigation.

There are real limits to the ability of human rights governance in preventing and halting state abuses, including instances of genocide. As Shelton (2001, 426) notes, there are several reasons for these failures. First, there are legal limits that tie into enduring notions of state sovereignty and a system where those who violate human rights standards participate in setting human rights standards, monitoring, and enforcement. Second, states are often reluctant to criticize another state, unless there are compelling political reasons to do so. Last, there is little real enforcement power, stemming from the original agents’ design to limit the practices of established governments without considering the consequences of failed, anarchical states. This last aspect leads to an interesting feature of establishing acceptable human rights standards in post-authoritarian states, whose institutions of repression have little established human rights culture. Overcoming these legacies has proved difficult, possibly because interpersonal violence is endemic to enforcing internal security.

The relationship between the internal security services, including most notably the police, and human rights, can often be opaque in practice. The legal use of force may often be required to protect the public from violence and thus can be necessary to protect human rights. An excessive use of violence,

40 An objective threat is measured by confirmed instances of politically motivated internal violence, with perceived threats to the state measured in terms of official rhetoric and responses to that violence. Both, none or either objective and perceived threat may exist within a given state’s boundaries.

however, can also quickly become an important infringement of human rights.⁴¹ Moreover, the insular operational environment of the internal security services, combined with their “special powers,” can limit their regard for human rights (Born and Leigh 2005, 16). As argued by Parliamentary Assembly of the Council of Europe (the CoE):

The Assembly is concerned that member countries’ internal security services often put the interests of what they perceive as those of national security and their country above respect for the rights of the individual. Since, in addition, internal security services are often inadequately controlled, there is a high risk of abuse of power and violations of human rights, unless legislative and constitutional safeguards are provided.⁴²

In particular, human rights abuses by the internal security services arise where the services have acquired certain powers such as preventive and enforcement methods that complement inadequate executive, legislative, and judiciary institutional control, and especially when a country has a large number of security services (Born and Leigh 2005, 16). Realistically, external constraints are limited in their ability to check human rights abuse.

Case Study Analysis

Understanding the difficulty in forcing comparisons between states that have few commonalities, and controlling for the transition type, this study focuses its queries in the literature and through subject-matter interviews to very specific aspects, which in turn are reflected in the case studies. Table 1.5 represents the focused comparisons, listing the broader orientations and the specific questions applied to each specific case.

Case Studies

Following George’s (1979) “Case Study and Theory Development: The Method of Structured, Focused Comparison,” this study is an in-depth look at the institutional control mechanisms of two politically liberalizing states with authoritarian legacies. George’s method specifies that a qualitative study intentionally choose a small number of cases, which in turn are studied deeply. After careful analysis, these case studies should contribute to the development

41 From Niels Uildriks. “Police-Public Violence and Democratic Policing in Lithuania.” *Journal of Human Rights* 3.3 (September 2003), 374.

42 From the Parliamentary Assembly of the Council of Europe, *Recommendation 1402*, “Control of Internal Security Services in Council of Europe Member States,” 1999. Available at <http://assembly.coe.int/>. As cited in Born and Leigh, 2005, 15.

of general theory. Using an inductive approach, the proposed case studies (in line with Eckstein's heuristic and plausibility probe case studies) will become the building blocks for theory development (in George 1979, 54). Because the empirical histories of state transitions spawned by revolution and imposition are comparatively rare,⁴³ this study examines the two most prominent historical trajectories from authoritarianism: transition through internal reform and pacted transitions.⁴⁴

The case studies are:⁴⁵

Table 1.4 Case-specific transition types

Case	Transition type
Indonesia	Reformist
Morocco	Pacted

Source: Author.

Morocco—Morocco is arguably the only instance of the growth of some Western-based ideals of democracy in the Arab world. Though it is reasonable to state that democracy of some form is developing in Morocco, there remain authoritarian practices that hinder the country's move toward transparency and accountability. One institution within the changing Moroccan political landscape is acutely lagging in liberalization: the DST (*Direction de la Surveillance du Territoire*), Morocco's security intelligence agency. Morocco is unique, especially in the Middle East, in that the semi-authoritarian government is the main force in fostering democratic change, while the regime remains unwilling to give up real power and authority. The last and most obvious vestige of this internal palace struggle is the reluctance to cede control of the internal security services to democratic accountability.

43 Therefore, this study intentionally shuns these two transition modes to develop and/or test theories that have the widest (potential) applicability to contemporary policy. Reformist and pacted transitions result most fundamentally from compromise (as opposed to violence or force), though they are sufficiently distinct to allow for rich comparative study.

44 Studying countries from the developing world, even those with comparatively well-developed polities, presents difficulties which may account for the sparse academic offerings on the security services in this particular developmental class. See Adda Bozeman, "Political Intelligence in Non-Western Societies: Suggestions for Comparative Research." In Roy Godson, ed. *Comparing Foreign Intelligence: The US, the USSR and the Third World*. Washington, DC: Pergamon-Brassey's, 1988.

45 For those versed in his work, using the same two cases—Morocco and Indonesia—as the eminent anthropologist Clifford Geertz is accidental, not through intentional design; however, following Geertz's intellectual reasoning does bolster this study's foundations for choosing these two countries for deeper study.

Indonesia—Indonesia presents a wholly different policy context from Morocco. Despite the features common with Morocco—their predominantly Muslim population, their incrementally positive economic and political liberalization—the differences between the two are stark. Indonesia is geographically dispersed, with thousands of distinct ethnic divisions and ongoing internal violence. The fall of Suharto’s particularly obdurate regime after severe economic malaise sparked mass internal dissent. These popular uprisings forced a transition involving the economic and political elites (often the same individuals), especially the chiefs of the powerful security apparatus. Overall, the contemporary Indonesian political leadership is popularly chosen and has real authority; moreover, the government is relatively transparent and has outside oversight. The head of government, though, exercises little effective control over the Indonesian internal security organs (ostensibly, the police forces, though in practice the military exerts much influence through control over a comprehensive intelligence service, which dominates the intelligence community). The military and police leadership wield significant influence in politics and their ownership of private businesses extends their authority to economic realms as well.

Table 1.5 Focused comparison

Political change and institutional incentives

Translating principles of governance

- How were broad principles of governance translated into specific institutional choices?*
- Who made these choices and how?
 - Was reform driven by political and economic elites?
 - Were changes a response to broad popular constituencies, i.e., from “below”?
- Was there genuine ownership of the democratization process or was it imposed externally?
- Was change a result of a crisis of legitimacy or even from violent conflict?

Summary and assessment

- What was the net institutional impact to the internal security services?

Institutions and change

The internal security framework

- Are key state security institutions removed from the legislative process (except for limited advisory capacities)?
- Are the internal security services separated from the external defense apparatus and mandate (i.e., the military)?
- What are the specific capabilities and mandates for the internal security services?
- Is the head of government *de jure* or *de facto* head of the internal security services?

* See Bastian and Luckham, 2003, 3–4.

Table 1.5 cont'd**Institutional controls and oversight mechanisms***Legal strictures*

- Are there constitutionally-derived constraints on security service actions?
- Are there laws governing the operation and accountability of the internal security services, including:
 - treatment of suspects;
 - invasions of privacy;
 - complaints procedure?

Judicial oversight

- Is there effective investigation and judicial redress for alleged human rights abuses?
- Are there:
 - Deaths and injury to suspects or those exercising their lawful and civil and political rights?
 - Biases in the treatment of citizens?

Legislative control and oversight

- How far is the elected government able to influence or to control those matters that are important to the lives of its people?
 - How well is the elected government informed, organized, or resourced?
- How effective and open to scrutiny is the control exercised by elected leaders and their ministers over administrative staff and other executive agencies?
- How extensive and effective are the powers of the legislature to scrutinize the executive and to hold it accountable?
- Is there:
 - An independence of government information sources?
 - Legislative access to non-governmental expertise?
- Who is on the oversight committee?
 - Level of expertise of committee members.
- What are the legislature's actual powers and authority (e.g., over budgets and promotions)?
- Are there public reports on security service activities?
- What is the frequency of legislative committee meetings?

Civil society

- What is the overall representation and impact of the domestic civil society in overseeing the internal security services?

Media

- Are there independent media?
 - Are there reserved domains or restrictions on their reporting, especially as related to the internal security services?

Summary and assessment

- What is the overall level of autonomy and accountability of the internal security services?

Human rights and political violence*Human rights*

- Has the government established an official mechanism to address past and current human rights abuses?
- How large and active are domestic and international human rights groups in monitoring the actions of the internal security services?

Table 1.5 cont'd*Political violence*

- How free is the country from paramilitary units, private armies, warlords and criminal “mafias?”
- Is there a “real” public threat from internal violent dissidence?
 - Do terrorist groups willing to harm the public exist?
- What is the ability of the state to combat internal violence dissidence?
- Do crises further exacerbate ethnic divisions and socio-economic variances?

Summary and assessment

Source: Author, with multiple questions structured from International IDEA (The International Institute for Democracy and Electoral Assistance). *Handbook on Democracy Assessment*. Leiden, NL: Kluwer Law International, 2002.

One principal caveat in the study of internal security services must be mentioned. Because of secrecy surrounding a state's internal security services, accessing contemporary files and personnel is all but impossible. However, in each of the case studies there are varieties of outside observers (journalists, academics, human rights organizations,⁴⁶ foreign diplomats, and retired security personnel) who can provide information to piece together a comprehensive picture of the internal security services. Though particulars on a contemporary service may be incomplete in certain details, these details are not the central focus of this study. This study concerns itself with the *de facto* oversight mechanisms, available openly from official sources, and then juxtaposes those mechanisms against that state's aggregate human rights record.

This study of the internal security services in politically liberalizing states reflects an emerging holistic view of a state's security to move the discussion beyond sole reliance on civil-military relations. Assessing a state's internal security services allows researchers and policymakers alike to study concrete mechanisms and manifestations of the institutions of state; moreover, it allows the scholar an avenue to test and develop new theory. In demonstrating that the internal security services are a most reliable measure of a state's true level of democracy, this compact tool enhances democracy's forward movement.

⁴⁶ To develop an assessment of a state's particular human rights climate, especially in conjunction with respect to the action of the internal security services, this study reviewed English-language human rights reporting from as many sources as possible to cull relevant materials.

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Chapter 2

Commander of the Faithful: Morocco, the King, and the Internal Security Services

I hated him for the irreparable crime he had committed in locking up a woman and six children, the youngest of whom was only three, for such a long time and in such inhuman conditions.

Malika Oufkir¹

Certainly there is a tension in the Arab world that pits Western-leaning reformers of all stripes against more modest elements, which creates a dynamic where even the most liberal-minded of political leaders is forced to recognize that any changes must be accompanied by an expectation of turmoil and even violence. Morocco typifies this case, perhaps more than any other Arab-influenced state. For Morocco is a clear choice to study political liberalization, internal tumult, and vestiges of the *ancien regime* in the country's move toward the transparency and accountability so necessary in liberal governance. After a broad overview of the interrelationship among the internal security elite and the past and present monarchs, this chapter addresses Morocco's ongoing liberalization, the impact of institutional changes, and Morocco's official state reactions to rising ideological-based violence.

This chapter argues that the internal security services in Morocco, despite having changed dramatically in the past ten years, remain a source of potential and real hindrance to democracy's strengthening there. Because of the services' direct responsibility to the executive with no institutional oversight, the internal security services remain fully entrenched. Combining an Arab cultural context with an elite-driven liberalization, this study of the Moroccan internal security services offers illuminating perspectives into Morocco's embryonic democratic practices.

The Origins of the Security State

In the Moroccan context, despite real steps toward political liberalism, the Moroccan polity is reticent to cede final control of the internal security services

1 In *Stolen Lives: Twenty Years in a Desert Jail*. New York: Hyperion, 2001.

to democratic accountability. The underlying reasons reflect the very specificities of the Moroccan cultural context, while also providing universal lessons of democratization and the role of institutions. When studying Moroccan politics, the monarchy is the central political element. The monarchy itself fosters the democratic transition, while not allowing democratic oversight of the internal security services. The traditional symbiosis between the internal security services and the monarchy underscores why the Moroccan internal security services remain publicly unaccountable and, as a result, continue as a hindrance to further democratization.

The King and his Police

Morocco is a country of complexities and intricacies that the outside observer may find difficult to comprehend fully. While Morocco has a rich and vibrant artistic and cultural life and top-down political reforms, it still finds itself hindered by a lack of real political voice, economic concerns, and a system that maintains the most exclusive prerogatives for the monarch, beginning with King Mohammed V, ongoing through Hassan II and continuing today with the youthful reformist Mohammed VI.

Mohammed V: Creating a Durable Monarchy

Mohammed V is revered as the father of modern Morocco, the man who fostered Morocco's development of a unique Arab-Berber personality in the face of close economic and political ties to the West. Mohammed V allowed for political liberties unique in the Arab world and was roundly praised as a force for moderation. In accepting these accolades, one recognizes that Mohammed V was a practical man, focused on quelling internal dissent and maintaining monarchical rule. The leader who won Moroccan independence from French colonial domination, Mohammed V appreciated immediately the need to personally dominate a powerful and effective police force to maintain the hegemony of his throne.

Despite his strong political credibility, Mohammed V had no other practical means of coercion until the spring of 1956, when he fostered the development of both a Moroccan military and a national police force. After the police and military came into existence, Mohammed V ensured that instead of allowing at least some notional legislative control over the services, the police and army were to be entirely loyal to the throne (Waterbury 1970, 146–7). Ashford's (1961, 163–5) sympathetic analysis of this early period of Moroccan statehood depicts a country in internal turmoil, with the most threatening presence coming from the dissidents who had previously fought against the French occupation using the evolving tactics of guerilla urban-warfare. Receiving the most modern equipment available coupled with the rapid purge of any obvious French

participation, the police and army were the most obvious examples of royal patronage and the royal campaign of “Moroccan-ization.”

From this earliest period in modern Moroccan politics, two broad observations of the monarchy and the internal security services demonstrate the inextricable bond that influenced subsequent internal relations: 1) the king saw the expediency of maintaining direct control of the services, with little transparency or legislative oversight. From the very beginning of contemporary Morocco, the king controlled all major actions of the *Sûreté Nationale* (the National Police), either personally or through the proxy of its first director, Mohammed Laghzaoui. During the earliest state-building period, which witnessed a flurry of new legislation, the only law concerning the internal security services was a vaguely-worded *dahir* that placed the *Sûreté Nationale* in the Ministry of Interior (Ashford 1961, 164). 2) The work and actions of the internal security services were not open to public criticism; the only early scrutiny came from the trade unions, themselves the targets of the internal security services.

The hegemonic relationship of the king over the internal security services and Moroccan society in general endured throughout Mohammed V's reign. It was this association that Mohammed's son and successor was to inherit to ensure the continuation of the Alaouite domination of Moroccan politics.

Hassan II: Amid Repression and Liberalization

The coronation of Crown Prince Hassan in 1961, after the death of his father Mohammed V, continued the succession of Alaouite rule in Morocco since the seventeenth century. The Alaouite, who came from Arabia in the beginning of the thirteenth century, trace their origins over 40 generations to the Prophet Mohammed through Hassan, the son of the Prophet's son-in-law Ali and his daughter Fatima. The monarchy's call to the most prominent of Islamic heritages is relevant to the state of political (in)security even today.² The heritage privileges the monarchy's claim to double legitimacy: *religious*, as fulfilling the ruler's function as “commander of the faithful,” and *political*, as continuing the authority of the Alaouite dynasty (Dwyer 1991, 102). Despite these oft-expressed claims, threats to the legitimacy of the monarchy during the tumultuous rule of Hassan II provide insights of contemporary relevance into the direct executive control of the internal security services.

Even before assuming the throne, Crown Prince Hassan was adept at employing the tools of the state to the advantage of the crown. To shore up

2 Zerhouni (2004, 63) describes the unique combination that allowed for the exceptional durability of the Moroccan regime. To survive, the regime has succeeded in converting allegiance into submission by creating a culture of obedience and through stigmatizing all forms of political opposition. Islam and tradition were central in maintaining this culture of acquiescence.

imperial rule, the crown prince developed a “shadow cabinet,” with loyalist police forces as its centerpiece. Using the praetorian *Sûreté Nationale* accountable only to him, Crown Prince Hassan was able to discredit the leftist prime minister, Abdullah Ibrahim (Waterbury 1970) and the prime minister’s threats to royal authority. Under Hassan’s control, the internal security services extended and expanded their role and capabilities, particularly under a series of extreme interior ministers. As one observer noted, “The greatest force in neutralizing opposition in the early years was Mohammed Oufkir ... He created a powerful and centralized police force that acted with scant regard for either outside control or human rights” (Pennell 2000, 321).

Morocco faced both internal and external threats during the first years of Hassan II’s rule. Externally, in 1963, Morocco and Algeria began a border dispute that was to last many years; moreover, relations with Algeria worsened after Algeria was accused of supporting a plot to overthrow the king that same year. Internally, despite openings for political expression, a succession of crises forced monarchical suppression. The first major threat to the regime began in 1965. Riding a crest of internal dissidence that had been rising for years, students and slum dwellers rioted, setting Casablanca ablaze (Pennell 2000). The riots forced police and army action, under the direction of the newly-appointed Minister of the Interior Oufkir that led to more than 400 deaths. Privileged over any other single event, these riots precipitated a five-year suspension of the constitution and subsequent rule by decree. The actions of the internal security services reflected the contemporary environment of political insecurity.

Later, in 1965, the internal security services were implicated in the kidnapping (and “disappearing”) of prominent political oppositionist Ben Barka, an issue that still demands international attention today.³ Underscoring his sometimes-tenuous grip on power, in the aftermath of the riots of 1965, the king faced a series of coup and assassination attempts:

- July 1971, the first coup attempt. Army cadets under the direction of disaffected military officers attacked the king’s palace in the outskirts of the capital Rabat during a diplomatic reception to celebrate the king’s birthday. The attackers killed over 50 guests, and the king himself was held at gunpoint before convincing his attackers to release him.
- August 1972, a second coup attempt. Its own fighter escorts attacked the king’s jet in flight. This attack, organized by the king’s closest confidant Oufkir, had the paradoxical effects of shaking the king’s power to its

3 Ben Barka’s death continues to receive significant interest in Morocco and abroad, particularly in France. France recently announced that it was to open again an investigation into the circumstances of Ben Barka’s murder to determine any official involvement of the French government.

very foundation and elevating his standing as enjoying divine privilege (Dwyer 1991).⁴

- March 1973, when a Libyan-sponsored insurrection was uncovered, leading to further repression of political opposition, especially of the political left.

His reputation increased the view for some that Hassan II possessed special blessedness—*baraka*—that supported his staying in power. Hassan II, though, knew that luck alone would not maintain his power. Only reform of the political system and the forging of a common purpose with the nationalist opposition would foster the security the monarchy so desperately needed (Pennell 2000: 333). In the context of these internal threats, the monarchy began in 1972 to establish a new constitution, though the constitution would not be implemented until 1977. The constitution of 1972 established a parliament, with two-thirds of its members to be chosen directly by universal suffrage and one-third through professional organizations, community councils and unions.

Though the constitution touted its democratic and liberal principles, the king maintained the lion's share of real power (Dwyer 1991, 104), including commander-in-chief of the armed forces and the ability to declare states of emergency. Another observer argues, "In the Moroccan constitution, ministers, senators, magistrates and governors enjoy certain prerogatives but wield no real power independently from the king. Hassan II publicly called high government and state officials *khudama*' (loyal servants to the throne) and treated them as such—not as agents or representatives of modern political institutions with formal political authority" (Maghraoui 2001). This principle of monarchical hegemony in the most important spheres that shape state security is a hallmark of the constitutional maneuverings during Hassan II's reign, which continues through his son Mohammed VI's liberalization.

Political Change and Institutional Incentives

Many from the media, foreign NGOs and the international diplomatic community routinely tout Morocco as the only example of real democratization in the Middle East.⁵ Despite these accolades, any praise of Morocco's

4 The generally accepted history of this assassination plot is that the king's pilot radioed that the king had been mortally wounded in the initial attack. After landing, the king personally commandeered a private auto and drove to a palace outside of Rabat. From there, Hassan II was able to direct a successful counter-offensive. Regardless of the details, these events led to the development of a special aura surrounding Hassan II.

5 In a *New York Times* Op-Ed, US Trade Representative Robert B. Zoellick argued that, "The larger picture is one of a new and deeper economic and political partnership with Morocco, a bright light of reform and moderation in the Islamic world. For too

exceptionalism must come with serious qualifications. Stemming from the constitution promulgated in 1972 and reforms instituted by Hassan II in the 1990s, the king has opened Morocco's political space to create more personal freedoms, criticism from civil society and some institutional powers to a popularly-elected parliament. In contrast to these liberalizations, Morocco remains a constitutional monarchy in which, as the State Department (2006) concedes, ultimate authority rests with Mohammed VI. Maintaining control over all the real power organs of the state, the king presides over the Council of Ministers, appoints or approves members of the government, and has the discretion to terminate any minister, dissolve Parliament, call for new elections, and rule by decree in times of national crises. This give and take between the monarchy and the polity typifies the modern political dynamics within Morocco. With these prerogatives reserved in the monarchy, the last decade witnessed palpable changes in Moroccan political spheres that could give even the most cynical observer evidence that some transition from authoritarianism has occurred.

Translating the Principles of Governance

The current movement from authoritarianism began not solely with the current monarch; rather, a political transition began during the waning years of Hassan II. Writing of these roots in the previous regime, Howe (2001b) argues that Hassan II's clear recognition of his own mortality forced him in February 1998, to name Abderrahmane Youssoufi, a human rights lawyer and leftist party leader, to head a new government of *alternance* (alternative). The Youssoufi-led government promised comprehensive reforms in administration, education, the economy, judiciary, human rights and the status of women, but its lack of a clear legislative majority and political competencies hindered most of these initiatives.

Despite the more competitive and open polity, under Morocco's revised constitution, Hassan II retained all the monarchy's prerogatives, including control over five key cabinet posts: interior, justice, foreign affairs, defense and Islamic affairs (Howe 2001b).⁶ It was within this milieu of a more open political system within monarchical strictures that Mohammed VI acceded to the throne. It is clear that Hassan II desired to keep the organs of real state

long, the Middle East and North Africa has been a place of stagnant economies, religious extremism and lack of hope. Democracy is rare, small businesses are stymied by governments and a favored few, and militants want to turn back the clock to the seventh century ... Yet a different vision is beginning to emerge." "When Trade Leads to Tolerance." *The New York Times* 12 June 2004.

6 One former US official terms this "Hassan-ian" democracy, a term that the king himself employed to characterize the centrality of the monarchy in fostering liberalization. Interview with author, March 10, 2005.

power close, not only for the obvious reason of maintaining the coercive fiat, but also to keep the state's most powerful figures under supervision before the transition of power when his son assumed the throne.

Before his death in July 1999, Hassan II's elimination of most potential challengers to executive power allowed for a smooth transition to power for Mohammed VI. At the king's funeral, world leaders praised him as both a statesman and a man of peace. The Youssoufi government worked to assure that the transition did indeed go well, and that it would be perpetuated by Mohammed VI. A keen observer of the period, Howe (2001b) analyzes the events further.

From the outset, the 35-year-old monarch, who is often familiarly referred to as M-6, pledged to pursue his father's policies for the building of a modern state based on a democratic and constitutional monarchy. In his first Throne Speech, however, Mohammed VI called for consolidation of the rule of law, particularly in the domain of human rights and public liberties. Specifically, he announced the creation of an arbitration commission to provide compensation to victims of arbitrary detention. "We are fully aware of the extreme importance of moral and humanitarian compensation to close this dossier definitively," the king said. He also granted amnesty to over 46,000 prisoners.

The new king sought immediate popular approval through very public actions, including a series of visits throughout the country and as the first monarch to visit the Rif Mountains since the rebellion there was crushed in 1958 (not incidentally, under the generalship of Crown Prince Hassan). Moreover, Mohammed VI fostered an image of the "poor people's king" and made public speeches to tout that he understood the economic plight of so many Moroccans. The most prominent royal action for the internal security services was the very public firing of Interior Minister Driss Basri, Hassan II's closest and most trusted adviser at the close of his rule and the most public symbol of all that was bad during Hassan's reign.

The Fall of Driss Basri

Basri's sacking in November 1999 was calculated to demonstrate that the king intended real political liberalization. Basri was universally viewed as both the source of security abuses and the institutional resistance to parliamentary rule and the rule of law. Cordesman (2002, 73) describes Basri's receiving the Grand Ribbon of the Arch, Morocco's most prestigious public award. Cordesman also notes, however, that the king's timing of Basri's departure coincided with the prime minister's absence abroad, which underscored that the king himself was responsible for the changeover in the Interior Ministry. The prime minister later announced that the government had allocated funds to compensate the victims of police repression and illegal detention. Mitigating the positive steps

toward liberalization that Basri's removal may have signified, the elected prime minister was informed of the firing and subsequent replacement of the interior minister *ex post facto*.⁷

Basri's rise to power was meteoric. Having been appointed to head of the secret police at 34, he then entered the government as secretary of state for the interior the following year where he remained for the next 25 years, becoming minister in 1979.⁸ The symbolism of Basri's removal on November 9, 1999, the tenth anniversary of the fall of the Berlin Wall, was not lost on many Moroccans. The ousting of Basri, one of the most feared and powerful security heads in the Middle East and North Africa was one of the king's most direct attacks on the *makhzen*.⁹ While in power, Basri enjoyed tremendous power and influence. As minister of the interior, he helped form government policy that determined everything from the details of the country's elections to who was eligible for free prescription medications. Basri's enormous portfolio was hardly accidental, allowing Hassan II to play the "good cop" to Basri's very real image as the tough and merciless enforcer.¹⁰ Moreover, Basri was at the center of a network of political and business elites, and for his quarter century in office was a *de facto* shadow prime minister. The expulsion of the old guard was swift and violence-free. Mohammed VI, along with the prime minister, transformed at least the international image of Morocco from an "autocratic police regime" to a more open participatory society (Howe 2000, 60). Mohammed VI appointed a new interior minister, touted as a technocrat, Ahmed Al Midaoui, and his deputy, Fouad Ali Al Himma, was known as a long-time close friend of the king. The latter appointment is clearly meant to be the king's eyes and ears in the Interior Ministry.¹¹

Summary and Analysis

In the Moroccan context, Haddadi (2002) makes a compelling argument that one must differentiate between a political transition and the transition of power, assumed as simultaneous in the established democracies of the West. Despite

7 Relatedly, the role of the army during the political transition in Morocco remains an understudied topic. It's possible to claim that the relationship between the throne and the military leadership has been tenuous, though the few significant personnel changes in the armed forces may indicate the monarch's waiting for the right moment (e.g., a conclusive resolution over Western Sahara), or simply that the king does not deem any military personnel changes necessary (see Zerhouni 2004, 70).

8 He was hardly left penniless, reportedly having several houses and a luxury resort on the coast to choose from. See "Goodbye, Good Riddance." *The Economist* 353.8145 (November 13, 1999), 44-6.

9 *The Estimate*. "The Fall of Driss Basri." XI.24 (November 19, 1999). Available at <http://www.theestimate.com/public/111999.html>.

10 Ibid.

11 Ibid.

refinements, real political power lies outside the realm of party competition; therefore, political transition does not transfer power from government to opposition. Rather, the political transition is based on Mohammed VI's "new concept of authority, with the tenets of respect for individual liberties, the rule of law and preservation of social stability."¹² The political transition is the most important development in Morocco, with the intent that further democratization would come in the future. The transition period that began in the latter years of the Hassan II ended with Mohammed VI's continuation of his father's policies.

Morocco's transition is emblematic of a political trend particularly acute in the various personal hegemonies in the Middle East.¹³ In an effort to maintain personal rule in a world that continues to look sourly on despotism, Hassan II instituted policies that opened the political system to more popular participation and scrutiny. Mohammed VI accelerated his father's move to political liberalness. There is little evidence that there was external pressure of a genuine crisis of regime legitimacy; rather, the transition's reforms are most likely due to a combination of changing international standards and preemptive moves to stave off internal and external criticisms.¹⁴ The elite-driven changes, encompassing primarily the monarchy but also elites from economic, political, and security circles clearly indicate a pacted transition. Those in power established the rules for the future status quo.

In brief, the mode of transition indicated the general political tone of the country since liberalization. In effect, Morocco has maintained political stability at the cost of few, if any, further tangible benefits extending to the general polity. Morocco falls away from an ideal post-authoritarian transition in that the monarchy maintains real coercive prerogatives; however, public sentiment and international pressures limit its powers. Though no grand oppositional pact has yet to unseat the monarchy, an elite ascendancy has negotiated the new rules of the game that governs Moroccan politics. That pacted transitions will likely produce competitive democracies, regulated in part by the foundational bargains, is only somewhat supported by the Moroccan case.

12 Speech by Mohammed VI in Casablanca, October 12, 1999. Cited in Haddadi 2002, 160.

13 See, for example, Neil MacFarquhar's treatment of Jordan's internal security services' complicity in hindering further political reform. In "Heavy Hand of the Secret Police Slows Reform in the Arab World." *The New York Times*, November 16, 2004, 1(A).

14 Cavatorta (2001, 189) argues specifically this point. "In reality," he writes, "political liberalization has been used to allow the crown to regain a firm hold on power and rebuild its legitimacy ... the hopes for true democratization have been sacrificed in the name of stability of the region." Though his argument is at times rather emotive, the point that further political liberalization has stalled in Morocco and the other countries of the Maghreb with tacit approval of western states is justified and reflected generally throughout the literature.

Rustow's (1970) possibilist arguments on transitions to democracy hinge on a belief that all states can achieve some formulation of democracy irrespective of its particular preconditions. Instead, elites are central to fostering the transition to ensure that appropriate policies are enacted and fostered. Desrues and Moyano (2001, 23) contend that,

Morocco is an example of a country in which it appears that the conditions are not optimum for the success of democratic projects, but where, nevertheless, its elite seems to be determined to advance in the process of political change even if this means having to overcome difficulties of various kinds that provoke crises of governability.

The centuries-old, traditional cultural and economic elite of the *makhzen* persist in their symbiosis with the regime. The transition has allowed the elite to maintain its access to power and privileged status, maintaining a level of consensus that does not extend deeply into the populace. Most importantly, the Moroccan transition has reserved a built-in veto for the executive, a veto backed up by the most powerful (and least transparent) coercive state mechanisms.

Morocco's case bears out Bellin's (2004) contention that democracy's elusiveness in the Middle East is less a cause of a lack of democratic "prerequisites," but rather the robustness of the state coercive mechanisms. She further argues that the "Democratic transition can be carried out successfully only when the state's coercive apparatus lacks the will or capacity to crush it. Where the coercive mechanism remains intact and opposed to political reform, democratic transitions will not occur" (143). This is partially true for Morocco, though the relationship is inverse.

In Morocco, the mechanisms of coercion are not necessarily opposed to (or, for that matter, supportive of) further democratization. Rather, the monarchy has completely ensnared the internal security apparatus, rendering it neutral to any liberalization process. Under Mohammed VI, the interior ministry has shed its pretensions to control the entire political process as under the previous regime. Instead, the services have stopped interfering (at least publicly) from any political dialogue, preferring to remain in the background with a tacit understanding that the regime could call upon them should the political sphere become uncontrolled. The transition hinges on the monarchy's record in fostering political change in Morocco. He and the other Arab monarchs are of a different generation than their fathers' generation. In Morocco, Mohammed VI wants whatever transition that is occurring to be on his own terms—to be peaceful and to allow for the monarchy to be more than just a figurehead. The people of his generation understand the need for change, but also desire to maintain the monarchal prerogatives as well.

Institutions and Change

These two “sanctuaries,” the police station and the parliament, eloquently symbolize the crisis of political authority in Morocco.

Abdeslam Maghraoui¹⁵

The regimes of North Africa and the Middle East remain among the states with the largest democracy deficit. Among this group, those that do not have the material resources needed to placate an often restive population are forced into more creative modes to maintain their ultimate authority. In Morocco, the monarch maximizes his ability to govern through a combination of his hereditary legitimacy (by enabling rent-seeking elites' access to the considerable resources that the state does control), and through the state's coercive mechanisms that culminate in a powerful intelligence and security network that is among the most capable in the region. The following section describes this apparatus, and the state and non-state institutions that have developed in concert.

The Internal Security Framework

There are few reliable official reports on the internal security services and their actions, particularly the services' human rights abuses and popular redresses. To that end, an amalgam of unofficial reports, media glimpses into the actions of the security services and reporting from the human rights community serve to provide some insight into Morocco's *de facto* security architecture (Figure 2.1). The US State Department's annual report on human rights practices provides one of the few initial, broad views of the internal security services of Morocco. The Moroccan security apparatus includes several overlapping police and paramilitary organizations:

- The National Police (*Sûreté Nationale*)
 - Border Police
 - Mobile Intervention Corps
 - National Brigade
- *Direction de la Surveillance du Territoire*—DST
- Auxiliary Forces
- Judicial Police
- Royal Gendarmerie
- Department of Royal Security

Though her analysis of the security apparatus under Hassan II is dated, Waltz's (1995, 119) logically and soundly concludes that the fragmented—and

15 In “Political Authority in Crisis: Mohammed VI's Morocco.” *Middle East Report*, 218 (Spring 2001).

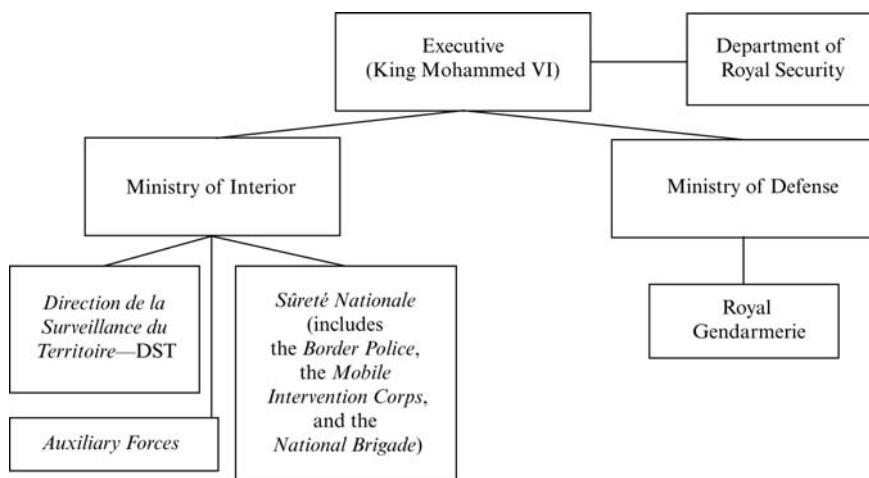


Figure 2.1 The Moroccan internal security services

Sources: Author, with data from the US State Department’s “Country Report on Human Rights Practices, 2004—Morocco,” February 28, 2005, and the “Country Report on Human Rights Practices, 2005—Morocco,” March 8, 2006.

rivalrous—structure of the internal security services allows the monarchy to maintain control over a powerful and unwieldy apparatus. With about 6,000 personnel, the National Police—*Sûreté Nationale*—includes the National Brigade, the Border Police and the Mobile Intervention Corps. The border and immigration services are mandated to oversee the frontiers, while the National Brigade has primary investigative responsibility for serious violations of the federal penal code, including terrorism, and organized and white-collar crime. The Ministry of Interior oversees two other branches responsible for internal security: the French-styled internal intelligence service (*Direction de la Surveillance du Territoire—DST*) and the Auxiliary Forces, the latter numbering about 25,000 personnel. The Judicial Police are under the jurisdiction of the Ministry of Justice, while the 29,000 Royal Gendarmes report directly to the palace in performing their mandated functions of law enforcement in rural regions and the national highways. The security services are able to bolster their forces to respond to potential and emerging threats. For example, in response to intelligence indicating potential terrorist attacks in Casablanca prior to New Year’s celebration in 2003, Moroccan security mobilized over 8,000 members of national police, gendarmerie, the rapid intervention forces and reservists.¹⁶

The State Department (2005) reports that civilian authorities maintained effective control of the security forces, though “Some members of the security

16 *Al-Sharq al-Awsat* (London), January 4, 2004.

forces continued to commit serious human rights abuses.”¹⁷ These two particular aspects require further elaboration and constitute the remainder of this study: civilian control over the security forces and the services’ human rights abuses. Most especially, this study scrutinizes the activities of the agency that has the least public oversight and the most extensive security mandate, the DST.

The *Direction de la Surveillance du Territoire* (DST) has the primary responsibility of targeting threats to the internal security of the state, particularly the monitoring of internal dissent, the practical definition of which has changed over the years. Under Moroccan *dahir* 1-73-652, January 2, 1974, the DST is “charged with ensuring the protection and safeguard of the state’s security and institutions.”¹⁸ In practice, the DST is Morocco’s principal anti-terrorist organization and the most specialized domestic intelligence service to handle terrorist issues.¹⁹ While working directly for the Interior Minister, the chief of the DST coordinates with the national police force, the General Directorate of National Security (the DGSN, Gen Hamidou Laanigri).²⁰ In a July 2003 public announcement, the king appointed Ahmed Harrari to the position of director of the DST.²¹

Though the exact numbers of personnel and the operating budget are not publicly disclosed, one estimate places the operating budget for 2004 at 122.8 million Moroccan dirham (US\$11,163,636 at \$1 = 11dh), an increase over its 2003 estimated budget of 14.3m dirham. The DST was to recruit 100 new agents in 2004, increasing total personnel to 2,999.²² Its personnel are neither credentialed agents nor officers of the judicial police; therefore, under Moroccan law the DST does not technically enjoy any authority to arrest, detain or question subjects (Amnesty International 2004).²³ In fact, DST personnel routinely arrest and detain thousands of suspects every year. These arrests

17 The “Country Report on Human Rights Practices, 2007—Morocco,” March 11, 2008, did not mention this sort of language, which had appeared in previous years’ reports. This may be due in part to Morocco’s changing human rights dynamic, or a change with State’s reporting.

18 Dahir no. 1-73-652 of January 2, 1974 abrogating and replacing *dahir* no. 1-73-10 of January 12, 1973, creating a Directorate General for the Surveillance of the Territory. Footnote 6 in Amnesty International, 2004.

19 *La Razon* (Madrid), April 1, 2004.

20 Laanigri has a long relationship with the DST, his appointment as head of the DST in 1999 making him the first military officer to its chief. Lannigri replaced strong-man Driss Basri as *de facto* head of the agency, accused by many to be the main perpetrator of human-rights abuses under the reign of Hassan II. *Al-Haya* (London), October 3, 1999, 6.

21 *Maghreb Arabe Presse*, July 25, 2003.

22 *Al-Ahdath al-Maghribiya* (Casablanca), April 8, 2004.

23 The Moroccan Code of Criminal Procedures stipulates which security personnel have arrest prerogatives. See Articles 16-33 of the Code of Criminal Procedure, supplanted by Articles 16-35, effective October 1, 2003.

violate not only Moroccan law, but international treaties to which Morocco is a signatory as well.

The DST is not an agency of the Moroccan judicial police, and as such does not come under the supervision of the office of the prosecutor or an investigative judge.²⁴ In the course of their activities, DST personnel do not produce arrest warrants (since indeed they cannot under Moroccan law because they are not credentialed law enforcement agents), nor do they inform suspects of the crimes for which they are being detained. The families of those arrested are not informed of the detention nor the whereabouts of their relatives. The DST's main function, then, by law is limited to surveillance and analysis of particular internal threats, a structure similar to the domestic intelligence bureaus of some Western countries. In practice, though, the DST routinely violates this mandate.

Capabilities—The DST and the Moroccan national criminal investigation division are certainly capable of clandestine surveillance and technical eavesdropping. Moreover, the internal security services use networks of personal informers. One incident involving three Saudis who established an al Qaeda sleeper cell demonstrated the Moroccan internal security services' ability to infiltrate the Islamist community in Morocco, as well as their ability to monitor cell phones and Internet traffic.²⁵ "Operation Gibraltar," as it became known, revealed at least to one outside observer the pervasiveness of the informer networks, a technique that the services use to great effect.²⁶ The internal security services' "constant presence" infuses society so deeply that informing takes the status of a patriotic duty.²⁷ This sense of duty makes an interesting parallel between the deeply-ingrained association between the monarchy and the conception of Moroccan identity in the popular psyche. Waltz (1995, 104) describes this public adhering to the state-monarchy as "not a social contract so much as a psychological contract that binds the people to the monarchy." DST's surveillance extends to three particular classes of foreigners: US citizens (for their "own safety"), Spaniards, and journalists, the latter two to ensure

24 Human Rights Watch, 2004b.

25 Martin Bright. "Where Informers are Patriots." *The New Statesman*, June 24, 2002. There appears also to be a renewed sense of international cooperation between the Moroccan internal security services and international partners, especially France and the United States. See Douglas Frantz, "War of Secrets: Sharing Information." *The New York Times*, September 8, 2002, 4.1

26 In January 2004, the internal security services, acting on information from an local informant, broke up a *Salafi Jihad* cell of three women, which intended to carry out bombings in Casablanca on the New Year's Eve holiday days earlier. *Al-Sharq al-Awsat* (London), January 4, 2004.

27 Ibid.

they were engaging in approved activities. Most likely, as shown in the case of “Operation Gibraltar,” the list has expanded to other nationalities as well.²⁸

Despite the obvious pervasive capabilities of the internal security services with an extensive mandate, the DST seemingly has trouble infiltrating the rapidly-developing slums. Growing cancer-like not only on the outskirts of the major cities but in-fill areas within urban centers, the slums are a direct result of the previous five years’ extreme drought. Having lost their ability to pay mortgages, equipment loans and other expenses, already impoverished peasants flocked to the cities in search of livelihood, though literally no jobs are to be had. This trend brings two potential security concerns: 1) that the poverty may lead to extremism and resentment against the king and the West; 2) the slums may provide havens for terrorists.

The lack of a developed infrastructure hinders the state’s ability to penetrate the slums, recognized as a potential source of terrorism, though not necessarily because the slums breed discontent directed toward a particular class or regime. The arrests of terrorists in 2003 are notable in support of this contention. The planners of the May 2003 suicide bombings in Casablanca (discussed below) were captured in one of the numerous slums surrounding Casablanca, and the terrorists themselves were all from the urban middle class. Instead of providing a breeding ground for the terrorists, the slums have become a convenient haven from police because of the general lack of infrastructure and the social anonymity slums afford.

The twin relationship between the king of Morocco and the internal security services is as enduring as the modern Moroccan state. Despite the institutional changes the monarchy has shaped to bring about societal and political liberalization, the institutional mandate has stopped short of influencing the internal security services. Though Morocco has a series of laws and judicial remedies to protect against state abuses, a lack of real democratic oversight has manifested itself in gross breaches of human rights not only during political liberalization but continuing today.

Institutional Controls and Oversight Mechanisms

Since the *naissance* of the contemporary Moroccan state, the foundational constitution and its related laws and codes have developed in part as a reflection of popular moods and concerns, but also to provide a patina of judicial legitimacy to state actions. This section provides the most relevant coda and institutional controls, but, as Nouaydi (2003, 159) forwards, “the poor enforcement of these constitutional and conventional guarantees means that they represent potential, not substantial, change.”

28 Personal observation reinforced this when, outside an area popular with tourists and foreign diplomats, one Moroccan observer pointed out several known paid police informants to keep track of foreigners (May 2004).

Legal Strictures—The Constitution of 1996. The Preamble to the 1996 Constitution reaffirms the language of responsibility in governance and adherence to international human rights standards. “Aware of the need of incorporating its work within the frame of the international organizations of which it has become an active and dynamic member, the Kingdom of Morocco fully adheres to the principles, rights and obligations arising from the charters of such organizations, as it reaffirms its determination to abide by the universally recognized human rights. Likewise, it reaffirms its determination to continue its steady endeavors towards the safeguard of peace and security in the world.”²⁹ In short, the written framework of the constitution centers foremost on the protection of personal and international security. In addition to the constitutional provisions relating to the legislative process described earlier, the Constitution of Morocco enumerates rights and privileges of Moroccan citizens in police and security matters:

Article 9

The constitution shall guarantee all citizens the following:

- (a) freedom of movement through, and of settlement in, all parts of the Kingdom;
- (b) freedom of opinion, of expression in all its forms, and of public gathering;
- (c) freedom of association, and the freedom to belong to any union or political group of their choice.

No limitation, except by law, shall be put to the exercise of such freedoms.

Article 10

No one shall be arrested, put into custody or penalized except under the circumstances and procedures prescribed by law.

The home shall be inviolable. Search warrant shall be issued and investigation ordered under the conditions and procedures prescribed by law.

Article 11

Secrecy of personal correspondence shall be preserved.

In addition to the personal guarantees under the constitution, the judiciary is meant to play a limiting and independent role to ensure that legal and human rights standards are adhered to:

29 Though the Moroccan Constitution is readily available from official and unofficial sites across the Web, this study uses the official Moroccan translation of its Constitution, available at http://www.mincom.gov.ma/english/generalities/state_st/constitution.htm. See also Gisberth H. Flanz, ed. “Kingdom of Morocco—The Revised Constitution,” *Constitutions of the Countries of the World*, Release 97–1. Dobbs Ferry, NY: Oceana Publications, Inc., January 1997.

Article 82

The Judiciary shall be independent from the legislative and executive branches.

Article 85

Magistrates in the bench shall be irremovable.

The obvious gap in the Moroccan constitution is that it does not prohibit arbitrary arrest or detention. As State (2004) reports, the police continue to use these practices.

The Code of Criminal Procedure. To enforce these broad constitutional principles, a series of *dahir* and codes specify the responsibilities of the government and judiciary. The Code of Criminal Procedure, modified in 1962 to be made stricter then returned to its original form in 1972, relates most to Article 10's guarantees of personal safety.

The more relevant codes relating to actual police practice in the course of their internal security duties include:³⁰

Article 3, October 1, 2003, which states "No person may be convicted for an act which is not expressly defined as an offence in law, or subjected to penalties not prescribed by law." That is, offences and punishments are defined in law.

Articles 16 to 35, October 1, 2003, which stipulates which security forces are officers or agents of the judicial police. The DST is not listed as an agency with arrest authority.

Article 67, October 1, 2003, which requires the arresting officials to notify the family as soon as authorities decide that custody will be transferred to internal security forces.

Articles 66 and 80 October 1, 2003, which relates, "In cases involving threats to State security, custody may last up to 96 hours and may be extended once only, on the written authority of the Crown Prosecutor. In cases involving terrorist offences, custody may last up to 96 hours and may be extended twice: once for 96 hours, and again for 48 hours, in each instance on the written authority of the Public Prosecutor's Office."

30 Research note: Despite assistance from research librarians, including the Library of Congress, I could not find an official source for the Moroccan Code of Criminal Procedure; therefore, much of this section comes from the Moroccan government's response to the UN and various human rights reporting.

Article 154, October 1, 2003, which stipulates that the police authorities must present an arrest warrant and a copy issued to them.³¹

Article 293, October 1, 2003, which clarifies that no confession obtained through “violence or duress” may be admissible in court. Article 438 states that any perpetrator faces the death penalty if the victim “has been exposed to torture.”

Article 399, October 1, 2003, which provides for the death penalty for officials who employ torture or “barbarous acts” to commit an act classified as a crime.

Complaints procedures—Consistent with his desire to create public institutions that he could at least point to as a symbol of progression toward accepting international standards of human rights, Mohammed VI established in 2001 the *Diwan Al Madhalim* (DAM), the Office of the Ombudsman. This office’s primary purpose is to centralize all citizen complaints against officials, at no cost to the complainant. Codified under *dahir* 1-101-298, the DAM’s main responsibilities include membership on the standing human rights advisory council, and have investigative purview in certain matters, such as

Complaints relating to affairs already put before courts

Complaints seeking to review a final judgment

Requests relating to issues falling within the purview of the Parliament

Issues falling within the purview of the human rights advisory council

Cases where the complainant has not taken any formal steps, filed a petition for pardon, or exhausted all appeal possibilities, provided for by the laws in force, to right wrongs, redress the alleged prejudices or retrieve his rights.³²

The actual practices of the internal security services often do not comply with the written codes and procedures, despite institutionalized mechanisms, such as the Ombudsman, to handle citizen grievances. Because arbitrary police action is not uncommon in even the most established and transparent societies, the judiciary is usually mandated to check police powers. Morocco has such a legal framework.

31 Moreover, Morocco is a state signatory to the International Covenant on Civil and Political Rights (ICCPR), which states in Article 9(2), “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

32 *Dahir* 1-101-298, December 9, 2001.

The judiciary—Under the constitution, the judiciary is meant to be independent of the other government bodies, though this is not the case in practice.³³ Mirroring features common in the West, Morocco has a layered judicial system to try a variety of cases and issues. The Moroccan judicial system provides four levels in the common law courts system: communal and district courts; courts of first instance; the Appeals Court, and Supreme Court. The official Moroccan position is that the judiciary is responsible for the investigation and prosecution of suspected abuses by security personnel, through a variety of special courts, to include the Permanent Court of the Armed Forces, the Special Court of Justice, and the High Court.

In Morocco's recent report to the UN Human Rights Committee, the role of the judiciary is clear: "With a view to tightening up the monitoring of police, gendarmerie and prison premises throughout the country, several circulars have been sent to public prosecutors' offices requesting them to ensure that the legal provisions on time limits and conditions for custody are duly observed" (UN Human Rights Committee Report, 2004, 17). The actual practice of the judiciary, particularly with respect to the protection against security actions contravening Moroccan law, demonstrates that at best the judiciary is inconsistent in its enforcement record.³⁴

One of the concerns of the international community is that the security forces are not bound in practice to report to the judiciary detentions, despite laws requiring them to do so. Often, human rights groups, after hearing of the arrest of a particular individual from his family members, are the first to notify the judiciary.³⁵ Police impunity remains a problem, with bribery and smuggling prevalent (State 2004b and 2006).³⁶ Having singled out the DST earlier in its report, concerns about official impunity prompted the UN Committee against Torture (2004) to recommend that Morocco, "take all necessary measures to eliminate impunity for public officials responsible for torture and cruel, inhuman or degrading treatment." The popular attitude about the police, reports one human rights advocate, is that in general they are corrupt and can act with impunity. Moreover, and perhaps more telling, police are well protected, particularly in the judicial system where corruption is endemic, a sentiment expressed in other interviews (see also State 2006). Amnesty International's

33 See State 2004a.

34 In interviews with democracy-promotion advocates (May 7, 2004 in Rabat, Morocco), they claimed that the judiciary was clearly "not independent" of the executive. In general, though, the king is characterized as "modernist" and Morocco is the most democratic country in the region.

35 See AMDH website for documents in French and Arabic that express these concerns, <http://www.amdh.org.ma/>.

36 For examples of police impunity for extra-legal activities, see OMDH's October 2003 "Observations and Recommendations on the Report by the Moroccan Government"

extensive report on DST human rights abuses (2004) is replete with instances of the judiciary failing to comply with the legal codes binding the security services. The net impact is that services, with no judicial oversight, have the ability to act as they deem fit.

Legislative control and oversight—Parliament. In August 1997, most likely in an effort to ease the transition to power for his son Crown Prince Sidi Mohammed, Hassan II convened a special parliamentary session to ratify laws to create a two-chamber national assembly (Cordesman 2002, 71). Morocco's bicameral legislature consists of a 325-seat lower house, the Chamber of Representatives, directly elected through universal suffrage, and a 270-seat upper house, the Chamber of Counselors, whose members are elected indirectly through a variety of regional, local, and professional organizations. The lower house's particular power, at least in theory, is that it may dissolve the government through a vote of no confidence. The Parliament is intended to have a range of authorities to check the power of the king. Additionally, the Moroccan constitution sets up an independent judiciary to enforce laws and to settle civil disputes. Mirroring the institutional structure of other advanced states, the internal security services are solely under the day-to-day authority of the executive.

Formally, the Moroccan Parliament appears more advanced liberally than other Arab constitutional monarchies. A majority of deputies can remove confidence in a government ministry, and the Moroccan party system is the best developed in the Arab world.³⁷ The use of party lists in elections discouraged the gangly proliferation of small, independent parties represented in government (Herb 2004). The interaction between the king and parliament is weighted in favor of the monarchy. As one close observer noted, the "parliament has no authority. It cannot forward a law that its members know would not be able to get past the king."³⁸ The actual limits on the parliament mitigate some of influence it may have on security institutions. The Moroccan constitution does not make explicit the authority over the internal security services, though Article 30 provides that, "The King shall be the Commander-in-chief of the Royal Armed Forces. He shall make civil and military appointments and shall reserve the right to delegate such a power." Bolstering this constitutionally mandated position, statements early in the king's reign make clear that his control over the armed forces extends to all matters of security, including the interior, religious affairs and justice.³⁹

37 The director of NDI-Morocco related that "hands down" the political parties were the main obstacles to further democratization. The only viable parties were the religious-based parties; their secular counterparts were disjointed and lack organization (March 7, 2004, Rabat, Morocco).

38 Interview with author, March 9, 2005.

39 *Al-Sharq al-Awsat*, July 24, 2001. Cited in Michael Herb, 2004.

In practice there is no parliamentary oversight leading to an informed observation that the policymakers are in many instances much less informed than the NGOs. This lack of oversight is indicative of the general ineffectiveness of the majority of the national legislature to provide effective input on almost any issue. Members of parliament simply do not have the resources to provide effective oversight: they do not have offices (they often use their political parties' offices), there is no independent research or information to inform their legislation, and they have no allowances for staff, accommodations when in the national capital nor for travel from their home communities to Rabat.⁴⁰ Under these conditions, the rampant legislative absenteeism hardly comes as a surprise. The few instances of parliamentary oversight seem to be limited to public pronouncements, such as the Islamist-oriented Justice and Development Party (*Parti de la Justice et du Développement*—PJD) Parliament Group's railing against the alleged torture by DST personnel.⁴¹ One report claims that, "It is the DST that has the final word on sensitive matters. The security apparatus can even impose its advice on the all-powerful Ministry of the Interior."⁴² This coincides with a pattern of a security apparatus acting with little outside control.

Despite solidly written coda, Morocco does not have effective supra-executive oversight of its security services. This lack of parliamentary or judicial oversight, coupled with the extensive human rights abuses by the security services discussed below, bolsters the central thesis that the status of institutional controls over the security services is a most reliable key indicator of the true level of a state's democratization.

Civil society—Even during the reign of Hassan II, Moroccan civil society was relatively large in the Arab world, though most major groups have existed at the sufferance of the regime. Furthermore, the monarchy has traditionally penetrated and co-opted civil associations, removing any real autonomy as well as delineating their boundaries of the criticism of the Moroccan political system. The net effect is to remove the civil society as a potential source of resistance to the regime (Najem 2003, 188). Contemporary Morocco has a large and vigorous civil society, with myriad newspapers, NGOs (especially the labor movement) and religious organizations ready to provide some check on government policies, although the long-established prohibition against directly criticizing the throne remains.⁴³ The Moroccan regime seems willing to adapt Islamic/Arab norms in

40 Interview with Moroccan human rights advocate (May 6, 2004, Rabat, Morocco)

41 *Attajdid* (Casablanca), July 9, 2004.

42 *Demain*, May 18, 2002.

43 In Garon's (2003, 92) discussion of the durability of Moroccan civil society, she argues that oppositional political parties have remained central to "satellite" civil institutions: trade unions, newspapers, professional and intellectual organizations and others. The net effect of this varied base of civil society is that Moroccan civil society

response to internal pressures from an established civil society. Buskens's (2003) examination of the changes to the otherwise conservative Islamic family law is instructive. He concludes that, "... the new legislation only confirms social changes that are already taking place. They regard the plan as a step towards 'development' and the creation of a 'civil society'" (89). Sater's (2002) analysis of the changes in Moroccan economic structure indicates a growing relevance of civil society that the regime is forced to adapt to. He argues the political liberalization and concomitant royal arbitration with elites are less a cohesive strategy than an outcome of a "changing political field that has come to favor the modernists" (28). It's clear that Mohammed VI is allowing greater personal liberties and tolerating more pluralism. Whether this is because of events spiraling beyond his control or part of a concerted attempt to appropriate and control civil society itself remains an open question, though each has specific consequences to democracy.⁴⁴

The media—In the past ten years, the media certainly have enjoyed increasingly more room for expression and exposition of topics relating to almost all aspects of Moroccan society. But, under relentless pressure from the central state, domestic and foreign media cannot be relied upon to provide a substantive check on the activities of the internal security agencies.

There was a marked loosening of restrictions on the media when, under Article 9 of the Constitution of Morocco, Hassan II allowed a guarantee to all citizens for the freedom of expression and to hold personal opinion. Hassan's decision in 1994 to repeal the *dahir* which had effectively gagged the media since 1935, and then to enact a general amnesty, were initial steps toward a more free press. Despite these openings, which accelerated under Mohammed IV, there remain domains sheltered from open critique. Applying to the general public and the media, these several subjects that remain off limits for open comment or criticism include: laws regarding the press that forbid journalists from criticizing the king and the royal family,⁴⁵

has, "quietly developed its resources, multiplied the number of parties, and kept weaving the fabric of its international alliances ... managing to survive infiltration, corruption and police terror, the clamorously to resume its development during the last decade of the twentieth century."

44 See Sater 2002b.

45 Article 23 of the Moroccan constitution states that, "The person of the King is sacred and inviolable." "The Moroccan political system has a name, the *makhzen*, and the king is its cornerstone," says Ahmed Benchensi, editor of the weekly *Tel Quel*. "Not being free to include him in an analysis leads straight to schizophrenia: you write one thing but think the opposite. You choose a number of scapegoats ... whom you rail at all the more furiously because you are forbidden to mention the palace, the most important political actor in this country." As quoted in *Reporters Without Borders*, "Warnings for an Independent Press," May 13, 2003. Available at www.rsf.org.

Islamists,⁴⁶ the nation's territorial integrity (i.e., Morocco's control of the disputed territory of Western Sahara).⁴⁷ Moreover, members of the media are effectively blocked from any reporting that appears to criticize the actions of the DST, whose agents use liberal interpretations of legal restrictions on the press. These restrictions have accelerated in the past three years, in the wake to the terrorist attacks in central Casablanca.

Since the Casablanca bombings of 2003, the freedoms of expression guaranteed in the Constitution were curtailed in the subsequent and sweeping Anti-terrorism Law, and the amended Press code. The Law's Article 41 and the Press Code authorize prison sentences and financial penalties for journalists and their publishers who violate Moroccan restrictions on defamation, libel and discussion of the three restricted topics. Moreover, the Press Code lists "threats to public order" as one of the criteria for the censor to consider. Within these limits, the 2000+ foreign and domestic newspapers and weeklies are published across the political spectrum. They remain, at times, critical of government policies (State 2004). In addition, the Western Sahara remains a source of tension in media-state relations. In this contested area, which despite its relative peace between the Moroccan government and the Polisario, at least ten journalists were assaulted, detained, or expelled while attempting to cover tensions in the Western Sahara between April and June 2005. Amnesty International (2006) argued that, "It was hardly the first time that Morocco mistreated journalists as part of efforts to control coverage of this region."

The Moroccan government controls the media through directives and guidance from the Ministry of Interior, with significant authorities. Publications that Ministry officials judged offensive could be confiscated or indefinitely suspended, and censorship on specific items or events is possible (State 2004). Retaining the sole power to register and license domestic newspapers, the government could in theory use the licensing process to prevent the publication of materials that exceeded its threshold of tolerable dissent, and the Ministry controls the foreign press by removing banned publications from circulation (State 2004).

The Media and the DST—Caricatures of members of the DST appearing in the press, unthinkable during the years of Driss Basri, are in recent years not uncommon. But there remain DST activities that are still sensitive and do not want press probing, and members of the DST do not hesitate to make it known

46 The rather large share of the vote polled by Islamists in the 2002 elections remains a cause for concern in Rabat, and attention from the media paid to "Islamists" have reportedly earned interrogations and harassment from members of the internal security services. Reporters Without Borders, 2003.

47 For example, in June 2004, two Norwegian journalists were expelled from Morocco for interviewing Polisario supporters, who seek independence for Western Sahara.

(RSF 2003). There are multiple reports of direct and indirect harassment. Moroccan and foreign journalists have spoken of DST harassment, including physical surveillance and communications monitoring, including phone taps and threats against their person. Additionally, foreign media are also placed under surveillance, as central authorities have always been very sensitive about Morocco's image abroad. The Communications Ministry often complains when members of the foreign media cover events in unfavorable ways. Foreign journalists are sometimes followed and harassed and publications are censored when they report on sensitive subjects (RSF 2003). For example, after publishing an article in January 2003 on the DST's secret detention center in the Rabat suburb of Témara, Maria Moukrim, a journalist with the Arabic-language weekly *Al Ayyam*, received a threatening call as she was leaving her office in Casablanca on March 13, 2003, "I'd never before been insulted like this. The caller referred to my report about a secret detention centre that appeared in *Al Ayyam*. He said I could have a car accident if I carried on writing this kind of story." When Moukrim asked her caller to identify himself, he replied: "We are the ones you had the nerve to criticise in your article." He then told her where she was at that moment, in the street near a taxi. A young man suddenly struck her with a blunt object, injuring her left hand. She then received another call from the same person asking if she had learned her lesson (RSF 2003).

There is little judicial recourse for journalists who have legitimate complaints against DST agents. The judiciary remains vulnerable to political pressures, and journalists who are subject to continued harassment and intimidation practice self-censorship to keep from crossing the historic "red lines." In 2005, these official activities led Freedom House to rate Morocco's press as "not free" (Freedom House 2005).⁴⁸ In sum, there is little hope that the international and national press can hope to keep the activities of the DST in check.

Summary and Analysis

As opposed to the petrodollar monarchies (e.g., Saudi Arabia), the Moroccan royal family is not extensive enough to appoint all the chief security positions to relatives. The net impact is that the palace is forced to rely on military and security professionals, a tenuous position for the regime. Bellin (2004) reminds us of the overarching influence of patrimonialism on the staffing processes of the security apparatuses of the Middle East, with Morocco as no exception. The interior minister, like his army counterpart, is chosen directly by the king based partially on performance in support of the regime, with loyalty to the regime the most critical factor. The data do not contradict Kamrava's (2002) contention that, for the Moroccan monarchy, "... loyalty to the king is the sole

48 Freedom House's assessment is reinforced by Reporters Without Borders 2005 appraisal of Morocco's press freedoms as a "difficult situation," the organization's second-worst rating.

criteria [sic] for promotion; coordination between officers and commanders is prohibited at all costs; the only ideology any officer is allowed to have is the credo of the monarch; and the king has eyes and ears in all branches and at all levels of the officer corps.”⁴⁹ The delicate balance of maintaining power by depoliticizing the majority and allowing benign vents for the remainder has not even extended to the internal security services. The palace’s ultimate fiat over internal security remains firm.

Institutional and non-institutional controls over the Moroccan security establishment have degrees of effectiveness in checking, or at least reporting on, state-centered abuses. The Moroccan laws meet a high international standard, but as is so often the case across North Africa, the implementation of those laws is sporadic with the net result that there is little evidence that the security forces actually are concerned with their enforcement. The role of civil society in exposing current abuses grows, especially for human-rights centered groups that have little official sponsorship.

In the Moroccan case of abuses by the DST, reports by Human Rights Watch and the indigenous AMDH have been leveraged officially by the US, the EU and the UN, forcing Morocco to respond across an array of diplomatic and informal channels. A conclusion that can be drawn here is that the donor funds that promote independent civil monitoring may be well spent. The immediate net result may not in fact be a checking of abuses; instead, states that are interested in diplomatic neutrality toward an abusive state (usually for security relationships), may find this third-party buffer instrumental in meeting both missions of promoting human rights and maintaining diplomatic integrity.

Human Rights and Political Violence

“Of course, you know it’s much easier to operate as an al-Qaeda cell in Britain, don’t you?” Britain’s respect for the freedom of the individual, he suggested, allowed terrorists to operate with impunity.

Senior Moroccan Security Official⁵⁰

It is no accident that Morocco is at the forefront of Arab countries in examining its repressive legacy. The country’s openness toward its past—along with an outspoken press, a vibrant civil society, and recent reforms to the family code—helps burnish its image as one of the region’s bright spots in terms of human rights.

Eric Goldstein⁵¹

49 During and interview with author, March 8, 2005, one observer noted that there was an expectation that an intelligence officer would be participating in the training of civilian police officers.

50 As quoted in Bright, 2002.

51 In “A New Moroccan Commission, but How Much Truth?” *Arab Reform Bulletin*, Carnegie Endowment for International Peace, 21 June 2004.

Human Rights

The story of Moroccan human rights is decidedly mixed. The state has been instrumental in supporting human rights reforms and fostering both governmental and non-governmental bodies to oversee its human rights record; however, the state also has been a gross violator of human rights, especially through its security functions. This section demonstrates that those abuses perpetrated by the state through the internal security services continue with little apparent abatement, while there is a growing elite-fostered effort that might begin to mitigate the patterns of abuse.

In the early 1990s, under pressure both internally and from abroad (especially from the United States and France), Morocco witnessed a flourishing of international agreements and organizations devoted to ensuring human rights standards, as well as other tangible actions. In June 1993 alone, Morocco ratified four major human rights conventions, including the United Nations Convention against Torture, and created a Ministry of Human Rights, positioning it at the cabinet-level to give it (at least notional) authority on par with the other ministries. The following year, in a goodwill gesture meant to tie word with deed, King Hassan II freed 424 political prisoners under a royal guarantee of amnesty. Through gradual loosening of governmental oversight, Morocco now has literally thousands of human rights-oriented non-governmental organizations.

Among the thousands of non-governmental organizations representing a wide variety of interests and efforts, three in particular are nationwide and enjoy official public recognition: the *Ligue Marocaine pour la Defense des Droits de l'Homme* (LMDDH); the *Association Marocaine des Droits de l'Homme* (AMDH); and the *Organisation Marocaine des Droits de l'Homme* (OMDH). The three organizations work together on many issues, including the development and signing of a joint charter of human rights and a memorandum to the government addressing their collective concerns relating to human rights legislation (Nouaydi, 2003).

Despite the official status of these three human rights organizations, the relationship between them and the government has been and remains tenuous. The AMDH does not cooperate officially with the government, but sometimes shares information. For its part, the government harasses and restricts the activities of AMDH and OMDH,⁵² despite some former OMDH leaders' occupying high-level post within the government (State 2004). Moreover, legislative and judicial reforms have attempted to induce improvements in the overall human rights records of Morocco. Despite these attempts at structural

52 To highlight this sometimes contentious relationship between the Moroccan government and human rights groups, one prominent indigenous human rights group described how police beat its 60+-year-old group leader during a rally, hospitalizing him for facial and cranial injuries.

change, Nouaydi's assessment highlights the problematic nature of human rights and Morocco. Since 1994, "The constitutional, legal and institutional framework," she argues, "is incomplete and inadequate as it stands to ensure the effective promotion of human rights" (2003,158). One of the clearest examples of the spotty human rights records remains tied to the Morocco internal security services.

I don't know why they speak of the DST, when it doesn't have the status of judicial police. It's the judicial police which investigates cases submitted to it by the DST. (Justice Minister Mohamed Bouzoubaa)⁵³

For years, the internal security services in Morocco have been implicated in human rights abuses, most without any legal retribution to the officials who perpetrated the acts. However, in the first years of Mohammed IV's reign, the security services, in particular the DST, have improved their human rights records. Recent trends have witnessed a reverse wave in patterns of official abuse. Responding to numerous press and human rights reporting, the UN's Committee against Terror (2004) expressed concern about:

The increase, according to some information, in the number of arrests for political reasons during the period under consideration, the increase in the number of detainees and prisoners in general, including political prisoners, and the increase in the number of allegations of torture and cruel, inhuman or degrading treatment or punishment, allegations implicating the National Surveillance Directorate (DST).

Most lucid observers recognize that any intelligence organization must have some degree of secrecy to protect its operational capabilities, but DST's lack of transparency on any issue, even the most seemingly trivial, attests to the lack of democratic oversight. A glaring instance of this revolves around the UN Committee against Torture's queries to the Moroccan government in November 2003 about several benign (though politically troublesome) aspects of the DST:

What was the status of the DST and what special functions were assigned to it?

Was the Témara detention center subject to the control of the judicial authorities?

How many DST had been convicted following investigations into torture?⁵⁴

In response, Moroccan officials confirmed only that DST personnel were not part of the judicial police and they would need time to clarify and provide

53 *Le Matin du Sahara*, September 10, 2003.

54 UN documents CAT/C/SR.577 and CAT/C/SR.580.

written answers to the UN Committee Against Terror's other questions. Those answers have not yet been published (Amnesty International 2004a).

The most damning report on the human rights abuses by the security services, and the DST in particular, is Amnesty International's "Torture in the 'anti-terrorism' campaign-the Case of the Témara Detention Center." Though Amnesty and other human rights groups have reported for years on the political abuses, this report is remarkable for two reasons. First, it sparked major demonstrations against the security services, demonstrations that the services would probably have crushed violently in earlier periods. Second, it exposed the level of detail of the systematic patterns of abuse. The DST's Témara facility is reported to have been used for decades as a detention center, but the numbers and lengths of stay are unprecedented. The allegations against the DST, in violation of Moroccan and international agreements that Morocco ratified, include:

Secret detention for periods of several weeks to nearly half a year. The detainees have been denied access to their families and the outside world.

Detainees were blindfolded and handcuffed during interrogation. Some detainees were stripped or suspended from the ceiling. Many of the detainees reported having been beaten or threatened with the rape of their wife or female relative.

Detainees were forced to sign or thumb-print statements later used in judicial proceedings.⁵⁵

As detailed earlier, Morocco now has severe legislative prohibitions against human rights violations by the security services. In spite of these prohibitions, the security services are implicated consistently as main violators of human rights with little to no judicial retribution. In its efforts to assist the US to forestall terrorism, Morocco may be jeopardizing its shaky progress on human rights. As testament to the freedom of criticism, in the aftermath of 11 September 2001, Moroccan human-rights groups reported that the security services were returning to old habits of "disappearing" suspects into unofficial interrogation centers. For the modern human-rights activists haunted by dark memories of the 1970s and 1980s, when Moroccan interrogators honed their torture techniques, and hundreds of political prisoners were never seen again, these recent actions are a reminder of Morocco's more authoritarian past.⁵⁶ Morocco's own brush with international terrorism has sponsored a new spate of reporting on human rights abuses by the DST.

55 Amnesty International. "Morocco/Western Sahara: Torture of Detainees Must End," June 24, 2004.

56 "Bad memories Reawakened: Moroccan Interrogation," *The Economist*, January 11, 2003, 48.

Political Violence

Human rights and the security services after the Casablanca bombings—On May 16, 2003, twelve suicide bombers conducted coordinated attacks on symbolic Western and Jewish targets in the Moroccan financial center Casablanca. These attacks took the lives of at least 45 persons, including the killers', and led to extensive property damage.⁵⁷ To normalize the cross-cultural psychological and legislative impacts of the bombings on Moroccan society and government, comparison between the attacks on US targets on September 11, 2001 and the Casablanca bombings is sometimes made.⁵⁸ Particularly relevant for this study of the security services is the legislative fallout from the bombings, giving even more latitude for the services' actions. The principal outcome of this legislation, at least according to one major human rights observer, emblematic of the sentiment in the human rights community, is a "major regression in Morocco's achievements in ensuring human rights protections and basic freedoms over the last decade."⁵⁹ However, this assessment is not shared by all outside observers.

Fewer than two weeks after the Casablanca attacks, all 89 legislators present in Parliament's upper house voted in favor of the new legislation to affirm the lower house's approval of the same bill the previous week.⁶⁰ The law had actually been rejected the month before the bombings after human rights groups criticized it strongly. Of the anti-terrorism law's provisions, its broad definition of what constitutes a terrorist act, most directly impacts the services' activities and mandates. Anti-Terror Bill 03.03 lists "any premeditated act, by an individual or a group, that aims to breach public order and violence." Under its very liberal conditions, any event that the authorities determined had the underlying intent to create fear and discord in society or threaten its safety could lead to arrest (State 2004). The net impact, according to the UN body entrusted to oversee allegation of human rights abuses in member states, is an increased number of reported cases of torture and an absence of information on authorities' measures taken to investigate complaints of torture and to bring the accused through judicial measures.

57 Twelve suicide bombers attacked five locations throughout Casablanca—a foreign-owned hotel, two restaurants, a Jewish civic association, and the Jewish cemetery located in the heart of the Old City. In addition to the deaths, over 100 people were injured. In Human Rights Watch 2004b, 25.

58 See for instance, "Counterterrorism and Human Rights in Morocco," a discussion held by human rights attorney Jamil Dakwar. Available at www.hrw.org. In addition, during an interview on May 6, 2004, one US official Morocco characterized the bombings as "especially traumatic for Moroccans."

59 Human Rights Watch, "Morocco: Bush Should Criticize Backsliding on Rights," July 8, 2004.

60 BBC News, "Morocco Passes Anti-Terror Law." Available at <http://news.bbc.co.uk/go/pr/-/hi/africa/2943112.htm>.

In addition to the generous definition of terrorism that includes any acts that “are deliberately perpetuated by an individual, group or organization, where the main objective is to disrupt public disorder by intimidation, force, violence, fear or terror,”⁶¹ significant changes to Moroccan legislation were made through amendments to the existent Penal Code and Code of Criminal Procedure. The anti-terror law allows security forces to hold suspects without access to a lawyer; intercept telephone calls and Internet communications as well as private mail; search homes and businesses without a warrant; and to detain suspects *incommunicado* for 12 days.⁶² Moreover, the list of acts of terror now includes theft, extortion, and the “promulgation and dissemination of propaganda or advertisements in support of such acts.”⁶³

The amended Penal Code now allows for an increase in the length of sentences for offenses when they are deemed acts of terrorism. If judged an act of terror, a life sentence can be changed to a death penalty.⁶⁴ Anyone convicted of “being privy to information pertaining to terrorist offenses without reporting such offenses to the police, civil or military authorities,” can be sentenced to prison for five to ten years.⁶⁵

In 2003, human rights groups reported that the Moroccan security forces detained thousands of citizens, most of whom the government classified as Islamists. The State Department puts the number of detainees closer to 1000. Subsequent to the arrests, the judiciary services started trials on terrorism charges against dozens of the suspects. Regardless of the exact figure, Human Rights Watch (2004a) reported that local and international human rights organizations noted scores of cases in which detainees were alleged to have been tortured and ill-treated, denied basic due-process rights, and subjected to expedition and unfair trials. At least 14 people were sentenced to death in connection with the Casablanca blasts. Of particular interest is that scores of Moroccan lawyers and human rights activists have pointed out that the government did not rely on the anti-terror legislation to carry out massive arrests and large-scale detentions in the wake of the May 16 bombings, demonstrating that the anti-terror legislation was not needed (Amnesty International, 2004b, fn 28). To push the point further, Goldstein (2004) notes that, “in the past year, despite the near-complete absence of further acts of political violence, 2,112

61 Article 218-1 of the Moroccan Penal Code. As cited in Human Rights Watch, 2004b, 26.

62 An extension from earlier laws that allowed security forces to detain individuals for a maximum of three days *incommunicado*. See Freedom House’s *Morocco Country Report*, 2004.

63 Article 218-2 of the Moroccan Penal Code. As cited in Human Rights Watch, 2004b, 26.

64 Article 218-7 of the Moroccan Penal Code. As cited in Human Rights Watch, 2004b, 26.

65 Article 218-8 of the Moroccan Penal Code. As cited in Human Rights Watch, 2004b, 26.

Islamists have been charged, 903 convicted, and 17 sentenced to death,” evoking “the bad old days ... of a largely unaccountable security apparatus.”

The *Sturm und Drang* of Moroccan politics in recent years has produced both avenues for political expression, but always stopping short of threatening entrenched institutions. The Equity and Reconciliation Commission is consistent with this pattern. Meant to address the past abuses of the internal security services, the commission poses little redress to contemporary concerns.

The Equity and Reconciliation Commission was tasked to produce the definitive account of official human-rights abuses, which included torture known as “the parrot” and “the airplane,” the use of electric shocks, or a urine-soaked rag over the mouth. The opening of Moroccan police, army and security service archives is unique.⁶⁶ Though the Commission was made of prominent former political prisoners and other human-rights advocates, a similar previous attempt under King Hassan to unmask human rights abuses met with severe criticism when it was apparent much of the abuse was grossly underreported.⁶⁷ The current commission is probably a compromise falling short of the desires for full disclosure of Morocco’s human rights abuse. Characterized by one outside observer, the commission allows that one “may shame, but may not name,” the Equity and Reconciliation Commission’s report, delivered in December 2005,⁶⁸

66 “An Arab First: Splendid, if the King’s Men Continue as They have Started.” *The Economist*, January 24, 2004, 41. Additionally, under the support of the UN Office of the High Commissioner for Human Rights, the Moroccan Human Rights Documentation, Information and Training Center opened in April 2000 to provide human rights-related training and documentation to civil and official spheres. See OHCHR *Annual Report 2003* for an overview of the Center’s mandate and operations.

67 Ibid.

68 In a January 13, 2006, official press statement, the US State Department’s spokesman Sean McCormack noted that, “The Commission’s reporting and recommendations demonstrate the Kingdom of Morocco’s willingness to contemplate serious reform. Implementation of the reforms suggested in the report will be an important next step, and we urge Morocco to implement those changes that will enhance transparency, the rule of law, and respect for human rights across Morocco and the Western Sahara.” The Commission’s final report detailed the human rights abuses under the king’s father and grandfather, and found, in part, that of the 22,000 reports (on average, five were received daily), there were 16,891 legitimate requests for reparations. Of these, 6,385 victims (37.9 per cent) are to receive financial compensation, 1,895 (11.2 per cent) will receive financial compensation and reparations for other prejudices, and 1,499 (8.9 per cent) received recommendations for reparations. The former IER chairman, Driss Benzekri, reported that the commission has a budget of US\$ 50–70 to be shared among approximately ten thousand victims. Additionally, the IER recommended reforming law enforcement structures, increasing judicial independence and adopting an integrated strategy to end impunity. Pierre Hazan, “IER: truth without punishment,” *International Justice Tribune—English*, January 23, 2006.

was already the subject of criticism that it will do little to impact the services themselves.⁶⁹ The commission itself is criticized on several fronts:

The commission's statute explicitly bars it from determining individual responsibilities for abuses. While information developed by the commission could be referred to the courts for possible action, this is unlikely because of the lack of an independent Moroccan judiciary.

The commission has no power to compel testimony or the production of documents. Though its statute allows that public institutions "must" cooperate with it, without sanctions or amnesty powers, it is unlikely that former abuse perpetrators in the security apparatus will testify.

Goldstein (2004) notes that "The commission's mandate is to focus on cases of 'arbitrary detention' and 'enforced disappearance,' but it is unclear whether the commission can document and provide compensation for other widespread violations such as torture, sham trials, and the shooting of demonstrators."

The commission's credibility will hinge on how it confronts the present erosion of human rights, especially in the wake of the May 12, 2003 Casablanca bombings and the subsequent broad anti-terrorism legislation.⁷⁰

The human rights record of Morocco has undoubtedly improved over the decades, and the latest royal efforts are sincere in the desire to confront its past abuses, a first for the Arab world.⁷¹ Despite these improvements, Morocco still commits serious human rights violations with little to no redress for its victims and no sanctions for its perpetrators. The lack of judicial and parliamentary oversight is the probable first, most direct cause behind these continued abuses. As Morocco continues to fight against real threats, the most obvious concern

69 The commission's initial hearings, seven since December 2004, have drawn vocal criticisms from an otherwise usually complacent populace. The sessions, which took testimony from victims and relatives of those Moroccans oppressed during the reign of Hassan II, were broadcast throughout Morocco. The Commission has postponed its April 2005 deadline to report on its findings. See Associated Press report, "Morocco Panel Tackles History: Many Unsatisfied with abuse probe." *The Gazette*, May 15, 2005, A17.

70 These criticisms of the Equity and Reconciliation Commission are drawn from Eric Goldstein, "A New Moroccan Commission, but How Much Truth?" *Arab Reform Bulletin*, Carnegie Endowment for International Peace, June 21, 2004. Available at <http://www.hrw.org>. In addition, see Susan Slyomovics, "A Truth Commission for Morocco," *Middle East Report* 218 (Spring 2001).

71 One US observer noted emphatically that the king was profoundly interested in Morocco's human rights records and that the king was doing all he could to promote international human rights standards. Interview with author, March 9, 2005.

is whether this lack of oversight affects the internal security services' abilities. If so, then it may be possible to overlook these abuses.

Summary and Analysis

Outside of the highly publicized violence in Casablanca in 2003, contemporary Morocco can hardly be assessed as facing down a concerted threat to the regime or its populace. Rather, in Morocco the democratic transition has stalled or at least reached a stasis where certain powers have been devolved to a popularly-elected parliament and communal bodies, but the state's coercive mechanisms remain firmly controlled by the regime. Under a present yet episodic environment of threat and stalled democratization, the conditions to spark an incipient agenda for security sector reform is insufficient.⁷²

Morocco's human rights record in relation to the actions of the internal security services has witnessed a marked forward progression. During Hassan II's reign, the internal security services, as a direct tool of palace, oversaw all details of managing the political and social spheres. Nevertheless, perhaps more important, the king found enemies throughout the country, including within the palace walls. The wisdom of this extreme caution is indeed confirmed when one assesses the bold and direct attacks against the king himself (including an attack by the previously closely-trusted internal security chief Oufkir in one instance and military officers in others), as well as the ongoing military conflicts in the north and the south. The human rights abuses did abate with further political liberalization in the last decade of the king's regime, as the military conflicts had reached a truce while the most outspoken advocates against the regime were either imprisoned or exiled.

The liberalizing monarch Mohammed VI has further curtailed the internal security services' actions, opened civil society to allow outside critique and tolerated more public criticism. As witnessed by the plethora of indigenous and external human rights groups that report on the services' activities with little fear for reprisal, the modern political environment allows for frequent criticism, some of it rather severe. The transformation remains incomplete to date. To complement these vocal critiques, a less arbitrary legal system with an uncorrupted judiciary is essential.⁷³ Any forward steps that these changes in personal liberties represent were altered perceptibly in the wake of the May 2003 terrorist attacks in Casablanca.

These bombings were the most poignant example of the need for reform of all aspects of Moroccan civil space, what one former US ambassador to Morocco characterized as "shaking up the place," and a wake-up call for the

⁷² See Cawthra and Luckham, 2003, 307.

⁷³ Interview with author, March 11, 2005.

new regime to prompt the adoption of new laws.⁷⁴ In addition to policies to address social concerns, in the security sector the parliament easily passed anti-terrorism laws that rolled back civil rights, and the services increased abuses to many Moroccans with little judicial intervention for fear of personal retribution. In longitudinal terms, the actions of the contemporary Moroccan internal security services are much more consistent with international human rights standards today than in the previous regimes, yet the rolling back of personal liberties for some “enemies of the state” is apparent. Though there has been increased accountability for the regime’s judicial components, there has been no concurrent accountability for the actions of the Moroccan security services.⁷⁵

In sum, Morocco conforms to a pattern in which internal security services are unleashed when an “enemy of the state” is found to exist, especially when that enemy has sustained itself through the perpetuation of public violence. In the Moroccan context, there can be little doubt that the internal security services have committed the human rights abuses reported by the most credible domestic and international human rights groups, but any tangible link or approval of the palace is unsubstantiated. The monarchy is concerned with the international perception of Morocco’s human rights record; therefore, the palace will address any patterns of abuse that receive external attention. In any case, whether the intent is to rid the regime of all those suspected of possessing the capability to commit politically-oriented violence or to force the general population into submission is unknowable to an outsider. Both are likely intended consequences.

Summary and Conclusions

Morocco is moving toward political liberalization, if not necessarily toward complete western-style participatory democracy. Incremental steps, often fostered by the king, have brought more press freedom, increased vibrancy in the nascent civil society (especially for human rights organizations), and pockets of local control. The king, though he may “not actually believe in liberal democracy—what king would?,”⁷⁶ may be the best chance for a more open Moroccan society. Morocco is unique, especially in the Middle East, in that the authoritarian government is the main force fostering democratic change, while it remains unwilling to give up real power and authority. The last and most obvious vestige of this internal palace struggle is the reluctance to cede

74 In attempt not to place these comments out of context, this interviewee praised the new king’s efforts to attempt to resolve a rash of social problems, most especially economic concerns and radicalism. There was no discussion of the anti-terrorism laws this study subsequently discusses.

75 Interview with author, March 9, 2005.

76 “Two Countries.” *The Economist*, September 9, 2003.

control of the internal security services to democratic accountability, contrary to clear legal provisions.

The director of the highly respected Geneva Center for the Democratic Control of the Armed Forces recognizes that the “intelligence community⁷⁷ needs its legitimate secrets protected. Its work cannot be fully transparent to the public. Yet the price of that protection must be an increased parliamentary control through highly competent special committees and high professional standards imposed on these agencies” (Winkler 2004, 6). Though common in almost all established democracies, not having legislative oversight does not equate to a record of human rights abuses by the internal security services. France, the most prominent example, does not have a parliamentary oversight mechanism for its DST, though recent legislative proposals move France toward more transparent and accountable internal security services.⁷⁸

Morocco is consistent with Zakaria’s (2004, 120) argument that the Arab rulers of the Middle East are “autocratic, corrupt and heavy-handed. But they are still more liberal, tolerant and pluralistic than what would likely replace them.” The Moroccan security services are by no means accountable to the laws and strictures in place for the very purpose of controlling abuses of authority, though they do respond positively to personal limits. The DST cannot be blamed solely for the human rights abuses perpetrated by its officers. Rather, the DST functions as a component of a system that intends to combine the institutions of the Moroccan state: the parliament within its oversight duties, the judiciary enforcing legal strictures and the executive. In recognizing the power of the DST, one opts for a rule by men, not a rule for institutions.⁷⁹

Democracy cannot flourish if the populace knows that the internal security apparatus is not under firm democratic control; human rights then remain in jeopardy and socioeconomic development cannot be sustained. Even if one is less concerned about human rights and more focused on the development of effective, if unaccountable, security services, then Winkler’s (2002) warning should be heeded, that security functions unaccountable to democratic oversight mechanisms will be done at best inefficiently, at worst ineffectively. In the Moroccan context, strengthening democratic oversight will:

Discourage the high costs associated with the need to placate the politicized security mechanisms

77 Into which I group the internal security services, though the term intelligence community is generally recognized to encompass both positive and counter-intelligence capacities.

78 See Chalk and Rosenau, 22–3.

79 See Khaled Jamai, “Of Institutions and Men,” *Le Journal* (Casablanca), November 23, 2003.

Encourage long-term professionalism of the services and discourage politically motivated investigations, a hindrance to further democratization

Force transparency that in-turn encourages efficiency of the internal security services

Guard against the loss of the state's monopoly on the use of force to an unaccountable security apparatus that will lead to political unrest and potential societal instability

Morocco is one of those rare cases in which the potential exists for a move toward real democracy and foster increased security. Policies that foster the strengthening of democratic institutions in Morocco ultimately will strengthen the security capacities to assist in the ongoing efforts to combat international terrorism.

Chapter 3

Indonesia's Intelligence and Security Services: The White of my Bones?

It's midnight at the Top Ten karaoke bar in Banda Aceh, and the portly drunkard everyone respectfully calls "Commander" is on the mike. "Indonesia," he wails between gulps of Guinness. "You are the red of my blood, the white of my bone." "I love that song," slurs the Commander. "It makes me feel so patriotic."

Andrew Marshall¹

Indonesia reflects well the Third World experience in the twentieth century: colonial domination under a European state; the flush of independence followed by the rigors and realities of governance; strongman authoritarianism; last, "democratization" and concomitant turmoil. The Indonesian state has rocked through the vicissitudes of governance, but as testament to the enduring adage "*plus ça change ...*," despite the transparency and accountability democratic governance theoretically imparts, Indonesian state security forces have continued egregious human rights violations in response to internal political violence. The latest violence and the security forces' response are emblematic of the difficulties of governing a fractious, multiethnic state, and the potential for severe corruption of democracy through the misuse and abuse of the intelligence and security operations. Indonesia, therefore, poses an interesting and powerful case for the study of post-autocratic consolidation of democratic institutions.

This chapter first covers the pertinent social components of Indonesia, including the national and cultural factors that make it an appealing case study in the challenges of balancing democracy in a fractious internal environment. After a brief foray into democracy upon independence, Indonesia fell into a continuous cycle of authoritarian rule, with the predominance of the Indonesian security forces in all aspects of Indonesian economics, politics, and society. This chapter then focuses on the post-authoritarian attempts at (re-)instituting political liberalism, with a special emphasis on the intelligence and security services and their purported oversight mechanisms. Last is an analysis of the human rights record of the of the Indonesian security services in reaction to

1 "Back on the March: Indonesia's Military is Parading a Kinder, Gentler Face, but its Critics Say it's as Ruthless as ever." *Time International*, 159.19 (May 20, 2002), 14+.

politically-motivated violence, with an assessment on the services' impact, positive and negative, on democracy.

Geo-social Considerations

The contemporary history of multiethnic and multinational states tends to be one of violence and internal turmoil, particularly when one or more groups perceive they lack political efficacy or that an elite oligarchy centered on one particular nationality has co-opted the engine of state. Modern Indonesia exemplifies the post-colonial multinational state, where original borders were drawn for the convenience of the European hegemon with little to no regard for the existing populations and their kinship relations. Indonesia is well-suited to research modalities with respect to multiple nationalities forcibly subsumed under one state. Indonesia's 238 million citizens² include a mosaic of ethnic groups, including Javanese (45 per cent), Sundanese (14 per cent), Madurese (7.5 per cent), coastal Malays (7.5 per cent), and others (26 per cent). Coupled with these ethnicities are a variety of religious creeds, including Islam (87 per cent), Protestant (6 per cent), Roman Catholic (3 per cent), Hindu (2 per cent), and Buddhist (1 per cent) and languages such as the official Bahasa Indonesian,³ English, Dutch, and a variety of local dialects (over 300), the most widely spoken being Javanese.⁴ The elite, many of whom were educated in the West, speak English as a primary language. Moreover, Indonesia territory comprises more than 17,000 islands over 1.5 million km², incorporating a maritime territory equivalent to the distance from Washington, DC to Washington state with the entirety of the Indonesian coastline greater than Europe's.

This mixture of language, ethnicity, and religion potentially makes Indonesia the fourth most populated country in the world and numerically the largest Islamic state, a concentrated mix of identities and cultures, many of which compete actively for localized power or independence. Nationalist-inspired actions on Aceh, East Timor, the Maluku Islands, Central Sulawesi, and Papua (formerly known as Irian Jaya) are emblematic of the internecine unrest that roils Indonesia. The government has responded to all internal insurgencies similarly—the use of intelligence and internal security organs to repress internal dissent. These latest conflicts, though, are little more than the continuance of

2 From 2004 figures, as listed in the CIA *World Factbook 2005—Indonesia* (available at www.cia.gov).

3 Bahasa Indonesian is widely regarded as the accepted standardized, though synthetic, language. See Damien Kingsbury. *The Politics of Indonesia*. Oxford: Oxford University Press, 2002, 33.

4 *Background Note: Indonesia*, US Department of State Bureau of East Asian and Pacific Affairs, February 2003 (available at www.state.gov). CIA *World Factbook 2005—Indonesia* (available at www.cia.gov).

a stream of unrest and violence in Indonesia. Post-independence Indonesia highlights the competing balance between nationalist demands and state authority.

The Origins of the Security State

Post-independence Indonesia is rife with the difficulties inherent in many newly formed governments, such as developing functioning infrastructures, economic systems and state institutions. Indonesia's particular history shows a broad range of political systems, from attempts at political liberalism, to long periods of authoritarian control, to a return to liberalization. Indeed, instead of the development of a representative government after an initial start with democracy, in Indonesia one ultimately saw the consolidation of state power into the hands of one ethnicity (indeed into one family) to the severe detriment of the other ethnicities. Because of its intended brevity, this section emphasizes the role of nationalism in disrupting state development and the centralized responses in the earliest stages of post-colonial independence, particularly those resorting to regime-sponsored violence and coercion.

Experimenting with Constitutional Democracy—1949–1957

One key in understanding Indonesia's attempts at state control over dissent is through an appreciation of the development of state and regional identities since independence from the colonial, mainly Dutch, powers. While the modern state has a clear association with the former colony of the Dutch East Indies, the Dutch "treated the colony as a group of 'subcolonies' linked to the administrative center in Batavia (Jakarta)" (Kingsbury 2002, 33). In the earliest stages of Indonesia's independence, this diverse nationalist map manifested itself in a variety of coalitions and governments that attempted to consolidate power but were instead politically impotent and short-lived. Vasil (1997, 34) asserts that during this period of political liberalism, "the extreme divisions within Indonesian society made it difficult for coalition governments to last ... Their legitimacy and their right to rule were not fully respected, especially by those ethnic segments that did not secure representation." Competing interpretations in contemporary scholarship demonstrate the dichotomy of the period. Smail's (1961) respected scholarship came with a sense of optimism in the world emblematic of the late 1950s and early 1960s; the post-colonial era would provide stability and development in the future.⁵ Real-life events calmed the optimism that rose from the energy of the post-colonial period, reflected most

5 John Smail. "On the Possibility of an Autonomous History of Modern Southeast Asia." *Journal of Southeast Asian History* 2.2 (1961), 72–102. In Lloyd and Smith, 2001.

poignantly at the time by Feith's (1962) seminal *Decline of the Constitutional Democracy in Indonesia*. The conceived democratic government was unable to develop transnational political efficacy, inevitably resulting in serious civic dissatisfaction ultimately forcing the need for government intervention.

In the earliest years, the Jakarta government found it could do little to control the unrest in the Outer Islands that began immediately upon independence. Singh (2000, 23) describes state management of ethnic divisions as, "essentially a failure ... In fact, overly influenced by a strong sense of Indonesian unity and solidarity that had quickly developed during the short period of the Revolution, successive governments paid little attention to the vital issue of State building. They took Indonesian unity for granted" In other words, there was little official impetus toward creating a sense of Indonesian nationhood.

The guiding program of the 1950s was to adopt the best aspects of Dutch colonial rule, particularly developing a secular administrative state led by an educated elite who must guide the uneducated masses (Ricklefs in Lloyd and Smith 2002, 240). Though the following description runs the risk of oversimplifying the situation, a net result was that the peoples spread across the hundreds of islands across Indonesia perceived the Jakarta-based government as essentially Javanese, effectively a continuation of the political order under Dutch rule. As Singh relates (2000, 23), "There was an undoubted Javanese domination at the higher levels of public service." This supports the idea that centralized state power—as manifested by such organizations as the security organs of the intelligence services, the police and the military—was co-opted by one nation to the detriment of others, though during this initial period the military was at least bound somewhat by democratic institutions.⁶ The military as an entity began to refuse to adhere to the dictates stemming from consensus politics, even going so far as to refuse the appointment of a new civilian chief of staff (Kingsbury 2002, 41). The overall failure of the civilian central government and the drive to maintain order ultimately led to the army's gaining an even stronger hold on political power. Seeking to come to a partial resolution of the tension between order and democracy, the ensuing ten years resulted in the pernicious-sounding development of "guided democracy," or democracy with an authoritarian face.

Guided Democracy—1958–1966

"Along with the advent of Guided Democracy," writes Kingsbury, "martial law was declared strengthening the position of the army's central leadership ... this provided the legal grounds for the army's intervention in civil affairs and laid the groundwork for the military's 'dual function' of both protecting and helping to run the state" (2002, 43). The system's purported aim was to impose the precepts of democracy centrally. Instead of diffusing power inherent in democratic

6 H. Feith, 1964, as quoted in Kingsbury (2002, 40).

systems, the natural outcome was authoritarianism. Vasil (1997, 49) claims that Guided Democracy was doomed to fail, largely because then-President Sukarno “totally disregarded its rationale and philosophical foundations ... and chose to develop the system largely to impose his own erratic, personal rule on Indonesia.”

By this time, the security and intelligence forces were unresponsive to control outside of President Sukarno's personal fiat. The politico-military dynamics of the period saw an increasingly powerful military machine with the regime's further reliance on military power to maintain centralized control. Sukarno faced the dilemma of fostering a strong military that he could not fully trust, but whose active political involvement and support he needed. This predicament came to a violent head when, after a bloody coup in which junior officers killed and dismembered several of the top military leaders, Sukarno sought the support of the remaining officers whom he believed were still loyal to him, including General Suharto. Not to detail the coup but rather to discuss the outcomes, Sukarno gave the military further authority to purge government and society of potential enemies of the regime. Undoubtedly not anticipating the ultimate outcome that would lead to losing power, Sukarno encouraged Suharto to form the Operational Command for the Restoration of Security and Order (*Komando Operasi Pemulihan Keamanan dan Ketertiban*—Kopkamtib), the seed for the covert operations unit “Special Operations” and, later, the State Intelligence Coordinating Body (*Badan Koordinasi Intelijen Negara*—BAKIN). Kopkamtib's mandate was to purge Indonesian society of internal dissent. Although there appears to be a consensus among scholars of this period that Suharto tried to act within the dictates of the constitution of the period, the result is clear. Ultimately Suharto used the military, supplemented by a plethora of intelligence cum internal security organizations and his position within it to personally take the reins of power, ushering in 30 years of autocratic control and governance.⁷

A “New Order” in Indonesian Politics

Twenty years after independence, many Indonesians looked back upon the Dutch colonial period with nostalgia as the *jaman normal*, “the normal times.” The actual policies of the Suharto government reflected many of the Dutch governing principles, though the parallels may have been more accidental than Suharto intended (Ricklefs 2001, 240). Despite an initial orientation away from personal gain, Singh's description of the beginning of Suharto's grip on Indonesian state control paints a picture of one willing to employ any means to maintain authority. Among Suharto's various power centers, he employed “‘extra-constitutional instruments of rule under his direct authority or that of his close associates’ ... the key agencies in this regard (included) the

⁷ See, for instance, Anderson (1990, 119).

Kopkamtib” (Singh 2000, 5). Tumult reigned in Indonesia as the Suharto-controlled military cracked down on all potential, real, or imagined threats to the Jakarta regime. As Avebury describes the immediate post-coup period, “In the six months following the coup attempt of 1 October 1965, perhaps three-quarters of a million people were slaughtered ... For it was Suharto ... who organized and implemented the violent changes of 1965.”⁸ The dysfunctions of the contemporary internal security services are a direct legacy of the Suharto’s New Order period, particularly Kopkamtib.⁹

Kopkamtib was an ideal type of security intelligence organization, designed to look inward to weed out potential threats to the regime, threats defined with very wide latitude by Suharto himself. It ideologically screened party candidates and government employees and destroyed any remnants of communism’s supporters and intervening against labor and campus activists; known as a kind of “military within the military,” it not only contributed to a version of regime stability, but formed the core of the nascent military’s repressive capabilities. The net result was that “everyday politico-ideological surveillance was institutionalized in the social life of Indonesia” (Honna 2003, 9).

With the consolidation of political and institutional power, Suharto sought to form society and the military in his own image. Using a variety of tools, including promoting officers loyal to him, rotating commanders regularly to avoid their building a personal power base, the Armed Forces of Indonesia (*Angkatan Bersenjata Republik Indonesia*—ABRI) became a “pliant political and security apparatus to do Suharto’s bidding” (Singh 2000, 7). In concord with the development of this elastic military apparatus was the administrative structure that the military developed to more effectively control the populace. The military elite in effect “hijacked” the territorial bureaucracy as officers came to occupy the territorial service at almost all levels. The army’s command structure, in fact, paralleled the administrative structure of the state (Legge 2001, 24–5).

The military’s consolidation of control has deep historical precedents in Indonesia. Legge comments at length on the survival of patrimonial types of government in the Suharto era, though remains unsure if its roots were in cultural patterns or traditional order. Others bolster this claim as to the hegemony of Suharto and the security forces, the armed forces even claiming to be the only institution with the organizational capacity necessary to run Indonesia. Highlighting the nexus of political power and a centralized Javanese state ruling Indonesia through its security organs, Kingsbury furthers the idea that Suharto was continuing an interpretation of a Javanese political tradition of consolidating power in one person. He enforces this position based on the

8 In the foreword to Carmel Budiardjo. *Surviving Indonesia’s Gulag: A Western Woman Tells her Story*. London: Cassell, 1996, v.

9 ICG, December 20, 2004.

armed forces' view that "anyone with a dissenting view became a suspect ... bent on the destruction of the state."¹⁰

Despite its widening powers, the internal security apparatus did not curtail internal dissent. Fractious relationships among the core leaders especially hindered the effectiveness of the services. The early 1970s saw rivalries between the Maj Gen Ali Moertopo, the personal adviser to Suharto, and General Soemitro, the leader of Kopkamtib.¹¹ This friction emerged again in the 1980s, when General Benny Moerdani, the ABRI commander, consolidated his power base by absorbing many of the intelligence functions of the Kopkamtib, eventually leading to Kopkamtib's abolition in 1988.¹² The political speculation was that the Kopkamtib's demise was meant to diminish the increasing power of the Kopkamtib's leader, Moerdani, who had dominated the agency since 1983 (Honna 2003, 90). The agency was eventually replaced by a new internal security agency, Bakorstanas (*Badan Kordinasi Pemantapan Stabilitas Nasional*—Coordinating Agency for the Maintenance of National Stability). The public's initial positive reaction after Kopkamtib's dissolution was mitigated somewhat by the creation of this new secret service, despite Suharto's contention that the security approach was to be replaced with the "prosperity approach" in the country's political life (in Honna 2003, 90).

So went the remaining years of the Suharto era, with the intelligence and security forces able to maintain an authoritarian influence over the whole of the Indonesian archipelago, particularly when they could concentrate their efforts against a specific, localized threat. The state security apparatus, under the guise of the police and the military, could at times be very effective in projecting their power. In response to widespread violence and lawlessness in the 1980s, police cooption of both criminal gangs and neighborhood watches became extremely effective surveillance tools, eventually becoming integrated into the bureaucratic mechanisms of the state. In effect, in a society with a low police-to-population ratio, the police were able to increase their power with little additional cost (Barker 2001, 26). Despite Suharto's ambitions and designs, the security state had mixed results. As Tanter (1990) contends, when specific individuals were targeted, as in the tumultuous states of East Timor and Aceh, the surveillance apparatus

10 Kingsbury, 55–6 and M. Vatikiotis, 1993, cited in Kingsbury, 2002, 56.

11 K.H. Ramadhan's *Soemitro: Former Commander of the Indonesian Security Apparatus*. Jakarta: Pustaka Sinar Harapan (1996) remains the main resource of Soemitro's personal insights into his tenure as commander of the internal security services. Among his various recollection and opinions, he acknowledges the role of the armed forces in hindering democratic consolidation. "Some of the initiatives as yet unrealized are: finding a way to prevent the emergence and development of an autocratic, feudalistic, totalitarian, nepotistic system of government, with a friendly face" (418–19).

12 Kopkamtib was dismantled by Presidential Instruction (*Keppres*), Nr 29/1988, issued on September 5 and implemented in November. The Instruction did not list why the organization was deleted, but noted that "there was a necessity to maintain national stability in a proper way to reflect the level of social development." (From Honna 2003, 90.)

functioned well. The state could not perform as efficiently in targeting the entire populace, though it could intimidate sufficient numbers to deflect serious threats to the state. The security state was rife with corruption and lack of allegiance to the central state, including running the local drug scene and finding ways to extract money from the general population (Vickers 2001, 76). In the end, the elements of the security apparatus led to its own discredit. Vickers (2001, 77) forcibly argues that, "The undermining of legitimacy for the institutions of 'law' (principally the security apparatus, the police and the judiciary) meant that the New Order security state could more accurately be termed a criminal state."

The latter years of the Suharto regime saw the armed forces, the ultimate controller of the intelligence and security forces, developing a degree of independence from the corrupt regime. As one observer noted, "They (the armed forces) remained the most potent threat to Indonesian democracy almost up to moment of Mr. Wahid's election."¹³ In an interesting note, Suharto did not impose martial law and did not call upon his military to defend his regime, and the military itself seemed reluctant to act independently (Chandra and Kammen 2002, 101). Fear itself motivated the central government. Elson (2002, 193) attributes Suharto's repression to his simple understanding of governance: "To achieve its goal, the state had to be violent with its people, periodically and systematically; there was no other way of preventing the people acting against their own best interests."

Political Change and Institutional Incentives

Rather simply and famously characterized by O'Donnell and Schmitter (1986), a transition is the interval between one political regime and the next. Indonesia's transition was rather short, lasting only from the first serious demonstrations against the regime in 1997 until the ouster of Habibie in October 1999.¹⁴ Though subjected to some interpretation and debate, the political transition from the decades-long rule of Suharto is most typical of a reformist mode. The mobilization of large segments of the Indonesian population coupled with the abandonment by many of Suharto's closest advisers indicates that this particular transition was much more than an elite-centered pact. Rather, it signaled popular movement away from authoritarianism.

13 "... and of Course, Order," *The Economist* (US), 356.8178 (July 8, 2000), 10.

14 The time period for the transition proposed here may be argued as overly concise, but nevertheless serves well for this study. First, the rupturing of the Suharto regime was an obvious beginning of the political transition, which came at a point when many did not believe the regime could or would fall. In fact, Suharto had just won election to a fifth term as president, and his political power bases (most especially the bureaucracy and the military) seemed intact. Second, the free and open election of Wahid is an appropriate point to argue that the Suharto regime was, in fact, over. This period as the transition is not without precedent. See, for instance, Chandra and Kammen, 2002 (note 20).

The vicissitudes of the global market led to the regime's demise. The Asian economic "flu" that pounded many of the region's more developed countries spread to the Indonesian peninsula in 1997, revealing the gross corruption and mismanagement of the Suharto regime and his entourage of family and followers.¹⁵ As economic problems related to the currency crisis increased, social unrest and student-led anti-regime demonstrations grew as well, but the regime was able to consolidate and maintain its power. As a direct result of the extreme repression in the mid-1990s reminiscent of the early years of the Suharto regime, the political opposition that did exist could not take advantage of the opportunities that arrived in 1997 and 1998. Despite this lack of oppositionist coalition, popular discontent continued to simmer. More important, Suharto found that the country's sharp economic contraction diminished the resources he relied on to manage the elite who controlled the country's most important spheres.¹⁶ After Suharto's reelection in March 1998, street demonstrations grew in size and frequency. In the succeeding two months, the demonstrations spread to the entire country, gradually reaching an apex of violence that led to the deaths of thousands, caused in large part by the security forces. On May 19, Suharto announced he would consider political reform; two days later he resigned (Malley 2000). After 30 years, the president and dictator culminated his rule in ten months of grueling financial crisis; the Suharto regime was over.

In one of the more succinct discussions of the nature of the transition in Indonesia, Hadiz (2003) characterizes the inevitable nature of this particular regime change.

With a deepening economic crisis, and the looming threat of mass unrest, the reorganization of that system of power became urgent, both to pre-empt demands for 'total reform'—at that time advocated most vocally by militant sections of the student movement—and to provide the opportunity for interests nurtured under the New Order to survive and reconstitute. A most unlikely reformer was to emerge from this situation: Soeharto's immediate successor, and long-time aide, B.J. Habibie.

15 The rupiah, the Indonesian currency, was hit particularly hard. By June 1998, its value relative to the US dollar was one-sixth of the value in July 1997 (as listed in Bouchier and Hadiz, eds, 2003, 289). The net effect of this economic malaise on prompting mass movements against Suharto was substantiated in interview with author, March 4, 2005. The interviewee stressed the rapidity of Suharto's fall was surprising, but the concern for the universal impact on the peninsula should Jakarta itself become uncontrollable forced Suharto's personal decision to remove himself from power. In this observer's view, the mass movement was key to Suharto's fall.

16 From William F. Case. "Revisiting Elites and Founding Elections: An Unexpected Caller from Indonesia." *Democratization* 7.4 (Winter 2000), 51–80. Further, Case argues, because of this lack of resources Suharto was "unable to extend urban employment opportunities or deliver the rural subsidies, which, accompanied by the mantra of *pembangunan* (developmentalism), effectively lulled social forces" (55).

His task was not an easy one, for on the one hand Habibie had to demonstrate an ability to protect the interests nurtured under the New Order, in order to guarantee his own political survival. On the other hand, this was not possible without opening up the political arena to new actors and forces—in other words without democratizing. The way out, as it appeared, was to devise a process of gradual democratic reforms, the outcomes of which Habibie could attempt to control.

The B.J. Habibie interregnum was indeed a period of intense political change away from the authoritarianism of which he was an integral part. Habibie's prominence in the former regime allowed him to call for and achieve substantive political reforms and free and fair elections. Habibie, the vice president under Suharto, began immediately to assert himself as "different" than his predecessor, with the goal of winning Indonesia's first free election. Within months, new electoral and legislative rules were in place. More contentious than these rules changes was Habibie's decision to allow the disputed province of East Timor to decide on its political future, alienating much of the corporatist base, particularly the military elite.¹⁷ By June 1999, the first relatively free and fair elections in Indonesia took place.

The significant changes to the anti-democratic residual laws governing parties, elections and the legislature were conducted almost exclusively by persons who achieved political prominence by their active support of Suharto's authoritarianism (Malley 2000, 173). Essentially, the laws that were to govern the subsequent political contestation were made with little influence from potential outside reformers; the new rules were written by the incumbent regime without engaging in direct negotiations with the opposition (Malley 2000, 169). In the subsequent months, as new laws were being formulated in concert with existing constitutional principles, there again was little direct attempt by the four main oppositional political parties to influence the legislation. Malley (2000, 171–2) suggests three factors for the parties' seeming lack of desire for inclusion. One was that the proposed laws were genuinely suggestive of true democratization. Another was the difficulty in establishing what the true effect might be of one law on another. No party had competed in an election before; any outcome was pure conjecture. The last factor was the opposition's strategic calculation to concentrate their political resources on the elections so as not to squander them on attempts to influence legislation with an unsure outcome. The divided opposition and the concerted influence seemingly assured the incumbency of a favorable electoral outcome. Despite careful planning, the subsequent elections were to be a surprise to the Habibie government.

17 Paulo Gorjao. "Regime Change and Foreign Policy: Portugal, Indonesia and the Self-Determination of East Timor." *Democratization* 9.4 (Winter 2002), 142–58, in a comparative study of Portuguese and Indonesian foreign policies during their respective regime transitions, argues that the regime change was taken by authoritarian elites. This is partially true. The mass unrest was a principal impetus for the initial transition, though mass participation in the interim period was limited.

Translating the Principles of Governance

As late as May 1998, President Suharto still seemed to be confident of his ability to maintain control over the worsening situation throughout Indonesia. On May 9, he left the country to attend an economic summit in Cairo, with the warning to the protestors that, "The security forces will take action against whoever disturbs and ruins national security."¹⁸ Three days after Suharto's departure, over 6,000 protested in central Jakarta, near the Parliament. Nearby, men in police uniforms took position, and soon shots were fired and six students were shot, four of them fatally. Though there remain disputes as to who actually fired the fatal shots, the swelling of support in subsequent days made it obvious that there was severe disenchantment with the regime and its security functionaries. The public sentiment turned ugly. In the aftermath of three days (May 13–15) of rioting that traumatized the capital, over 1,000 Indonesians were dead and thousands of businesses were looted and destroyed (Schwarz 2000, 357).

The security services—especially the military—were noticeably absent during the riots. On May 14, General Wiranto ordered his troops from Central and East Java, but they did not arrive until late in the day. There was also speculation that the military may have jammed the vice president's ability to communicate (Schwarz 2000, 357). Multiple theories as to the military's lack of involvement in quelling the riots abound, from speculation that the military wanted to discredit the standing military leadership to the more benign-sounding contention of a lack of resources to cover all areas that needed protection.¹⁹

On May 20, the military lined the streets of Jakarta with tanks and armored personal carriers, protecting strategic locations, including the presidential palace. However, their on-the-ground relationship with the students fostered a sense of military sympathy with the students' cause. The marines patrolled the grounds of the parliament building with their weapons slung over their backs, and the marines were seen repeatedly engaged in idle conversations with the students. The military leadership favored an accommodating approach to the students (Schwarz 2000, 363). In the end, the military recognized that Suharto's days were numbered, and the military would be remembered for its actions during this period (Schwarz 2000, 363–4). The close relationship between the president and the security apparatus came to an abrupt end on May 21, when President Suharto himself did not call upon the army and the police to employ their massive forces to repress the multitudes of (mainly) students who had swelled the streets of the main cities of Java.

18 As cited in Adam Schwarz. *A Nation in Waiting: Indonesia's Search for Stability*. Boulder, CO: Westview Press, 2000, 355.

19 Schwarz (2000, 357–8) offers a more comprehensive listing and explanations for the military's lack of participation in protecting Jakarta's citizens and resources. Recognizing that in the end there is no one confirmed, compelling reason, the ultimate conclusion is the military's reputation was irreparably damaged.

As mentioned, when it was apparent that the Suharto regime's end was imminent, there was a decidedly strategic decision by the security elites not to involve the services in further supporting the regime. The net result of this decision was twofold: the first was that the military and other security services could retain some general legitimacy with the population at a crucial moment. The second was that the services could preserve themselves intact to prepare for the post-authoritarian environment. The security elite, embodied by the military (both active duty and retired officers), were well prepared to guide the transition process. Their victory was not total: losing the law enforcement function and losing its internal security intelligence to civilian agencies were real consequences of the transition from authoritarianism. The security services in the transition period were neutral in the sense that they did not interfere violently against the regime's ending; however, the security elites very much guided the transition process during the post-authoritarian phases. Indeed, in the case of the Habibie government, the lack of control over the state coercive mechanisms was an essential element in his lack of credibility and loss of control.

Habibie's lack of control over state coercive mechanisms (particularly the military) that his predecessor had enjoyed allowed for a quick political transition to Abdurrahman Wahid in the October 1999 presidential elections. The advocates of total Indonesian political reform found themselves too disjointed to be able to counteract the reemergence of entrenched interests in the initial post-Suharto era. The "cast of characters" who dominated the transition phase became a laundry list of Indonesian elites: politico-bureaucratic elements who were well entrenched nationally and locally during the Suharto era; political entrepreneurs and fixers; shadowy gangsters and thugs on the rise; and established as well as aspiring capitalists (Hadiz 2003). By October 1999, the "culture of fear" that permeated the country for the prior 30 years had seemingly dissipated, while the parliament for the first time was a forceful entity (Bourchier in Manning and Van Dierman 2000). Yet any democratic gains were offset by endemic corruption, ethnic violence, and economic mismanagement.

Summary and Analysis

The period immediately following Suharto's fall typified the radical insecurities of post-authoritarian states. This was most poignantly demonstrated by the simmering conflicts, especially on Aceh, East Timor, and Papua that exploded violently as these ethnicities witnessed not further autonomy but rather recentralization of what many perceived to be Javanese-domination. One of the initial challenges of this new regime was to counter the growing political violence throughout the peninsula. The Wahid government expanded police capabilities to address these security challenges, but the thousands of under-trained and moderately disciplined police forces quickly lost the respect of

the people whom by mandate they were to protect.²⁰ A net result was a loss of credibility in the centralized state apparatus among many of the centralized government, creating unstable political and social environments for any further liberalization.

Classed as a reformist transition, the Indonesian transition from authoritarianism is characterized as stemming from mass disenchantment with the Suharto regime, which eventually forced a “transition from below.”²¹ As an example of an ideal reformist transition mode, Indonesia is clouded by significant elite involvement in the transition phases. The fragile democracy in the post-authoritarian period supports this initial hypothesis despite a lack of return to authoritarianism. As Ghoshal (2004, 510) describes,

Like Rustow's characterization of the conscious adoption of democratic rules during the historical moment as a necessity rather than a desirable one due to compromises that had to be made, the Indonesian elites in the post-Soeharto period who were party to the compromise decision to establish democracy may be grudgingly putting up with it in the current phase. It is yet to be seen whether they will be succeeded by a new generation of leaders who would become habituated to democratic rules and help in the consolidation of democracy.

The post-transition record toward political liberalism and democratic governance is decidedly mixed. On the one hand, Indonesians have historically unprecedented levels of freedoms, including an ability to elect officials of their choosing. On the other, the transition has witnessed increased intercommunal violence and exacerbated an already perilous economic situation. In the six years of the post-authoritarian transition, there have been three peaceful presidential changes; two fair national parliamentary and provincial elections; development of a true multiparty system; and a separation of judiciary, legislative, and executive powers (Ghoshal 2004, 507). Despite these successes, democracy's future in Indonesia remains unsure. Its deepening requires sincere commitment from both elites and the masses, though the former have used democracy's institutions to consolidate personal power. As one observer notes, “instead of one Suharto, there are now many rent-seeking ‘mini-Suhartos.’”²² Indonesia's critical environment may turn either way, depending on the choices made daily by internal and international actors.

20 “Reforming the Indonesian Police Mobile Brigade,” Partnership for Governance Reform in Indonesia, February 16, 2004. As cited in ICG, December 20, 2004.

21 As Case (2000, 63) so neatly summarizes the transition, “Indonesia's economic crisis provided a context in which social forces surged, thus ousting Suharto, shaking elites and unleashing a democratic transition. However, although the crisis persisted and democratization took place, elites were, none the less, able to perpetrate their statuses.”

22 Ghoshal 2004, 516.

I am sure that not one of them [trials in Aceh] met international or even Indonesian standards. I have been told consistently that most people were convicted on a limited number of witnesses, mostly police or military witnesses, who sometimes did not even appear in Court. (Foreign embassy official, Jakarta)²³

Institutions and Change

In addition to the major challenges of economic malaise and internal violence facing the post-Suharto government, reform of the security sector loomed large. There certainly was recognition that the military and security apparatus needed major restructurings, not only because of the obvious threat that an unaccountable security apparatus may pose to the fledgling state, but also because of the inefficiencies inherent in the previous system. Reform efforts of the internal security services began during the Habibie period, mostly aimed at reducing the military's direct involvement in politics. The proposed changes that were successfully implemented included:

- *Reduction of the military representation in legislatures*, which decreased the number of military and police officers to 38, down from a high of 100 during the Suharto regime. (This number now is zero.)
- *Removal of active military officers from civilian positions*.
- *Political neutrality*, in that military officers were no long aligned with one particular party and the military establishment on the whole would no longer involve itself in electoral campaigns.
- *Separation of the police and the military*, which were bound during the Suharto era. Many in the military believed that the extensive human rights abuses committed previously were due in large part to the military's responsibility in policing functions.²⁴

It is within this environment of reform that the internal security services entered a new era. This section outlines the contemporary structure of the internal security services, including the institutional controls, both external and internal to the government.

The Internal Security Framework

At the broadest level, the Indonesian security services encompass three main components: the military and its subordinate services, the police and the

23 As cited in Human Rights Watch. "Aceh at War: Torture, Ill-Treatment and Unfair Trials." September 2004, 22.

24 These reforms were condensed from International Crisis Group, "Indonesia: Keeping the Military under Control." *Asia Report 9* (September 5, 2000), 3–4.

intelligence services. Though all three in practice have substantial overlap in their day-to-day activities, this study limits itself to the intelligence community imbedded in the military and the executive. Emerging from years of shielded impunity during the Suharto regime, the BAIS and BIN demonstrate well the transparency foisted upon even the most insular of institutions.

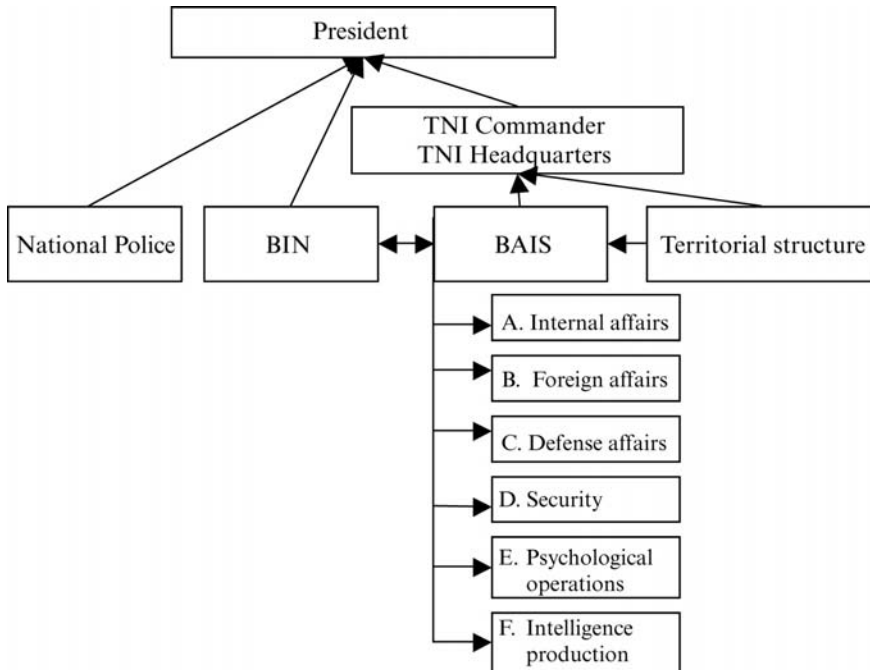


Figure 3.1 Structure of the Indonesian internal security community

Source: Angel Rabasa and John B. Haseman. *The Military and Democracy in Indonesia*, 2002, 33; and John B. Haseman. "Indonesia's 'New Look' Intelligence Agency." *Jane's Intelligence Review* 12.5 (May 2000), 28–9. Modified by author.

BAIS—The internal security services, most notably the state intelligence apparatus, represent well the vicissitudes of Indonesian politics. The BAIS (Badan ABRI Intelijen Strategis—Strategic Intelligence Agency) is the reincarnation of the military intelligence function of the same name, which was emasculated to make the intelligence functions responsive to the ABRI's commander-in-chief in what ultimately amounted to a personal fiefdom of General Benny Moerdani. The military agency that dominated the latter half of the 1990s, the BIA (Badan Intelijen ABRI—ABRI Intelligence Agency), began with the liquidation of its successor, and with the agency's direct supervision by military's Chief of the General Staff replacing the former command model that

placed the armed forces commander as direct chief of the intelligence functions. The net effect of the reorganization was to further dismantle the “military within a military,” which at the time was reported to have deviated from its “basic” tasks and was instead involved in land disputes, granting permits for fisheries, and manipulation of sociopolitical organizations.²⁵ With the BIA’s very-open demise, the reconstituted BAIS attempted to model a more modernized and internally-responsive structure.

The contemporary BAIS is divided into seven directorates (Figure 3.1), with the final directorate responsible for intelligence products for the armed forces commander. In mid-July 2003, the leadership of the BAIS changed when incumbent chief Air Vice Marshal Ian Santoso Perdanakusuma retired and was replaced by Marine Major General Lutfie Witto. Witto, a graduate of the class of 1972 at the Navy Military Academy, was the Intelligence Assistant to the Armed Forces Chief of Staff for General Affairs since June, 2002.²⁶

BIN—According to its established doctrine, BIN, with assistance from the intelligence personnel from the TNI, the Indonesian Armed Forces, conducts intelligence operations with collections and analytical tasks. BIN’s chief is the Indonesian president’s chief intelligence adviser. The organization itself has its own domestic and foreign intelligence network, and collects and reports on intelligence surrounding politics, and social, cultural, ideological, security and defense matters, as well as domestic terrorism and subversion (Haseman 2002, 33). The BIN is not linked formally with the BAIS, though in practice, officers from both agencies meet periodically.

In the wake of failures to detect terrorist bombings throughout Indonesia, the Wahid government reorganized the intelligence services in January 2001. In addition to substantially increasing the intelligence agency, the Wahid administration changed its name from BAKIN to BIN to emphasize its operational focus and the diminution of its coordinating functions (ICG 2004). Procedures were established to give Parliament an oversight function over the service. Further refinements in the Megawati administration, particularly following the October 12, 2002 bombings on Bali that killed over 200, made BIN the sole coordinator for all intelligence activities in the country, though there remains skepticism over the BIN’s ability to maintain hegemony over the myriad intelligence functions. Besides a greater reliance on technical means and human sources of intelligence, one notable change within the intelligence community after BIN’s establishment is the examining of “external” threats to Indonesian security, in addition to internal threats. The services are subject to the whims of international politics, when early on, BIA placed the US and

25 “Bais ABRI Perlu Restrukturisasi,” *Kompas*, January 18, 1994, as cited in Jun Honna. *Military Politics in Democratization in Indonesia*. London and New York: RoutledgeCurzon, 2003.

26 “Key Transitions.” *Defense and Foreign Affairs’ Strategic Policy*. July 2003, 17.

Australia under increased scrutiny based on a belief that these countries wanted to dismantle the Indonesian state (Kingsbury 2003, 133).

Under new legislation, BIN's power widens with the opening of offices in all provinces, regencies and municipalities across the country. The new powers have not met without strong public opposition, indicating a certain degree of tolerance not allowed before liberalization.²⁷ As members of the Indonesian Institute of Sciences (LIPI) have openly noted, the BIN should instead "improve its coordination and the quality of their intelligence officers" as its main obligation is to prevent high-profile crimes, such as terrorist attacks. Further, LIPI members maintain that "BIN must be able to guarantee that intelligence officers from the National Police and the Indonesian Military always report their findings to them."²⁸ One influential Western intelligence observer of BIN noted,

The agency is also fleshing out its plan to upgrade its representative posts, the "*pos wilayah*," in every province. These posts will be charged with coordinating intelligence-gathering efforts by all government agencies at the district level; they will also run agent networks responsive to BIN. In a clear sign of increased synergy between BIN and the local law enforcement, plans call for each post to be headed by a general on loan from the police.²⁹

BIN leadership pushed for further authority until the last days of the Megawati administration, garnering further power in the wake of the Australian Embassy bombing in September 2004, despite the success of the civilian police in investigating and arresting suspects (ICG 2004). The change of government has stalled further changes to the intelligence structures. However, should the Parliament approve the reorganization, BIN essentially will move away from the more democratically manageable security intelligence to a political policing role.³⁰

Police Intelligence—The national police—the Polri—have their own indigenous capability that has traditionally focused on collecting information related to organized crime, narcotics, possession of guns and explosives, and security of

27 "Indonesia: BIN Expansion into the Regions Questioned by Rights Watchdog," *Kabar Irian News*, January 10, 2004.

28 Attributed to *Jakarta Post* by Muningsari Sri Saraswati and Sandy Darmosumarto, "BIN's Potential Overlap with Army Commands Queried" from the *Kabar Irian News*, January 10, 2004.

29 "Indonesia: Selecting the Next Chief of Intelligence." *The Jakarta Post*, November 19, 2004.

30 In a particularly scathing assessment of the "Draft Law on Intelligence," the Internal Crisis Group expressed its collective concern that the law remained ambiguous and that it grants extensive powers to the intelligence services, while concurrently being in potential conflict with both Indonesian and international laws. See International Crisis Group, "Indonesia's Draft Law on Intelligence: A Threat to the Nation?" July 2005.

major buildings and installations (ICG 2004). With the expanded mandate for counterterrorism, the contemporary Polri have primary responsibility for collecting and analyzing intelligence concerning internal threats, particularly terrorism. This police intelligence system appears to be less formalized and more limited than either the military or civilian intelligence services (UNSINDO 2004). The police have also spawned two other subordinate agencies: one related to the prosecution of the Bali bombings, and the other subordinate to the police's Detachment 88, its indigenous anti-terrorism unit.

Institutional Control and Oversight Mechanisms

One principal theoretical orientation in improving the democratic responsiveness of the internal security services is the role of institutional oversights, embodied by constitutional and legal codes, legislative oversight, and the entire systems enforced by a vibrant judiciary. Indonesia appears in fact to have competent institutional controls, though in practice there remain significant shortfalls.

Legal strictures—The Indonesian Constitution. Like other established states, the constitutional history of Indonesia reflects not only the legislative events of the country, but also many of the sentiments of the general philosophical will of the Indonesian elite on the populace. From the initial post-independence Constitution of 1945 through the most contemporary third amendment process, Indonesia's basic law has moved from notional commitments to democracy through authoritarianism, to a version that in sum conforms to international standards. Indonesia's constitution has primarily been a standard of behavior that seeks to subordinate internationalism to the level of the varied ethnicities. Rather than an in-depth analysis, this section focuses on the institutional limits on the internal security services as codified in the various constitutional iterations.

*Constitution of 1945*³¹—Lindsey (2001, 286) argues convincingly that the state-sponsored violence endemic to the Indonesian polity and most acute during the Suharto period relates directly to earliest versions of the Indonesian constitution. Professor Dr Raden Soepomo, the chief drafter of the 1945 Constitution, was passionate in his rejection of Western ideals for liberal governance. Most particularly, Soepomo forwarded that because the "integralist" state was an amalgam of the components—the citizens of Indonesia—there was no need for a civil/private sphere to place checks on the state. The state was all citizens; therefore, it reflected the interests of all (Nasution 1992). A general acceptance of this notion of the Indonesian state led its adherents to conclude that any failures of the state were not due to constitutional weaknesses. Instead, sabotage

31 From the translation into English, available at D:/Datafile/Undang-2/UU/1945/UUDRI45_Engl.doc.

and betrayal forced the state to resort to any extra-legal actions (Lindsey 2001, 286). The 1945 Constitution gave the executive wide latitude in carrying out the functions of state, most notably in the following articles:

Article 5

The President shall determine the government regulations to expedite the enforcement of laws.

Article 10

The President is the Supreme Commander of the Army, the Navy and the Air Force.

Article 11

In agreement with the Dewan Perwakilan Rakyat, the President declares war, makes peace and concludes treaties with other states.

Article 12

The President declares the state of emergency. The conditions for such a declaration and the measures to deal with the emergency shall be governed by law.

Article 24

1. The judiciary power shall be exercised by a Supreme Court and such other courts of law as are provided for by law.
2. The composition and powers of these legal bodies shall be regulated by law.

6. V. The President is not accountable to the Dewan Perwakilan Rakyat (the House of Representatives). The position of the Dewan Perwakilan Rakyat is beside the President. The President must obtain the approval of the Dewan to make laws and to determine the budget. Hence, the President has to cooperate with the Dewan, but he is not accountable to it, in the sense that his status does not depend upon it.

The net result of the extraordinary powers of state was logically the development of a parallel “secret state” that built on state violence to perpetuate fear among the population. Fehring and Lindsey (1995, 6) argue that one result of the initial constitution was the so-called Sidoarjo Intelligence System, a secret network of bureaucratic, military and industrial elite. Though vicissitudes of momentum to change the initial constitution persisted throughout the authoritarian period, not until the post-Suharto era were there codified modifications to the original constitution.

Second Amended Constitution—The most notable change was a recognition that state entities must conform (at least on paper) to international standards

of human rights. Amended on August 18, 2000, the Second Amendment³² to the 1945 Constitution, passed during the 2000 parliamentary session, allowed for significant personal protections and attempts to differentiate differences between the police and the military:

Article 28I

1. The right for living, the right for not being tortured, the right for freedom of thought and conscience, religious rights, the right for not being enslaved, the right for being recognized as an individual before the law, and the right for not being prosecuted based on retroactive laws shall be the rights as human that may not be diminished in any situation whatsoever.
2. Every person shall have the right to be free from discriminatory treatment on the basis of any pretext and is entitled to receive protection from that discriminatory treatment.
3. The cultural identity and traditional society rights shall be respected in line with age progress and human civilization.
4. The protection, advancement, upholding, and fulfillment of human rights shall be the responsibility of the state, especially the government.
5. To uphold and to protect human rights in accordance with the principles of a legal democratic nation, the practice of human rights shall be guaranteed, arranged, and embodied in statutory laws.

Article 30

2. The state's defense and security efforts shall be conducted through a system of total people's defense and security by the Indonesian National Army (TNI) and State Police of the Republic of Indonesia, as the main component, and the people, as the supporting components.
3. The Indonesian National Army (TNI) shall consist of the Army, Navy, and Air Force as the nation's implements in their duty of defending, protecting, and maintaining the integrity and sovereignty of the state.
4. The State Police of the Republic of Indonesia as the national tool preserving security and public order shall have the duty to protect, shelter, and serve the public, and to uphold the law.
5. The structure and position of the Indonesian National Army (TNI), the State Police of the Republic of Indonesia, the relationship in authorities between the Indonesian National Army (TNI) and the State Police of the Republic of Indonesia in conducting their duties, the requirements of the citizen participation in the efforts to defend and provide security for the nation, along with matters related to defense and security, shall be regulated by laws.

32 This chapter purposely moves to the Second Amendment because of the direct relevance to the development of institutional controls over the state security mechanisms.

The changes that these amendments reflect are a movement toward more politically liberal accountability, but do allow for significant differences in interpretation. While 30.4 mandates responsibility for internal security to the national police, article 30.3 opens up room for a contradictory (or complementary, depending on one's interpretation) role for the military in the reference to national sovereignty and unity.³³ The significant problems inherent in the actual execution of the constitutionally-mandated protections—legislative, executive and judicial reflect deep-seated structural deficiencies.

The Criminal Code—There are no laws governing intelligence and regulating military assistance to the civil authorities and the police, with concomitant negative effects on all attempts to provide effective institutional oversight. Parliament has no legal basis to provide a check on how intelligence was gathered, and how that intelligence was used (ICG 2004, 18). The executive's control over the internal services has little oversight, though debate on creating an intelligence and control board to oversee budgets and intelligence products did surface (ICG 2004, 19). Last, a lack of overarching legal restraints over the intelligence services hinders the judiciary. In this legal chasm, revised criminal codes do offer some constraints on official actions at the personal level.

Indonesia's Criminal Code (KUHP-*Kitab Undang-Undang Hukum Pidana*) and the Criminal Procedures Code (KUHAP-*Kitab Undang-Undang Hukum Acara Pidana*) demonstrate that Indonesia has a developed core of laws that are designed to shape and constrain the actions of the entire internal security community, including the intelligence and police structures. If implemented according to their spirit and letter, the KUHP and KUHAP "provide a sound basis for the police operations" (ICG 2001, 9). Several particular KUHP articles clearly restrict the actions of state security agencies. The US State Department (2004) reports that, "The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession; however, in practice, law enforcement officials widely ignored such statutes." Moreover, The Indonesian criminal code requires judicial warrants for police searches, except for cases involving subversion, economic crimes, and corruption. Indonesian law also provides for searches without warrants when circumstances are "urgent and compelling." Despite these restrictions, security officials occasionally broke into homes and offices. Security officials occasionally conducted surveillance on individuals and their residences and monitored telephone calls (State 2006).

33 ICG (2004, 10) notes, "Although the reference to 'total people's defence and security' seems to be an innocuous statement of philosophy, it became contentious when the TNI in later legislation claimed the right to interpret its relevance for the organisation and structure of the military."

In the wake of the separatist violence that wracked Indonesia, the legislature enacted sweeping additions to the Criminal Code to encompass a wide range of actions that might be considered subversion:

Article 106

The attempt undertaken with intent to bring the territory of the state wholly or partially under foreign domination or to separate part thereof, shall be punished by life imprisonment or maximum imprisonment of twenty years.

Article 107

1. The attempt undertaken with the intent to cause a revolution shall be punished by a maximum imprisonment of fifteen years;
2. Leaders and originators of an attempt referred to in the first paragraph shall be punished by life imprisonment or a maximum imprisonment of twenty years.

Article 108

1. Guilty of rebellion and punished by a maximum of imprisonment of fifteen years shall be:
 First, the person who takes up arms against the government;
 Second, the person who, with the intent to rebel against the government, rises with or joins a band that take up arms against the government.
2. Leaders and originators of a rebellion shall be punished by life imprisonment or a maximum imprisonment of twenty years.³⁴

Writing in 1999, Cammack asserts that, “the ‘Reform Order’ of President Habibie, like the New Order before it, has declared law reform and the establishment of the supremacy of law to be a first priority.” The ensuing years (and administrations) have shown that any true momentum toward legal reform has stalled. The problems most likely do not lie in the wording of the law. Rather, like so many other issues in the various typologies of the bureaucratic model, the enforcement of these laws through a functioning judiciary is woefully inadequate.

The judiciary—The Suharto regime used the judiciary to varying degrees of effectiveness to prolong his personal control, in what one former Indonesian supreme court justice has characterized as a use of the law merely to justify Suharto’s “wrong-doings” and to strengthen his power (Soetjipto in Manning and Van Dierman 2000, 270). The legacies of three decades of judicial abuse still impact the contemporary Indonesian judicial system. As one observer

34 KUHP, articles 106–8, as cited in Human Rights Watch, “Aceh at War: Torture, Ill-Treatment and Unfair Trials,” September 2004, 33.

related, "the court system is still widely regarded as a state-run mafia."³⁵ The UN has criticized the endemic corruption throughout the entire judicial system, stemming from law students' training to the highest levels.³⁶

The Habibie government made efforts early on to change the judiciary, attempting to revoke both the Subversion Law and the Corruption Law that allowed the security services much latitude in their activities.³⁷ The liberal language of the third amendment to the Indonesian Constitution calls for a judiciary that is notionally independent:

1. The power of the judiciary is the power of freedom to implement justice in order to enforce law and justice.
2. The power of the judiciary is implemented by a Supreme Court and judicature bodies under it in the surroundings of public courts, surroundings of religious courts, in the surroundings of military tribunals, in the surroundings of state procedures, and by a Constitutional Court.

As late as 2003, the judiciary remained *de facto* subordinate to the executive with judges classified as civil servants and employed by the executive branch, which controlled assignments, pay, and promotion; moreover the judiciary was often influenced by the military, business interests, and politicians outside of the legal system (State 2004). Even after the atrocities sanctioned by Jakarta and witnessed by international observers, the courts still provide impunity for the most egregious violators. According to one Human Rights Watch director, after the acquittal of Indonesians convicted of crimes against humanity in East Timor, "The decisions show that the courts are simply not independent and are incapable of rendering justice for the atrocities committed in East Timor." (2004b)

The judicial system is pervasive, with 2,418 district courts, in which judges try by posing questions, weighing evidence, and subsequently deciding on guilt or innocence before meting out punishment. State (2004) reports that, "Judges rarely reversed initial judgments in the appeals process, although they sometimes lengthened or shortened sentences Court officials commonly received an illicit payment in exchange for approving the security guarantee upon which the defendant's temporary release was based." Though Indonesian defendants have

35 "Mapping Indonesia's Legal Reform," *The Jakarta Post*, December 14, 2000. Quoted in "Indonesia: National Police Reform," ICG *Asia Report* 13, February 20, 2001.

36 As cited in Florence Lamoureux. *Indonesia: A Global Studies Handbook*. Santa Barbara, CA: ABC-CLIO, 2003, 85.

37 See Tim Lindsey. "Black Letter, Black Market and Bad Faith: Corruption and the Failure of Law Reform." In Chris Manning and Peter Van Dierman, eds. *Indonesia in Transition: Social Aspects of Reformasi and Crisis*. London: Zed Books, 2000, 278–92, for a snapshot of a broad spectrum of legal and judicial reforms in the first years of governmental liberalization.

the right to call and confront witnesses, many witnesses were unwilling to testify, particularly against government officials. In direct contravention to criminal procedures, courts sometimes allowed forced confessions (State 2004).

For egregious human rights violation, potential redress may come through Indonesia's four district courts, which the law stipulates may have five members, including three non-career human rights judges, who were appointed to five-year terms. Verdicts handed down by the district courts in theory can be appealed to the standing High Court and the Supreme Court (State 2004). Public mistrust of the state and in particular complete cynicism toward the judicial process leads to public perceptions that those criminal sentences that are meted out will not in fact be carried out. Many Indonesians expect that state officials will "convert" sentences into personal surplus through accepting bribes to accept the defendant's appeal or to turn a blind eye when he escapes (Lindsey 2001, 294). Moreover, in dealing with the specific instances of prosecuting human rights abuses, the courts are "almost hopelessly corrupt ... When prosecutors do not deliberately leave huge loopholes in their case, judges themselves will often find technical reasons for a not-guilty verdict" (ICG 2001a, 12).

Legislative control and oversight—Parliament. Indonesia's 1945 Constitution called for a bicameral, presidential system, with political parties competing for seats in the parliament (*Dewan Perwakilan Rakyat*—People's Representative Council (DPR) and the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* (MPR)). Originally, the military's doctrine of *dwifungsi* (dual function) stipulated that because of its historical ties to the revolutionary period, the armed forces not only had the roles of defense and security of the state, but also in political social management. At its core, the Indonesian military saw at itself as the vanguard of stability and unity (Eklöf 1999). This dual function manifested itself most concretely in active and retired military officers holding key posts in the government bureaucracy and a determined number of seats in the parliament.³⁸

The Indonesian parliament underwent the same dramatic changes both in function and powers in the post-Suharto era, enjoying autonomy and legislative capacity for the first time. This section's scope is restricted to the national legislature, the DPR, to maintain consistency across all case studies.³⁹

The amendments promulgated in 1999 granted the DPR greater power to initiate legislation. Specifically, the amended constitution under Article 20A grants:

38 Until 1997, the Indonesian military held 100 of the 500 seats in parliament, when that number was reduced to 75 upon the recommendation of the Indonesian Academy of Sciences. The TNI no longer has a reserved number of seats.

39 Excluded are the regional legislatures and the People's Consultative Assembly (MPR), the latter specifically because the MPR is not mandated to oversee continuously executive actions nor has a legislative function.

1. The House of Representatives shall have a legislative function, budgetary function, and supervisory function.
2. In carrying out its functions, besides the rights regulated in other articles of this Constitution, the House of Representatives shall also have the rights of interpellation, inquiry and statement of views.
3. Besides the rights stipulated in other articles of this Constitution, all members of the House of Representatives shall have the rights of posing questions, recommending proposals and opinions, as well as immunity.
4. Further rules regarding the rights of the House of Representatives and the rights of members of the House of Representatives shall be regulated in laws.

In the assessment of one Indonesia watcher, these increased powers have turned parliament from “a ‘rubber stamp’ institution that was compliant to the government’s wishes to being an assertively independent legislature with the power to review and restrict legislative actions” (Fealy in Lloyd and Smith 2001, 97). Parliamentary commissions are increasingly active in requesting information from the government, holding hearings and scrutinizing the executive as never before; the roles have reversed to such an extent that some have expressed concern that parliament is attempting to usurp executive privileges (ICG 2004, 18; Sukma and Prasetyono 2003, 29–35).

Commission I: Located in the DPR, Commission I’s primary responsibility is to oversee the country’s foreign affairs initiatives and defense and security issues.⁴⁰ Among its subordinate functions, the commission is mandated to supervise the operational and budgetary requirements of the state intelligence agencies.⁴¹ Despite increased diligence, there are persistent extra-systemic factors that hinder its effectiveness. Most prominent is the commission members’ preoccupation with foreign affairs over security issues, especially defense and security reforms (Sukma and Prasetyono 2003, 31). It’s difficult to discern just how regularly the intelligence oversight function embedded in Commission I meets, due in no small part to an air of secrecy that persists from the Suharto era. To be fair, this reflects practices in more open states as well. However, Commission I’s activities appear weekly to monthly in local and international media but rarely mention the national intelligence services. Moreover, even with more frequent hearings and meetings, Commission I is often criticized for its

40 Current members of DPR Commission I include: Drs. Theo L Sambuaga, Chairperson; Drs. Sidarto Danusubroto, Vice Chair; Dr. Happy Bone Zulkarnaen; Marzuki Darusman; Drs. Hajriyanto Y Thohari, Ma; Hilman Rosyad Syihab; Dr. Moh. A. S. Hikam; Drs. Ali Mochtar Ngabalin, M.Si; Rk Sembiring Meliala; Drs. Soewarno; Andi M. Ghalib; J.E Habibie; Soetadi; Boy M. W. Saul; Drs. Djoko Susilo; Abdillah Toha; and Jeffrey J. Massie.

41 The most explicit mandate for public complaints about security service actions to Commission I derives from Article 38 of the Indonesian Police Law 2/2002. The law says, in part, that commission has the authority to “receive suggestions and complaints from the public about the work of the police and convey them to the President.”

lack of internal expertise⁴² over security functions and a lack of diligence in striking through legal provisions not wholly consistent with democratic practice (Sukma and Prasetyono 2003, 32), the commission does seem to enjoy some authority with its most powerful tool the ability to control the intelligence functions' budgets.⁴³

Budget: There appears to be some rigorous oversight of the budgetary process, as witnessed by the parliamentary debate surrounding the 2003 budget. For that year the DPR Commission I Budget Committee approved a total budget of 123.706 billion rupiah (about US \$13,429,000⁴⁴), of which 17.274 billion rupiah was earmarked for counter-terrorism, and the remaining 99.567 billion rupiah was designated for intelligence operations. A further breakdown includes:

A proposed 62.285 billion rupiah for investigations of domestic and overseas intelligence activities and for operations by developing intelligence network posts in provinces, districts/towns and for Indonesian overseas posts.

A general administration budget of 6.025 billion rupiah to cover office management, and the study and analysis of strategic developments.

The remaining 13.982 billion rupiah for security, support, countering transnational crime and money laundering.⁴⁵

This particular budgetary cycle is notable because the approved budget is significantly lower than what the BIN has proposed, to the tune of 112.18 billion rupiah. The net effect of the shortfall would be a severe curtailment of intelligence activities, though Commission I members expressed that the BIN still was subject to cronyism and lacked the professional the service it had professed it was aiming toward.⁴⁶

42 See, for example, Bantarto Bandoro. "Parliamentary Oversight and the War on Terror." *The Jakarta Post*, November 1, 2005, 7. Bandoro's assertion that, "The current government's counterterrorism policies seem to reflect the involvement only of intelligence officers, either from the police, National Intelligence Agency (BIN) or the military, who happen to be generals or retired generals," is consistent with others' observations on Commission I's internal capabilities. One Indonesia military officer noted that Commission I relies almost exclusively on current and former military and security officers for advice on developing legislation, as there exists little internal capacity. Interview with author, March 10, 2005.

43 Should the Draft Law on Intelligence be passed in its proposed form, the president will be able to undermine some of the DPR's authority over the intelligence services' budget. Clause 17(b) provides for a special budget available directly from the president to pay for intelligence activities or operations. See ICG, 2005.

44 As of October 18, 2002. Exchange calculated at 9212.171 rupiah = US\$1.

45 "BIN Budget for Counter-terrorism only 17 billion Rp," *Kompas* (Internet version, in Indonesian), October 18, 2002.

46 Ibid.

Civil Society—The development and role of civil society in general—and in influencing the security sector in particular—has been consistently a positive element in the Indonesian political scene. Characterized as a “dynamic force” (Sukma and Prasetyono 2003, 33), civil society played an instrumental role in sparking the democratic transition, and continues to influence government policies. The public’s perception that if state-sponsored events veered too far from what is considered socially acceptable, then at a minimum the nascent civil society can comment publicly or protest (Kingsbury 2002, 13). Foreign media suggest support for this growing space for civil society, detailing that, “Instead of a handful of cowed media, Indonesia now boasts a cornucopia of competing television channels, magazines and newspapers—state-owned and private, local and national, specialized and generalist, in many languages—to cater to every conceivable taste and interest. The same applies to trade unions, NGOs and other pressure groups, which have proliferated throughout the country.”⁴⁷ In addition, human rights organizations have witnessed a general increase in growth and voice, while faith-based initiatives have had success in delivering needed services, such as medical care.⁴⁸ For Indonesia, civil society has enjoyed a healthy growth in numbers and mission, boding well for its role in holding a check on Indonesian governance.

Media: The contemporary Indonesian government’s response to allow more open media scrutiny of the internal security indicates little central support. Despite President Yudhoyono’s statements to the press that he support more freedoms for the media, he has taken few concrete steps. In fact, in 2005, the penalties in the criminal code for press offenses were increased, and the Anti-Terror Law gave even more power to the internal security forces to restrict reporting (HRW 2006a).

Emblematic of this continued restriction is the moratorium on media access on the conflicted island of Papua. In an open letter to President Yudhoyono, Human Rights Watch (2006a) feared that, “restrictions on reporting from Papua are aimed at making the human rights situation in Papua largely invisible to the world and reduce international pressure to ensure respect for human rights.” This latest policy continues a long-standing tactic to reduce the media presence in areas where the security services—and the insurgents—were most active. Beginning on May 21, 2004, security forces in Aceh arrested, interrogated, and threatened local journalists and foreign correspondents who were reporting on abuses by police and military participating in the offensive against the long-running indigenous insurgency. Four days later, on May 25, the military stipulated that journalists covering the fighting would thereafter be under

47 *The Economist*. “Time to Deliver.” 373.8405 (12/11/2004), S3–4.

48 See Philip Eldridge. “Emerging Roles of National Human Rights Institutions in Southeast Asia.” *Pacifica Review* 14.3 (October 2002), 209–26; and Muhammad Fuad, “Civil Society in Indonesia: The Potential and Limits of Muhammadiyah,” *Sojourn* 17.2 (2002), 133–63.

military orders (RSF 2004). *Time* magazine's Andrew Marshall reported that soldiers abused the "Press" identification on journalists' vehicles to undermine the status of reporters as non-combatants, which in the first week of fighting resulted in at least seven press vehicles coming under fire (RSF 2004).

International press monitors also reported that the central government warned the media against any lack of nationalism, and failure to support the internal security forces. Despite these warnings, some Indonesian newspapers still reported on the forces' human rights violations. But the criticism of the "dirty war" in Aceh in publications such as *Kompas* and *Tempo* met with disapproval from both officials and other media associated with the central government, broadcast media in particular (RSF 2004). The tsunami that wracked the province had the paradoxical effect of opening Aceh, and allowing the media to be targeted less frequently by the military and the separatists (HRW 2006a). However, in general, the press still enjoyed only limited universal freedoms to report on security service abuses, especially by the BIN.

In a particularly sensationalized case, General Hendropriyono, the former BIN chief, filed criminal defamation charges against two human rights officials,⁴⁹ both of whom were prominent members on the government-established fact-finding team investigating the murder of human rights campaigner Munir Said Thalib (see next section). Hendropriyono claimed that the two spread damaging rumors about him and defamed him during the course of the team's work. The police questioned both human rights activists, but as of March 2006, they remained free (State 2006). Though there was some more access to other conflict areas, such as the Maluku, journalists did face violence and intimidation from police, soldiers, government officials, insurgents, criminals, students, and average citizens (State 2006). Finally, any criticism of the president may invite jailing and intimidation from officials.

In sum, the media sector has become more vibrant and active in its coverage of national issues, but there remain serious shortcomings in their overall freedoms. Unfortunately, because of the government's restrictions on media access to conflict areas, there is limited direct evidence to support this contention. However, the media's inability to report on the internal security services' actions seems to have a direct correlation with the propagation of human rights abuses.

Summary and Analysis

In the past six years, Indonesia has transitioned successfully from authoritarianism, but its consolidation of democracy is at a critical juncture. More pointedly, the actions of the internal security services—the military,

49 Rachland Nashidik, a director for The Indonesian Human Rights Monitor, and Usman Hamid, a coordinator with The Commission for Disappearances and Victims of Violence.

police and the intelligence services—strongly support the hypothesis that institutional changes may foster only certain levels of change consistent with liberal democracy.

First, the Indonesian armed forces. There is a persistent view that the TNI remains a dominant force in Indonesian politics, but in Rieffel's (2004) analysis, "the TNI looks operationally lame and well past its prime." Several objective factors support this contention: the armed forces' share of the national budget has fallen from a peak of 25 percent during the Suharto era to less than 4 percent today, less than one percent of Indonesia's GDP (Rieffel 2004). Additionally, the TNI's command structure parallels the civilian government down to the village level. The military has retreated largely from its economic interests. Politically, it no longer has guaranteed seats in the parliament and its officers cannot participate (at least publicly) in partisan politics. Despite these real reforms, the military still has been able to resist operational checks. Its doctrine limits the TNI's role to defending the nation against external enemies, but it has consistently deployed forces to combat domestic insurgencies. Though Indonesians generally support the TNI's actions to suppress insurgencies in Aceh and Papua, the military's approach appears more consistent with permanent occupation than with winning the hearts and minds of the people in these regions (Rieffel 2004).

Police—In the six years since the transition, the civilian police have proved to be unable to respond effectively to the growing wave of criminal and separatist violence. In short, the police as an entity have done little to generate public confidence in their crime-fighting abilities, or to discourage vigilantism. The police remain too overstretched and undermanned to play an effective role in promoting internal security. There are now only 200,000 in the police force, or about one policeman to every 1,300 Indonesians (Ghoshal 2004, 520).

The police are inefficient, subject to corruption, and have been the source of violence themselves. Officer salaries are low, which encourages officers to seek additional income from other sources, both legitimate and illegitimate. Officers often spend time that should be devoted to official duties supplementing salaries through protecting illegal logging, gambling, and prostitution rings (ICG 2004).⁵⁰ Despite police success in capturing the Bali bombers, several polls suggest that public perceptions of the force's capacity have grown steadily worse over the last two years.⁵¹ In one survey, respondents listed police passivity as a major factor in outbreaks of public disturbances.⁵² Sukma and Prasetyono (2003) reinforce these perceptions, listing three hindrances to further professionalizing the police forces:

50 Also reflected in an interview with US official, March 8, 2005.

51 "Jajak Pendapat 'Kompas', Penegakan Hukum Memburuk." *Kompas*, November 29, 2004. As cited in ICG 2004.

52 "Rekomendasi Arah Kebijakan Keamanan dan Ketertiban Masyarakat Serta Penegakan Hukum." *ProPatria*, October 24, 2004. As cited in ICG 2004.

first, the problem of corruption (e.g., collecting on-the-spot “fines” from passing motorists, demanding “fees” for law enforcement services, and demanding free services from the illicit service sector); second, the apparent lack of commitment to respect human rights; third, the police’s skills and capacity in handling civil disturbances, riot control, and mass demonstrations.

There is an interesting center-periphery dynamic to the security services’ actions. As the services become geographically and culturally distanced from Jakarta, there are more abuses of power and diversions from professional standards. This may be due in part to the loci of the violence centered far from the capital, though even in the more pacific provinces official corruption is omnipresent. Since the three decades that the police were the most under-resourced and least prestigious branch of the armed forces, an autonomous and reconstituted national police is transforming itself much more quickly than the armed forces. The enthusiasm for change is most obvious in the middle ranking officers (USINDO 2004). The reasons for this greater receptivity to democratic governance may hinge on the legacies these mid-range officers adopted in their most formative years. Most of them were not tainted by the Suharto regime because their low ranks placed them at an operational, non-managerial level, and in addition, these officers do not have as much to lose financially as their senior counterparts.⁵³

Despite the rising professionalism of the security services, entrenched corruption remains a principal hindrance to further reform. The “Rolex Club,” as one foreign observer termed it, is composed of the most senior police and security officials, many of whom are at the top of the entrenched hierarchy that tolerates and even promotes corruption. At the bottom of this “organized pyramid scheme” are street-officers who, with salaries so low, are encouraged to supplement their incomes by providing police “services” (such as directing traffic for a particular vehicle) or receiving payment for “fines.” Assignments given to officers in which they are not in a position to receive payments, such as a teaching post, are considered a punishment and not a marker of advancement as in more developed states.⁵⁴ The Brimob, the police mobile brigade, which constitutes the “best of the best” of the Indonesian police, cannot yet receive external (i.e., from the US) support because of the past human rights abuses perpetrated by its members. The consistent element is that the public seems to be demanding change in the public security organs. The block in making the transition to more accountability among the security services is the prevailing

53 A senior Indonesian military officer related similar experiences among the mid-range cadre of the armed forces. Not having been indoctrinated into the corruption of the earlier era and not currently benefiting economically, the most reformist of officers see the benefits of a professional, neutral and merit-based security bureaucracy. Interview with author, March 10, 2005. A US official remarked that the mid-level managements were the most open to change, as they have not been tainted by corruption as much as the more senior officers. Interview with author, March 9, 2005.

54 Interview with author, March 9, 2005.

mindset that the police are an “arm of the people,” and not just responsive to the government.⁵⁵ In this way Indonesia seems indicative of the slow evolution of the security sector that requires corresponding development of all branches that oversee and support them. The Indonesian security services may be the most important indicator of where the state lies in its evolutionary process.

Intelligence services—The Indonesian intelligence services have not been immune from corruption in the post-Suharto era.⁵⁶ The intelligence chief who assumed power in December 2004 took over an agency replete with a general sentiment of strong doubts about its efficacy. The new BIN chief Syamsir Siregar assumed control of BIN at a time of open public doubt over its ability to anticipate and to prevent terrorist attacks in Indonesia, doubt reinforced by the spate of major bombings over the past two years blamed on the Jamaah Islamiyah. Moreover, some outside observers criticized the government for choosing the military to attempt to end the separatist rebellion in Aceh instead of employing some forms of covert intelligence operations, which may have been far less costly in terms of money and human losses.⁵⁷

The expansion of the intelligence services to parallel military structures throughout the archipelago has two potential consequences, depending mainly on the relationship to the ruling regime. The official stance is that the changes are necessary to increase the internal security service's capabilities, but its critics see the plan to expand the central government's power into rural areas as a backward step if Indonesia is going to democratize.⁵⁸

“After a major terrorist attack, the next thing to do is strengthen intelligence, the police, and the military forces,” says Smita Notosusanto, chief of the Indonesian Center for Electoral Reform. “But those institutions were the main problem in Indonesia's past,” when security forces repressed political expression by abducting activists and jailing outspoken literary figures. “Strengthening

55 Interview with author, March 9, 2005.

56 The particular case of the National Police's arrest of seven BIN officers alleged to have been producing fake banknotes in a long-running crime that the authorities found difficult to stop is instructive of the corruption within elements of the intelligence services. Ironically, one of the accused is retired police officer Brig Gen Zyaeri, a chief of staff at BIN's special division for the eradication of currency counterfeiting. “BIN Agents Arrested for Counterfeiting.” *The Jakarta Post*, January 15, 2005.

57 “New BIN chief to Fight Separatism and Terror.” *The Jakarta Post*, December 9, 2004. In perhaps an anecdote more amusing than telling, *The Jakarta Post* article went on, “There was a minor hiccup as Syamsir took his oath of office. The new intelligence chief froze up during the part of the oath about receiving gifts, forcing Susilo to repeat the lines. “I repeat, ‘I should not receive any gifts for any reason from any person on account of my position,’” Susilo said while looking at Syamsir, who stood still and again failed to repeat the words.

58 “BIN's Potential Overlap with Army Commands Queried.” *The Jakarta Post*, January 10, 2004.

them again will not help Indonesia become more democratic.”⁵⁹ The *de facto* transformation since political liberalization remains a concern for some internal and external observers. One media report quotes a former BIN official who argues that BIN was more effective during its cold war heyday. If the agency wanted to question someone, internal security officers brought the suspect to the military barracks and sat him down. “My right hand would drop my pistol on the desk. My left hand would drop my military belt,” the former official says, indicating that the belt’s heft was sufficient to deliver a beating. “I would say, ‘You choose which one you want,’ and then he would sing for me.”⁶⁰ The new services, though, seem not as quick to resort to force. This anecdote, if true, is telling in that it confirms that the security services have become more democratically responsive, albeit in small ways.

The political developments in the post-Suharto era in Indonesia are a decidedly mixed story. A liberal analysis of qualitative indices points toward a consolidation of democracy. There have been open and contested elections deemed fair and free. Parliament’s strength has increased; the military has been removed from a codified role in politics. However, negative indicators are problematic and detract strongly from an otherwise sanguine assessment. Corruption, cronyism, violence, and persistent economic concerns dominate the public sphere to create an environment not conducive to further democratization. Entrenched elites dominate the highest levels of government and economics, with the populace unable to significantly influence further discourse.

To successfully implement broad conclusions and maxims where possible, comparative legal and political scholarship stresses the importance of understanding the recipient culture. Indonesia, despite a veneer of liberal-sounding institutions that oversee executive actions, in fact has little *de facto* control over most of the actions of the internal security services. These services have undermined much of the most well-intentioned democratic reforms.

Human Rights and Political Violence

Human rights in international diplomacy should be affirmed for what it really is: a big scam that seems destined to last as long as nations compete for economic advantage through political subterfuge on behalf of noble ideals.

Juwono Sudarsono⁶¹

59 “Indonesia’s Expanding Spy Network Alarms Reformers.” *The Christian Science Monitor*, February 4, 2004.

60 Ibid.

61 *Jakarta Post*, April 11, 1997 as re-printed in David Bourchier and Vedi R. Hadiz, eds. *Indonesian Politics and Society: A Reader*. London and New York: RoutledgeCurzon, 2003, 246–7. When he wrote this article, Sudarnoso was the deputy governor of the National Resilience Institute, a military think tank and elite officer school.

A state's definition of national security is the potentially volatile mixture of threat perception and subjective conceptions of the national interest (Moran 1998). Though much of the Third World experience in security led toward a political economy approach to eliminate threats to the state-centered economy, the contemporary Indonesian approach responds to ideologically-motivated violence. In particular it seems most concerned with targets symbolic of Javanese repression and Western intrusion into Indonesian identity. This section reviews the human rights development in Indonesia since liberalization. A discussion of the state responses to internal violence then follows.

Human Rights

Despite initial optimism, Indonesia's human rights situation did not improve in the chaotic situation of the post-New Order period. In fact, the human rights record worsened due in large part to the political tension that stemmed from a mixture of entrenched elite corruption, the collapse of the Indonesian economy, local movements toward autonomy or independence, and elite competition (Kingsbury 2002, 167). In most cases, the direct link between human rights abuses and the state was not difficult to confirm. Not long after Habibie's announcement allowing a referendum on the future status of East Timor, the central government formed a "Crisis Team on East Timor" to wage a "dirty war" against pro-independence groups (Kingsbury 1999, 25). The head of the BIA, Major-General Zacky Anwar Makarim, stepped down from BIA to take up this new position. There was history between Zacky and East Timor: he had been head of intelligence in East Timor at the time of the Dili Massacre in 1991. Under Zacky's command, this "Crisis Team" organized "militias," which, by mid-1999, numbered around 6,000 paid and press-ganged East and West Timorese. Receiving support from regional military command and led often in the field by former military intelligence officers, the militias were associated with the Satuan Tugas Intelijen (Intelligence Duty Unit—SGI) and Kopassus. During the so-called Operasi Sapu Jagad (Operation Global Clean Sweep) these gangs were responsible for hundreds of deaths in East Timor between January and July 1999 and caused more than 60,000 people to flee their villages (Kingsbury 1999, 25). The chaos and subsequent lack of democratic accountability lingered on into the early 2000s.

In September 2000, in connection with the trial of Tommy Suharto, in which the ex-president's son was involved in charges involving a multi-million dollar graft, the stock exchange was bombed. 15 were killed, and the act was attributed to Kopassus members. This signaled potential further elite-triggered violence should Suharto be convicted (Kingsbury 2002, 189). Further, the Megawati regime established many of the same intelligence-human rights abuses connections. Despite credible allegations of serious human rights atrocities in Lampung in 1989, retired General Hendropriyono was named National Intelligence Chief, a top promotion.

Responding to the Dili massacre and subsequent international pressure to add transparency and accountability to human rights issues, the Indonesian government responded in 1992 with the forming of Komnas HAM (*Komisi Nasional Hak Asasi Manusia HAM*—National Human Rights Commission). Initial skepticism about the Commission's effectiveness was proved (partially) wrong through its critical reports and extensive outreach (Eldridge 2002, 132). Citing its official foundation, Komnas HAM's continued existence has enhanced international human rights reporting. And yet despite some real internal advancement, the human rights record of Indonesia remains bleak. The *Amnesty International Report 2002* for Indonesia notes that, "Long-standing government commitments to amend the criminal code were not fulfilled and provisions which contravened the basic rights, including the right to freedom of expression and assembly, continued to be applied."⁶² The intellectual link between institutional latitude and the security forces' brazen human rights violations is simple to conceptualize. Recent human rights offenses by the government, which occurred while responding to nationalist conflict, support this assertion. In Papua, for example, reports indicate that the actions of security forces have resulted in dozens of unlawful killings, "disappearances," and incidents of torture. Coupled with the destruction of houses and means of support in what Amnesty International calls "collective punishment" for armed attacks against military and security forces,⁶³ there is the sense that the security forces have lost a connection with democratic and legal foundations. "In conflict zones like Aceh, its (TNI's) troops continue to commit atrocities at a rate humanitarian groups can barely track."⁶⁴

All this reinforces the idea that, in the democratizing of Indonesia, there appears to be a move away from the security forces' being a tool for legitimate enforcement of laws and toward their existence as a disrupting force. The irony is clear. Not only do the security forces fail to transcend the pull of nationalism

62 *Amnesty International Report 2002—Indonesia*, available at www.amnesty.org. The *Human Rights Watch World Report 2002* for Indonesia reinforces Amnesty International's claims very closely.

63 *Amnesty International Report 2002—Indonesia*.

64 *The Economist*, May 20, 2002. In its 2004 "Country Reports on Human Rights Practices," State essentially confirms some of these same reports, "The security forces continued to employ unlawful killing against rebels, suspected rebels, and civilians in separatist zones, where most of the politically motivated extrajudicial killings occurred. There was evidence that the TNI considered anyone its forces killed to have been an armed rebel, particularly in areas where the TNI had announced an operation and told all civilians to leave. The security forces also committed numerous extrajudicial killings that were not politically motivated. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses, particularly in Aceh. The TNI tried, jailed, and discharged some soldiers for rape, robbery, and torture; however, no security-force members were prosecuted for unlawful killings in Aceh."

to become the impartial arbiter, but they actually reinforce nationalist tendencies as like groups band to enforce laws, often at the expense of another ethnicity.

Despite the inauguration of President Yudhoyono, concerns remain over the impunity for human rights abuses by the internal security services. Based in response to the apprehension of Indonesian police, military, intelligence, immigration, and other officials, Presidential decree 43/2003 again bans journalists, NGOs and foreigners from many conflict areas. Human rights groups have expressed their concerns that this policy could signal a return to Suharto-era controls on foreign media, a time when journalists could be deported for writing on sensitive issues. Earlier in 2004, under pressure from then National Intelligence Agency chief Ahmad Hendropriyono, former president Megawati Soekarnoputri's administration expelled the well-respected US human rights advocate and terrorism expert Sidney Jones, with Crisis Group International.⁶⁵ Most ominously, after Habibie ordered the TNI to control the militias, his requests were routinely ignored. Through this appalling insubordination, TNI commander Wiranto showed where real political power in Indonesia resides.⁶⁶

Political Violence

Indonesia has widespread and substantiated violence directed at targets representative of the state and "foreign" interests. The secession of East Timor and the disarray in the central government encouraged further violence, particularly in the economically important provinces of Aceh, Riau, and Irian Jaya. In concert with the growth of secessionist violence, ideologically-motivated violence has been escalating in certain areas over the peninsula (Rabasa and Chalk 2001, 27). What follows is an overview of these two major categories of political violence.

Secessionist violence. Indonesia's separatist violence spans the peninsula's 17,000 islands, ranging from the Acehense conflict in the east to Papua in the west.

Aceh—With a historical narrative of resistance to outside powers, the mainly-Muslim province of Aceh has long fought centralized control. The most prominent resistance, the Free Aceh Movement (GAM) began its separatist campaign in 1976. GAM's actions and the armed response have killed at least 10,000 people, mainly civilians. The hope that a 2002 ceasefire would bring peace faded as the relations between the two sides broke down in May 2003.

65 "Indonesia Bans Journalists From Conflict Zones." *BBC Monitoring International Reports*, November 12, 2004. This incident is discussed further in chapter 4, especially FN 216.

66 Kingsbury, 1999.

Subsequently, Jakarta imposed martial law on the province, which was only lifted a year later.⁶⁷

Perhaps aided perversely by the tsunami of 2004 that destroyed much of the province, on 15 August 2005, the government of Indonesia and representatives of GAM signed a peace agreement in Helsinki to finally end the almost 30-year conflict there. This Helsinki agreement helps strengthen the autonomy granted to Aceh in 2002 and gives the province multiple rights and privileges. Moreover, the Helsinki agreement also:

Established an immediate ceasefire.

Called for GAM to disarm its roughly 3,000 fighters in four stages by the end of the year.

Offered amnesty to all GAM members, and a prison release for those being held by the Indonesian government.

Restricted government troop movements in Aceh. Additionally, the government will withdraw 24,000 troops in four stages, though up to 14,700 military troops and 9,100 police officers will remain.

Changed Indonesian law to allow Aceh-based parties to participate in politics.

Mandated that 70 percent of the country's natural resources will stay in Aceh. The region has vast reserves of oil and natural gas and is rich in timber and minerals. It is also a fertile agricultural region.

Established a human rights court to expose abuses committed during the conflict, and a truth and reconciliation commission in Aceh.

Allowed Aceh to use its own regional flag, crest, and hymn. However, Jakarta will still control the province's finances, defense, and foreign policy.

Allowed for over 200 unarmed monitors from the European Union and the Association of Southeast Asian Nations (ASEAN) countries to oversee the peace process.⁶⁸

67 BBC News, "Indonesia Flashpoints: Aceh." Available at <http://news.bbc.co.uk/2/hi/asia-pacific/3809079.stm>

68 From the Council on Foreign Relations, "Background Q&A Indonesia: The Aceh Peace Agreement." Available at www.cfr.org. See also BBC News, "Aceh Pull Out Prompts Optimism," December 12, 2005. Available at www.news.bbc.co.uk.

Despite the egregious human rights violations that were perpetuated throughout the conflict, and though the situation could remain dynamic, it appears that the peace agreement is holding.

Papua—Formerly known as Irian Jaya, the Indonesian-controlled portion of Papua has been witness to secessionist violence since Dutch colonial rule formally ended in 1962, when many Papuans saw the Dutch departure as an opportunity for complete independence. Within a year, Jakarta annexed the area and claimed it as part for Indonesia. The guerrilla organization Free Papua Movement has been fighting a secessionist battle against centralized rule since. Despite the heavy Indonesian military presence on the territory, periodic attacks and skirmishes throughout the last four decades have killed thousands of Papuans.⁶⁹ In 2001, the Jakarta government granted the province limited autonomy, but there has been little tangible benefit for the everyman. The list of Papuan complaints has been growing over the years: they feel neglected by Jakarta and severely exploited for the island's tremendous mineral wealth.⁷⁰ The proposed special autonomy is aimed at defusing tensions by giving the province more political latitude and authority in using its natural resources; however, the attacks in March 2006 that killed five members of the Indonesian security forces cast doubt on long-term relations with the central government.

*Maluku, North Maluku, and Central Sulawesi*⁷¹—The roots of this exceptionally violent internecine bloodletting lay in communal antagonisms that pit Christians against Muslims across these tiny islands. Owing to a legacy of Dutch colonialism, the largely Protestant population held the majority of bureaucratic posts, including the police and administrative positions (Huxley 2002). As the Muslim population gradually overtook the Christian due to higher birth rates and immigration, tensions arose as competition for fewer economic opportunities increased. These and other factors led to an outbreak of conflict in January 1999, spreading quickly to neighboring islands. By 2003, respect for human rights improved; however, starting in October, violence increased in Central Sulawesi. Even with this upswing, the death toll for 2003 fell: 22 persons were killed in Central Sulawesi, and 17 were killed in the Malukus. Approximately 200,000 persons remained displaced in the three provinces during the year (2004a). The situation as it stands now is restive, yet non-violent.

69 BBC News, "Indonesia Flashpoints: Papua." Available at www.news.bbc.co.uk.

70 See BBC News, "Mine Hits Deep Seam of Papua Unrest," March 23, 2006. Available at www.news.bbc.co.uk.

71 One interviewee (March 4, 2005) stressed that the Malukus do not represent secessionist concerns, rather it is an ethnic conflict based on religious delineations.

Ideologically-motivated violence—In the aftermath of the September 11, 2001 attacks in the US, state authorities throughout Southeast Asia began to note the rise of a clandestine terrorist “network” operating in the region. The October 12, 2002 Bali bombings that took 202 lives confirmed existing suspicions that the Jemaah Islamiyah organization had permeated Indonesia (Singh 2004, 47).

The 2005 US State Department’s *Patterns of Global Terrorism* indicates the extent of and official response to terrorism within Indonesia. In 2003, the Indonesian judicial system tried approximately 63 terror suspects, including 17 for involvement in the bombing of a McDonald’s restaurant and a car showroom in December 2002. Additionally, the courts tried 46 members of JI for involvement in the church bombings on Christmas Eve 2000, the bombing of the Philippine Ambassador’s residence in Jakarta in August 2000, and the Bali and Marriott Hotel bombings. As of December 2003, Indonesian courts had convicted 50 terror suspects. Thirty-nine of these convictions were of suspects involved in the Bali bombings on 12 October 2002. Three key planners were all sentenced to death. Many others were given life in prison (State 2004b). Despite these numerous arrests and trials, in a rather baffling announcement, newly-elected president Yudhoyono countered that there was no substantive proof that the JI even existed in Indonesia.⁷² Just 11 days short of the third anniversary of the 2002 bombings, another explosion by suicide bombers on the Island of Bali killed 22 people.

Further clouding the insecurity in certain provinces are paramilitaries, who are active in promoting and perpetrating violence, often with unofficial recognition and support. These paramilitaries are at the heart of some of the most egregious human rights violations.

Paramilitaries—The legacies of the 2002 terrorist attacks on Bali on internal security have been manifested most acutely in a simultaneous rise of private, extrajudicial security organs. International Crisis Group (2003) provides the most complete discussion of the rise of these unaccountable private security forces:

Their success in investigating the October 2002 Bali bombings and pursuing the Jemaah Islamiyah network has been a welcome boost for an Indonesian police force that has widely been derided as incompetent and corrupt. It has also encouraged the many donors who have made police reform a major element of their efforts to assist the country’s democratization process.

72 “Indonesia Brings New Case Against Cleric Tied to Terror,” *The New York Times*, October 29, 2004. There is now a more moderated official approach to JI, with the government facing pressure to ban the organization in the wake of the October 2005, Bali bombings. See Raymond Bonner. “Indonesia Considers Tougher Antiterror Laws.” *The New York Times*, October 13, 2005.

But that success has obscured a development which should disturb those concerned about police reform: the devolution of authority over some police functions to civilian auxiliaries. While much thought and many resources are going into community policing, understood as a way of integrating the police more closely into the communities where they work, the trend in some parts of Indonesia seems to be to allow untrained and unaccountable local civilian groups to provide protection or fight crime in place of the police.

An unsurprising result of these security “auxiliaries” is that these forces “often exacerbate rather than reduce security problems when they are recruited from particular ethnic or religious groups, when they become an instrument to gain or maintain political power, or when they are composed largely of thugs. Some are all the above” (ICG 2003, 1). Indonesia’s permitting these extra-state security organizations to exist is probably not due to structural constraints on the state. As Roessler (2005, 208) argues in his analysis of the presence of privatized state violence in African states, “a structural argument does not explain the specific conditions under which states will turn to this strategy.” Instead, there are likely external factors conditioning the permissible environment for non-state security— particularly international norms and conditioned aid pushing for more democracy— that allow for this state repression with little centralized culpability.

The New Order allowed the state significant latitude in determining what constituted a threat, representing a spectrum from verbal criticism to labor unrest through violent secession attempts. Of course, this free reign for the security forces is incompatible with even the loosest notion of liberal, democratic governance (ICG 2001c). Both Sukarno and Suharto rejected Western notions of liberal democracy, reflected in the government’s record of ignoring the international human rights system, especially the United Nations. Suharto himself responded to external criticism with “blanket defenses” citing issues of national sovereignty and non-interference in Indonesian internal matters (Eldridge 2002, 131). Even after Suharto’s ouster, there was very little indication that the human rights records perpetrated by the internal security services, particularly in concert with the intelligence agencies, was to end soon.

Summary and Analysis

In the Indonesian case, violent conflict has remained endemic throughout the transition and democratization periods, and in some cases, informal militias have supplanted or augmented the military and police forces. Historically, the Indonesian internal security forces were centered on the military, which enjoyed not only the bulk of capabilities (and percentage of the national budget), but also a constitutionally-protected political role in all government affairs. The net impact was that the services had a fiat to act as the leadership saw appropriate, with little concern for official retribution for human rights abuses. Arguably, the

aggregate power of the services to harass, coerce, and sometimes kill the general populace at will made the regime's forces as gross a human rights violators as the agents they were fighting against. The post-authoritarian period has shown some positive change, though entrenched patterns still dominate when addressing internal violence.

Two developments are notable. This first is the rapidity of the formulation and adoption of security laws in conjunction with secessionist and ideologically-motivated violence. The second is the actions of the security services while combating terror. As a direct consequence of the Bali bombings, the parliament passed legislation stemming from executive edicts to strengthen police powers. The presidential instructions—Numbers 4 and 5 of 2002, to the Coordinating Minister for Politics and Security and to the Head of the National Intelligence Agency—as well as Government Regulation 1/2002, the “Elimination of Criminal Acts of Terrorism,” broadened police powers to apprehend and detain terrorist suspects and strengthened the BIN's role in coordinating intelligence (ICG 2004). These three later formed the corpus of the parliament's new anti-terror legislation passed in 2003.⁷³ In what can be viewed as a positive sign for the effectiveness of civil society's check on certain government initiatives, ICG (2004) further notes that, “widespread public opposition quickly stifled calls from some in the government, first after Bali, then after the August 2003 Marriott hotel bombing, for an internal security act, such as those in Malaysia and Singapore.”

Human rights violations perpetrated by the internal security services did increase in combating terror. State's (2005) “Country Report on Human Rights Practices” for Indonesia summarizes this trend: “Security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements, especially in Aceh and to a lesser extent in Papua.” Detailing the abuses by the security forces, State demonstrates a pattern of abuses that accelerated from “mere” graft and corruption throughout the peninsula to the most serious and disgusting abuses against combatants and noncombatants alike in the conflict zones.

Indonesia has done well to separate the internal security functions from the military, which brings its structure in line with the delineation of responsibilities of the majority of consolidated democracies. What has abated little since political liberalization is the violence in response to terrorist acts. Indonesia is interesting in that it has been unable to resolve its ongoing secessionist violence, while at the same time it is facing a growing threat from ideologically motivated insurgents. In other words, Indonesia's endemic violence is increasingly supplemented by a more widespread (and more virulent) threat. The central government's anti-terror actions—both legislative responses and physical interventions—have increased in response to mounting terror throughout the archipelago.

73 Law 15/2003.

Summary and Conclusions

Indonesia presents an interesting and relevant case to study the role and place of the intelligence and security organs during consolidation of democracy in post-authoritarian multinational states. Using a broad historical review, this case demonstrates that in fact the internal security organs, in Indonesia's case centered in the armed forces, were co-opted by the central authority for its own purposes and protection. Moreover, during Indonesia's post-authoritarian, nominally democratic years, the security forces have hindered democratic consolidation through incompetence and corruption. In general, this case draws the following conclusions about intelligence and security forces in contemporary Indonesia:

The state has historically found and continues to find it necessary to resort to excessive force and coercion to maintain peace and order. This creates an over-reliance on the security apparatuses and increases the chances for serious human right violations.

The government appears to have continuously been centered on one nationality (Javanese), though nationalism was not used as a tool. Other nations have felt and continue to feel alienated from the process resulting in some cases political violence.

The intelligence and security services, despite radical changes in their form and function, still have little legislative oversight. The executive and the functionaries continue to control the flow of intelligence and how it is applied. Though the link is admittedly tenuous, there are significant historical hurdles between the security intelligence functions and the perpetrators of human rights abuses.

The very real terrorist and violent secessionist threats coupled with judicial corruption allow the Indonesian internal services to commit serious human rights abuses with relative impunity.

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Chapter 4

Reforming the Security Sector: Findings and Recommendations

Despite the sweeping political changes that have brought more liberal governance to all corners of the planet, building the internal conditions that promote further political liberalization in post-authoritarian regimes remains one of the most difficult dimensions in modern global democracy promotion.¹ Any satisfaction that accompanies the phenomenon of democracy's explosive growth is mitigated by the numerous examples that consolidated democracy is not the inevitable outcome after the fracturing of authoritarianism. There is a frightful array of hindrances to democracy facing contemporary states: fissiparous societies, economic stagnation, and political violence. And yet, it is the constellation of institutions that constitute the state's internal security services that has significant potential to destroy the embryonic state—the very state it must be retained and developed by. This study is about these institutions and the experiences of Morocco and Indonesia.

Morocco and Indonesia provide insights into the conditions (such as politically-oriented violence) that buffet states at key points during their political transitions and consolidation phases. Several broad results, elaborated further in this chapter, are drawn from this research. The two cases studied here demonstrate the utility of studying the choices made during the transitory period, for the modes did materially impact the actions and control over the security services in the more liberalized period. Additionally, institutional changes intended to force modifications more consistent with norms in consolidated democracies did have some impact, but were inevitably stunted in the face of other, less concretized pressures. Last, politically-motivated violence internal to and directed at the state did hinder further democratization, as the state was given a permissive environment to curtail civil liberties and to perpetrate more human rights violations. As these cases demonstrate, if the

1 Developing assessment mechanisms to measure the condition of democracy in a particular state increasingly gained interest concurrent with the rise in the number of democratic states. This task has proven much more difficult than expected, with debates about the relative strengths of qualitative and quantitative methodologies. Typical of the former strategy is International IDEA's (the Institute for Democracy and Electoral Assistance) *The State of Democracy: Democracy Assessments in Eight Nations around the World*, which aims to provide "a comprehensive methodological tool that the citizens of all democracies in the world can use to assess the functioning of their own democratic systems."

security apparatus is “democratized” early (that is, brought under the direction of elites accountable to the general polity), its potential as yet another hindrance to democratic consolidation is greatly diminished.

This study reinforces a long-standing orientation that the state remains central to political transformation, though reformist personalities are more essential for any changes to the security sector than any codified, institutionalized structure. The array of institutional and individual actors that constitute a state’s internal security apparatus are impacted by the transition mode. Similarly, the depth and scope of change are influenced strongly by how a state began its path to increased political liberalization. For the two modes of political transition studied here—reformist and pacted—entrenched security elites’ prestige in the liberalized period is inverse to the status of the executive. However, as suggested by the literature, any transformation of security services is problematized not only by the transition mode; rather the post-authoritarian services reflect a host of factors, including actors, established norms, and patterns of behavior.

The relevancy of security sector reform is closely linked with a reemergence of the significance of internal political institutions in developing democracy. State security institutions are central to this effort. Moreover, as state-less international violence increases (especially violence tied to religious idealism) the importance of a state-centered response increases as well. The most prominent conclusion drawn from political liberalization is that it can be, and often is, a messy proposition where new challenges consistently arise that force the state to adapt.

Morocco and Indonesia Compared

Ensuring security in a world characterized by increasing insecurity ranks at the top of the competing concerns that states transitioning from authoritarianism in the past 15 years have had to face. These concerns are most acute in the developing world, since most of the “easy cases” of democratization have already occurred (Mansfield and Snyder 2005/06). Buffeted by poverty, low levels of education, little societal cohesion, a lack of experience in democratic governance, and elites with a dubious commitment to political liberalization, the democratizing world faces the challenge of maintaining strict and powerful state institutions while at the same time loosening societal and institutional constraints. Through the two cases of Morocco and Indonesia, this study has examined how post-authoritarian states govern security, particularly the governance of security institutions.

With the historical legacies and modern realities outlined in this work, the prospects for further democratization of the security services in Morocco and Indonesia are paradoxically opposite of the direction and status of democracy in these respective states. In Morocco, in the latter years of Hassan II and during Mohammed VI’s reign, the security services have been responsive to change and remained loyal to the monarchy. This has the consequence that the

security services cannot be expected to be an independent center for increased democratization, or a hindrance for that matter. Rather, the internal security services will continue to be closely aligned with the palace and reflect and accept its priorities. As Morocco goes politically, so will the security services. The concerns that will most likely hinder democratization are rampant corruption, social problems, and a lack of the very specific expertise within the legislative oversight mechanisms.

In analyzing the Moroccan case to develop reasonable policy expectations, international actors should consider Morocco less a state transitioning to democracy than a semi-authoritarian state with elite leadership intent on increasing personal liberties and human rights standards. This specific environment forces a unique application of theoretical principles. With the critically important assumption that the palace will continue to jealously maintain control over the internal security apparatus, international actors should promote accountability of the services actions. Instead of concentrating on the *processes* of the internal security services (to include external oversight), instead, scrutinizing security services' *outcomes* can provide more effective vehicles for the promotion of principles consistent with democracy. There are two essential rationales for this approach.

First, the actions of the security services in Morocco are a tangibly identifiable outcome that the established (primarily international, but with some domestic capacity as well) human rights oversight structure can readily identify, collect, and disseminate. This approach capitalizes on the palace's concern over international perceptions of Morocco's human rights record. Increased access to economic aid and international markets would provide incentive for desired behavioral outcomes, and would allow the king to further his top domestic priority of increasing Morocco's economic performance.² Second, focusing on outcomes encourages responsible behavior while maintaining Morocco's prerogative to protect official secrets. Moreover, the very act of practicing responsible behavior by the security services should have the long-term effect of inculcating within service personnel desired norms of conduct.

Relying solely on executive control has many potential disadvantages,³ but with the significant parliamentary shortfalls inherent in the Moroccan context,

2 This is an opportune place to note that by their very nature, the actions of the internal security are not by definition transparent; this opaqueness of activity is apparent, yet even the most secretive or professional of services have not been able to keep all of their activities completely shielded. For example, the US's Central Intelligence Agency's transportation and interviews of detainees in the wake of the NATO invasion of Afghanistan has been subject to scrutiny in public sources, such as media and human rights-oriented organizations. (See, for example, Renwick McLean. "Spaniard Calls C.I.A. Plane Case 'Very Serious.'" *The New York Times*, November 16, 2005.)

3 See Ian Leigh. "Democratic Control of Security and Intelligence Services: A Legal Framework." Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Working Paper No. 119*, May 2003, 10–12.

any attempts to increase democratic accountabilities must focus on the privileged status of the king vis-à-vis the Moroccan legislature. The case study of Morocco is arguably instructive for regimes that are forced to adopt general principles of political openness to assist in the retention of centralized power, most often vested in oligarchic power structures. The Moroccan internal security services underwent minimal internal transformations, though there is little evidence of a backsliding of the political prerogatives the regime has already dispersed.

The Indonesian experience differs from Morocco's in that a majority of the political structures adopted in the past five years is consistent with promoting democratically accountable security services. In the Indonesian case, the hindrances to the deepening of democracy are embedded in historical and cultural legacies, aspects that historically have been proved much more difficult to change and overcome.

In Indonesia, the security services are potentially a stronger hindrance to further personal liberalization and democratization. The inordinate influence of the former and current security sector elite on the development of defense and security policies in contemporary Indonesia has the potential impact of short-circuiting a democratically-appropriate legislative process. Moreover, the actions of the services themselves while carrying out their anti-terrorism duties cannot sustain democracy, particularly in regions experiencing ongoing conflict, as represented by their violations of human rights standards with *de facto* impunity. This is not to assert that the Indonesian state has not changed in its essential character from Tanter's (1990) "totalitarian ambition" as a source of terror on the general population. However, it remains a real potential stumbling block.

The prominence of maintaining state cohesion reifies the security sector, forcing an intimate involvement of security elite in all policy processes. This forces two paths. First, the Indonesian state must consider the wisdom of continuing the union as it stands. Perhaps the ongoing devolution of power to the regions will alleviate some internal tensions. If not, then the state must accept a need for a strong security apparatus and develop even more powerful oversight. Without an indigenous cadre of specialists, the security sector elite will continue their privileged status vis-à-vis their civilian oversight.

The very logic of holding democracy as the sole panacea to alleviate Indonesia's abuses and hold it accountable for its indiscretions fails when one considers the necessity of elite support for democracy. With many of the security elite concerned about maintaining the status quo, especially when faced with assured personal poverty, there is little hope for their active support for change. Accepting these assumptions, policies must center on the emerging security leaders, those who are not on top yet soon will be. A substantial "golden parachute" that will cushion the elite removal from power, such as a living-wage retirement, would allow for faster promotion of this mid-level cadre inculcated with an understanding of democratic norms.

The underlying argument that pervades this work is that the security institutions are very much entities unto themselves, and respond to change only through stronger institutional and extra-institutional mechanisms. As a side-by-side comparison of Morocco and Indonesia depicted in Table 4.1, the institutional deficits within and over the security institutions have significant impacts on the quality of the services and their actions.

This table gives a consolidated portrayal of the experiences that Morocco and Indonesia have faced at the key phases of political transition and liberalization, while facing internal violence directed at the state or its constituents. A brief review of this comparison helps the basis for a discussion of the similarities, differences and internal patterns.

Perhaps the most striking similarity between these cases is the durability of political institutions. As both cases illustrate, residual institutions remained reasonably intact during and after the political transition. In neither case was there a significant enough challenge to their legitimacy to make the principal state institutions concerned about their continued existence. Related to the persistence and reliance of institutions are the primacy of written laws and codes that are consistent with international standards. However, there are very weak enforcement mechanisms from the other branches of the state that have authorities, most notably the judiciary and the legislature. There are extra-institutional oversight mechanisms embodied in civil society—including an independent media—but overall, its members were limited in their ability to impact the internal security services, especially because of limits on the matters that can be investigated and reported on (i.e., reserved domains). As this table demonstrates, both cases have made efforts to address human rights issues and abuses, though the formalized processes concentrate on the sins of the *ancien regime*, likely to have concrete manifestations of commitment to human rights while not threatening incumbents. Moreover, outside human rights groups have enjoyed much stronger fiat in their reporting and monitoring.

The differences between Morocco and Indonesia are not nearly as stark as the similarities, though there are certain items to note. The transition paths were certainly much different, which has led to material differences in the contemporary character of the internal security institutions. This seems chiefly due to the durability of incumbents, coupled with the emphasis on the security state that politically motivated internal violence forces. In general, political violence is much more widespread in Indonesia; Morocco has more capabilities in controlling it due chiefly to geographic limits and not because of a greater emphasis on security. Last, violence has certainly increased the socio-economic cleavages in Indonesia, though this is most likely caused principally by the existence of fewer socio-economic differences in Morocco to exacerbate.

The literature on political changes privileges the role of elites—political, economic and social—in the “third wave” transitions and what material impact they collectively produce. One detectable though not surprising pattern is that elites are unwilling to give up their positions readily unless they have a major

Table 4.1 Morocco and Indonesia compared

Political change and institutional incentives	Morocco	Indonesia	Analysis
How were broad principles of governance translated into specific institutional choices?			This reinforces the importance of the transition type on future institutional designs.
Democratization process imposed externally?	Yes	No	Mass-driven transitions force more universal changes to the internal security service versus elite-derived reforms.
Reforms driven by political and economic elites?	No	Yes	
Reforms driven by popular constituencies?	No	No	
Changes resulted from crisis or violence?	No	Yes	The impact of violence during the transition, though, is minimal if security forces demonstrate restraint.
The net institutional impact to the internal security services	Insignificant	Moderate	
Internal security institutions and change			
<i>The internal security framework</i>			
Are key state security institutions removed from the legislative process?	Yes	Yes	Institutional designs are consistent with those of consolidate democracies (e.g., removed from the legislative process, yet in practice have minimal impact on the actions of the services.
Are the internal security services separated from the military?	Yes	No	
What are the specific capabilities and mandates for internal security?			There exist codified oversight mechanisms intended to protect citizens' human rights from the internal security services. However, the services are able to act with little impunity for their actions. Citizens have few avenues for redress in reality if they are subjected to official abuses.
Capabilities	Extensive	Limited	
Mandates	Broad	Broad	
Is head of government officially or unofficially head of internal security?	Officially	Officially	
Do constitutional constraints on security service actions exist?	Yes	Yes	
Do laws govern the operation and accountability of internal security services on:			
Treatment of suspects?	Yes Criminal Code, Articles 154, 293 and 399	Yes Criminal Code	

Table 4.1 cont'd

Political change and institutional incentives	Morocco	Indonesia	Analysis
Invasion of privacy?	Yes Constitution, Articles 10 and 11	Yes, except for subversion, corruption or economic crimes	
Complaint procedures?	Yes <i>Dahir</i> 1-101-198 (Ombudsman)	Yes Article 38, Indonesian Police Law 2/2002	
<i>Judicial oversight</i>			
Are there effective investigative and judicial redresses for alleged human rights abuses?	No	No	Judicial standards are far below those of consolidated democracies, resulting in increased official corruption and little ability for average citizens to effect changes or hold security officials accountable.
Are there: Deaths and injury to suspects or those exercising their lawful and civil and political rights?	Yes	No	
Biases in the treatment of citizens?	Yes	Yes	
<i>Legislative control and oversight</i>			
How much can the elected government influence public policies?	Insignificantly	Moderately	What should be the most oversight powerful mechanism to ensure democratic accountability in reality has few effective powers. A lack of qualified staff and access to resources are among the chief hindrances to effective legislative oversight.
How well is the elected government informed, organized or resourced?	Not organized	Moderately organized	
How effective are elected leaders in controlling executive and administrative staff?	Insignificant	Moderate	
How extensive and effective is the legislature in scrutinizing the executive?	Insignificant	Moderate	
Is there:			
An independence of government information sources?	No	Yes	
Legislative access to non-governmental expertise?	No	Yes	

Table 4.1 cont'd

Political change and institutional incentives	Morocco	Indonesia	Analysis
What is the level of expertise of committee members?	Low	Low	
What are the legislature's actual powers and authority?	Insignificant	Moderate	
Are there public reports on security service activities?	No	Yes	
What is the frequency of legislative committee meetings?	Yearly*	Monthly*	
<i>Civil society and the media</i>			
What is the overall representation and impact of the domestic civil society in overseeing the internal security services?	Insignificant	Moderate	Both cases have a large and vibrant civil society that spanned a range of social issues relevant to each state. In practice, the civil society was hindered from reporting on multiple state-centered dimensions through legal and extra-legal tactics.
Are there independent media?	Yes	Yes	
Are there reserved domains or restrictions on their reporting?	Yes	Yes	
<i>Assessment</i>			The net result is little oversight of the security sector from civil society and the media.
What is the level of security service autonomy and accountability?			
Autonomy	Significant	Significant	
Accountability	Insignificant	Moderate	
Human rights and political violence			
<i>Human rights</i>			
Is there an official mechanism to address human rights abuses?	Yes	Yes	Under international pressures, both states developed official cathartic mechanisms to deal with state abuses. In practice, these committees limit themselves to the past.
How active are human rights groups in monitoring the internal security services?	Moderate	Moderate	
			Human rights groups often rely on international groups for reporting the most egregious violations.

Table 4.1 cont'd

Political change and institutional incentives	Morocco	Indonesia	Analysis
<i>Political violence</i>			
How free is the country from paramilitary groups?	Free	Partly free	Violence with political ambitions is present in both cases. After major events, civil liberties were curtailed and the security services were granted increased powers.
Is there a “real” public threat from internal violent dissidence?	Yes	Yes	
Do terrorist groups willing to harm the public exist?	Yes	Yes	Where significant social division existed, violence helped pry further this divide.
What is the ability of the state to combat internal violence?	Significant	Moderate	
Do crises further exacerbate ethnic divisions and socio-economic variances?	No	Yes	

* This reflects a “best guess” based on the available data of the actions of the legislative oversight commissions. Media and academic sources available to the author did not spell out specifically how often oversight bodies met, though there were ample discussions of the bodies’ competencies.

Source: Author.

crisis or event that forces their position. Both of these transitions fell far short of revolutions, though they both faced certain crises that forced elite response. Morocco’s new king had to deal with the uncertainties inherent in the wake of Hassan II’s death, while Suharto could not face down the mounting discontent in the wake of the Asian-wide financial crisis. Related, then, is the pace of institutional development and change in the post-transition period. Both cases demonstrate that any changes have been gradual, and have stopped far short of deepened liberalization. Perhaps the most important lesson to draw is that change and liberalization remain an interlocking puzzle that cannot be completed if there are any missing pieces. The presence of corruption or institutional frailty, for example, or the lack of vibrant and active civil society, hamper further political improvement.

Conclusions about Transitions, Change and Violence

The examination of these cases through the three major lenses of political transition, institutional change, and the impact of political violence, with all three compared to the human rights records of states agencies, has revealed commonalities in how liberalizing states approach development, oversight,

and control over the security sector. Of course, in terms of applying whatever lessons are learned to different and unique circumstances, the specificities are critical, especially where contexts diverge (see Cawthra and Luckham 2003, 306). The remainder of this study examines the conclusions from a cross-case comparison of Morocco and Indonesia, and follows with implications for policy for international partners who intend to shape the internal dynamics of states emerging from authoritarianism.

The (Moderate) Importance of Transitions

The leading conceptual framework to explain the durability of certain institutions is path dependency, which argues (very broadly) that actors calculate changes from the status quo as beneficial or harmful, and that substantial change is likely to occur only as a result of exogenous shock (Alexander 2001, 254). Therefore, the transition mode from authoritarianism should have lasting consequences on the security services, depending to a large degree on the shock to the system. Though these cases have borne this out to a certain degree, the most important implication is that the mode of transition has indicated the general political tone of the country since liberalization. Morocco has maintained political stability at the cost of few further, if any, tangible benefits extending to the general polity. Indonesia's experience since transition has been more tumultuous, with numerous peaceful political transitions overshadowed by localized violence and the retrenchment of traditional elites.

Just as the political liberalization in Morocco has been gradual, so has the transition of the Moroccan internal security services. As with all political transformations in Morocco, change was and continues to be centered on the king. One can argue that the immediate sacking of his father's internal security chief at the very onset of Mohammed VI's rule signaled a real transformation of the entire internal security apparatus. Rather, this very-public action was intended to have two consequences, neither of which was seemingly consistent with immediate political liberalization. First, the king wanted to signal that he was now the certain head of state and government and did not intend to continue the heavy-handed policies that typified much of his father's reign. Second, removing the strongest potential threat to Mohammed VI's rule demonstrated that his intention was to consolidate power around his person.

As the case of Indonesia's two-year transition suggests, the security services did undergo a transformation. The police assumed a greater legislative role in enforcing internal security, but found themselves reliant on the military for resources and expertise. However, the record of the internal security services, especially of the military during the transition period, testifies to services that found themselves imbued with a sense of the impunity they enjoyed during their authoritarian past. The grave and flagrant human rights abuses centered particularly in security service actions in East Timor in the immediate post-Suharto period are a serious blemish on the services.

In both cases, there is no evidence to suggest that the security services actually threatened the executive at the time of transition. Huntington (1991a, 591) requires that for an authoritarian system to be transformed,⁴ the government must be more powerful than the opposition. Consequently, transformation occurred in the third wave countries where the government clearly controlled the ultimate means of coercion. The record for Morocco clearly bears this out while in Indonesia there was real security-service disengagement from the overall transition.

In both cases, the net effect has been that many of the state's actions have not changed significantly in the post-authoritarian period. It is possible to argue that the transition mode impacts the security services no more than the overall institutions of state. The pacted transition has allowed a majority of the security elites to remain in Morocco, as well as the elites who have access to most of the other prerogatives the palace controls, especially in government and the economy. The reformist transition has forced some greater changes to the Indonesian state, but overall, many of the established practices and elites remain in prominent and behind-the-scenes roles. Nevertheless, as explained below, there are some subtle and distinct differences in the transition modes that lead to varying policy alternatives.

The particular transitions to political liberalness in both Morocco and Indonesia have had mixed results on their contemporary political environments, especially as reflected in the internal security services. Morocco's and Indonesia's respective transitions are consistent with Rustow's first phase of preliminary political liberalization (1970, 352). However, no definitive conclusion can be drawn that either state is advancing or backsliding democracy; democracy's fate in both cases is stalled. In place of promoting further openness characteristic of established, liberal democracy, the political forces in Morocco and Indonesia are conserving power bases. It is possible that developing institutional and non-institutional oversight mechanisms, particularly watchdog groups and media (more advanced in Indonesia than Morocco), can continue to push for reform, though not without commitment from the elite.

The research presented in this study demonstrates that in fact the transition mode does materially impact the type and quality of the internal security services that emerges in the liberalizing period. This does not suggest *per se* that the services themselves are principal actors in the promotion or hindrance of democratization, but that the transition period does have a meaningful causal relation with the services themselves. What, then, could be logically derived from this assertion on the importance of the transition mode?

In a pacted transition, the security sector elite will bargain for their immunity from previous violations. Effective governance under these pacted limitations in the liberalizing period most likely will be successful when a concerted

4 Huntington (1991a, 583) defines the concept of transformation as occurring when, "the elites in power took the lead in bringing about democracy."

international effort linked to monetary incentives and political initiatives is linked to a judicial standard constructed within international standards. The reforms in the security sector tend to lag behind other political reforms (such as in Chile), due in part to the bargains that the security elite make to maintain some prerogatives and to shield themselves from later retribution. International policies that limit the post-authoritarian influences and prerogatives of security elites can assist in a more rapid promotion of liberal governance.

When it becomes clearer that a pacted transition is emerging, the interested external state or organization should be less concerned about assisting in the control of internal violence (i.e., deploying troops to assist in maintaining civil order).⁵ Instead, energies should be focused on ensuring that elites in the security realm recognize they have two options: first, a guarantee of limited amnesty for crimes committed under the authoritarian period in exchange for their disengaging from internal politics; second, to remain in the security services, with the explicit understanding that future employment hinges on their actions during the transition and actions consistent with democratic norms.

In a reformist transition, international actors must encourage the incoming regime to quickly adopt democratically-consistent internal security services. A key issue is that reformist transitions are often associated with internal violence, which the state must address before any other political and social reforms may occur. The impetus then is for powerful internal security services with a strong mandate and resources. International actors or other states may act as surrogates in this case, providing the actionable intelligence on violent actors to indigenous security services while serving as a structural and behavioral model.⁶

A reformist transition may or may not require outside assistance to maintain civic order; however, the reformist mode potentially allows for more comprehensive changes to oversight mechanisms and the security institutions themselves. The transition modality may spawn mass unrest targeted at the regime institutions, especially the coercive mechanisms. This spirit may be difficult to maintain over a term long enough to ensure universal changes in the security services and complementary institutions, particularly judicial systems and oversight mechanisms.

5 This is with the obvious caveat that there already exists a reasonably quiescent domestic environment.

6 For example, Australia has had an increasingly structured intelligence-sharing relationship with Indonesia. Known as the "Lombok Treaty," signed in 2007, it provides the framework for security cooperation, which includes provisions on defense, law enforcement, counter-terrorism, intelligence, maritime security, aviation safety and security, proliferation of WMDs, and cooperation in international organizations on security-related issues (condensed from "Security: Australia-Indonesia Security Agreement (February 2007)," Human Rights Law Resource Center, available at <http://www.hrlrc.org.au>).

The Pivotal Role of Institutional Change

As noted earlier in this study, changing institutions is significantly less involved than changing long-entrenched norms and patterns of behavior, though both are important to fostering democracy. These cases have demonstrated some interesting commonalities with regard to changing institutions and behaviors. First, in both states, the centralized governments have remained stable (in Morocco certainly more stable than in Indonesia). Concurrently, the internal security apparatus has remained essentially intact, only slightly degraded in the case of Indonesia with the military's loss of mandate for responding to internal violence (though this has in reality only slightly checked the military's actions). Second, in Morocco, the internal security services as a state tool are much more concentrated in the executive, reflecting the palace's centralization of all major powers. In Indonesia, there is incrementally more control over the services by outside mechanisms, though other factors (e.g., corruption) make the services' performance sub-optimum and less responsive to the general populace. Last, the services remain outside true accountability for their actions, which demonstrates well the monarchy's centralized control in Morocco, while in Indonesia this impunity reflects the prevailing elite-centered nature of Indonesian politics.

State internal security services vary tremendously, depending in large part on the cultural context and historical legacies. The security services are a lead indicator of the capabilities in their predominant operational style, the mixture of surveillance and violence, the type and number of target groups and autonomy (Tanter 1990, 267). The essential character of the internal security services remains unchanged in the immediate years following the transition from authoritarianism. In both cases studied here, the internal, domestic environment transformed considerably from the authoritarian, essentially totalitarian, past that spawned them. The Moroccan relationship between the monarch and the internal security apparatus centered on the DST has remained unchanged since independence. The monarchy still maintains direct control over the security services, with everyday functions overseen through the interior ministry. Mohammed VI, the driver of all political and social reforms in Morocco, is reluctant to cede oversight to any outside agency. The net effect is the services' lack of real autonomy from the regime. What has changed in the country is the level of criticism allowed by the regime, not only of social factors but most institutions of state. Both states have shed their respective totalitarian nature, but the security services still reflect the authoritarian past. In the Indonesian context, the military has found it difficult to shed its pretensions of ensuring internal security. Because of a historical narrative that emphasizes the military's principal role in that country's independence from colonial rule, as a body it has enjoyed extraordinary influence in the day-to-day activities of the state. The contemporary military still has an influence in essentially all security activities, from policy formulation through intelligence collection and analysis to actual operations against internal violence.

As described in Chapter 1, legacies of each state's authoritarian experiences continue to impact the development of the constellation of institutions external and internal to the security services that are consistent with liberal governance, particularly in the oversight of the security services as the government bodies meant to oversee these bodies have been paradoxically forced to turn to them for expertise. The former regime left the new state with a legacy of few independent and capable resources to guide the post-transition phase. In both Morocco and Indonesia, the legislative bodies found themselves with parliamentarians who had little to no training or experience in defense or security realms, with the possible exception as residents of the former regimes' internment centers. The ramifications should be apparent: because the legislative bodies have no internal proficiencies in the security realm, the new legislatures must increasingly rely on experts who developed their attitudinal and doctrinal paradigms under the former regimes. Most poignant is the Indonesian case, where former military officers are among the sole indigenous cadre with any experience in defense and security doctrine. Only the most reform-minded officer—difficult to vet under any circumstances—can provide trustworthy guidance to lead to institutional reform consistent with democratic principles.

The literature suggests the paramount role of an independent judiciary should be to ensure accountability, yet the judicial systems in Morocco and Indonesia continue to be wracked by corruption, effectively eliminating them as potential avenues for redress for violations perpetrated by the internal security services. In Morocco, for example, there have been few reports of any security official and no reports of high-ranking individuals as having been prosecuted for serious human rights-related violations, such as in the case of the detention and torture of individuals in the DST's Témara center (State 2006). In Indonesia, corruption within the entire judicial process and a reluctance to prosecute officials involved or sanction human rights violations has also removed this process as an effective avenue of redress. The net effect is that the internal security services have little to fear from the judicial mechanisms.

Legal codes remain central to changing security service actions. Both constitutions reflected in this study afforded significant personal protections from the internal security apparatus, which laws and criminal codes reinforced. In practice, however, there was very little institutional recourse for average citizens for official abuses. Very few security officials faced censure or penalty for even the most blatant human rights abuses. In the aftermath of an especially brutal or public act of political violence against the regime or other high-profile targets (e.g., the Casablanca bombings or the Marriott Hotel bombing on Bali), the criminal codes were quickly amended to allow the internal security services more latitude with fewer restrictions. In both cases, these laws threatened citizens' basic rights.

The overall assessment of the ability of institutional change to impact the internal security services is not overly optimistic in that many of the actions of the security services are more likely to respond to personality-centered

changes rather than institutional incentives. Where a small number of elite, such as in Morocco, has guided the process of political change, it is much more pronounced. But in Indonesia there are few official or extra-institutional mechanisms or incentives for change. This points to an interlocking puzzle of democratization that indicates the importance not only of elite-commitment, but a necessity for multiple impetuses and avenues for change.

Resolving Political Violence and Improving Human Rights

This study began with an initial premise that violence and the state were inextricably bound. All states, including the most consolidated democracies, have incidents of police and security service abuse. This abuse is manifestly increased when an internal “enemy of the state” is demonstrated to exist through acts of violence against the state or its citizens. As argued in Chapter 1, in conflict-torn states, gaps in public security tend to widen, insecurity is widespread and the police and security agencies are often part of the problem itself. This study’s findings are consistent with this.

In the post-transition period studied here, Morocco and Indonesia both faced political violence that had similar root causes, but Indonesia had much more widespread and virulent acts of violence directed at the state and public. Internally, Morocco faced one major act of political violence, the 2003 Casablanca bombings, that was directed principally by ideologically-driven actors intent on changing the Western and Jewish presence in the country. Since that period, there have been no significant acts of politically-oriented violence in Morocco, though Moroccan citizens were implicated in multiple deadly terrorist attacks abroad. The principal cause of this cessation of violence is the security tactics in the wake of the Casablanca attacks that drew in thousands, confining would-be perpetrators (and many, many others as well). There is no evidence to suggest that Morocco has made concessions with violent actors, that it will tolerate their presence with the presumption that they will commit their violence abroad.

One notable development is the significant decrease in localized violence in relation to the domestic secessionist movements in Morocco and Indonesia, though calling it a durable peace is likely premature. The politically-oriented violence that had vexed the monarchy since the 1980’s centering both on the Popular Front for the Liberation of the Sahara and the Rio de Oro (*Frente Popular para la Liberacion del Sahara y Rio de Oro*—POLISARIO Front) and on attempts to gain independence for the Western Sahara, has been essentially non-existent during Mohammed VI’s reign.⁷ At this stage, this is no concrete

7 In May 2005, there were demonstrations in the Western Saharan capital, Laayoune, and in other locations in Western Sahara and Morocco that degenerated into violence and led to the arrests of many ethnic-Sahrawis and substantial prison sentences for dozens. subsequently, there have been more protests more arrests, including

resolution on the future status of Western Sahara, and both sides (Morocco and the POLISARIO) have seemingly intractable positions. The peaceful cooperation of the POLISARIO with the international community, argues its leader Mohammed Abdelaziz, has in fact aided Morocco. However, the 1991-negotiated ceasefire seems to be holding and has allowed for a relatively pacific environment throughout the disputed region. In the disputed Indonesian province of Aceh, the 2005 agreements, signed in Helsinki after the 2004 tsunami that gave more autonomy to Aceh, appear to be a significant contributing factor to the limited violence in the province in recent years. The most likely foundation for the successes of these two cease-fires, at least in limiting and stemming further violence, deals with the resolution processes. In both cases, the domestic principals allowed outside actors to define the issues and to provide frameworks for the agreements. Of course, there had been military stalemates where neither set of belligerents felt they had the abilities to completely resolve the conflict by military means without tremendous loss of life and human rights implications that neither state wished to bear, especially as Morocco and Indonesia have attempted to burnish their human rights images abroad.

In response to globalized pressure to conform to international standards of human rights, both states have adopted human rights commissions and some outside monitoring of their internal security officials. Both Morocco and Indonesia have institutionalized mechanisms to address human rights abuses by the internal security services in the authoritarian period, a necessary step in the democratizing process; however, in the post-authoritarian period Moroccan and Indonesian security officers are able to commit human rights abuses with little fear of official retribution in all but the most egregious and public cases. Interestingly, at least in the case of Morocco, there seems to be little popular resistance despite international and domestic human rights-oriented NGOs' efforts to highlight the state-sponsored violence. In both cases, the entrenched security architecture has been able to influence the transition process so that there is no prosecution for their crimes. Judicial corruption and cultural orientations inclined to fear the state are evident. In neither case was there a decision to dismantle the security architecture. The closest that reform has come to date was Indonesia's separation of responsibilities for internal security away from the military, though the military still has considerable influence on and participation in counterterrorism actions.

Internal crises do exacerbate human rights abuses, especially against disaffected minorities in the case of Indonesia, where many more ethnic differences exist; however, each case has different sets of likely perpetrators of state-centered violence. In Indonesia, the intelligence services are not usually implicated in human rights violations. Rather, the more visible elements such as

Ali Salem Tamek, a leading dissident. Morocco's police deported several international delegations and journalists upon their arrival at Laayoune airport. "Give it another try." *The Economist*, 376.8445 (September 24, 2005), 56.

the Polri and the military are most often the sources of official violence. In any case, rarely are there significant prosecutions of the higher-ranking officers. In Morocco, the human rights reporting centers on the DST as principal actors in human rights violations, despite official Moroccan denials that the service has an enforcement role. The significant result is that there is almost complete impunity for the security services' actions when human rights issues are involved. Political violence increased only in the Indonesian transition and the post-authoritarian phase. This is likely due to the swift and obvious power transfer in Morocco, while Indonesia had more than five years of political uncertainty. Therefore, an increase in political tumult correlates directly with an increase in violence. Limited liberalization has more limited violence.

Strategies for International Democracy Assistance

Because of the potential for serious violence that accompanies political transitions, these case studies demonstrate that the security services simply cannot be removed *en masse*, whether by an outside intervention force or by the incoming regime. The exception lies for the most obvious violators of international human rights standards who should be removed when their crimes are substantiated.⁸ A thorough vetting process will bring to light serious human rights violations by officers from the former regime, and an indigenous judicial process should agree on accountability. The experiences of Morocco and Indonesia underscore the utility of an indigenous accounting for human rights violations, though both processes have fallen short of a complete reconciliation witnessed in other post-authoritarian states (most notably South Africa). Nevertheless, the political transitions studied here lend themselves to policy guidance. Having first reviewed the two prominent models of internal security services found in consolidated democracies, this section now fuses these models into systems and external mechanisms that will promote democratically-responsive internal security services in Indonesia and Morocco.

8 To underscore the importance of an early and effective reckoning of the crimes committed by the previous regime, Neil Kritz notes, "In countries undergoing the radical shift from repression to democracy, this question of transitional justice presents, in a very conspicuous manner, the first test for the establishment of real democracy and the rule of law—the very principles which will hopefully distinguish the new regime from the old." See "The Dilemmas of Transitional Justice," available on the US Institute of Peace site, www.usip.org. Kritz more deeply explores transitional justice, including dealing with the state security apparatus, in his edited, three-volume *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. Washington, DC: United States Institute of Peace Press, 1995.

Internal Security Models and Oversight Mechanisms

The loosening of authoritarianism creates the potential to open the entire architecture of governance to more personal liberty and accountability. As the mechanism most closely associated with capping all forms of internal dissent, the state security services must be among the first institutions to develop responsiveness to a democratically-elected government. Essential to this process is a full understanding of the theoretically possible and *de facto* internal security models, then an application of those models in the construction of the institutions with consideration of a particular indigenous perspective.

The *Security Intelligence* model: Also referred to as a *bureau of domestic intelligence*, this model, practiced in the United Kingdom, Canada and Australia, has structures dedicated to the collection, assessment, and dissemination of information on domestic terrorism. These agencies in their various configurations have no powers of arrest, are separated from law enforcement but are mandated to maintain close working relations with police functions, and are concerned with active threat mitigation (Chalk and Rosenau 2004, xii). Williams (2001, 3) goes so far as to argue that this model is the desired model for a liberal democracy, whose director is of a cabinet-level rank while undergoing external inspection.

The *Law Enforcement* model: Most clearly exemplified by the US's Federal Bureau of Investigation, the law enforcement model treats threats to national security from terrorism and foreign intelligence collections as supremely in the realm of law enforcement. Its agents are credentialed law enforcement officers and have the power to arrest. Moreover, these agents collect domestic security intelligence, and receive support from intra-agency intelligence analysis. Critics of this model, at least as it is practiced in the US, argue that while the agency is superbly qualified to investigate terrorist incidents after the fact, it cannot prevent attacks given its strong law enforcement and prosecutorial culture.⁹

These models cannot simply be laid over transitioning states, but they can serve as a framework for developing and changing entrenched institutions. The security intelligence model provides a preferred alternative for states transitioning from authoritarianism, due in large part to the persistence of established behaviors and personalities from the previous regime. In both cases studied here, during the authoritarian period, the internal security services personnel enjoyed significant prerogatives and professional latitude to conduct their activities as they deemed fit, with little concern for personal retribution. The security intelligence structure forces a break between those responsible for the investigation of alleged acts of subversion and those who arrest. For the transitioning state, this allows for an infusion of a new cadre with no ties to the previous regime while maintaining some experienced security officials, with

9 Chalk and Rosenau (2004, 1).

the net desired outcome that there will be limited extra-legal practices carried into a liberalized era.

Oversight mechanisms—The nuances of security intelligence agencies in practice reveal the two models presented here as overly simplistic, but nevertheless portray the models as they exist in practice in the most powerful internal security services in advanced liberal democratic states. The numerous oversight mechanisms that democratic states employ obscure any direct overlay of a particular model on a transitioning state. Gill (1994) focuses the discussion by maintaining the prominence of diligence over structure. “Elegant structures of control and oversight may be erected but may be quite worthless,” Gill argues, “if those responsible for them see their role as providing no more than a modicum of public reassurance that previous problem areas of government are now under control” (1994, 249). With these conditions in play, proposed oversight models must encompass an executive component. This person holds a tenuous position in that he must be viewed not only with little skepticism as to his personal motives by the executive and legislative components. Moreover, this executive director must also have a strong degree of personal credibility with the subordinate agencies. These requirements are often at odds, and are divorced too far from codified institutionalized procedures for many. The personal nature of the internal security agencies forces some room for this person-specific component. This dynamic of executive control forces all democratic systems to adopt additional oversight and controls.

Civil society, particularly an independent and aggressive media, plays a critical oversight role over the internal security services. Each state enjoys a large number of constituents in civil society, though their ability to affect state actions remains limited.¹⁰ Both Morocco and Indonesia have very large media sectors, though through various means the media are effectively muzzled in their ability to report on state abuses.¹¹ In other areas of civil society, especially non-governmental organizations, there remains official tolerance of groups who are critical of the regime, but there are limits to domestic organizations’ ability to procure full disclosure against the main perpetrators of abuses. The major sources of human rights reporting against regime abuses remain international

10 For a unique, cross-regional comparative study of the impact of civil society on democratization, see Mehran Kamrava and Frank O. Mora. “Civil Society and Democratization in Comparative Perspective: Latin America and the Middle East.” *Third World Quarterly* 19.5 (1998), 893–916.

11 For example, the Moroccan state codifies the topics that remain off-limits from critical reporting, including the king and the actions of his individuals. Indonesia has repeatedly denied media access to strife-prone areas that are not coincidentally the areas most commonly cited for major human rights violations, such as Papua and Aceh.

organizations that are less subject to the everyday harassment and pressures.¹² This lack of media access appears to lead to continued human rights abuses by members of the internal security services, as indicated by *ex post facto* human rights reporting. Nevertheless, the media can play two important functions.¹³ The first and most obvious role is as watchdog, publicly reporting on security actions such as arrests and aggression oriented at those acting within legal confines. A second role is the media's forum to teach the population its role, such as reporting to the press incidents with the security services. International donors can encourage symbiosis between the media and other sectors of civil society. In the case of Morocco, indigenous human rights organizations were the only entities to report firstly on arrests by the country's security services, even to the judiciary. Indonesia's civil society in general and media in particular, though large and active, remain overly subject to personal corruption credibility concerns.¹⁴ International efforts to increase media professionalism are essential to ensure more accountable and responsive security services.

Mandate and doctrine—Though not necessarily implicit in these cases, especially the Moroccan one, the literature suggests and practitioners are adamant that in order for the security services to increase democratic responsiveness, the military should devolve itself from internal security, at least as a principal mandate. Severing the military's involvement in intelligence collection against internal dissidence remains a more consistent and forceful conclusion of most analysts. Representing a mainstream argument, Giraldo (2001, 23–4) argues forcefully that the military must remove itself from domestic intelligence collection, limiting itself to the collection of military-related intelligence and foreign intelligence as well.¹⁵

12 A notable exception stems from the International Crisis Group's Sidney Jones's June 2004 expulsion from Indonesia for her reporting on human rights abuses by the police and the military. In her case, the Indonesian government's order followed public statements by the National Intelligence Agency head, General Ahmad Hendropriyono, that ICG's reports were "not all true" and "damage the country's image." And all this was in a period of relative political openness. See ICG "Media Release," June 2, 2004.

13 This section derived substantially from interview with UN official, March 4, 2005.

14 One credible US observer noted the tendency in many of the Indonesian media to demand payment for positive press. Interview with author, April 4, 2005.

15 At least in terms of mandate, this may be a relatively simple process, if the case of Indonesia can be applied universally. One consistent sentiment expressed by Indonesian police and military officers alike to one US official with a long relationship with Indonesia is that they were pleased for the split from the other. The police were generally pleased to be able to pursue law enforcement functions and without being forced to become a paramilitary force, while the military saw the police as a liability and a negative impact to the military's prestige. Interview with author, April 4, 2005.

Consistent with this logic of divorcing the military from intelligence collection on internal threats is that all components of the security apparatus must have clearly defined mandates and doctrines. The need for defining early on the roles for the internal security forces is critical (as the case of Indonesia clearly illustrates) when the police have a legacy of militarization and the defense forces clearly politicized. This raises the stakes for the military for violating the mandate to remain apolitical while allowing for a focus of efforts. For the remaining internal security services, the freedom from concern over external physical threats forces acuity to focus on developing and inculcating procedures consistent with democratic governance (e.g., search warrants and non-physical interrogation). Their skills of investigation and surveillance should remain unhindered by the democratic experience.

Developing expertise—During the consolidation phase, a state is unlikely to possess sufficient impartial indigenous experts in defense and security issues.¹⁶ During this critical phase, international experts with the combined generic knowledge of security issues coupled with intimate country-specific understanding must be identified to inform the developing government structures. Without this external assistance, the governments will be forced to rely extensively on the members of the security services formed under the previous regime.

Increasing a broad-based civilian infrastructure capable of oversight is a critically important initial step. One potential option is to exchange professors from the US and Indonesian senior service academies, with the ultimate aim of creating a cadre of qualified Indonesian civilians.¹⁷ The political and material costs to this alternative are low, though a likely key to long-term success is in choosing candidates who have a measure of credibility with the military students, and who attend these academies because they are likely to achieve much higher rank and authority.

Related to the development of this qualified civilian cadre, education of the security sector personnel is a key component to influence the services into accepting democratically-consistent accountability. Naturally, this is a long-term endeavor, with a strategic concern over elite acceptance of this training and policy incorporation. In Indonesia, a major factor is the entrenchment of the elite into what many consider corrupt practices, such as accepting “fees” from subordinates and others for services and acceptance into the security services, such as the police.

Institutions—Developing constitutional and legal reforms consistent with democratic principles are necessary first steps in constraining the internal

16 Perhaps more important, individuals perceived as “outsiders” may have difficulty in reforming the security apparatus, which the case of Indonesia most strongly suggests.

17 Interview with author, April 4, 2005.

security services. Mere legal strictures alone will not confine anti-democratic actions, but their presence increases the personal cost of defying a democratically accountable authority and improves the leverage for reformist civilian authorities (Giraldo 2001, 26).

Reconstituting the legitimacy of the state is a critical function in post-authoritarian regimes. One major legacy of authoritarianism is a general mistrust and fear of the state and its agents, especially the military, police, and security services (Cawthra and Luckham 2003, 321). Because the state apparatus was perceived as publicly illegitimate and unresponsive to the polity, in the post-authoritarian period, inculcating democratic principles into the agents of the state security apparatus is a necessary first step in promoting liberal governance. Security forces must remain in some form; the mutually-reinforcing processes of building state institutions and ensuring public security are inseparable.

Institutional incentives for desired performance, not just institutionalized retribution, are a key dimension for the security services of liberalizing states. In Morocco, the discipline of the internal security services appears much greater than in Indonesia. The practice of outside observers providing guidance more critical than problem-solving is counterproductive in transitioning states. One US official noted that an approach where the US admits to its own indigenous concerns over corruption and human rights abuses and then sharing the resolution mechanisms will be more effective in promoting accountable security services in Indonesia.¹⁸

Closely related to this idea is that, during authoritarianism, the internal security services were primarily mandated to protect the regime; the most important function in the liberalizing period is to change a mindset of these services toward protection of a democratic society, not just threats to a particular regime.¹⁹ The essential lesson is that control over the security is not simply based on civilian supremacy, but rather democratic control. Oversight mechanisms staffed with true experts that develop simultaneously with other democratic mechanisms will work to prevent the security services from hindering further democratization.

Because of the lack of universal models for the internal security apparatus, any potential oversight and security model must be adapted to a country's particular circumstances. Generic standards to measure the success in promoting accountable security services are difficult to generate. Any standards must be made with a clear understanding of local particularities, and should be made early in the liberalizing period with the guidance from international, trusted experts. Desired incentives (particularly material) to meet those standards and clear milestones must be early in the liberalizing period to establish early behavioral expectations. Assuming the military's mandate for internal security has already devolved to civilian agencies, the internal security services must be

18 Interview with author, April 4, 2005.

19 Interview of UN official, March 4, 2005.

trained *primarily* by civilian security agencies from international actors, not by foreign militaries or non-security experts.²⁰

The involvement of elites committed to increasing political liberalization in promoting and sustaining international standards of conduct by the security services is more important initially than targeting the individual security agent.²¹ Therefore, international actors must expend significant resources in identifying individuals who are potentially open to concepts of internal reforms. Through training and overt international support to make their impunity from regime retribution more secure, these elites are the linchpin to secure security sector reform.

Corruption—Fighting endemic corruption is essential if transparent and accountable governance is to thrive.²² Despite thoughtful initiatives to promote good practices and fight corruption,²³ universal success in combating corruption has not yet been achieved. Not foreign to any state, corruption is particularly rampant in the two cases studies here; from the officer in the street and the provincial bureaucrat, through the judicial system to high-ranking officials, corruption with impunity was universally tolerated. Even should the internal security services be reformed, if other components of the judicial, legal and penal systems remain corrupt, further democratic enhancements are impossible. A successful anti-corruption initiative must entail providing living wages for all security officials, so that the impetus for accepting bribes is diminished. Moreover, a society that does not tolerate institutionalized nor individualized corruption is the essential check against corrupted structures. Certainly more easily said than done, a vibrant civil society and media that has a capacity to report against corruption is key.

Integrating security personnel—Of the numerous concerns facing transitional states, one of the most pressing is how to address the status of the former security forces in the more liberal democratic environment. Several assumptions are made: 1) the internal security forces under the authoritarian regime were willing participants in the regime's actions; i.e., their prerogatives and perquisites were

20 In an interview with a UN human rights official, March 4, 2005, he expressed that more countries annually request human rights training than the UN could possibly train due in main part to the small size in terms of staffing and budget of the human rights component.

21 Interview of UN official, March 4, 2005.

22 See Alina Mungiu-Pippidi. "Corruption: Diagnosis and Treatment." *Journal of Democracy* 17.3 (July 2006), 86–99.

23 For example, The World Bank identifies political corruption as one of the chief obstacles hindering economic and social development. Since 1996, the body has materially supported over 600 programs and governance initiatives developed by its member countries to combat corruption. However, rampant corruption persists in most states around the world.

sufficient to ensure a certain degree of loyalty to the regime, or at least there was insufficient opportunities elsewhere in a personal cost-benefit calculus; 2) In the post-authoritarian period, security personnel continue in security intelligence because of satisfaction they derive from this line of work, or they have no other career options. Just as it is difficult and important to effectively demobilize combatants in the immediate post-conflict environment, so the same is probably true of the “front-line troops” of the authoritarian regime: the internal security services.

In crafting policies that can maximize performance in the post-authoritarian environment, the security intelligence officer works both independently (or at least in small groups) yet also functions best in an organization that provides:

- an outlet/market for their energies;
- structure and support and possibly identity, i.e., a pride that comes with being part of a “secret” and usually feared organization;
- a high degree of autonomy with minimal interference.

All transitions from authoritarianism, and the very nature of democracy itself, are non-linear. Rather, the political experiences of all states are subject to setbacks and successes as they respond to dynamic internal environments and are buffeted by globalized external forces. The prescriptions outlined above are intended to help policymakers make good decisions at critical junctures in post-authoritarian state development.

Reform of the security sector is a challenging and often lengthy process that is complicated by the lack of a complete generic framework that can apply to all post-authoritarian states. However, the importance of a professional internal security apparatus that supports democratic principles must be a chief concern during transitions from authoritarianism.²⁴ The US and Europe, as the democratized entities that have the largest repository of experience in controlling its security sector, can be the determinant figures in security sector reform in the developing reform. With the major emphasis on controlling and destroying violent political actors since 2001, aiding reform to increase professionalism in the security sector can provide returns much greater than the investment, both tangibly (in saving lives) and intangibly (in eliminating incubators of ill will toward the West). Global networks of security sector experts that includes practitioners, academics, and non-governmental agents can not only provide the intellectual bases for acting to promote democratically-accountable security mechanisms, but can help make the tricky move to effective policies. The future of security and democracy may depend on it.

24 Theodor H. Winkler argues that, “The reform and the democratic control of the security sector have become, at the threshold of the twenty-first century, a key challenge—for the Euro-Atlantic region as much as for the developing world.”

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