Briefing Paper

Democratization in Indonesia
An Assessment

Forum for Democratic Reform
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Democratization in Indonesia: An Assessment

Indonesia’s transition to democracy from authoritarian rule has been one of the most dramatic political events of the late twentieth century. Although sometimes painful, the transition has brought back freedoms to Indonesia that have not been seen since the country’s first, short-lived experiment with democracy in the 1950s.

The reformasi era that began in May 1998 has made undoubted achievements, namely the unleashing of the press, the opening up of debate and the holding of general elections in 1999 which were generally accepted as free and fair. But many Indonesians are now asking where reformasi should go from here. Some are wondering if democratization is not in danger of grinding to a halt, or even of being turned back.

Democratization in Indonesia: An Assessment is an attempt by leading Indonesian political thinkers and activists to address these questions. It is a road map which shows how far reformasi has come, as well as a checklist which shows what steps must now be taken to build on the momentum already generated by the reform process, in order to build a solid foundation for democracy in Indonesia.

The Assessment is the work of the Forum for Democratic Reform, a group of Indonesian politicians, academics, activists and members of the military. The Forum was brought together by International IDEA, an institute which works to promote and advance sustainable democracy and improve electoral processes worldwide.

The process of preparing the Assessment began with a conference in Jakarta in July 1999 that identified the parameters for the reform agenda. The Indonesian stakeholders met again in January 2000, with the assistance of International IDEA, and split into working groups to discuss different aspects of the democratization process.

The conclusions were later reviewed by experts outside the working groups with deep knowledge of Indonesia or of the issues being discussed.

The seven major areas covered in the Assessment are:

- Constitutionalism and the rule of law
- Regional autonomy
- Civil-military relations
- Civil society
- Socio-economic development
- Gender relations
- Religious pluralism
In each case, the Assessment identifies the historical context, notes the changes that have already taken place and makes a wide range of recommendations for further reforms. The chapter on the constitution was first submitted in July 2000 as a report to the Ad Hoc Committee on Constitutional Review of the People’s Consultative Assembly (MPR).

A key theme underlying all the suggestions outlined in the Assessment is that for democratization to be sustainable, the process of reform and change must itself be carried out in a democratic way. The aims and priorities of reform should not be set in isolation by a policy-making elite, but developed through discussions and consultations that include all Indonesians: men and women, the populations of all the regions, and minority as well as majority communities. The Forum hopes that this Assessment will play a part in stimulating this necessary debate.

**Constitutionalism and the Rule of Law**

Indonesia’s current constitution was drawn up in August 1945 during the independence struggle and was only intended to be an interim document. It was replaced in 1950 by a second constitution which worked to transfer much of the president’s power to parliament and place more emphasis on human rights.

The 1950 Constitution only lasted nine years before President Soekarno, impatient with the turbulent experiment in democracy, re-imposed the 1945 Constitution. Throughout the Soeharto era, the 1945 Constitution was used to underpin an authoritarian style of government as the vagueness of the constitution enabled the executive to use the legislature to rubber-stamp its policies.

Some Forum members feel the 1945 Constitution should be replaced altogether, while others believe it should be revised. All agree, however, that the amendments made by the People’s Consultative Assembly (MPR) in August 2000 are only a first step towards building a strong constitutional foundation for democracy in Indonesia.

A constitution has been described as the “autobiography of a nation” which should reflect the changing values and aspirations of its people. The Forum believes Indonesia’s constitution should to be rewritten, and its laws revised, so as to safeguard the transition to democracy which began in May 1998. This process has already begun, but it needs to go much further.

The MPR amended the constitution in August 2000 to guarantee regional autonomy. This is an important way of ensuring that future governments do not try to reverse the trend towards decentralization. The constitution should also define the powers of each layer of government and guarantee enough funds to make regional autonomy work in practice.

Indonesia needs a fully elected legislature with the power to effectively oversee the
executive, the military, public appointments and public spending. Military appointees should be phased out and, to make sure that the voices of the regions are heard, a second chamber of parliament should be created whose members represent the regions.

The respective roles of president, parliament and the judiciary should be clearly defined. All three institutions should be bound by codes of conduct that would require officials and legislators to declare their assets before taking office and after leaving it. These codes should be backed by severe legal penalties for bribery and corruption.

The Forum believes new agencies are needed to watch over the institutions of the state. These include a human rights court; an institute to plan legal reforms; an ombudsman to monitor the executive, parliament and civil servants; a controller-general to review public spending and the award of contracts; an independent electoral commission and a commission to monitor and advise on the allocating of funds to the regions.

The constitution also needs to guarantee the basic rights of democracy: the right to vote; the right to join political parties and take part in government through elected representatives; and the right to free and fair elections.

To make sure that law and policy truly serve the interests of the people, the constitution should include two sets of principles. The first, a “Directive Principles of State Policy”, would oblige the government to provide basic standards of living for all Indonesians. The second set of principles, the “Fundamental Rights and Duties of State and Citizen”, would be legally enforceable. These should include universal rights as the right to life, to freedom from torture and degrading treatment, to political participation, to equality before the law and to freedom of religion.

Key recommendations for the constitutional reform programme are:

- Create a second chamber of parliament to represent the regions.
- Phase military appointees out of parliament.
- Empower new bodies to monitor the state and parliament, like the ombudsman, a controller-general and a human rights court.
- Write guarantees of democratic rights and freedoms into the constitution.

**Regional Autonomy**

Since colonial times there has been tension between the centralizing tendencies of the government in Jakarta and the desire of Indonesia’s regions to run their own affairs. The Soeharto regime, reacting to the regional revolts of the 1950s, created a tightly centralized system of government.

There is general agreement that this system needs to be reformed through regional autonomy, whose instruments are Laws 22/1999 and 25/1999 and their implementing regulations.
The Forum believes that the process is both necessary and desirable, though members have different opinions on the speed with which it should be carried out.

In the past, the central government has tended to give more autonomy to the regions at times when it is weak, only to claw back its powers once it is strong again. As noted above, the Forum believes that a bicameral parliament, with a second chamber representing the regions, could prevent this from happening. The funding of regional autonomy also needs to be guaranteed by the constitution.

There is no point devolving authority to the regions if this only recreates the abuses of the past at the regional level. The Forum believes that more effort must be made to involve local people in governing their regions, while regional parliaments need training and advice to help them carry out their new role.

At the same time, there are loopholes in the existing laws which permit corruption, for example in the election of regional heads. These should be closed. There is also a need to work out ways of resolving conflicts between the centre and the regions, or between and within regions, in a non-confrontational way.

Regional autonomy has to be paid for. The tax arrangements set out in Laws 22 and 25 benefit those regions whose natural resources include oil and gas, minerals or timber. The laws should provide for the redistribution of other kinds of income to the regions that generate them. Tourism revenues in Bali are among such examples.

Regions that are rich in natural resources will become richer under regional autonomy, but there is a risk that poor regions will become poorer because the central government has less money to subsidize them. The government must try to ensure that this risk is minimized.

Key recommendations for implementing genuine regional autonomy are:

- Providing constitutional and fiscal guarantees to implement regional autonomy.
- Amend existing autonomy laws to remove loopholes that allow corruption.
- Action to minimize future inequalities between regions, for example by broadening the categories of taxes that can be redistributed to regional governments.
- Encourage people in the regions to play a bigger role in regional government by factoring in popular participation into regional structures.
Civil-Military Relations

A key test of democratization in Indonesia will be the extent of civilian control over the armed forces. The military has played a central role in politics since independence, but its part in upholding Soeharto’s regime has made it deeply unpopular in society. It has also become internally divided, though there is still a consensus within the ranks that the military’s political role should be reduced to some extent.

Some steps have been taken to bring the military under civilian control, notably the appointment of civilian defence ministers and the ban on serving officers taking jobs in the government. The police have also been removed from military control.

Remarkably, the pace of reform seems to have been set by the military itself, rather than by the civilian government. The Forum takes the view that other major changes are needed to ensure the military becomes a professional and apolitical force, with the proviso that these changes must be carried out gradually and through consultation between the executive, parliament and the military itself. Too much pressure from civilians could end up reinforcing the position of those officers who are least sympathetic to reform.

The first priority for reform is revoking those laws and decrees that uphold the military’s Dual Function. These include the Decree VII/MPR/2000, passed by the MPR in August 2000, which grants the military and police a non-voting presence in the MPR until 2009. Military doctrine also needs to explicitly recognize civilian supremacy and to state that the role of the armed forces is to protect the country from external threats.

Civilian authority includes the authority of the law. Until now, the military has run its own legal system, which is often seen by civilians as too lenient towards crimes by military personnel. Civilian courts should be able to try members of the military for violations of civilian law. There is also a need to revoke the amendment to the constitution in August 2000 that forbids prosecution under retroactive laws.

The military has already taken an important step towards reform by barring its members from holding government jobs. This ban should be made into law. At the same time, officers nearing retirement age have traditionally been given civilian jobs as a reward for their service. To avoid resentment, these officers should be given compensation.

Changes to ensure the military becomes a professional and a political force must be carried out gradually and through consultation between the executive, parliament and the military itself.

Civilians should control the intelligence agencies and defence policy-making, though operational matters are best left to the military. This means that civilians, both officials and members of parliament, need to deepen their knowledge of military matters.

The Indonesian military has been involved in business since its creation, using the proceeds to make up for perennial underfunding by the civilian government. This system is open to abuse and creates the risk that income from undeclared business activities can be used by officers for political purposes. At the moment, the government is unable to make up the

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funding gap. The Forum believes, therefore, that the best solution is for civilians to take over the management of those businesses which are publicly acknowledged as armed forces controlled and to make sure the profits remain with the military. This is not an ideal solution, as members of the military also have business interests that are undeclared or even illegal. The reform of deep-rooted institutions is a complex process, however, and one that inevitably involves some trade-offs.

Regional autonomy will make local politics more important than ever in Indonesia. The military has made compromises at the central level but could still play a political role in the regions through its territorial system of military posts in towns and villages.

The territorial system was used in the past as a tool of political and social control, and to prevent this happening in the future, the system should be scaled back or abolished altogether. Former military officers can bring valuable experience to local government, but this should not become a way for the military to assert itself politically in the regions.

Key recommendations for realigning civil-military relations to support democratic governance are:

- Revoke laws that uphold the military’s role in politics.
- Enable the trial of military personnel by civilian courts for civilian crimes.
- Put military businesses under civilian control, but return their profits to the military.
- Scale back or abolish the military’s territorial system.

Civil Society

The term “civil society” has become common in Indonesia during the reformasi era. It includes institutions such as the press and universities and organizations such as NGOs, charitable foundations, religious and adat (customary law) groupings. In an emerging democracy like Indonesia, these groups can play a vital role both to check and balance the power of the state and to work alongside it to bring about change.

The Soeharto regime either co-opted such groups or clamped down on them, with the result that Indonesia developed a strong state but a weak civil society. Since the end of the Soeharto regime there has been a blossoming of civil society, ranging from trade unions to village associations to campaigning groups.

These groups are often dominated by highly educated people in the cities and do not always reach down to the grassroots. There is still a shortage of people with the right skills and abilities for the kinds of work they do. Civil society organizations need to be helped to work for democracy, but it is necessary to ensure that they do not end up representing only the interests of particular factions or individuals.

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The links are still weak between Indonesia’s political parties and the mass of the population. Civil society organizations can play a role in bridging this gap. In Indonesia’s villages, for example, there are numerous informal groupings like the lumbung desa, which should be helped to represent the interests of local people.

At the same time, civil society organizations must be seen to be effective and transparent. They need to make clear to the public what their objectives are, who runs them and where their funds are spent. The Forum believes that, as far as possible, these funds should be raised locally rather than come from overseas donors who have their own priorities and may not be willing to provide funding indefinitely.

The media is part of civil society. Indonesia needs a media law that protects journalists from pressure by the government or media owners, or from angry members of the public. Media ownership should be regulated to prevent monopolies, and the law should be backed by legislation that ensures free access to information.

Key recommendations for empowering civil society as a pillar of democracy are:

- Programmes to provide encouragement and training to civil society organizations.
- Oblige civil society organizations to explain publicly their aims, ownership and use of funds.
- Create laws to protect journalists and ensure freedom of information.

Socio-Economic Development

The fall of Soeharto was triggered by an economic crisis, but the root problems of Indonesia’s economy are partly political. They lie in a system dominated by patrimonialism, corruption and favors. Reform should stem from broad public debate and should focus on improving governance. Its results should not be measured in economic terms alone.

There is also a need to manage the expectations of Indonesia’s people. Root and branch reform of the economy and its institutions are needed. It is a complex process and may not show rapid results, especially as the Indonesian state itself is in a weak and transitional phase.

Policy-makers must move away from an obsession with growth for growth’s sake and make a priority of improving the welfare of vulnerable groups. This includes women and other marginalized groups. An economy dominated by a monopolistic elite needs to be turned into one which fosters small and medium businesses and gives more attention to other sectors such as farming and fishing, the sources from which most Indonesians derive their living.

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The state needs to perform a balancing act, reducing its involvement in the economy while protecting the welfare of vulnerable groups and upholding laws that protect workers’ rights and forbid unfair business practices.

The first step is to review the institutions of the economy, setting up oversight boards to monitor appointments of senior officials and reviewing past contracts signed by the state. Tax collection needs to be made efficient and honest. Corruption is a major drag on the economy, and curbing it means reforming the bureaucracy, which also faces the problems of overstaffing and lack of motivation. Civil servants should be promoted on merit, given more attractive salaries and offered a clear career path that gives the best staff an incentive to stay in the public sector.

The Forum believes that the Letter of Intent signed by Indonesia and the IMF should be adhered to: it is not, however, a substitute for a long-term economic strategy. Indonesia must avoid becoming dependent on foreign loans to fund its development. Economic planning should be an inclusive process, with open debate and public hearings.

Decentralization will have a huge impact on the shape of the economy. The central government should consider handing over powers to regional governments in stages, starting with those powers and functions that the latter can more easily manage on their own.

Economic planning has to take into account the real costs of using natural resources, which include resource depletion and pollution. The market is weak at pricing these costs so the government needs to do so, for example through pollution taxes. Illegal logging should be stopped at once and naval patrols stepped up to curb illegal fishing.

The military should be edged out of their direct involvement in business. Small and medium enterprises should be encouraged by cutting back the regulatory red tape which can add as much as 10-15 per cent to the operating costs of a small business. Tariffs and quotas should also be scrapped where possible and training offered to small and medium businesses.

Workers in Indonesia suffer many forms of exploitation, from poor wages to intimidation by management. This is largely a law-enforcement issue: violators of the labour laws must be brought to book. There is also a need to crack down on all forms of discrimination against women workers. Child workers should be allowed to work only after school, for a set number of hours and for the same wages as adults. The minimum wage should reflect the real living conditions of workers and not be set untransparently and at unrealistic levels by officials. The right to strike must be recognised, though workers must use this right judiciously and as a last resort. A labour court should be set up to resolve disputes.
Key recommendations for promoting socio-economic development are:

- Focus economic planning on improving the living standards of all Indonesians, not on growth alone.
- Reduce corruption by promoting civil servants on merit and raising their salaries.
- Crack down on illegal logging and fishing and make companies that damage the environment pay the costs, for example through pollution taxes.
- Cut red tape to encourage small businesses and enforce laws on workers’ rights.

Gender

Although more than half of Indonesia’s people are female, women have a relatively small influence on decision-making and often do not have the same access to resources and benefits as men. This inequality was reinforced by the New Order regime that saw women largely as wives and mothers, subordinate to men.

The reformasi era has made it possible to rebalance the positions of men and women with a view to reducing existing inequalities. The aim is not to replace a patriarchy with a matriarchy, but to ensure that the concerns of women and men are given equal consideration by the state and within society.

Such an effort must confront cultural and religious obstacles as well as the belief that an emerging democracy like Indonesia has more important reform priorities than gender relations. This belief is incorrect, for gender equality lies at the heart of true democracy.

The Forum believes that the best place to start is with the UN Convention to Eliminate Discrimination Against Women (CEDAW), which was signed by Indonesia in 1984. A parliamentary committee should review Indonesia’s existing laws and suggest ways of bridging gaps between them and the CEDAW.

The constitution needs to be amended to include guarantees for gender equality and against discrimination, and this amendment process itself should include women. The Forum believes there is a need for affirmative action programmes to improve women’s representation in the state and society. Such programmes are often controversial and their impact needs to be monitored to ensure they achieve their intended aims.

Indonesia currently has a female vice-president, but this in itself is no guarantee that women’s concerns will be heeded when decisions are taken by the government or parliament. There are numerous concrete steps which can be taken to raise awareness of gender issues: for example, the powers of the State Ministry for Women’s Empowerment should be increased, the president should have a special adviser on gender and the political parties should adopt a minimum quota of women candidates in elections.
Laws and regulations in Indonesia often assume, wrongly, that all breadwinners and heads of households are men. This inaccurate perception needs to be revised. Financial and budgetary planning should recognise women’s role in the formal and informal economy. Obstacles to women working should be removed, for example by enforcing equal pay for equal work and providing soft credit to women entrepreneurs.

Women are often victims of violence during armed conflicts and planning for the rebuilding of damaged areas should take their needs into account. Violence against women within the home should be recognised as a crime, though public education is needed to counter the “shame factor” which deters women from reporting such crime.

All these concrete steps need to be underpinned by a change in the way that women are portrayed in the media, which at the moment is often narrowly stereotyped. One way to do this is for the government, in alliance with business and NGOs, to have a reward incentive and acknowledgement system for the gender-sensitive coverage in the media.

Key recommendations for promoting gender equality are:

- Bring all Indonesian laws into harmony with the CEDAW convention.
- Appoint a gender adviser to the president and make the political parties adopt minimum quotas of female candidates.
- Recognize that all violence against women is a crime, including domestic violence.
- Recognise women’s economic role and crack down on discrimination in the workplace.

### Religious Pluralism

Indonesia used to be famed as a haven of religious tolerance, but that reputation has been fractured since Soeharto’s fall by communal rivalries which have become politicized and sometimes led to bloody conflict, notably in the Moluccas.

The religious pluralism of the Soeharto era was expressed in the state philosophy of *Pancasila*, with its equal acceptance of five religions. Some Indonesians are now wondering whether this pluralism was ever more than an artificial construct forced on society by a regime that feared the power of religious beliefs to cause disunity and challenge its own authority.

The end of the New Order also brought an end to the co-opting of religion by the state, which had previously stressed the spiritual aspects of religion while cracking down hard on its political manifestations. Those constraints have gone, creating an atmosphere of religious freedom but also enabling extremist groups to organize openly.

There are optimistic signs, however, that religious pluralism is not just a creation of the state but something to which most Indonesians truly aspire. The only religion in Indonesia strong enough to dominate the state is Islam, but political parties with a strongly Islamic message only won 16 per cent of the votes in the 1999 general elections.

Some Indonesians have argued that *Pancasila* "The state philosophy with its stress on equality between religions should be retained.”
should be dropped altogether because of its use by the state as a tool to control religious practices. The consensus, however, is still that the state philosophy, with its stress on equality between religions, should be retained.

The Forum believes that the state can and should uphold religious pluralism, but should not involve itself in society’s religious practices as the Soeharto regime frequently did, for example through the marriage laws. There should, however, be an anti-discrimination law which guarantees the freedom of religion, including the freedom to change religions.

The attitudes of religions in Indonesia also need to change. No one religion should think of itself as dominant, for such attitudes can be manipulated for political ends. Religious institutions should try to move away from a preoccupation with power and patronage, towards an emphasis on building up their moral authority.

The values of religious pluralism should be fostered by a debate that reaches down to the grassroots and does not take place solely among the elite. There is a need to develop cross-religious institutions. Recent experience in Indonesia with election-monitoring groups, for example, suggests that they can bring together people of different religions in a way that makes them more willing to understand and accept each other.

Religious education in schools should be refashioned so as to emphasize the ethical and moral dimensions of religion, not only its ritual and scriptural aspects. It is also necessary to entrench the idea that religious pluralism and tolerance is part of being Indonesian. Religious extremists would then have to confront the weight of nationalist feeling if they tried to impose a less tolerant view of religion in the future.

The Moluccan conflict is the most serious case of a breakdown in relations between religious communities in Indonesia at the moment, although its roots have more to do with social and economic resentments than with religion in itself.

The parties most responsible for peace are the people of the Moluccas themselves, though the state must try to restrain the conflict and provide for a cooling-down period so that reconciliation can begin at the level of local communities, where it is needed most. Religious groups and other concerned parties can then play their part by providing humanitarian assistance that crosses religious divides.

Key recommendations for promoting religious pluralism are:

- Promotion of inter-religious dialogues at the grassroots as well as the elite level.
- Spreading of the idea of religious pluralism through education and debate and its presentation as part of “being Indonesian”.
- Religious teachings should stress the moral content rather than the doctrinal form of religion.
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