

Discussion Paper

# The Partnership for Governance Reforms in Indonesia

## **A Midterm Monitoring Exercise**

**September 2002  
Amsterdam**

**Martha Meijer  
T.K. Oey**

**INFID**

KO  DEMO

**KontraS**

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## Glossary

ADB	Asian Development Bank
AIV	Advisory Council on International Affairs
APEKSI	<i>Asosiasi Pemerintah Kota Seluruh Indonesia</i> , Association of City Governments of Indonesia
APKASI	<i>Asosiasi Pemerintah Kabupaten Seluruh Indonesia</i> , Association of Regency Governments of Indonesia
BAPPENAS	<i>Badan Perencanaan Nasional</i> , National Planning Board
Bupati	Regent, district chief
CGI	Consultative Group on Indonesia
DPR	<i>Dewan Perwakilan Rakyat</i> ; House of Representatives
DGIS	<i>Directoraat-Generaal Internationale Samenwerking</i> , Directorate-General International Cooperation, under the Dutch Ministry of Foreign Affairs.
Dwifungsi	Official term for the double role of the army both as defence force and political force.
FNPBI	<i>Front Nasional Perjuangan Buruh Indonesia</i> , National Front of the Indonesian Labour Struggle
FPPI	<i>Front Perjuangan Pemuda Indonesia</i> , Front of the Indonesian Youth Struggle
HOM	<i>Humanistisch Overleg Mensenrechten</i> ; Humanist Committee on Human Rights
HPH	<i>Hak Penggunaan Hutan</i> , logging concession
HRIA	human rights impact assessment
ICEL	Indonesian Center for Environmental Law
ICW	Indonesian Corruption Watch
INFID	International NGO Forum on Indonesian Development
INSIST	Institute for Social Transformation
IPGI	Indonesian Partnership on Local Governance Initiatives
Kabupaten	Regency, district
KKN	Indonesian acronym for Corruption, Collusion, and Nepotism
KODEMO	Committee for a Democratic Indonesia; member of Indonesia House
KONTRAS	Commission for the Disappearances and Missing Persons
KPU	<i>Komisi Pemilihan Umum</i> , Commission on General Elections
MPR	<i>Majelis Permusyawaratan Rakyat</i> ; People's Consultative Assembly
ODA	official development aid
PAD	<i>Pendapatan Asli Daerah</i> , Original Regional Revenues
PDI-P	<i>Partai Demokrasi Indonesia-Perjuangan</i> ; the party of Megawati Sukarnoputri.
PSI	Programme Cooperation Indonesia
PSOM	Programme Cooperation Emerging Markets
PUSDEHAM	<i>Pusat Studi Demokrasi dan HAM</i> , Centre For Democracy & Human Rights Studies
REMDEC	Resource Management and Development Consultants
TNI	<i>Tentara Nasional Indonesia</i> . The Indonesian Army, formerly known as ABRI (Armed Forces of Indonesia).
UNDP	United Nations Development Program
WALHI	<i>Wahana Lingkungan Hidup Indonesia</i> , Indonesian Forum for Environment

YLBHI      *Yayasan Lembaga Bantuan Hukum Indonesia*, Legal Aid Foundation.

## Executive Summary

In March 2000, the Partnership for Governance Reforms in Indonesia (hereafter referred to as the Partnership) was established. The program, a cooperation initiative of the World Bank, United Nations Development Program (UNDP) and the Asian Development Bank (ADB), did not elaborate specific objectives but instead used good governance as a container concept. The Dutch government contributed substantially to the Partnership. Now, mid 2002, Indonesian and Dutch CSOs want to assess the effects of the Partnership. Lacking clear indicators that are linked to specific objectives, it is not possible at this stage to make a representative qualitative appraisal of its effectiveness. The indicators are simply not there, and the Partnership program is so diversified that also within specific sectors there is no clear picture that can be considered as representative of the total situation.

Still, the signs from Indonesian society laid down in this paper are signals that should be heeded for the future of the Partnership. The observations are important for the Dutch public and political decision makers as well, because the priorities in Dutch development programmes with regard to Indonesia will be reconsidered in 2004.

### **Conclusions**

As a general conclusion it has been argued that good governance projects are actually only valid in a free market economy, and do not solve the problems of farmers and workers who are impaired by this economic system.

Per sector the following may serve as conclusions for this midterm monitoring exercise:

- **judicial reform:** Almost all activities of the Partnership are directed toward supporting existing state institutions without considering the importance of changing the structure and authority which lie at the root of the problems.
- **economic reform:** According to the Indonesian CSOs, a rights-based approach is lacking; objectives should be included which address questions of equity – equitable income distribution, gender budgeting, and the fundamental economic rights and opportunities necessary for obtaining a decent life.
- **public administration:** The Partnership has so far conducted only a few workshops in conjunction with the government for introducing the concept and principles of good governance; there has been no talk of basic changes in the structure, function and authority of the civil bureaucracy.
- **decentralisation:** Decentralisation is regarded as a fundamental step toward increased participation of the population in general. But decentralisation at present is more often than not bound to fail, not the least because of more than three decades of rigid authoritarian rule with any opportunity for participation. No mechanisms have been developed yet for a check-and-balance system with adequate parliamentary control.
- **combating corruption:** The level of people's trust in the government's competence to manage public funds has decreased steadily. On the one hand, this is an indication that public awareness of corruption has increased. On the other hand, it shows that the eradication of corruption has not yet reached a significant threshold.

### ***Recommendations to the Partnership***

- ❖ Develop new paths to enhance the effectiveness of empowerment and to provide political education to the people, underscoring the importance of citizen involvement in the governance process.
- ❖ Develop – together with others on an international scale – indicators for the implementation of human rights and a just and sustainable development. Until now, the existing Governance Reform has not come up with clear-cut indicators to measure its achievements and this has opened the opportunity for reinterpretation and apologetics when certain program components are unsuccessful.
- ❖ Address the necessity for tackling military reform. Civilian control over the military needs to be translated in concrete measures.
- ❖ The struggle against corruption should be an important objective for policy making. Indicators and benchmarks should be developed and publicized.

### ***To the Dutch government***

- ❖ Draft and develop policy papers containing a political analysis which assesses a minimum number of issues for a given country, such as: history, current political situation (national, regional and international), the human rights situation and the economic situation. In addition to stressing the human rights impact of policy, the issue of corruption should be addressed as part of an overarching policy-formulating cycle.
- ❖ In the choice between multilateral and bilateral aid, prioritise along the lines of the national priorities and assess the results critically. The effectiveness of multilateral aid tends to be more difficult to assess and, as such, is less result-oriented than bilateral aid.
- ❖ Develop priorities leading to a real sense of ownership for the people concerned, not the government.

### ***To the Indonesian stakeholders***

- ❖ Form a CSO alliance with the other sectors to formulate a definition of good governance that is based on rights and justice. A meeting or study should be conducted to map out different perspectives. Then we can form a joint work framework with clearer evaluation standards and indicators.
- ❖ Form a CSO alliance with business groups, civilian bureaucracy, country and donor institutions, and international civil society organizations, to push for changes in the structure of the military. It is necessary to conduct meetings/workshops to identify common interests that can be formulated into a joint agenda.
- ❖ Several additional steps can be taken by the civil society organizations in Indonesia:
  - Conduct participatory research in the different layers and sectors of society as a basis for formulating a clear and firm reform agenda. This agenda should be further disseminated with stepwise changes that include measurable indicators and a schedule for attainment.
  - Formulate a pattern of cooperation for development, one that is primarily related to the interests of the many. Work together with international civil society

organizations. The funds that are used by countries and donor institutions are basically collected from the public of the country of origin and they should work together to monitor and control its use in an effective manner.

- Conduct a comprehensive audit on the reform agenda since 1998. This activity will be useful for a comparison with state-of-the-art ideas and practices of reform.

In this paper additional indicators have been proposed in line with the supposed objectives of the Partnership (see Annex 1), but it has not yet been possible to find data on all the proposed indicators. It must therefore be considered a midterm monitoring exercise which can contribute to a process of assessment. Achieving consensus on which indicators to use is already a breakthrough in evaluating this Partnership. Additional human rights objectives and their related indicators have been proposed (Annex 2) which could clarify the overlap between good governance and human rights objectives, as well as the white spots. A central conclusion from this comparison is that an effort to reform the Indonesian military power is remarkably lacking in the Partnership.

The annexes are, together with the above conclusions and recommendations, open for debate. The organisers are happy to welcome comment, especially from Indonesian CSOs.

## Preface

This paper is the set up to present a critical review of the Partnership on Governance Reform in Indonesia. It aims to contribute to a substantial discourse on good governance and human rights, and how to measure their implementation. The first step consisted of two debates with Indonesian CSOs on the Partnership. The main issue in this project is the question as to whether, and to what extent, the Partnership is really effective in realising good governance in Indonesia.

This project has been carried out by four implementing organizations, two from Indonesia and two from the Netherlands: KontraS<sup>1</sup>, INFID<sup>2</sup>, KODEMO<sup>3</sup> and HOM<sup>4</sup>. As such, the study reflects a concerted effort of many civil society organizations to show that they are eager to fulfil their role as stakeholders in the process towards good governance.

The present paper is intended for the use of the staff of the Partnership, for Indonesian and international stakeholders of the Partnership. It offers useful comments on good governance and a rights-based approach to development effectiveness and impact assessment of human rights policies.

This project has been financially supported by NOVIB, CORDAID, ICCO, Kerk in Actie, HIVOS and PLAN-Nederland. In-kind contributions have been given by several foundations: HOM, INFID, INHAM, KODEMO, KontraS, Sustainable Solidarity and XminY.

We thank the numerous people, both in Indonesia and the Netherlands, willing to be interviewed and to give their views on governance issues. Without their views and insights this project would have been impossible. Special thanks go to Cahyadi Satriya, Dete Aliyah, Hening T.Sutji, Nining Nurhaya, Nunuk, Poengky Indarti, Hilmar Farid, Luisa B. Caparas and others for their generous contributions to the project.

King Oey  
Martha Meijer

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<sup>1</sup> KontraS: Commission for the Disappearances and Missing Persons

<sup>2</sup> INFID: International NGO Forum on Indonesian Development

<sup>3</sup> KODEMO: Committee for a Democratic Indonesia; member of Indonesia House, Amsterdam

<sup>4</sup> HOM: Humanistisch Overleg Mensenrechten, The Netherlands Humanist Committee on Human Rights

# 1 Introduction

This chapter maps out the aims of this critical review of the Partnership for Governance Reform in Indonesia, emphasizing the different definitions of good governance used by different actors with differing agendas, and discussing the inability to formulate objective priorities, goals or indicators. We propose another way of measuring here, by using a human-rights impact assessment that offers more internationally agreed indicators, and that can be used in policy formulation and the assessment of effectiveness.

## 1.1 *The aim of the project*

The project for assessing the Partnership for Governance Reform in Indonesia was initiated in early 2002. It grew out of discontent among Indonesian and Dutch civil society organisations (CSOs) with the manner in which Dutch development cooperation funds had been allocated to Indonesia. In the Netherlands good governance is used as a criterion for allocating aid, but at the same time it is regarded as a development goal in the implementation of aid. There has been a lot of debate over the concept as such and its role in development co-operation. The lack of good governance is considered an obstacle to development, but how to measure the extent and attributes of good or bad governance is still unclear.

There has been a prevailing notion that, in general, the civil society organizations within a country are not interested in taking part in the debate on good governance; that the question of governance is often regarded as a matter for governments to deal with. In view of the desirability of checks and balances between government and civil society, we think CSOs have a role to play. This project shows that CSOs can and should be involved.

A debate between Dutch and Indonesian CSOs took place in May and June on the basis of two preliminary discussion papers. Input from these discussions, along with many interviews conducted by the project manager in Indonesia, have been incorporated in this second report. This discussion paper is intended to facilitate a round table for Dutch and Indonesian stakeholders, CSOs, human rights organisations, development organisations, representatives of regional pressure groups and Dutch politicians. The aim is that Dutch development objectives with regard to Indonesia will, in the future, take into account the considerations of Indonesian civil society.

During the project several difficulties have emerged which hampered a factual evaluation. Time constraints were of course an obstacle, but the proliferation of definitions of good governance and the different roles of the concept was a more important obstacle. The absence of clear goals and indicators of the Partnership, however, was the main challenge. To measure the effectiveness of a program one needs indicators which operate as signposts, pointing out the direction one needs to search for results. Benchmarks are necessary as well, to indicate in how far the result has been effective in realising the original goal. This paper makes an effort toward proposing indicators linked to the supposed goals of the Partnership.

## 1.2 *Definitions of good governance*

Like many other political concepts, good governance does not have a clear-cut meaning. A definition is nonetheless essential as the main focus

*“The term ‘governance’ means many things to different people.” – ADB, 1999*

for implementation. It turns out that the definition changes with the person or institution that uses the concept. Dozens of documents and respondents interviewed yielded as many different interpretations.

In general, members of parliament and government officials understand it as transparency, accountability and rules of engagement. In the context of Indonesia this means that good governance could be achieved if the public officials changed their attitudes and lived up to those principles. CSO people, on the other hand, emphasize the participatory aspects and argue that good governance can only be achieved when there is greater room for the people to get involved. As far as Indonesia is concerned, things would not improve until the practice of bad governance is eradicated from the bureaucracy and the power structure is changed<sup>5</sup>. Government officials generally regard good governance as an outcome (or an long-term objective), whereas activists see it rather as a process towards a higher goal.

International donors and the state began to pay attention to the governance issue after the fall of the Berlin Wall and the subsequent upheavals worldwide. The previous hands-off attitude towards political matters changed into an active intervention to improve systems; good governance became a precondition for development cooperation aid. The World Bank began to use good governance for the first in its report "Governance and Development" (1992), wherein it is considered conditionality for sustainable development and the growth of the free market economy. In the World Development Report 2002 it states:

*"Many of the institutions that support markets are publicly provided. The ability of the state to provide these institutions is therefore an important determinant of how well individuals behave in markets and how well markets function. Successful provision of such institutions is often referred to as "good governance". Good governance includes the creation, protection, and enforcement of property rights, without which the scope for market transactions is limited. It includes the provision of a regulatory regime that works with the market to promote competition. And it includes the provision of sound macroeconomic policies that create a stable environment for market activity. Good governance also means the absence of corruption, which can subvert the goals of policy and undermine the legitimacy of the public institutions that support markets."*<sup>6</sup>

CSOs, however, think this is far from sufficient, for they emphasize the importance of welfare, equity and justice rather than just growth. The construction and maintenance of good governance are not only for the sake of markets but also involve the relationship between those with power and those without<sup>7</sup>. In general, the state and the international donors are seen to be more inclined to the definition held by the World Bank.

The differences are not just a matter of semantics, because these definitions generate a series of activities and criteria to determine their success or failure. International donors generally tend to focus on capacity building and institutional development, with equity of rights and responsibility as some vague indicators.

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<sup>5</sup> Interview with the Dita Indah Sari, chair of FNPBI (National Front of the Indonesian Labor Struggle).

<sup>6</sup> World Bank, *World Development Report 2002*, Washington: World Bank, 2002, hlm. 99.

<sup>7</sup> Interview with Anam from the Labor Division of YLBHI, June 2002.

In recent years a number of scholars have tried to design a quantitative approach to give 'scientific certainty' to each indicator<sup>8</sup>. This quantitative approach implies constructing aggregate indicators of bureaucratic quality, rule of law and graft. Dozens of aspects are measured and are analysed together by mathematical and statistical procedures in order to come up with one estimate of a figure between -2,5 and +2,5, with a standard error of about 0.25. The sources for the measurements come mainly from risk assessment studies of commercial enterprises. This estimate of governance gives no analysis for policymaking and no political priority setting. Many gaps can be identified because they don't take into account the root causes of bad governance, human rights aspects as well as violations, equity and justice.

The orientation towards markets in the good governance discourse is a basic issue. According to Amartya Sen, good for markets, trade and investment does not necessary mean good for the majority of people. Growth is not the only criteria for social progress and improvement is not measured by the rate market interests are served. For him, development is an increased freedom that is directly felt by the people<sup>9</sup>. This view is also shared by Indonesian CSOs who try to empower people to take control over development and enjoy its results. So their views on good governance differ sharply from those of the World Bank and international donors. Some CSOs even believe that good governance programs are only used as a condition for new loans<sup>10</sup>.

The battle over the definition and hence the application of good governance is developing unevenly. The IMF, ADB and World Bank, along with other international donors, have so much power that they can dictate their version in the planning, implementation and evaluation of most projects. They are one step ahead by having defined a set of indicators, including mathematical procedures to yield 'scientific certainty'. On the other hand, Indonesian CSOs are not only institutionally and politically weak but also do not have a common perception of good governance. They are thus unable to come up with clear indicators.

Good governance programs are, so far, carried out within the framework of development cooperation. Its success depends on who is 'taking the driver's seat' in determining the goals, planning and activities. In the rhetoric of development cooperation, donors only act as supporters while government and CSOs are expected to take the driver's seat. The reality is however a bit different; it's often the donor who determines the concepts, goals and program, right up to concrete steps, whereas the aid receiver merely acts as implementer. Government and CSOs are sometimes given the opportunity to sit on the driver's seat, although the road map and final destination are still in the hands of donors. The definition which is used in Dutch governmental policy papers is mentioned below. Considering the common ground of the four implementing organisations, all human rights organisations, it

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<sup>8</sup> Daniel Kaumann, Aart Kray, Pablo Zoido-Lobatón, "Governance Matters", *Policy Research Working Paper*, No. 2196, The World Bank Development Research Group, October 1999; from the same authors is "Aggregating Governance Indicators", *Policy Research Working Paper*, No. 2195, The World Bank Development Research Group, October 1999. and an update of 2000-2001 (No. 2772).

<sup>9</sup> Amartya Sen, *Development as Freedom*, Oxford University Press, 1999.

<sup>10</sup> Interview with Sugianto, chair of PUK-SPSI Maspion, Surabaya, June 2002.

is more than evident that a human rights approach is chosen as the criterion for evaluating good governance. In a country where human rights principles are taken seriously, the emergence of democratic institutions and an independent judiciary are much more likely. Therefore, in the expected debate with Indonesian CSOs it is proposed to use a human rights framework rather than different definitions of good governance (Annex 1 and 2).

### **1.3 The stakeholders**

There are many perceptions of good governance that directly or indirectly represent different ideological orientations and political interests. In Indonesia at present, the understanding of good governance, used in the assistance program, originated from the thinking of international financial institutions like the World Bank and ADB. Among other things, this is because civil society organizations do not have a clear reform agenda and their strength is insufficient to make their agenda a priority.

The empowerment of the people is an important step toward attaining good governance in Indonesia. But the formulation of the concept and the planning and implementation of the program continue in a very limited, mainly governmental and international environment.

The civil society organizations in Indonesia are very diverse and they have difficulties in forming alliances among themselves or with other sectors. In the effort to advance good governance, there are nonetheless certain similar interests among organizations, such as the interests of CSOs, business groups, and even the government. The formulation of a viable concept needs to take into account these different interests, and any strategy that maintains distance is actually detrimental.

The civil society organizations in Indonesia have different perceptions and responses towards the Governance Reform. In general they can be divided into two: criticize or support. The difference stems partly from the strategic choices the CSOs make. Those organizations which choose to work for reforms through monitoring, lobbying and advocacy, or, in short, political pressure, use the 'strategy of antagonism'. Their reform agendas are basically determined by grassroots communities, based on dialogue with the society at large, and presented in juxtaposition with government performance. The group with this tendency simultaneously criticizes the Governance Reform for its failure to provide immediate changes and for its bias towards the interests of industrialized countries. On the other hand, there are organizations which tend to apply the 'strategy of engagement': they approach and collaborate with government institutions to bring about gradual changes from within.<sup>11</sup>

Each approach has its own weaknesses and strengths.<sup>12</sup> The antagonistic strategy can get trapped in ideological bashing and tend to see every initiative from outside its own framework as useless or even detrimental. Meanwhile, the engagement strategy has the tendency to be trapped in a series of compromises and ends up being co-opted. It has been

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<sup>11</sup> These differences are merely to facilitate the next discussion. In reality, there are institutions that apply these two strategies at the same time. Interview with the Director of ICEL, Mas Ahmad Santosa, June 2002.

<sup>12</sup> M.A.S. Hikam, "The Role of NGOs in the Empowerment of Indonesian Civil Society: A Political Perspective", paper presented at the 12<sup>th</sup> INFID Conference, Bali, September 1999.

difficult to find a common ground between these two strategies, partly because of the absence of a joint reform agenda and the lack of a set of indicators to measure achievements that can place each step in its proper order.<sup>13</sup> Perhaps the advocacy framework of WALHI comes closest to a synthesis by combining both strategies into a coherent set of actions, for instance by combining class action suits with lobbying with legislators.

At present, civil society organizations can actually do a lot to ensure that the program on good governance is implemented correctly and in accordance with their reform agenda. Institutions and donor countries have provided sufficient space for engagement at the level of formulating plans, implementation, and even for the evaluation of the program. Based on the presentation above, it is quite clear that the Partnership itself, like the other programs on good governance, does not have definite targets and measurements. The criticism of the pattern of cooperation from above to below, incessantly voiced by international civil society organizations, is a challenge for the organizations in Indonesia to formulate their own agendas and indicators. In this context, the Partnership opens the door for the organizations in Indonesia. More than 40% of the governance funds were granted to civil society organizations and a number of its personnel is included in the executive board or as staff.

#### **1.4 A human rights impact assessment**

Several civil society organizations are engaged nowadays in a process of reconciling differing interests in policy making by trying to formulate indicators for human rights implementation with other joint development programs by using a rights-based approach. Point of departure is that by using human rights as indicators, there is a maximum of respect for the different interests. Moreover human rights objectives are linked to internationally agreed covenants and conventions. Craig Mokhiber formulated a rights-based approach as follows:

*“A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Essentially a rights-based approach integrates the norms, standards, and principles of the international human rights system into the plans, policies and process of development. The norms and standards of those contained in the wealth of international treaties and declarations, and in the authoritative interpretations of the bodies established to monitor treaty implementation. The principles include those of participation, accountability, non-discrimination, empowerment and direct (and express) linkage to the international human rights instruments and standards themselves.”<sup>14</sup>*

The Netherlands Humanist Committee on Human Rights (HOM), based in Utrecht, has developed this idea further by building a human-rights impact assessment framework. It will highlight the human-rights considerations and insights as an addition to the macro-economic quantitative approach that is usually used by countries and donor institutions. In that framework, the growth rate, GNP-GDP, inflation, and the quantified indicator of good governance that the World Bank is using, is questioned again. The evaluation should be

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<sup>13</sup> Interview with an activist from Front Perjuangan Pemuda Indonesia (FPPI), June 2002.

<sup>14</sup> Craig C. Mokhiber, *Toward a Measure of Dignity: Indicators for Rights-based Development*, paper for the IAOS Conference, Montreux, 2000.

comprehensive, according to this approach; it should include a concrete analysis of the political and human rights situation, available policy choices, decisions and their implementation, as well as the process of evaluation and monitoring of each program. In every phase, the evaluation uses the indicator that is based on the instrument of international human rights.

The human-rights approach to measuring the achievement of good governance is basically directed towards the commitment and capacity created by the government's policy, not merely on the final result that can be the consequence of other political developments.<sup>15</sup> The commitment of the government towards human rights can be measured by the number of international instruments that were ratified and became part of the national legal system as well as the significant decrease of the number of cases of human-rights violations. Meanwhile, capacity can be measured by the formation of institutions and mechanisms to guarantee the appreciation, enforcement and protection of these rights.

The human-rights impact assessment is an instrument for policymaking in which rights and empowerment are given priority over quantitative (macro-)economic progress. As human rights are indivisible and interdependent, the rights approach will make it possible for the population itself to decide in a democratic way about its own future. It goes without saying that Dutch policies need to take into account the level of rights approach and empowerment of their decisions, not only vis-à-vis their own population, but also vis-à-vis the Indonesian population. We will deal briefly with each of these steps for a general understanding of what their importance is in the process of human-rights impact assessment. In broad outline, the following procedural steps can be formulated:

- *Assessment of the actual human-rights situation*

This step entails the identification of critical areas and in-depth analysis of a number of areas. Comprehensiveness is needed in order to establish a baseline and to obtain a broad overview. A fixed set of indicators, based on international human rights law, is to be used throughout the process. The assessment should be open to public scrutiny, in particular by specialised CSOs.

- *Political analysis*

This step comprises an analysis of the actual political situation and the expected developments in the areas of politics, economy, culture and external relations. This contextual understanding is an essential element of HRIA and is complementary to the analysis of the human-rights situation.

- *Outline of policy options*

At this step, concrete targets should be set as to what the EU sees as the desired human rights situation in a particular country or relative to a particular thematic development. First, the targets should refer to the time-frame and objectives of a policy or program. Second, the HRIA should identify possible contributions and interventions. It should define goals to be

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<sup>15</sup> Hans-Otto Sano and Lone Lindholt, *Human Rights Indicators 2000. Part 2: A Methodological and Technical Outline*, Copenhagen: The Danish Centre for Human Rights, 2000. UNDP also developed this kind of framework but they did not use it when they formulated the program for good governance in Indonesia. See UNDP, *Human Development Report 2000*, Oxford University Press, 2000, page 93-101.

realised in order to achieve solutions. This stage should reflect views and findings of major CSOs of both domestic and international origin.

- *Decision on policy by political decision makers*

This is the stage of political decision making. It involves the testing of the policy proposals to the criteria of acceptability and feasibility. This step will be taken outside the framework of the HRIA. The final weighing of interests takes place at the political level, not within the HRIA. Actors are: the governmental decision makers, parliamentary approval, and CSO lobbying pro or contra a decision.

- *Implementation of policy actions*

This is the practical implementation period, brief as to the assessment aspects, but decisive as to the outcome and impact of the program of policy. During implementation monitoring is taking place to consider the need for adaptations.

- *Monitoring*

Systematic monitoring of the implementation of policy measures, as well as new developments in the human-rights situation, can be undertaken within the scope of the HRIA. The indicators will be used to assess developments, next to additional analysis of developments in the international context. This step should involve external organisations and other experts, including domestic CSOs, in the monitoring process. A continuous and transparent process should be ensured.

- *Evaluation*

The final step is that of evaluation of the implementation of policy measures, and their impact on the human-rights situation. This evaluation is to be used as a starting point for a new cycle - feedback to the policy-makers and the formulation of future policies on the basis of "lessons learned". Evaluation could be carried out within the HRIA structure. Again, external organisations, experts and CSOs should be involved in this process so as to ensure transparency<sup>16</sup>.

The keywords in this process of formulating objectives and indicators can be filled into a matrix, and monitoring will be more transparent and more participatory in that way (Annex 1 and 2). The choice for the objectives and indicators as such is not a neutral choice, but tallies with the stress given to certain aspects. In this paper we choose for human rights as the point of departure.

In this project, during field research, several civil society organizations were interviewed about their opinions of the feasibility of a human-rights approach to the Partnership and the indicators for a human-rights impact assessment, and they explained the points that, in their opinion, will be useful for the development of the evaluation framework such as this (Annex 1).

## 2 The context

This chapter gives a brief overview of the political context in Indonesia after the fall of President Suharto, when the Partnership was conceived. It also reviews the arguments of the Dutch government for contributing very substantially to this multilateral program.

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<sup>16</sup> Bronkhorst, Daan & Marike Radstaake: Matching Practice with Principles, Human Rights Impact Assessment: EU Opportunities, HOM, 2002.

## **2.1 Indonesia since 1998**

The issue of good governance began to be discussed in Indonesia at the end of the 1980s and became more urgent during the crisis of 1998. Towards the fall of Suharto intellectuals and students who dominated the protest movement inserted it in the overall *Reformasi* slogans which included anti-corruption, public accountability for crimes committed in the past as well as human rights violations, formation of a pro-people government and depoliticising of the army. Some institutions then moved on to a more detailed and measurable agenda, although this could not be considered a common agenda of the protest movement as a whole.

The demise of Suharto actually resulted in a crisis of the protest movement. While the change in government was celebrated as a victory, the activists and their supporters knew that the replacement of a president would not automatically change the system, let alone guarantee the implementation of the *Reformasi* demands. The subsequent turmoil – there were no common and clear agendas anymore – gave the political elite the opportunity to grab the power. More than a hundred political parties and hundreds of sectoral organizations were formed; most of them formed by the elite who also enjoyed the post-Suharto freedom. Some of them became a refuge for the New Order elite so they could still be involved in the new political constellation.

The *Reformasi* movement was apparently unable to anticipate the rapid changes. Although everyone agreed that the New Order regime was the main culprit of the crisis, their views on what good governance should look like in the future were very diverse. There were no clear indicators and criteria to measure the progress of any reform. This amorphous *Reformasi* movement began to fall apart and each group went its own way. The CSOs set up watchdog organizations to monitor the government reform agenda, although they themselves did not define their own priorities. Student groups began to diverge; most of them went back to their studies or started their professional careers, others tried with less and less momentum to maintain the ‘street parliament’.

Amid the confusion of the *Reformasi* the first free elections took place in June 1999. The involvement of international bodies like UNDP and other CSOs – domestic and international – gave much credit to the process. An amount of \$ 60,4 million was invested, making it the single largest political reform project ever. On the one hand, the general elections helped improve Indonesia’s reputation as a fledging democratic country. On the other hand, they allowed the political elite to take over the leading role in the reform process. Not everyone agreed on the smooth implementation of the elections. A briefing paper of the Dutch development agency Novib stated: “...the election was badly designed. Its rules, drawn up by the Habibie administration, allowed the corrupt and opportunistic individuals and parties from the Suharto regime to retain power. The new legislatures consists of parties that have little interest in doing anything other than accumulating wealth by wresting hold of the public purse.”<sup>17</sup>

The demand for change that came from civic discussion forums in the streets and the villages gradually petered out, and the political elite which controls the parliament and the government decided upon the agenda of the reforms. This is still happening, three years

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<sup>17</sup>NOVIB/Indonesia Advocacy Desk, “Preliminary Assessment of UNDP’s Good Governance Program”, Briefing Paper No. 3, December 2001.

later, and it is time for civil society to assess the successes and failures of the reforms so that a new agenda can be drawn up with clearer indicators and criteria.

The focus of this report is the Partnership for Governance Reform which became a priority for international donors after the elections. The discourse will begin with the origin, interests and ideology of the concept of good governance. This is important insofar as the answer to the question of “whose government and good for whom?” may be closely linked to the concept and implementation of such program, as well as its indicators to measure the rate of success or failure. The next discussion focuses on the framework and implementation of good governance programs in Indonesia, especially those funded by international donors, and it looks at the effectiveness of the program to achieve its own goals as well as those of the reform agenda in general.

It is necessary to develop a clearer measuring stick that has been agreed upon. Therefore, the study team did literature study to understand the origin of good governance and the diversity of views of those who work on it. Three main sources were official documents from government and multilateral organizations, documents or articles from civil society figures or organizations, and public opinions reflected in the media. Not all information on good governance is written. Therefore, the team carried out a series of interviews with many parties, starting from government officials, political parties, (international) organizations and representatives from the civil society.

## ***2.2 Dutch development aid to Indonesia***

In 1998 the Dutch government conducted a general reformulation of its criteria for development co-operation with countries in the South. The 1998 policy paper specifies that (apart from the poverty as an obvious criterion) the effectiveness of aid is dependant on good local policymaking and good governance, and breaks these down into the following criteria: macro-economics, financial and monetary stability, economic restructuring policies, transparency, integrity, separation of executive from legislative and judicial powers, and respect for human rights – in exactly this order of importance<sup>18</sup>. Non-governmental organisations and the Advisory Council on International Affairs (AIV) have given their views<sup>19</sup> on these selective criteria, in which the macro-economic approach was criticised along with the quantitative assessments and the stress on administrative and economic aspects instead of, for instance, UNDP's human development index, which takes into account factors of distribution and other social indicators.

In the brochure, also translated into English, there is a slight reshuffle of terminology. The criteria are: the degree of poverty, the local socio-economic policy and good governance. Here good governance comprises<sup>20</sup> aspects of:

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<sup>18</sup> Policy proposals on application of the criteria for structural bilateral aid, Dutch Foreign Office, ref. 98183/DGIS, 1998

<sup>19</sup> Comments on the criteria for structural bilateral aid, Advisory Council on International Affairs (AIV), November 1998.

<sup>20</sup> Making a difference; selection criteria for development aid; Dutch Foreign Office, 1999.

- Transparency in public expenditure
- Probity and the absence of corruption in the civil service
- Fair administration of justice
- Freedom of organisation for trade unions, political parties and civil society organisations
- Proportionate military expenditure
- Respect for human rights

Good governance is used by the Dutch government as a container concept, in which aspects of respect for human rights remains vague - part of economic policy, part of administrative quality. Human rights is seen as part of good governance, but it is the last aspect mentioned. In discussions of socio-economic policies, criteria or examples are mentioned relating to human rights, with non-discrimination seen as an aspect of a healthy economic policy. On the whole, these aspects and their role in the decision making process are not clear, and their suitability as selective criteria is doubtful. As the AIV summarises: "The main problem here is ultimately how to determine the threshold for entering into or ending a bilateral co-operation relationship." (p. 7) Striking issue is that the Dutch government refused to be transparent as to how the degree of corruption would be applied.

The first policy paper that the Dutch government issued since the decision to resume the cooperation relationship with Indonesia – discontinued in 1992 – was produced on 14 July 2000, following several interventions by members of parliament about the violent conflict on Maluku and in other regions. This policy paper has been criticized by, among others, the Netherlands Humanist Committee on Human Rights (HOM).

The point made was that the data used in this policy paper originated mainly from Indonesian governmental sources, World Bank, IMF and ILO, and one can assume that these are not the best sources on the human rights situation in a country. HOM stated in its comment on this policy paper (4 October 2000) that the paper is based on a wave of unclear formulations as to the rule of law. The example mentioned is that the Indonesian Army's *dwifungsi* (double role) is considered as legal, as it had been regulated by law. Thus, the Dutch government argues, the army has a legitimate task in the political process. HOM is of the opinion that the army's power to define its own role in the political process of the country, based on the *dwifungsi* doctrine, formulated in 1965, does not legitimise it. It is doubtful that a Western government would accept this formula from the government involved without questioning it. It is being questioned, states the HOM-paper, by Indonesians as well, such as the politician Sri Bintang Pamungkas who, after being sentenced to jail for allegedly insulting the (former) president, has expressed the view that not only his trial, but all trials since 1965 have been unfair and illegal.

As this is a very far-reaching consideration, at least the Indonesian government has to be questioned as a source on its own human rights situation. Indonesia has had very good and active human rights organisations which are good sources of information. International organisations could also have been quoted in the assessment of the situation. The only source from non-governmental side is Transparency International; in its judgement Indonesia is the third most corrupt country in the world.

Human rights organisations like KODEMO firmly believe in the human-rights approach. The more rights the people possess, if implemented by a reliable government, the more effective development aid can be. It is of no use whatsoever to set up an elaborate development aid program if, for example, woman's rights and children's rights are being trampled upon. Human rights should be the guiding principle for Dutch foreign policy in general. At present, although mentioned as one of the criteria, human rights as a guideline is more often than not ignored in the decision-making process.

Except for a limited number of sources, data on the factual situation are often mixed with political analyses or measures that have already been taken. It is critical that the situation on East-Timor (the cause for the discontinuation of the Dutch-Indonesian co-operation) only takes literally half a sentence.

Based on considerations discussed in this policy paper a motion was proposed to the Dutch parliament that Dutch development funding to Indonesia be allocated to multilateral organisations rather than to local Indonesian initiatives.

"The agenda for Cooperation gives a framework for an integrated approach of the Dutch policy with regard to Indonesia. Departing from this ambition the choice is made to support the transition process in Indonesia along the following main lines:

- Political cooperation: meaningful and critical dialogue, both bilaterally and in EU context;
- Development cooperation: financing cooperation from ODA funding up to USD 64,3 million for 2000, exclusively for the priorities made by the Indonesian Government. With this funding first and foremost efforts will be interlinked with initiatives of multilateral institutions. Additionally the bilateral component will be expanded when effective and complementary, in the context of the 17+4 [countries selected for structural bilateral development cooperation].
- Economic cooperation: The economic cooperation with Indonesia will be expanded and directed on strengthening and supporting the economic transition process. The Programme Cooperation Indonesia (PSI) will be integrated into PSOM [Programme Cooperation Emerging Markets]."<sup>21</sup>

This choice for mainly multilateral funding was made on the consideration of the absorption capacity of current multilateral programmes and of the effort to achieve quick and visible results in combating the economic crisis. The establishment of a large bilateral program would be confronted with large obstacles in the sphere of administration and capacity in both Indonesia and The Netherlands. Thus the Dutch allocation for the fiscal year 2000 was chiefly allotted to a World Bank programme on health and basic education (max. USD 30 M), the Community Recovery Programme (max. USD 8 M) and the Partnership for Governance Reform, a unique combined activity of UNDP, World Bank and the Asian Development Bank (USD 12,25 M). Which adds up to nearly 80 % of the Dutch ODA funds for Indonesia being allocated to multilateral channels.

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<sup>21</sup> Policy paper Indonesia, 14 July 2000; Dutch Office of Foreign Affairs. [unauthorised translation into English]

In addition to the allotted USD 64,3 M, there was a commitment for the year 2000 for debt reform of approximately USD 25 M, for humanitarian aid approx. USD 5 M and for human rights projects approx. USD 1,2 M.

### 3 The Partnership for Governance Reform

During Suharto's reign international financing institutions and donors tended to avoid the issue of governance. ADB and World Bank, for example, justified this by saying that it is the mandate of its institution to respect the sovereignty of a country and not to interfere in its political affairs. For 32 years there were no significant interventions to uphold the rule of law or democracy, not even in the joint projects with these donor institutions themselves.<sup>22</sup> This attitude started to change after 1998. As if waking from a deep slumber, industrialized countries and international financial institutions broke this taboo and became more active in campaigning for the elimination of corruption and changes in the political system in Indonesia. Concern for governance at the beginning was limited to the recovery of the financial sector that was beset with crisis.<sup>23</sup> Direct interventions in political affairs were still avoided by using technical jargons such as, "institutional development" and "sectoral restructuring" which, in reality, includes political issues.<sup>24</sup>

General Elections was the first political reform project that involved 15 large countries and the European Union as donors under the umbrella of the United Nations Development Program (UNDP).<sup>25</sup> Financial assistance amounting to \$60,4 million was distributed to the Commission on General Elections (KPU), government institutions and CSOs that monitored and provided for voter's education. The success of this general election – according to the government of Indonesia and the donor institutions themselves – became an entry point to take further steps towards the improvement of the political system in general in the framework of good governance. UNDP, which had been the coordinator for the management of funds during the election, was again appointed to lead this process. During the CGI meeting in 1999, countries and donor institutions, as well as the government of

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<sup>22</sup> Jeffrey Winters, a political expert from Northwestern University believed that about 40% of the program funds of the World Bank was corrupted by Indonesian officials. This institution did not make efforts to stop the loan and they did not even bother to make these officials legally liable, and as such, it also participated in the continuity of corruption in Indonesia. In an interview, the coordinator of KOSLATA in Lombok, Sulisty, believed that the World Bank applies a "double standard". On the one hand, it makes good governance a requirement but on the other hand it continues to provide loans although it is proven that the recipient misappropriated it. Interview, Mataram, 3 June 2002.

<sup>23</sup> On June 1998, the ADB provided loans amounting to \$1,5 million for the financial governance reform in Indonesia. Its objective was to build a financial institution that is reliable and credible as well as to apply regulations that will help restore the flow of investments. See ADB, *Annual Report 1998*, page 18-19.

<sup>24</sup> See R. Tooze, "International Political Economy in an Age of Globalization", in *The Globalization of World Politics*, Oxford University Press, 1997.

<sup>25</sup> UNDP Program Support Document, Technical Assistance Program for the 1999 General Elections in Indonesia, Project of the Government of Indonesia, Project Number INS/99/001/A/01/NEX, 4 February 1999.

Indonesia, agreed to formulate a new mechanism. In March 2000, the Partnership for Governance Reforms in Indonesia (hereafter referred to as the Partnership) was established.<sup>26</sup>

The official document of this institution enumerated its sectoral priorities as follows:

1. Reforms in the judiciary system: support the efforts of the government in developing strategies to reform the legal system and justice courts in Indonesia in a comprehensive manner.
2. Reforms in the civil service system and community service: support the development of a state apparatus that is clean, efficient, and accessible.
3. System and management of the election: support the continuous process for electoral reforms that includes the electoral system, improving efficiency and integrity in managing the election.
4. Empowerment of the legislative body: support the development of the national legislative body that is capable of representing the interest of the society, formulate laws and supervise the executive body.
5. Strengthening the civil society and media: support the development of the civil society and a mass media that is competent, effectively managed, and independent.
6. Good Corporate Governance: support the development of good corporate governance in the professional, industrial, and trading sectors.

Quite a number of donor countries have channelled their aid through UNDP, World Bank and ADB. Regarding the destination of the aid packages, a task division was made as follows:

- UNDP the legislative empowerment;
- WB the legal reform and public administration;
- ADB the corporate governance.

As a reflection of the emphasis on partnership, this institution is governed by an Executive Board whose members are composed of Indonesians from different sectors. Above it is an Advisory Board whose members are composed of government representatives and Civil Society Organizations in Indonesia, representatives of international bodies – World Bank, ADB and UNDP as the founders – as well as the ambassadors of donor countries. The executive director of the Partnership is Felia Salim, whereas the daily activities are implemented by a chief operating officer, Rizal Malik. In terms of structure, the activities of the Partnership is divided into two:

1. Facility for policy analysis and dialogues. Here the Partnership conducts its own researches, seminars, workshops, and the dissemination of information concerning reforms on governance and

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<sup>26</sup> See the brochure of *Kemitraan Bagi Pembaruan Tata Pemerintahan di Indonesia* (Partnership for Governance Reform in Indonesia), Jakarta, 2001, page 3-5. The next description on the Partnership was taken from this source. The joint idea to support this good governance was first raised during the CGI meeting in 1999.

2. Trust Fund for Governance that finances the projects of third parties doing the same activities.

Up to March 2002, the Trust Fund for Governance had already released funds amounting to \$7,51 million for various activities, from holding conferences, seminars, and workshops up to the capacity building and training of recipient institutions all over Indonesia. Several countries, like the Netherlands, provided all their bilateral assistance related with good governance through this program and gave full authority to UNDP to manage it. At present, the Partnership is the largest implementer of good governance programs in Indonesia.

## **4 Monitoring the Partnership's effects**

Measuring the achievements of the Partnership is not easy. The absence of a clear and accepted definition of good governance makes the formulation of clear and agreed-upon objectives and indicators a risky business, and hinders empirical assessment. Criticism also revolves around technical aspects and benefits of the program for the society at a grassroots level, as rather debatable assumptions are being applied.

This chapter presents different efforts that have been carried out to assess the effects and effectiveness of the Partnership. The Dutch development cooperation funds required an assessment, and UNDP has its ways of assessing its performance. The Indonesian CSOs that have been interviewed give their views on the sectors of the Partnership where they themselves have worked, and thus judge from the grassroots. Their opinions cannot always be regarded as representative for all civil society activists, but they do provide indications. Indicators which Indonesian activists think important are listed and enumerated in the appendix, for future reference and monitoring.

### **4.1 The governmental monitoring**

The Dutch government produced a progress report a year after the start of the Dutch contribution to the programmes. This is a result-oriented assessment, dated 24 August 2001, produced in an innovative format, as requested by the Dutch Parliament in an attempt to be more accountable in certain sectors than previously. Alas, this innovative manner of reporting will not be continued, so the methods of result assessment will not be developed further for the future of development cooperation with Indonesia. From the assessment it is clear that there is still a lot to be improved in the use of objectives, indicators and expected results. The paper uses three levels of results:

1. Output: the concrete products of the activities that have been carried out
2. Outcome: the consequences and direct effects of the policy, brought about by the programme
3. Impact: the general policy effects of the programme

In other matrices of results, the difference between outcome and impact is considered as a difference of time frame: outcome is a directly visible effect, while impact is a later effect, expected or unexpected. Some theories also employ a fourth level: the overall effect, with which one assesses the desirability on the whole of the continuation or discontinuation of a

programme. In the result assessment of the Dutch government the three levels utilised have not been instrumental in providing more insight into the effectiveness of the program.

The Dutch assessment effort has also encountered other difficulties: the objectives have not been formulated very clearly, and no indicators or benchmarks for measurement have been used. A second problem was that the choice of objectives had to be negotiated with the Indonesian Government – as a member of the Partnership – which limited the possibility of politically sensitive objectives. A third hiatus was the need for qualitative as well as quantitative measurement. The conclusion of the result assessment has remained very brief:

*“...under the Partnership among others. . . a part of the big programme has been funded for strengthening and professionalizing of the role of the parliament, a number of training programmes and the establishment of a code of conduct for CSOs. These results do outweigh in my [the Minister’s] opinion the not insignificant problems in the initial stage that were met in the first year, and that were due to the innovative structure and character of the programme.”<sup>27</sup>*

It is to be regretted that the Dutch Parliament which requested this result assessment did not debate the contents and methodology in depth.

UNDP has been trying to formulate indicators in the discourse over economic growth and its fair distribution in other regions of the world.<sup>28</sup> For this program on good governance, however, there are no clear and measurable indicators formulated by the Partnership itself, nor from monitoring institutions (funding governments, CSOs, etc.). This lack of indicators has caused great concern among all stakeholders, particularly from the civil society organizations in Indonesia. Indicators could be of assistance in modifying and improving good governance programs in the future. Unlike the discussion on “economic progress,” no party has as yet come forward with clear-cut indicators for good governance.

The general analyses of donor institutions and international bodies of the process of reform only scratches the surface of the problem and, as a result, it is very vague. Implicitly, the economic issue was separated from the political issue and priority was given to the first. The document of the Partnership describes this as follows,

*“... the collapse of the economy produced uncertainty and increased social tensions. What started as a currency crisis developed immediately and became a big social-political crisis. Pressures to create democracy, transparency and basic political reforms became stronger while confidence towards the government continue to decline... These matters reached its peak with the resignation of President Suharto in May 1998; and one year after this, the 1999 Elections brought the element of pluralism in the political arena and gave birth to a multi-party legislative institution at the central and regional level”.<sup>29</sup>*

This document does not discuss the power relations that were formed during the New Order period and the efforts to change them since the late 1980's. It gives the impression that

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<sup>27</sup> Prestatiemeting ontwikkelingssamenwerking Indonesië, 24 augustus 2001 (kenmerk: DAO-0810-01).

<sup>28</sup> See UNDP, Evaluation of the Governance Program for Latin America and the Caribbean, December 1998.

<sup>29</sup> Partnership for Governance Reform in Indonesia, a brochure, page 1

the “social-political” crisis just sprang up from the currency crisis that beset Indonesia and several other Asian countries. It is fair to note that Indonesia, among others on this globe, has become a typical example of globalisation. Like many other major developing countries, such as Turkey, Brazil and Argentina, to mention just a few, the basic problems in Indonesia have not been resolved. Liberalisation and privatisation of the economy has not resulted in the expected rewards. On the contrary, unemployment and falling wages have been the result. Political instability is also one of the trademarks of many developing countries. The many regional problems facing the Jakarta government are the clearest sign of the erosion of the concept of a nation-state. As a consequence, almost all the programs on good governance were directed toward regaining the confidence of society (and of course business groups) in the Indonesian government structures. The process of reform, particularly after the 1997 general elections, was perceived as an affair of the elite, and its success was measured by changes at the formal level, such as the enactment of laws, the freeing of mass media from restraining regulations and several steps to control the bureaucracy, including the establishment of an Ombudsman. This analysis leaves many considerations unattended and many causes unaddressed.

The Partnership for Governance Reform has scheduled its own midterm evaluation for the summer of 2002. Unfortunately, the results of this evaluation have not yet been available at the time of writing of this paper.

#### **4.2 Non-governmental views**

The establishment of the Partnership has not been free from criticism related to the definition of good governance. Some activists believe that the dominance of the donor countries and international institutions is still too great. Although Indonesian government representatives and civil society representatives are included in the driver's seat (as chairperson and members of the executive board), the map and road signs are still in the hands of outsiders that have their own vested interests. This will have been decisive for the allocation of funds to beneficiaries.

In general, donor countries and institutions have always expressed their “reluctance” to become involved in the internal political affairs of a country, under the pretext that they respect sovereignty and thus admit the limitation of their mandate. In other areas, however, like economic reforms and decentralisation, their intervention is profound. Several CSOs have proclaimed that the IMF and the World Bank have de facto replaced the role of the Department of Finance in terms of determining the priorities of the development budget<sup>30</sup>. Even the Head of the National Planning Board (BAPPENAS), Kwik Kian Gie, had the same opinion, which later produced a controversy within the government.

Tabel 1: Summary of the Projects of the Partnership based on the Category of the Recipient (until March 2002)

Type of organization	Number	Amount (USD)	%
Government institutions	6	370.617	5%

<sup>30</sup>. Interview, July 2002.

State agencies	7	1.713.104	23%
Local government units	6	227.992	3%
Civil society organizations	42	3.031.339	40%
Universities	14	934.106	12%
National Parliament	1	1.000.000	13%
Police	2	82.043	1%
Mass media	3	152.932	2%
<b>Total</b>	<b>81</b>	<b>7.512.133</b>	<b>100%</b>

This table shows that government institutions receive the bulk of the subsidies, whereas CSOs/NGOs only receive 40% of the funds. (State) universities should still be considered governmental institutions.

An activist from INSIST, Yogyakarta, firmly stated that good governance projects are actually only good for the free market economy, and do not solve the problems of the farmers and workers who are impaired by this economic system.<sup>31</sup> A similar statement comes from Shalmali Guttal, in his article "A Master-Plan for Market Expansion: The Asian Development Bank and Governance".<sup>32</sup> Guttal maintains that the objective of the governance project of ADB – which is also involved in the program of the Partnership – is merely to facilitate market expansion. Rizal Malik from the Partnership denies this, however, by pointing to the participatory basis of the programs of his institution<sup>33</sup>.

The excessive power of the military, human rights violations, unequal industrial relations, agrarian issues, and a series of other issues which attract the concern of civil society in Indonesia were hardly taken up at all. In a rights-based approach towards good governance, these issues are the first priorities. The bad governance practised during the 32-year reign of the New Order regime is not just attributable to wrong management or the lack of capacity of the officials; it was due instead to the power of the military and business world. While the campaign for good governance was being carried out, and the success of the general election (as a milestone of democratisation) was celebrated, human rights violations became even more distressing, as could be witnessed from what happened during and after the referendum in East Timor in 1999 and the upheavals in Aceh.

The steps to open up Indonesia to investors and international trade, by applying new regulations that are considered imperative for good governance (based on the version of donor countries and institutions), will not in themselves guarantee improvements in the human-rights situation. On the contrary, liberalization within the various layers and sectors will actually trigger unrest which will eventually be responded to by military repression. During the period of 1999-2002, there have been hundreds of cases of violence against workers and farmers who are trying to maintain their rights in the midst of the flow of liberalization. It looks as if good governance has simply become a new set of interaction

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<sup>31</sup> Interview, Yogyakarta, June 2002.

<sup>32</sup> *Focus on the Global South*, 22 April 2002

<sup>33</sup> Interview, June 2002.

rules for the elite, while ordinary people are left to live under bad governance. These considerations should be taken into account as indicators.

In the general perception of good governance, there are several fundamental issues, such as militarism and development, that are seen as merely growth oriented (*vis-à-vis* even distribution and justice), and that are not considered as problems. As a consequence, the scope of their program becomes very limited, ineffective, and tends to represent only the interest of certain sectors.

It is a fundamental flaw that reforms in the military and the upholding of human rights are not included in the program of good governance. Discussions on progress and success occurred in the midst of an increase in violent actions and human rights violations. The elite and even countries and donor institutions “hesitate” to take steps to limit the power of the military. The police, which is expected to play a role in securing the country, has not yet manifested improvements and progress from the point of view of human rights. In many cases, the perpetrators of cases are one and the same as the military.

Activities for empowerment, strengthening of institutions, and capacity development in the program of good governance do not, in themselves, bring about changes. Even their results are very difficult to measure. A program framework is necessary, as well as clearer evaluations and indicators.

The omission of an analysis on militarism (with an agenda for its changes), and the absence of indicators to measure results, are the primary weaknesses of the program on good governance of the Partnership and, as we can see from the descriptions below, it also affects the success of other sectoral reform programs.

### **4.3 Comments by sector**

In order to assess the effectiveness of the Partnership, there is a dilemma as to whether assessment should be carried out under the terms of the Partnership’s own objectives, or in accordance with a rights based approach. This paper does not follow the structure of the Partnership itself, but analyses also sectors which should be primary objectives: judicial reform, economic reform, public administration, decentralisation, and the fight against corruption. And finally, the completely missing objective - military reform - is analysed.

At this stage it is not yet possible to make a representative, qualitative appraisal of effectiveness. First of all, the indicators are not there. Furthermore, the Program is so diversified that even within sectors there is no clear picture that can be considered as representative of the total. Still, the signs from Indonesian society are signals that should be heeded for the future of the Partnership. The observations are important for the Dutch public and political decision makers as well, because the priorities in Dutch development programmes with regard to Indonesia will be reconsidered in 2004.

#### **4.3.1 the judiciary system**

The New Order regime bequeathed a judiciary system that is corrupt and all but dominated by the executive power. Since the 1980's, the issue of the independence of the judiciary body has entered the public discourse, but there was no agenda and no concrete step with a clear indicator leading to change. It can conveniently be concluded that the Rule of Law does not (yet) exist in Indonesia. In the midst of the demand for reforms, public officials promised to

improve the quality of the court. Yusril Ihza Mahendra, who assumed the position of Minister of Law and Legislation during the government of Abdurrahman Wahid, tried, for example, to eliminate the court mafia by replacing almost all the judges assigned in Jakarta because they were suspected of being involved in corruption. Nevertheless, this effort to remove and transfer court officials proved to be ineffective. A study conducted by Indonesian Corruption Watch showed that the court mafia actually mushroomed the moment the central government tried to combat it.<sup>34</sup> Another example is the court hearings against ex-president Suharto, his son Tommy Suharto, and hearings against other corruption cases and grave human rights violations. Aside from the corruption practices that persistently crop up in every phase of court proceedings, the capability of the prosecutors and judges to do their job has become a matter of grave concern. The widespread corruption in the judiciary also severely affects the flow of foreign investments into the country. The lack of any legal security has made Indonesia a nightmare for potential investors.

The Partnership has been involved in legal reforms of the judiciary system by supporting the establishment of the Commission on National Law in February 2000. Looking at its structure and mandate, this institution functions as an advisory body of the President in legal and court affairs. Except for some efforts toward empowerment, institutional development and capacity building, this Commission has hardly made any impact at all. During the constitutional crisis, when the conflict between President Abdurrahman Wahid and the House of Representatives (DPR) erupted, the Commission issued no statements whatsoever, nor did it take steps to mediate. Similarly, the Commission never contributed to resolution of past human rights violations. Considering its capacity and mandate, its intervention could have been very helpful. So far, its activities are still limited to holding discussions, seminars and meetings, which are simultaneously also being conducted by several other institutions and civil society organizations. Other activities that are supported by the Partnership are comparative studies and consultations with members of the Supreme Court and a workshop to develop an integrated court system in North Sumatra, which was conducted by Yayasan PUSAKA. As the adviser of the Partnership, Mas Achmad Santosa from ICEL is involved in an effort to push for the implementation of the reform plans already formulated by the judiciary institution itself in the wake of the *Reformasi*-wave. Those reform plans got stranded due to lack of commitment from the government to facilitate the implementation<sup>35</sup>.

The focus of reforms in the judiciary system is limited to the level of a study. In February 2002 the Partnership conducted a diagnostic study concerning corruption, but it only dedicated five pages to corruption in the judiciary system.<sup>36</sup> A more promising step is the establishment of a Judicial Watch, although up to now there has been no public report to explain its achievement in this field of reforms. Almost all activities are directed to support existing state institutions without addressing the importance of changing the structure and authority itself which lie at the root of the problem.

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<sup>34</sup> Danang Widoyoko, *"Bila Keadilan Diperdagangkan: Penelitian Korupsi Mafia Peradilan di Kota Medan (If Justice is Traded: A Research on the Corruption of the Court Mafia in Medan)"*, Draft paper, 2002.

<sup>35</sup> Interview with the senior counsel from ICEL, Mas Achmad Santosa, SH, LL.M., June 2002.

<sup>36</sup> Partnership for Governance Reform in Indonesia, *A Diagnostic Study of Corruption in Indonesia*, Final Report, Jakarta, February 2002, page. 22-27. Also consider the recommendations for the reforms in the court system on page 57-58.

### 4.3.2 economic reforms

This agenda received the widest attention from donor institutions and countries, particularly in relation to the elimination of corruption and the establishment of institutions that support a free market economy. The first step is related to the economic recovery and is directed towards strengthening the fiscal and financial institutions, as well as changes in the laws that, under the guidance of the IMF and the World Bank, will lead to a market economy that is “good and correct”.<sup>37</sup> The next step is the development of an efficient management of public resources, the introduction of regulations and institutions to regulate governance relations, state-owned enterprises, private businesses and companies. The actual society, which exists on paper in almost all the definitions of governance, is never discussed; even the role of the citizens in the governance of the economy remains unmentioned. So far none of the basic economic problems have been resolved. The Indonesian banking system is still in a state of collapse since the East Asia crisis of 1997. Its huge debt-restructuring scheme has not worked, and IMF bailout efforts have, so far, also been fruitless.

The ADB is the primary institution that supports the activities of the Partnership in the area of economic reform. However, demands for eradication of KKN (Indonesian acronym for Corruption, Collusion, and Nepotism), a more equal distribution of income, improvements in industrial relations, agrarian reform, as well as the granting of economic and social rights have never been touched on by ADB. All its programs are directed towards the establishment of good corporate governance.<sup>38</sup> In the public sector, its program is directed towards the strengthening of the fiscal sector and development planning to support the market economy. Tensions occurred several times between donor institutions/ countries and the government of Indonesia because of repeated delays in implementation, and this has made economic reforms the most contested of all reforms.

In these economic efforts, the rights-based approach is lacking, according to the Indonesian CSOs. Objectives as to equity, the issues of equal income distribution, gender budgeting, and the granting of economic rights and opportunities to obtain a decent life should also be considered and indicators, and benchmarks should be formulated. Only then can the results be audited as being sufficiently effective or not. Moreover, this way of thinking will enhance the awareness among the people themselves of their economic and social rights.

Unlike other sectors, economic reforms do have clear and strict indicators. Indeed, the quantitative approach with indicators such as growth rate, GDP increase, and price indices, dominate the discourse on how to measure success in this sector. Nevertheless, this evaluation framework does not consider the issues related to the economic rights of the people, as if “success” were only the concern of the supporters and groups that directly benefit from the market economy system. With regard to labour, for example, ordinary people consider trade and market liberalization a threat since more and more companies are using the contract system.<sup>39</sup> From the human-rights perspective, the issues of equal income

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<sup>37</sup> This reform agenda can be read in the letter of intent between the government of the Republic of Indonesia and the IMF.

<sup>38</sup> The World Bank provided loans amounting to \$31,5 million (Loan 4448-IND) for the restructuring of corporate business and to attain legal reforms to improve competition and efficiency in the said sector.

<sup>39</sup> Interview with the Chairperson of PUK-SPSI Maspion Surabaya, Sugianto, June 2002.

distribution, gender budgeting, and the granting of economic rights and opportunities to obtain a decent life should also be included in the evaluation framework of good governance in this sector. These data are still lacking.

### **4.3.3 reforms in the public administration**

The eradication of corruption should be one of the most important agendas of the reform movement. Spontaneous grassroots actions had scores of local officials dismissed, who were suspected of being extensively involved in corruption during the first half of 1998 in Java, Sumatra and Sulawesi. Under the slogan of anti-KKN, CSOs tried to formulate criteria for clean and authoritative officials. Some of the civil society organizations prefer to limit the authority of the bureaucracy through the enactment of laws. However, due to the absence of a joint agenda they failed to translate this into law.

Donor institutions and countries have also put their biggest bets on the elimination of corruption; to them it was regarded as one of the main causes of the monetary crisis in 1997. The development of a clean government apparatus is also in accordance with the principle of healthy competition. So far, the Partnership has only conducted a few workshops together with the government to introduce the concept and principles of good governance. There was still no talk about the basic changes in the structure, function, and authority of the civilian bureaucracy that are already well developed in the public discourse.<sup>40</sup> Perhaps to direct the discussion on how to analyse the system of corruption, the Partnership issued a series of publications on corruption; they are extensive and expensive, comprising four volumes, but it is not clear what the aim and target groups are.

### **4.3.4 decentralisation and regional autonomy**

One of the driving forces behind the reform movement has been dissatisfaction over how the central government had sapped dry many provinces of their natural resources and left them impoverished. The desire to manage development in a decentralized manner grew very strong, up to the point that several provinces demanded a referendum on independence in the footsteps of East Timor. Subsequent governments promised to enact regional autonomy and special autonomy for two of the most troublesome provinces, Aceh and West Papua. However, together with the take-over of control of reform process by elite groups at the central level, there was a shift on the "ownership of the issue". The local bureaucratic elite, together with the national elite, suddenly identified themselves as the "sons of the region" to take over the demands for autonomy with a different interest: to obtain personal gain and to form new "centres" at the local level. The idea of autonomy as the right to determine development strategy at the local level was abandoned.

Conflicts have also erupted between executive and legislative institutions at the local level. The legislative institutions try to assert themselves as supervisor while the executive institutions tend to cling to the authority they inherited from the New Order regime. A resource person who is involved in this issue suggests this conflict is an indication that the bureaucracy and government officials are not yet prepared to accept the burden of

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<sup>40</sup> In a Workshop on good governance conducted by Remdec, it was explained that good governance could start from practicing services to the public, like, simplifying the process of issuing national ID cards, which is still very complicated.

decentralisation.<sup>41</sup> During the frenzied push for autonomy, the local governments also tend to use religion as a tool to resolve problems, such as the introduction of Syariah Islamic Law (proposed in West Sumatra) or the restoration of the *Desa Adat* ("traditional village") in Bali. Religious symbols and ethnic domination are being used to garner the sympathy of the people and to obtain legitimacy for exerting power they otherwise would not have. In these localized political infightings, more often than not it is the local minorities who become victims.<sup>42</sup>

In the regions with on-going bloody conflicts, large numbers of civilians have suffered heavily. The question is whether there is any functioning governance at all in these regions. It can be argued that the human rights violations perpetrated by the Indonesian Armed Forces (TNI) [and the Police] go hand in hand with the absence of governance. The central government has offered and unilaterally accorded special autonomy for Aceh and West Papua in the hope that the drive for separatism can be dissipated through local autonomy. However, as long as the military and police apparatus remain more powerful than the civilian government, autonomy is regarded as useless by the local population. One should therefore consider carefully whether a respect for human rights can be directly attributed to these efforts to accord local autonomy to civilian governments.

Donors and international financial institutions have favoured decentralisation since the 1980's. In Latin America, decentralisation projects were developed with the objective of increasing the capability of each region in the context of the market economy, to facilitate access of trading and investments. In Indonesia, the plan is not very different. The Partnership itself has provided a large amount of funding for at least 35 projects, including support for the establishment of new institutions such as the associations of Regency and City governments (APKASI and APEKSI) which will play an important role in the process of decentralisation and local politics.

The problem with this type of assistance is that it does not always consider the background and root problems. An activist from WALHI (Indonesian Forum for Environment) said, for example, that decentralisation at present is premature and in actuality reinforces ethnic tensions at the local level. Capacity building does not, in itself, answer this problem. On the contrary, it can sharpen ethnic tensions.<sup>43</sup>

Moreover, decentralisation, as it is practiced today, has not yet developed any check-and-balance mechanisms. As a result, local officials – on behalf of autonomy and regional interests – often take actions to the detriment of local communities. A case in point is that of a *bupati* (regent) in East Kalimantan who has obtained the authority to issue logging concessions (HPH) for 100 hectares. He subsequently sold those concessions to a large company and, as a consequence, violated the customary rights to the land of local communities, causing great misery.

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<sup>41</sup> Interview with the coordinator of Indonesian Partnership on Local Governance Initiatives (IPGI), Sawedi Moh., June 2002.

<sup>42</sup> Interview with the director of Maha Boga Marga/JK-LPK, Bali, Rev. Ketut Arka, June 2002.

<sup>43</sup> Interview with the head of Lobby & Advocacy division of WALHI, Longgena Ginting, 13 June 2002.

The fiscal decentralisation promoted by international financial institutions essentially forces every region to increase its Original Regional Revenues (PAD). As a result, local officials tend to take shortcuts when drawing up new regulations; this will inevitably lead to corruption since there is no check-and-balance system at the local level. At present, even the district and sub-district governments have established “representation offices” in Jakarta so that financial assistance and investments from abroad can be directly tapped without the approval of the provincial government.<sup>44</sup>

There have been no serious and systematic efforts to put decentralisation beyond its formal parameters, in the sense of involving local people in the process. Access to information and the opportunity to determine policies are still in the hands of a few local elite, and it is only through the pressures of CSOs and other social movements that opportunities have been provided for the involvement of CSO-representatives.

So far, institutions and donor countries have measured the achievement of decentralisation in terms of the enactment of new regulations at the local level, the establishment of institutions to uphold decentralisation, and the emergence of new players like APKASI and APEKSI. Indicators from the perspective of human rights, which address questions of equality and even distribution at the local level (*vis-à-vis* central government as well as *vis-à-vis* local elite or authorities), are essential to the success of decentralisation as a whole.

The most innovative initiative of the Partnership so far is a pilot project in “participatory governance assessment” which has been carried out in 8 different areas at *kabupaten* and city level<sup>45</sup>. All local stakeholders are supposed to be involved: representatives from local government, civil society, the business sector and even the informal sector<sup>46</sup>. From direct observations and feedback from others, it has become clear that it is very difficult indeed to bridge the communication gap between government and non-governmental entities. Mutual distrust is perhaps the most daunting obstacle to overcome in such exercises<sup>47</sup>. These participatory assessments have resulted in a list of priorities to be tackled at regional level. To date, the results of the assessments are not available. It is therefore hard to predict whether or not the methodology can be replicated all over Indonesia.

#### **4.3.5 anti-corruption campaign**

Although the issue of corruption is actually related to the reform of public administration, it is often regarded as a cross-cutting issue and will therefore be taken up here as a separate objective. In the reform movement, this issue obtained the widest concern, and its elimination has become the most popular political discourse among the public. Corruption occurs in all the layers of the bureaucracy and political parties; it is even anchored to their structure. Several researchers indicate that perceptions on corruption are diverse; even the

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<sup>44</sup> Interview with the Head of the Information and Communication Agency of the Government of the Province of East Java, Suprawoto, 5 June 2002.

<sup>45</sup> Alex Irwan: “Participative Governance Assessment: concept, methods, and criteria”. Partnership, 2002.

<sup>46</sup> The areas are: Banda Aceh, Cirebon, Denpasar, Flores Timur, Kendari, Lombok Barat, Maluku Utara and Samarinda.

<sup>47</sup> T.K. Oey observed the first session in Kendari, Sulawesi Tenggara, 5-7 July 2002.

officials who practice corruption believe that their acts do not violate the law. All in all, the corruption problem is so rampant that even the outgoing chief representative of the World Bank, Mark Baird, proclaimed that corruption is the most serious economic problem – and that he did not expect much improvement any time in the near future.<sup>48</sup>

The Partnership's program on good governance pays a great deal of attention to this issue. Almost all institutions and donor countries, either individually or under the umbrella of UNDP, have set up programs related to corruption. The Partnership has issued several publications and launched campaigns to enhance the awareness of the people, so that they can monitor themselves and report corruption cases to the authorized apparatus.<sup>49</sup> Other assistance has been given to several government institutions, but this is limited to capacity building.

A considerable amount of assistance has been invested to public education. It is difficult to measure the effects since the effects remain a matter of perception. However, CSOs could in the future develop indicators such as: the number of corruption cases investigated and brought to court within a certain period of time, the increase/decrease in the number of persons accused of corruption that are tried and sentenced, increased monitoring by CSOs through the establishment of institutions that give access to the government documents and files, the formation of institutions with a far-reaching mandate to eradicate corruption, and so on.

The indicators used are quite general, so they will not enable the public to evaluate achievement. Several surveys conducted by the media indicate that the level of people's trust in the government bureaucracy to manage public funds has steadily decreased. On the one hand, this is an indication that public awareness of corruption has increased. On the other hand, it shows that the eradication of corruption has not yet reached a significant level.

Considering that the Partnership's program to combat corruption is limited to capacity building of the apparatus, its achievement is also difficult to measure. CSOs can play a bigger role by determining new indicators, such as increased supervision of the performance of the government or political parties via an investigating body whose members are drawn from both the government apparatus and CSOs. Another indicator might be the reduction of bureaucratic corruption, which could be periodically indicated in a report drawn up by the government in cooperation with members of civil society. Still another possibility would be open reports from political parties concerning the dismissal of party officials who have proved to violate the law – not just officials who have tarnished the party's reputation.

It may be a sound political analysis that corruption is at the core of all inequalities and impunity. Corruption is not only a violation of the economic rights of people to participate equally in economic development, including the right to maintain ones economic activities

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<sup>48</sup> Jane Perlez: "World Banker assails Indonesia's corruption". The New York Times, 28-08-2002.

<sup>49</sup> Lihat *Mencuri Uang Rakyat: 16 Kajian Korupsi di Indonesia* (Stealing the Money of the People: 16 Reviews on the Corruption in Indonesia), that is composed of four volumes and published by Yayasan Aksara. Another program is a special supplementary publication concerning corruption, in cooperation with the *Tempo* magazine.

without fear of the necessity for bribery. Corruption also leads to the abuse of power when the judiciary itself can be bribed with impunity.

The issue of corruption cannot be addressed without examining the role of the army in economic life. The army has developed a tradition of self-financing. The salaries received from the state are a fraction what is actually required. In this period of deep economic difficulties, a new type of economy is emerging. The army is increasingly involved in a kind of 'war economy.' The business activities of army personnel are primarily illegal activities such as levying illegal taxes, extortion, trafficking in women, prostitution etc. In conflict areas like Aceh, Maluku and West Papua economic activities also include wide-scale illegal logging and the smuggling of luxury goods into the country.

#### **4.3.6 military reform**

Military reforms are crucial for the success of any democratic reform. The present situation shows that the military can continue dominating the political agenda of reforms, blocking any step that infringes upon their turf. At the moment, it appears as though any attempt to uncover the real business interests of the TNI may put one's life in serious danger. On the legislative front, the long drawn out tug-of-war over the MPR membership of the military and police is symptomatic for this difficult process. It is justifiable to conclude that the road towards civilian supremacy over the military is still a long way off.

From the perspective of human rights, the reform of the military in Indonesia is the first step toward attaining good governance. In the existing program of the Partnership, however, this issue has never been touched upon. Instead of limiting the powers of the military, the present attitude of donor countries and the international arena actually supports the strengthening of the military institutions that were once hit so hard because of their appalling human rights record. The September 11, 2001 incident in the United States of America became a new motive to strengthen military cooperation under the banner of "anti-terrorism." Improvement in relations such as this, without resolving past cases of violations, and with no guarantee that the same violations will not be repeated in the future, is actually a setback for reforms and the enforcement of good governance based on human rights<sup>50</sup>. Under the government of Megawati all these problems have become very apparent. The situation in Aceh has dramatically worsened, with more civilian casualties in the first half of 2002 than in the entire year 2001. In West Papua, formerly Irian Jaya, the murder of Theys Hiyo Eluay bears all the hallmarks of a military operation. Indeed, 11 KOPASSUS troopers have been so far indicted for the murder. This could only have happened through the unity of the West Papuan people and the strong international support and political pressure.

Now that the US have decided to restart military cooperation in the wake of their global war against terrorism, the initiative has come from outside and the TNI clearly enjoys its new status as an ally. It indeed justifies the prominent role the military still play in all fields of society. A more strategic long-term approach would be to help the training of a civil police force and in the education of judges and prosecutors in applying human rights standards.

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<sup>50</sup> Interview with the Director of PUSDEHAM Surabaya, Drs. Aribowo, June 2002.

The problem is not perhaps that the military are really so strong, but rather that the civilians are themselves too weak. Most CSOs would readily admit this, and in a recent expert meeting on military budget in Jakarta the participating CSOs have come up with a few steps to improve the role of CSOs<sup>51</sup>: to get CSO experts involved and well versed in the state budget and military budget, and to investigate off-budget military resources and spending. The civil society also needs to come up with its own white paper on defence strategy. Only then it can put flesh on the demand for civilian control over the military.

As a bridge to link the government and the private sector with the civil society, the Partnership should have played a more active role in getting the process of military reform on the agenda. The absence of an analysis on militarism itself and agenda for its changes, and the absence of indicators to measure results are the greatest fundamental weaknesses of the program on good governance of the Partnership. And as we can see from the descriptions below, it also affects the success of other sectoral reform programs.

## 5 Conclusions and recommendations

As a general conclusion, an activist firmly stated that the good governance projects are actually only good for the free market economy, but do not solve the problems of the farmers and workers who are impaired by this economic system.

Per sector the following may serve as conclusions of a midterm monitoring exercise:

- judicial reform: Almost all activities of the Partnership are directed toward supporting existing state institutions without considering the importance of changing the structure and authority itself which lie at the root of the problem.
- economic reform: A rights-based approach is lacking, according to the Indonesian CSOs; objectives should be included which address questions of equality – equitable income distribution, gender budgeting, and the fundamental economic rights and opportunities necessary for obtaining a decent life.
- public administration: The Partnership has so far conducted only a few workshops in conjunction with the government for introducing the concept and principles of good governance; there has been no talk of basic changes in the structure, function and authority of the civil bureaucracy.
- decentralisation: Decentralisation is regarded as a fundamental step forwards towards increased participation of the population in general. But decentralisation at present is more often than not bound to fail, not in the least because of more than three decades of rigid authoritarian rule with no opportunities for participation. Decentralisation, as it is practiced today, has not yet developed check-and-balance mechanism with sufficient parliamentary control.
- combatting corruption: The level of people's trust in the government's competence to manage public funds has decreased steadily. On the one hand, this is an indication that

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<sup>51</sup> Expert meeting on military budget, 10/7/02 in Jakarta, organized by INFID & KontraS.

public awareness of corruption has increased. On the other hand, it shows that the eradication of corruption has not yet reached a significant threshold.

### **5.1 Recommendations to the Partnership**

- ❖ Develop new path to enhance the effectiveness of empowerment and provide political education to the people, particularly in terms of knowing the importance of getting involved in the governance in Indonesia. Related to this is the importance an proactive approach to reduce the mutual mistrust among stakeholders.
- ❖ Develop – with many others internationally – indicators on the implementation of human rights and a just and sustainable development. Until now, the existing Governance Reform has not come up with clear-cut indicators to measure its achievements and this has opened the opportunity for reinterpretation and apologies if certain program components have not been successful.
- ❖ Look at the necessity to tackle the military reform. Civilian control over the military has to be translated in concrete measures.
- ❖ The struggle against corruption should be an important objective for policy making. Indicators and benchmarks should be developed and publicized.

### **5.2 To the Dutch government**

- ❖ Draft and develop policy papers containing a political analysis which assesses a minimum number of issues for a given country, such as: history, current political situation (national, regional and international), the human rights situation and the economic situation. In addition to stressing the human rights impact of policy, the issue of corruption should be addressed as part of an overarching policy-formulating cycle.
- ❖ In the choice between multilateral and bilateral aid, prioritise along the lines of the national priorities and assess the results critically. The effectiveness of multilateral aid tends to be more difficult to assess and, as such, is less result-oriented than bilateral aid.
- ❖ Develop priorities leading to a real sense of ownership for the people concerned, not the government.

### **5.3 To the Indonesian stakeholders**

- ❖ Form a CSO alliance with the other sectors to formulate a definition of good governance that is based on rights and justice. A meeting or study should be conducted to map out different perspectives. Then we can form a joint work framework with clearer evaluation standards and indicators.
- ❖ Form a CSO alliance with business groups, civilian bureaucracy, country and donor institutions, and international civil society organizations, to push for changes in the structure of the military. It is necessary to conduct meetings/workshops to identify common interests that can be formulated into a joint agenda.
- ❖ Several additional steps can be taken by the civil society organizations in Indonesia:
  - Conduct participatory research in the different layers and sectors of society as a basis for formulating a clear and firm reform agenda. This agenda should be further

disseminated with stepwise changes that include measurable indicators and a schedule for attainment.

- Formulate a pattern of cooperation for development, one that is primarily related to the interests of the many. Work together with international civil society organizations. The funds that are used by countries and donor institutions are basically collected from the public of the country of origin and they should work together to monitor and control its use in an effective manner.
- Conduct a comprehensive audit on the reform agenda since 1998. This activity will be useful for a comparison with state-of-the-art ideas and practices of reform.

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## Annex 1: A Human Rights Approach to Good Governance

- A Proposal for human rights objectives and indicators for the Partnership for Governance Reform in Indonesia.
- This matrix is a reformulation by the authors of the objectives of the Partnership into human rights objectives and verifiable indicators. This reformulation is based on experience and observations from the Indonesian CSOs. This matrix is open for further debate.

Objectives of the Partnership	Human rights objective	Intermediate objectives	Indicators	Expected results
Judicial sector reform	Legal reform	Abolition of repressive laws.  Support Commission on National Law.	Decision in DPR/MPR. CSO monitoring. Success of CNL.	Freedom of opinion. Dismantling anti-subversion act. International guarantees translated into national law.
	Integrity of judiciary	Persecution of corrupt judges. Code of conduct for law enforcement personnel.	Indictments of corruption. Consultations on code of conduct. CSO monitoring.	Return of confidence in rule of law. Code of conduct as reference for inside and outside judiciary.
	Implementation of the rule of law	More proactive prosecution policy . Code of conduct for police personnel	Results of CSO monitoring. Consultations on code of conduct. No corruption cases	Equality before the law. Code includes a redress clause and anti-corruption clause.
Civil service reform	A just and fair treatment of civilians by their authorities	Complaint procedures in function. Ombudsman. Financial transparency.	Non-discrimination. No corruption cases. Public scrutiny by CSOs.	Civil service is accessible to all. Civil service is accountable. Civil service is transparent.
Legislative empowerment	Trustworthy representation in MPR/DPR	Democratic composition of MPR/DPR.  Pro-active members of MPR/DPR represent general interests.	No appointed members.  Integrity of members. No corruption cases.	MPR/DPR considered as representing all sectors of society. Mutual respect among members.

Objectives of the Partnership	Human rights objective	Intermediate objectives	Indicators	Expected results
		Members are aware of human rights aspects.	Training of members CSO-monitoring.	Human rights DPR commission
	Gender equality	Empowerment of women Training of all members. Political Caucus. Debate on obstacles for women.	Number of male/female candidates. Quality of women activity. Number of women parliamentarians. Mainstreaming gender. CSO-monitoring.	Gender equality has increased Number of women parliamentarians has increased. Male parliamentarians also take care of gender issues.
Electoral reform	Democratic elections	Electoral laws reform	International comparison CSO-monitoring No money politics	Democratic elections in 2004
	Election monitoring structure	Open facilities for CSO monitoring	CSO election observation	Positive judgement from domestic Observers
Civil society strengthening and reform	Critical appraisal of governmental policies by CSOs/NGOs	Development of critical attitude.  Training in administrative and political decision making Financial sustainability  Code of conduct No limitations as to political activity	Rational critical exchange of opinions. Training of NGOs/CSOs.  Fundraising opportunities, financial integrity.  Consultations on code of conduct. Scrutiny of NGO-laws	Free and fair exchange of views.  Quality of CSOs as interlocutor. Domestic and international funding.  Code of conduct. Reform of NGO-laws
Decentralisation and regional autonomy	Human rights assessment of regional autonomy legislation	No discrimination based on ethnicity. National equality access to resources.	CSO-monitoring	Equal access to national resources
	Equal implementation of socio-economic rights	Equal distribution of resources among regions	Scientific research on comparable situations among regions	No illegitimate difference in living conditions among regions

Objectives of the Partnership	Human rights objective	Intermediate objectives	Indicators	Expected results
	Political flexibility	Adaptations because of inter-regional and inter-ethnic tensions	CSO-monitoring	Legal reform according to democratic political process
	Accountability regional governments	Observe Trias Politica. Increasing competencies of regional parliaments. Training regional parliamentarians.  Identifying inter-regional, ethnic tensions and obstacles	Division between legislative, executive and judicial powers. Strong and open debate on DPRD level. Enhanced capacities of DPRD members. Improved legal system.	Real checks and balances at regional level.  Real decentralisation to provincial level.  New laws to overcome obstacles.
Anti-corruption	Implementation of socio-economic rights without preferences, discrimination or conditions	Improvement of anti-corruption legislation	Improved legal system. CSO monitoring.	Transparent decision making about improved laws.
		Prosecution of all corruption cases	Increase in number of cases. Higher level of suspects being prosecuted (the big fishes). Number of convictions. CSO monitoring.	Fair trials for suspects. Implementation of punishment.
		International advocacy	Enhancing domestic CSO activity	International cooperation structures
Military Reform	Civilian supremacy over the military	Professionally functioning army, following a civilian-led defence strategy	Conviction of human rights violators,  Accountability of the military-linked businesses	Reduction of human rights violations  Reduction of power abuses.

## Annex 2: Additional policy objectives for consideration by Dutch policy makers

Human rights objectives for development policy with the related indicators.

As explained in the chapter on human rights impact assessment, from such a list of objectives it is possible to choose priorities for implementation. To improve Indonesian ownership on Dutch development policy, a debate by Indonesian CSOs is very appropriate.

<i>Objectives proposed for the Dutch policy in general</i>	<i>Human rights objective</i>	<i>Intermediate objectives</i>	<i>Indicators</i>	<i>Expected results</i>
<i>Constitutional reform</i>	<i>Completely new constitution</i>	<i>Securing human rights guarantees</i>	<i>Compliance with international human rights instruments</i>	
		<i>Translation of constitutional guarantees in national law</i>	<i>Compliance with international human rights standards</i>	
<i>Human rights based development policies</i>	<i>HR are considered the objective, the means and the indicators for development</i>	<i>use human rights impact assessment in policy formulation</i>	<i>Human rights standards as to CP and ESC-rights</i>	
<i>Truth and reconciliation</i>	<i>Fight impunity</i>	<i>Debate on truth and/or reconciliation and/or prosecution</i>	<i>Open public debate with CSO and international input</i>	<i>Consensus in society on prosecution and/or reconciliation</i>
		<i>Legal reform to really prosecute human rights violation from the past</i>	<i>Improvements from the current ad hoc trials</i>	<i>Fair trials for human rights violators</i>
<i>Personal security</i>	<i>No HR violations by the army</i>	<i>Army back to the barracks</i>	<i>Professional army under civil control</i>	
			<i>Transparency in finances</i>	
	<i>No HR violations by police</i>	<i>Professional police</i>	<i>Quality levels and decency of policing</i>	
	<i>Adherence to the rule of law</i>			
<i>Strengthening civil society</i>	<i>Checks and balances between</i>	<i>Human rights based approach</i>	<i>Quality of shadow reporting for</i>	

<i>organisations</i>	<i>government and non-governmental organisations</i>		<i>international instruments</i>	
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