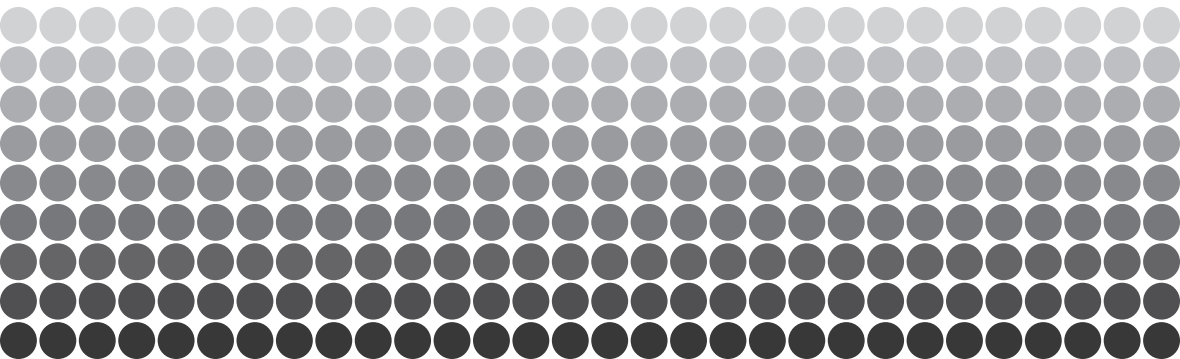


SIPRI YEARBOOK 2013

Armaments, Disarmament and International Security

Two case studies in the governance of
military budgeting and expenditure:
Colombia and Indonesia

SAM PERLO-FREEMAN AND CARINA SOLMIRANO



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V. Two case studies in the governance of military budgeting and expenditure: Colombia and Indonesia

SAM PERLO-FREEMAN AND CARINA SOLMIRANO

The importance of sound governance of government expenditure in promoting development is widely recognized. Where transparency and accountability are lacking, spending may be inefficient and wasteful, fail to match the needs and priorities of a country's population, or be squandered in corruption. Due to the sensitivity and secrecy associated with the military sector, military spending is often the least transparent area of the government budget. Opaque military budgeting practices are a near global problem, affecting regions more or less intensely around the world.¹

However, there are signs that transparency is improving in many regions, as the various 'waves of democratization' that have taken place in Eastern Europe, Latin America and parts of Asia over the past 30 years have in turn led to greater transparency in the military sector, although the military budget can be one of the last areas to see such change.²

This section looks at progress in improving transparency in Colombia and Indonesia. Indonesia is a recent democracy with a history of military influence in politics and the economy, which has been undergoing a process of security sector reform since 1999; while Colombia has a much longer tradition of civilian control of the military, but its long-running civil war, accompanied by a culture of impunity in relation to human rights abuses, creates a different set of challenges for transparency.

The terms transparency and accountability can be used in varying ways. In particular, there is an important distinction between transparency in the context of interstate relations, referring to the voluntary disclosure of information (especially relating to defence and security), which may be part of confidence-building measures, and transparency as an aspect of internal governance, referring to the ability of citizens to access relevant information on government activities.³ The two clearly overlap, as information available to citizens is also available to other states; but the two

¹ A SIPRI study analysed the sources of deficiencies in military budgeting practices in its 8 case study countries in Africa. Omitoogun, W. and Hutchful, E. (eds), SIPRI, *Budgeting for the Military Sector in Africa: The Processes and Mechanisms of Control* (Oxford University Press: Oxford, 2006). Similar problems affect other regions.

² See e.g. Solmirano, C. and Bromley, M., *Transparency in Military Spending and Arms Acquisitions in Latin America and the Caribbean*, SIPRI Policy Paper no. 31 (SIPRI: Stockholm, Jan. 2012). SIPRI researchers have also noted an increase in the quality of information available for many countries in Central Europe and in parts of Asia over the past 10–20 years.

³ On confidence-building measures in Asia and the Americas see chapter 9, sections IV and V, respectively, in this volume.

senses of transparency serve different purposes and are measured in different ways.⁴

‘Transparency’ is taken here to include both transparency of information and transparency of process. Transparency of information is determined by whether information on the military budget and actual spending is readily available to the public, and the level of reliability, detail and comprehensiveness of this information. Transparency of process is determined by whether budgetary decision making is open and visible, with the reasons for spending clearly outlined. ‘Accountability’ includes (a) accountability of the budget decision process, to parliament and to citizens; (b) the implementation of expenditure, that is if spending—and especially procurement—is controlled by rigorous procedures and subject to civilian control; and (c) auditing and parliamentary scrutiny of military spending, with improper practices investigated and prosecuted. There are thus many ways in which transparency and accountability can be lacking.⁵ Some of these are enumerated below.

1. *Lack of effective defence policy and planning.* Many countries lack effective defence policy and planning. Military budgeting and procurement should be clearly linked to established defence policy goals. However, many countries lack a well-defined defence policy that spells out the country’s security needs. As a result, decision making is carried out in a policy vacuum, wasting money on unnecessary systems while failing to meet genuine security needs and enhancing the risk of corruption. Even when defence policies are clearly elucidated, policy and budgeting may be disconnected from procurement practice.

2. *Weak civilian and democratic control.* Many developing countries, even those with generally democratic governments, suffer from weak civilian and democratic control of the military, especially concerning parliamentary oversight. There are several reasons for this. Lack of capacity or interest by parliamentarians can be a major obstacle to proper scrutiny, as can lack of political will.⁶ This can result from an ingrained belief that the military sector is an area outside parliamentary purview. The military itself may discourage ‘interference’ from the parliament, or indeed from the civilian government more generally. The consequence is a deficient assessment of

⁴ See e.g. Solmirano and Bromley (note 2).

⁵ Many of these issues are discussed in e.g. Ball, N. and le Roux, L., ‘A model for good practice in budgeting for the military sector’, eds Omitoogun and Hutchful (note 1); Solmirano and Bromley (note 2); and Perlo-Freeman, S. and Perdomo, C., ‘The developmental impact of military budgeting and procurement: implications for an arms trade treaty’, Report prepared for Oxfam GB, Apr. 2008, <<http://www.sipri.org/research/armaments/milex/publications/unpubLmilex/>>.

⁶ See e.g. Born, H., Fluri, P. and Johnson, A., *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices* (Geneva Center for the Democratic Control of Armed Forces: Geneva, 2003), p. 38.

military needs against other public priorities, often to the military's advantage. In some newly democratizing countries, entrenched military privileges may restrict effective civilian control of the military, by the parliament or even by the defence ministry.

3. *Insufficient transparency.* Governments and militaries often use claims of sensitivity or security concerns as an excuse for secrecy, resulting in insufficient transparency in defence budgeting and procurement. It is argued that the military requires special treatment compared to other government sectors, since it deals with national security matters. The result is insufficient disclosure of the military budget, with only figures for broad budget subcategories publicly available. This makes it difficult for the parliament and other civilian bodies to monitor and control the military budget.

4. *Extra-budgetary and off-budget military spending.* In many countries, the defence budget is supplemented by extra-budgetary and off-budget military spending, which can compromise transparency and accountability. Extra-budgetary spending occurs when the military is financed from non-military sections of the state budget. This may include, for example, science or infrastructure budgets, special presidential funds or foreign loans which are repaid by the finance ministry (rather than the defence ministry). Extra-budgetary spending is often neither clearly disaggregated nor reported, making it hard or impossible to disentangle all elements of military spending. Off-budget spending comes from sources outside the state budget altogether. This may include dedicated natural resource funds used for arms purchases, payments from the private sector for security, or income from military business activities. Off-budget finance may allow the military to procure arms without oversight from the parliament or the defence ministry, with one negative outcome being that purchases are not assessed against strategic needs. Off-budget spending means that resources are allocated to the military outside of any general budget deliberations, and in many cases automatically, without relation to an overall assessment of defence needs, and without the possibility of weighing them against other possible uses.

5. *Inadequate monitoring, control and auditing.* Inadequate monitoring, control and auditing of military spending facilitates corruption and waste. A SIPRI study of budgeting practice in Africa has found extremely weak capacity for controlling spending in many of its case study countries, and there are likely to be similar weaknesses in many other countries.⁷ Public scrutiny institutions, in particular audit institutions, anti-corruption agen-

⁷ eds Omitoogun and Hutchful (note 1).

cies and parliamentary public accounts committees may be reluctant to investigate the military, or may be actively prevented from doing so.⁸

Colombia

Colombia's five-decade war against guerrilla and drug trafficking groups has been the primary determinant of the country's level of military expenditure. Despite the long-running civil war and severe problems of human rights abuses by the security forces, Colombia has no recent history of military rule. It has had a civilian defence minister since 1991 and generally demonstrates strong civilian control of the military. Transparency in military spending is also fairly good, and has been improving in recent years. However, significant problems remain, especially in relation to off-budget sources of funding.

Transparency in military budgeting

Following a joint review in 2010 by the Colombian Ministry of National Defence (MND) and the National Planning Department (Departamento Nacional de Planeación, DNP) of the overall methodology to measure Colombia's military expenditure, there have been some improvements in military budget transparency.⁹ The purpose of the revised methodology was to present a clearer picture of military and security expenditure in Colombia.

Information about the military budget is publicly available, including disaggregated information about both operational and investment expenses. The annual budget law provides a limited degree of detail regarding expenditure, in particular for arms acquisitions. In contrast, the MND publishes an annual plan of acquisitions in considerable detail. In the past, the MND has published information related to the implementation of security policies, including the execution of acquisition projects.¹⁰

The overall budgetary process for the MND involves both military and civilian individuals and agencies such as the DNP, the Ministry of Finance and Public Credit, the Congress and the Comptroller General's Office, among others. The National Development Plan is the core input for budget

⁸ For reasons of space, the following case studies do not address issues relating to the decision-making processes for military spending. In particular, while the lack of a proper parliamentary role in decision making is a problem in both Colombia and Indonesia, a proper discussion of this would require a far longer piece.

⁹ See Colombian Ministry of National Defence (MDN) and National Planning Department (DNP), *Metodología para el cálculo del gasto en defensa y seguridad* [Methodology for the calculation of spending on defense and security] (MDN/DNP: Bogota, 2010).

¹⁰ Department of National Planning official, Author's interview, Mar. 2010.

programming, security policies, guides of strategic planning and sectorial analyses. It sets the national budgetary priorities.¹¹

Transparency in arms procurement

In the past 11 years, a number of transparency-related initiatives have been introduced in Colombia. Some of the most important of these related to military spending are defence integrity pacts, anti-corruption documents and centralized procurement practices. Although transparency in the arms procurement process has improved somewhat, the results of the efforts to diminish corruption have been mixed overall.¹² In 2002 the MND requested the assistance of Transparencia por Colombia (TC)—the local chapter of Transparency International—to ‘find mechanisms to reinforce transparency in defense procurement processes’.¹³ TC recommended the use of defence integrity pacts (DIPs): legally binding agreements, overseen by an independent monitor, signed by competing bidders for a contract and the agencies involved in the procurement process. TC also recommended an anti-corruption commitment document, subsequently combined with the DIP policy into a single, unified document.¹⁴ In 2004 Transparency International, through its chapters in Colombia and the United Kingdom, helped the MND to implement an integrity pact in a tender process for the acquisition of 22 aircraft worth \$237 million, intended for use for drug interdiction.¹⁵ A strong rationale for this transparency exercise was Colombia’s desire ‘to attract a wider range of potential contractors as many companies believed that corruption and human rights issues detracted from Colombia as an appropriate marketplace’.¹⁶

Six companies expressed interest in bidding, but the tender process collapsed after the withdrawal of all but one company.¹⁷ The MND ultimately decided to continue negotiating with the remaining company, Embraer.¹⁸ Although the exercise of the integrity pact could not be finalized, important lessons were drawn for future implementation of such

¹¹ Department of National Planning official (note 10).

¹² Ospina Robledo, R. I., ‘Los pactos de integridad: una herramienta para buscar limpieza en contrataciones de interés público’ [Integrity pacts: a tool for seeking probity in public-sector contracting], Conference on Transparency and Development in Latin America and the Caribbean, Inter-American Development Bank, May 2000, <<http://www.iadb.org/leg/Documentos.asp>>, p. 1.

¹³ Transparencia por Colombia and Transparency International UK, ‘Defence procurement and integrity pacts in Colombia, Report 1: smaller contracts’, Mar. 2006, <<http://www.ti-defence.org/publications/617-defence-procurement-and-integrity-pacts-in-colombia-report-1>>, p. 3.

¹⁴ Transparencia por Colombia and Transparency International UK (note 13), pp. 4–8.

¹⁵ Transparency International UK, ‘Defence procurement and integrity pacts in Colombia, Report 2: combat aircraft’, Mar. 2006, <<http://www.ti-defence.org/publications/711-defence-procurement-and-integrity-pacts-in-colombia-report-2>>.

¹⁶ Transparency International UK (note 15), p. 7.

¹⁷ The 5 companies that withdrew identified a series of reasons for withdrawing, including insufficient time for bid preparation, perceived favouritism of turboprop over turbofan, and the high cost of shipping airframes to Colombia for evaluation. Transparency International UK (note 15), p. 12.

¹⁸ Transparency International UK (note 15).

pacts. The most important was the determination by the Colombian Air Force and the MND to show their commitment to a transparent procurement process.

In 2011 the Minister of National Defence, Rodrigo Rivera Salazar, issued a new directive to centralize acquisitions in the MND, rather than under the three services. The goal of this new directive is to strengthen controls in order to avoid corruption, following a scandal involving the Fondo Nacional para la Defensa de la Libertad Personal (Fondelibertad, National Fund for the Defence of Personal Liberty), which coordinates the resources used in the fight against kidnapping and is controlled by the MND. More than 3000 million pesos (\$1.7 million) was allegedly diverted from the fund through the signing of irregular contracts.¹⁹

The use of extraordinary resources and the role of civil society

Another notable area of improvement in transparency related to military spending is connected to oversight of extraordinary resources received by the Ministry of National Defence. In 2002, as the civil war intensified, the Colombian Government declared a state of siege and requested the moral and financial support of the population to preserve the security of the country.²⁰ The administration of President Alvaro Uribe decided to increase the military budget by implementing a one-time wealth tax, the Impuesto a la Seguridad Democrática (democratic security tax).²¹ Between 2002 and 2003, the government collected more than \$800 million.²² The tax was renewed, under different names, for the periods 2004–2006, 2007–10 and 2011–14 with variations in the tax rate.²³

In 2007, to monitor the execution of expenditure from these resources, the MND created the Committee on Ethics and Transparency, consisting of businessmen, academics, members of non-governmental organizations and former defence ministers. The committee was invited to participate in the definition of projects that the MND would execute with the extraordinary

¹⁹ 'El Ministerio de Defensa de Colombia centralizará el sistema de adquisiciones de material' [The Colombian Ministry of Defence will centralize its acquisitions system], Infodefensa.com, 21 Mar. 2011, <<http://www.infodefensa.com/?noticia=el-ministerio-de-defensa-de-colombia-centralizara-el-sistema-de-adquisiciones-de-material>>; and 'Santos ordena intervenir Fondelibertad por presunta corrupción' [Santos orders intervention of Fondelibertad for alleged corruption], *Semana* (Bogota), 12 Nov. 2010.

²⁰ Lozano, P., 'Uribe decreta el estado de excepción en Colombia para frenar a las FARC' [Uribe decrees a state of emergency in Colombia to stop the FARC], *El País* (Madrid), 13 Aug. 2002.

²¹ The tax rate was 1.2% calculated on the value of liquid assets owned on 31 Aug. 2002 by both natural and legal persons with gross assets over 165.5 million pesos (\$92 000). Colombian Ministry of Finance and Public Credit, Decreto Reglamentario Pago de Impuesto a la Seguridad Democrática [Decree regulating payment of the democratic security tax], Decree no. 1949 of 2002, 22 Aug. 2002, <http://www.presidencia.gov.co/prensa_new/decretoslinea/>.

²² Pino, H. N., *Gasto público y justicia en Centroamérica* [Justice and public spending in Central America] (Comisión Económica para América Latina y el Caribe: Mexico City, Oct. 2011), p. 31.

²³ See Pino (note 22), p. 31.

resources. All procurement projects for the period 2007–10 were presented to the committee.²⁴ It also received auditing reports prepared by the MND's Office of Internal Control.²⁵ According to Juan Manuel Santos, who was Minister of National Defence at the time and became president in 2010—the committee 'became an open forum of discussion that allowed us to guide important decisions to strengthen the security of the country and to make the execution of resources more accountable'.²⁶ In 2009 the MND announced that the committee, which had not been intended to be permanent, would continue to operate, as a new pool of extraordinary resources was approved for the period 2011–14.²⁷ In March 2012 the committee was revived again to monitor the allocation of more than 7 billion pesos (\$4 million) from the wealth tax.²⁸ The ongoing work of the committee is another step on the path to improving transparency and accountability of the government's policies.

Extra-budgetary resources

Two sources of extra-budgetary military spending represent a gap in Colombia's otherwise positive efforts to increase and improve transparency: the Fondo de Seguridad Territorial (Fonset, territorial security fund) and security service agreements between the MND and the national oil company, Ecopetrol.

At the provincial and municipal level, security forces receive funds from Fonset, which was created in 1997. The money for the fund is derived from contracts signed between the province or municipality and corporations, whereby corporations pay 5 per cent of the total value of the contract to the public body with which has contracted.²⁹ These resources are used for military purposes including acquisition of war materiel, reconstruction of barracks and other facilities, purchase of communication equipment, and

²⁴ Transparency International UK (TI), Defence and Security Programme, *A Review of Anti-Corruption Reform Measures in the Defence Sector in Colombia* (TI: London, May 2011), p. 7.

²⁵ Colombian Ministry of National Defence, Administrative Department of Security, Ministry of Finance and Public Credit, and National Planning Department (DNP), *Política de consolidación de la seguridad democrática: fortalecimiento de las capacidades del sector defensa y seguridad* [Policy for consolidation of democratic security: capacity building of the defence and security sector], Conpes Document no. 3460 (DNP: Bogota, 26 Feb. 2007), pp. 21–22.

²⁶ Santos, J. M., Minister of National Defence, *Consolidación de la seguridad democrática: Un esfuerzo con decisión y resultados* [Consolidation of democratic security: an effort with determination and results] (Ministry of National Defence: Bogota, 2009), p. 44 (author's translation).

²⁷ 'Colombianos sabrán en que se invertirá impuesto al patrimonio: Mindefensa' [Colombians know that the estate tax will be reversed: defence minister], *El Espectador* (Bogota), 30 Dec. 2009.

²⁸ 'MinDefensa presenta comisión de ética y transparencia' [Ministry of Defence presents ethics and transparency commission], Terra, 17 Mar. 2012, <<http://noticias.terra.com.co/nacional/min-defensa-presenta-comision-de-etica-y-transparencia,1e54fall1bd026310VgnVCM3000009afi54dORC RD.html>>.

²⁹ Ley 1106 de 2006 [Colombian law no. 1106 of 2006], *Diario Oficial* (Bogota), no. 46 490 (22 Dec. 2006), Article 6.

installation of intelligence networks.³⁰ Each fund is managed separately by the provincial governor or town mayor administering the contract.³¹ It is unclear if any monitoring mechanism has been in place since the introduction of Fonset, or if information about the execution of spending from these resources has been made available. Moreover, there is no evidence in the provincial or municipal budgets that these funds are included in reported military spending. In 2010 the Colombian Senate requested that the Ministry of Justice and Interior put a system in place to monitor the investment made with territorial funds.³²

A second source of extra-budgetary funds for military spending comes from security service agreements between the MND and the national oil company Ecopetrol and its subsidiaries. Ecopetrol provides funding for military and security forces in exchange for protection of the infrastructure of oil companies.³³ These agreements started as a result of increasing attacks on oil pipelines and related energy infrastructure in the 1990s.³⁴ Some limited information on the agreements is available on Ecopetrol's website, and the MND publishes a list of the agreements, which includes the amounts that oil companies transfer to the military. However, these reports are not presented in a systematic way, making it difficult to monitor how money is spent. It is also unclear whether these funds are included in the reporting of the overall budget and expenditure of the MND. In the past five years, as oil exploration has expanded in Colombia, so have attacks on extraction infrastructure, leading to questions of whether oil companies should have their own private security forces to compensate for the lack of manpower supplied by the armed forces.³⁵ This has implications for future agreements, as it is uncertain if the Colombian military will be able to continue providing protection to the country's more than 130 oil exploration

³⁰ Colombian Ministry of the Interior and Justice, 'Asuntos territoriales y de orden público' [Land affairs and public order], <[http://www.mij.gov.co/econtent/newsdetailmore.asp?id=1458andidcompany=>](http://www.mij.gov.co/econtent/newsdetailmore.asp?id=1458andidcompany=).

³¹ Secure Departments and Municipalities Programme, 'Instrumentos para el manejo y la gestión local de la seguridad ciudadana y el orden público' [Instruments for handling and local management of public safety and public order], Document no. 2, 2005, <<http://www.resdal.org/ultimos-documentos/policia-instrumentos-colombia.pdf>>, p. 18.

³² Ley 1421 de 2010 [Colombian law no. 1421 of 2010], *Diario Oficial* (Bogota), no. 47930 (21 Dec. 2010), Article 6.

³³ Villamizar, A. et al., *Transparencia del presupuesto de defensa: El caso de Colombia* [Defence budget transparency: the case of Colombia], RESDAL Research Paper (RESDAL: Buenos Aires, July 2005), p. 65.

³⁴ Schemo, D. J., 'Oil companies buying an army to ward off rebels in Colombia', *New York Times*, 22 Aug. 1996.

³⁵ Molinsky, D., 'Oil companies in Colombia say security is government's job', *Colombia Reports*, 10 Aug. 2011, <<http://colombiareports.com/colombia-news/economy/18216-oil-companies-in-colombia-say-security-is-governments-job.html>>.

fields. In 2011 the Minister of Defence, Juan Carlos Pinzón, announced that 6000 more troops would be assigned to protecting the oil fields.³⁶

Indonesia

The extensive security sector reform that accompanied Indonesia's transition to democracy after the downfall of the dictatorial President Suharto in 1998 has largely ended the military's dominant role in politics. Some of the key reforms include the separation of the military from the police; the removal of the political role of the Indonesian armed forces (Tentara Nasional Indonesia, TNI), including its reserved seats in the parliament; the creation of a civilian Ministry of Defence (MOD); and the publication of defence white papers in 2003 and 2008 that establish an overarching policy framework for military-related decisions.³⁷

However, while the TNI no longer seeks to interfere in politics, democratic civilian control of the military remains weak, and serious gaps in transparency and accountability in relation to military finance, budgeting and procurement remain, although some progress has been made in these areas. Some of the main ongoing problems include a fairly poor level of general transparency of military spending; weak democratic civilian control of the military; the military's private income-generating activities; and high levels of corruption, especially in arms procurement.

Civilian control of the military

Meaningful democratic, civilian control over the military is still limited in Indonesia. The political accountability of the TNI to the MOD is legally ambiguous, and the relationship between the two bodies has been described by one commentator as one 'of equals' as opposed to one of clear subordination. Notably, the TNI commander-in-chief is also a full member of the cabinet. A 2004 act stated that the TNI headquarters may be placed under the full control of the MOD in future, but no timetable has been set for this.³⁸ A further problem is that, while the defence minister is a civilian, key positions in the MOD are mostly staffed by uniformed officers, meaning that, in practice, the military itself remains largely in charge of defence policy formation. Commentators have described TNI Headquarters as

³⁶ 'Gobierno aumentará protección a sectores petrolero y minero' [Government will increase protection to oil and mining sectors], Terra, 9 Nov. 2011, <<http://noticias.terra.com.co/nacional/gobierno-aumentara-proteccion-a-sectores-petrolero-y-minero,389e647f58a83310VgnVCM3000009af154d0RCRD.html>>.

³⁷ On Indonesia's military reform process and its limitations see e.g. Anggoro, K., 'The Department of Defence of the Republic of Indonesia: civil supremacy without effective control', ed. B. Sukadis, *Almanac on Indonesian Security Sector Reform 2007* (Geneva Centre for the Democratic Control of Armed Forces: Geneva, 2007); and Rüländ, J., Manea, M.-G. and Born, H. (eds), *The Politics of Military Reform: Experiences from Indonesia and Nigeria* (Springer: Heidelberg, 2012).

³⁸ Anggoro (note 37).

having ‘tacit control’ of the MOD bureaucracy and the development of its defence policy, with the MOD providing cover for military errors and malpractice.³⁹

Budget reporting

Transparency of Indonesia’s defence budget—as with other areas of the budget—is mediocre. Most budget lines are only disaggregated into broad categories.⁴⁰ The military budget in particular is typically broken down by service or by functional categories of personnel, functional expenses and procurement. Only very general information on the reasons for military spending are provided. While there has been increased disaggregation in recent years, and the 2012 budget provided a breakdown both by service and by major categories within each service, the Indonesian military budget still falls well short of providing a detailed picture of military spending. Additional funds for arms procurement provided by export credit facilities based on foreign loans are also reported within the defence budget.⁴¹

Military businesses and other income-generating activities

One of the most serious gaps in the economic transparency and accountability of the TNI has been its various sources of off-budget finance. Of these, the most important was the TNI’s large-scale business activities, a feature of the Indonesian armed forces since their origins as a guerrilla movement in the struggle for independence. Largely through a network of ‘cooperatives’ and ‘foundations’, the TNI owned 1520 businesses in 2005; in 2008, these businesses owned assets of 3.2 trillion rupiah (about \$349 million).⁴² It is unclear how revenue from these businesses is used. One Indonesian military analyst suggests that the revenues from this source that are available for military operations amount to just 1.5–3 per cent of the official military budget.⁴³ While revenue generated by the military businesses is officially claimed to support the military as an institution for purposes such as improving the welfare of troops, it appears that the funds are directed

³⁹ Anggoro (note 37); Sebastian, L. C. and Gindarsah, I., ‘Assessing 12-year military reform in Indonesia: major strategic gaps for the next stage of reform’, S. Rajaratnam School of International Studies (RSIS) Working Paper no. 227, 6 Apr. 2011, <http://www.rsis.edu.sg/publications/Working_papers.html>; and Al-Ahlaq, M., ‘The role of civil society organisations (CSOs) in security sector reform’, ed Sukadis (note 37).

⁴⁰ See e.g. Indonesian Ministry of Finance, ‘Nota keuangan dan anggaran pendapatan dan belanja negara: tahun anggaran 2013’ [Financial memorandum and budget revenue and expenditure: financial year 2013], <<http://www.anggaran.depkeu.go.id/dja/edef-konten-view.asp?id=945>>.

⁴¹ Al-Ahlaq (note 39); and Sebastian and Gindarsah (note 39).

⁴² More recent figures do not seem to be available. Michaels, S. and Haryanto, U., ‘What’s the Indonesian military’s business’, *Jakarta Globe*, 11 May 2012.

⁴³ Jaleswari Pramodhawardani of the Indonesian Institute of Sciences, quoted in Michaels and Haryanto (note 42).

elsewhere. A 2006 report argued that a significant portion of the revenue is being channelled to individuals through the military hierarchy, with the lion's share going to senior officers and smaller amounts going to those lesser in command.⁴⁴

A law passed by the Indonesian Parliament in 2004 ordered all military-run businesses to be taken over by the government by 2009. Following slow progress in implementing this law, a further presidential decree in 2009 reiterated the divestment order, and by 2011 the process was said to be complete by the government.⁴⁵ However, civil society and media sources argue that the law and its implementation have not gone far enough, bringing about only a partial withdrawal of the military from business activities, and failing to create transparency in what remains. The 2009 decree forbade direct military involvement in businesses but allowed continued indirect ownership, though the TNI's cooperatives (of which there were 13 in 2011) and foundations (of which there were 1301 in 2011).⁴⁶ While it is claimed that serving military personnel are no longer directly involved in the running of these organizations, their profits still go to the military. Moreover, there has been little transparency in the process of divestment and of restructuring of the foundations and cooperatives, and there is little monitoring of their current activities.⁴⁷

The military also earns revenue from leasing as much as 2500 square kilometres of land to the private sector. The TNI is legally required to obtain permits for the leasing, but as of 2012 it had obtained permits for less than 1 per cent of such land. Investigations by the Audit Board (Badan Pemeriksa Keuangan, BPK) have found that the TNI has failed to return lease-related revenue to the government, as required by the 2004 divestment law and 2009 decree.⁴⁸

A further means by which the military has secured off-budget revenue is, or has been, by acting as a 'gatekeeper'—in return for payment—for access to business licensing at the local level. Other sources of off-budget revenue include proceeds from illegal activities such as illegal logging and direct payments for providing security for domestic and international business. For example, in 2002 Freeport, a United States-based mining firm,

⁴⁴ Misol, L., *Too High a Price: The Human Rights Cost of the Indonesian Military's Economic Activities* (Human Rights Watch: New York, June 2006).

⁴⁵ Michaels and Haryanto (note 42); and Peraturan Presiden Republik Indonesia nomor 43 tahun 2009 tentang Pengambilalihan Aktivitas Bisnis Tentara Nasional Indonesia [Decree of the President of the Republic of Indonesia number 43 of 2009 on the Takeover of the Business Activity of the Indonesian National Army], 11 Oct. 2009, <<http://www.bphn.go.id/jdih/index.php?action=reg&cat=regPeraturanPusat&cid=2009121805000003>>.

⁴⁶ Misol, L., *Unkept Promise: Failure to End Military Business Activity in Indonesia* (Human Rights Watch: New York, Jan. 2010); and Michaels and Haryanto (note 42).

⁴⁷ Michaels, S. and Haryanto, U., 'Who is minding the Indonesian military's business ties?', *Jakarta Globe*, 13 May 2012.

⁴⁸ Michaels and Haryanto (note 47).

admitted to paying the Indonesian military tens of millions of dollars to protect its operations in West Papua.⁴⁹ Although information on specific cases is difficult to obtain, it is thought that this type of transaction remains a widespread phenomenon in Indonesia.⁵⁰ The overall sums involved in this type of practice cannot be assessed.

The significance of off-budget revenue to overall Indonesian military spending is thus hard to gauge. In the past, Indonesian generals have claimed that the state budget accounted for only 25 per cent of the military's funding. However, this may well be self-serving, as a means of justifying the off-budget financing of military activity due to the inadequacies of the state budget.⁵¹ But such activities and their related revenue are, in any event, highly problematic. Even when they are not illegal, they are almost completely non-transparent, represent a source of funding outside of civilian control or budgetary planning process, and are highly susceptible to corruption. It has also been alleged that the practices of military-run businesses—especially concerning resource exploitation and providing protection to private companies—frequently involves human rights abuses.⁵² As recently as 2011 there have been reported incidents in which civilian protestors were killed by the military in protests related to land disputes between the TNI and local people.⁵³

Corruption

Corruption in Indonesia was endemic under the Suharto regime, and tackling corruption has been a major theme of the post-Suharto reform process. According to Transparency International's Corruption Perceptions Index, Indonesia's position has improved steadily since 2003, rising from a score of 1.9 out of 10, in 122nd place out of 133 countries surveyed, to a score of 3.2 in 2012, in 118th place out of 180.⁵⁴

In particular, Indonesia's military sector is highly corrupt. While much of the corruption related to the military sector is associated with the military's independent business activities, there is also evidence of corruption related to regular military expenditure. In two random surveys of military budget disbursements in 2009 (mostly relating to operational expenditure), the BPK found \$15.7 million in financial deviations. However, as the BPK has no law-enforcement role, the finding did not lead to any consequences. The

⁴⁹ Misol (note 46).

⁵⁰ Carter, S., International Crisis Group, Conversations with author, Jakarta, Mar. 2013; and Prajuli, W., Institute for Defense, Security and Peace Studies, Conversations with author, Jakarta, Mar. 2013.

⁵¹ Misol (note 44).

⁵² Misol (note 46).

⁵³ Michaels, S. and Haryanto, U., 'The hazy state of the Indonesian military's land', *Jakarta Globe*, 14 May 2012.

⁵⁴ Transparency International (TI), *Corruption Perceptions Index*, 2003–12 (TI: Bonn, 2003–12).

MOD's management and control of military expenditure is worsened by its own cumbersome bureaucracy that mirrors the military hierarchy.⁵⁵

A major problem in tackling corruption in the Indonesian military is that the 2002 law establishing Indonesia's Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK) exempted the military from investigation by the KPK.⁵⁶

The most severe corruption problem faced by the MOD is probably found in the area of arms procurement. Speakers at an anti-corruption seminar in January 2008—attended by members of civil society and MOD officials among others, including the head of the MOD procurement department—stated that due to corrupt pricing practices and political interference the costs of weapons were systematically increased. While numerous cases of corruption had been identified over the years few had been prosecuted.⁵⁷ In 2007 the Minister of Defence, Juwono Sudarsono, complained of persistent 'middlemanship' in arms procurement, accusing parliamentarians of involvement. Meanwhile, the head of the Parliamentary Defence Committee blamed the MOD for the same thing.⁵⁸ There have been significant efforts to try to curb corrupt arms procurement practices. For example, in 2005, a system of 'defence integrity pacts' (described above) was introduced for contracts involving export credit (i.e. foreign loan) facilities.⁵⁹ However, as of January 2013, no information on procurements made involving defence integrity pacts has been made available. In further attempt to tackle corrupt military spending, in 2011 the MOD established another commission, the Consulting Team to Address Misappropriation in the Procurement of Goods and Services, to attempt to tackle the problem.⁶⁰ However, at least one newspaper report—which quotes arms brokers themselves as well as military officers, members of civil society and parliamentarians—documents the ongoing active involvement of brokers in arms deals, and implicates legislators associated with parliamentary budget discussions in seeking commissions to approve procurement projects. The cost of arms deals was still inflated by commissions and other expenses, such as lavish travel and entertainment spending for senior officers travel-

⁵⁵ Sebastian and Gindarsah (note 39).

⁵⁶ Sudarsono, J., former Defence Minister, Interview with author, Jakarta, Mar. 2013; and Undang-Undang Republik Indonesia Nomor 30 Tahun 2002 tentang Komisi Pemberantasan tindak Pidana Korupsi [Law of the Republic of Indonesia no. 30 of 2002 on the Corruption Eradication Commission], enacted 27 Dec. 2002, <http://portal.mahkamahkonstitusi.go.id/eLaw/perundangan_uu_detail.php?peraturan=fc77969a>.

⁵⁷ Khalik, A., 'Arms procurement dogged by markups', *Jakarta Post*, 26 Jan. 2008.

⁵⁸ 'The politics of defense budgeting in Indonesia', Institute for Defense, Security and Peace Studies, *Newsletter*, no. 4/09, 11 June 2009, <http://idsps.org/index.php?option=com_docman&task=doc_details&gid=179&Itemid=15>.

⁵⁹ Widjajanto, A., 'Transforming Indonesia's armed forces', *UNISCI Discussion Papers*, no. 15 (Oct. 2007).

⁶⁰ 'Indonesia: Kemhan, TNI to form supervisory body to address corruption linked to procurement process', *Jakarta detikcom*, 10 Jan. 2011, Translation from Indonesian, Open Source Center.

ling to supplier countries; the reports suggested that anti-corruption procedures had merely generated extra bureaucracy, lengthening the time taken to conduct procurement, but had not adequately or directly addressed the issue of corruption.⁶¹

Similar to Indonesia's overall reform efforts, improving transparency and accountability in military expenditure and finance has been gradual and patchy. However, the efforts continue, and they retain the attention of the government, the parliament, civil society and the media. The experience of Indonesia suggests that, even when the military withdraws from politics and accepts subordination to civilian control, bringing military finances under such control can continue to be difficult.

⁶¹ Afrida, N. and Widhiatro, H., 'Buying the right to snap up arms contracts', *Jakarta Post*, 6 Oct. 2011; and Afrida, N. and Widhiatro, H., 'Lengthy, costly arms deals put TNI firepower at risk', *Jakarta Post*, 6 Oct. 2011.