

Global Power Shift

Jürgen Rüländ
Maria-Gabriela Manea
Hans Born *Editors*

The Politics of Military Reform

Experiences from Indonesia and Nigeria

 Springer

Global Power Shift

Comparative Analysis and Perspectives

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Freiburg and Geneva
February 2012

Jürgen Rüländ, Maria-Gabriela Manea,
and Hans Born

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List of Abbreviations and Acronyms

| | |
|-------------|---|
| ABRI | Angkatan Bersenjata Republik Indonesia, Armed Forces of the Republic of Indonesia |
| ALKI | Alur Laut Kepulauan Indonesia, Indonesia's Archipelagic Sea-Lanes |
| AU | African Union |
| Babinsa | Bintara Pembina Desa, Village Territorial Command of Indonesian Armed Forces |
| Bamus | Badan Musyawarah, Steering Committee of the Indonesian Parliament |
| BAIS | Badan Intelijen Strategis, Armed Forces Intelligence Agency |
| BAKIN | Badan Koordinasi Intelijen Negara, State Intelligence Coordinating Agency |
| Bakorstanas | Badan Koordinasi Bantuan Pemantapan Stabilitas Nasional, Coordinating Agency for National Stability |
| BBC | British Broadcasting Corporation |
| BDAT | British Defense Advisory Team |
| BIA | Badan Intelijen ABRI, ABRI Intelligence Agency |
| BIN | Badan Intelijen Negara, National Intelligence Agency |
| BMPIU | Budget Monitoring and Price Intelligence Unit |
| BNPT | Badan Nasional Penanggulangan Terrorisme, National Anti-Terrorism Agency |
| bpd | Barrel per day |
| BPK | Badan Pemeriksa Keuangan, State Auditing Board |
| Brig. Gen. | Brigadier General |
| C4ISR | Military capabilities (sea-worthy surface combatant force, anti-submarine warfare capability, amphibious assault ships, long-range combat aircraft, strategic airlift and aerial-refuelling capabilities, surface-to-air missile defense, and command, control, communication, computer, intelligence, surveillance and reconnaissance) |

| | |
|-----------|--|
| CBN | Central Bank of Nigeria |
| CDD | Centre for Democracy and Development |
| CDS | Chief of Defense Staff |
| CGI | Consultative Group in Indonesia |
| Coker | Christian Boys |
| CSC | Command Training and Staff College |
| CSIS | Center for Strategic and International Studies |
| CSO | Civil Society Organization |
| DCAF | Centre for the Democratic Control of Armed Forces |
| DDR | Disarmament, Demobilization and Reintegration |
| Densus 88 | Detasemen Khusus 88, Special Detachment 88 |
| DFID | Department for International Development |
| DOM | Daerah Operasi Militer, Military Operation Zone |
| DPR | Dewan Perwakilan Rakyat, People's Representative Council |
| DPDR | Dewan Perwakilan Rakyat Daerah, Regional People's Representative Council |
| DRC | Democratic Republic of Congo |
| ECOWAS | Economic Community of West African States |
| EEZ | Exclusive Economic Zones |
| EFCC | Economic and Financial Crimes Commission |
| FKM | Front Kedaulatan Maluku, Maluku Sovereignty Front |
| GAM | Gerakan Aceh Merdeka, Free Aceh Movement |
| GDP | Gross Domestic Product |
| GBHN | Garis Garis Besar Haluan Negara, Broad State Policy Guidelines |
| Gen. | General |
| GNP | Gross National Product |
| Golkar | Golongan Karya, Party of the Functional Groups |
| HRW | Human Rights Watch |
| ICG | International Crisis Group |
| IDEA | International Institute for Democracy and Electoral Assistance |
| IDR | Indonesian Rupiah |
| IGSR | Institute of Governance and Social Research |
| IISS | International Institute for Strategic Studies |
| IMET | International Military Education and Training Program |
| IMF | International Monetary Fund |
| Imparsial | The Indonesian Human Rights Monitor |
| ISEAS | Institute of Southeast Asian Studies |
| ISTF | Internal Security Task Force |
| IYC | Ijaw Youth Council |
| JACON | Joint Action Committee of Nigeria |
| JI | Jemaah Islamiyah |
| JTF | Joint Task Force |
| KILTV | Koninklijk Instituut voor Taal-, Land en Volkenkunde |
| KKR | Komisi Kebenaran dan Rekonsiliasi, Truth and Reconciliation Commission |

| | |
|------------|---|
| Kodahan | Komando Daerah Pertahanan, Joint Regional Defense Commands of Indonesian Armed Forces |
| Kodam | Komando Daerah Military, Regional Military Command of Indonesian Armed Forces |
| Komnas HAM | Komisi Nasional Hak Asasi Manusia, Indonesian Human Rights Commission |
| KontraS | Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan, The Commission for “The Disappeared” and the Victims of Violence |
| Kopassus | Komando Pasukan Khusus, Special Force of Indonesian Armed Forces |
| Kopkamtib | Komando Operasi Pemulihan Keamanan dan Ketertiban, Command for Restoring Order and Security of Indonesian Armed Forces |
| Korem | Komando Resort Militer, Resort Military Command of Indonesian Armed Forces |
| Kostrad | Komando Cadangan Strategis Angkatan Darat, Strategic Reserve Command of Indonesian Armed Forces |
| KOTER | Komando Territorial, Territorial Command System of Indonesian Armed Forces |
| KPK | Komisi Pemberantasan Korupsi, Corruption Eradication Commission |
| LBH | Lembaga Bantuan Hukum, Legal Aid Institute |
| LIPI | Lembaga Ilmu Pengetahuan Indonesia, Indonesian Institute of Sciences |
| LOGOS | Local Government Studies |
| Lt. Gen. | Lieutenant General |
| Mabas TNI | Markas Besar, Indonesian Armed Forces Headquarters |
| Maj. Gen. | Major General |
| MEF | Minimum Essential Force |
| MEND | Movement of the Emancipation of the Niger Delta |
| MOOTW | Military Operations other than Warfare |
| MOSOP | Movement for the Survival of the Ogoni People |
| MPOL | Mobile Police (Nigeria) |
| MPR | Majelis Permusyawaratan Rakyat, People’s Consultative Assembly |
| MPRI | Military Professional Resource International |
| MSDO | Most Similar Cases Different Outcomes |
| NABRO | National Assembly Budget and Research Office |
| NADECO | National Democratic Opposition |
| NATO | North Atlantic Treaty Organization |
| NBA | Nigerian Bar Association |
| NDA | National Defense Academy |
| NDC | National Defense College |
| NDPVF | Niger Delta Peoples Volunteer Front |
| NDV | Niger Delta Vigilante |

| | |
|---------------|---|
| NEMA | National Emergency Management Agency |
| NGO | Nongovernmental Organization |
| NIPSS | National Institute for Policy and Strategic Studies |
| NKRI | Negara Kesatuan Republik Indonesia, Unitary State of the Republic of Indonesia |
| NMS | Nigerian Military School |
| NNSBS | Nigerian Navy Special Boat Seals |
| NRC | National Redemption Council |
| NSC | National Security Council |
| OBR | Ogoni Bill of Rights |
| OECD | Organization for Economic Cooperation and Development |
| Pacivis-UI | Civil Society Platform, University of Indonesia |
| Pamswakarsa | Pasukan Pengamanan Masyarakat Swakarsa, Paramilitary Auxiliary Units |
| PAN | Partai Amanat Nasional, National Mandate Party |
| PARP | Policy Analysis and Research Project |
| Pertamina | Perusahaan Tambang Minyak Negara, National Oil Company |
| PDI | Partai Demokrasi Indonesia, Indonesian Democratic Party |
| PDI-P | Partai Demokrasi Indonesia – Perjuangan, Indonesian Democratic Party for Struggle |
| PDP | People’s Democratic Party |
| PERPRES | Peraturan Presiden, Presidential Regulation |
| PEPABRI | Persatuan Purnawirawan dan Warakawuri TNI dan POLRI, Retired-military and police officers organization |
| PKB | Partai Kebangkitan Bangsa, National Awakening Party |
| PKI | Partai Komunis Indonesia, Indonesian Communist Party |
| PP | Peraturan Pemerintah, Government Regulation |
| PPKN | Kantor Perbandaharan dan Kas Negara, State Treasury Office |
| PPP | Partai Persatuan Pembangunan, United Development Party |
| PRC | Provisional Ruling Council |
| Prolegnas | Program Legislasi Nasional, National Legislation Program |
| POLRI | Kepolisian Negara Republik Indonesia, Indonesian National Police |
| ProPatria WG | Kelompok Kerja Reformasi Sektor Keamanan Indonesia, Indonesia’s Working Group on Security Sector Reform |
| rtd. | Retired military officer |
| SADC | Southern African Development Community |
| SIPRI | Stockholm International Peace Research Institute |
| Sishankamrata | Sistem Pertahanan dan Keamanan Rakyat Semesta, Total People’s Defense and Security System |
| Sishanta | Sistem Pertahanan Semesta, Total Defense System |
| SNC | Sovereign National Conference |
| SPDC | Shell Petroleum Development Corporation |
| SSR | Security Sector Reform |

| | |
|--------|---|
| TNI | Tentara Nasional Indonesia, Indonesian Armed Forces |
| TRADOC | Training and Doctrine Command |
| VAB | Véhicule de l'Avant Blindé |
| UN | United Nations |
| UNPO | Unrepresented Nations and Peoples Organization |
| US | United States |
| USAID | United States Agency for International Development |
| WG | Working Group |

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Part I
Introduction

Chapter 1

The Politics of Military Reform in Indonesia and Nigeria

Jürgen Rüländ and Maria-Gabriela Manea

The end of the Cold War seemed to dramatically enhance the opportunities for the global expansion of democracy. By the early 1990s, many former allies of the Soviet Union had embarked on fundamental political and economic reforms and Western countries had ended their support of authoritarian regimes in the name of anti-communism. At the same time, Western governments had initiated democracy promotion programs, as did international organizations and transnational civil society advocacy networks (Carothers, 1999; Jetschke, 2010; Schraeder, 2002).

Less than a decade later the hopes for a universal democracy dividend had faded and analysts painted a much bleaker picture. In 1996 Larry Diamond pointedly asked whether the Third Wave was already over (Diamond 1996). By that time the number of so-called electoral democracies, that is, political systems with competitive elections but major flaws of the democratic process, had markedly increased, while the spread of liberal democracies stagnated (Diamond & Plattner, 1996, p. 28). A few years later, Carothers (2002) and Levitsky and Way (2002) even diagnosed that the majority of new democracies had become hybrid political systems, a category “*sui generis*” filling the broad continuum between democracy and autocracy.

Scholarly attention thus shifted to the factors impeding the consolidation of democracy. This shift brought back into view civil-military relations as an increasing number of successful and aborted military coups suggested that the armed forces are a major veto player in the democratization process.¹ Yet these coups do not constitute a fully-fledged reversal of democratization. Rather than succumb

¹ Cases in point are Pakistan and Ivory Cost (1999), Ecuador (2000), Central African Republic (2002), Sao Tomé and Príncipe and Guinea-Bissao (2003), Haiti (2004), Ecuador, Togo, Nepal, Mauritania (2005), Thailand and Fiji (2006), Guinea (2008), Honduras (2009), Niger (2010). See Antony Adolf, Military Coups Make Comeback, <http://news.change.org/stories/military-coups-make-a-comeback> (accessed 18 October 2011).

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to open military incursions into civilian politics, many new democracies have remained halfway houses because the armed forces tenaciously defend the reserved domains they had carved out for themselves under the preceding authoritarian regime(s) (Croissant, Kühn, Chambers, & Wolf, 2010). Hybrid political systems thus often coincide with abandoned or stalemated military reforms. While paying lip service to the new democratic order, the military continues to adhere to anti-liberal ideas and to frame its power aspirations in nationalist rhetoric.

With the insight that democratic consolidation and military reform are inextricably intertwined, thinking on civil-military relations markedly changed. The former concept of civilian control that dominated early theories of civil-military relations (Finer, 1962; Huntington, 1957; Janowitz, 1965) has in the meantime given way to the more ambitious concept of democratic control of the armed forces. This concept emanated from the empirical context of established democracies, especially the U.S., which under Cold War circumstances was concerned with ensuring the subordination of a well funded and powerful military-industrial complex to elected political authority. Beyond the issue of subordination, there was a concrete concern with civilian formulation of defense policy while, at the same time, ensuring that, at the operational level, the military is effective, efficient and accountable (Feaver, 2005). As Bruneau and Matei argue, Western democracies sought to balance internal and international security with freedom at home (Bruneau & Matei, 2008, p. 911).

However, the limitations of this approach are obvious when looking into civil-military issues in the political life of non-Western countries that are in transition from authoritarian to democratic government. The role of the military in the democratic consolidation (Agüero, 1995; Bruneau & MacLeod, 1986; Croissant & Kühn, 2007; Linz & Stephan, 1996; Pion-Berlin, 2001) or “deconsolidation” (Bruneau & Matei, 2008, p. 912; Trinkunas, 2005) brought to the fore the problem of how to reverse military control of the polity into the polity’s control of the armed forces and how to persuade the latter to support democracy. In search of new conceptual tools, the Security Sector Reform (SSR) paradigm emerged as a response to these new challenges and subsequently evolved into the new orthodoxy employed by most Western governments and international organizations in their democracy promotion projects. The British Department for International Development (DFID) and international non-governmental organizations such as the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF) devised SSR as a policy template in their programs supporting the reform of security services in Central and Eastern Europe, in the successor states of the former Soviet Union and in post-conflict and transformation countries worldwide (Cawthra & Luckham, 2003; Cottey, Edmunds, & Forster, 2002a, 2002b; Beeson & Bellamy, 2008, p. 18). The SSR stressed the concept of democratic control that builds upon a comprehensive understanding of security within democratizing states, beyond the establishment of civilian control. The problem with civilian control is that it can also be exerted by unelected civilians or “by only one dominant civilian element in the post-authoritarian transition [which] can reinforce the very manipulability of the armed forces that the regime change aimed to remove” (Mietzner, 2009, p. 5). Moreover, the SSR scope goes

beyond the military organization, also including peace support operation forces, paramilitaries, intelligence agencies, justice and law-enforcement institutions (police), civilian structures that manage them, legislatures, representatives of civil society, expert communities and media (Hänggi, 2003, p. 10). The SSR paradigm essentially re-defines security, linking it to wider political, economic, social and cultural transformations under democratic consolidation and expands the range of legitimate actors (from security actors and government to societal actors, legislatures, media and experts) influencing policy-making in this field (Bruneau & Matei, 2008, p. 913). Establishing democratic control is then the result of concerted action of a wider range of state and non-state institutions with the legitimacy to decide over and/or influence the security sector.

The SSR paradigm and especially the policy projects conducted under its auspices have often been criticized as “normative” (Mietzner, 2009, p. 7) and Western-centric. The normative element derives from the implicit ambition of the SSR paradigm to provide (uniform) standards against which the progress of military reform can be assessed. Although we share this critique, we nevertheless embed our study in the SSR literature, albeit in a modified form. We believe that, despite its Eurocentric origins, perhaps the most significant value of the SSR paradigm consists in its dual theoretical foundation in the field of civil-military relations as well as the democratization-transformation literature. We find the governance perspective championed by the SSR paradigm analytically useful because it transcends the classical focus on the executive level shared by the majority of civil-military studies and also includes a broad array of societal actors central to democratic consolidation. Such a holistic analytical lens is particularly conducive to capturing the historical, cultural and structural-institutional factors shaping civil-military relations and influencing processes of democratization in non-Western contexts. It enables the contributors to this volume to show how uniquely security governance can be played out within each newly democratizing country and how diverse civil-military relations may be, even between countries that share structural similarities and are homogeneously labeled as developing, post-colonial, Southern, “Third Wave” new democracies.

We also decided not to treat the whole gamut of security agencies covered by SSR in this volume but to focus our analysis on one particular agent, the military. While the broader SSR paradigm may indeed allow the design of a more holistic and systematic reform agenda, it blurs the centrality of the military to the success of democratic transitions. The armed forces are still the most important actor in the security field with sizeable influence on almost all other security dimensions. The military usually has its own intelligence apparatus and active or former military officers serve in civilian intelligence agencies. The armed forces also frequently have a major hand in the organization, training and deployment of paramilitary troops and militias. Even after the separation of the police from the armed forces, a reform considered fundamental in the SSR literature, the military often remains formally or informally responsible for a wide range of internal security functions which may greatly impact on police actions. Likewise, more than any other security agency, the military’s handwriting is visible in defense doctrines and national

security strategies. Finally, after regime change dozens of retired military officers join political parties and participate in the civilian policy-making process as legislators or cabinet members. In short, we believe that military reform in democratizing states involves more than intra-military institutional dynamics and military-executive relations. It has to be addressed in relation to the dynamics and actors of democratization and the analysis has to “thickly” contextualize the research variables in each particular study.

Why Indonesia and Nigeria?

At center stage of this volume are the politics of military reform in Indonesia and Nigeria, two major Third Wave democracies. To compare military reform in a Southeast Asian and a West African country may at first glance look odd. It seems to contradict Lijphart’s advice to structure small-N comparisons around a culturally homogenous set of cases, drawn mainly from a region or sub-region (Lijphart, 1971). Yet, most non-Western regions hardly share so many commonalities as to consider them homogeneous units. Cross-regional comparisons, with cases selected carefully, thus do not deliver less relevant insights for generating new hypotheses and theory-building.

Indonesia and Nigeria have been selected as cases on the basis of a Most Similar Cases Different Outcomes (MSDO) design (Berg-Schlosser, 1999). Both countries share a number of salient structural similarities which qualify the two cases for MSDO. Both countries underwent regime change at virtually the same time in 1998, in both cases regime change was “pacted” (that is, a compromise between exponents of the *ancien régime* and reformists), both are presidential political systems, both have an entrenched military sector with strong corporate interests, both are resource-rich countries and both are multiethnic societies with Islam and Christianity as the two major religious denominations.² That Indonesia and Nigeria are also major regional powers with potential influence on their neighbors further qualifies them as “most important cases” (Friedrichs & Kratochwil, 2010). The degree to which rising regional powers control their militaries may allow us to make projections on their future behavior in an international order characterized by major power shifts, which – as power transition theory posits (Kugler, Lemke & Tammen, 2000) – increase the danger of wars. Variance exists regarding the dependent variable, that is, the outcome of military reform, which is more advanced in Indonesia than in Nigeria. The chapters of this volume will thus search for the factors accountable for the variation in outcome and identify in detail the main actors and key issues in military reform.

² However, with 88% of the population compared to only about 10% for Christianity, Islam is clearly the dominant religion in Indonesia. In Nigeria, Islam (51%) and Christianity (48%) have an almost equal share of the population.

Studying Civil-Military Relations in Indonesia and Nigeria

Studies of civil-military relations in Indonesia and Nigeria have been largely detached from theoretical debates on civil-military relations and democratic transition. Few studies work with mainstream theories such as Huntington's professionalism thesis (Huntington, 1957), Feaver's principal-agent theory (2005), Bland's regime theory (1999) or actor-oriented institutionalism (Croissant & Kühn, 2007). Even fewer of these studies contribute innovatively to theory-building in civil-military relations and democratic transition. If referring to theory at all, they eclectically pick theoretical arguments from classical texts and build their hypotheses on them. Examples are frequent references to Huntington's writings on military professionalism and Finer's argument that the level of engagement of the armed forces in political affairs rises and falls with the effectiveness of civilian governance (Alagappa, 2001; Jemibewon, 1998; Mietzner, 2009, 2011a; Nainggolan, 2010). Few studies operate with typologies and those that do are strongly inspired by early modernization theory (Adejumobi, 2002; for a critical comment, see Mietzner, 2009, p. 13, 21). An exception in this respect is Rinakit who distinguished three types of civil-military relations in Indonesia in which the armed forces acted as "spoiler", "critical supporter", or "political tool" of the executive (Rinakit, 2005, p. 12). Most studies on civil-military relations in Indonesia and Nigeria thus have the status of empirically grounded case studies.

The missing nexus between mainstream theorizing and country studies must also be attributed to the frequent claim of scholars that most theories of civil-military relations are Western-centric and normative and hardly apply to the specific conditions of Indonesia and Nigeria. Mietzner, for instance, criticizes that "classic theories of military intervention in politics have largely focused on open interventions by the armed forces and the formal mechanisms of their political participation" (Mietzner, 2009, p. 2, 3). In Mietzner's view, these theories are insufficient "to describe the fluid power relations in emerging political systems, with militaries often using their non-institutional powers to gain access to political and economic resources" (ibid.; similar Croissant et al., 2010). Beeson came to similar conclusions, stressing that in Indonesia "the boundaries between the political, economic, and military realms are generally blurred and imprecise. . ." and that "familiar conceptual frameworks [thus] need to be treated with caution" (Beeson & Bellamy, 2008, p. 478). Luckham concurs, arguing for West Africa that the fluid contexts of political transitions have created "new problems for analysis, including how to decipher underlying shifts in military power relations when these are no longer flagged by open military intervention" (Luckham, 2003, p. 11). Another trend is to reflect on indigenous models of civilian and democratic control suitable to the African states as exemplified by Quaker Dokubo's search for an African model of civil-military relations (Quaker-Dokubo, 2002). We largely agree with these assessments and thus opt in this volume for a historically grounded, culturally sensitive, policy-oriented analysis, with the perspective that the insights provided may serve as building blocks for the development of new hypotheses and a less Western-centric approach to theory-building.

Overall, the literature on Indonesia is more diverse than on Nigeria. There is a large body of publications both in Indonesian and English language, covering a broad range of issues. It spans the entire period from the Japanese occupation during

the Second World War (when the Japanese organized the first armed Indonesian formations) to the post-Suharto era. Topics include military organization (Lowry, 1996), military factionalism and its impact on government stability (Honna, 2003), the relationship to Islam (Mietzner, 2009), military doctrine (Sebastian, 2006), military business (Human Rights Watch, 2006; Mietzner, 2008), human rights issues (Human Rights Watch, 2006), the military in civil war zones (Heiduk, 2009) and local government-military relations (Mahroza, 2009). More recently, mainly driven by a growing epistemic community, an increasingly technical and policy-oriented literature (Rahakundini Bakrie, 2009; Rieffel & Pramodhawardani, 2007; Widjajanto, Kurniawan, & Tirtawinata, 2008) focuses on the legal aspects of military reform, military business, military budgeting, modernization of equipment, defense planning and responses to new non-conventional security threats such as terrorism, piracy, and armed separatism (Bertrand, 2004). Cornell University's journal *Indonesia* regularly publishes data about the career patterns and social background of top-ranking Indonesian military officers, data sets unmatched in Nigeria. Much of the Indonesian literature is empirically rich, based on extensive field work and provides, as the fledgling genre of publications by retired military officers illustrates, insider accounts from the perspective of the military (Chrisnandi, 2007; Mahroza, 2009; Panjaitan, 2009; Syahnakri, 2010).

The Nigerian literature, especially if authored by local scholars, tends to be more ideological and less empirical. It is often of a journalistic, descriptive character and exudes less concern for systematic analysis. A lack of policy orientation and a neglect of micro or local level politics are also characteristic for many of these studies.

The comparatively thin empirical base of many studies is largely owed to the fact that the Nigerian military shields its internal affairs hermetically from the view of outsiders. Many of these studies thus deal with the country's coup history, the failure of military-led democratic transition programs, ethnic issues and – less frequently – peacekeeping missions. Only recently have a few empirically substantive studies appeared on the relations between the military and the legislature (Aiyede, 2005a; Garba, 2008), military budgeting (Omitoogun & Oduntan, 2006) and military reform (Fayemi & Olonisakin, 2008; Yoroms, 2005). Some of these Nigerian scholars are expatriates working with international organizations (such as the Stockholm International Peace Research Institute, SIPRI, the ECOWAS Parliament and DCAF) and at Western universities, a situation that offers them better access to information as well as more protection from eventual political reprisals. Unlike in Indonesia, the community of local scholars knowledgeable in military affairs is very limited, another reason accounting for the scarcity of insightful studies on Nigerian civil-military relations.

Three Dominant Approaches

Broadly speaking, three major, sometimes overlapping, approaches used in studying civil-military relations in Indonesia and Nigeria can be distinguished. These approaches explore civil-military relations from a historical, cultural and structuralist perspective.

The merit of *historical* studies is that they reveal path dependencies and ideational continuities, although these may be weaker than often assumed (Mietzner, 2011a, p. 13). Their drawback, however, is that they are often overly descriptive. They focus on event history with limited capacities to uncover patterns and causalities. They are mainly actor-oriented and focused on intra-elite struggles, thus often defying the link with theories stressing society, economy and state institutions (Mietzner, 2009, p. 18). While a few outstanding studies rest on abundant source material (Crouch, 1988, 2010; Honna, 2003; Mietzner, 1999, 2009; Sundhaussen, 1985), many others are merely repeating in chronological order well-known facts without offering new insights. Honna's seminal study deserves particular mention, as he goes well beyond a pure historical analysis by examining how military actors frame their doctrinal discussions. His investigation of the intra-military discourses brings him close to a constructivist research perspective, which unfortunately he does not develop theoretically (Honna, 2003).³

Nigerian studies informed by an historical approach are characterized by a marked imbalance between pre-1998 military history and contemporary civil-military relations (Adekanye, 1999; Amuwo, Bach & Lebeau, 2001; Njoku, 2001; Olonisakin, 1999). Even very recent studies (Adekanye, 2005; Badmus, 2005; Jega, 2007; Ojo, 2006) are devoting more space to the country's various military dictatorships and coups than to current issues of military reform. Different from the Indonesian case, Nigerian scholars also cite colonial legacies as a major determinant of the military's hegemony in the country and the early stagnation of military reform after the transition to democracy. Moreover, the historical approach concerned with the problematic of nation-state building (Adejumobi, 2002; Centre for Democracy and Development, 1999; Clapham, Herbst, & Mills, 2006; International Institute for Democracy and Electoral Assistance, 2000) converges with legal studies that look into the constitutional development of the Nigerian state and the role played by the military in the history of constitutional change (Fayemi, 2005; Ibeanu & Egwu, 2007; Ihonvbere, 2000; Ihonvbere & Shaw, 1998; Obiyan, 2007; Ugoh, 2005).

The constitutional theme is also connected to the debate on Nigerian federalism (Elaigwu, 2005a; Elaigwu & Akindele, 2001; Elaigwu & Uzoigwe, 2001). Both topics are intertwined with the history of military coups in Nigeria, resulting in the formation of four Republics in only 50 years of independence. Federalism has been the answer to a complex process of nation-state building, preventing an imminent collapse of the state and enabling a more equitable access to national resources by all ethnic groups. The federal character of the Nigerian state is also invoked as legitimation for the ethnic composition of the military organization (Nwolise, 2002). In the light of Northerners' dominance in the military, calls for preserving

³ This raises the question whether there is a constructivist scholarship on civil-military relations at all. Alexandre Lambert recently responded to this question by stating that "it is too early to assert that there has been a "constructivist turn" in civil-military relations" (Lambert, 2011, p. 163). Yet, moves in this direction are underway. For an example, see Rüländ and Manea (2011).

the national character of the armed forces are persistent in scholarly literature as well as in public debates (Ibrahim, 2005; Yakubu, 1999).

There is thus a scholarly interest in discussing the military's role – both as a source of conflict and a provider of security – in the ethnic and religious conflicts tearing apart the Nigerian polity. A number of Nigerian scholars from the field of conflict studies have addressed such issues by combining both historical and structuralist approaches (Elaigwu, 2003; Khakee, 2008; Merz, 2009; Mijah, 2007; Nwabufo, 2005; Pratten, 2008; Ubah, 2005; Ukiwo, 2007). The structuralist framework concentrates on the political economy of these conflicts, while, at the same time, a historical perspective is adopted for examining the interplay of politics with ethnicity and religion. Such scholarship looks at the introduction of *sharia* law in the Northern states (Harnischfeger, 2006; Uwazie, Albert, & Uzoigwe, 1999), documents the high degree of militarism in Nigerian society and calls for the country's demilitarization (Adejumobi, 2000).

As Nigeria's tormented tradition of internal conflict has been the antagonistic neuralgic dimension of civil-military relations paving the way to an intense history of *coup d'états*, many studies have thus searched for political and legal solutions in order to avoid internal strife and military takeovers. Most often, they suggest either dyarchy as a system of joint civil-military leadership (Eke, 2001, p. 133) or some form of military involvement in the political and economic governance (see the contribution of Elaigwu in this book). Offering high-ranking officers a consultative role to the president, ensuring the welfare of the armed forces or allowing retired officers to run for elections are some of the proposals made (Eke, 2001, p. 141, 142). More reform-oriented views, such as re-socializing the military through a new type of political education responsive to democracy, are also in the discourse. Yet, there is a lack of empirical data as to what extent such a change of the military's corporate identity is really underway. Apart from broad references to the organization of workshops for military training and democratic education, especially during the Abubakar administration and, later, under the edifice of the Military Professional Resource International (MPRI), a U.S.-based private corporation specialized on training and consultancy, there is no other supporting evidence. Another debated issue is the negative impact that the long years of military rule have had on the military organization itself, such as its politicization, de-professionalization and underfunding, and what can be done to deal with these critical aspects in the new democratic context (Umar, 2006).

More than Nigerian studies, the Indonesian literature on civil-military relations highlights *cultural* factors as explanation for the sluggish progress of military reform. The argument here is that the officer corps is dominated by ethnic Javanese people whose culture has been depicted as being particularly averse to democratization. Javanese soldiers are socialized in political thinking that has its origin in the Hindu-Brahmanic court rules of the pre-colonial Sri Vijaya and Majapahit empires (Rinakit, 2005). At the core of these political ideas is the holistic Javanese concept of power. Rulers must amass power, if necessary without the constraints of ethical standards. This notion of power legitimizes a culture of violence which has been deeply ingrained in the Indonesian military up to the present day. Rulers as well as

power pretenders rely on soldiers as the force to protect or usurp power. In a society socialized in the value of leadership, guarding the ruler and the palace was a highly esteemed social function, bestowing on soldiers (*satria*) prestige and conferring on them special material privileges (Nainggolan, 2010). These Javanese legacies are reflected in contemporary military doctrines and the soldier's oath which still uses Javanese old language and symbols (Sebastian, 2006, p. 3).

Strengthening the anti-liberal notions inherent in the Javanese concept of power are other organicist norms derived from local customary law (*adat*). Familism (*kekeluargaan*), social harmony and the unity between leaders and followers (*persatuan kawula-gusti*) are norms which have been championed by nationalist leaders and which have found their way into the 1945 Constitution. As the birth of the Indonesian state was closely associated with these ideas and with the military claiming for itself the role of the creator and guarantor of the Indonesian unitary state, it does not surprise that despite paying lip service to democracy, the officer corps still hangs on to the organic state model. Military reform as demanded by democratic reformers is in this view perceived as a deliberate weakening of the Indonesian military, its ability to respond effectively to internal or external challenges of Indonesia's sovereignty and an undermining of the Indonesian ambitions to be a regional leader and a major player in international relations.

Cultural approaches are less prevalent in Nigeria. They are prominent in the writings of Elaigwu (see also his contribution in this volume) who by drawing from earlier studies of Mazrui (1975) and Uzoigwe (1977) argues that the SSR paradigm of an apolitical professional military under civilian and democratic control is alien to African societies. Unlike in pre-modern Europe, rule and military power were inextricably intertwined in traditional African kingdoms. The ideal king was a warrior, bestowing high social status on the latter. That the concept of an apolitical military had not taken root in Nigeria and other African countries must also be attributed to colonial legacies (Nwolise, 2002). With a colonial military force that local people experienced as a force of repression, colonialism was neither a good schoolmaster for teaching the virtues of an apolitical military nor of democracy. With these historical experiences, it is hardly surprising that – like in the Indonesian case (Sebastian, 2006) – African conceptualizations of rule are strongly flavored by notions of political realism.

It should, however, be noted that while these cultural approaches are useful to de-construct the ideational roots of anti-liberal and anti-democratic thinking, there is always the danger of essentializing culture. As much as cultural factors may be an intervening variable for explaining civil-military relations, one should take into account that the military is not an entirely homogenous grouping. The factionalization of the TNI prior and after the fall of Suharto is testimony of at least a modicum of ideological divergence within the TNI and also the Nigerian armed forces have never been unified. Moreover, revised training curricula and increasing exposure to training abroad may also slowly erode and change the organicist worldviews of Indonesian and Nigerian soldiers.

In Indonesia, with the purge of communists following the aborted coup of 30 September 1965, little space had been left for *structuralist* analyses of civil-military

relations influenced by Marxist or neo-Marxist thought. However, as much as these discourses have been inspired by dependency theory, they can be found in conservative streams of the military's discourse itself. Especially conservative military officers propagate an image of the TNI as the last guardian of the nation's natural resources and economic sovereignty which they saw under attack from Western imperialism and the forces of globalization. The financial crisis that struck Indonesia in 1997/1998 and triggered the public pressure on the military to retreat from politics, the IMF conditionalities and the separatist movements allegedly fueled and funded by foreign intelligence agencies are all seen as parts of a puzzle that hides behind a global conspiracy jeopardizing Indonesia's independence (Rahakundini Bakrie, 2009; Syahnakri, 2010). More recently, though, a paradigmatic shift seems to be underway in civil-military relations which can be observed on a broader front in comparative politics research. Studies like the one of Heiduk on civil-military relations in Indonesia, the Philippines and Thailand mark a revival of structuralism by bringing class back in as an explanatory variable (Heiduk, 2011).

Nigerian scholarship on political processes and civil-military relations has been more intensely influenced by variants of Marxist thought and dependency theory. This dynamic owes in the first place to the development of the political science discipline in Nigeria. While in the 1960s Nigerian political science was influenced by mainstream Anglo-Saxon political science exuding a concern for order, stability as well as a "formal-legal, institutionalist bias" (Jinadu, 1987, p. 60), from the mid-1970s onward it has shifted towards a theoretical, ideological, and practical focus informed by historical materialism. Institutional centers for these structuralist approaches were the University of Port Harcourt, the Ahmadu Bello University in Zaria, the Nigerian Academy for Marxist Studies, and the Nigerian Political Science Association (Ibid.: 66). This paradigmatic shift also undergirded indigenous claims for the creation of a Nigerian or African version of non-Eurocentric Marxism (Sklar, 1967). With it went a heightened concern for the contradictions and conflicts within the Nigerian polity (Ake, 1996). In opposition to modernization theory that saw a positive role for the military to play in the development of the nation as the most modern, organized, technologically skilled and educated institution, structuralist approaches took a critical view of military's role in the constitution of a rapacious indigenous bourgeoisie and a distorted political economy. Anifowoso, for instance, observes that the Nigerian state has built up security institutions to control opposition groups, repress civil society and constrain the political space. The emergent ruling elite assumed political power to widen the basis of capitalist expansion within the context of peripheral capitalism (Olurade & Anifowose, 2004). The *compradorial* nature of the local political class thus puts into question the relevance of the Western notions of governance. Their rapaciousness renders the Nigerian ruling elites open to the manipulation of foreign, powerful states, institutions and interests (Momoh, 2006). Momoh talks about three "circuits of primitive accumulation: of Capital, Power and Terror" through which Nigeria's corrupted and exploitative political class maintains itself in power. Retired and active military officers are part of this elite and an important chain in the process of accumulation (Ibid.: 28). The influence of dependency theory is apparent in such

analyses which link the military to capitalist wealth accumulation and debunk unchecked manipulation by external powers of the political economy of Nigeria. Such interpretations persist even after the military's handover in 1999 under the sometimes exaggerated significance attached to retired military officers who allegedly continue to wield immense political power either through their direct representation in the countries' legislative and executive bodies or by controlling political parties and civilian politicians (Adekanye, 1999; Amaike, 2007; Badmus, 2005; Okeke, 2007). The phenomenon of "godfatherism" is exposed as a channel for social patronage networks through which retired or active military officers are still connected to economic and political power (Abia, 2008; Ibrahim, 2003; Momoh, 2006). However, the problem with these studies is that they are overly ideological. Usually they are devoid of a systematical class analysis and an empirically grounded examination of the assumed interactions between these classes and foreign political and economic interests.

Organization of the Volume

This volume takes into account this state of the art. Despite not developing an overarching theoretical approach, it does build on the three major approaches – historical, cultural and structural – pursued so far in the study of civil-military relations in Indonesia and Nigeria. In order to uncover path dependencies and ideational roots of current civil-military relations, studies particularly rely on historical and cultural perspectives, without, however, neglecting agency and the structural dimension in the form of foreign influences on military reform. The volume transcends the existing stock of literature as it concentrates on actors and arenas which in the past have not been systematically studied in both countries. Actors can be individuals as well as collective actors. While the former are individual politicians, bureaucrats, military officers or civil society representatives, the latter include civil society, think tanks and academic institutions as well as (local) militias and paramilitary organizations. Legislatures can be both, collective actors and an arena where different actors converge for contesting the scope and depth of military reforms.

The volume is organized in five parts. **Part 1** introduces the main themes of the volume and contextualizes them in the existing body of literature (Chap. 1). **Part 2** provides a state-of-the-art overview of the military reforms conducted in Indonesia and Nigeria since 1998. The two chapters evaluating the current state of military reform confirm previous research findings that historical path dependencies and the mode of regime change are crucial for the prospects of military reform (Croissant, Kühn, Chambers, & Wolf, 2010; Mietzner, 2009). In both countries historical legacies have provided the military with an entrenched position in politics and society with important consequences for the political system emerging after regime change. Pacted transitions enabled the armed forces to retain much of their privileged position, although certainly more in Nigeria than in Indonesia. Yet, the

chapters also show that the pacted transitions differed. As Manea and Rüländ argue in Chap. 3, the Nigerian military initiated both the transition and its own internal reform in a more or less unilateral and exclusive way without any noteworthy civil society involvement and broader political participation. Unfortunately, by the time the military voluntarily retreated from the country's rulership in 1998, the fledgling civil society of the late 1980s and early 1990s had already withered away as a result of opportunistic accommodation with Abacha's military regime or simply succumbed to the latter's brutal repression. In Indonesia, on the other hand, a vocal reform movement had made military reform a major component of its agenda. The political pressure it had created through massive street demonstrations and other forms of protest forced the military to make significant concessions that went well beyond the limited internal reforms undertaken shortly after Suharto's resignation as an act of damage control.

The chapters of this part of the book also suggest that neither country went beyond first-generation reforms which Cottey, Edmunds & Foster have defined as the process of establishing the principles and structures for oversight and transparency of military affairs (Cottey et al., 2002a, 2002b). None of them has thus entered the phase of second-generation reforms which seek to entrench and consolidate democratic governance of the military sector (ibid.). Much more worrisome than this, however, is the fact that in both countries even crucial first-generation reforms seem to have remained incomplete or even have been aborted.

Sebastian and Iisgindarsah (Chap. 2) thus ask whether Indonesian military reform has come to a standstill. They show that the direct political involvement of the military may have been scaled back as a result of the reforms initiated in the immediate post-Suharto years, but it has in no way disappeared. No civilian president can govern without the assistance of the armed forces. While Sebastian and Iisgindarsah do not predict coup-style military incursions into Indonesian politics in the near future, they are certain that military influence will remain. It will ebb and flow, depending on the performance of civilian elite governance. The mindset of the officer corps has not changed markedly despite reformed training curricula and the abolition of the so-called "dual function" (*dwi fungsi*) which legitimated the military's role in politics. Part of this mindset is the continued adherence to the organic and, hence, anti-liberal state theory discussed earlier and a strong belief in the military's superiority over civilians. Such world views may further thrive in the tightly knit environment of the military which sets it apart from the wider society and which has a strong socializing effect. It is therefore by no means clear whether this ideational orthodoxy will be gradually eroded by generational change when officer cohorts, which were entirely socialized under the democratic order, rise to the top of the institution.

Sebastian and Iisgindarsah's contribution eloquently uncovers the ambiguities and omissions in Indonesia's military reform by scrutinizing the patchy and unsystematic legal framework, the budgetary gaps including the concomitant consequences for equipment, operation and military strategy and the shortcomings of democratic civilian control. Benefiting from domestic and international developments – as discussed in Rüländ and Manea's chapter on the Indonesian legislature

(Chap. 6) – the TNI regained some of its standing in society and found “a new role in defending Indonesia’s sovereign interests and combating internal threats”. Sebastian and Isgindarsah conclude that Indonesia is still a “transitional, hybrid regime of civil-military coexistence” in which the military may no longer dictate policy to civilians but yet remains an important political player “behind the scenes”.

The trajectory and the depth of Nigerian military reforms differ markedly. Military reform in Nigeria was more superficial and stagnated earlier than in Indonesia, as Manea and Rüländ argue in Chap. 3. As a result of the institutional desertification left by decades of military rule, reform of the armed forces has been an almost exclusively executive affair dominated by President Obasanjo and was implemented as a form of shock therapy immediately after his election as president in 1999. But after a few highly symbolic acts such as the early retirement of “political soldiers”, the establishment of a human rights investigation commission and the controversial hiring of an American security firm, only minor changes can be recorded for the time after 2001. There is no broader public debate on military reform given the widespread notion amongst the Nigerian public that civil-military relations have been regulated satisfactorily and exhaustively in the 1999 Constitution. While there is much criticism of the 1999 Constitution, which is regarded by many Nigerians as a legacy of the country’s military-dominated past, and while several (parliamentary) commissions mandated with the task of reviewing the Constitution have been established, civil-military relations figured only marginally in these debates. In the absence of a vocal civil society, a defense epistemic community and a legislature at the time of regime change, civilians had – and still have – only a very limited role in military reform. Reform efforts mainly concentrate on technical aspects, geared towards increasing military professionalism and improving military effectiveness through arms modernization and the reviewing of defense doctrines. Manea and Rüländ conclude that even less than in the Indonesian case, there is a change of identity among military officers, which is illustrated by the fact that the president and the armed forces leadership must persistently appeal to the soldiers to recognize civilian supremacy and political neutrality of the military in a democratic order. Nigeria’s military reforms may have led to a modicum of civilian control, mostly exercised by the executive and the president, but they are still far away from democratic control. While a substantial number of civilian control mechanisms have been institutionalized, at least, on paper, their deficient and selective use as well as the limited democratic political culture among civilians themselves considerably constrains the oversight of military activities. Insofar as Nigeria succeeded in the re-civilianization of its political life, it is still far away from consolidating democracy.

Jonah Isawa Elaigwu discusses in Chap. 4 different patterns of civil-military relations in West Africa and particularly in Nigeria. While showing that among five potential models – (1) civil-military diarchy; (2) the socialist model; (3) the developmental militia model; (4) conscious civilianization and (5) the Western liberal model – Nigeria has opted for the last, he also argues that this model is exposed to tensions. The tensions reflect the fact that the Western liberal concepts of an apolitical professional military and civilian supremacy are alien to Africa, a

point already discussed above. The highly complex ethno-religious context of most African states, and Nigeria in particular, further complicated the role of the military in the state. Entrusted with the function of safeguarding the unity of a highly fragile, multiethnic state exposed to centrifugal forces, the military has become a key factor in the process of state and nation-building. This means, in other words, that there is always a military role in politics. Yet, taking a closer look at past developments in Nigeria, Elaigwu paints a more optimistic picture of civil-military relations than the other chapters suggest. Beyond all the ambiguities characteristic for a newly democratizing state, Elaigwu sees the military increasingly integrated into the fledgling Nigerian democracy. In order to stabilize this process, Elaigwu favors an approach in which, apart from defense, secondary functions related to developmental tasks are entrusted to the military. This, however, is a view not uncontested in this volume as Indonesian military reformers especially would rather opt for curbing non-defense-related functions of the armed forces as a means to curtail military influence on politics.

Chapter 5 addresses a crucial issue in military reform that is often overlooked or neglected by civilian officials in democratizing states: The importance of gaining control over the military's finances. As Marcus Mietzner and Lisa Misol rightly state, "without such control, the armed forces (or factional elements within them) retain the capacity to sabotage democratic reforms – most notably elections, the creation of independent legislatures and judiciaries, as well as the expansion of civil liberties". Even worse, they can misuse extra-budgetary funds "to run operations not approved by the civilian government". In Indonesia, the covert operations of rogue forces in the early 2000s to destabilize the Habibie and Wahid governments were most likely financed from such shadowy revenues. Mietzner and Misol name, in particular, the East Timor carnage of 1999 and the breakdown of the cease fire in Aceh in 2003. In both cases, they argue, "TNI officers financed the build-up of militias that sabotaged political processes driven by the civilian government in Jakarta". The wildly fluctuating estimates of the extra-budgetary income of the TNI suggest that there are still considerable white spots in this field of research.

In their chapter, Mietzner and Misol trace the historical roots of the commercial activities of the Indonesian armed forces back to the 1950s and show how they expanded in Suharto's New Order period. Military-controlled businesses suffered badly during the Asian Financial Crisis of 1997/1998 with the consequence that the military increasingly engaged in informal and illicit revenue-generating activities. The reform of the military businesses as stipulated in Law No. 34/2004 remained a halfway house, as it did not address these illegal economic activities and was deliberately diluted by an unholy alliance between the TNI Headquarters, the defense ministry and the President. With the whole cooperative sector and foundations exempted from the reform, only a small number of businesses were actually given up by the military and transferred to the state. Mietzner and Misol also show that the justification of the TNI for their extra-budgetary income no longer holds: The defense budget is no longer totally inadequate and has almost quadrupled during the Reform Era. According to latest figures Mietzner and Misol present, this enables the TNI to cover 80% of their needs, at the same time signaling

a significant decline of extra-budgetary income. While this shift in military funding seems to augur well for more transparency in defense budgeting, the silver lining is darkened by the “weakness of the government apparatus to spend the monies in an effective and targeted manner”.

Part 3 of the volume takes a closer look at parliaments, civil society and the defense epistemic community. These are actors often overlooked in traditional civil-military relations studies, but identified in the more recent security sector governance literature as actors that can make the difference in military reforms. While civil society has received some attention in transition studies, there is very little empirical research on parliaments as actors in democratic transitions and as actors and arenas of military reform. Parliaments are stereotypically depicted as rubber stamps, with the main function of providing authoritarian regimes with a semblance of democratic legitimacy (Mezey, 1979, 1983). Although more recent studies suggest that the contribution of legislatures to political transition may be greater than often assumed (Rüland, Jürgenmeyer, Nelson, & Ziegenhain, 2005; Schneier, 2009; Ziegenhain, 2008), conventional wisdom maintains that even after regime change their contribution to democratization remains marginal. It associates legislatures with vested interests, lack of social inclusiveness, corruption, absenteeism and a low standard of expertise which often results in the neglect of law-making functions (Sherlock, 2003).

The two chapters of the volume on the Indonesian and Nigerian legislatures rest on extensive field work and seek to provide a more nuanced assessment of the role of parliaments to military reform. They categorize the performance of the two legislatures in line with three major parliamentary functions, namely representation, legislation and oversight. The representative function refers to their inclusiveness – i.e. its ability to represent all major societal groups without neglecting or discriminating against minorities. The legislative function focuses on law-making. It has traditionally been regarded as the most central function of parliaments – irrespective of the fact that even in Western democracies the executive dominates the preparation of bills (Beyme, 1997, 2002). Yet, a strong and active parliament has the chance to significantly amend bills and, with a view to defense bills, ensure that the laws it passes facilitate military reform.

Legislatures in new democracies are usually quite assertive in exercising their oversight functions. Often they are populated by a new generation of politicians, many of whom regard lack of oversight as a major potential cause of an autocracy emerging and becoming entrenched and they regard greater transparency of political decision-making as one of the key virtues of a democratic polity. Defense-related oversight includes issues such as scrutinizing law implementation, the efficient use of the defense budget, due process in weapons procurement, monitoring the human rights record of the military, the scrutiny of government appointments to leadership positions of the armed forces, sending (or withdrawal of) troops deployed abroad in peacekeeping operations and the formulation of defense doctrines, to name the most important. Oversight can be carried out *ex post* (after the activity took place or after the money has been spent) or *ex ante*, before an activity takes place or before funds are committed. To be efficient in their oversight,

parliaments must collaborate with other agencies such as the audit office, the ombudsman, the media and civil society (Born, Fluri, & Johnson, 2003, p. 90,141).

Rüländ and Manea's chapter (Chap. 6) on the Indonesian legislature once more highlights the significance of the mode of transition. Unlike in Nigeria, a legislature has existed for most of the time, even under authoritarian rule. In the twilight years of the Suharto regime, the DPR shed its docile rubber stamp reputation and even had a role in bringing down the Suharto regime (Ziegenhain, 2008, p. 61–75). Although the military sought to adjust to democratic change by internal reforms, the legislature soon became involved in the bargaining over the military's political role. Much of this debate took place under the auspices of constitutional amendments and mainly targeted the military's representation in legislative bodies. Later, after the military had regrouped, and re-asserted its political influence as a consequence of the power struggles among civilian politicians, the legislature passed legislation that prevented the restoration of the military's previously enjoyed reserved domains. It exerted its oversight functions in tandem with watchful civil society organizations, an emerging civilian defense epistemic group and the media. Yet, it failed to push the military to fully complete first-generation reforms, let alone to initiate second-generation reforms. From 2004 onward, and even more after the 2009 elections, the legislature no longer seriously challenged entrenched corporate interests of the military. A stalemate in legislature-military relations emerged which was facilitated by an increasing ideational identity between the mainstream of legislators and the military. The driving force behind this identity was a neo-nationalist resurgence, which was driven by years of frustrated entitlement as a major regional power, increasing external recognition of the country's democratization and relaxing internal and external reform pressure on the armed forces in line with the war against terrorism.

In Chap. 7, Rizal Sukma provides a fascinating and rare insight into the interaction between the Indonesian military, parliament and an emerging civilian epistemic community of defense experts. This sets Indonesian defense reform apart from the Nigerian experience where, as Aiyede shows (Chap. 8), there was hardly any civilian input. Indonesia also differs from Nigeria by the fact that the military, except for a conservative faction, was willing to interact with civilian experts, whereas in Nigeria, the armed forces interacted with civilians only insofar as they were faculty members of the various defense academies. Sukma's study, presented as a case study of perhaps the most significant think tank in the security sector reform process, ProPatria, shows that one of the crucial conditions for the success of this group was the non-confrontational approach of critical collaboration and persuasion as well as the group's networking strategy which created trust on the part of the military. The group was involved in the drafting process of Indonesia's two most important defense laws, Law No. 3/2002 on National Defense and Law No. 34/2004 on The Military. Both laws, though leaving major components of military reform in ambiguity, were markedly influenced by the civilian expert group. Through advocacy, public awareness campaigns, public education and policy discussion with major defense-sector stakeholders, the civilian defense community was able to persuade the public that civilian control of the military is

an important factor for the Indonesian democratization, to sustain the public support for reform and to persuade and pressure the military to continue reforming itself. Unlike in the Nigerian case, this epistemic community relied on extensive research and studies which made them a serious partner for the military. However, Sukma also shows that this community has not yet reached critical mass, a major reason why it faces difficulties in maintaining the momentum and why its influence eventually declined after 2004.

In the concluding chapter of Part 3, Aiyede (Chap. 8) portrays a legislature which did not exist at the time of regime change and which had to start from scratch after it was reconstituted under the 1999 Constitution. It was a legislature that for years was plagued by internal struggles, as exemplified by the frequent impeachment of its leaders, which lacked technical expertise and was ill-equipped in its initial years. Much more damaging, however, was the persistent conflict with the presidency over budgetary rights in the course of which – rightly or wrongly – the executive by-passed the legislature and blocked its legislative program through presidential vetoes. This situation slightly improved after 2003, but the legislature remained the weakest of the three government branches. It is thus hardly surprising that the Nigerian Assembly has had only a minor role in military reform thus far. Its defense-related committees are fragmented, a legislative-military liaison mechanism has performed disappointingly so far and the military shrouds itself in an aura of secrecy which denies the legislature much-needed information for executing its legislative and oversight functions. Unlike in the Indonesian case, the legislature is not supported by a vocal civilian epistemic defense community, civil society organizations and the media. As a consequence, pressure on the military to change its identity and to subordinate itself to civilian supremacy beyond mere rhetoric is rather weak.

Part 4 addresses another issue often neglected in the literature on military reform. The two chapters belonging to this part of the volume examine the extent to which separatist movements, terrorism and communal violence jeopardize military reform in Indonesia and Nigeria. In his contribution, Jun Honna (Chap. 9) confirms the findings made in previous chapters of this volume. While he does not speak of a “standstill” of military reform in Indonesia (Sebastian & Iisgindarsah) or a “stalemate” (Rüland & Manea), he regards current civil-military relations as characterized by an “equilibrium”. This equilibrium rests on a compromise between reformers and military conservatives in which “TNI supports the transition to civilian-led democracy and promises military disengagement from politics while [in exchange] civilian leaders respect TNI’s institutional autonomy and overlook its lack of accountability”. This compromise was in Honna’s view strongly facilitated by the military’s successful securitization of post-authoritarian separatism and the terrorist threat facing Indonesia after the October 2002 Bali bombings. By successfully assuming “the guardian role of fighting to preserve national unity and to stave off the threat of disintegration”, the military not only resisted and sabotaged peace initiatives of the civilian leadership but also cordoned off civilian attempts to subject the military to democratic oversight in the domain of national security. The war against terrorism further strengthened the military’s claims for an elevated

national security role and legitimized its functions “other than war”. Finally, the military role in communal violence highlights an aspect of military reform often overlooked: While military reform may proceed to a certain extent at the national level, local commands may carve out for themselves a degree of autonomy through the close relationship between off-budget fund raising and effectiveness in dealing with local conflicts. Honna shows how in Ambon local TNI commands worsened the communal conflict by involving outside paramilitary gangs and militias. Honna concludes that “this military sabotage illustrated TNI’s lack of organizational accountability at the local level, while its manipulation of insecurity effectively convinced political leaders about the need for increasing the number of territorial commands – countering pressures from civil society to reduce the number.”

Christian A. Lutz (Chap. 10) finally argues that in Nigeria, separatism driven by the distributional conflict over Nigeria’s most important revenue source – oil – has been a major impediment for military reform. While the armed forces took a posture of relative disengagement in the oil-rich Niger Delta in the years after regime change, intensifying separatist activities induced the government to respond to this security threat with an all-out military approach. The latter perpetuated military impunity and insulated the armed forces from democratic civilian control for the sake of securing oil production. Like in the Indonesian case, the war against the Delta separatists also entrenched the armed forces in off-budget revenue generation which was beyond any effective civilian control.

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Part II
Military Reform in Indonesia and Nigeria

Chapter 2

Taking Stock of Military Reform in Indonesia

Leonard C. Sebastian and Iisgindarsah

Introduction

Can we assert that military reform in Indonesia has come to a standstill? Since the downfall of Suharto in 1998, Indonesian military is by no means in a weak position. The military may no longer be the leading actor in national politics, but has pragmatically incorporated a strategy enabling it to play a “behind the scenes” role (Sebastian, 2007). Having abolished the “dual-function” doctrine that legitimated military engagement in socio-political affairs, the armed forces (Tentara Nasional Indonesia, TNI) leadership has placed more emphasis on transforming its institutional profile and improving its human rights record. Civilian politicians have compromised the process of reform. Far from depoliticizing the military, President Abdurrahman Wahid sought to marshal military support against the Indonesian parliament (Dewan Perwakilan Rakyat, DPR) moving to impeach him due to his involvement in high profile corruption cases. In early 2001, he proposed to TNI high-command that a state of emergency be declared to enable him to dissolve the DPR. The proposal, however, was rejected by a military leadership aware that any overt political involvement on their part would be counterproductive to their efforts to restore the TNI’s public image. Meanwhile, during Megawati’s presidency, the counterinsurgency operation in Aceh had given new impetus for TNI to take on a greater role in internal security in the guise of “military operations other than war” thereby signalling the end of attempts by post-Suharto military reformers to limit their function purely to external defense.

With this backdrop, some scholars argue that the military reform in Indonesia has come into a standstill despite notable institutional changes implemented since 1998

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(Mietzner, 2006, pp. 2, 3).¹ Further reform efforts to regulate military businesses and to place the TNI under the authority of a civilian-led Ministry of Defense remain difficult due to emotive and practical reasons. Indonesia will need more time to implement difficult changes in these areas. This is due to the tentative nature of civil-military relations in the country. The military may no longer dictate policy to civilians, but it retains its privileged position of influence by virtue of its historical legacy and the fact that no civilian president can govern the country without their assistance. This pragmatic alliance necessary either to secure a presidential election or to prevent the military acting as a “spoiler” in national policymaking has worked to preserve the TNI’s institutional autonomy (Rinakit, 2005, p. 39). The likelihood that military officers will temporarily re-enter the political arena in partnership with other like-minded social-political elites to stabilize national politics cannot be simply discounted. The mindset of the officer corps has not changed substantially, despite the abolition of the “dual-function” doctrine in 2000 (Honna, 2003, p. 7). There remains a deep contempt for civilian rule and a belief that only the TNI is capable of rising above the petty rivalries and self-interested behaviour of post-Suharto civilian politicians. Such thinking are rooted in their historical traditions and further enshrined in the *Sapta Marga*, a sacrosanct soldier’s oath guiding their normative behaviour, which elevates the TNI as the “guardian of the state.”

This point notwithstanding, this chapter argues that while the TNI’s interest in day-to-day party politics will gradually diminish, their level of interest in politics will ebb and flow depending more on the behaviour of political elites and their attempts to disengage TNI from the political fray. After more than a decade of *reformasi*, this chapter tries to provide an assessment of the military reform process during the last 12 years in Indonesia. First, it will provide an overview regarding the role of the Indonesian military during Suharto era and subsequently analyze to what extent the process of democratization has shaped the role and mission of the military; understand the perceptions and motivations of the new actors involved in the reform process; review what has been achieved and highlight what outstanding problems remain unaddressed. With regard to the final point, this chapter concentrates on deciphering the three major strategic gaps that need to be addressed in the next stage of military reforms: the “regulation loophole,” the “defense-economic gap” and the “shortcomings of democratic civilian control.” Finally, it concludes with how much the TNI has been dissociated from its erstwhile socio-political role and provides an assessment on the future prospects of military reform in Indonesia.

Military Dual-function During Suharto Era

Historians have well documented that until his resignation in 1998, Suharto with military backing established an authoritarian New-Order regime that dominated Indonesian politics for more than three decades. Unlike his predecessor President

¹ See also R. Liddle “Indonesia’s Army Remains a Closed Corporate Group,” *The Jakarta Post*, 3 June 2003.

Sukarno, who favoured nationalist adventurism and mass mobilization, President Suharto sought legitimacy for his regime through economic development and thus emphasized political stability within the country. In this context, Indonesian military – during that era known as Indonesian Armed Forces (Angkatan Bersenjata Republik Indonesia, ABRI) exerted its overt political influence under the auspices of the so-called *dwi-fungsi*, or “dual-function” doctrine. Based on this doctrine, the military had not only a defense and security role, but also socio-political function to promote national development and ensure political stability. The doctrine justified the military’s systematic political intervention and the formation of its political programme, organizational ideology and patterns of civil-military relations during the Suharto era (Honna, 2003, p. 3).

Alongside the dual-function doctrine, the military implemented a broad official policy of *kekaryaan*, under which military officers were assigned to legislative and non-military administrative bodies. Under this policy, both active and retired military officers occupied strategic positions in national and regional bureaucracies starting from cabinet ministers to village heads, as well as key management positions in state-owned corporations – such as the oil and gas firm Pertamina. According to one source, there were approximately 6,800 active officers who occupied non-military bureaucratic posts in the 1999; while the number of retired officers was estimated to be around 5,500 (Bhakti et al., 1999, p. 143). Furthermore, the military also gained influence in the legislature through military representation in national and regional parliaments. Before its representation in parliament was reduced in 1999 with their eventual withdrawal in 2004, the military held 75 of the 500 legislative seats in the Indonesian parliament (DPR) and a total 2,800 non-elected seats in regional and sub-regional legislatures (Crouch, 2010, pp. 133, 134; Robinson, 2001, pp. 234, 235). The military’s political power was further enhanced through its influence in Golkar – a government supported political party, to which the former helped the latter to win the majority of votes during Suharto era elections.

Military dominance in national security was further reflected in certain unique aspects of its command structure. As part of “total people’s defense and security” doctrine, the army evolved a territorial command structure that paralleled the civilian bureaucracy down to village level. Under this military structure, the Indonesian archipelago was divided into ten Regional Military Commands (Kodam). Each Kodam is further divided into several levels of sub-command: Resort Military Command (Korem) – headed by a colonel; District Military Command – headed by a lieutenant colonel; and Sub-district Military Command with a major in charge. At the village level, the army assigns a non-commissioned officer known as *Babinsa*. In this way, territorial apparatus links the military and the civilian authorities ensuring that the military influences political developments at every level of regional governance, including control of militias and paramilitary units (see also the contribution of Honna in this volume). It also facilitated political surveillance and police functions by monitoring and controlling the activities of political parties, religious groups, social organizations and trade unions. In effect, the territorial structure became a major means for keeping the Suharto regime in power and still remains a considerable source of human intelligence for Indonesian military.

During the Suharto era, the military also enjoyed power and prestige within the intelligence community. The State Intelligence Coordinating Agency (Badan Koordinasi Intelijen Negara, BAKIN), for instance, was mostly staffed by military personnel. Within the military itself, the Armed Forces Intelligence Agency (Badan Intelijen Strategis, BAIS/Badan Intelijen ABRI, BIA) was established and linked to the intelligence compartments of the army's territorial commands. Military control of national intelligence assets enabled it freely to operate with little regard for domestic or international legal norms. Likewise, Suharto established the Command for Restoring Order and Security (Komando Operasi Pemulihan Keamanan dan Ketertiban, Kopkamtib) and later the Coordinating Agency for National Stability (Badan Koordinasi Bantuan Pemantapan Stabilitas Nasional, Bakorstanas), which intensively exercised extra-judiciary power to conduct security operations in order to maintain stability and public order. These agencies became the institutions used to suppress and curb any resistance toward the Suharto regime and its domestic policies. All in all, it was a regime not adverse to applying force and engaging in periodic human rights abuse when it perceived that "stability" was threatened.

Post-Suharto Military Reform

The collapse of the New-Order regime and the accompanying political upheaval raised unprecedented questions concerning the socio-political role of the Indonesian military. The initial military reform in Indonesia was a by-product of a mixture of intense public pressure, fragile national politics and military factionalism. In the early period after the resignation of President Suharto, the Indonesian military – and the army in particular bore the brunt of criticism for its primary role as the political tool propping up the Suharto regime. Soon after the lifting of restrictions on the press, reports about the military's past atrocities spread through mass media and incited public distrust of the military.² In the newly liberalized atmosphere, civilian elites, intellectuals and human rights activists also called for the termination of the military's dual-function and the promotion of democratic civilian control over the military. With minimal support at either elite or popular level, the new civilian government under President Habibie had little opportunity to impose reform on the military fearing it would provoke strong resistance from military leaders. Meanwhile, military leadership under General Wiranto was by no means cohesive due to sharp factionalism within military elites.³ Concerned over public antagonism over

² Public opinion surveys in several media revealed the military's loss of public trust. See "Surveys reveals ABRI's Poor Public Image," *The Jakarta Post*, 29 September 1998; "Jajak Pendapat Kompas tentang Citra ABRI: Sebagian Masyarakat Ingin Dwifungsi Ditanggalkan," *Kompas*, 4 October 1998.

³ In the wake of the New Order, army officers were sharply divided into two major factions struggling for control of the military establishment and its patronage network. The mainstream nationalist-oriented officers were widely known as the "red-and-white" faction. These officers

military abuses and as a response to deepening military disunity over policy to address the country's changing political circumstances, a group of "intellectual and reformist" officers eventually persuaded Wiranto to implement internal reforms aimed at disengaging the military from the political sphere.⁴

To re-conceptualize the military's future role, in 1998, the military headquarters then held a seminar in Bandung that produced the so-called "New Paradigm." The concept underlined the guiding principles for military reform in the post-Suharto era, which constituted of four key points, namely: that at all times "it is not always necessary for the military to be at the forefront of national politics;" the military would not seek to occupy political positions, but influence decision-making process; the military would exert its influence indirectly rather than directly; and the military would work in partnership with other national entities.⁵ Following the Bandung seminar, the Indonesian military – now renamed from ABRI to the Indonesian National Defense Force (TNI) – carried out initial measures of internal reforms, such as separation of police from the military's chain of command; liquidation of social-political compartments and *kekarya* functions within military structure; withdrawal of military representatives from national and regional legislatures; restrictions for active officers to occupy positions in non-military bureaucracy; dissociation of formal ties with Golkar and the adoption of neutrality during national elections; and changing patterns of relations between TNI Headquarters and the retired military and police officers organization (Persatuan Purnawirawan dan Warakawuri TNI dan POLRI, PEPABRI).

Some scholars including several senior military officers, however, observed that while the military may have embarked on major internal reforms deemed significant, in reality there was little by means of substance (Crouch, 2010, p. 133; Honna, 2003, p. 166; Mietzner, 2006, p. 12). Much of the instituted reform measures pertained to overtly political positions that were no longer sustainable under current democratic conditions aimed at distancing the military from its unfashionable key political role in perpetuating the Suharto regime. The abolition of the dual-function doctrine did not instantly change the organizational culture of TNI since the doctrine had for decades been deeply indoctrinated in the mindset of its officers (Chrisnandi, 2007, p. 72).

Further attempts at internal military reform were reflected in an official document titled *The Role of TNI in the twenty-first Century*, published in 2001. The document reiterated not only TNI's pledge to disband its social-political role, but also asserted

were close allies of General Wiranto (the Armed Forces' Commander-in-Chief), who in that time had a problematic relationship with Suharto's son-in-law Lieutenant General Prabowo Subianto (the Commander of Army Strategic Command) who maintained close links to the so-called "green" Islamic officers. For military factionalism during this period, see for example Crouch (2010, p. 131); Hafidz (2006, pp. 62–109); Honna (2003, pp. 159–164); Mietzner (2009, pp. 109–138).

⁴These officers had stints as Wiranto's aide-de-camp during the political upheavals leading to Suharto's resignation. Among them were generals Agus Widjojo, Agus Wirahadikusumah and Susilo Bambang Yudhoyono.

⁵See Indonesian Armed Forces Headquarters (1998).

its commitment to national defense by developing a joint warfare doctrine, increasing its organizational effectiveness and transferring its responsibility for domestic security to Indonesian National Police (Kepolisian Negara Republik Indonesia, POLRI).⁶ In the period of 2000–2006, TNI Headquarters made several changes in some crucial areas, which among them are: exclusion of socio-political courses and insertion and humanitarian law in the military curriculum; transferring the military tribunal from TNI Headquarters to the Supreme Court; and making it a requirement for an active officer to retire from operational duty before being nominated to stand in elections. To strengthen professional military culture, TNI has made notable changes to its military doctrines, which were developed based on operational experiences and with the necessary adaptations learned through engagements with foreign militaries. After revising army, navy and air forces doctrines,⁷ TNI revised its principal doctrine from “Catur Dharma Eka Karma” into “Tri Dharma Eka Karma.” Apart from the exclusion of its socio-political role, the new doctrine is significant for two reasons: *first*, it obliges the TNI to work towards force projection strategies with “deterrence” and “denial” capabilities as key objectives to defend state sovereignty and maintain territorial integrity against foreign and domestic threats; and *second*, leaving out militia training, law enforcement and the maintenance of public order missions.⁸

Furthermore, to institutionalize democratic civilian control and military professionalism, the Indonesian government enacted two key laws on national defense. Act No. 2/2002 on State Defense regulates the core values, purpose and principles of national defense; the role and authority of Ministry of Defense in defense policymaking, as well as its institutional relationship with TNI Headquarters and other government institutions; authorization on the use of force; management of defense resources; the budget for defense spending; and parliamentary oversight. Related to its authority to formulate defense policy, the Ministry of Defense, in 2008, issued four official documents related to defense doctrine, strategy and posture, as well as a new defense white paper. In a nutshell, the Defense Doctrine document defined “total defense” as the total participation of national entities and resources – both military and non-military, organized into a core component, reserve component and supporting component.⁹ Defense Strategy explicates that Indonesia adopts multi-layered defense to which “military defense” with TNI as the core component is prepared to deter and deny possible military threats, while “non-military defense” is configured to cope with non-military threats.¹⁰

⁶ TNI Headquarters (2001), pp. 10, 11.

⁷ See Navy Chief of Staff Decree No. 07/II/2001 on Navy’s “Eka Sasana Jaya” Doctrine; Air Force Chief of Staff Decree No. 24/X/2000 on Air Force’s “Swa Bhuana Paksa” Doctrine; Army Chief of Staff Decree No. 01/XII/2000 on Army’s “Kartika Eka Paksi” Doctrine.

⁸ See TNI Commander Decree No. 21/I/2007 on TNI Doctrine “Tri Dharma Eka Karma.”

⁹ See Ministry of Defense. (2007). *Doktrin Pertahanan Negara*. Jakarta, p. 71.

¹⁰ See Ministry of Defense. (2007). *Strategi Pertahanan Negara*. Jakarta, p. 52.

The second law is Act No. 34/2004 on Indonesia's National Defense Force. The law demarcates the role and main duties of TNI as the "core defense component" to "uphold state sovereignty, maintain territorial integrity and protect national entities" against "military threats both internal and external" to which it carries out "conventional military operations" and "military operations other than war."¹¹ It also regulates the organizational structure and authority of TNI's high-command; authorization on the use of force; soldier's rights and responsibilities. Definitively, it outlaws TNI's "involvement in political and economic activities" and thus stipulates two important requirements. *First*, TNI's force structure is "subject to geographical conditions and defense strategy with priorities on less-stable and conflict-prone areas, as well as border regions;" its force deployment is also limited by the provision to "avoid a structure akin to civilian bureaucracy and prone to political interests."¹² The *second* issue is the transfer of military businesses by 2009 to the government.¹³ It took almost 4 years after the enactment of the law for the President Yudhoyono to establish the National Team for Military Business Take-over led by Erry Riyana Hardjapamekas to make recommendations on this matter. As the deadline approached, the president issued Presidential Regulation (Perpres) No. 43/2009 concerning the takeover of military business, but this regulation created further controversy when no definite deadline was mentioned for the eventual takeover of military businesses.¹⁴

All in all, the first generation of military reforms in Indonesia had primarily resulted in the establishment of the legal bases and institutional arrangements for defense and security. During this period, top officials at the Ministry of Defense and TNI Headquarters were engaged in reshaping their institutions and democratizing the policymaking process in line with the evolving nature of *reformasi* era statecraft. Since the collapse of the New-Order regime, civilian defense ministers to some extent have made their mark in reforming the Ministry of Defense. Juwono Sudarsono, who served as minister of defense under President Wahid and in President Yudhoyono's first-term of office, became well-known for promoting his concept of "minimum essential forces" for the TNI's force structure development. His predecessors, Mahfud M.D. and Matori Abdul Djalil also played a significant role in the enactment of the two laws on national defense and the implementation of humanitarian law in the military.¹⁵ The current Minister of Defense Purnomo Yusgiantoro seems committed to devoting attention to resuscitating Indonesia's indigenous strategic industry capacity.

¹¹ Article 6 and 7 of Act No. 34/2002 on the Indonesia National Defense Force.

¹² Article 11 Verse 1 and 2, *ibid*.

¹³ Article 76 Verse 1, *ibid*.

¹⁴ See "Perpres Bisnis TNI Tanpa Tenggat," *Kompas*, 15 October 2009.

¹⁵ See Minister of Defense Decree No. 2/M/II/2002 on The Implementation of Humanitarian Law and Human Right Principles in National Defense.

The first generation of military reforms also witnessed the birth of a “defense policy community,”¹⁶ where scholars and civil-society actors engage in discussions with policymakers and parliament members on wide-ranging defense and security issues. Since the late 2000, many Indonesian scholars associated with the ProPatria Institute – a small think-tank concerned with security sector reform played a substantial role through “focus group discussions” to support senior military officers in the Ministry of Defense responsible for preparing the draft bill on the TNI and legislation related to national defense. Later in 2004, Pacivis – a research centre at University of Indonesia in tandem with other centres specializing in security sector reform also participated in policy-research activities. Through frequent engagement with the academic community, military officers serving in the Ministry of Defense were able to absorb new policy-relevant ideas and strengthen their intellectual capabilities (see also Rizal Sukma’s chapter in this volume). Interestingly, the majority of Director Generals for Defense Strategy – responsible for the formulation of bills and policy drafts at the ministry, such as Major General Sudrajat and Major General Dadi Susanto previously served as defense attachés in Washington. Their experiences in a foreign country and exposure to new thinking on civil-military relations no doubt developed their personal character traits as open-minded, outward-looking military officers realistic enough to understand Indonesia’s new political realities and the fact that the country was facing a more complex strategic environment (Anggoro, 2008, p. 14). Moreover, in 2009, the Indonesian government established the Indonesian Defense University, which is expected to evolve into an epistemic defense policy community where civilians and the military will interact and debate the key issues of defense policy.

To varying degrees, TNI high-command has also managed to further depoliticize military officers and reinstitute professionalism within the military establishment. General Endriartono Sutarto might be misconstrued as having strong political inclinations due to his public statements, but his leadership style was pragmatic. He understood the changing political environment and accepted the rationale for stronger civilian control to be asserted in the defense realm. Contrary to his predecessor, Chief Air Marshall Djoko Suyanto became known for his reluctance to comment on political issues. Meanwhile, General Djoko Santoso might be conservative but supported the principle of political neutrality of the military and favoured the elimination of military businesses (Anggoro, 2008, p. 12). Moreover, in 2006, he established the Total Defense College in Bandung to initiate a series of discussions on the basic concepts of Indonesia’s defense doctrine. Foremost in these discussions were whether Indonesia should maintain the people’s war doctrine or modify the doctrine by incorporating a new doctrine of total defense; and should a doctrine of asymmetric warfare relying on military capabilities to maintain war of attrition against a much stronger adversary become a more appropriate defense strategy for Indonesia. The newly-sworn commander-in-chief, Admiral Agus Suhartono is keen

¹⁶This term is popularized by Kimberly Zisk. See Zisk (1993, p. 21).

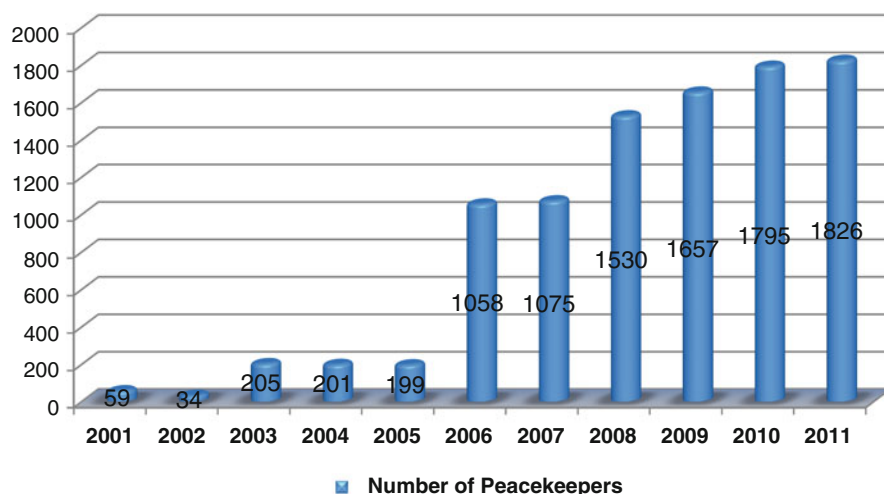


Fig. 2.1 Indonesia's annual peacekeeper contributions, 2001–2010 (Source: Adapted from the United Nations Department of Peacekeeping Operations (data from 31 December 2001–31 December 2011))

to modernize TNI's major weapons systems that are necessary for effective training to upgrade military professionalism. Acknowledging the problem of a slim budget and bloated manpower pool, he also called for personnel "rightsizing" at every command – including territorial commands to determine the effective operational costs for each military unit.¹⁷

No less important, Indonesia's participation in international peacekeeping operations has given the TNI good opportunity to increase levels of professionalism. Following its appointment as a non-permanent member of the United Nations (U.N.) Security Council in 2006, the Indonesian government had steadily increased its troop contribution to support U.N. peacekeeping efforts (see Fig. 2.1).¹⁸ Indeed after transferring the public security domain to the police and the overall improvement domestic security, the TNI – particularly the army has significantly more "idle" troops which could be utilized for overseas deployment. Participating in peacekeeping operations provides the TNI three benefits: military credentials for personnel's future promotion; extra financial subsidies¹⁹; and justification for arms

¹⁷ "TNI Lakukan Efisiensi," *Kompas*, 24 September 2010; "Admiral Agus Suhartono: We Must First Secure the Key Points," *Tempo*, 19 October 2010.

¹⁸ As of November 2010, Indonesian government had dispatched 1,785 soldiers and policemen placing it at rank seventeenth of all troops-contributing countries.

¹⁹ The monthly rates of reimbursement for individual peacekeeping troops are: US\$1,028 for allowances; US\$68 for personal clothing, gear and equipment; US\$5 for personal weapon; and US\$303 supplementary pay for specialist.

procurement to replace outdated military platforms (Haseman & Lachica, 2009, pp. 88, 91–92).²⁰ Appreciated for its extensive experience and superb performance in peacekeeping missions, the TNI high-command has now expanded peacekeeping training to include military personnel across all service branches. In doing so, it recently established a permanent peacekeeping training centre in West Java to prepare officers and soldiers for future overseas deployments.

Major Strategic Gaps During Twelve Years of Military Reform

Twelve years of military reform in Indonesia have significantly reduced the socio-political role of the Indonesian military. Reforming and redefining the role of the military, however, was not without its problems. Developing countries, like Indonesia still have to contend with the challenge of nation-state building where they need to “transform the juridical statehood into effective statehood” and construct a collective national identity (Ayoob, 1995). The “security problematic” of Indonesia, therefore, is derived from how to mobilize national resources and take necessary measures to establish institutional-state building, while participating in international politics (Ayoob, 1991). Consequently, at a time when the principles of good governance should have been institutionalized in its defense sector, the Indonesian government is still grappling with what constitutes national security and how to establish proper regulatory frameworks, let alone coping with the challenge of redefining the role of TNI. In this context, there are at least three major strategic gaps which were left unaltered since military reform was initiated in Indonesia: *first*, loopholes within the existing laws and the resultant regulatory vacuum pertaining to certain key issues; *second*, the critical gap between the TNI’s institutional role and its ability to carry out its missions, reflected in a defense-economic gap; and third, the prevalence of shortcomings in processes of democratic civilian control.

Regulation Loopholes and Policy Vacuum

Overall, the objective of the established legal framework is the promotion of better governance in national defense. There are, however, two categories of key issues that need to be addressed in the near future. The *first* is related to operational loopholes of several provisions within the existing laws on national defense. Both Law No. 3/2002 and Law No. 34/2004, for instance, emphasize that the president

²⁰ In 2006, the Department of Defense justified the acquisition plan of France made-Armoured Vanguard Vehicles (VAB) for TNI’s peacekeeping operation in Lebanon. See “Panser Perancis Jadi Dibeli,” *Republika*, 11 October 2006.

holds the authority to make decisions on the use of force under the auspices of the Indonesian parliament (DPR).²¹ The provisions provided in these laws, however, are incomplete because they stipulate no obligation on the part of the president to determine the strategic objective, time limit and operational terms of the military operation, as well as the rules of engagement. Without these provisions, there are no parameters for the parliament to approve or reject the president's decision. Furthermore, there are no provisions to promote parliamentary oversight over the scope and direction of a military operation. Furthermore, the president is also hindered by an inability to evaluate and assess the implementation of the military operation (Sukma, 2006a, p. 25).

Confusion also arises over the question of the circumstances under which the political decision to go to war is issued to TNI. Should it be primarily for decisions related to "conventional military operations," but unnecessary for "military operations other than war?"²² This problem is prominent, particularly relating to the need to deploy TNI task forces in domestic contingency missions – such as counter-terrorism and disaster relief, and constabulary duties – that is, for maritime security and border patrol. The law, in fact, regulates that in the event of an emergency situation, the president has the authority to deploy immediately military forces with an obligation to report such a decision within 48 hours to the parliament.²³ There is also a stipulation that the TNI commander-in-chief, cannot under any circumstances, deploy a task force without authorization from the president.²⁴ Just as problematic, is the TNI's duty to "assist local government" which invites public criticism since it may lure the TNI into non-military activities, particularly in the context of extensive regional autonomy. Likewise, the requirement of the law that the TNI retains a primary duty to "empower defense areas" is criticized for providing another pretext to maintain the army's territorial structure. TNI Headquarters should be praised for their effort to finish at least seven standard operating procedures for 14 military operations other than war. Yet this achievement casts a pall over future civil-military relations due to political controversies that are likely to occur due to the difficulties inherent in implementing such procedures.

Moreover, a loophole is glaringly apparent in terms of the institutional relationship between the Ministry of Defense and TNI Headquarters. According to the law, TNI is placed under authority of the president with respect to its employment particularly of the use of force, but coordinated by the Ministry of Defense in terms of defense policy and strategy, as well as administrative matters.²⁵ This provision vaguely defines the Ministry of Defense's responsibility for the political accountability of TNI Headquarters, thus limiting the institutional authority of the

²¹ Article 13 and 14 of Law No. 3/2002 on State Defense; Article 17 and 18 of Law No. 34/2004, op.cit.

²² Article 7, section 2 point b of Act No. 34/2004, op.cit.

²³ Article 18, sections 1 and 2 of Act No. 34/2004, op.cit.

²⁴ Article 19 of Act No. 34/2004, op.cit.

²⁵ Article 3, section 1 and 2 of Act No. 34/2004, op.cit.

former to ensure that the latter implements all defense policies correctly. The relationship is further problematic as the TNI commander-in-chief still serves as a cabinet member with independent access to the policymaking process in cabinet meetings. Although the explication of Article 3 of Act No. 34/2004 stresses that in the future, TNI Headquarters may need to be placed under jurisdiction of the Ministry of Defense, there exists no definitive time frame for such a decision to take place.

The *second* problem is the myriad of regulations and indefinite policies. Act No. 3/2002 has specified the duties and authority of the Minister of Defense.²⁶ There is, however, no sufficient provisions concerning institutional and capacity building for the Ministry of Defense which it is of vital importance if the goal of democratic civilian control is to be achieved (Sukma, 2006a, p. 24). Accordingly, it requires regulations to specify, for instance, which positions in the ministry that should be filled and led by civilian staff and what is the status and organizational responsibility of active military officers who serve in the ministry. Without such arrangements, it is difficult for the Ministry of Defense to depart from the traditional “military culture” that imbues the institution which ultimately undermines any possibility that democratic civilian control would ever be the foundation of future civil-military relations. Besides that, Law No. 3/2002 does not provide definitive guidelines on oversight for defense intelligence clearly outlining the structure and principal duties of intelligence bureaus within TNI’s military structures, and how such agencies service the TNI’s defense function and support its military operations (Sukma, 2006a, p. 30).

Concerning parliamentary oversight, both Act No. 3/2003 and Act No. 34/2004 may have laid down the role of the Indonesian parliament (DPR) to approve or reject defense budget proposals, the use of force by the president, and the appointment of TNI commander-in-chief.²⁷ Yet it remains unspecified what constitutes “parliamentary approval:” should it be the consent of all parliament members, or parliament members who serve at Commission I overseeing the defense sector, or the heads of political factions in the DPR, or the speaker and deputy speaker of the DPR. This problem often provokes debate among parliament members, a fact clearly reflected in May 2003 when President Megawati decided to declare a military emergency and deploy TNI for counterinsurgency operations in Aceh. More importantly, there are no clear regulations regarding the nature of information and the level of access to information that could be obtained by parliament and the consequences if such “rights” are denied by the Ministry of Defense and TNI Headquarters. The existing regulations also do not specify the role of the Indonesian parliament in overseeing the formulation and implementation of defense policy (Sukma, 2006a, p. 26, 27).

Military reform demands that TNI’s soldiers be equal before the law and obey the rule of law. The spirit of this norm is well-reflected in Law No. 34/2004 emphasizing that “soldiers are subject to the authority of military tribunal in the event of military

²⁶ Article 16 of Act No. 3/2002, *op.cit.*

²⁷ Articles 14, 17 and 24 of Act No. 3/2002, *op.cit.*; Articles 13, 17, 18 and 67 of Act No. 34/2004, *op.cit.*

criminal law violations and subject to the public judicial power in the violation of public criminal law.”²⁸ However, this provision will be valid only after a new law on military justice is enacted. As long as this new legislation is not passed, TNI’s soldiers remain subject to the provisions of Law No. 32/1997 on Military Justice.²⁹ Up to the point of the completion of this chapter, the newly elected legislators have yet restarted discussing a new Military Tribunal Bill but civil-society activists constantly press parliament members to take up the issue again. The immediate enactment of the bill is imperative not only to remove the TNI’s image of “impunity,” but also to build a professional ethos within the military.

Regulatory vacuums are also evident in a number of provisions relating to Law No. 3/2002 that require additional regulations, such as government regulation (Peraturan Pemerintah, PP) or even bolstered by another law, with a definite time line to have them completed. Though the Reserve and Supporting Defense Component Bills and the Military Conscript Bill, stipulated respectively in Article 8 and 9, were put on the list of a National Legislation Program (Prolegnas) for the legislative period of 2009–2014, there is still ambiguity over when they will be enacted. Considering the legislative and constituency commitments expected of parliament members coupled with their lack of adequate expertise on defense matters, there remain concerns that there will be limited public pressure to sustain the momentum of reform. The other three provisions require subsequent government regulations, namely: Article 20 section 2 regarding the use of national resources to upgrade national defense capabilities; Article 20 section 3 concerning the requirement for local governments to consider the potential use of development projects in their respective regions for defense purposes; and Article 22 section 2 regarding the territorial use for military installations and training facilities. Eight years since Law No. 3/2002 was passed, none of these regulations have been put into effect.

Defense-Economic Gap

Regardless of the many problems related to the legal framework, the TNI leadership is definitely committed to fulfil its constitutional role and main duties to “deter and deny all kind military threats.” What becomes the problem is the effectiveness of the TNI to carry out its missions with its current force posture, principally, issues relating to its force structure and deployment. Both scholars and military officers are in general agreement that the TNI’s force posture is far below “minimum essential force” necessary to “defend state sovereignty and maintain territorial integrity,” especially in its Exclusive Economic Zones (EEZ) and Indonesia’s

²⁸ Article 65 of Act No. 34/2004, op.cit.

²⁹ Article 74 of Act 34/2004, op.cit.

Archipelagic Sea-Lanes (ALKI).³⁰ To achieve these aims, the TNI needs state-of-the-art military capabilities, such as a sea-worthy surface combatant force, anti-submarine warfare capability, amphibious assault ships, long-range combat aircraft, strategic airlift and aerial-refuelling capabilities, surface-to-air missile defense, and command, control, communication, computer, intelligence, surveillance and reconnaissance (C4ISR) capabilities. Defense procurements since military reform was initiated, however, did not significantly boost the TNI's capability to deter and deny military aggression and territorial intrusion.

These shortcomings glaringly highlight the “capacity-commitment gap” between the legal demands to uphold state sovereignty and TNI's effectiveness to carry out its missions. Several factors explain this gap, including strategic policy, strategic planning and state financial capacity. In the policy realm, TNI's missions depend on clear directions set by the Indonesian government specifically the strategic aims of defense policy and the manner of achieving such aims. With reference to strategic planning, military effectiveness is the result of systematic defense planning, which in turn is reflected in proper defense programs and a sound budget structure. Accordingly, the TNI's force structure should be mapped out following a proper “threat-assessment” which would form the theoretical basis from which defense planners could recommend strategies for conventional deterrence and bolster denial capabilities to counter direct external and conventional military threats, such as military aggression, border intrusion, sabotage and armed-insurgency (ProPatria Institute, 2004, p. 6; Widjajanto, 2004a, p. 39; Wibisono, Wardoyo & Kurniawan, 2008, p. 128). Although “threat” is conceptually multidimensional, non-military threats – such as human trafficking, illegal logging and communal conflict – should not fall into the realm of defense planning. Non-military threats not only fall under the jurisdiction of non-military agencies, but also require inter-agency cooperation, where the scope of activities should be placed under the category of military operations other than war and are ad hoc missions involving the “idle capacity” of the military. Referring to several official documents, however, the Ministry of Defense includes a wide-ranging list of non-military threats encompassing social-economic threats to natural disasters,³¹ which undoubtedly place additional burdens on defense planning, the budget structure and force structure of TNI.

Furthermore, military effectiveness depends on state capacity to allocate national resources. These include the defense budget, and the requirement to properly disburse funds to meet defense expenditure, such as salaries, education and training, as well as arms procurements. Although post-Suharto governments

³⁰ For example, in 2003, a commercial airliner spotted two U.S. F-18 s along with a carrier battle-group flying over near Bawean Island, East Java province. An Indonesian senior naval officer similarly reported that between January to September 2010, Malaysian warships had intruded several times into Indonesian territory particularly near Ambalat waters, in the vicinity of East Kalimantan province. See “Kapal Malaysia Kerap Langgar Batas Wilayah,” *Media Indonesia*, 13 October 2010.

³¹ See, for example, Ministry of Defense (2004), pp. 12–17.

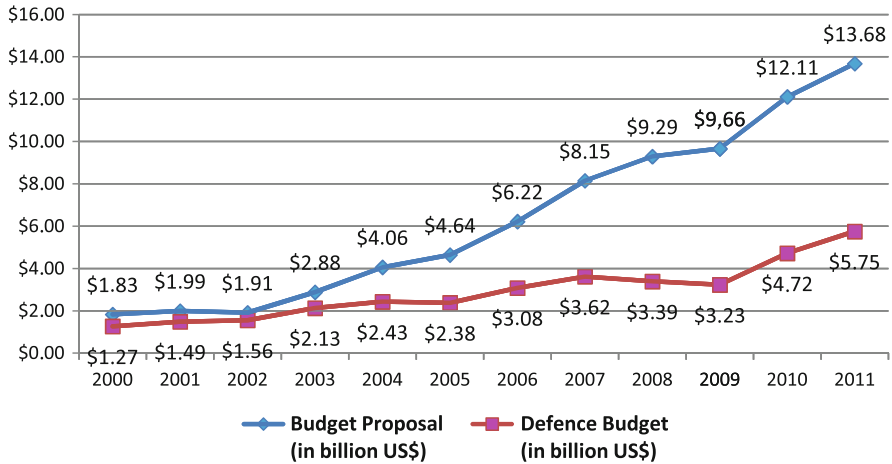


Fig. 2.2 Indonesia's defense-economic gap, 2000–2011 (Source: Authors' data set compiled from a number of academic publications and official documents)

have significantly increased the size of the defense budget from 2000 to 2010, Indonesia continuously suffers from “defense-economic gap” between the actual defense budget and budget proposals submitted by the Ministry of Defense to Indonesian parliament. In 2011, for instance, the Ministry of Defense submitted a budget proposal amounting to US\$13.68 billion, but the approved budget was only US\$5.75 billion (see Fig. 2.1). Former Minister of Defense, Juwono Sudarsono had commented that the approved budget could only meet more or less 30% of total defense requirements (Sudarsono, 2004).³² This raises a further question of whether defense spending is rationalized in accordance to the available approved budget, or if actual defense expenditures are financed from off-budget funding, including military businesses. The latter claim may be exaggerated since according to one assessment, the annual net-income of TNI business activities is estimated roughly between US\$27 million and 73 million for which spending for soldier's wages, supplies and equipment constitutes only US\$11 million to 29 million (Rieffel & Pramodawardani, 2007, p. 53). What is certain, however, is that the defense-economic gap not only undermines TNI's operational effectiveness, but also widens the “strategic imbalance” between Indonesia and its regional neighbours (on military budgeting see also Mietzner & Misol and Rüländ & Manea's chapters in this volume). Compared to major states in the region, Indonesia's defense budget is far below China, Japan, South Korea and Australia. Even Singapore spent US\$8.34 billion for its national defense in 2010 (see Fig. 2.2).

³² J. Sudarsono “Real Military Reforms Depends on Civilians,” *The Jakarta Post*, 23 June 2004.

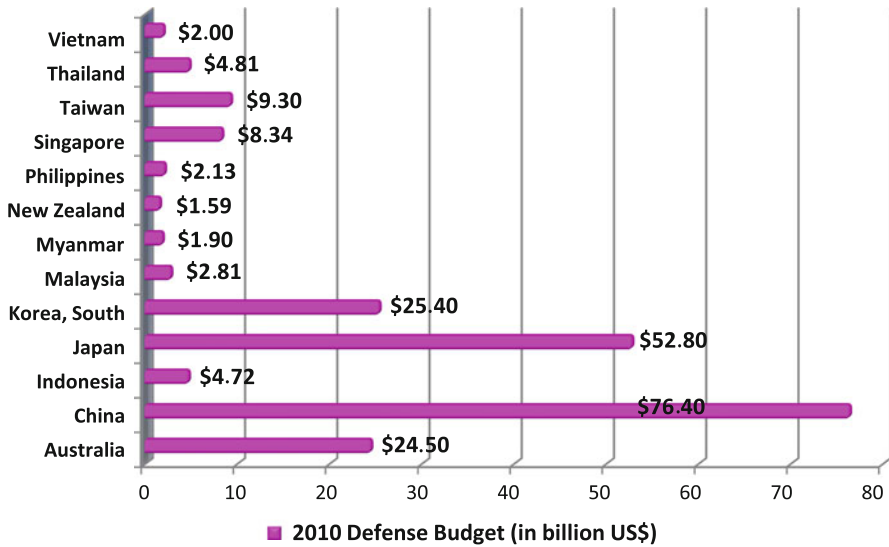


Fig. 2.3 Comparison of defense budget in East Asia and Australasia (Source: Adapted from International Institute of Strategic Studies. (2011). *The military balance 2011* (p. 223, 230, 242, 245, 251, 256, 260, 262, 267, 268, 272, 275, 281). London: Routledge)

Inadequate strategic planning and limited defense appropriations, in turn, had diluted TNI’s operational effectiveness, particularly the readiness levels of its weapon systems. In 2007, for instance, the average readiness of TNI’s armaments was measured at levels of approximately 30–80%. If TNI Headquarters has to launch a full-scale conventional military operation to deter foreign aggression, it is safe to assume its ability to achieve a successful outcome would be severely compromised because neither the air force nor the navy have reached full operational readiness (see Fig. 2.3). Since then the Ministry of Defense has prioritized an arms maintenance program encompassing three focal points: *first*, extending the operational period for existing armaments; *second*, refurbishing military platforms that remain essential for routine missions; and *third*, procuring communications equipment for TNI Headquarters and military units (Widjajanto & Keliat, 2006, p. 12). Maintaining the operational readiness of current weapons systems becomes more complicated due to the variety of weapon systems within the TNI’s arsenal. Currently, there are 173 variants of weapon systems supplied by 17 different countries (Widjajanto & Keliat, 2006, p. 7). Figure 2.4 below indicates that 77 military platforms (44%) of TNI’s weapon systems are supplied by NATO countries, while indigenous defense industries have only a minor contribution providing 9 platforms (5%).

Acute dependence on foreign weapons suppliers have made Indonesia highly-vulnerable to arms embargoes. Overt dependence on foreign suppliers is not merely

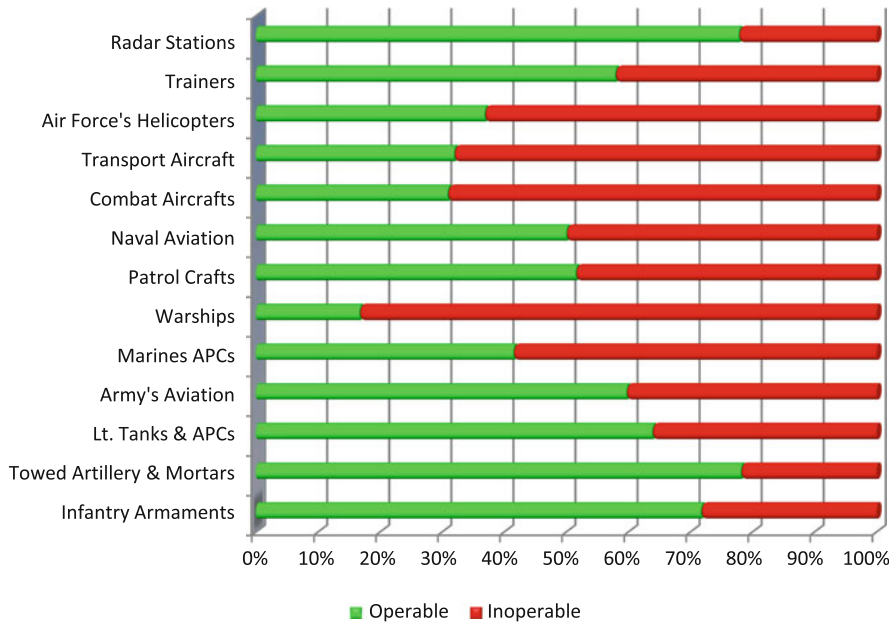


Fig. 2.4 The readiness level of TNI’s armaments in 2009 (Source: Adapted from Ministry of National Development Planning. (2010). *Book II: Memperkuat Sinergi Antar Bidang Pembangunan* (pp. II.7–II.12). Jakarta: Author)

confined to weapon systems, but also affects munitions supplies. PT. PINDAD, for instance, may have been the main supplier of small-calibre munitions, but has never supplied TNI with artillery shells or canon projectiles.³³ This fact highlights the limited capacity of indigenous defense industries to manufacture large-scale ordnance. Not less important, the multi-variants of weapon systems not only complicate operational procedures for each weapon system and thus undermine interoperability within the military, but also increase arms maintenance costs, particularly in the case of ageing armaments. Consequently, due to the limited defense budget, majority TNI armaments are not regularly maintained and thus lack operational readiness and reliability.

Budget constraints also have undermined the Ministry of Defense’s ability to implement force modernization programs, which is patently evident in the nature of defense spending. Figure 2.5 below shows that in the period of 2002–2007, the annual defense budget provided only a small fraction to cover the ministry’s spending to procure sophisticated weapon systems to boost the TNI’s military

³³ See “Pemerintah Fokuskan Dalam Negeri,” *Kompas*, 10 May 2010.

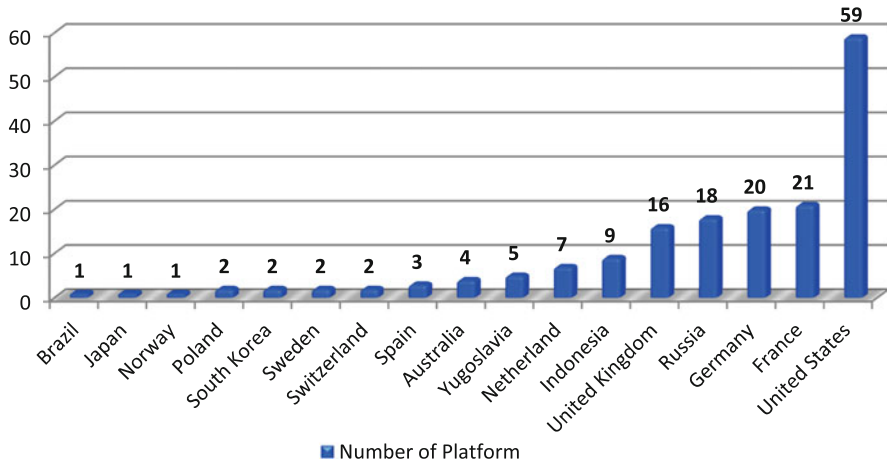


Fig. 2.5 Number of weapon types and supplier countries of TNI's armaments (Source: Adapted from Widjajanto, A., & Keliat, M. (2006). *Indonesia's defense economy reform* (p. 21). Jakarta: INFID and Pacivis-UI)

capabilities. Much of the annual defense budget expended during that period constitutes personnel costs and salaries (44%), functional expenditure (22%), including maintenance of armaments and military facilities, military education and training, research and development; while the proportion of defense procurements only amounted to 34% of total defense spending. Both the Indonesian Parliament and the Ministry of Defense have common understanding on the need to address the issue of welfare by increasing soldiers' salaries and renovating military facilities not merely to improve their wellbeing, but also reduce their propensity to supplement their meagre incomes with illicit economic activities. The large share of salaries and functional expenses, further underlines why attempts at force modernization have to be put on hold. Since the proportion of defense budget is decreasing in terms of either GDP or the national budget (see Fig. 2.6), the Ministry of Defense faces inherent difficulties to increase the share of procurement expenditure without compromising the other components of defense spending.

Under such constraints, the Indonesian government has little option but to look to foreign loans as an alternative financial source for defense procurement. Figure 2.7 below indicates the proportion of foreign loans and actual defense budget relating to annual procurement expenditures during 2005–2008. In late 2009, an international consortium provided credit amounting to US\$278 million to support the Ministry of Defense's programs, including arms acquisition.³⁴ However, the use of foreign loans, especially export credit for defense procurement

³⁴ See "Kredit Rp. 2,785 Triliun untuk Operasional Dephan," *Kompas*, 19 November 2009.

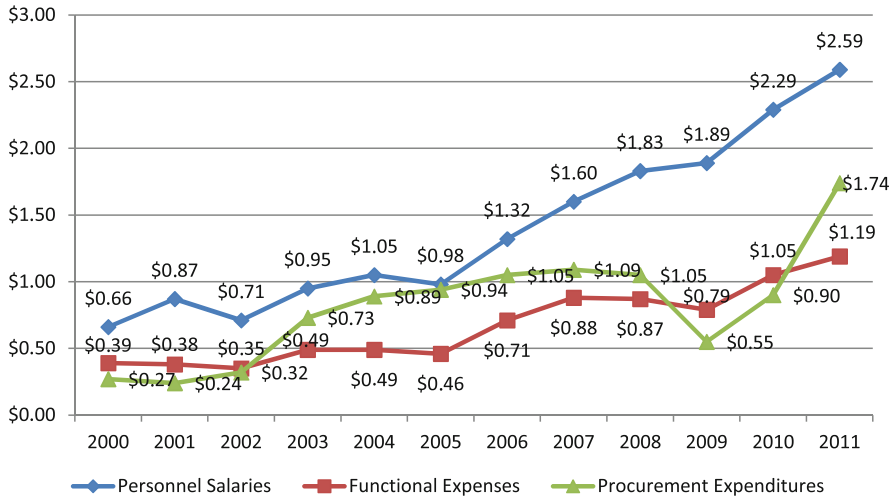


Fig. 2.6 Indonesia’s defense expenditures, 2000–2011 (in billions US\$) (Source: Authors’ data set compiled from a number of academic publications and official documents)

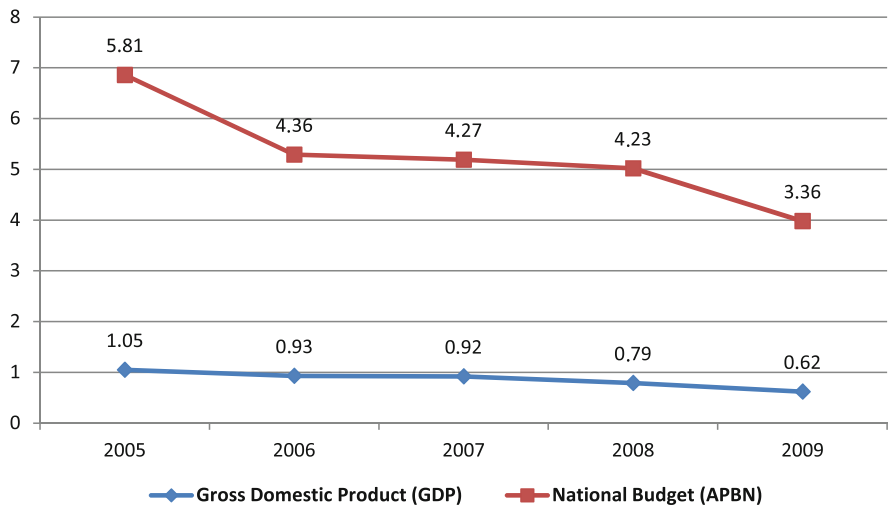


Fig. 2.7 The percentage of Indonesia’s defense budget in GDP and national budget (Source: Authors’ data set compiled from a number of academic publications and official documents)

is not without its complications. Although defense procurement has been consolidated under the authority of the Ministry of Defense, the disbursement of export credit for arms acquisitions not only involves cumbersome bureaucratic

procedures and relatively high rates of interest,³⁵ but also depends on the whims of the creditor nation. In 2007, for example, the Russian government agreed to provide Indonesia with US\$1 billion worth-“state credit” for arms acquisition purposes. The assistance, however, was deferred due to the difficulties faced by the Ministry of Defense in finding financiers for the acquisition. State and private banks in European countries were reluctant to provide loans partly because Russia is not member of the Organization for Economic Cooperation and Development (OECD), which clearly limits export loans to production projects such as electricity and toll roads.³⁶ Therefore, seen in Fig. 2.7, the Indonesian government gradually reduced the allocation of export credit for its procurement expenditure.

The fact that national defense attracts limited national financial resources somehow has not translated into an obligation of implementing good governance principles in the management of defense spending to overcome credit shortfalls. Based on two audit reports obtained, in 2009,³⁷ the State Audit Agency (BPK) discovered alarming financial deviations in budget disbursements covering 125 expenditures within the Ministry of Defense (US\$2.57 millions), Army Headquarters (US\$6.69 millions), Navy Headquarters (US\$1.7 millions) and Air Force Headquarters (US\$4.74 millions).³⁸ No serious penalties were meted out partly because the authority of the BPK does not include law enforcement, other than providing recommendations to the Indonesian parliament and authorities within the Ministry of Defense and TNI Headquarters that disciplinary measures be undertaken. Moreover, the scope of BPK’s audit activities seem to focus exclusively on functional expenses, excluding major procurement expenditure, especially arms acquisitions. The lack of accountability in the management of defense spending has its origins in the nature of military bureaucracy in Indonesia.³⁹ The current administration of budgetary matters within the Ministry of Defense and TNI Headquarters still encompasses long cumbersome bureaucratic procedures to which the TNI’s chain of command tends to be inherently structured like a financial management hierarchy.⁴⁰ This long, unwieldy bureaucratic structure, has in fact, caused “bureaucratic inertia” which in reality contravenes the objective requirement of national

³⁵ See Minister of Defense Decree No. 01/M/I/2005 on The Procedure of Military Procurement with Export Credit Funding within the Ministry of Defense and TNI Headquarters.

³⁶ See “KE Alutsista Rusia Terkendala Kredit Ekspor,” *Republika*, 7 February 2006.

³⁷ To clarify further, these reports were the result of a random audit on selected, but not all, bureaus within the Ministry of Defense, Army Headquarters, Navy Headquarters and Air Force Headquarters structure.

³⁸ See State Audit Agency (2009, p. 46, 2010, p. 45).

³⁹ According to Article 56 of Presidential Decree No. 42/2002, both functional and procurement expenditures within the Ministry of Defense and TNI Headquarters was disbursed through the State Treasury Office (KPKN). The article though stipulates that the regulation was to be “implemented gradually” without mentioning definite timeline. See Presidential Decree (Keppres) No. 42/2002 on the Guideline for the Implementation of Annual National Budget.

⁴⁰ See Minister of Defense Decree No. 1698/M/X/2002 on the Structure of Program and Budget in State Defense.

defense, namely, the “mobility and flexibility of the military” (Anggoro, 2003; ProPatria Institute, 2007, pp. 21, 22).

Hence, it is difficult to find alternatives to build a credible defense posture in the midst of the state’s limited financial capacity and the latent inefficiency of its defense spending patterns. The relatively small defense budget may affect defense spending, but should not compromise strategic planning. The law now demands that the TNI’s force structure to be developed based on a proper defense strategy and taking account of Indonesia’s geostrategic reality as an archipelagic country. Accordingly, if limited budgets have become a major constraint thus leading to substantial changes in defense planning thinking, there should have at least been some transformation of the TNI’s force structure since military reform was initiated. However, during the last 12 years, there has been no significant change in the capabilities of Indonesian navy and air force compared to Indonesia’s neighbours in Southeast Asia, let alone major regional states like China and Japan. This stagnation in capabilities is to some extent reflected in terms of budget distribution within national defense circles. Figure 2.8 below illustrates that during 2005–2008, both navy and air force obtained a minor share of the defense budget with an average of 15% and 11% respectively. Both these services may acquire a larger share of arms acquisitions because the budget for procurement expenditure is now under the management of the Ministry of Defense; but it is fair to argue based on this figure that the navy and air force suffer from a lack of operational readiness because of insufficient budget allocations for their arms maintenance costs (see Fig. 2.3).⁴¹

Although the Ministry of Defense is planning to integrate the three branches of TNI by establishing Joint Regional Defense Commands (Kodahan), the current TNI force structure still depends primarily on the army’s central and territorial commands comprising around 233,000 soldiers.⁴² In this regard, the basic reason why the Ministry of Defense allocates the lion’s share of the funds to the army is because it has the largest manpower needs rationalized by its nationwide troop deployment compared to the navy and air force. Over and above doctrinal reasons and the problematic consequences of territorial troop withdrawal, the army’s high-command maintains that the territorial structure is relatively cost-effective and seen as a “low-cost” deployment, not to mention the advantages gained by its alleged “self-financing” activities – hence the lack of any incentive to establish modern military units. In fact, the deployment of 60 infantry battalions into 12 Regional Military Commands (Kodam) does not necessary equate to operational effectiveness since the majority of these battalions are not well-armed, trained and lack of mobility. Meanwhile, the situation for the army’s central command, which consists

⁴¹ See “Siasat Mencegah Besi Tua,” *Tempo*, 28 June 2009.

⁴² See International Institute of Strategic Studies, *The Military Balance 2011*, London: Routledge 2011, p. 242.

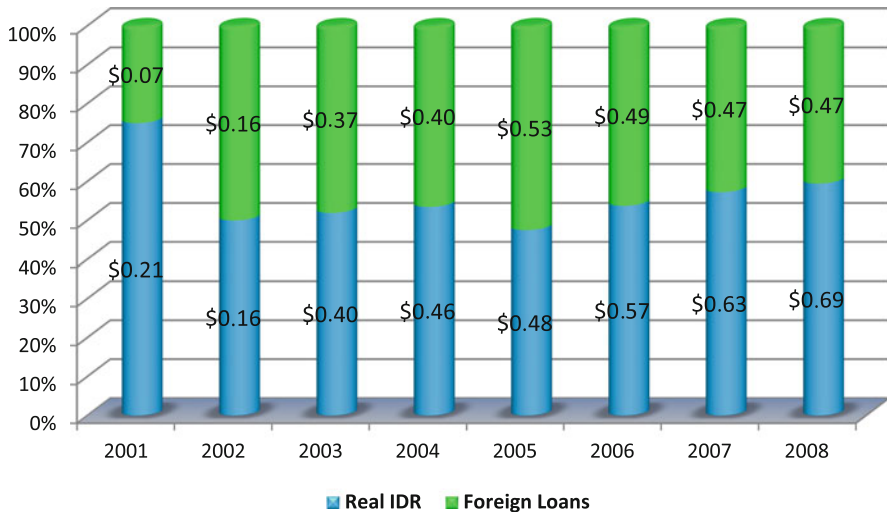


Fig. 2.8 Budget components for defense procurement, 2001–2008 (in billions US\$) (Source: Authors' data set compiled from academic publications and official documents)

of the Strategic Reserve Command (Kostrad) and the Special Forces Command (Kopassus) is marginally better though these units also suffer from similar problems, specifically, the lack of strategic airlift capabilities that inherently compromises their ability for immediate deployment in the event of contingencies (Fig. 2.9).

The “capacity-commitment gap” and “defense-economic gap” underscores the immediate need to advance the agenda of military reform a step further into the “military transformation” phase. As an additional commitment to increased professional standards, the primary aims of defense or military transformation is to add another building block strengthening the TNI’s professional military culture and improving its operational effectiveness.⁴³ This transformation thus should include substantial issues: improving manpower (recruitment, education and training) policies; overhauling the salary structure, promotion and retirement schemes; force structure reorganization; force employment innovation; adopting network centric-command and control; smart arms procurement; and the establishment of an indigenous defense industrial strategy. In this regard, President Yudhoyono’s recent decision to significantly increase the allocation of the defense budget up to levels of 1.5% of Indonesia’s GDP may provide the momentum and resources to initiate a defense transformation phase in Indonesia.⁴⁴

⁴³ See E. Laksana “Defense and Leaders Transformation,” *The Jakarta Post*, 12 May.

⁴⁴ See “Presiden: Saatnya Anggaran Pertahanan Naik Signifikan,” *Kompas*, 5 May 2010.

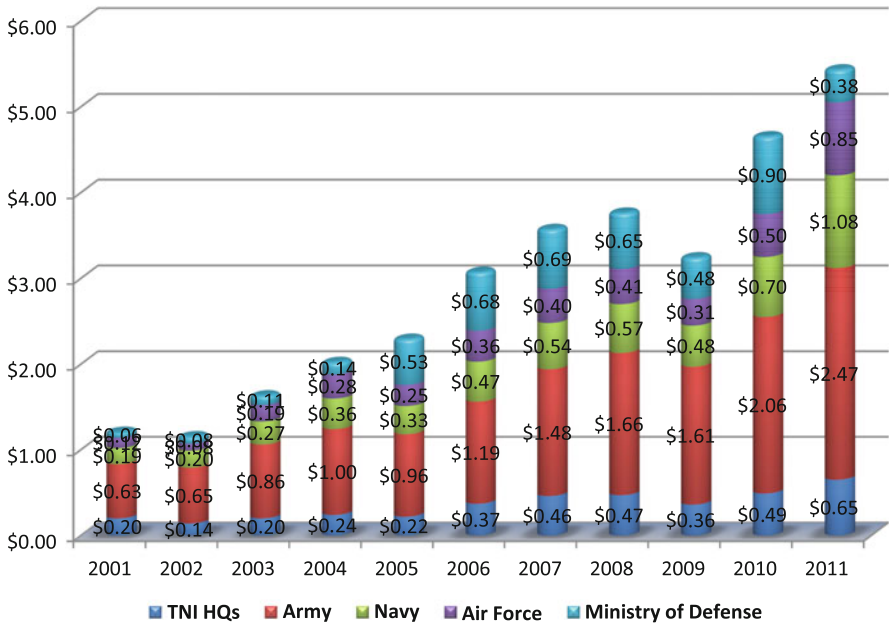


Fig. 2.9 The distribution of Indonesia’s defense budget, 2005–2010 (in billions US\$) (Source: Authors’ data set compiled from a number of official documents)

The Shortcomings of Democratic Civilian Control

The capacity-commitment gap is not purely an issue compromising TNI performance, but pertains also to civilian political elites in Indonesia. In democratic countries, civilian control over the military is implemented in many ways, including legislation, budgetary control and oversight concerning strategic planning, programming and budgeting in national defense. However, mindsets for civilian control are still not deeply rooted in Indonesia’s democratic institutions, especially the parliament (DPR). The foremost obstacle in this regard is apathy, the unwillingness to develop expertise on defense matters, and the hesitation of many parliament members to carry out their constitutional responsibilities (Anggoro, 2002, pp. 1–22). The disregard of defense and military affairs by legislators is apparent in many cases, including their reluctance to participate in public discussions on defense and military issues coupled with a presumption that military expertise is the precondition to participate in defense policymaking. Accordingly, the majority of legislators tend to concentrate exclusively on matters relating to political accountability rather than scrutinize topics or issues requiring them to make judgments on how to harmonize defense policy and strategic planning with

programs and projects in national defense. In any fit and proper test for candidates for the TNI's commander-in-chief position, for example, the questions posed by the legislators generally focus on personal matters, with cursory inquiries made on the candidate's military credentials and vision to reorganize the TNI's force structure.

More importantly, the Indonesian parliament – particularly Commission I overseeing national defense – sorely lacks institutional capacity (on parliamentary oversight, see Rüländ & Manea's chapter in this volume). There are the existing regulations, including the Handbook of Indonesia's House of Representative, stipulating procedures for the implementation of parliamentary oversight to act as a guide. Yet, the lack of institutional capacity of Indonesian parliament is not simply confined to the shortage of qualified parliamentary staffers, but hampered considerably by the limited expertise of the legislators along with their staff to comprehend the complexities of technical-operational requirements and financial management issues in national defense. The lack of expertise was to some extent evident during the legislation process for several bills on national defense and annual defense budgeting. This problem has substantially undermined the effectiveness of parliamentary oversight. The legislators are further hindered by the limited information provided by the Ministry of Defense regarding the details of defense expenditure in relation to defense budgeting. For defense procurement matters, for example, officials at the ministry are required to provide information to Commission I legislators if arms acquisitions are funded through export credit as regulations stipulate the need for parliamentary approval for the allocation of foreign loans.⁴⁵

Political rivalries among civilian elites may also distract parliament members from substantive issues related to military reform. Under the current political system, parliament members are grouped under their respective political parties in "Factions" (*Fraksi*). Each political party may issue directives on how their respective parliament members should respond to certain issues or government policies. Accordingly, outspoken legislators may be reprimanded or even "recalled" requiring them to step down from their parliamentary position if they adopt a stance contradicting their respective party's directives on specific issues related to defense policy particularly in issues like procurement ([ProPatria Institute, 2007](#), p. 28).⁴⁶ Consequently, legislators find themselves in an awkward position, being forced to act according to their party's directives which may go against their obligation to exercise proper parliamentary oversight. Such conflict of interest is a common occurrence in coalition politics where parties forming a coalition government are forced to adopt compromise

⁴⁵ "Streamlining Purchase," *Tempo*, 30 March 2010.

⁴⁶ To name a case, despite strong resistance by some legislators in Commission I, the procurement proposal of France made-Armoured Vanguard Vehicles (VAB) was eventually approved by the parliament in 2006. At a focus group discussion with several members of the Commission on 28 June 2007, a legislator from one of the major political parties acknowledged that he had to approve the proposal after receiving a memo from the party's chairman.

positions. For a young democracy like Indonesia, this represents an understandable handicap. A disturbing trend however is the willingness of legislators to constantly hide behind such excuses in order not to exercise oversight responsibilities over a variety of expenditure issues within the Ministry of Defense and TNI Headquarters. Unsurprisingly, financial deviations reported by the State Audit Agency (BPK) were never properly examined by legislators and no recommendations made to law enforcement agencies to prevent a situation of “moral hazard” arising in the management of annual defense spending.

To make matters worse, civil-society organizations have yet to completely adapt their approaches to cope with post-Suharto political developments. Some of them still harp on non-substantive issues, such as the need for “demilitarization” and for the “army to return back to the barracks.” Such jargon provokes a defensive reaction from the military and is counterproductive to sound civil-military relations. During the Megawati presidency, anti-dual-function slogans were still aired despite the fact that the TNI had officially abandoned this doctrine since 2000. Some issues, including cases related to human rights abuses and issues pertaining to the takeover of military businesses remain relevant and need to be scrutinized. However, such advocacy should be impartial and in the case of human rights investigations conducted with empathy without disregarding the difficult operating conditions faced by soldiers usually placed in stressful situations by their ambitious officers. Likewise, the mass media, the fourth pillar of democracy, need to focus more on substantive issues plaguing the defense sector. Although print and electronic media are now making a greater effort to cover strategic defense issues, including arms procurement matters; the majority of Indonesian journalists have a greater interest in covering political issues, particularly an obsession over the political manoeuvres of the ex-generals during the 2009 election and their commentaries seem to have a fixation over the political ramifications of military postings. Similar to other democratic countries, the military is justified in having some role in strategic policymaking, but only a small number of journalists in Indonesia seem willing to make an effort to investigate to what level the TNI high-command is involved in strategic decision-making.

Therefore, redefining the role of TNI and transforming its capabilities within a democratic environment still remains a work in progress. Democratic civilian control should be substantially reflected in the institutional capacity of the democratic institutions shaping post-Suharto Indonesia. In this regard, the presence of an advanced defense policy community with sophisticated know-how will be crucial to assist both civilian policymakers and legislators to formulate relevant policies leading to the transformation of defense and military institutions in Indonesia. Accordingly, the woeful expertise demonstrated by Indonesia’s legislators on defense and military affairs should be addressed and a short-term solution would be their need to develop their expertise by deepening their engagement with experts based in think-tanks and universities, as well as civil-society advocates.

Concluding Remarks

Unless Indonesia's chooses to abandon democracy for some other system of governance, it is unlikely that the TNI will completely regain the unchallenged powers it enjoyed under the old Suharto era national security state. Elected civilians now have a taste of power and would be unwilling to allow the TNI to assume a dominant political role. If the deficiencies in democratic civilian control are overcome, it is not implausible that a productive civil-military debate will arise over the substantive features of future defense budgets and more importantly the exercise of TNI's autonomy in disposing the government's budgetary allocation according to its own requirements. The TNI believes that civilians in Parliament still lack the competence or expertise to provide proper direction for defense and security matters. Until the time when adequate civilian defense expertise materializes, the best option to ensure that limited civilian authority is legitimized in the short-run would be for the government to provide an adequate budget for the military's needs. Without the government providing sufficient inducements to wean the military from its autonomous financial prerogatives, it will be virtually impossible for any democratically elected government to effectively decide on national defense priorities and more importantly, to ensure the implementation of such policies.

The TNI today is no doubt fundamentally different from the Suharto era. In a short period of time, the TNI has adapted remarkably well to Indonesia's new political and social climate. The reality though is that although military prerogatives have been reduced, they remain far from being marginalized. While they may have lost much of their direct influence in social-political affairs, the changes instituted have allowed the TNI to regain some of its standing in society and find a new role in defending Indonesia's sovereign interests and combating internal threats. President Yudhoyono has thus far shown an accommodative stance towards the military. He understands military interests well. He is cautious and has not sought to push for radical reforms that would undermine the military's influence and power too drastically.

Civilian control over the TNI remains tentative in a democratizing Indonesia. Civil-military relations are still far from the democratic model defined by the existence of a civil-military dichotomy and the exercise of "objective control" of the military. With civil institutions remaining weak and TNI's constitutionally propagated self-image as the "protector and guardian" of the unitary state of Indonesia still intact, the military can still undermine an Indonesian government headed by an incompetent president whose position is severely weakened by squabbling and self-serving political parties. Alternatively, a politically embattled president enjoying strong military support can engineer military intervention by exploiting the prerogatives the military retained in the system. In such a situation, the regime could be transformed into a non-democratic civilian-headed garrison state – one not unlike the Suharto regime. What exists today in Indonesia is thus still a "transitional, hybrid regime of civil-military coexistence" in which the military may no longer dictate policy to civilians but yet remains "behind the scenes" as an important political player.

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Chapter 3

Taking Stock of Military Reform in Nigeria

Maria-Gabriela Manea and Jürgen Rüländ

Introduction

This chapter will explore the nature and depth of military reforms since Nigeria's last democratic transition in 1999. Reforming civil-military relations in the largest West African country was inevitable, if the military's decision to hand over power to civilians after the unexpected death of military dictator Gen. Sani Abacha on 8 June 1998 was genuine. Doubts about the military's sincerity indeed lingered at the time as the Nigerian military had a record of not honouring transition promises. The last attempt to civilianize Nigerian politics ended with the annulment of the presidential elections of 12 June 1993 by Gen. Babangida. The decision paved the way to power for Gen. Abacha, who toppled a weak interim government installed by outgoing President Babangida and subsequently sought to perpetuate his repressive rule with the support of the armed forces. These legacies raise the question of how deep and lasting the new Nigerian democratic order and the military's political abstinence are.

The chapter draws from the paradigm of security sector reform (SSR) as outlined in the introductory chapter. Analyzing the conditions under which the Nigerian military reform was initiated and conducted, its scope and depth, requires the examination of the extent to which democratically elected Nigerian civilian governments have so far succeeded in institutionalizing mechanisms to control the armed forces in the following domains: (1) the legal and constitutional frameworks giving democratic control a solid base; (2) the civilian executive branch including the ministry of defense in charge of policy and budget; (3) parliamentary committees empowered to approve, oversee and investigate policy and budget as well as their implementation; (4) national security/defense councils;

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and (5) internal military reforms. The oversight of all these activities involves more than the executive level and includes parliament, judiciary, civil society, expert networks and media.

The chapter argues that Nigeria's military reforms merely led to civilian control, mostly exercised by the executive and the president and that they are still far away from democratic control. We show that a substantial number of institutional mechanisms of civilian control have been institutionalized, at least on paper, but that their deficient and selective use as well as the lack of democratic political culture among civilians themselves considerably constrains the oversight of military activities. These shortcomings also impede the socialization of the Nigerian armed forces in a professional culture more in tune with the new democratic norms.

The chapter proceeds in several steps. In a first step, we contextualize the political role of Nigerian military in the post-independence period. This historical analysis sheds light on path-dependencies that help to understand the transformation of civil-military relations and the democratic transition from June 1998 onwards. In a further step we subdivide the period under investigation into three major phases of varying length, corresponding to (1) the interim military rule under Gen. Abdulsalami Abubakar (1998–1999), (2) the first 2 years of the democratically elected government under President Gen. rtd. Olusegun Obasanjo (1999–2001) and finally, (3) the period afterwards marked by stagnation of military reform and failure in establishing well-functioning mechanisms of democratic control of the armed forces. The chapter concludes with a summary of the main arguments.

The Military in Nigerian Politics

In most post-colonial countries, the struggle for independence and nation-state building had been the main dynamics in which national armed forces emerged and rose to political pre-eminence. Achieving independence in 1960, Nigeria's post-colonial history was relatively short and the role of the military in achieving independence was quite marginal. However, the military leadership's ambitions increasingly developed from the mid-1960s onwards (Othman, 1989).

The Nigerian military had never gone as far as legitimizing its political role through an elaborated missionary ideology anchored in the local political symbolism. Apart from assumptions derived from vintage modernization theory of the 1960s, which regarded the military as an organization spearheading the drive for modernization (Janowitz, 1965), there was no other ideational core legitimizing the Nigerian military's involvement in politics. The history of the Nigerian military as part of the British West African contingent (Adejumobi, 2002, pp. 150, 159) and the clear inclusion of the principle of civilian supremacy in the post-colonial state of the 1960s had not encouraged the construction of a particular political role for the military.

The armed forces intervened in domestic politics for the first time in January 1966 when the military takeover under Gen. Aguiyi Ironsi, an Igbo from Nigeria's southeast, abruptly ended Nigeria's post-independence Westminster

type parliamentary system. The coup provoked a counter-coup by northern officers in July 1966. The secession of the Igbo ethnic group, which on May 29 1967 proclaimed the independent Republic of Biafra in the eastern region of the country, threw Nigeria into a Civil War (1967–1970). Although the military had a decisive role in the restoration of national unity in the Biafra War (Clapham, Herbst, & Mills, 2006, p. 66), it acted as a tool of the federal government and not out of a particular ideology or a self-proclaimed guardian role. However, the Civil War was a watershed in Nigerian civil-military relations. It transformed the former colonial armed forces into a *de facto* national army, an element of unity in the face of ethnic fragmentation. But even more decisive for the military's leadership aspirations was the fact that it markedly strengthened the role of the armed forces, gave them an identity as savior of the nation and established their firm political grip over the country. Since then, Nigeria's post-colonial history has been a history of military incursions into politics, often driven by heavy infighting within the political class over the distribution of the country's abundant oil resources among the major ethnic groups, namely the Yoruba, Hausa-Fulani and Igbo (Jega, 2007, p. 209).

This early period of military rule under Lt. Gen. Yakubu Gowon ended in 1975 with the coup of Gen. Murtala Mohammed. After Mohammed's murder in an aborted coup in 1976, Vice President Gen. Olusegun Obasanjo became his successor and, finalizing the democratization program initiated by Mohammed, handed over power to a democratically elected civilian government under President Shehu Shagari in 1979. This has been the only, albeit short-lived, restoration of constitutional democracy since the first military coups in 1966 and the power handover to Olusegun Obasanjo on 29 May 1999 (Ojo, 2006, p. 255). In 1983 another military incursion into politics led by Gen. Muhammadu Buhari and Gen. Tunde Idiagbon ended the return to democracy abruptly. At the time, the coup plotters benefited from public and civil society support as people were dissatisfied with the mismanagement of the Shagari administration. Only 2 years later, an intra-military power struggle brought to power the Chief of Army Staff, Maj. Gen. Ibrahim Babangida. In 1987 Babangida's military administration launched a transition program to democracy expected to return political authority to civilians by 1993, an empty promise as it should turn out. Gen. Babangida did not accept the results of the 1993 elections and simply annulled them. Instead, he established an Interim National Government (ING) under Chief Ernest Shonekan, a shallow imitation of a civilian government which was overthrown only a few months later by Gen. Sani Abacha and Gen. Oladipo Diya (Badmus, 2005, pp. 57–60; Elaigwu, 1997, pp. 85, 86; Falola, 2000, p. 193; Nwolise, 2002, p. 325). Once more, segments of the political class and even pro-democracy forces openly welcomed the intervention by conservative military officers in 1993 (Ihonvbere & Shaw, 1998, p. 190).

The higher number of coups targeting military rather than civilian governments proves that the Nigerian military was far from bringing either political stability or economic wealth to the country. Instead it evolved into a factionalized organization suffering of similar tensions and ethnic cleavages as Nigerian society as a whole. Nigeria had seven military heads of state between 1966 and 1985 and 117 military officers and civilians have been executed due to their involvement in coups

(Ojo, 2006, p. 262). Moreover, Nigeria's military rulers presided over a dramatic economic decline in the 1980s and 1990s. According to World Bank estimates, 70% of the Nigerian population lived below the poverty line of one dollar per day at the turn of the century (Suberu, 2001, p. 207, 211).¹ This brought Nigerian military regimes to a point where economic distress made them dependent upon the support of the Western world.

The short and limited autonomy of the Nigerian political system from military intrusion substantially reduced the space for political institutions and the political class to develop free from the military repression. With each phase of military rule, parliament, political parties, opposition, and civil society went through a process of atrophy or outright abolition. As a matter of fact, they were largely absent in 1998 when the regime changed, leaving civilians with limited bargaining power in the negotiation of the democratic transition and even less with regard to military reforms. In particular, the civil society, which in many Third Wave transitions was a driving factor for reforms, only played a minor role in Nigeria prior to and during regime change. Although in Nigeria civil society organizations and labor unions emerged in the 1980s, they faced massive repression under the rule of Gen. Abacha (1993–1998). Security forces responded brutally to all kind of political dissent, imprisoning or even murdering many oppositionists. By creating an atmosphere of intimidation and severe repression, political activity in the country came to a virtual standstill (Ahosni-Yakubu, 2001, p. 92; International Institute for Democracy and Electoral Assistance, 2000, p. 186).²

The self-proclaimed role of the Nigerian military as the savior of the fragile nation state and its self-attributed institutional modernity and professionalism fuelled the military's claim to political power and a feeling of superiority over civilians. Many military officers despise the non-uniformed population as "bloody civilians"³ and "dirty politicians" corrupting the military ethos (Adekanye, 1999, p. 88). By contrast, the Nigerian armed forces defined themselves as a professional organization. Yet they conceded that in the course of political interventions the loss of their military ethos had become ostensible not only outside, but also increasingly inside the military institution. This view has been repeatedly aired in our interviews by retired military officers, especially those from the older generation.⁴ In fact, the emergence of a "political" type of officer had strongly divided the Nigerian military, creating an atmosphere of discontent among the operational units towards the "political soldiers" (Adejumobi, 2000, p. 33). The decision to withdraw from politics after June 1998 was, on the one hand, in harmony with the perceived military ethos and professionalism but, on the other, a tactical move safeguarding

¹ For slightly different, but in the general tendency, similar figures, see Adejumobi (2002, p. 170) and Nwanko (2003, p. 48).

² *Tell*, 3 May 1999, pp. 18–22.

³ *Tell*, 21 April 2008.

⁴ Authors' interviews with retired military officers at a Roundtable in Jos, 5 March, 2009.

the military's image and interests through a self-controlled process of transition that left unquestioned the military's corporate identity as the dominant institution in the country.⁵

The Military's Engineered Transition and Reform (1998–1999)

From June 1998 to April 1999 new foundations of the Nigerian political system and armed forces had been laid down through a 10-month transitional program under the leadership of Gen. Abdulsalami Abubakar. The very choice of Gen. Abubakar as future interim head of state by the Provisional Ruling Council (PRC), the highest political body through which the military ruled the country,⁶ apparently signalled a move away from Abacha's loyalist group.⁷ Economic mismanagement, corruption, and massive human rights violations had thrown the country into deep decay (Ihonvbere & Shaw, 1998). Beyond this, the Western world made political liberalization a precondition for Nigeria to access much needed external economic and financial assistance. In response to expectations from inside and outside the country, Gen. Abubakar was able to navigate the country to an early power transfer on 29 May 1999 in spite of massive intra-military pressures for delaying the process to October 1999 or even to the year 2000.⁸

Very limited measures at this stage targeted structural reforms of the military organization. At that time the bargaining over the conditions of the power transfer had much higher priority. Gen. Abubakar employed a strategy of appeasement towards the military with the aim of ensuring their support for political retreat and power handover to democratically elected civilians. Soon after his instalment, he dissolved the federal cabinet and appointed his own staff.⁹ He toured military barracks, explaining why it is "imperative for the military to go back to its constitutional role of defending the territorial integrity of the country."¹⁰ Within 10 months, Gen. Abubakar led the military twice, in August 1998 and on 12 May 1999, to a collective open undertaking declaring: "[...] never again to hijack the political process. [...] The armed forces] should subject themselves to the democratically elected government and play the roles assigned to them, to defend Nigeria's territorial integrity."¹¹

Moreover, the government increased the salaries of soldiers and officers by the end of 1998 (Olonisakin, 1999, p. 32) and set up a committee on the "Reorientation

⁵ *Tell*, 25 January 1999, pp. 16–19.

⁶ *The News*, 29 June 1998, pp. 11–17; *Tell*, 25 January 1999, pp. 16–19.

⁷ *Tell*, 25 January 1999, pp. 16–19.

⁸ *Tell*, 25 January 1999, pp. 16–19.

⁹ *Newswatch*, 14 September 1998.

¹⁰ *The Guardian*, 27 November 1998, p. 11; *Newswatch*, 31 August 1998, pp. 17–19.

¹¹ *The Guardian*, 13 May 1999, p.1.

of the Armed Forces and the Police towards Enduring Democracy.” Under this framework workshops had been organized in Abuja and the six geo-political zones of the federation¹² on issues pertaining to the welfare of the military and adequate remuneration, re-professionalization and the need for the armed forces to commit themselves to the democratic transition.¹³ This was also in response to the U.S. and U.K. governments’ demands to professionalize the military, which continued until Abubakar’s exit in May 1999.¹⁴ These efforts, however, represented a military inward-looking process of persuasion that did not engage the public and civilians over the concept of military retreat.

Beyond this, Abubakar’s administration abolished several decrees and political restrictions which considerably relaxed the political atmosphere and liberalized politics. On 20 July 1998, Abubakar scraped Abacha’s transition program initiated in October 1995 and launched his own 10-month transition plan scheduled to end on 29 May 1999 after parliamentary elections and the direct election of a civilian president in February 1999. The five formally accepted and controlled political parties established under Gen. Abacha’s rule with a view to being involved in the envisaged electoral exercise legitimizing his rule were dissolved. Founding and funding political parties became an independent affair of civilians. The military government decided not to finance any political party in the future in order to ensure that the political process could not be controlled by the military.¹⁵

Furthermore, political prisoners were released to the satisfaction of many opposition groups and civil society organizations such as the National Democratic Opposition (NADECO), Civil Liberties Organization, Campaign for Democracy and the Nigerian Bar Association (NBA).¹⁶ Abubakar also promised to order the investigation of “genuine claims” of torture and human rights violations by Abacha’s henchmen.¹⁷ Shortly before leaving office, Abubakar indeed repealed State Security Decree No. 2/1984 allowing for the discretionary detention of persons, on the ground that it violated the newly enacted 1999 Constitution.¹⁸

Much more contested, however, was the non-transparent drafting of the 1999 Constitution laying down flawed constitutional rules for the future political game (Nwankwo, 2003, p. 95; Olonisakin, 1999, p. 31).¹⁹ Only a small group of individuals, such as members of the military government and the junta-appointed

¹² Nigeria is sub-divided into six major geo-political zones, among which political posts in the federation are shared: Southwest, Southeast, South-South, Northeast, Northwest, North-Central geo-political zones.

¹³ *Newswatch*, 7 June 1999, pp. 52–54.

¹⁴ *Newswatch*, 12 October 1998, p. 15.

¹⁵ *Newswatch* 3 August 1998, pp. 8–14.

¹⁶ Including the release of the former military ruler Olusegun Obasanjo on 9 June 1998, but for undisclosed reasons not the winner of the 1993 presidential elections Chief M.K.O. Abiola.

¹⁷ *Newswatch*, 21 September 1998, pp. 16–17.

¹⁸ *Vanguard*, 10 May 1999, p. 3; *The Guardian*, 29 May 1999, p. 2.

¹⁹ *This Day*, 21 October 2001, p. 30.

Tobi Committee,²⁰ which was also tasked to organize country-wide public consultations, were involved in the writing of the 1999 Constitution. The military government was charged with simulating genuine interest in the work of the Tobi Committee while, in reality, writing the 1999 Constitution on the PRC's own terms²¹ as publicly asserted by the NBA Chief, Thomson Onomigho-Okpoko, the co-draftsman of the 1999 Constitution,²² and human rights activists. Femi Falana, a noted human rights lawyer from the Joint Action Committee of Nigeria (JACON), and the Committee for the Defense of Human Rights, warned the public that the 1999 Constitution essentially "bars the incoming civilian administration from questioning the conduct and activities of the military that ruled the country from December 1983 to 29 May 1999."²³ Moreover, the Constitution was hastily enacted by Military Decree (Ibeanu & Egwu, 2007, pp. 81, 82; Ugoh, 2005, p. 168).²⁴ In spite of this criticism, the military resisted all public demands for the organization of a Sovereign National Conference (SNC) as a more legitimate and inclusive forum for the constitutional process. But to the credit of Abubakar's military government, the 1999 Constitution, through Sections 217–220, restored the concept of democratic control of the armed forces by placing the military under the supervision of the National Assembly and in terms of its command chain and operational use under the President as Commander in Chief (Nwolise, 2002, pp. 325, 326).

In an attempt to safeguard the elections from military interference, both active and retired military officers were advised not to get involved in the presidential race.²⁵ The former Chief of Staff, Maj. Gen. (rtd.) Tunde Idiagbon, emphasized that the presidential elections "should be a signal for a genuine return of the military to the barracks,"²⁶ while Abubakar demanded that "any uniformed personnel who harbours political ambition should resign his commission, join a political party and effect his wish through the political process" as the military's duty is not to govern.²⁷ It must be said that Abubakar's consistent follow up on his transitional program was also motivated by substantial external pressure, especially from the U.S. and the U.K.²⁸ However, the military still exerted influence over the choice of candidates through behind-the-scenes deals, although it ultimately supported a compromise candidate in the person of Olusegun Obasanjo, a retired general

²⁰ Tobi Committee was composed of a number of 25 members appointed by the Provisional Ruling Council.

²¹ *Tell*, 9 August 1999, pp. 20–23.

²² *Vanguard*, 21 June 1999, p. 1.

²³ *The Punch*, 5 May 1999, p. 6.

²⁴ *This Day*, 15 April 1999, p. 10.

²⁵ *The Guardian*, 2 December 1998, p. 8.

²⁶ *The Guardian*, 28 May 1999, p. 3.

²⁷ *The Guardian*, 16 April 1999, p. 1.

²⁸ Tony Lloyd, the British deputy minister for African affairs at that time, who met Gen. Abubakar shortly after his appointment on 27 June 1998, conveyed the EU message that sanctions would be eased only if political changes take place. See *Newswatch*, 13 July 1998.

(Adekanye, 2005, p. 11). In the words of a Nigerian analyst, the power transfer was “an affair between elite solidarity and communal support” (Njoku, 2001, p. 87). Overshadowing the withdrawal of the military from political power as promised by Abubakar 10 months earlier, allegations of large-scale corruption and looting of public funds by his administration prior to its exit are abundant in the media reports of the time.²⁹ Behind them may have been acts of self-enrichment of the outgoing transitional government, but also pay-offs to smoothen the military’s exit from executive power.

Military Reforms Under Executive Dominance (1999–2001)

Obasanjo’s election was acceptable to both the armed forces due to his military past and the pro-democracy forces given his known stance for political liberalization and for opposing the Abacha regime (Ihonvbere & Shaw 1998, p. xxxiv). As a Yoruba (representing the south western region of Nigeria), his election also eased persistent ethnic tensions reminiscent of the annulment of the 12 June 1993 elections that would have led for the first time in Nigeria’s post-colonial history to the instalment of a president from this ethnic group (Amaike, 2007, p. 183). The moment of power handover to President Obasanjo conveyed the political message that the military era was over while, at the same time, it marked the entry into a phase of executive hegemony under democratic auspices. As the discourse on military reform during the first phase of power transfer was restricted to the issue of the military’s return to the barracks and re-professionalization, after Obasanjo’s election the scope of military reform was not too ambitious either. A “worst case” scenario would see military reform accomplished through the military return to the barracks; a “best case” scenario would address the need to professionalize and modernize the armed forces together with the exercise of civilian supremacy. Adding to this, the weak participation of civil society and the public at large as well as the new and inexperienced National Assembly were factors that did not encourage the development of a comprehensive concept of military reform and a critical mass base to pressure for its implementation. For his part, President Obasanjo initiated a range of reforms that strengthened the executive control of the armed forces, with no contribution, however, from the legislature or civil society. Moreover, the gap between Obasanjo’s policy rhetoric and practice can be highlighted by contrasting his speech at the War College in Abuja, on 24 July 1999 laying down the fundamentals of his concept of civilian supremacy with the measures initiated after his instalment in office. In this speech Obasanjo laid down the following criteria for military reform:

²⁹ See *Tell*, 17 May 1999, pp. 21–25.

1. [An] elected civilian president as commander in chief of the armed forces, and the supremacy of elected state officials over appointed officers at all levels;
2. Civilian headship of the ministry of defense and other strategic establishments;
3. Decisions regarding the goals and conduct of military operation must serve the political and strategic goals established by the civil authority;
4. Application of civil principles to all military investigations and trials;
5. Right of civil (Supreme Court) authority to review any actions or decision taken by military judicial officers.
6. Other instruments for achieving supremacy of civil authority include constitutional clauses and legislative oversight functions.

Contrary to this announcement, during the first 2 years of Obasanjo's executive leadership, the government mainly focused on the first two points of the reform agenda. Although rhetorically acknowledged, the remaining points are still far from an adequate implementation and are constrained by a malfunctioning and corrupt judiciary system. But the most disappointing aspects of military reform in Nigeria, which enjoy great significance in the current paradigm of security sector reform, are those vaguely subsumed under the last point. President Obasanjo's power struggles with the National Assembly have certainly weakened the prospects for the enactment of military legislation and constitutional amendments in support of military reforms. Moreover, the notion of democratic control through the media, civil society and the defense epistemic community is largely missing both in the discourse on military reform as well as in its practice (see also the chapter of Emmanuel Remi Aiyede in this volume).

Shortly after assuming office, in a surprise move, President Obasajo retired 93 high-ranking military officers. Among them were 26 generals from the army, 12 from the air force and 11 from the navy.³⁰ All of them were considered "political officers" who had served the preceding military dictatorships as ministers, governors and military administrators especially between 1985 and 1999.³¹ This purge was framed as an action of depoliticizing and re-professionalizing the armed forces. Ignoring the preferences of the incumbent service chiefs, who lobbied for staying in office on the ground that these positions are non-political appointments and new reshuffles could lead to restiveness in the military,³² Obasanjo also replaced the military leadership. Unlike in the past, the majority of these officers did not come from the Hausa-Fulani dominated north, but belonged to minority ethnicities of the Middle Belt. With this choice, Obasanjo sought to pre-empt an eventual misuse of the military by frustrated northern opposition which might have regarded the election of a Yoruba president as a threat to their traditional political hegemony.

Although Obasanjo entrusted the defense portfolio to Theofilus Danjuma, a retired military general, he went a long way in the civilianization of the defense ministry. All ministers of state for defense were civilians, with one of them, Modupe Adelaja, being a woman (International Institute for Democracy and

³⁰ *Tell*, 28 June 1999, p. 20–29.

³¹ *Daily Times*, 11 June 1999, p. 1; *Tell*, 28 June 1999, pp. 20–29.

³² *This Day*, 15 April 1999, p. 10; *Tell*, 13 May 1999, p. 23.

Electoral Assistance, 2000, p. 182). After the retirement of Lt. Gen. (rtd.) Danjuma in 2003, all subsequent defense ministers were civilians as were about half of the defense ministry's staff. One of the more intrusive tentative reforms of the executive was Danjuma's plan to downsize troop strength from 80,000 to a supposed 50,000 soldiers (*ibid.*, p. 178). Strong resistance from military quarters, however, forced the minister to abandon these plans.³³

Another early move towards military reform was President Obasanjo's decision to set up a Human Rights Investigation and Violation Commission in June 1999. The Commission, headed by Justice Chukwudifu Oputa and henceforth known as the Oputa Panel, was tasked with investigating "the causes, nature and extent of all gross violations of human rights in Nigeria between January 15, 1966 and May 28, 1999."³⁴ While the commission was set up to keep potential opposition by former military rulers at bay, it was also one of the panel's objectives to educate Nigerians about the excesses of military rule and to impress upon them the virtues of democracy. In its 3 years of existence, the Panel gained much recognition for its tireless work. It examined more than 10,000 petitions, listened to 2,000 witnesses and received 1,750 exhibits.³⁵ It submitted to the government a final report of eight volumes and 15,000 pages. Not unexpectedly, however, the human rights investigations did not contain, but rather stirred, political opposition and ethnic violence in many parts of the country. Former military rulers like Ibrahim Babangida, Muhammadu Buhari and Abdulsalami Abubakar refused to follow the summons of the commission, with Babangida challenging the constitutionality of the commission in court.³⁶ The court eventually ruled that the panel was not duly set up and by implication had no power to summon Babangida. In the end, an embattled government decided to lay to rest the panel's findings, neither publishing them nor acting upon them.³⁷ Beyond its symbolic impact, the Panel did not have any judicial powers as it was an investigative effort that largely bypassed the judiciary. Although inspired by a similar parliamentary commission that successfully dealt with the human rights issues in South Africa, the Oputa Panel did not work under the Nigerian National Assembly which could have rather increased its judicial impact. Neither did the Nigerian Congress initiate its own work on past human rights abuses.

Less ambiguity characterizes the Nigerian military justice system. Crimes committed by military personnel are tried by civilian courts and military court decisions are subject to Supreme Court review. However, the high number of petitions submitted by retired and active military officers to the National Assembly, often complaining about unjust dismissal or non-payment of pension funds, points to shortcomings in the functioning of both the military justice system and its

³³ *The Guardian*, 19 August 1999, p. 56.

³⁴ *Tell*, 16 August 1999, p. 25.

³⁵ *Tell*, 17 June 2002, p. 26.

³⁶ *Newswatch*, 17 June 2002, p. 15.

³⁷ *Newswatch*, 17 June 2002, p. 15.

oversight through the civilian courts. Thousands of prematurely cashiered soldiers are a persistent problem in the Nigerian military and a source for intra-military tension that may be easily exploited by coup plotters.

Another step to promote military reform was the government's hiring of Military Professional Resources Incorporated (MPRI), an American consultancy company specializing in military affairs (International Institute for Democracy and Electoral Assistance, 2000, p. 184). MPRI was tasked to devise a plan to civilianize the Nigerian military, to provide technical assistance, to conduct workshops on civil-military relations for military officers and civilians and to train Nigerian soldiers for peacekeeping missions (Fayemi, 2005, p. 329; Garba, 2008, p. 186). Like in the reform measures mentioned above, no other actors were involved either in the decision of contracting MPRI or in monitoring its activities (Fayemi, 2002a, p. 17). The latter's mission, which was co-sponsored by USAID and the U.S. Defense Ministry, was highly controversial and military opposition to it led to the early retirement of Army Chief Gen. Victor Malu (Fayemi & Olonisakin, 2008, p. 262; Yoroms, 2005, p. 79). In fact, it seemed that the decision to hire MPRI was largely a symbolic exercise, targeted at the audience abroad without much impact on military transformation.

Stagnant Military Reforms: Failing Democratic Control of the Armed Forces (2001–2010)

Beyond these executive moves that created the impression military reform was quasi-accomplished, a closer scrutiny of the military domain in the Nigerian context reveals how stagnant the process of military transformation is, especially with regard to the establishment of functioning mechanisms of civilian control, military accountability and policy effectiveness. The main argument of this section is that the weak contribution of the legislature, media, civil society and defense epistemic communities to the reform process considerably contributes to its stagnation. In the following sections, the deadlocks in the legal framework of the military reform will be highlighted by discussing several initiatives seeking to amend the 1999 Constitution and to enact further military legislation. We also direct attention to the shortcomings in the fields of defense policy, budgeting and military procurement as they have severely harmed the transformation of the Nigerian armed forces into an effective force.

Democratic Control of the Military Through Constitutional Amendments and Legislation

Since Nigerians acknowledge the Constitution as the most important act regulating the defense sector, it would be logical to expect that civilian actors will try to amend the military-drafted 1999 Constitution after the return to democracy. Although

constitutional debates indeed started soon after regime change, they only marginally touched upon civil-military relations (Fayemi, 2002b, p. 227; Nwanko, 2003, p. 95). In June 1999, the Centre for Democracy and Development (CDD), a civil society forum, organized a high-profile conference on “Constitution and the Future of Democracy in Nigeria” that launched the formation of the Citizens’ Forum for Constitutional Reform as a pressure group lobbying for a new constitution.³⁸ The President also appointed an expert commission under Clement Ebri (a former Governor of Cross River state) to study amendments to the 1999 Constitution (Abia, 2008, p. 172), followed by the Nigerian National Assembly which established a bicameral review committee in 2001. Instead of easing the constitutional review, the existence of multiple forums rather contributed to its deadlock, especially due to an intensifying dispute between the House of Representatives and the presidency over budgetary powers. The government-installed Ebri Commission proposed the inclusion of a provision retroactively sanctioning *coup* makers with the argument that, although the constitution in Article 1 (2) outlaws coups, it does not provide for sanctions for such an offence (Abia, 2008, p. 172). This proposed amendment would have made coup attempts punishable as an act of treason and empowered every Nigerian to resist them (*ibid.*, p. 172). In spite of wide support in the legislature and amongst the public, this article together with other amendments was eventually aborted in an attempt to resist the inclusion of a constitutional clause on a third term at the request of President Obasanjo (*ibid.*, p. 172). More surprising, however, is the Nigerian public’s view that with regard to military affairs the Constitution is clear beyond doubt.³⁹ It putatively regulates the functions of the armed forces comprehensively so that – except for a strengthening of the anti-coup clause – there is no urgent need for constitutional amendments (Yoroms, 2005, pp. 178, 179).

Similar to constitutional amendments, reforming the military through enactment of new legislation remained a largely unused policy medium. Only the special committee set up by House Speaker Na’Abba in order to study how civil-military relations in Nigeria can be improved proposed four bills entrusting the military with developmental functions. Although the House of Representatives eventually passed the bills, there was no more time for the Senate to consider them before its term expired in early 2003. The newly elected National Assembly never tabled them again.⁴⁰ The bills were strongly associated with Speaker Na’Abba, who launched the most forceful of several impeachment challenges against President Obasanjo in August 2002 (Oyewo, 2004, p. 112)⁴¹ and in the 2003 elections lost his parliamentary mandate.

³⁸ *This Day, Sunday Newspaper*, 21 October 2001, p. 30.

³⁹ See also (International Institute for Democracy and Electoral Assistance 2000:186).

⁴⁰ Authors’ interview, 23 February 2009.

⁴¹ *Tell*, 1 July 2002 pp. 30–32; 2 September 2002, pp. 22–29, 16 September 2002, pp. 31–44, 30 September 2002, pp. 22–25; *Newswatch*, 23 September 2002, pp. 20–29; *The Lawmaker*, Vol. 6, No. 119, 2nd Half, May, 2005, p. 22.

These bills were an attempt to legalize the involvement of the military in some areas of civilian governance and business. Inspired by early modernization theory they sought to harness professional capacities of the armed forces such as engineering, construction, medical services and disaster management to the benefit of society. The promoters of this legislative package believed that such an extended mission would give the military dignity and distract it from political ambitions. However, such views which, as Elaigwu argues, are in line with age-honoured African traditions on civil-military relations, were at variance with the Western security sector paradigm (on this debate, see also the contribution of Isawa Jonah Elaigwu in this volume).

Beyond this, the rest of military legislation only had a symbolic value unable to intrude upon the military domain. One such example is the Nigerian Military Act, a decree first issued in 1993 under military rule that was enacted into law by the National Assembly without any attempt at revision in spite of occasional critical voices in the parliament.⁴² Similarly, the law renaming the National War College to the National Defense College was mainly a symbolic exercise. Only in 2009 did the National Assembly table a more significant bill specifying the conditions under which the president is allowed to deploy troops for the purpose of quelling civil disturbances, which, if passed, would increase the oversight powers of the National Assembly on force deployment.⁴³

Democratic Control Beyond the Executive

Even after returning to the barracks in 1999, the Nigerian armed forces stubbornly evaded democratic control by hiding behind a veil of secrecy. Without access to information, parliament, the media and civil society were effectively emasculated as agents of control. A Freedom of Information Act with teeth could have ended this virtual insulation of the military and, indeed, such a bill was tabled by the first House of Representatives as early as 1999, but for more than a decade was caught in the legislative mills. In 2007, when the House of Representatives and the Senate ultimately passed the bill, President Obasanjo refused to sign it into law within the due time of 30 days, citing security reasons.⁴⁴ Re-introduced in the subsequent 2007–2011 legislative term, the bill was passed by the House, but eventually became stranded in a sceptical Senate.⁴⁵ Not before early 2011 did the House and the Senate agree on a joint version of the bill which was finally signed into law by

⁴² Authors' interview, 11 September 2008.

⁴³ *Leadership*, 25 February 2009, p. 35; *Daily Independence*, 25 February 2009, p. 1. However, by the time this volume goes to print, this bill has not yet been enacted.

⁴⁴ *The Guardian*, 20 April 2007, p. 1; *This Day*, 14 September 2008, p. 115.

⁴⁵ *The Guardian*, 3 March 2005, pp. 18–19, 18 November 2008; *The Punch*, 16 November 2006, p. 7; 17 November 2006, p. 7, 18 November 2006, p. 10, 30 April 2008; *Leadership*, 4 June 2008

President Goodluck Jonathan in May 2011.⁴⁶ Most observers welcomed the law as an important step towards greater transparency and good governance in Nigeria. Interestingly, however, the law's adherents were more interested in tackling Nigeria's rampant corruption than curtailing the influence of the military. It thus did not cause major concern that defense and security matters were exempted from the act. As yet, the act has not been tested; it remains to be seen whether it meets the high expectations associated with it.⁴⁷

Also, the development of a defense epistemic community with watchdog functions did not flourish in Nigeria. It was hampered by the tight grip over such expert and scholarly networks exerted by a limited number of Nigerian military academic institutions such as the National Defense College, the Military Academy in Kaduna and the National Institute for Policy and Strategic Studies in Kuru. Protective of military interests, they were lacklustre in their contribution to the military's socialization in a new professional culture conducive to democratic control. These epistemic stakeholders have mainly controlled the discursive production of knowledge on the military until today. In addition, a culture of secrecy surrounding all military matters had been perpetuated by all stakeholders – executive, legislature, military – while civil society actors and scholars had failed to challenge it effectively.

Under such adverse conditions for civilian control other than by the executive, the Nigerian National Assembly too, could not become a hub of knowledge, expertise, political will and a catalyst mobilizing societal forces in order to advance military reform beyond the parameters set by the executive (on the role of the Nigerian legislature in military reform, see also the contribution of Emmanuel Remi Aiyede in this volume). Parliamentary oversight in Nigeria is ridden with problems which are definitely not a question of either lack of constitutional powers or resource shortages as in many other developing countries. Despite a fierce dispute with President Obasanjo the National Assembly defended its right to prepare its budget. Moreover, the Nigerian National Assembly is funded lavishly, receiving approximately US\$741 million in 2009,⁴⁸ a five-to-seven fold increase since 2000 (Aiyede, 2005a, p. 79). While this seems to suggest that the National Assembly has abundant resources to build up a well-functioning parliamentary support infrastructure, numerous accounts show that over 80%⁴⁹ of its budget is allocated for personal emoluments of the legislators.⁵⁰

The Lawmaker, Vol. 9, No. 193, 2nd Half June 2008, p. 23; *Legislative Digest*, Vol. 2, No. 1, July 2008, p. 14; *This Day*, 14 September 2008, p. 115; *Vanguard*, 15 September 2008, p. 14.

⁴⁶ <http://www.freedominfo.org/2011/06/nigerian-president-signs-freedom-of-information-bill/> (accessed 23 February 2012).

⁴⁷ *The Guardian*, 13 February 2012.

⁴⁸ *Tell*, 25 January 2008, pp. 52–53.

⁴⁹ *The Lawmaker*, Vol. 9, No. 192, 1st Half June 2008, p. 13.

⁵⁰ While the figures of the individual reports differ slightly, the relatively minor differences suggest that the reports about the income of legislators are credible. See *Tell*, 13 May 2002, p. 28.

Defense-related committees spent most of their time on budget scrutiny. Budgetary data is often either kept secret from the public or disclosed very late in order to hamper any serious scrutiny by the National Assembly (Hettmann & Mohammed, 2005, p. 23). In many cases budgetary items are not thoroughly explained (Omitoogun & Hutchful, 2006, p. 175). Even less is the legislature able to control actual defense spending. Yoroms, for instance, concludes that the “defense budget since 1999 has been approved without serious and critical oversight” (Yoroms, 2005, p. 192) and Omitoogun rates Nigeria as one of five African countries with low adherence to good budgetary practices (Omitoogun, 2006, p. 258).⁵¹ Only in 2009 did the House Committee on Defense depart from its previous docile behavior with its decision to return the entire 2009 budget proposal for defense to the Ministry of Defense for revision and re-submission due to the careless and incomplete way in which data was compiled by the Ministry.⁵²

The National Assembly’s investigatory drive is not performing any better either. This is illustrated by the findings of investigations into troop deployment in conflict zones that led to military abuses in Odi village (Bayelsa State) in November 1999 and Zaki Biam (Benue State) in October 2001. Both were neither discussed in the plenary nor made public. The legislature’s investigation was devoid of any impact (Clapham, Herbst, & Mills, 2006, p. 78) apart from the attempt to instrumentalize these incidents in the House’s impeachment bid against President Obasanjo in August 2002.

Also unquestioned by the parliament was the practice of the president to appoint the service chiefs without consulting the National Assembly. Legislators ignored this right granted by Article 20 of the Military Act (Garba, 2008) until a Lagos-based lawyer defending an offended officer publicized the issue in August 2008.⁵³ More surprising, however, are occasional media statements by legislators inviting the military to take over in times of crisis such as Senator Waku’s call in a public interview⁵⁴ or openly praising the military’s superiority, such as Senate President David Mark who was quoted as saying that “only soldiers have the discipline to nurture the nation’s fledgling democracy. The core civilians are lazy and dull. An army sergeant is more intelligent than a university graduate” (Amaike, 2007, p. 192).⁵⁵

⁵¹ The other countries Omitoogun names are Ethiopia, Ghana, Kenya, Mali (Omitoogun, 2006, p. 258.).

⁵² *Daily Independent*, <http://www.independentonline.com>, downloaded at 12 December 2009.

⁵³ *The Guardian*, 9 June 2008.

⁵⁴ Federal Republic of Nigeria, House of Representatives, Federal Republic of Nigeria. Votes and Proceedings, Fourth Assembly, 3rd June, 1999 – 8th June, 2000, Tuesday, 1 February 2000; 4. Matter of Urgent Public Importance. Call for Military Intervention, p. 296.

⁵⁵ See also *Tell*, 25 June 2007, pp. 43–45. In another instance, Mark was quoted as saying that “If I have my way, I will say whoever does not have military background should not be made president” (Amaike, 2007, p. 192).

Reforming Policy and Budgetary Practices

Except for persistent admonitions of the military by government representatives to stay politically neutral, recognize civilian supremacy and re-professionalize, few serious additional initiatives to develop a new policy framework for military reform were taken. One of them was the formation of a Military Transformation Committee in 2006 which was tasked with “change[ing] the mindset, capabilities, effectiveness, efficiency, training education, leadership and tradition of the military personnel.”⁵⁶ However, the committee is an initiative of the military which has proved once more that it continues to consider reform as an exclusively internal affair. Neither legislators nor scholars, and even less civil society or media representatives, were invited to contribute to the work of this committee.

It is thus hardly surprising that the National Defense Policy published by the government in 2006 was also drafted by the Ministry of Defense and Military Headquarters and passed without serious deliberation in the National Assembly.⁵⁷ Instead of establishing clear boundaries for military functions beyond defense, this policy document opened the floodgates for new military intrusions into Nigerian politics by stating: “The involvement of the military in the executive functions of government need not to be limited to membership of . . . defense/security bodies. Therefore, the expertise available in the military shall be harnessed in those areas that both the Executive and the National Assembly consider desirable” (Federal Government of Nigeria, 2006, p. 53).

Moreover, the legal and social protection of soldiers is especially dismal. Soldiers are retired if they do not pass promotion exams, on disciplinary grounds without being cashiered, when the armed forces decide that the services of an officer are no longer required, for medical reasons or if they have merely been bypassed in the promotion process by junior officers (Yesufu, 2005, pp. 53, 54). But while prematurely retired senior officers usually settle in private business, lower ranking officers often end up stranded in unemployment. This is due to the fact that the lack of proper record keeping has led to gross mismanagement of the pension scheme, leaving thousands of retired military personnel without income. The National Assembly has responded to the problem, which in some cases led to violent protests of the retirees, by passing resolutions calling on the government for a quick settlement of the problem. The ombudsman functions assumed by the National Assembly obviously show how dysfunctional the military justice and welfare systems are and how weak the accountability of the military institution is even towards its own personnel.

With only 1% of the GDP, the Nigerian defense budget is absolutely inadequate for supporting the current troop strength and military reforms aiming at arms modernization and force projection (Fayemi & Olonisakin, 2008, p. 253).

⁵⁶ *Tell*, May 2007 Supplement, p. 18 and authors’ interview, 2 September 2008.

⁵⁷ Authors’ interview, 5 March 2009.

Moreover, Nigeria's auditing laws are outdated and the Auditor-General is a political appointee of the president lacking autonomy in his judgments. President Obasanjo's decision not to reappoint an auditor-general critical of government spending practices in February 2003 was precedent-setting in this regard (Oyewo, 2004, p. 117). Moreover, the auditing reports are usually delayed by two or more years after the end of the respective fiscal year (Omitoogun & Hutchful, 2006, p. 162–168), while military spending from extra-budgetary sources and secret funds is not included in the auditing reports. This issue is very critical given the fact that only 30–50% of the approved budget is actually implemented.⁵⁸ One can imagine why very little government funding reaches the grassroots level and why complaints about the poor state of military barracks and living conditions of ordinary soldiers outside the big cities persist (Fayemi, 2002a, p. 115; Omitoogun, 2003, p. 86).⁵⁹ While the Nigerian military has few formal business interests, retired military officers are entrenched in many business sectors and illicit income generation through oil bunkering and other forms of racketeering constitute a major problem⁶⁰ (see also the contribution of Christian Lutz in this volume). Whereas the reform and transfer of formal military business to the government is not a sensitive issue in the reform agenda in Nigeria, the black hole of the military's criminal economy is severe and removed from any civilian control.

Procurement is still very much a military affair. Purchases of military hardware are largely controlled by the service chiefs and to a lesser extent by the Chief of Defense Staff and the Defense Ministry. The changes in procurement under the democratic regime are thus merely procedural. Until publication of a National Defense Policy in 2006, the legislature, media, scholars and the public virtually lacked criteria to evaluate the envisioned purchases (Omitoogun, 2006; Yoroms, 2005). In the Obasanjo era, military equipment (especially for peacekeeping missions) was often financed with the support of the presidency via an executive order from extra-budgetary sources (Omitoogun, 2006, pp. 86, 258).

In 2001, the Federal Government issued New Policy Guidelines for procurement and award of contracts within Government Ministries/Parastatals (Circular F. 15775/2001) that formally introduced a due process mechanism⁶¹ (Budget Monitoring and Price Intelligence Unit/BMPIU) in an attempt to curtail rampant procurement corruption. Yet the result of this precautionary measure not only prolonged the purchase of any equipment including military hardware, but by shifting opportunities for side payments to those certifying "due process," it also

⁵⁸ Authors' interviews, 10 March 2009 and *The Punch*, 27 December 2004, p. 20.

⁵⁹ For the recurring theme of dilapidated barracks, see *Tell*, 14 May 2001, p. 29 and 21 January 2002, pp. 28–31; *Newswatch*, 10 June 2002, pp. 48–56; *This Day*, 3 June 2006; *Nigerian Tribune*, 20 August 2008, p. 30; *Defence Newsletter*, June–September 2000, p. 50–51.

⁶⁰ Author interview, 29 August 2008; *Tell*, 21 April 2008. See also Okonta (2005, p. 204).

⁶¹ For a description of the due process mechanism, see Yoroms (2005, p. 187) and Omitoogun and Oduntan (2006, pp. 164, 177).

created a new layer of corruption (Yoroms, 2005, p. 198). It also did little to restrain the brokers, who often happen to be persons with a military background.⁶²

Conclusion

Power handover was a top-down decision by the military without any participation of civilians. The new constitution enacted under the transitional government of Gen. Abubakar and the range of political measures liberalizing the political space did not challenge the military's corporate identity and interests, leading instead to a minimal version of military reform and weak mechanisms of democratic control. Most of these reforms were implemented in the first 2 years after regime change, once more by unilateral executive action, this time concentrated in the hands of the newly elected President Obasanjo, himself a former general and leader of a past military government. Yet these initiatives failed to establish strong foundations for democratizing the Nigerian armed forces and polity. Insofar as Nigeria succeeded in the re-civilianization of its political life, it is still some way from consolidating democracy.

The concept of military reform that inspired Obasanjo's attempts at reforming the Nigerian armed forces exclusively relied upon the notion of executive control reminding of Huntington's (1957) "subjective control." A notorious example in this sense is President Obasanjo's own disregard of the Nigerian National Assembly that did not encourage a debate on parliamentary oversight of the Nigerian military.

Although the government borrowed a Western language of military reform, it applied it only selectively and most often superficially. In this way, the executive has effectively prevented any substantial involvement of Western agencies and norm entrepreneurs in this field that could have interfered with the process of military reform in Nigeria. Examples in this sense are the military opposition to the American consultancy company MPRI or the governmental reticence to more recent attempts by DCAF (Geneva) to assist in the security sector reform in Nigeria.⁶³

This analysis suggested that even after the power transfer in April 1999, notions of military superiority, nurtured through the widely shared belief that the military is the most modern and advanced organization in the country and for that matter the only organization able to secure an immensely diverse nation state from falling apart, had persisted without major change. Within this mindset, civilian political actors in academia, media and political institutions have largely accepted military conceptualizations of national security and thereby also agreed that military affairs are in many ways off-limits for the public. The prospects for the deepening of military reforms in Nigeria do not foster much optimism. As it looks now, a renewed military intervention into politics in Nigeria is rather dependent upon the

⁶² Authors' interview, 5 March 2009.

⁶³ Authors' interview, 2 September 2008.

military's self restraint and/or a dominant (quasi-authoritarian) civilian executive able to keep the military in check or to appease its leadership. It is not based on the ideal of the SSR paradigm assuming the existence of a complex system of civilian checks that includes executive, parliament, judiciary, civil society, media, and defense expert community as well as an internally democratized and accountable military organization.

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Chapter 4

Reinventing the Military as a Political Actor: Alternative Discourses of Civil-Military Relations in Nigeria

Jonah Isawa Elaigwu

Any military has an impact on its political system, with its political roles being a "question not of whether, but how much and of what kind." No military in short, can be short of political influence, save through the rape step of total abolition

(Welch, 1976, p. 2).

Introduction

After about 30 years of military rule (punctuated by brief periods of civilian rule) the Nigerian military handed over power to a civilian leadership in May 1999. Observers and Nigerians alike raised questions about the future. What did the future have in stock? What would be the new role of the military? How long would they stay in the barracks and what are the prospects of the "ballot box" rather than the "bullet box" getting grafted in the Nigerian political soil? Can the new civilian leaders regulate and control the behavior of the military, as their civilian masters? How alien to Africa, are the principles of an apolitical professional military and civilian supremacy? What new roles does the military play in the democratic polity? To what extent would the military be accommodated satisfactorily in the new democratic arrangement? In what structures and through what processes does the military exert its weight as political actors and how?

Yes, there are more questions than answers. In order to attempt some answers to these questions, I suggest that: One, the military is part and parcel of the process of state formation and is therefore a political institution; two, the military intervenes in the politics of every modern state; however, the situation is even more complicated in states that are democratizing, after long periods of military rule; three, in

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assessing civil-military relations in African states, it is important to note that the concept of an apolitical professional military is as alien to pre-colonial Africa as is the concept of civilian supremacy; four, the extent of the military's relevance as political actor mostly depends on the extent to which Nigerian politicians and leaders nurture the democratic polity into maturity; and, five, the relevance and credibility of the military as a political actor are often buoyed by the demonstration of *democratic deficit* by civilian politicians and leaders (Ebo, 2008, p. 4).

The Military as a Political Actor

The military is part and parcel of the process of state formation and is therefore a political institution (Dandekar, 1994). Traditionally, the formation of the state (especially the conquest state) has always intimately involved the military – whether these were Greek and Roman city-states, imperial systems like the Chinese, Byzantine and Roman Empires, federal states or societies like the Hausa-Fulani states in West Africa, or patrimonial states as found in Near-Eastern and Southeast Asian societies. In fact “the growth of the polity in the direction of statehood was in part a process of militarization” (Mazrui, 1975, p. 74).

This is further illustrated by the definition of the state. Max Weber identifies the monopoly of the instrument of violence or coercion, as one of the most important attributes of modern states. As Fortes and Evans-Pritchard described the situation – “The political organization of a society is that aspect of the total organization which is concerned with the control and regulation of the use of physical force” (Fortes & Evans-Pritchard, 1940, p. 79; Mazrui, 1975, p. 74). The concept of force is therefore crucial to the definition of the state; so also is the idea of a standing military to use this force.

Ali Mazrui therefore captured the point succinctly when he asserted that “Statehood [...] has so far been the final consumption of that marriage between politicization and militarization” (Mazrui, 1975, p. 75) and that what we have now is a basic transition from “the warfare polity to welfare polity” (Mazrui, 1977, p. 9).

This welfare polity has been marked by a paradoxical process of attempting to divorce the military (which had contributed so much to the rise of the modern state) from politics in the state. But as Welch Jr. and Smith correctly observed

No nation's armed forces can remain apart from politics. Politics is concerned with the distribution of values and power within a society – and the military can hardly be prevented from participating in that process in some manner (Welch & Smith, 1974, p. 5).⁶

Like other political organizations in the state, the military participates in politics to protect its own interests. As Uzoigwe contended and demonstrated (with cases),

In no state, traditional or modern is the military totally divorced from the political structure. The degree of integration, however, of the military and politics varies from state to state (Uzoigwe, 1977, p. 23).

This leads me to my next point – that the concept of *civilian supremacy* is alien to Africa (Ebo, 2005). To understand the role of the military in the politics of African states, it is important to understand this historical background which reflects some continuity amidst Africa's historical discontinuity. In fact, the idea was borrowed from Europe. In pre-colonial African states, the distinction between the military, economic, political, social, and religious institutions of government was blurred. The average male citizen was a potential warrior – part of the “invisible” army. It is pertinent to quote Uzoigwe's observation of the warrior in Africa as a political being:

The warrior, in a traditional society, was a political animal, more so than the rank and file of the citizenry. He saw politics as state power; he knew that the art of politics concerns how to acquire that power, how to wield it effectively, and how to preserve it. Most importantly, he knew the surest means of achieving state power is through the agency of the warrior (Welch & Smith, 1974, p. 5).

Military power was therefore an indispensable part of the political calculus in the traditional society. It was the life-blood of the state.

In pre-Shaka Nguni State, for example, the chief and his officials were also the commanders of their people in war, and political leaders in peace and war. Thus, “the military and politics were dangerously fused” (Uzoigwe, 1977, p. 25). The interlacustrine states of Bunyoro Kitara and Buganda provide another interesting set of examples. In these states, “the ideal king was the great warrior.” As Uzoigwe clearly showed, here too, “the military was not distinct from the political structure: it followed closely the organization of the state.” The “Abakungu” (the territorial administrator) derived his power from the king, usually as a reward for military valor. In fact, Bunyoro tradition is known to have originally provided that only outstanding warriors be made “Abakunga” (ibid., p. 25).

On the West Coast, in Oyo States, the Alafin (the leader of the Yoruba) was required to be a great warrior who exhibited militant leadership. It is interesting that Alafin Ajaka was deposed by the Oyo Mesi (Council of State) for his lack of militarism. On his rehabilitation or return to power, however, he was said to have been “more warlike than his predecessors.” He had learned his lesson. While Oyo was not a military state, the military and political institutions were also fused. Even among the East African Kikuyu, where kingship had been abolished, the “Kiama” or the council of elders, which ruled, usually comprised retired warriors. It is therefore interesting that the “Anake” (young warriors who formed the “council of war”) not only represented the youth in government, but knew they could, through upward social mobility, attain the coveted position of “Kiama.” Thus African warriors were “an indivisible element of the central government.” But since “they were also military leaders as well as administrators, they played crucial roles in territorial administration” (ibid., p. 28). The fusion of the state and the military made the African warrior a political being. The apolitical professional military of the modern African state is therefore, not an indigenous institution.

Following my argument above, it is suggested that, just like the idea of an apolitical professional military, the concept of *civilian supremacy* is also alien to

Africa. In a very interesting study, S.N. Eisenstadt demonstrated that the separation of civil and military authorities, with the supervision of the military by civil powers, “lies in the modern European experience, and especially in the liberal ideology of the nation-state” (Eisenstadt, 1976, p. 2). According to Eisenstadt, this concept derived from the historical experience of types of societies such as the classical Greek and Roman city-states and the imperial system like the Chinese, Roman and Byzantine. In all these societies, “the military was seen as distinct from civil authority and the control of the military by civil authority was deemed as a crucial problem” (ibid., p. 4).

The failure to control the military had always caused disunity and disintegration for these societies. The Greek city-states fell because the warlords could not be controlled. Old Imperial Rome witnessed long periods of attempts by emperors to be independent of the military; and China had always had problems with its warlords in the periphery. Eisenstadt’s argument, therefore, is that the concept of an apolitical professional military under civilian control is rooted in European attempt to centralize political authority. This attempt to control the periphery meant that autonomous but dangerous warlords had to be depoliticized and gradually turned into a professional institution. As he put it:

The greater the difference and distinction between the periphery and centre and the greater the tendency of the centre to mobilize and control the periphery or the more that the centre and periphery struggle over mutual control the more will the distinction between civil and military authorities tend to develop (ibid., p. 12).

This was the modern European experience. It was different from other types of societies where these elements of distrust between military and civil authorities were not as significant. For example, in feudal societies, and in patrimonial societies of the Near-East, Southeast Asia, and Latin America, “the line between civil and military authority were not strongly drawn and the strength of a ruler may have been judged by the strength of his army as against that of the armies of other princes” (ibid., pp. 4, 5). Army commanders performed other civil functions, but “in no case was this seen as a usurpation of non-military power” (ibid., p. 5).

In essence, the problem of civil-military relations in African states can be related to the problems of institutional transfer. Both political and military institutions in post-colonial African states were imported. But the values which underwrite these institutions had not been sufficiently internalized. Very often the rules governing these institutions in Europe were neither well understood nor accepted in Africa. Hence, political institutions (parties, parliaments) inherited had difficulty in taking off. The colonial period was not a good schooling period. It was essentially autocratic, but bequeathed to Africans European democratic institutions.

Furthermore, the military institutions as borrowed from Europe had not imbibed the professional values which created professional corporate identity and respect for civilian supremacy. Moreover, the officer corps of most African military institutions had been slowly Africanized. This affected the development of professional values which should have buttressed the military establishment. By the time

coups started punctuating the political process, the development of professional military values were only inchoate. It was therefore not surprising that the boundaries between the polity and the barracks were so blurred. Thus, one of the most salient issues in civil-military relations in Africa related to the lag between the introduction of borrowed political and military institutions and the internalization of the values which buttress these institutions.

S.E. Finer (1962), in his classic identifies four “levels of intervention” by the military – (1) influence, (2) blackmail (“whitemail”); (3) displacement and (4) supplantment.

Influence involves (in a political culture where legitimacy is unobtainable by the military) the use of normal constitutional channels, or by collusion or competition with civilian authorities – to alter the direction and content of policies. On the other hand, *blackmail* (or *whitemail*) entails the use of intimidation or threat of use of violence against civilian authorities in a political culture which resists overt military control. *Displacement* and *supplantment* on the other hand epitomize the failure of the military to defend civilian authorities against violence and/or the threat of the use of violence by the military to displace or supplant civilian incumbent, in fluid political context in which the legitimate government is low or unimportant.

The fluid situation created by the contending norms over the military’s place in African societies was very conducive to military intervention by supplantment or *coup d’état*. Military power was therefore an indispensable part of the political calculus in the traditional society. It was the life-blood of the state. Could it be that given the inadequate internalization of professional values, African military institutions are having problems of how to strike a compromise between inherited values of civilian supremacy, on the one hand, and Africa’s warrior tradition which hardly made any distinction between the civilian and military sectors of the society, on the other? This area needs more research. As many African countries (including Nigeria) democratize in Western style, the major issue is the nature of civil-military relations in a democratic setting.

Given the above definition and the distinctions among levels of intervention, it can be argued that the military in any modern state intervenes in politics, in one form or the other. As Claude Welch observed, the difference is “not a question of whether” but “how much and of what kind?”

After about 30 years of military rule, the Nigerian polity faces two broad challenges: One, the extent and nature of civilian “control” or regulation of the military, given the Western liberal model of civil-military relations, it had inherited; and, two, how the military retains its relevance in the new and changing context of civil-military relations.

It is my contention, that since 1999, the military has tried to remain relevant by using a network of relations developed over time, while influencing policy and decisions through established channels. Similarly, civilian political leaders have also used established democratic institutions and processes to regulate the military. Let us see how these have worked out so far, beginning with civilian regulation of the military and its affairs.

Civilian Supremacy and the Dynamics of Regulation of the Military

The term democracy has become very polyvalent over the years. However, it is generally accepted that there are, at least, five principles of democracy.¹ First, the authority wielded by rulers should emanate from the people. Second, there is a rule of law which ensures that all are bound by law and seek redress lawfully; third, the leaders must be seen as legitimate, because they have the *right to rule* having been duly elected (or selected), and that they are *ruling rightly*; fourth, that the people have a choice, not only of leadership, but also values such as freedom of association, of thought and expression. Fifth and, finally, the leaders must be accountable for their mandate to the people.²

I contend that the democratic institutions inherited at the independence by Nigerian political elites were basically Western. Two major institutions of relevance to our discussion come to mind. These are – the political party and the military. Both institutions are borrowed from the West and have had problems of adaptation in the African political environment. The processes of institutional transfer at independence had implied the adoption of Western-type political parties and the military establishment.

Both were expected to perform the same functions as in Western countries from which they were borrowed. The political party was expected to aggregate and articulate the interests of the members, and provide alternate leadership and programs of action. On the other hand, the military was expected, in the liberal Western culture of civil-military relations, to be professional, apolitical, and to submit itself to civilian supremacy. The environment into which these institutions were being transferred was regarded as inconsequential. It was therefore, no surprise that many Western analysts were very disappointed in the 1960s when Africa did not turn out to be a major duplicate of Western democracy as it was hoped.

They then lionized the military as the only modern, national, cohesive, puritanic and self-abnegating institution which could restore order and embark on modernization of their various countries (Bienen, 1971; Elaigwu, 1981; Finer, 1962; Stepan, 1974). From democracy, Western analysts retreated to the importance of organization in the context of institutional fluidity in these “praetorian” states.

A Western model of democracy cannot be transferred unmodified to Nigeria and be expected to succeed. Democratic institutions borrowed must be domesticated or adapted to local conditions, in the light of the country’s experiences and problems. Let me illustrate this point. Political parties and military establishments were transferred to Nigeria in the terminal colonial period. At independence colonial armies had become national armies (Momoh & Adejumobi, 2002). In many cases,

¹ See also Burk (2002) on the application of theories of democracy to civil-military relations.

² See fuller discussion Elaigwu (2005a).

the colonial armies were seen as armies of conquest and suppression, rather than as symbols of these new nations (Miners, 1971).

It was soon discovered that there was a major lag between these institutions and the values which were supposed to underwrite them. Both democratic and military institutions in post-colonial Nigeria were neither well understood nor accepted in the country (Clapham, Herbst, & Mills, 2006). Furthermore, the military institutions as borrowed from Europe had not absorbed the professional values which created professional corporate identity and respect for civilian supremacy. Similarly, politicians schooled in the colonial authoritarian political culture, found it difficult to operate a Westminster parliamentary democracy with its emphasis on tolerance of opposition, accommodation of divergent viewpoints, and participation. The ethno-regional and geo-ethnic context in which they operated further complicated the problem. In addition, the concept of institutionalized opposition was not very common in Africa. Opposition emanated from within the main frame of the society and after due discussion, a consensus decision was usually taken. Thus the institutionalized opposition of the new democratic setting had no culture to back it up, especially in terms of the accommodation of the views of the opposition, and tolerance of dissent. Opposition was thus seen as personal animosity or enmity.

Many of the politicians had neither understood the rules of the game nor had they accepted them. For many of them, politics was not a *game*, it was a *battle*. As the rules were blatantly violated, politics became a very dangerous “game,” for the atmosphere in the political arena became polluted, and in the absence of any form of ventilation, endangered the lives of the players as well as spectators. Yes, Nigeria had political parties (in fact, many of them) but lacked the values which would make them operate in democratic setting. The exercise failed once; it failed the second time, failed the third time, and Nigeria is now back at the drawing board. I am not suggesting that these were the only reasons for the failure of past attempts, but they were major reasons.

Did the politicians have the chance to reassess themselves and learn from their mistakes, albeit, in a hard way? No! The other borrowed institution, the military, had also been supposedly transferred “successfully.” It had performed in the Congo (now the Democratic Republic of the Congo – DRC) creditably. In its role to kill and maim in the defense of the nation, it was no doubt relatively effective. But its functions were supposed to be essentially against external enemies, not against its own nationals which it had a duty to defend. One of the cardinal values of the Western military was to respect the values of civilian supremacy. The Nigerian military was to be apolitical and professional, and only act on the orders of the civilian rulers. Had the Nigerian military adequately absorbed these values by 1966 when it was faced with political challenges? No. Again, there was a lag between the borrowed institution and the values which were to make the institution operate smoothly in the imported Westminster model of government.

In January 1966, the military intervened in politics, contrary to the values which were to regulate its operations. This second institution had also failed. It became a predatory institution, imploding with reckless abandon into the political arena – thus rendering extremely fragile the boundaries between the ballot box and the

barracks – an essential component of Western liberal democracy. Between 1966 and 1999 (when the military handed over power to civilians) there had been six military coups – January 1966, July 1966, July 1975, December 1983, August 1985, and November 1993. There had been many abortive coup attempts, of which the only officially acknowledged ones were February 1976, December 1985, April 1990, December 1995 and 1997.

If there is any message this illustration has for Nigerians in this period of the country's new effort in democratic governance, it is that,

To be successful, an African democracy must be sensitive to local conditions; the simple adoption of an institutional framework designed elsewhere is unlike to be successful (Wiseman, 1990).

If Nigeria had been bequeathed a British political model in 1960, in 1979, it made a trans-atlantic trip to the United States in search of a new model. It also failed. Nigeria's problem is not really constitution-making. Its main problem lies in constitutionalism (i.e. everyday constitutional practice).

Discourses on Civil-Military Relations in Nigeria

Given the long sojourn of the military in Nigeria's political arena, Nigerians had, over the years, discussed the role of the armed forces in politics. There were various debates on the process of military disengagement and the role of the military in a democratic polity (Amuwo, Bach, & Lebeau, 2001; Azeez, 2006; Ihonvbere, 2000; Nwolise, 2002).

Like other polities in developing nations in which there is a thin line between the *barracks* and the *ballot box*, many questions arise. How does "democracy" get domesticated, with structures and processes established to ensure its durability? What kind of civil-military relations can be established, which protect democracy? To what extent does the military remain a "political tiger" on whose back civilians seem to be riding? What are the conditions under which civilians can get off its back and let the tiger co-exist with the *ballot box* in the same polity? Does the solution lie in the abolition of the military? Is the military merely an additional "middle" in the muddy waters of development?

In Africa, there are at least four patterns of democratization in countries in which the military has intervened in politics.

First, the incumbent military elite may declare a *self-induced democratic agenda for change* as happened in Nigeria (under Obasanjo, Babangida, Abacha, & Abubakar), or under Rawlings in Ghana, and in Strasser/Bio's Sierra Leone.

The second pattern may arise out of a *populist backlash*. Here "democracy" emerges as a result of a successful populist pressure by the masses as happened in Benin and Gabon, but started and was aborted in the Democratic Republic of the Congo (DRC) and Togo. This pattern of military disengagement may create a new basis for a democratic beginning.

There is, however, a third pattern – military recalcitrance such as in Togo and the Democratic Republic of the Congo. Here the military resists popular pressures and digs in as rulers, even in the face of popular pressures and depends largely on instruments of state coercion, at times with a verisimilitude of political parties masking military rule.

Finally, there is a pattern of *benevolent acceptance* in which there is a tacit acceptance of military rule. It could include the civilianization of the erstwhile ruling military or revolutionary elite. Uganda and Togo are also examples. Uganda provides a revolutionary basis for a transition to democracy, while often military recalcitrance may lead to a violent upheaval. In the Democratic Republic of the Congo, Laurent Kabila followed closely Ugandan President Museveni's technique of launching the change of government from the bush. Like in Uganda, the DRC witnessed the transformation of former "terrorists" from the bush to the State House. Ironically, in 1998 erstwhile comrades rose against Kabila, and the rebellion spilled over to the DRC's neighbors. Kabila was assassinated and succeeded by his son. Uneasy calm still reigns in DRC.

By the end of the twentieth century, a new wave of "democracy" had swept across Africa (Bratton & van de Walle, 1997; Bruneau & Trinkunas, 2008; Diamond & Plattner, 2010). The world had changed and political leaders in Africa had to accept the principles of democracy and multipartism. In Nigeria, the new political leaders who came to power in 1999 accepted that civilian elites had obligations to the military, while the military also had obligations to the state (International Institute for Democracy and Electoral Assistance, 2000).

What is the nature of discourse in Nigeria on the pattern of civil-military relations? Given the instability in the polity as a result of serial military coups, a number of Nigerians (albeit, Africans) discussed various patterns of civil-military relations (Bland, 1999; Kennedy & Louscher, 1991; Quaker-Dokubo, 2002). Let me summarize these discussions under the following patterns of civil-military relations: (1) civil – military diarchy; (2) the socialist model; (3) the developmental militia model; (4) conscious civilianization and (5) the Western liberal model.

The Civil-Military Dyarchy

This model of civil-military relations was made popular by Nigeria's first President, Rt. Hon. Nnamdi Azikiwe. In an apparently desperate attempt to prevent serial military coups and their destabilizing impact on development, Azikiwe proposed power sharing between the military and civilians. He suggested that the military and civilian elites should share power for 5 years. After 5 years, the military should withdraw to the barracks and allow civilians to run government. During the 5 year transition period, the military would have veto powers.

The fear of the coups frightened Azikiwe to give veto powers to the military. However, veto power or none, the gun is enough veto power. Who can tell the military to withdraw to the barracks after 5 years? In a similar vein, the late

Mr. G. Ikoku suggested the sharing of powers between the military and civilians. The resultant government out of this coalition, he called *cimilicy* (Kalu, 1983).

A variant of this is to have an elected functional head of government while during the interim period there is a military council acting as the political umpire and performing the ceremonial roles of the Head of State. As Ghana's government under Prime Minister Busia found out, even this did not protect it against Acheampong's coup of 1972.

The Socialist Model

This pattern of civil-military relations was attractive to some leftist scholars in Nigeria and Africa. The socialist polity exhorts the supremacy of the state and state power in trust for the people. The underlying presumption is the ability of this system to maximize its distributive capability in order to reduce drastically inequalities among individuals and groups. If the liberal Western model exhorts the freedom of the individual, this model emphasizes the collective interest of members of the community. The mass socialist party is dominant and all-embracing. Even the military is part of this socialist party and has a stake in the government. The experiences of the Soviet, the Chinese and the Tanzanians (under one-party system) illustrate this. Thus if Lin Piao, the late Chinese Army Chief of Staff was ambitious, he had to work within the party to manoeuvre his way to leadership, given his military support. It was alleged (by some) that he was quietly eased out in a helicopter crash.

This model is grafted on the strong ideological commitment of the people. Where the ideological base is fragile, there may be coups and attempted coups. As an illustration, frightened to death by the 1964 mutiny, President Julius Nyerere of Tanzania (then Tanganyika) embarked on a new military establishment that would be part of the political party, be subject to political education and have a stake in the government. As Nyerere argued, there is always the risk about having an army at all in a developing country, but since you cannot do without an army in these times the task is to ensure that officers and men are integrated into the government and party so that they can become no more of a risk, than, say, the civil service.

A few years later, Nyerere found that he had to use the same army to invade Uganda. Having tasted the experience of ousting a Head of State (Idi Amin), the Tanzanian army carried out an abortive coup later.

It is interesting that while the Nigerian Socialists on the Political Bureau³ succeeded in getting the committee to recommend a socialist system of government for Nigeria in 1987, it opted for a Western liberal model of civil – military relations. I shall get back to this.

³The Political Bureau comprised fifteen persons chosen by the Babangida regime in 1986 to go around the country, collect, collate and analyze the views of Nigerians about their country's state of affairs.

The Developmental Militia Model

Many Nigerians, fed up with high budgetary allocations to the military which they saw as a sybaritic class of uniformed men, in peace times, suggested new roles for the military in a democratic setting. This model insists that the functions of the military in peace time should be clearly defined. In this model, the military like all institutions of the state, is an agent of development, and has no business being idle during peace time.

Thus, the military is expected to participate in agriculture, road construction, building of bailey bridges, delivering paramedical health services in rural areas, the socialization of youths, the distribution of food during natural disasters, and contribute to the general development of the country. To reduce its dependence on national budget, it is expected to bid for contracts, secure and execute same. The services of the Air Force (specially trained to service commercial aircrafts), the navy dockyards for servicing ships and boats; the engineering and signal corps in communications are seen as demonstrable areas of technical competence which the military can deploy to national developmental efforts. This model sees the military as essentially a developmental militia in a developing country. Perhaps this was the spirit of the 1995 draft constitution which vested many of the secondary functions mentioned above in the Armed Forces of Nigeria (Federal Republic of Nigeria, 1995). This model still has to fill the gap of the political relationship between the military and civilians in the political arena. Many Nigerians are in favor of armed forces that are actively involved in the nation's developmental process.

Conscious Civilianization

Where the military has intervened in politics, a number of options are open to the military leader. It can go Kemalistic like Turkey's Ataturk did. Here the military hero pulls off his military uniform and becomes a full-fledged civilian. He is no longer in control of the armed forces. He then can subject himself to elections for the state's premier office. The dangers are that he may be overthrown or have his ambitions upset by his colleagues in the army unless he has support in the force and societal pressures for civilian rule are great.

Nasser and Franco provide a good variant of this. Nasser's successors, Sadat and Mubarak, emerged from within the armed forces and their hold on the armed forces was reputedly strong. On the West coast of Africa, there is an epidemic of civilianized soldiers – Idris Derby of Chad; Compaore of Burkina Faso; Ghana under Rawlings; Niger under Mainasara; and Yahya Jammeh of Gambia. This model does not hold attraction for many Nigerians.

Another variant of this model is where there is a conscious attempt by leaders to civilianize their political personality and at the same time create a verisimilitude of political parties as a means of mobilization of the masses. They retain their military constituencies. Mobutu Sese Seko of the DRC and Eyadema of Togo tried these

techniques. In Nigeria, General Sani Abacha tried to do the same when his government manipulated the country's five political parties to nominate him as their consensus candidate. Since he died before the plot was dramatized, it is still a speculation on how he was going to manage this extraordinary demonstration of political confidence.

Yet a more humorous variant of this was the Central African Republic under former Emperor Jean (or Saleh) Bedel-Bokassa. Under the ghost of Napoleonic splendor, Bokassa civilianized himself into the Emperor of the new Empire. The way he was overthrown is a lesson to African leaders.

Finally, an interesting variant of this model was the Union Government suggested under Col. Acheampong's government in Ghana. The Union Government was to be formed without political parties and their electoral problems. As Ghana's former Transport Minister argued:

The [National Redemption Council] NRC rejected the academic view that 'democracy' is only secure and assured when the people are led like swine, once every five years, to vote in their rulers who proceed to ignore all their fears and aspirations.⁴

Unfortunately General Akuffo's coup prevented us from seeing what lessons this variant has. Museveni's Ugandan no-party democracy was an interesting variant of this until he caved in to the pressures for a multiparty democracy.

Perhaps another variant of this model is the Ghanaian and Nigerian experiences in which erstwhile military leaders served as leaders in the democratization process – thus acting as a bridge in the military–civilian democratic transition. Rawlings of Ghana served for two terms as President of Democratic Ghana Republic before he left the scene for President Akuffor. In Nigeria, Gen. Obasanjo was brought out of prison, pardoned and elected as president for two terms before leaving the scene, as part of the democratization process. In Nigeria, however, many politicians and observers openly complained of about the militaristic style of Obasanjo in the way he ran a democratic and federal polity, in the context of the Western liberal model of civil-military relations.⁵

The Western Liberal Model

This model emphasizes the separation of politics and the military as in most of Europe and The United States of America. This model of civil-military relations is predicated on the assumption that the military has no power of its own. Its legitimacy is based on the consent of the society. The supreme authority in the state is reposed in the elected government which then defines clearly the goals of the military.

⁴ *West Africa*, 30 October 1976, first column.

⁵ *Tell*, 1 July 2002 pp. 30–32, 2 September 2002, pp. 22–29, 16 September 2002, pp. 31–44, 30 September 2002, pp. 22–25.

The military is subordinate to its civilian masters and carries out its duties in accordance with the wishes of their civilian authority. The military is expected to be apolitical and professional. In 1960 and 1979, Nigeria opted for this model of civil-military relations, only for the military to stage a come-back as civilians abused political power, manipulated the rule of the game of politics and appropriated the socio-political and economic system. This is not necessarily evidence that the military was a more efficient achiever. It often happens that as the credibility of politicians sags, the legitimacy of the military surges.

Thus, while the Report of the Political Bureau of March 1987 recommended a socialist political system for Nigeria, it recommended a Western liberal model of civil-military relations. According to the Report:

The orientation of the present military has changed from what it used to be in the pre-colonial and immediate post-colonial era. The military now attracts highly professional people as well as resourceful individuals with academic background. All these go to suggest that the military has something to contribute to national development. But the military's involvement in the political process could further politicize it and pose danger to stability of the nation. It should, of course, be involved actively in the promotion of social welfare of Nigerians (including their own) in national development and political self-emancipation [...] they should be involved in professional roles as well as in regulated social functions. ... Outside of this, while the military should not be involved in party politics and social mobilization, they should be involved in the task of national development (Federal Republic of Nigeria, 1987, p. 156).

Nigeria chose the Western liberal model of civil-military relations which it had also inherited at independence in 1960, to manage its defense (Saliu, Amali, & Olawepo, 2007). According to section 217(2) of the 1999 Constitution, Nigeria is "one indivisible and indissoluble sovereign state" which has established and equipped as Army, a Navy and Air Force (collectively called the Armed Forces of the Federation) for the purposes of:

- Defending it from external aggression;
- Maintaining its territorial integrity and secure its borders from violation on land, sea and air;
- Suppressing insurrection and acting in aid of civil authorities when called upon to do so by the President (subject to conditions prescribed by the National Assembly);
- Performing such other functions as may be prescribed by an Act of the National Assembly.⁶

The 1999 Constitution does not clearly spell out the secondary role of the Armed Forces as was done in the 1995 Draft Constitution.

In essence, the armed forces are expected to defend the integrity of the state and its sovereignty against outsiders primarily, but not against its own citizens and not to interfere in the country's internal socio-political structures and processes.

⁶*This Day*, 31 January 2007, p. 7.

The armed forces are therefore the repository of instruments of warfare which are monopolized by the state. Their use also has to be controlled by the state. It is the responsibility of the state to organize its armed forces and control its use in the most efficient manner in a democratic setting. What provisions does the Nigerian Constitution have for achieving this? Nigeria has always enshrined in her constitutions a Western liberal model of civil-military relations which emphasize the principles of civilian supremacy.

Section 1(1) of the 1999 Constitution makes it clear that the Constitution “is Supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.” Reacting to the Nigeria’s history, Section 1(2) of the 1999 Constitution declared that “The Federal Republic of Nigeria shall not be governed, nor shall any person take control of the Government of Nigeria or any part thereof, except in accordance with the provision of the Constitution.” Since the Constitution provides for change of government through the ballot box, this Section is a declaration of the illegality of coups (military or otherwise) as a means of acquiring power in the state.

The executive powers of the federation are vested in a democratically elected President who is also the Commander-in-Chief of the Armed Forces of the Federation. He is also empowered to exercise his functions indirectly through his Vice-President, ministers or other officers in the public service of the Federation. Section 218 of the same Constitution gives the President as the Commander-in-Chief the “power to determine the operational use of the armed forces of the Federation.” This includes the power to appoint the Chief of Defense Staff, the Chief of Army Staff, the Chief of Air Staff, the Chief of Naval Staff and any heads of other branches of Armed Forces as may be established by an Act of the National Assembly. This is a clear institutional demonstration of civilian supremacy.

In addition to these, the President is also the Chairman of the Army, Navy, and Air Force Councils which directly deal with the general issues of recruitment, promotion and welfare of the respective services. The Constitution goes further to establish two important constitutional bodies on Security and Defense, which are also chaired by the President. The National Defense Council (NDC) advises the President on matters relating to the defense of Nigeria’s sovereignty and territorial integrity. The membership of this council comprises the President (as Chairman), the Vice-President (as Deputy Chairman), the Ministers of Defense, the Chief of Defense Staff and The Chief of Army, Naval and Air Force, and any such person as the President may choose to appoint. This is a demonstration of civilian supremacy even in matters of national defense.

The National Security Council (NSC) advises the President on any “matter relating to public security.” Membership of this Council includes – the President as Chairman, the Vice-President as Vice Chairman, the Chief of Defense Staff; the Ministers of Internal Affairs; the National Security Adviser, the Inspector-General of Police; and such other person as the President may decide to appoint. Again, the composition emphasizes the supremacy of civilian rulers. Matters of security are not decidedly military.

In the day-to-day management of defense, the functions of the president are carried out by the Service Chiefs under the supervision of the Minister of Defense. In the light of Nigeria's civil war, the Office of the Chief of Defense Staff (CDS) was created to facilitate the coordination of defense matters. The CDS was first appointed in 1979, under the Second Republic.

The National Assembly (i.e. the legislature) has two basic functions with regard to the armed forces – lawmaking and oversight. Under the Constitution, the National Assembly is empowered to make laws for the regulation of “(a) the powers exercisable by the President as Commander-in-Chief of Armed Forces of the federation; and (b) the appointment, promotion and disciplinary control of members of the armed forces of the Federation” (Section 218, 4). In addition to this, the National Assembly is also empowered to make laws which will ensure the implementation of the “federal character” principle (in Section 14, 3–4) in the composition of the armed forces of the Federal Republic. Unlike under military regimes in which the military enacted decrees which governed their affairs, their civilian masters are now empowered to make laws for the military and for their operation.

By legislative practice, the second function performed by the National Assembly is that of oversight. Both chambers (the Senate and the House of Representatives) have standing committees on Defense. They also have committees on each service of the armed forces, such as the committee on the Army, Navy and Air Force. These committees carry out oversight functions on the armed forces. Recently, these committees summoned the Chiefs of Armed Services to explain the circumstances surrounding the hijacking of a Nigerian naval ship in Somalia; the court martial of Nigerian military mutineers from a peace mission, and the dismissal of some Admirals from the Navy. In some other cases, there have been public hearings to get public input on relevant defense-related matters. These could not be contemplated under a military regime.

Most important, perhaps, is the National Assembly's power of appropriation. For the activities of the Armed forces to be effectively carried out, it needs budgetary allocations from the National Assembly. Even though part of the executive branch, it is not unusual to see the armed forces' representatives under the delegation from the Ministry of Defense, requesting for additional funds to those recommended by the President. Under military regimes, these were not matters for “bloody civilians.” Budgetary matters of the military were treated with secrecy and with dispatch – in a hierarchical and centralized manner. Ironically, service chiefs have confessed that civilian regimes have been more sensitive to the needs of the armed forces than military regimes. They point often to the Shagari regime and its proactive funding of the armed forces, especially the Navy.

From the above, it is clear that in the context of an inherited Western liberal model of civil-military relations, the subordination of the military in Nigeria's democratic setting has been carefully and legally institutionalized. It also means that unlike the centralized mode of operation under military regimes, the armed forces cannot remain influential as a political actor, unless it finds alternative networks for penetration of the structure of influence in the democratic polity. This is my next focus.

The Military's Adaptation to the Democratic Setting

As from 29 May 1999 the political context in which the armed forces operated changed substantially (Mohammed, 2006). There was no longer a military government and a new civilian leader (albeit a former military leader, Gen. Olusegun Obasanjo) had assumed power. The military withdrew to the barracks. As the boundaries of the barracks shrunk, so did the parameters of the ballot box (or the political arena) expand. The exit of the military automatically entailed the retirement of military officers occupying political positions.

Shortly after assuming power, the new President retired 93 senior military officers who had held political positions during the military regime (Garba, 2008, p. 181). The enunciated rationale was to depoliticize the military and re-professionalize it. There were feeble reactions to this from civil society, but the *angst* against the military was such that Nigerians were more concerned about the military leaving the political arena. At this point in time, the atmosphere was dominated by civilian weariness of the military and the latter's apprehension of the civilian society.

The long period of military rule had also witnessed cracks in the barracks. Many of the younger officers were very anxious about the mutual suspicions among the officer cadre in the barracks. They hoped that the change would enable a serene atmosphere for re-professionalization. In addition, there was a general belief in the barracks that the military's adventure into governance had threatened the institutional soul of the armed forces, which badly needed urgent redemption. The change of regime provided opportunity for this.

Re-professionalization of the Armed Forces

Years of adventurous existence in the political arena had led to distractions from its professional duties. Mutual suspicions among officers, because of allegations of coups, had destroyed mess life. The *esprit de corps* of the military had been badly eroded. At some point the military tiger became Nigeria's albatross – at one time part of the solution, while at another, part of the problem. The military exhibited many paradoxes – of political rectitude versus the politics of poverty; institutional political hygiene versus the dilution of professionalism and the transformation of the military political physician into a political patient suffering from an overdose of the ailment he had set out to cure.

The new civilian regime, with new service chiefs embarked on a new form of re-professionalization. The new Commander-in-Chief was not an absolute military Head of State, but a constitutional head of the armed forces, operating within the constraints of law.

Part of the re-professionalization program carried out by the new government was to upgrade the quality of training in military institutions while diversifying the context of the training to include studies on "The State and the Socio-Political Environment."

The National Defense Academy (NDA) was upgraded to a defense university in status, awarding graduate and post-graduate degrees (Yoroms, 2005). The leaders in the academic wing are mostly civilians, while the military technical wing remains an area dominated by military personnel. The Commander and the Deputy Commander are both military officers – usually from different services. The NDA trains young soldiers who on graduation get commissioned as second lieutenants. The institution has a civilian provost of academic programs. It also organizes its Commanders' Annual Distinguished Lectures which brings together civilian, military and retired military members of the society for exchange of ideas on important societal issues.

For middle level officer training, there is the Command Training and Staff College (CSC) in Jaji, Kaduna. The CSC trains officers of the rank of major or its equivalent. It is decidedly a military institution, drawing many of its lecturers from the civilian society. Like all military institutions in Nigeria, courses on "The State and the Socio-Political Environment" are also taught.

The Nigeria Defense College (NDC) is based in Abuja. Senior Officers of the rank of Lt. Colonel and above as well as some selected public servants from the civilian society constitute the participants of this college. This course provides, at this senior level, for interaction among military and civilian participants. In addition, the college has a post-graduate program for its graduates at the University of Ibadan, Ibadan, from which graduates of this college have acquired Master's degrees.

The National Institute for Policy and Strategic Studies (NIPSS), Kuru, provides the opportunity of training for the top-most policy makers, in the military, the public service and the private sector. Even more than the NDC, this program has trained top policy makers in Nigeria, since 1979. Some former Heads of State such as General Ibrahim Babangida and Sani Abacha, were graduates of NIPSS. So have been many Chiefs of Defense Staff, Inspectors-General of Police, Directors-General of the State Security Service, the Heads of Civil Services at state and federal levels. Their research projects have fed in-puts into national policies, even though many Nigerians believe that the institution can still be utilized more functionally.

Apart from these, there is the Nigerian Military School (NMS) in Zaria, which has produced young soldiers since the colonial days. Each service has its specialized training school – armor, medical, signal, engineering, and others, depending on the service. These training programs are in addition to the training of military personnel in Nigerian universities.

All services have their exercises and training programs and carry out joint exercises and training occasionally. There have more exercises under the democratic polity. Military leaders of government were often wary of exercises and training because such had provided platforms for coups makers in the past.

Eventually, the average military officer is more knowledgeable about the Nigerian society than the society knows about the armed forces. The average military officers are highly educated, with the average young officer having a Bachelor's degree. Many have Master's and Ph.D. degrees and have authored books.

Thus, the process of re-professionalization has included professional knowledge of the military and its role in a democratic polity, but it also includes the expansion of the parameters of the military's knowledge of the larger society. This includes the principle of civilian supremacy over the armed forces.

Some of the major challenges which the military had to deal with in the new democratic setting thus included:

- (a) The reorganization and sanitization of the military in order to re-professionalize it;
- (b) The de-politicization of the military – reducing the impact of societal cleavages;
- (c) Restoration of discipline and respect for hierarchy;
- (d) Heightening the morale of officers and men – especially by paying attention to welfare of officers and men;
- (e) Creating a new sense of nationalism, patriotism and *esprit de corps*;
- (f) Proper and prudent expenditure of resources to increase the battle-readiness and fire power of the armed forces;
- (g) Reduction of high attrition rate in the military;
- (h) Restoring institutional self-confidence; and
- (i) Re-orientation of values and structures towards enhancing the efficiency of the military under a democratic polity.

In the past 10 years of democratic rule, the military has faced these challenges and succeeded in acquiring new legitimacy among Nigerians. It can be argued that the military has successfully re-professionalized, even if it faces old and new challenges like military establishments anywhere.

Civil-Military Relations: Towards Mutual Confidence-Building

Given the gap between civilians and the military in 1999, the Institute of Governance and Social Research (IGSR), with the support of the National Assembly, the British Council and the Department for International Development (DFID), organized *The Dialogues between Civilians and the Military in Quest for Democracy*. These dialogues provided a medium for the military and civilians to exchange ideas and better understand one another. The frank discussions on both sides and the spirit of camaraderie which came out of these Dialogue series, led the National Assembly to focus on the special needs of the Armed Forces – especially under the leadership of the Hon. Alhaji Ghali Na'Abba, the former Speaker of the House of Representatives (Ostergard, 2000).

The Speaker of the House of Representatives set up a Committee to recommend necessary laws that would enable the armed forces to effectively face the challenges of the twenty-first century. As a result of the work of this committee (in which all military and paramilitary agencies were represented), four bills were proposed by the then Speaker before the two chambers of the National Assembly on:

1. The Reserve Forces Bill, 2002
2. National Emergency Management Agency (NEMA) Law Review Bill;
3. Security Services Minimum Infrastructure Development Bill; and
4. Military's Secondary Role Bill.

The Reserve Forces Bill was to cater for the military's concern about the rate of waste in human resources, after the retirement of officers. The National Emergency bill addressed the military's concern that national disaster should utilize military's formation around the country and their facilities to engage in rescue operations. There had been more emphasis on relief than rescue in disaster operations in the country. The bill on security minimum infrastructure development set minimum level of infrastructure for security agencies, adapting UN indicators to the Nigerian situation. The fourth bill on the Secondary role of Security Agencies was an attempt to clearly delineate the role of the armed forces in national development. Their primary roles have been stated in the constitution.

The importance of these bills is that the civilian society had become sensitive to the challenges facing the military and the need to address these to enable the military to participate effectively in national development. Unfortunately, the term of that legislative assembly expired, even though some of these bills were at the public hearing state. The new legislative assembly tried but failed to retable these bills. However, the new Speaker of the House of Representatives, the Hon. Aminu Masari, announced in January 2007 that the National Assembly had embarked on the review of the *Armed Forces Act* to meet Nigeria's democratic experience. Not much has really come out of the National Assembly since then. Basically, the bills had demonstrated the new concerns of the political leaders for the armed forces.

The Armed Forces and Societal Penetration

The military had adapted to the new democratic setting in many interesting ways (Luckham, 2003, p. 10). In this process of adaptation to the new setting, the military has not always operated as an institution. While in formal interactions within the dynamics of the democratic polity the military operates as an institution, this is not always the case. In other circumstances, individual retired military or groups of retired military personnel position themselves in statuses of influence (Adekanye, 1999; Okeke, 2007). Nor is there any evidence that such position as acquired are the result of networking by retired military persons. What is, however, clear is that such military individuals have sought their positions with the zeal and determination acquired in the military. While there is an association of retired military officers, it has dealt more with the welfare of retired military officers (such as payment of pension benefit) than the systematic penetration of the political arena (Yesufu, 2005).

Given Finer's category of influence above, the armed forces, as an institution, has learnt that they can only retain their political relevance if they utilize existing democratic institutions and processes. The armed forces have maintained effective liaison with the National Assembly on the budget process. Only recently the Senate

promised to increase the budget of the armed forces, given their intervention in numerous cases of democratic violence and the Niger-Delta.

The regular interactions between the Minister(s) of Defense and the Service Chiefs also reduced the number of areas of friction. In addition, the President also meets with the Minister(s) and the Service Chiefs as necessary.

Since May 1999, the military has used the exigencies of Nigeria's security as good excuses for its relevance. In fact, occasions for such are not lacking. As illustrations, the necessity to deal with security issues at the Gulf of Guinea, the rebels in the Chad who spilled over to into the northeastern part of the country causing havoc; the Bakassi peninsula crisis; the violence and criminal activities in the Niger-Delta; Nigeria's role in International Peace Keeping and Enforcement Operations; and disaster, rescue and relief operations – all provide opportunities for the military to exert its influence and/or blackmail (*whitemail*) government into doing what it would desire. These are opportunities for the military to showcase its relevance and capability.

Other demands on the expertise of the military give it opportunities to demonstrate its relevance as well as influence decisions. From May 1999-July 2009, there have been, at about 400 cases of violent communal and electoral violence. In major cases of violence which overwhelm the police, the president has had to call out the military to assist the government to handle domestic violence. The cases of major violence in Kaduna in 2000, Jos in 2001 and 2008 and 2010, Bauchi, Borno, Kano and Katsina in 2009, the military's capability restored relative order in these areas and gave the institution greater credibility. The case of communal violence, when all groups in the affected areas usually seek refuge in military barracks, is evidence that the armed forces still serve as a symbol of national unity.

Similarly, the use of the military in the electoral process also gave it high visibility. However, the allegations of the use of security agencies to perpetrate election fraud put the military on the defensive. The armed forces, as stated earlier, regularly utilized opportunities for public hearings and budget hearings to push their interests. There are situations in which members of the armed forces who felt aggrieved have gone to the National Assembly for support.⁷ Thus, officers dismissed from the Navy, and soldiers who had mutinied in transit from peacekeeping operations (and were court marshaled and jailed) protested to the National Assembly which had special hearing sessions for these purposes. In other cases, some retired and dismissed military officers had gone to the courts which, in a few instances, have reversed the decisions of the armed forces.

As the Nigerian Police Force demonstrate greater weakness in the maintenance of law and order, the credibility of the armed forces has increased. The Governor of Abia, for example, has asked for the military to stem the tides of armed robbery and kidnapping in the state.⁸ So have other states in the Federation. The implication for

⁷ *Daily Independent*, 18 February 2009, p. 3.

⁸ *The Nation*, 28 November 2009 (<http://thenationonline.net/web2/articles/26898/1/Abia-2011-Opposition-to-Governor-Orjis-second-term-is-based-on-sentiments—Aide/Page1.html>) (accessed 27 February 2012).

the regular use of the armed forces for the maintenance of law and order is of grave concern to Nigerians.

Over the years, there were other informal ways in which retired members of the armed forces have penetrated the Nigerian society. In the main, some of them have adjusted to the new setting, learnt the rules of the game and have become active players.

In the political arena, General Olusegun Obasanjo ruled the country as an elected president from 1999 to 2007. Similarly, the President of the Senate, Brigadier General David Mark (rtd), has been a Senator since 1999. There are quite a number of ex-military officers in the Senate, and the federal cabinet. Some have also been elected governors since 1999. The former Chief of General Staff or vice-president under the military, Admiral Augustus Aikhomu is now an active politician. General Ibrahim Babangida, the former President is an active member of a political party and was a Presidential candidate in 2011. General M. Buhari who was Nigeria's Head of State was also a four-time presidential candidate of a political party. The list goes on.

In the economy, many ex-military officers are chairmen of banks and companies. While not identifiable as a class, ex-military officers have been very active participants of the commercial class (Amaike, 2007; Badmus, 2005). They can be regarded as stars in the commercial class.

In virtually all aspects of endeavor in Nigeria, military personnel has penetrated the system. Many retired military men are now pastors and *imams*, and some have become traditional rulers. Universities, law chambers and research institutes are replete with ex-military men and women. In essence, it can be argued, that their military training equips them with skills to fit into larger society.

Nigeria's political leaders have also tried to win the confidence of the armed forces by responding to some of their urgent needs. Increased salary and welfare packages, such as car loans were offered the military under President Obasanjo. In addition, there have been attempts to equip the Air Force and the Navy with new planes and ships respectively. Military barracks in many parts of the country have been renovated. But these are by no means enough. There are many demands of the military which have to compete with demands of other sectors for national resources. One area that has been improved is the payment of pensions. Many retired military men and women have complained about the slow process of pension payment in the past. They could not understand why it was fine to lay down one's life for one's country while one was not given the benefit of one's sweat after due service to the country.

Conclusion

In this paper, I have argued that the military is part and parcel of the process of state formation and is therefore a political institution. It is also my contention that while the military intervenes in the politics of every modern state, the situation is even more complicated in states that are democratizing, after long periods of military rule.

I have argued here that in evaluating the pattern of civil-military relations in African states, it is important to note that the concept of an apolitical professional military subject to civilian supremacy is alien to pre-colonial Africa. In spite of its experiences in the past, Nigeria's political elite still opted for the Western liberal model of civil-military relations in 1999. The general and popular will of the people seems to be in favor of keeping the military in the barracks to deal with its professional and to additional duties, while leaving issues of the ballot box to the politicians. It is a consensus among Nigerians that the military should be fully involved in issues of social and economic developments.

The military has transited fairly well from being dominant and central political actors to being guardians of new central political actors. In doing this, it has institutionally found avenues for influencing policies and decisions which affect its interests. More importantly, the role of political leaders as conflict generators and the resultant violence have increased the demands for the military in the polity. Its credibility is increasing and it has become more relevant than it was at the beginning of the democratization process, 13 years ago. The anxiety of many observers is that the regular use of the military for handling domestic conflicts (or violence) may have the embedded dangerous seeds of attenuating the democratization process. Thus, the extent of the military's relevance as political actors mostly depends on the extent to which Nigerian politicians and the leaders nurture the democratic polity into maturity. Thus the relevance and credibility of the military as political actors, is often buoyed by the demonstration of democratic deficit by politicians and leaders. Nigeria has to watch out!

The retired military personnel has adapted fairly well into the larger society and has penetrated various facets of human endeavor. However, it is not clear at this point, that this is the result of networking. It seems to me more the result of using leadership skills learnt by individuals in the military to survive in the larger society to which they have returned.

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Chapter 5

Military Businesses in Post-Suharto Indonesia: Decline, Reform and Persistence

Marcus Mietzner and Lisa Misol

One of the most crucial challenges for transitional or consolidating democracies is establishing effective government control over the armed forces (Diamond & Plattner, 1996). Without such control, the armed forces (or factional elements within them) retain the capacity to sabotage democratic reforms – most notably elections, the creation of independent legislatures and judiciaries, as well as the expansion of civil liberties. Many states undergoing democratic transitions try to impose control over their militaries by removing them from political decision-making, placing pro-reform officers in key positions and strengthen civilian institutions (Cottey, Edmunds, & Forster, 2002b). If militaries played a particularly strong role in the authoritarian regime that ruled prior to the democratic transition, new government leaders may also opt to make concessions to the officer corps, such as amnesty for past human rights abuses or some form of continued role in security affairs (Mainwaring, 1989). But one field that is often overlooked by civilian officials in democratizing states is the importance of gaining control over the military's finances. More often than not, institutional reforms are being carried out that fail to curtail the military's access to or even direct possession of vast monetary resources. With these resources, militaries become independent of the official defense budget allocations provided by the state, and can thus finance operations that run counter to the interests of the government (Brömmelhörster & Paes, 2003). Hence, even states that have successfully introduced electoral reforms and made other important institutional changes can still see their democratization processes undermined by militaries with sufficient financial autonomy to pursue their own agendas.

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Both Nigeria and Indonesia have had significant problems with the continued financial autonomy of their post-authoritarian militaries. This should not be surprising. Both countries have experienced decades of military-run or military-backed regimes, during which time their armed forces built vast commercial empires that funded the operational costs of the troops as well as the extravagant lifestyles of the top brass (Nwagwu, 2002; Robison, 1986). When Nigeria's military regime formally came to an end in 1999 and Indonesia's long-time ruler Suharto fell in 1998, it was to be expected that the military leaderships in both countries would try to hold on to their businesses and other funding sources. In this chapter, we discuss the development of military businesses and off-budget funding sources in Indonesia, with a particular focus on the post-1998 period. This discussion will show that while the military's business empire was seriously reduced during the Asian Financial Crisis of 1997 and 1998, the post-Suharto elite has been reluctant to introduce reforms that would bring Indonesia's armed forces (Tentara Nasional Indonesia, TNI) fully on budget. Even when the first initiatives were finally taken in 2004, they remained fragmentary and ineffective. As a result, a substantial percentage of TNI's expenditure (probably around 20%) continues to be raised from off-budget sources, including illegal ones. And whereas this figure constitutes a decline from the very high levels of the early 2000s (when off-budget sources reportedly provided around 70% of TNI's total funding), it is still much too large for a consolidating democracy.

In recent years, the scholarly literature on the subject has downplayed the dimension and significance of off-budget funding in Indonesia's military. For example, Rieffel and Pramodhawardani (2007, p. 5) suggested that "the amount of off-budget money obtained by the TNI and used 'for operational purposes' is much smaller than commonly believed." Further, they claimed that the "net income generated by the TNI's off-budget activities in 2006 [...] was equivalent to only 1.5–3.0% of the government's defense budget." While Rieffel and Pramodhawardani stated that their research did not imply that the problem of military businesses was "overblown," it had exactly this effect. Some international media outlets adopted these alleged "new" figures, celebrating them as an indication of successful reform.¹ In addition, the Indonesian government's own data seemed to confirm Rieffel's and Pramodhawardani's figures: in 2010, the Ministry of Defense estimated the total value of all TNI businesses to be only around US \$320 million.² But all these estimates have one major flaw: they exclude the vast amounts of money that TNI officers obtain through protection services, moonlighting, involvement in illegal logging and mining, arms trade, land deals and other semi-legal or illegal activities. For us, a serious estimate of TNI's off-budget sources must include *all* payments that TNI members receive outside of their official allocations, whether they are used to cover operational costs or to

¹ See, for instance, "Indonesia's Army: Going out of Business," *The Economist*, 3 October 2008.

² "Military Businesses Handover by August," *The Jakarta Post*, 15 April 2010.

supplement insufficient salaries.³ In our chapter, all estimates will be based on this definition.⁴

This chapter approaches the subject of military businesses and off-budget financing in Indonesia in four separate but interconnected sections. The first section explores the historical roots of off-budget funding in Indonesia's military, which reach back to the guerilla war in the 1940s, the consolidation of the territorial command structure in the 1950s and the establishment of the military-backed New Order regime in the 1960s. Second, we discuss the development of military businesses after the Asian Financial Crisis and Suharto's fall in 1998, highlighting both the partial collapse of TNI's commercial network and the military's attempts to defend the remaining enterprises amidst the pressures of democratization. The third segment focuses on the government's program of taking over military businesses, which had been mandated by parliament in 2004 but took until 2009 to produce a vague action plan. This action plan, we argue, has not led to substantial change in the way military businesses are run, and is certain to leave the large field of non-formal fund-raising untouched. Finally, the conclusion ties our analysis to broader discussions of the relationship between off-budget funding and democratic civilian control of the military, emphasizing that the decline of Indonesia's formal military enterprises and the gradual decrease in the percentage of off-budget financing should offer no grounds for complacency. Militaries that retain control over independent funding sources pose a risk to democratic governance, regardless of whether their overall proportion of the defense budget is in decline or not. As a nation widely praised for its democratic successes, Indonesia needs to maintain the goal of a fully state-funded military if it wants to further consolidate its post-authoritarian political system.

³ This means that if a TNI soldier receives US\$150 a month in salary (which reflects average wage levels within TNI in 2009), but obtains an additional US\$200 in order to cover his real-life costs, then those US\$200 need to be categorized as off-budget funding. In Rieffel's and Pramodhawardani's calculations, this unofficial income would not be counted because they are not used "for operational purposes." See "Gaji Prajurit Naik 15 Persen," *Berita Sore*, 6 January 2009.

⁴ In other words, our definition covers all three elements generally mentioned by analysts as being part of Indonesia's military business typology. According to this typology, business enterprises under TNI control, frequently established under foundations and cooperatives, are commonly categorized as "formal," "institutional," or "legal" military businesses. Alliances with private entrepreneurs that entail TNI receiving payment for goods or services (often involving the misuse of state assets) are considered "informal" or "non-institutional" or "grey" businesses, with the last term reflecting their questionable legal status. Finally, "illegal" businesses describe various economic activities by military personnel that clearly fall outside the law. Some authors add a fourth category for either acts of corruption or the business interests of retired personnel. See, for example, Artjana (2005, p. 36), Misol (2006, pp. 2, 3), Rieffel & Pramodhawardani (2007, p. 39), and Susilo (2005, pp. 28, 29).

Military Businesses and Off-Budget Funding in Indonesia: A Brief History

Military businesses and off-budget funding in Indonesia have their origins in the country's fight for independence between 1945 and 1949.⁵ When TNI was founded in October 1945 to face the returning Dutch colonial army, it initially consisted of a large network of independent militias. These militias were controlled and funded by local commanders and societal leaders, who in turn raised money from the population of the area in which they operated. Subsequently, the civilian government tried to centralize the command structure and strengthen its control over the military budget, and by early 1947 it had temporarily succeeded. Supervised by the defense ministry, a special "Bureau of Struggle" (*Biro Perjuangan*) was put in charge of coordinating the activities of the military's various units and their expenditure (Said, 1992, p. 44).⁶ However, after the Dutch intensified their attacks in mid-1947 and throughout 1948, the government not only lost control over much of its claimed territory, but also over its military commands. As a consequence, A.H. Nasution, one of the key generals in the army, declared in December 1948 that a military government had been established for Java, with officers assuming authority over civilian administrations at the local level (MacFarling, 1996, p. 41). One important aspect of this assumption of administrative control was that it gave the military direct authority to raise funds and collect taxes. For example, in March 1949 the military governor of West Central Java issued a decree that required paddy field owners to pay 10% of the value of their harvest as "rent" to the government, and an additional 10% income tax was levied on all other citizens (Said, 1992, pp. 107, 108). The autonomy of military commanders in fund-raising and financial management went so far that one TNI leader even proposed to print his own currency to finance the operations in his area (MacFarling, 1996, p. 42).

After the end of the war in 1949, the Indonesian government moved to increase its political and financial control of the military. Consequently, the armed forces became more dependent on allocations from the official state budget, leading to widespread dissatisfaction in the officer corps. This discontent was aggravated by the fact that many Indonesian politicians tried to keep the budget of the armed forces as small as possible, partly because of genuine financial constraints, but also because they feared that an institutionally powerful military could turn against the newly established parliamentary democracy. When the army leadership failed with its aggressive attempts to have parliament dissolved in October 1952, the civilian

⁵ This section uses material from Marcus Mietzner's article "Soldiers, parties and bureaucrats: Illicit fund-raising in contemporary Indonesia", published in *South East Asian Research* 16(2) 2008, pp. 225–254. We would like to thank the editors of *Southeast Asian Research* for allowing us to use this material.

⁶ As a result of this centralization program, the military received most of its funds through the state budget. At the height of the conflict with the Dutch, around 80% of the government's budget went into the war effort. The authors are grateful to Robert Cribb for providing this information.

elite retaliated by cutting the allocations for TNI even further. Frustrated with TNI's dependence on the monies granted by civilian leaders, Nasution in 1957 and 1958 ordered the institutionalization of the military's territorial command structure. This network of military units reached from the centre down to the village level, and ran parallel to the civilian bureaucracy. Most importantly, each unit was tasked with setting up independent businesses and cooperatives that could help with the financing of military operations. The regional rebellions in the late 1950s, which led to the declaration of martial law, accelerated this economic engagement of the military and consolidated its financial autonomy (Crouch, 1988, p. 38). In addition, the nationalization of Dutch enterprises in December 1957 entrenched military officers in the management of large corporations, paving the way for TNI to become a major economic player. Accordingly, when the army under Major-General Suharto took power in October 1965, the foundations for the military's economic strength had already been laid.

The New Order period (1965–1998) witnessed a massive expansion of military businesses, cooperatives and foundations. The military's central position in the regime provided its officers, according to Robison (1986, p. 252), with “almost unlimited access to the resources and facilities of the state and power to influence allocation of import/export licenses, forestry concessions and state contracts.” In fact, the political weight of the armed forces was so overwhelming that they were not only able to run a large complex of military businesses, but established effective control over key state enterprises as well. For example, one of the major cash cows of the armed forces was the national oil company Pertamina, which delivered substantial contributions to the coffers of the armed forces and its military directors (Iswandi, 1998, pp. 146–151). In addition to the military's direct economic involvement, regional commanders also forged business alliances with local entrepreneurs, offering a service that Lowry (1996, p. 141) called “facilitation.” Besides obtaining business licenses, this covered assistance “in resolving land disputes, calming labour unrest, overcoming bureaucratic obstacles, relocating squatters, and so on.” The business elite, Lowry concluded, found it “prudent to keep the local military on side against the day when social unrest might threaten their lives and property.” Finally, Suharto ensured that the armed forces were also financed through (and therefore dependent on) regular payments made by both his own foundations and the companies of his cronies, who were mostly ethnic Chinese entrepreneurs.

But the Asian Financial Crisis of 1997 and 1998 destroyed much of Suharto's economic patronage network and thus cut sharply into TNI's income base. With Indonesia's economy contracting by an unprecedented 14% (Booth, 2002, p. 4), a considerable number of Suharto's cronies went bankrupt or left the country to escape investigations into their bad debts (Chua, 2008).⁷ As a result, TNI no longer

⁷ Chua shows how some of the big conglomerates later staged a comeback. However, by the time these companies re-emerged, the military was no longer important to them as their main political protector. By then, other actors had taken its place.

enjoyed regular payments by large conglomerates, and its own companies suffered badly as well. The crisis wiped out some of TNI's most lucrative investments, with the heavily indebted state – whose fiscal policies were now largely dictated by the IMF – unable to save them (Grenville, 2004). Post-crisis audits of some of the military's key foundations found that many of the military-affiliated companies were technically bankrupt, with only a small minority of TNI-owned business units still generating profits (Ernst & Young, 2001). Thus when Suharto's resignation in May 1998 robbed the military of its authoritarian patron and confronted it with the uncertainty of a democratic transition (Mietzner, 2009), TNI's businesses had already been significantly weakened by Indonesia's historic economic meltdown.

Military Businesses and Self-Financing After 1998

After 1998, the political environment for Indonesian military businesses changed dramatically. Suharto's regime, which had protected and nurtured the businesses for decades, was rather suddenly replaced by a messy democracy with a multitude of political and economic actors (Crouch, 2010). With several key groups fighting for government positions and resources, the military could no longer take its privileged access to state licenses, credits and other economic facilities for granted. Party politicians, legislators, newly emerging conglomerates and even the police (which was separated from the military in 1999) competed now with the armed forces for the spoils that the new democratic polity had to offer. In this competition, the military was increasingly sidelined. Between 1998 and 2004, the military lost its reserved seats in parliament, had to withdraw active officers from cabinet, and was forced to shelve its dual function doctrine that had legitimized the military's involvement in politics and the economy (Honna, 2003). Naturally, this loss of TNI's political clout led to a decline of its economic fortunes as well. Entrepreneurs no longer felt obliged to pay TNI officers for their facilitation services, and TNI's businesses were now a much less attractive partner for private companies to engage with. In short, the conditions for TNI's businesses had changed from institutionalized privilege under Suharto's rule to a much more competitive (and occasionally even hostile) climate in the post-authoritarian system (Crouch, 2010, pp. 127–190).

While TNI's business interests took a severe hit during the crisis and the democratic transition, the officer corps was nevertheless determined to defend its remaining companies, assets and fundraising mechanisms. In fact, it was precisely because of its gradual political and economic marginalization that the TNI leadership was keen to hold on to independent sources of income. Faced with an increasingly assertive civilian elite, TNI needed continued access to off-budget funds to support the privileges to which the officer corps had become accustomed and escape full control by the democratically elected government. In order to maintain this access, TNI pursued two main strategies: first, it tried to protect its still existing network of companies, foundations and cooperatives from initiatives

Table 5.1 Formal TNI business entities, 1998–2008

| | Unofficial inventory 1998 | Government inventory 2008 |
|--|------------------------------|------------------------------|
| Companies under foundations | 141 | 53 |
| Cooperatives and companies under cooperatives | 1,194 | 1,100 |
| Total TNI businesses | 1,335 | 1,153 |

Sources: Yunanto, Nurhasim, Noorsalim & Maharani (2005, pp. 39–58) and Tim Nasional (2008)

to reform or abolish them; and second, it continued to tolerate “informal” and openly illegal business activities by its officers, particularly in the field of protection services.

Both the decline of the formal TNI businesses and the generals’ determination to defend them were reflected in the military business inventory published by the government in late 2008. If contrasted with data collected by an independent research team in 1998 (see Table 5.1), it appeared that the number of formal military businesses had declined substantially from 141 to 53, while there was only a slight decrease as far as cooperatives were concerned. In total, the number of business units fell from 1,335 to 1,153. However, the reduction in formal businesses during this period did not result from government reform efforts – as will be discussed, TNI leaders and their allies succeeded in delaying such reforms until after the 2008 publication of the inventory. Instead, the drop can be explained by more prosaic factors, including continued business closures due to competition and military mismanagement. In some notable cases, the TNI leadership opted to sell off valuable business enterprises in order to be able to keep the proceeds while it retained full control, rather than risk that these might eventually be taken over by the government.⁸

A more detailed analysis of the remaining TNI enterprises demonstrates that the military’s formal involvement in business has remained considerable, the overall decline notwithstanding. Table 5.2 details the names of the largest companies that remained fully or partially owned by TNI in 2009. These included investments in timber, real estate, and transport. Where the companies’ value was specified, their assets were worth at least Rp.10 billion (approximately US\$1 million) each. Taken together, the gross assets of TNI foundations, cooperatives and subordinated businesses totaled Rp.3.2 trillion (US\$350 million), and their business activities generated an annual profit of Rp.268 billion (US\$28.5 million) (Tim Nasional, 2008).

As its formal businesses began to come under pressure after 1998, the military continued to rely heavily on informal economic activities. The distinction between

⁸ In 2005, for example, the army sold off the shares it owned (via one of its foundations) in Bank Artha Graha, receiving Rp.121 billion (\$12.1 million). See, for example, “Before a New Master Comes,” *Tempo*, no. 02/VI, 13–19 September 2005.

Table 5.2 Formal TNI business entities as of 2009

| TNI branch | Company name | Business type |
|--|---------------------------------|----------------------------|
| TNI headquarters | PT. Manunggal Air Service | Transport |
| Army | PT. Kobame Propertindo | Real estate |
| | PT. Dharma Medika | Healthcare |
| | PT. Sumber Mas Timber | Timber |
| | PT. Saguaro | Timber and/or real estate |
| | PT. Sinkona Indonesia Lestari | Salt processing and export |
| | PT. Meranti Sakti Indonesia | Timber |
| | PT. Meranti Sakti Indah Plywood | Timber |
| | PT. Sumber Mas Indah Plywood | Timber |
| | PT. Kartika Airlines | Transport |
| | PT. Buana Graha Artha Prima | Real estate |
| Navy | PT. Tri Usaha Bakti | Holding company |
| | PT. Jala Bhakti Yasbhum | Holding company |
| | PT. Jalakaca MitraGuna | Transport, airplane parts |
| Air force | PT. Admiral Lines | Transport |
| | Klub Persada Halim | Sports and leisure |
| Army headquarters cooperative ^a | PT. Reka Daya Kartika | Real estate |
| | PT. Mina Kartika | Fisheries |

Sources: Misol (2010, pp. 7, 8), based on a list of company names provided by government officials in December 2009. Information about the types of businesses was supplemented with company websites and other public reporting

^aThis refers to Induk Koperasi Angkatan Darat or Army Parent Cooperative, known as Inkopad

formal and informal businesses is a blurred one, particularly as various money-making schemes have had explicit or at least implicit authorization from the military hierarchy. Most importantly, it has long been known by commanders that military units deployed across the country have raised funds independently by providing paid security services to local companies and projects operated by multinational corporations. For example, field units have arranged transport of timber or other goods using military vehicles and lease military-controlled property for a fee. Although these activities entail profiting from the use of state assets (and are sometimes formalized in contracts between the parties), the proceeds from such arrangements have not been returned to the state (Tim Nasional, 2009). Naturally, no reliable estimates are available of the military's total earnings from informal business practices, but these arguably surpass earnings from military-owned companies. As one indication, in 2008 a government advisory team found that the military's leasing out of state land and buildings under its control allowed TNI foundations and cooperatives to earn just under Rp.102 billion (\$11.2 million).⁹ In addition, one major multinational corporation (Freeport-McMoRan) has disclosed that it spent \$14 million in 2010 alone to cover various costs for the approximately

⁹ See Hardjapamekas 2009.

3,000 Indonesian military and police personnel that provide security in the general vicinity of its mine in the province of Papua.¹⁰

In addition to defending its institutional businesses, TNI has continued to generate vast sums from its involvement in illicit economic activity. The military is especially noted for its longstanding role in illegal logging operations in Indonesia (Barber & Talbott, 2003, pp. 151–163). As is the case with its other revenue streams, authorized and illegitimate TNI business activities are intermixed. For example, although the military typically obtained government approval when it initially assumed an ownership interest in a logging or sawmill operation, over time TNI's enterprises have engaged in illegal over-logging, processing of illicitly-obtained timber, or other illicit activity (Barber & Talbott, 2003, pp. 150–153; Misol, 2006, pp. 38–44). Similar patterns have emerged with regard to TNI's role in providing security at mine sites. In one case, a private company hired a local military cooperative to combat illegal mining in the company's concession area only to find that the soldiers instead embarked on a mafia-style operation to control and profit from the illegal trade (Misol, 2006, pp. 56–63). Corruption schemes also have contributed to off-budget income sources for Indonesia's military. These include protection rackets in which local commands demand fees from gambling operators and large-scale mark-ups on weapons purchases that benefit well-placed military officers (Misol, 2006, pp. 71–79).

TNI leaders generally have been reluctant to clamp down on informal and even illegal behavior by military personnel. Various crackdowns have been announced over the years, often in the wake of scandals that have generated public pressure to rein in the military, but they have not been backed by a firm commitment and thus have led to few results. For example, a 2001 presidential decree ordered a halt to military involvement in timber smuggling but 2 years passed before the TNI chief followed up to provide a clear directive to his troops to stop illegal logging activities.¹¹ Neither measure specified any sanctions nor had any notable effect. Similarly, a renewed presidential crackdown was ordered in 2005, after a report by non-governmental groups that documented rampant military involvement in illegal logging in Papua generated negative publicity, yet only a handful of military personnel were ultimately arrested and, of those, many were quickly released.¹²

¹⁰ This information is disclosed in the company's filing with the U.S. Securities and Exchange Commission. See Freeport-McMoRan Copper & Gold Inc., "2010 Form 10-K," available at <http://www.fcx.com/> (accessed 14 February 2012). For a discussion of allegations that the company used categories such as "food costs" or "monthly supplement" to designate large, direct payments to individual Indonesian military officers, as well as to units in the field, see Global Witness (2005). See also Kontras (2011), pp. 6–7.

¹¹ Presidential Instruction No. 5/2001 on the Eradication of Illegal Logging and Telegram No. STR/129/2003 to all TNI Personnel, dated January 30, 2003.

¹² Environmental Investigation Agency and Telapak, "The Last Frontier: Illegal Logging in Papua and China's Massive Timber Theft," February 2005; co-author interviews with Telapak representatives, Jakarta, 11 April 2006.

While initially the profits generated from informal and illegal business activities increased after Suharto's fall, in recent years TNI has found that they no longer offered reliable returns. This was largely due to the fact that in the early period of the democratic transition many communal and separatist conflicts had provided TNI with ample opportunities to exploit the lucrative conflict economies emerging in these trouble spots. However, the number and intensity of internal armed conflicts have lessened significantly since 2003, and the income from associated rent-seeking activities has fallen with them. Moreover, remaining economic opportunities also have come under pressure as a result of heavy competition from police forces. With police gradually assuming greater responsibility for providing internal security, including in relation to major corporate installations, they have assumed a greater share of the spoils that TNI formerly enjoyed from protection arrangements. At various times tensions between soldiers and police over criminal businesses have resulted in violent shoot-outs (Misol, 2006, pp. 66–70). Such incidents invariably received negative press attention, contributing to public pressure on the military to get out of business.

While calls for the military's extraction from commercial activities became louder throughout the 2000s, the military has argued for many decades that business is necessary for their survival. The leadership of the TNI-dominated defense ministry, which oversees the military budget although it lacks authority over TNI headquarters or troops, joined with senior generals in offering a three-part rationale for military business activities. According to this rationale, government budgetary allocations are grossly insufficient, income from TNI businesses is necessary to subsidize military expenditures, and profits are in large measure dedicated to improving troop welfare. Over time, however, each of these explanations has been exposed as deeply flawed (Misol, 2006, pp. 80–110). Notably, although Indonesia's defense budget is comparatively low, TNI benefits from allocations under numerous other government accounts (such as payments from provincial and district administrations). Furthermore, oversight of military finances has traditionally been weak, prompting international financial institutions and even foreign governments to express serious misgivings about the state of financial controls over TNI since at least 2000. While control has improved since then, the military continues to suffer from unnecessary "leakages" that reduce the effective size of its allocations by the state. Moreover, its pleas of poverty have lost force as the government significantly increased its budget (see Table 5.3), more than quintupling it between 2002 and 2012. In addition, the government also announced a multi-billion dollar upgrade of TNI's equipment, which is expected to be completed by 2014.

This increased level of official military funding, combined with the decline of both formal and informal business activities, has drastically altered the balance between off-budget funds and the official military budget (on defense budgeting, see also the contribution of Sebastian and Isgindarsah in this volume). For many decades, observers of the Indonesian military had estimated that the official TNI budget covered only 30% of actual needs and that the rest was obtained from off-budget sources. In a speech in Washington in 2000, then Minister of Defense

Table 5.3 Official military budgets, 2002–2010

| Year | Military budgets (Trillions of IDR) | Military budgets/military expenditures (billions of US dollars) | Military expenditures as percentage of GDP |
|------|--|--|---|
| 2002 | 12.8 | 1.41 | 1.1 |
| 2003 | 17.2 | 2.64 | 1.3 |
| 2004 | 21.4 | 2.35 | 1.3 |
| 2005 | 22.1 | 2.11 | 1.1 |
| 2006 | 27.5 | 3.25 | 1.1 |
| 2007 | 29.8 | 3.28 | 1.2 |
| 2008 | 32.9 | 3.29 | 1.0 |
| 2009 | 33.7 | 3.37 | 0.9 |
| 2010 | 42.3 (budgeted) | 4.65 | 0.7 (est.) |
| 2011 | 47.5 (budgeted) | 5.28 (est.) | 0.9 (est.) |
| 2012 | 64.4 (budgeted) | 7.16 (est.) | 1.0 (est.) |

Source: Approved budget figures from the Ministry of Finance. For 2010, 2011 and 2012 the official budget documents did not include revised data. Conversions to U.S. dollars calculated using the average annual exchange rate for each period. Military expenditures as a percentage of Gross Domestic Product (GDP) for the years 2002–2009 from SIPRI Military Expenditure Database

Juwono Sudarsono had repeated this estimate, and it was subsequently used as a quasi-official figure. In 2005, Juwono – then in his second stint as minister – stated that the split was around 50–50 (Misol, 2006, pp. 89, 90). In 2010, he once again updated his estimate, telling the authors that the military budget now accounts for about 80% of spending, with independent revenue sources contributing the remaining 20%.¹³ Given that it is impossible to gain exact figures on this issue, and that Juwono’s years as head of the ministry that oversaw the defense budget has granted him a unique vantage point, we believe that his figures come closest to a workable approximation.

The Push for Reform of TNI’s Businesses

In the early 2000s, the erosion of the rationale for military businesses coincided with a process of accelerated democratization in Indonesia that opened space for independent observers to raise sharp questions about the true cost and repercussions of military self-financing.¹⁴ The slow but steady upswing in the level of government funding undercut the greatly overstated arguments that TNI enterprises served to subsidize necessary military expenses or finance soldier welfare programs. With the

¹³ Co-author interview with Juwono Sudarsono, Jakarta, 19 May 2010.

¹⁴ This section uses material from Lisa Misol’s study, *Unkept Promise: Failure to End Military Business Activity in Indonesia* (Human Rights Watch, 2010). We would like to thank Human Rights Watch for allowing us to use this material.

emergence of a vocal and independent media and strong civil society groups, Indonesian human rights activists highlighted cases demonstrating how the military's profit motive created conflicts of interest with its proper security role and fomented abuses of power (Kontras, 2004). Growing controversies about military involvement in business tested the longstanding claims by TNI leaders that such activity provided an acceptable means for commanders and troops to supplement the funds allocated in the military budget. Government auditors and parliamentarians also voiced frustration over their inability to curb TNI financial abuses (Artjana, 2005, pp. 149–164; Susilo, 2005, pp. 69–77). The continued role of the TNI in business was at odds with the standards of democracy, civilian supremacy, and military professionalization to which Indonesian leaders and society at large aspired. Coupled with increasing demands for civilian bodies to improve oversight and control over TNI finances, the weakened justification for military businesses convinced some within Indonesia's political elite that reforms were necessary.

In September 2004, the cumulative criticisms and recognized need to improve military professionalism led Indonesia's parliament to adopt landmark legislation that, among other provisions, mandated the military to completely withdraw from business. Law No. 34/2004 was signed the following month by the outgoing president, Megawati Sukarnoputri, just as a new administration led by retired general Susilo Bambang Yudhoyono prepared to take office. Article 76 of the law mandated that “[w]ithin five years . . . the government must take over all business activities that are owned and operated by the military, both directly and indirectly.” Elsewhere, the law reinforced that provision by declaring that, by definition, “professional soldiers . . . do not do business” and by restating longstanding (but unenforced) prohibitions on soldiers engaging in business activities. The clarity of the demand was refreshing, but it masked the parliament's reluctance to delineate what actions would be required to meet it. Law 34/2004 did not specify which categories of military business were to be eliminated nor did it spell out any accountability measures if the 5-year deadline was missed. Instead, it only provided that the incoming president should enact a presidential decree outlining the necessary elements to give effect to the legal mandate. This deference to the executive severely undercut the reform effort.

While top TNI officials publicly declared strong support for Law No. 34/2004, they nonetheless exploited its ambiguity to narrow the scope of this potentially radical reform and to delay its application. Upon taking charge as TNI chief in early 2006, Air Marshal Djoko Suyanto voiced his support for reform but insisted “businesses that serve the interests of TNI members and their families must be retained.”¹⁵ In the same vein, although the then TNI chief publicly offered to hand over all businesses within 2 years – rather than the five allowed by law – the TNI did

¹⁵ Soeryo Winoto, “Military must have a presence in the region,” *The Jakarta Post*, February 3, 2006.

not provide the government with a preliminary inventory of its enterprises until September 2005, a full year after the passage of Law No. 34/2004.

The Yudhoyono government itself was similarly slow and hesitant: after initially delaying the formation of an inter-ministerial team to oversee the reform effort, that team subsequently spent several years repeating the same tasks of verifying and evaluating the identified businesses. A civilian nominally headed this reform effort with a top military official as his deputy, but there was little doubt that the government team as a whole was highly sympathetic to the views of its uniformed representatives. It did not object, for example, when TNI foundations took advantage of the long lull in government control to sell off shares in several companies without prior approval.¹⁶ Instead, the reform team signaled from an early stage that it would severely (and deliberately) limit the number of military businesses subject to government takeover. In the view of the team, the military was to retain those businesses that were nominally independent, arguably served a welfare purpose, or purportedly had not benefited from the use of state assets. Similarly, the team refused to handle the problem of informal or illegal business activity, claiming that those crucial matters remained outside the scope of the 2004 law. Finally, the government also failed to enact any plan to formally implement Law No. 34/2004, leaving it in legal limbo.

The reform drive made no progress until 2008, when the well-regarded former deputy chief of the Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK) was brought in to head an advisory group. Under the leadership of Erry Riyana Hardjapamekas, this group carried out a new review of the military's businesses and proposed several options for reform (Tim Nasional, 2009). The proposals, although far from comprehensive, addressed a wider set of issues than prior government efforts and with greater effect; notably, one proposal would have resulted in the liquidation of TNI foundations and their enterprises. Hardjapamekas presented the advisory group's various options to the government in October 2008, 1 year before the expiration of the 5-year deadline contained in Law No. 34/2004. He announced at the time that the work of his group had been guided by one fundamental principle: that any business activity that aims to fund or benefit soldiers or the TNI as an institution could "cause conflict of interests and thus obstruct [...] the realization of TNI professionalism."¹⁷

While Yudhoyono had 1 year to consider Hardjapamekas' proposals before the hand-over deadline, he ultimately opted to ignore most of them. In October 2009, Yudhoyono issued a decree that formally announced the government's takeover of TNI's business *activities* – but not the *ownership* of military-linked enterprises. Beyond that, Presidential Decree No. 43 of 2009 on the Takeover of Business Activities of the TNI did not provide much detail. Instead, it simply set up another

¹⁶ See, for example, "Military allowed to sell assets from business ventures," *The Jakarta Post*, 29 September 2005.

¹⁷ "Organizing Committee of National Team for TNI Business Activities Take-Over Submitted TNI Business Take-Over Final Report," statement issued in English, Jakarta, 4 November 2008.

Oversight Team that was tasked with working out the mechanism for the “hand-over.” No timeframe was given within which the team had to finish its assignment, nor was the group given managerial control over the businesses. Its responsibilities were limited to monitoring the “restructuring” (*penataan*) of military foundations and cooperatives, ensuring that they comply with applicable laws. The team was given no authority over TNI personnel, so it had to wait for new rules spelling out the restructuring to be issued in the form of regulations by the TNI commander. Given this vagueness, the team voluntarily set itself the goal of wrapping up by August 2010.¹⁸

While the decree was lacking details, its conservative agenda became sufficiently clear in its definitions and broad outlines. It stated that only businesses classified as “directly military-owned” were intended for takeover by the state. Conveniently, businesses run by TNI foundations and cooperatives were to be categorized as “indirectly owned.”¹⁹ Instead of being subject to any hand-over, they would be “restructured” based on existing laws regulating foundations and cooperatives. With no business categorized as directly owned by TNI, the government had effectively circumvented the mandate given to it by the parliament in 2004. The only notable accomplishment of the decree was to impose modest restrictions on continued TNI leasing of state assets, requiring that the proceeds be credited to the treasury. Thus, the creative (if not manipulative) introduction of new definitions such as “restructuring” replaced the initial concept of hand-over or termination of military businesses. Such distortions alienated Hardjapamekas, who made clear that the government’s plan fell short of his expectations. Speaking to the press, he said, “If we want to change the attitude [of the military], we should liquidate all the businesses.”²⁰ Hardjapamekas chose not to join the new Oversight Team. As a result, the members of the team were conventional military officers and bureaucrats who believed that the government’s task of “taking over” military businesses could be achieved if it asserts some form of supervision over select businesses.²¹ The team’s secretary, Brig. Gen. Ali Yusuf, even emphasized that the team had no intention to touch “some cooperatives and foundations which belong to individual TNI members, not to the TNI as an institution.”²²

By 2011, it had become apparent that the definitions set out in the 2009 decree helped TNI to maintain control over its remaining cooperatives, foundations and associated businesses. In March 2011, a TNI spokesman declared that the process of “restructuring” the cooperatives had been completed – meaning that they now followed the regulations set out in Law 25/1992 on Cooperatives.²³ For example,

¹⁸ Co-author correspondence with Silmy Karim, official at the Indonesian Ministry of Defense in charge of military businesses, November and December 2009.

¹⁹ Co-author correspondence with Silmy Karim, November and December 2009.

²⁰ Tom Wright, “Indonesian Military Misses Its Deadline,” *The Wall Street Journal*, 19 October 2009.

²¹ Co-author correspondence with Silmy Karim, November and December 2009.

²² “Military businesses handover by August,” *The Jakarta Post*, 15 April 2010.

²³ “Pengambilalihan Bisnis TNI Tuntas,” *Suara Karya*, 15 March 2012.

TNI cooperatives had held meetings to “elect” their leadership; their members were no longer holding “structural” positions in the TNI hierarchy; and the cooperatives themselves were delinked from the organization of the military.²⁴ But the loopholes in this “restructuring” effort were gaping: for instance, the vast majority of the cooperatives’ functionaries were still TNI officers or civil servants active in the military bureaucracy; cooperatives were still allowed to own “businesses” (*usaha*) if they increased the welfare of soldiers and their families; and cooperatives could own shares in other companies or establish new ones, if their level of ownership did not reach 100%.²⁵ Also, TNI unsurprisingly – and as already indicated in the definitions of the 2009 decree – claimed that it had found no businesses that were directly military-owned and thus would have to be handed over to the Indonesian state – a curious contradiction of the government’s own 2008 inventory. Presumably, the businesses listed in 2008 were now incorporated into the new structure of enterprises run legally by cooperatives. This change was reflected in TNI’s updated numbers for its “business” units in 2011: it had 1,301 cooperatives and more than 13 foundations in 2011,²⁶ which constituted an increase compared to the 2008 numbers. Overall, then, the military business reform process initiated in 2004 resulted in the sell-off of some key companies, but otherwise left the fundamentals of the cooperatives and foundations intact.

The Yudhoyono government’s formalistic circumvention of the policy guidelines set out in Law No. 34/2004 has illustrated its reluctance to genuinely insist on an end to military businesses practices. Despite the rhetoric of reform, military leaders have continued to justify the ongoing practice of military involvement in the economy. In early 2010, for example, a senior Ministry of Defense official responded to a newly published study documenting TNI’s deep involvement in illegal logging by acknowledging that such activity took place but arguing that it did not constitute a form of “military business” under his definition. He went on to rationalize that “life at the border areas can be difficult for soldiers. Their salaries are not enough to live in such areas, especially as daily goods are expensive.”²⁷ Similarly, the Indonesian Minister of Defense, Purnomo Yusgiantoro, has maintained that military involvement in business has been a result of budgetary constraints that keep salaries low. Speaking in May 2010, he said that “on the one

²⁴ Co-author interview with Silmy Karim, 10 February 2012.

²⁵ “Penataan Kooperasi di Lingkungan TNI AD,” Document posted on the website of the army’s cooperative at the Iskandar Muda command in Banda Aceh, available at: <http://puskopadadamim.blogspot.com/2010/05/penataan-koperasi-di-lingkungan-tni-ad.html>. As for foundations, they were still allowed to hold investments of up to 25% of a company’s share. Co-author interview, Silmy Karim, 15 February 2012.

²⁶ “Pengambilalihan Bisnis TNI Tuntas,” *Suara Karya*, 15 March 2012.

²⁷ “Study says military complicit in illegal logging,” *The Jakarta Post*, 29 January 2010. The article describes research conducted by the University of Indonesia’s Center for East Asia Cooperation Studies that focused on the role of military personnel in illegal logging practice in the border area of East Kalimantan from 1999 to 2006. The official response was attributed to Rear Admiral T.H. Soesetyo, defense director from the Directorate General of Defense Strategy.

hand we want a professional military, but on the other side the government budget is low.”²⁸

Conclusion: Military Businesses in Indonesia: Limited Reform, Continued Problems

Our discussion of military businesses and off-budget funding in post-Suharto Indonesia has revealed rather mixed trends. On the one hand, there is little doubt that TNI's formal businesses have since 1998 seen a substantial decline in size, revenues and economic significance. Today's remaining businesses are a shadow of the vast commercial empire that existed under Suharto, when the military and its officers controlled multi-billion dollar investments, particularly in the oil industry. It is also evident that the overall percentage of off-budget funds in TNI's expenditure has declined drastically, from around 70% in the early 2000s to approximately 20% in 2010. This is mostly the result of large increases to the defense budget, which more than quintupled from 12.8 trillion Rupiah in 2002 to 64.4 trillion Rupiah in 2012. At the same time, the value of military businesses declined, making it necessary to re-evaluate previously widespread assessments about the majority of Indonesia's defense expenditure being raised outside of the official state budget. Similarly, the number of human rights violations committed by security forces in their pursuit of economic interests has declined. Soldiers are rarely engaged today in violently dissolving strikes, intimidating business rivals or removing settlers from land claimed by large corporations. While abuses still occur (particularly in Papua and other conflict areas), their overall frequency and severity is incomparable to the systematic and gross violations of the authoritarian New Order period.

But the much-reduced significance of military businesses and other forms of fund-raising after 1998 shouldn't lead to the conclusion that these enterprises are no threat to Indonesia's young democracy. To begin with, we do not share Rieffel's and Pramodhawardani's very low estimate of 1.5–3% off-budget funding in Indonesia's defense budget. Our figure of 20% is based on an assessment by the former defense minister and provides a rough estimate of all payments made to TNI and its officers outside of official channels, whether through formal businesses, kickbacks or “service fees”. As demonstrated in this chapter, many TNI units and soldiers continue to be involved in business activities, and while these operations are on a much smaller scale than in the past, they still provide the military with independent funding sources. These funds can be misused to run operations not approved by the civilian government, as was clearly visible in the East Timor carnage of 1999 (Robinson, 2009) and, to a lesser extent, the failure of the

²⁸ Co-author notes of discussion at a luncheon event sponsored by the American Indonesian Chamber of Commerce, New York, 12 May 2010.

Cessation of Hostilities Agreement in Aceh in 2003 (Aspinall & Crouch, 2003). In both cases, TNI officers financed the built-up of militias that sabotaged political processes driven by the civilian government in Jakarta. As a consequence of these unapproved operations, the political negotiations collapsed and severely damaged Indonesia's international reputation. Although TNI has come under somewhat greater civilian control in the intervening years, clearly any off-budget funding for TNI undermines democratic government authority and increases the risk of rogue officers taking action against executive decisions that are seen as detrimental to the institutional interests of the armed forces. Moreover, continued military self-financing fuels conflicts of interest that hamper military professionalism and contribute to abuses of power, crime and corruption.

Therefore, we do not believe that the reduced proportion of off-budget funding in TNI's overall income and expenditure is sufficient to remove the issue from Indonesia's list of policy priorities. To a certain extent, the current level of around 20% is more problematic than the higher amounts under the previous regime. Under Suharto's military-backed government, businesses run by generals were part of the regime's very fabric. The polity was so inherently undemocratic and unaccountable that the military's economic activities simply formed part of the larger scheme of things. In Indonesia's new democracy, by contrast, off-budget fund-raising by the military should be viewed as a potentially dangerous anomaly. In recent years, international think tanks have praised Indonesia as Southeast Asia's only electoral democracy, underlining the country's ambitions to become a truly consolidated democratic state (Freedom House, 2010). As such, the country's point of comparison should no longer be Suharto's authoritarian regime, but the standards of a developed liberal democracy – even if Indonesia's political and economic realities may mean that this goal will take some time to achieve. If Indonesia is serious in pursuing this aim (as President Susilo Bambang Yudhoyono often states in both domestic and international policy addresses),²⁹ then it can't afford to have a partially self-funded military. Strong, democratic and civilian control over the armed forces simply cannot be attained as long as the government does not fully control the military's budget, both in terms of its income and expenditure.

Accordingly, the government needs to handle the problem of military off-budget funding with more urgency than it has demonstrated in its slow and ineffective initiative to "transfer" TNI businesses to the state. This is particularly so since one of the traditional arguments justifying off-budget-funding in Indonesia's military

²⁹ In April 2010, Yudhoyono lectured an audience of international democracy activists assembled in Jakarta about the inevitability of democracy: "Regardless of what political model you embrace, I have no doubt that in our time our future belongs to those who are willing to responsibly embrace pluralism, openness and freedom. Your choice is to act and survive, or to resist and crumble." He continued that "today, [Indonesia's] democracy is growing strong, while at the same time [it] is registering the third-highest economic growth among G-20 countries, after China and India." See "SBY: Global growth of middle class has democratic imperative," *The Jakarta Post*, 13 April 2010; "Money Politics Hurting Indonesia's Young Democracy, SBY Says," *The Jakarta Globe*, 12 April 2010.

(namely, that the state is too poor to fully fund its armed forces) has become increasingly irrelevant. Most economists and development specialists in Indonesia agree that lack of funds is no longer the country's most pressing problem – it is the weakness of the government apparatus to spend the monies in an effective and targeted manner. Currently, each year only around 90% of the national government budget is spent, while at the local level only between 60% and 70% of the allocated funds are used.³⁰ Significantly, Indonesia no longer requires large foreign credits, with the Consultative Group on Indonesia (CGI) dissolved in 2007 and the country's debt service payments declining drastically.³¹ As a result of these changes, the World Bank has upgraded Indonesia from a low-income to a lower middle-income country, confirming its view that more money could be spent on fields of significant public interest. A fully state-funded military is thus not as difficult to achieve as it may have been in the early or mid-2000s, when the country was still recovering from the Asian Financial Crisis and had a myriad of other development needs to attend to. While Indonesia's tax efficiency remains low, the tax revenue to GDP ratio increased from 11.1% in 2000 to 13.7% in 2009,³² and experts forecast strong economic growth in the years ahead.³³

This does not mean, however, that bringing the Indonesian military on budget is simply a matter of providing it with more state funds. Indeed, handing the armed forces more money without insisting on wide-ranging reforms in the military's internal funding and accountability mechanisms would arguably make the situation worse. Increasing the official military budget (i.e., paying higher salaries, covering all operational costs and providing for necessary equipment) must go hand-in-hand with dramatically improved audits of TNI's income and expenses. This includes strengthened oversight by the civilian government (an improved Ministry of Defense not dominated by the TNI, and also the Supreme Audit Board) and the legislature (particularly Commission I on Defense, Foreign Policy and Information), as well as a clear catalogue of sanctions should off-budget financing continue despite increased state funding. In recent years, the Corruption Eradication Commission (KPK) has been remarkably effective in identifying corrupt patterns in Indonesia's political institutions and bringing even high-ranking officials to justice; we see no reason why the KPK should not be used to provide a check on TNI's financial practices. In combination with phasing out the existing formal businesses, discontinuing moonlighting and other informal commercial activities, providing

³⁰ "Penyerapan Anggaran 2009 Diperkirakan Capai 90–95 Persen," *Antara*, 13 October 2009; "Penyerapan Anggaran Daerah Menurun," *Media Indonesia*, 15 January 2009.

³¹ Between 2004 and 2009, Indonesia's debt-to-GDP ratio dropped from 56.0% to 29.7%, and its total debt service (as a percentage of exports of goods, services and income) declined from 22.4% in 2000 to 10.5% in 2007. See World Development Indicators Database, April 2009, and Republic of Indonesia, Recent Economic Developments, Investors Conference Call, 8 December 2009.

³² "Government to Boost Tax Revenue to 16% of GDP by 2004," *The Jakarta Post*, 31 May 2000; "Indonesia Targets Tax to GDP Ratio in 2014 at 14 pct," *Xinhua*, 30 November 2009.

³³ The IMF has forecast Indonesia's growth to be 6.2% in 2011 (International Monetary Fund 2010, p. 64).

decent salaries and a professional military infrastructure, the authorization of the KPK to scrutinize the armed forces could be a significant step towards strengthening democratic civilian control over the military's financial and organizational affairs. Given Indonesia's strong ambitions to become a model Muslim-majority democracy with an increased role on the world stage, these remaining challenges in military reform should not be insurmountable.

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Part III
Legislatures and Non-state Actors
in Military Reform

Chapter 6

The Legislature and Military Reform in Indonesia

Jürgen Rüländ and Maria-Gabriela Manea

Introduction

The resignation of President Suharto on 23 May 1998 brought to an end more than four decades of authoritarian rule in Indonesia. Suharto was forced to step down by a student-led reform movement which was tacitly supported by the military leadership (O'Rourke, 2002). The catalyst for change was the Asian Financial Crisis with its disastrous consequences for the Indonesian economy and the livelihood of millions of Indonesians. The economic crisis and the concomitant political turbulences had quickly eroded the legitimacy of Suharto's New Order regime and eventually led to its collapse.

The subsequent democratization brought to the fore the issue of reordering the country's political institutions. In the process, two institutions attracted the zeal of reformers: the military and the legislature. By the end of the Suharto era the military, as the main pillar of Suharto's *ancien régime*, had become strongly discredited in the eyes of the Indonesian public. The Indonesian armed forces were widely regarded as a tool of state repression and associated with flagrant human rights violations. Curtailing the military's political and economic power thus became key priorities of the reform movement which regarded a strong legislature empowered by significant policymaking and oversight functions as an institutional device to bring the military under democratic civilian supremacy.

The following chapter traces the changing institutional dynamics in the Indonesian polity after 1998 and explores the extent to which the legislature mattered as an actor and arena promoting military reform. As benchmarks for this assessment serve the three parliamentary core functions, that is, representation, legislation and oversight (see also the introductory chapter of this volume). We thus examine the extent to which military representation in the legislature shapes military reform, which

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legislative contributions the Indonesian parliament made to military reform and how effectively the legislature was able to exert oversight over the military. Preceding this analysis is a section providing a cursory overview about the historical antecedents of the current Indonesian legislature, the constitutional changes it underwent in the post-Suharto era and the organizational framework under which it operates, including the material and human resources at its disposal. The chapter ends with a summary of the main findings and a short outlook on the future of military reform and the legislature's role in it.

The Legislature in Indonesia

Unlike in many other new democracies the legislature is a firmly established institution in Indonesian politics, the origins of which can be traced back to the immediate post-independence period. In the years of revolutionary struggle against the returning Dutch colonizers (1945–1949) and in the initial years of parliamentary democracy in the 1950s, the Indonesian legislature operated under a provisional status. But the 1955 elections, the first and, for more than four decades, only fair and free polls, elevated the Indonesian parliament to a democratically fully legitimated body, albeit only for the short period of 2 years (Feith, 1955, 1962). In 1957, responding to political instability and separatist challenges, President Sukarno imposed emergency rule on the country which paved the way for the authoritarian transformation of Indonesia's political system (Ricklefs, 1993:255). Yet despite the early collapse of parliamentary democracy, studies published in the 1950s painted a more favorable picture of the legislature than official historiography during the Suharto era (Budiardjo, 1956).

While in many autocracies the rulers suspended or dissolved legislatures for long periods, in Indonesia President Sukarno as well as his successor, President Suharto, re-established the legislature a few years after assuming power. Sukarno suspended the legislature in 1957, but re-instated it in 1960 (Ricklefs, 1993, p. 268). There was also no legislature in the initial years of Suharto's New Order regime. However, starting in 1971, parliamentary elections were held every 5 years with the exception of the first legislative term of 6 years.

It was during the Suharto era that the Indonesian legislature (Dewan Perwakilan Rakyat, DPR) contracted its reputation of a rubber stamp. Until the end of the Suharto regime, elections were carefully managed by the regime. All candidates were thoroughly screened by military intelligence and rejected when their loyalty to the *Pancasila* state doctrine and the Indonesian unitary state (NKRI) were in doubt or when they were suspected of leftist leanings. Recalcitrant legislators not toeing the regime's policy line could be recalled. In 1974, the political party system was restructured and reduced from the ten parties contesting the 1971 elections to only one dominant (Golkar) and two minor quasi-opposition parties (Partai Demokrasi Indonesia, PDI, and Partai Persatuan Pembangunan, PPP). Based on the floating mass doctrine, which was based on the assumption that the majority of Indonesians lacked political maturity, the two minor parties were prohibited from mobilizing voters in

the period between elections. By contrast, Golkar, officially not a political party, but rather a movement, received the full support of the military, state bureaucracy and the state-controlled media before and during the brief election campaigns.

This uneven electoral playing field found its equivalent in the provisions of the 1945 Constitution. The latter attached only two short articles to the legislature and explicitly ruled out the division of powers. The 1945 Constitution, temporarily replaced by the democratic 1950 Provisional Constitution, was reinstated by President Sukarno in 1959 and remained in force without amendment until the end of President Suharto's New Order regime in 1998. It rested on an integrationalist, organicist, corporatist and, hence, anti-liberal and anti-pluralist concept of statehood which laid strong emphasis on leadership and vested much power in the presidency, leaving little political autonomy to the legislature (Bourchier, 1999; Reeve, 1985; Simantunjak, 1989).

The result was a docile legislature that between 1971 and 1997 did not initiate one single bill (Ziegenhain, 2008, p. 73). All bills were drafted by the executive and passed with only minor amendments by the DPR. However, by the 1990s, under the impact of a gradual opening policy of the Suharto regime (*keterbukaan*), and factional rivalries in the military, the legislature began to emancipate itself from the tight control of the regime. Despite state repression, outspoken opposition legislators and a few maverick Golkar lawmakers openly defied regime policies. Towards the end of the Suharto era, the DPR for the first time returned draft bills to the government for major revisions. Even more importantly, in the absence of an independent and corruption-free judiciary, the DPR increasingly became the focus of petitions and complaints of the population about government abuses, thus adopting *de facto* ombudsman functions. The PDI especially courted the image of a small man's party (*orang kecil*) to the extent that in July 1996 the regime engineered the disposal of party leader Megawati Sukarnoputri. In the final days of the Suharto regime, the DPR leadership defected to the protesting students, thereby expediting the resignation of President Suharto. The subsequent occupation of the parliament's premises by some 2,000 students was a symbolic act as it conveyed the message that in a future system of government only a division of powers can curb the dominant position of the presidency and that a legislature with strong supervisory powers is a key requisite for avoiding a relapse into autocratic rule (Rüland, Jürgenmeyer, Nelson, & Ziegenhain, 2005, pp. 47–48; Ziegenhain, 2008).

While most legislators of the *ancien régime* remained in office until the June 1999 parliamentary elections, there was nevertheless a legislature which had established rules of procedure, a functioning committee system and a modest research infrastructure. In other words, after regime change the legislature did not start from point zero. The legislature was further strengthened by a temporary *de facto* shift to parliamentarianism culminating in the impeachment of President Abdurrahman Wahid in July 2001 (Crouch, 2010, p. 54) and constitutional amendments which explicitly vested it with legislative, budgetary and oversight functions (1945 Constitution, Art. 20 A) (Ufen, 2003, p. 217).

When in 2004 the four constitutional amendments passed between 1999 and 2002 eventually took effect and returned Indonesia to a fully-fledged presidential

system of government, the DPR had become a formidable player in Indonesia's political system. The DPR meets regularly in the plenary and even more frequently in the powerful 11 commissions (Sherlock, 2007, p. 8). The latter organize public hearings, use their interpellation rights (Ufen, 2003, p. 217; Widjajanto, Kurniawan, & Tirtawinata, 2008, p. 12) and have a strong influence on decisions of the plenary (Sherlock, 2010, p. 166). In fact, the plenary usually only ratifies decisions made in the commissions in a consensual way without voting (Sherlock, 2003, pp. 11–16, 2010, p. 166), a remnant of the organicist ideational roots of the Indonesian state. The new DPR also increasingly sharpened its oversight functions, even though critics charge that lawmakers often abuse their oversight functions as a leverage to extract bribes or other favors from the executive (Sherlock, 2003, p. 169; Ziegenhain, 2008).

The new parliamentary assertiveness also extended to the field of defense policy. The latter is scrutinized and deliberated in the DPR's Commission I (Komisi I) on Foreign Affairs, Defense and Information. Over time Commission I generated considerable media attention and frequent coverage of its activities. At the time of field work, it was composed of 49 members nominated by their party factions proportionately to faction size. It was supported by 20 staffers and had a budget of US\$100,000. The Commission held three meetings a week, all open to the public, except for hearings on the intelligence budget (Born, 2006, p. 60). It was well linked to think tanks, university institutes, civil society organizations and the media. Due to the fact that the membership of the Commission fluctuated only moderately during the legislature's 5-year term, it acquired substantial specialist knowledge as a collective body on defense matters.

The Legislature and Military Reform in Indonesia

The Legislature and Military Representation

In the Suharto era the military was represented in all of the country's legislative bodies. In the DPR military representation varied slightly. From 1971 to 1977 75 out of the DPR's 360 seats were reserved for the armed forces. In 1977 military seats increased to 100 in a 500-seat assembly, before in 1995, under increasing democratization pressures and tensions between the President and military factions, the number of military seats was again lowered to 75.

The military enjoyed even stronger representation in the People's Consultative Assembly (Majlis Permusyawaratan Rakyat, MPR), which until 2004, as the country's formally supreme political body, elected the president, heard the president's accountability report and passed the Broad State Policy Guidelines (Garis-Garis Besar Haluan Negara, GBHN). In the New Order period the MPR was composed of all the members of the DPR, including the military faction, as well

as so-called functional representatives and representatives of the regions, many of whom were retired or active military officers.

The rationale for military representation was the *dwi fungsi* (dual function) doctrine which vested the Indonesian armed forces with an external defense function *and* a domestic sociopolitical function. In the view of the Indonesian armed forces, *dwi fungsi* reflected the country's historical experiences. The army's vanguard role in defending the nation's independence against the Dutch and the unity of the Indonesian state against communist, separatist and Islamist uprisings distinguish it from its counterparts in Western countries and justify its claim for an elevated political role.

Dwi fungsi found its expression in the armed forces' territorial command structure paralleling the civilian administration from the center down to the village level. The territorial command structure not only gave the armed forces strong influence on civilian politics but also enabled it to conduct its commercial and intelligence activities (Honna, 2003; Human Rights Watch, 2006; Mietzner, 2008; Rabasa & Haseman, 2002; Sebastian, 2006; Schneier, 2008, p. 307). Further reinforcing the military's quest for political representation is the argument that Indonesian soldiers have no voting right, but that as guardians of the nation they must have a voice in policymaking. The reason why soldiers are denied voting rights is the fear that campaigning and party politics would have a divisive effect on the military institution and compromise the country's security.

In the post-Suharto era, the military came under strong public pressure. The reform movement, which attributed the political repression and many of the human rights abuses of the New Order regime to the armed forces, sought to curb military influence and place it under civilian supremacy and democratic oversight. By embarking on internal reforms, the military tried to pre-empt these pressures. Its tactical retreat crystallized in a document discussed in September 1998 and published soon thereafter, the *Paradigma Baru* (New Paradigm). Its key points were the withdrawal of the armed forces from active politics by transforming the military's sociopolitical staff into territorial staff, the resignation from the armed forces of military officers holding positions in the civilian bureaucracy, the separation of police and military, the severance of the military's ties with Golkar in order to ensure neutrality in elections and the name change from Angkatan Bersenjata Republik Indonesia (ABRI) to Tentara Nasional Indonesia (TNI) (Chrisnandi, 2006, pp. 100–101; Hafidz, 2006, pp. 118–119; Rinakit, 2005, p. 106; Sukma, 2003, 2006a, b) (see also the contribution of Sebastian & Iisginarsah in this volume).

However, for the reform movement the military's internal reforms were far from sufficient. As the main beneficiary of the democratic reforms initiated by Suharto's successor Habibie, an increasingly vocal and militant reform movement lobbied for much more sweeping reforms. The ensuing debate over the military seats in the legislature reached a first climax during the Special MPR session in November 1998.

The military itself was divided over the issue of representation in the country's legislative bodies. On the one hand, there were reform-minded officers such as Maj. Gen. Agus Wirahadikusumah, Maj. Gen. Agus Widjojo and Maj. Gen. Saurip Kadi who supported a full retreat from any form of political engagement while, on the other hand, there was the executive arm of the military led by Gen Wiranto which

stubbornly defended the right of the military to hold on to legislative power (Said, 2006, p. 178).¹ Hari Sabarno, then Deputy House Speaker of the military faction, aptly summarized the armed forces' rationale for retaining political representation by arguing that the "military was still needed in the House to act as mediator between political parties controlling influence among power holders."²

In the weeks prior to the Special MPR session, the debate over the future role of the military increasingly took the form of a power struggle between forces of the *ancien régime* and the reform movement in which both sides mobilized in the streets. Rogue military elements were believed to be behind violence in East Java, the Moluccas, Aceh and Central Kalimantan (O'Rourke, 2002, p. 166ff.), in an ostensible attempt to destabilize the struggling new democracy. The objective of these covert operations of military elements was driving home the message that only the military can guarantee public peace and order, with the implicit conclusion that it must retain its elevated role in the state. Unperturbed, the reform movement staged massive and unruly street demonstrations.

Tensions further heightened in the days prior to the Special MPR session. Afraid that massive demonstrations organized by the reform movement would jeopardize an orderly conduct of the session, the Habibie government and the military mobilized security forces including the hasty recruitment of paramilitary auxiliary units (Pamswakarsa) (Rinakit, 2005, p. 96). The tensions eventually erupted in violent clashes between student demonstrators and the military near the Semanggi overpass in Jakarta, henceforth known as the Semanggi I incident, in which security forces opened fire on demonstrators, killing 18 and wounding hundreds of people.³

Under pressure from two sides by contending forces, on 28 January 1999, the DPR finally passed a package of laws paving the way to parliamentary elections. Given the fact that the military had the means of coercion, the intimidating postures it took during the public debate of the draft laws, and a DPR/MPR that was still composed of the legislators elected in the pre-reform 1997 polls, it was at least a partial success for the reform movement that after heavy wheeling and dealing behind the scenes, an initial, albeit uneasy compromise was eventually reached. Law No. 3/1999 on the composition of the MPR, DPR and regional representative bodies reduced military seats in the DPR from 75 to 38 and from 20% to 10% in the local legislatures (Dewan Perwakilan Rakyat Daerah, DPRD) (International Crisis group, 2000, p. 4; Honna, 2003, p. 165). At the same time, the MPR's seats were reduced from 1,000 to 700. It was henceforth composed of the 500 legislators of the DPR, 135 functional and 65 regional representatives (Ufen, 2002, p. 514).

However, the compromise satisfied nobody. Thus, unsurprisingly, the tug-of-war over military representation went on and became a major issue in the debates on the constitutional amendments on which the Special MPR of 1998 had agreed.

¹ See also, *The Jakarta Post*, 19 June 1998.

² *The Jakarta Post*, 6 June 1998.

³ Asian Human Rights Commission (<http://www.humanrights.asia/news/forwarded-news/FP-014-2007>) (accessed 16 February 2012).

Particularly for the more radical *reformasi* elements: the students, civil society organizations and also parts of the media, the compromise reached with the military in Laws No. 2, 3 and 4/1999 was unacceptable.⁴

Accompanied by renewed violence (henceforth known as the Semanggi II incident) (Hafidz, 2006, p. 138), the MPR ruled in its October 1999 session that the TNI must withdraw its representatives from the DPR by the end of the legislative term in 2004.⁵ Yet the TNI insisted on retaining its seats in the MPR until 2009. When the MPR re-convened in August 2000, the issue about the TNI's continued representation in the MPR had become a bargaining chip in the intensifying conflict between Habibie's successor, President Abdurrahman Wahid, and the DPR. With erratic cabinet reshuffles and controversial interventions into the military promotion process favoring reformist officers led by Maj. Gen. Agus Wirahadikusumah, Wahid had not only antagonized the main factions in the legislature such as Golkar, PDI-P and the Middle Axis of Islamic parties, but also the military leadership (Chrisnandi, 2007, pp. 37–39). Wahid's heavy-handed policies eventually forged an alliance between a majority of legislators and the military faction in the DPR with the objective of impeaching the president (The Editors, 2003, p. 14). Wahid sought to ease the pressure by making concessions to the military leadership and shifting Agus and other reformist officers to less significant posts. But all these moves had only one effect: they markedly strengthened the military's bargaining position. Thus, unsurprisingly, the leadership of the armed forces rejected a *quid pro quo* which would have ended military presence in the MPR in exchange for voting rights for soldiers.⁶ The TNI justified its refusal to leave the MPR early with the instability of the country, instability though, to which it had contributed by covert actions instigating communal violence in several parts of the country (O'Rourke, 2002).

The securitization of Indonesia's constitutional debate resonated well among nationalist parties such as PDI-P and Golkar.⁷ It enabled them to vent their frustration over Wahid's Cabinet reshuffles which cut them off from political patronage. In the process, some House leaders openly shared the military's position, motivated also by the attempt to secure the armed forces' support for their own presidential ambitions (Said, 2006, p. 231). House Speaker and Golkar chairman Akbar Tandjung, for instance, echoed TNI rhetoric by arguing "that the MPR still needed the contribution of the military and police during the transitional period."⁸

⁴ According to a survey on the perception of the military involving 2,000 respondents in Jakarta, Makassar, Medan and Surabaya conducted by the Centre for the Study of Democracy at the Jayabaya University and Academy in Jakarta, nearly 60% of the respondents no longer wanted the military to have seats at the House of Representatives. See *The Jakarta Post*, 28 June 2000 <http://www.thejakartapost.com/Archives/ArchivesDet2.asp?FileID=20000628.E01> (accessed 23 May 2008).

⁵ *The Jakarta Post*, 26 February 2000.

⁶ *The Jakarta Post*, 17 June 2002.

⁷ *The Jakarta Post*, 19 August 2000.

⁸ *The Jakarta Post*, 14 August 2000.

Political parties, increasingly entangled in the conflict with the president, thus sacrificed an early exit of the TNI from the MPR for the prospect of an alliance with the conservative mainstream in the armed forces. MPR Decree VII/2000 thus not only retained military presence in the MPR until 2009, but also stipulated that the TNI is responsible to the president and not to the minister of defense, thereby granting a special role to the military untypical for consolidated democracies.⁹

This maneuvering did not go down well with the reform movement. In the August 2002 MPR session the issue of TNI representation surfaced once more dramatically. TNI chief Endriartono Sutarto's demand to return to the 1945 Constitution (Ziegenhain, 2008, p. 157) was a thinly veiled threat to derail the ongoing constitutional amendment process at the very last minute.¹⁰ In the end, however, amid coup rumors (Schuck, 2003, p. 166), the TNI's blackmailing strategy did not pay dividends. Reform pressures inside and outside the legislature prevailed and the MPR eventually decided in one of its rare majority (instead of consensual) votes to end TNI representation in the MPR by 2004.¹¹

The Legislature and Military Legislation

Intense bargaining also characterized two major pieces of military reform legislation enacted by the DPR during the Megawati presidency (2001–2004). Law No. 3/2002, in tandem with Law No. 2/2002, determined the roles of the National Police and the Armed Forces after their separation in 1999. The second major legislation was Military Law No. 34/2004 which regulated internal organization and functions of the military (see also the contribution of Leonard Sebastian & Iisgindarsah in this volume). Both laws were surrounded by much controversy. The TNI used them in an attempt to regain some of the ground it had given up with the *Paradigma Baru*. In the end, however, the TNI achieved its objectives only partially. Both laws represented compromises between the armed forces and the legislature. Crucial for achieving these compromises which, on the one hand, retained the special role of the armed forces in the country's political system, but on the other, also markedly strengthened civilian supremacy, was an emerging epistemic community consisting of civilian defense experts, who played a moderating role in the negotiations (see also the contribution of Rizal Sukma in this volume).

Law No 3/2002 specified the defense functions of the TNI. The law concluded lengthy negotiations which had already started during the Habibie presidency. A first bill, drafted by the TNI and submitted to the legislature in 1999, had to be withdrawn due to fierce public opposition. The re-drafting of the bill was more

⁹ *The Jakarta Post*, 11 October 2001, 11 February 2004, 24 June 2004, 12 July 2004, 10 January 2007.

¹⁰ *The Jakarta Post*, 26 December 2002.

¹¹ *The Jakarta Post*, 11 August 2002.

participatory and apart from the defense ministry and TNI headquarters, also included civilian experts from the academe and civil society.¹² The DPR eventually succeeded in inserting into the law a clause empowering the legislature to endorse the presidential nominee for the post of TNI chief-of-staff. The law also specified eligibility for the TNI top post, in an attempt to de-politicize military promotion procedures. Other provisions were of a more cosmetic nature such as renaming the TNI defense doctrine of “Total People’s Defense and Security System” (Sishankamrata) to “Total Defense” (Sishanta) (Hafidz, 2006, p. 199). The predominance of the army in the TNI, and by implication, the army’s territorial structure, was in no way affected by this change. The law also confirmed MPR Decree VII/2000 which had vested in the TNI “functions other than war.” This means that the TNI still has a role in internal security such as in the suppression of separatism and terrorism. Fortunately, though, the DPR was able to stipulate that troop deployments for security operations must be endorsed by the DPR.

But the DPR failed to redefine the relationship between TNI headquarters and the department of defense. While the law stated that “in terms of policy and defense strategy including administration support, the TNI is under the coordination of the Department of Defense,” it did not explain the meaning of “under coordination” and the way the coordination should be carried out (Anggoro, 2007, p. 14). Neither did it provide a timetable for integration of the TNI under the Department of Defense. The TNI headquarters thus remained under the direct authority of the president, specifying an equal relationship, not a hierarchical one in which the TNI is subordinated to the Defense Minister. With the TNI chief participating in cabinet meetings, the TNI still wields considerable political influence, even though it had officially withdrawn from active politics.

Partly overlapping with Law No. 3/2002, Law No. 34/2004 became the cornerstone of military reform legislation. It not only further specified the functions of the TNI, but also regulated its internal organization. It was drafted by a working group established by the Department of Defense consisting of officials from the ministry, representatives of TNI headquarters and the academe. Negotiations in the drafting group dragged on for more than 2 years and were characterized by serious disagreements. Complicating the negotiations was the fact that, over time, the TNI replaced its drafters with more conservative representatives who increasingly dominated the drafting process.¹³ Much of the draft legislation thus reflected the views of the armed forces. Particular controversy surrounded Article 19 which became known as “*pasal kudeta*” or coup article. The article would have given the armed forces widespread discretion in handling emergencies and internal security problems without notifying the president and the legislature.¹⁴

¹² Authors’ interview, 10 March 2008.

¹³ *The Jakarta Post*, 25 February 2003.

¹⁴ *Ibid.*

The media and civil society organizations as well as many academics and members of Komisi I of the DPR reacted critically after the content of the article was revealed to the press by a civilian member of the drafting team. *The Jakarta Post*, for instance, warned that “the bill, if approved, would contradict the amended 1945 Constitution, which stipulates that the president, in his or her capacity as TNI Supreme Commander, has the sole authority to declare war and order a military deployment to a war zone.” The newspaper also criticized the fact that the article runs contrary to Law No. 3/2002 on state defense, which clearly states that only the president has the power and responsibility to deploy TNI personnel, after securing approval from the House.¹⁵ Although the draft article received support from leading legislators such as Golkar chairman Akbar Tandjung and MPR chairman Amien Rais, in the end the TNI yielded to the strong public pressure and withdrew the unpopular draft article.

The legislature, with the assistance of civilian defense experts, was thus able to rid the bill of the most serious encroachments of the TNI on civilian supremacy. The law placed TNI under democratic core norms such as democracy, civilian supremacy, human rights, and national and international law. Troop deployments by the president and the use of force henceforth need to be approved by the DPR within 48 hours. The DPR also successfully thwarted attempts by the TNI to weaken parliamentary participation in the appointment of the TNI chief and to reinstate *dwi fungsi* through a clause proposing that active military officers be allowed to occupy civilian posts in the bureaucracy. The compromise finally reached stated that active military officers may fill civilian posts that require a military capacity, without however qualifying what these posts are. The law also touched upon the hot potato of military businesses and provided for their transfer to the state by 2009, but left open how this is to be done (see also the contribution of Mietzner & Misal in this volume).

While the TNI failed to restore some of its pre-1998 prerogatives, it succeeded in maintaining the *status quo* in other crucial areas of military reform. Law No. 34/2004, for instance, did not abolish the territorial structure of the TNI. Nor did it explicitly place the TNI under the defense ministry, as proposed by then Coordinating Minister for Politics and Security, Susilo Bambang Yudhoyono. The law also retained the “functions other than war.” Although the law clarified this provision by enumerating several military responsibilities such as fighting terrorism, it perpetuated the blurred lines of responsibility for internal security.

The law thus failed to overcome existing ambiguities in civil-military relations. Some of the law’s shortcomings, however, must also be attributed to the short period of parliamentary deliberation. The government, after lengthy debates, submitted the bill to the DPR for deliberation by end of July 2004, a few weeks before the end of the legislative term.¹⁶ The TNI was especially keen to see the bill passed by a legislature in which it still had leverage. Protection of the law by the

¹⁵ *The Jakarta Post*, 3 March 2003.

¹⁶ *Asia Times*, 28 July 2004.

TNI/Police faction, lack of time and the preoccupation of many outgoing legislators with their professional future explain why the treatment of the law in the DPR was criticized by many observers (Araf, 2007, p. 24).

Even more ambiguous was the DPR's role in human rights legislation. International and domestic human rights organizations blamed the Indonesian military for many of the abuses committed during the New Order period and the transition to the Reform Era. In their view the armed forces were playing a facilitating and often even active role in the mass killings following the aborted September 30, 1965 coup. In the subsequent crackdown on the Partai Komunis Indonesia (PKI) at least 500,000 people were killed (Ricklefs, 1993, p. 288). More than 100,000 were detained without trial or deported to prison camps on remote islands where they languished for 10 years or more (Ibid., p. 297). Military abuses were also concomitant in clashes with Muslim groups in Tanjung Priok, Jakarta (1984) and Talangsari, Lampung (1989), and the campaigns against separatists in Aceh, East Timor and Papua. Moreover, military units were involved in the kidnapping of dissidents, the shooting of student demonstrators at Trisakti University, the Jakarta riots between 14 and 17 May 1998, and the Semanggi I and II incidents during the Habibie presidency.

It thus became one of the main corporate interests of the military to prevent the prosecution of officers involved in human rights violations. In the DPR the military faction and Golkar strongly opposed any legislation that would allow pursuing human rights violations retroactively, citing international law principles opposing retroactive trials. But as the Indonesian government was under intense international observation to bring to justice the perpetrators of the human rights abuses prior to, during and after the East Timor independence referendum in August 1999, and also under pressure from domestic human rights groups demanding a human rights law with teeth, the DPR eventually passed legislation which would allow the prosecution of former human rights violations. Human Rights Law No. 26/2000 left it to the government and parliament to authorize the investigation of past human rights violations through the establishment of human rights courts (Hadiprayitno, 2009, p. 7). But in an attempt to counter this legislative breakthrough, the military successfully managed in the MPR session of August 2000 to insert a clause into the constitution which defined as human right "not to be tried by a law with retrospective effect" (Amended 1945 Constitution, Art. 28I). As the constitution has precedence over other laws, this move has severely constrained the possibility for investigation and trials of past human rights abuses by the military. Therefore, cases of human rights violations committed before the enactment of the Human Rights Law No. 26/2000 fall under the jurisdiction of *ad hoc* courts, while those taking place thereafter will be prosecuted by special human rights courts. The latter have jurisdiction only over gross violations of human rights such as genocide or crimes against humanity. Moreover, according to the decision of the Constitutional Court No. 18/PUU-V/2007, the recourse to the prosecution of cases of human rights violations by *ad hoc* courts has to be made upon recommendation of the National Commission on Human Rights (Komnas HAM) and the Attorney General. *Ad hoc* human rights courts, however, can only be set up by a presidential decree following a recommendation of the DPR (Hadiprayitno, 2009).

The prosecution of former human rights violations was further aggravated by the DPR's adoption of a two track strategy to deal with past human rights abuses. The DPR distinguished between "recent" cases that were to be handled through *ad hoc* tribunals and "past cases" to be addressed through a Truth and Reconciliation Commission (KKR). A subsequent law on KKR was passed in 2004 which allowed the establishment of such a Commission 6 months after passing the law (Hafidz, 2006, p. 202). It is quite likely that both sides used the human rights card as a *quid pro quo* in the bargaining over other issues of military legislation, but the extent to which they did so is difficult to establish. Debates in the DPR about a human rights law under close international observation and domestic pressure may well have persuaded the military to stick to its MPR presence, especially as it successfully utilized the MPR to block the retroactivity clause in human rights cases.

The Legislature and Military Oversight

While the legislative performance of the Indonesian DPR in curtailing military influence is mixed, independent observers evaluated its oversight functions positively. The International Crisis Group, for instance, noted that despite a lack of research support, the DPR has become increasingly active in demanding information from the government, holding hearings and scrutinizing the executive (International Crisis Group, 2004, p. 18). Documentary analysis and interviews with legislators and military officers confirm such views. However, they stand in stark contrast to frequent complaints of human rights organizations which criticize the fact that the legislature has done little to scrutinize past human rights violations committed by the military.¹⁷

The DPR has launched investigations into human rights violations of the military in Aceh and also set up a special committee to investigate the abductions of democracy activists, the riots in May 1998 and the Trisakti and Semanggi shootings. However, none of these investigations led to the prosecution of the implicated officers. In 2002, the DPR's steering committee (Bamus) blocked further investigations into the Trisakti and Semanggi incidents, arguing that they did not constitute "gross human rights violations" as defined by the Human Rights Law No. 26/2000. The law defines "gross human rights violations" as acts "that have been pre-mediated, based on clear and conscious intention and previous design." As these criteria are almost impossible to prove, the legislature had bound its own hands in investigating human rights violations. Since then, the DPR has made no further serious attempt to examine the military's human rights record, even though probes by the National Commission on Human Rights (Komnas HAM) had come to contrary

¹⁷ *The Jakarta Post*, 4 August 2000; KontraS representatives Usman Hamid and Syaiful Haq in *The Jakarta Post*, 17 October 2008.

findings.¹⁸ Feeble attempts to reopen these cases by Commission III in the DPR's 2004–2009 term also ended inconclusively.¹⁹

The DPR was more assertive in its oversight of arms procurement which is widely believed to be a corruption-prone process. Defense Minister Juwono even went so far as to accuse legislators of acting as brokers, remarks he had to retract in the absence of hard evidence.²⁰ Yet, while collusion between legislators and arms brokers is difficult to prove, this does not mean that they do not exist, given the legislature's ostensible involvement in other mercantile deals (Sherlock, 2003; Ziegenhain, 2008).

Prior to 2003, procurement issues did not figure prominently in parliament. The first major case in which the DPR became involved was the acquisition of four Sukhoi fighter jets and two M-35 assault helicopters from Russia during a state visit of President Megawati in April 2003. The two parties agreed that 20% of the costs should be paid in cash, the remaining 80% through a controversial countertrade mechanism to be handled by state logistics agency Bulog.²¹

In June 2003, after the deal became public, Commission I set up a working committee of inquiry (Panitia Pekerja). In the following weeks it summoned a number of prominent Indonesian businessmen, the TNI chief, a former defense minister and high-ranking officials of the defense ministry, the former and the then current Bulog (State Logistics Agency) chief and the minister of industry and trade. In the hearings TNI chief Sutarto Endriartono had to admit that he was aware of the purchase,²² while the defense ministry and the finance ministry denied advanced knowledge. It also became apparent that no budget was allocated for the acquisition. The inquiry further revealed that the planes were not equipped with weapons and two different plane-types, two Sukhoi 27SKs and two Sukhoi 30MKs, were bought with different needs for spare parts.²³ The inquiry also raised the question why, in the absence of external threats, the TNI should acquire weapons for external power projection, when there was a much greater need for transport planes and helicopter gunships in order to fight the ongoing separatist rebellions in Aceh and Papua.²⁴ Some legislators therefore demanded the annulment of the deal and began to concentrate their inquiry on the role of President Megawati with whose knowledge and approval the deal was apparently concluded. In the annual MPR session in August President Megawati defended the deal as absolutely necessary in the light of infringements on Indonesian territory by U.S. planes and the fact that the countertrade arrangement offered the opportunity to promote Indonesian exports.²⁵

¹⁸ *The Jakarta Post*, 1 July 2005.

¹⁹ *Ibid.*

²⁰ See *The Jakarta Post*, 30 October 2007, p. 2; 1 November 2007, p. 1.

²¹ *The Jakarta Post*, 26 June 2003

²² *The Jakarta Post*, 5 July 2003, 2 July 2003.

²³ *The Jakarta Post*, 25 July 2003

²⁴ *The Jakarta Post*, 18 June 2003

²⁵ *The Jakarta Post*, 2 August 2003.

Megawati's explanation was largely accepted by the majority of legislators, reflecting the executive clout over a parliament in which most political parties were keen to be part of a grand coalition for the sake of government patronage (Sherlock, 2009; Slater, 2004). Finally, in September 2003, the working committee declared that it failed to uncover any irregularities despite conceding that there had been violations of the purchasing procedure.²⁶

Another high profile case was the acquisition of 32 armoured personnel carriers by the defense ministry for the 1,000 Indonesian peacekeeping troops deployed to the Lebanon in 2006.²⁷ Confronted with massive criticism from the House which accused the ministry of by-passing the legislature and violating procurement rules, Defense Minister Juwono Sudarsono replied that the purchase had to be made under great time pressure. The ministry thus invoked emergency rules as laid down in government regulation No. 80/2003.²⁸ But this was not the only point incensing lawmakers. As disclosed by Minister Juwono, the vehicles were ordered from French car maker Renault at the price of €700,000 per unit.²⁹ This is, as legislators found out, almost twice as much as for Ukrainian or Russian personnel carriers.³⁰ While in the end the legislators did not insist on their demand that the vehicles are procured through a public bidding process, their scrutiny had at least one positive effect: the government re-negotiated the purchase and was able to lower the price to about €500,000 per unit.³¹

These two highly publicized cases, and subsequent others,³² have one thing in common. They had no consequences for the agencies and officials involved and ended inconclusively. Yet it was to the DPR's merit to have publicized questionable deals, attracting media attention, initiating public debates on them and increasing the pressure on the TNI, brokers and contractors to be less blatant in violating procurement rules. It also brought to surface several shadowy firms involved in procurement which subsequently came under closer public scrutiny.³³ However, it also became apparent that in-depth probes do not seem to be regular practice and the discovery of irregularities does not necessarily originate from the DPR. With its obvious lack of consistency and rigor, the DPR is unable to effectively discourage the military institution and fraudulent individuals from by-passing, twisting and even openly defying procurement rules.

The problems of scrutinizing procurement are representative for the legislature's general limitations in budgetary oversight. Yet, such a critical assessment should

²⁶ *The Jakarta Post*, 23 September 2003.

²⁷ *The Jakarta Post*, 13 September 2006.

²⁸ *The Jakarta Post*, 21 September 2006.

²⁹ *The Jakarta Post*, 13 September 2006.

³⁰ *Ibid.*

³¹ *The Jakarta Post*, 21 September 2006, 5 October 2006, p. 3.

³² Cases in point are the controversies over the purchase of unmanned aerial vehicles and Leopard tanks. See *The Jakarta Post*, 18 October 2006, 25 January 2012 and 2 February 2012.

³³ See, for instance, *The Jakarta Post*, 2 May 2006.

not belittle the fact that there have been improvements in defense budgeting over the last 10 years. As one veteran legislator recalls,³⁴ during the Suharto years the government disclosed only very general budgetary data and policy objectives to the DPR. Now the budget comes in printed form, a document of over 3,000 pages, listing government expenditures item by item. A sub-commission of Commission I consisting of six members from the major party factions is tasked with scrutinizing the draft defense budget, but members of the sub-commission readily admit that they are overwhelmed by the flood of data and that they often lack the technical expertise to screen the items in sufficient depth. They thus concentrate on random checks, covering about 20% of the budget's items.³⁵ Still, legislators spend most of their time, about 29%, on budgetary matters as one study of the Universitas Indonesia-based think tanks Pacivis disclosed. This is followed by 25% for defense policy, 19% for special situations, 12% for weapons systems and, 12% for human resources development (Widjajanto, Kurniawan, & Tirtawinata, 2008, p. 17).

But however carefully the DPR may screen the budget, it remains a rather superficial exercise. The crucial point is here that the DPR is not able to thoroughly examine budget implementation. As several of the interviewed legislators complained, the Ministry of Defense and the TNI only reluctantly provide information on actual spending.³⁶ On the spot inspection has been repeatedly cited by legislators as a means to examine budget implementation. However, it is hardly able to bring to the fore misallocations as potential offenders may have sufficient time to cover up irregularities before the legislators arrive.

Intermittent audits of the defense budget have indeed revealed serious irregularities³⁷ in the form of disobeying the rules and regulations (70%), uneconomic and inefficient use of state finance (20%) and ineffectiveness (10%).³⁸ The State Auditing Board (Badan Pemeriksa Keuangan, BPK) has also encountered major obstacles to systematically scrutinizing TNI spending (Artjana, 2005, pp. 151, 158; Human Rights Watch, 2006, pp. 92, 99; International Crisis Group, 2001a, p. 13). It is estimated that 30% of the official defense budget is "lost through corruption in the process of buying military equipment and supplies" (Beeson, 2008, p. 480; Human Rights Watch, 2006, p. 71; International Crisis group, 2001a, p. 13), although this does not single out the armed forces in terms of corruption as the figure constitutes the standard leakage assumed by foreign donors for many years.

Instead of sanctioning the lack of transparency in actual military spending by closing the funding tap as demanded by the Auditing Board (Mietzner, 2006, p. 38), the DPR willingly sides with the TNI in the latter's quest for substantial budgetary increases. As a result, the defense budget quadrupled between 1999 and 2009,

³⁴ Authors' interview, 19 March 2008.

³⁵ Authors' interview, 17 March 2008.

³⁶ Authors' interviews, 4 March 2008, 11 April 2008.

³⁷ See *The Jakarta Post*, 13 March 2003. Authors' interviews, 17 March 2008, 8 April 2008.

³⁸ I Gde Artjana: The Accountability of the Military Budget (<http://www.lesperssi.org/content/view/41/6/lang.en>) (accessed 23 April 2010).

although with only about 1% of the GDP it is still one of the lowest in Southeast Asia (ProPatria Institute, 2007, p. 15). Legislators share the military's argument that budget increases are urgently needed in order to meet new security challenges, especially in light of the outdated equipment and weaponry of the TNI. Much of the TNI's equipment is from the 1970s and 1980s and outdated (Nurhasim, 2005, p. 13): warships of the navy are on average 25 years old, the vehicles of the marines over 40 years. The age of the TNI's equipment also explains why on average only 60% of the equipment is operational. Only 42% of the air force's fighter aircraft are operational and of the 756 tanks of the army a staggering 435 are defective.³⁹ Legislators also argue that budgetary increases are needed to lower the share of the military budget which comes from non-official sources and they are proactive in proposing higher salaries for soldiers (on this point also see the contribution of Mietzner & Misol in this volume).⁴⁰

While there may indeed be valid arguments to justify increases in defense spending, it is much more problematic that the DPR does not hold the TNI accountable for covert operations or offensives against separatists such as the one started in May 2003 in Aceh or currently in Papua.⁴¹ In these cases where the military argues that the unitary state is at stake, the majority of legislators readily side with the armed forces, giving the latter virtual discretion over its operations. Given these shortcomings of budgetary oversight, outspoken legislator Djoko Susilo of the Partai Amanat Nasional (PAN) concluded that "in budgeting the DPR is still a rubber stamp."⁴² Failing to use budget increases as leverage for greater budget supervision the DPR gradually tilted towards the norms and rationales championed by the military.

A last point to be mentioned regarding the oversight function of the legislature is the fit-and-proper test which the newly designated TNI chiefs have to undergo. Included as a legal requirement in Defense Law No. 3/2002 the fit-and-proper tests have become a ritual in which Commission I has the opportunity to grill the incoming TNI chief. It is a ritual because it is highly unlikely that in the end the DPR will refuse to endorse the designated candidate of the president. If it did, it would trigger a constitutional crisis. The ritualistic character of the exercise is also underscored by the often irrelevant questions posed by legislators. Yet the exercise provides a chance to commit the new TNI chief publicly to a reformist course, political neutrality, civilian supremacy and the recognition of democratic principles against which he may be evaluated later.

³⁹ *Majalah Tempo*, 23 March 2008, pp. 36–37.

⁴⁰ Komisi I DPR usul Naikkan Gaji TNI 20 Persen (<http://www.dpr.go.id/dpr/berita.php?kom=Komisi%20I>) (accessed 17 February 2008).

⁴¹ *The Jakarta Post*, 27 June 2009.

⁴² *The Jakarta Post*, 13 March 2003.

Conclusion

The previous analysis suggests that the Indonesian legislature has made greater contributions to military reform than is usually acknowledged in the transition and civil-military relations literatures. Parliaments do, in fact, matter. The study has further illustrated that the mode of transition is crucial for determining to what extent and in what way legislatures matter in the process of military reform. In Indonesia it was helpful that the DPR played an active role in ending Suharto's New Order regime, that a legislature existed for most of the time since the country's independence and therefore was reasonably well institutionalized, and that in the last decade of the New Order period it gradually emancipated itself from the regime.

Yet the fact that the Indonesian transition was a pacted transition in which the old elites sought an accommodation with the new political order defined the limits of the legislature's influence on military reform. The old legislature remained in office for more than a year after regime change and a sizeable number of representatives of the Suharto regime were returned in the June 1999 elections on Golkar and the PPP tickets. Even more decisive was the fact that the military and the police were still represented in the legislature until 2004, albeit with fewer seats than previously. In the meantime retired military officers began to join political parties in great numbers, especially Golkar and PDI-P, and, although not necessarily acting as extended arms of the military hierarchy, in their majority they held conservative political beliefs similar to those of the active officer corps and were thus more diluting military reform than promoting it. In this tug-of-war between reformist forces and conservative elements in the legislature a highly vocal extra-parliamentary reform movement was a major factor in ensuring that the reform process did not end in a premature stalemate.

Among the achievements the DPR could claim for itself were the constitutional amendments, ending military representation in the legislature and re-positioning the armed forces in a democratic polity by placing it under civilian supremacy and democratic control. It also passed crucial reform legislation such as Law No. 3/2002 on National Defense and the Military Law No. 34/2004, intensified procurement and budgetary supervision and subjected the designated presidential appointees for the post of TNI commander-in-chief to fit-and-proper tests. Yet, despite these reforms, many ambiguities remain: by capitalizing on factional infighting among the civilian political elite the military retained much of its political influence, supervision ended where the military refused to cooperate and human rights legislation made it difficult, if not impossible, to hold perpetrators accountable for past abuses.

After passing the Military Law No. 34/2004, the space for compromises and bargaining between the legislature and the military was largely exhausted. The legislature had played a crucial role in driving first-generation military reforms, but it was unable to ensure their full implementation and completion. Even less had it been able to initiate second-generation reforms. This conclusion is inevitable considering that the military put on hold the dismantling of the territorial command

structure, watered down the transfer of military businesses to the state and derailed the reform of military justice.

The dismantling of the territorial command structure is highly unlikely in the medium-term future.⁴³ A gradual reform had been discussed by military reformers, but with the rise of conservative officers in the second half of 2000 and Megawati Sukarnoputri's alliance with the military establishment, it was laid to rest (Mietzner, 2009). After the passing of Law No. 34/2004 the topic also disappeared from the legislature's agenda. Criticism of the territorial structure was henceforth restricted to isolated remarks of individual legislators, occasional media comments and civil society organizations.

It was one of the major successes of the legislature that Law No. 34/2004 stipulated the transfer of military businesses to the state by 2009. However, as bargaining over the modalities of the transfer dragged on and the number of transferable enterprises was reduced by the military to a few, the 2009 deadline expired without any signs of transfers. Commission I of the DPR elected in April 2009 has so far not set the issue on its agenda and not exerted any pressure on the government to conclude the transfer.⁴⁴ Even worse, the military businesses scrutinized for transfer to the state are only the tip of the iceberg; the dark empire of illicit businesses over which not even the military headquarters has control and which in their overwhelming majority are in the hands of the regional commands have not been touched (see also the contribution of Mietzner & Misol in this volume).

Also, the issue of military justice became entangled in difficulties and is now in a state of stalemate. Military justice refers to the adjudication of crimes committed by military personnel against civilians. As stipulated by Law No. 31/1977, such crimes are tried by military tribunals. These tribunals have a notorious reputation among human rights advocates because in the past they meted out rather lenient punishments to military personnel charged with crimes against civilians. The reform of the law has dragged on since 2003, but despite progress and agreement over a transition period which would allow the TNI to adjust to the new situation,⁴⁵ the bill could not be passed into law in the DPR's 2004–2009 term. The main hurdle was the fact that the TNI did not agree to the police as the investigating agency on the grounds that the police is corrupt and that in the face of the fierce rivalry between the police and the military after the separation of the two institutions in 1999, soldiers could not be expected to be treated fairly.

Only the enactment of the Freedom of Information Law in 2008 marked a slight progress towards second-generation reforms as one of its implications is freer access to information in the realm of defense and security. However, in an attempt to contain the consequences of this law, the government has launched a State Secrecy Bill which, if passed, would neutralize the gains of the Freedom of

⁴³ See the Defense Ministry Secretary-General, Lt. Gen. Sjafrie Sjamsuddin, in *The Jakarta Post*, 26 May 2008. See also *The Jakarta Post*, 21 November 2009.

⁴⁴ Authors' interview, 5 April 2010.

⁴⁵ *The Jakarta Post*, 31 December 2008.

Information Law.⁴⁶ Also, the bills currently being debated on civil reserves, intelligence and national security include many provisions strengthening the autonomy of the military in defense and security matters.⁴⁷

With the still inconsistent supervision and attempts of the military to recover lost ground, the prospects for the legislature to play a pivotal role the initiation of second-generation military reform appear rather dim. Deepening reforms would necessitate a markedly more stringent process of parliamentary supervision and legal consequences where the legislature reveals irregularities.

That this will happen is quite unlikely. One reason is the lack of continuity in Commission I. The fact that in the 2004 and 2009 parliamentary elections, over 70% of legislators were not re-elected resulted in an almost complete turnover of members in the Commission. Of the current membership only 5 (out of 49) legislators have served in the previous Commission. Not surprisingly, for the first 2 years of its existence the new Commission has developed little activity and even less related to military reform. Tellingly, the few critical questions raised by the Commission so far have been posed by Effendy Choirie (Partai Kebangkitan Bangsa, PKB), a veteran member of the Commission serving his third term.⁴⁸ The new Commission has also shown little inclination of interacting with civil society organizations and think tanks, which have in the past been a valuable source of expertise for legislators. While one explanation for this phenomenon may be that parties led by former military figures have markedly increased their share of seats in the DPR and therefore are also better represented in Commission I, other reasons are changes in the election law passed in 2008 which strengthened the personal element in elections, favored money politics and discriminated against candidates coming from an academic background.

What remains is the question regarding what has caused the stalemate in legislature-military relations since 2004. One explanation is an increasing identity of norms and ideas shared by legislators and the military establishment. In the years following the resignation of President Suharto, a driving motivation for many legislators was to contribute to the democratization of Indonesia. The continued presence of an old guard of Suharto-era legislators in the DPR and the often opportunistic behavior of party leaders may have impeded, but not derailed this process. The old organicist and integrationalist foundations of statehood which long served as the ideological underpinning of authoritarianism were increasingly replaced by new ideas influenced by Western liberalism.

The adoption of external ideas by local norm entrepreneurs is one side of the coin. Their consolidation is the other. In order to consolidate they must live up to the expectations associated with them (Legro, 2000). While Indonesia became more democratic after 1998, democracy did not immediately lead to an improvement of

⁴⁶ *The Jakarta Post*, 26 May 2008; 27 August 2009; *Kompas*, 9 October 2008, p. 2.

⁴⁷ *The Jakarta Post*, 21 November 2007, p. 6, 12 January 2010; 13 January 2012, 14 January 2012, 25 January 2012.

⁴⁸ See *The Jakarta Post*, 2 February 2012.

the economic situation following the disaster of the Asian Financial Crisis. While the Asian Financial Crisis was the external shock which paved the way for the advancement of new political ideas based on liberal democracy, the economic repercussions were severe and lasted until the middle of the next decade. What also hampered the consolidation of democracy was the fact that the transition process was obstructed by persistent turmoil such as street protests, (communal) violence, separatism and acts of terrorism. Even though at least some of the violence was instigated by rogue military elements or covert operations of pro-Suharto and conservative military factions, all this seemed to support the military's organicist doctrines which rest on unity, societal harmony, law and order. How persuasively the armed forces drove home the argument that without their presence there would be no national unity, is illustrated by opinion polls which exhibited a marked increase of the public's institutional trust in the military (Mietzner, 2006, p. 30).⁴⁹

Ironically, when from 2003 onward the economy began to recover, separatist challenges began to peter out and Indonesia began to receive increasing international recognition for its democratic transition, three trends worked against legislators interested in a more stringent military reform. First, the civil society movement vocally demanding military reform gradually relented in its pressure. Currently, only human rights organizations such as KontraS and Imparsial continue to press for reform. But by concentrating on the prosecution of past human rights violations, they relegate military reform to a one-issue campaign.⁵⁰ With the growing recognition of Indonesia as a new democracy, it became increasingly difficult for activists, critical media, academics and think tanks to persuade the public that military reform has so far remained a halfway house. Interestingly, even leading members of the civilian security community share this position and argue that the constitutional and legal changes defining the military's position exist, that increasingly the military is interfering less in practical politics, that it stays neutral in elections and that it acknowledges civilian supremacy.⁵¹ No wonder that international agencies advocating security sector reform also shift their attention to other topics, leaving their local partners without adequate funding.⁵² Second, the post 9/11 terrorist threats in the U.S. and in Indonesia have facilitated a re-evaluation of the TNI by external powers. The U.S., for instance, ended its arms embargo in 2005 and in 2010 concluded a new military cooperation agreement with Indonesia, including Kopassus, a unit notorious for its human rights violations.⁵³ Third, with Indonesia's economic recovery and its recognition as Southeast Asia's most advanced democracy comes a new wave of nationalism. This nationalism has been driven by a sentiment of frustrated entitlement, especially in the years

⁴⁹ See also *The Jakarta Post*, 18 February 2008, p. 3.

⁵⁰ Authors' interview, 5 April 2010.

⁵¹ Authors' interview, 5 April 2010.

⁵² For a more general analysis of foreign democracy assistance, see Mietzner (2011c).

⁵³ Voice of America, 22 July 2010 <http://www.voanews.com/english/news/usa/US-Restores-Ties-With-Notorious-Indonesian-Military-Unit.html> (accessed 5 August 2011).

following the Asian Financial Crisis. The years between 1998 and 2002 saw Indonesia humiliated on many fronts: as dependant of the International Monetary Fund (IMF), through the loss of East Timor and the ceding of Sipadan and Ligatan islands to Malaysia following a ruling of the International Court of Justice in The Hague. Given all this, the political and economic recovery after 2003 markedly strengthened Indonesia's self-confidence. In the process, academics and legislators began to frame their neo-nationalist aspirations with the country's democratic achievements (Rüland, 2009, p. 398). Citing Indonesia's territorial and population size, these neo-nationalist aspirations nurtured (renewed) leadership claims for Southeast Asia and beyond.

On this platform legislators and the military leadership meet conveniently. As a self-styled regional leader and a power with global ambitions Indonesia needs a modern and professional military force. This force must be able to control the maritime zones and the air space of the archipelago, especially at its borders, and it must be able to deter and if necessary repel what Indonesians regard as encroachments on their territory such as in the Sulawesi Sea where Indonesia and Malaysia are locked in a dispute over the resource-rich Ambalat Bloc.⁵⁴ Many lawmakers are in favor of a diplomatic solution of this dispute, but they plead for military action in case diplomacy does not solve the issue.⁵⁵ Legislators, think tanks and large parts of the public thus increasingly share the military's viewpoint that military reform has been largely accomplished. For them the task ahead is not to weaken the armed forces through further internal reforms, but rather to strengthen them by modernizing their weaponry in line with the provisions of a Minimum Essential Force (MEF) plan. Only a modernized military would enable Indonesia to play the role it envisages for itself in the international arena as a respected power (Rahakundini-Bakrie, 2009).⁵⁶

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⁵⁴ *Kompas*, 28 April 2005, p. 5.

⁵⁵ *Tempo Interaktif*, 31 August 2009.

⁵⁶ See also scholars Donny Syofyan (*The Jakarta Post*, 6 October 2010) and Evan A. Laksmana (*The Jakarta Post*, 19 May 2010 and 2 February 2012).

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Chapter 7

The Role of Civil Society in Indonesia's Military Reform

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The author would like to thank Hari Prihatono of Pro-Patria for his willingness to share valuable information on the role of civil society actors, particularly the ProPatria-led coalition, in Indonesia's military reform.

Introduction

In post-authoritarian states, the problem of military reform often becomes a major challenge to the process of democratization. The challenge becomes particularly acute in countries where the tradition of civilian control over the military is weak or non-existent. Indonesia constitutes such a state. The military, albeit in its embryonic form, took part in the process of state-creation during the period of revolutionary war in 1945–1949 against the returning Dutch. From the outset of the post-independence era the military, as an important party in Indonesia's struggle for independence, claimed a historical justification for its involvement in state affairs. Successive domestic upheavals that plagued Indonesia over the first two decades of the post-independence period – from various regional rebellions in the 1950s to bloody internal political struggle in the mid-1960s that led to the destruction of the Indonesian Communist Party (PKI) by the Army – consolidated the Indonesian military's position as the backbone of the state and regime since 1966.

The Indonesian Armed Forces (Angkatan Bersenjata Republik Indonesia, ABRI) dominated Indonesia's politics until the collapse of the New Order regime led by General Suharto in May 1998. The collapse of authoritarian rule, and the transition towards democracy, marked the beginning of an end to the military's dominant role in Indonesia's domestic politics. The primacy and legitimacy of Indonesia's military as both a political and defense force – justified and legalized by the *dwi fungsi*

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(dual function) doctrine (MacFarling, 1996) – was seriously contested and challenged. Indeed, with the downfall of President Suharto, the military soon found itself under heavy public criticism and pressure that it should withdraw from politics sooner rather than later. Responding to such pressure, the military had no choice but to declare its intention to undertake a *reformasi internal* (internal reform) and begin to adjust its role in accordance to public demands.

Military reform in Indonesia has also been marked by active involvement and participation by a community of civilian actors in the process. This community – comprised of academics, non-governmental organizations (NGOs), and individual parliamentarians – participated actively in the process of military reform in Indonesia. Close coordination and cooperation among these civilian actors served as an important factor in pushing reform agendas and raising public awareness of the importance of putting the military under democratic civilian control, in sustaining the public support for reform, in persuading and pressuring the military to continue reforming itself, in supporting the civilian government's reforms of the military, and in pushing the reform agendas. The number of civilian actors participating in Indonesia's military reform might be small, but "they exert a stronger influence on the process than their small numbers and modest day jobs would suggest" (Haseman & Lachica, 2005, p 65). Indeed, these civilian actors have put a significant mark on the state of military reform in Indonesia.

This chapter examines the role of civilian actors in Indonesia's military reform, their achievements and limitations. The discussion is divided into four sections. The first section discusses the context within which the emergence of civilian military reformers has not only become possible but has also managed to play an influential role in bringing the reform process forward. The second section describes the emergence and functions of one particular civil society actor – a coalition of academics and NGO activists called the ProPatria Working Group – in influencing the process of military reform. The third section analyzes approaches and strategies employed by ProPatria, and discusses the mechanism by which the group engaged with and influenced the reform process. The fourth section discusses challenges and the limits of civil society actors in influencing the process of military reform in Indonesia.

Opening Up the Space: Democratization, Military Reform and the Civil Society

The process of Indonesia's military reform began with, and was made possible by, the fall of the New Order regime in May 1998. With the collapse of the regime, the public immediately singled out the military and also former President Suharto himself, as the two main actors responsible for all the nation's problems. In such circumstances, the military became the target of severe criticism from almost all segments of the society due to its role as the main perpetrator and willing executioner of Suharto's anti-democratic policies. The attacks and criticism on the

military had centred primarily, but not exclusively, on the *dwi fungsi* doctrine which manifested itself in ABRI's extensive and dominant role in politics. As the cases of the military's abuse of power began to be revealed publicly, primarily in the form of human rights violations, the military's role in politics, and, indeed, the *dwi fungsi* doctrine itself, was seen as an obstruction to democracy in Indonesia, and therefore, should be abolished (Haseman & Lachica, 2005, p. 65).

Indeed, many ordinary Indonesians and the civilian elite had lost faith in an institution once revered as "the people's army". For ABRI itself, the abrupt end of President Suharto's rule came as a shock. It was obvious that the ABRI leadership had failed to anticipate the scale of the political crisis and the depth of resentment against Suharto's New Order government by the end of 1997 (Walters, 1999, p. 60). In such circumstance, as the central pillar of Suharto's power, ABRI found it difficult to escape the charge of being guilty by association. Seen from this context, ABRI's close association with Suharto's authoritarian rule has cost the institution dearly. With the departure of Suharto from power, its privileged position within the state guaranteed by the New Order regime was now seriously contested. Indeed, for the first time since the country's independence, the Indonesian military was presented with an acute sense of uncertainty regarding its place and future role in post-Suharto Indonesia.

However, at the beginning of the *Era Reformasi* (reform era), no one outside the military seemed to know how to initiate military reform. While pro-reform civilian forces were still outside the government, the new civilian government was not prepared to challenge the military directly. Indeed, under Suharto's immediate successor, President BJ Habibie, the reform of the military was very much left to ABRI leadership itself. Under General Wiranto (both as Minister of Defense and ABRI Commander-in-Chief), ABRI soon embarked upon a series of initiatives aimed at restoring its image by issuing an internal guideline for reform called *Paradigma Baru ABRI* or The New Paradigm of the Indonesian Armed Forces. It envisaged that ABRI's *reformasi internal* would be based on four principles: (1) it is not always necessary for the military to be at the forefront of politics; (2) the military no longer seeks to "occupy" positions in the state but would only "influence" government decisions; (3) the method to influence the political process would be changed from "directly" to "indirectly", and (4) the military would act upon the principle of "role-sharing" (a partnership in making decisions on important state and governmental affairs) with other national components. Through the introduction of this New Paradigm, the military leadership clearly expected that ABRI's tarnished image would soon be restored and the institution's place in a new Indonesia secured (for more on the early stages of Indonesia's military reform, see also the contributions of Sebastian & Iisgindarsah and Rüländ & Manea in this volume).

The initiative by ABRI to initiate and shape the direction of its own reform was made possible by the nature of democratic transition in Indonesia itself. In this context, it is important to note that the departure of President Suharto from power had not immediately meant the complete removal of the political system he had created 32 years ago. Regime change in May 1998 did not immediately lead to a

collapse of the New Order regime in its entirety. It is an “intrasystemic transfer of power” from President Suharto to his Vice President B.J. Habibie that “avoided the complete destruction of the regime and allowed many of its key components, including the armed forces, to make a relatively smooth transfer into the new polity” (Mietzner, 2006, p. 5, 2009, 2011a, b). It was a negotiated regime change, especially between the military, the regime and the opposition forces, that “avoided a sharp break with the political power structure that had underpinned the regime” (Mietzner, 2006, p. 7).

The negotiation was made possible by the absence of unity among opposition forces, particularly among three main groups led by three influential figures: Amien Rais-led modernist Islam, Abdurrahman Wahid-led traditional Islam, and Megawati-led nationalist-secular groups. In fact, the three opposition groups were locked in a political competition and rivalry and opted to support the interim government-led process of gradual reform for fear of social anarchy and public disorder. Within such political context, elements of the previous regime, including the military, managed to create a space for a continuous negotiation with the opposition elites “who had been for years on the fringes of political power” (Mietzner, 2006, p. 7, 2009). The influence and power of the key obstacle to the democratization process in the previous regime – the military – was left intact and, in fact, was allowed not only to define and shape its own course of reform, but also determine the pace and directions of reform.

Indeed, a clear guidance from civilian institutions on how the military reform should be carried out was conspicuously absent. Indonesia’s highest law-making civilian body, the People’s Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR), only provided a general direction for military reform in the form of two decrees: MPR Decree No. VI/2000 and No. VII/2000 (MPR-RI 2000a, b). While Decree No. VI/2000 mandates the separation of the police from the military,¹ the Decree No. VII/2000 sets out to distinguish the functions that the police and the military should perform. The MPR Decree No. VII/2000 stipulates that the (internal) security function (*keamanan*) is now assigned to the police, while the military is only responsible for defense (*pertahanan*). The MPR does not specify how this division should be carried out, and what changes are required to implement the two decrees. More importantly, the two decrees fail to mention the need to establish an objective civilian control over the military as the core objective of military reform. Consequently, the military was virtually given a free-hand in initiating its own reform.

Outside the formal political process, however, the military found itself in a difficult position from which to re-dominate the whole process without facing strong resistance from the resurgence of civilian politics. Student demonstrations continued to call for the complete withdrawal of the military from politics. Even though the military remained influential, the proliferation of new civilian power

¹ The Indonesian Police was part of the military until its separation in April 1999, an initiative taken by the military itself before the MPR issued a decree mandating the military to do so. In the same year, the military also changed its name from ABRI to the Indonesian Defense Forces (Tentara Nasional Indonesia, TNI).

centres – especially the emergence of new political parties and pro-democracy NGOs – was also inevitable. On the other hand, despite their suspicion of the motives behind ABRI's self-styled reform, civilian forces were unable to ask the military to simply go "back to the barracks". Both pro-democracy opposition forces and the new civilian government, as mentioned earlier, were not prepared to take the lead and in fact continued to accommodate the military's corporate interests (Callahan, 1999). On its part, the military refused to go further beyond what it had already promised to do.² Consequently, by the end of 1999, the military and pro-democracy forces found themselves in a deadlock. Both sides had to negotiate their respective agendas in determining the nature of the civil-military relationship in post-Suharto Indonesia. The most difficult issue during this negotiation process had been on the problem of redefining the function, the place and role of the military within a new democratic Indonesia. The process of reform had thus far not guaranteed that the Indonesian military would never return to politics in the future.

The state of reform, and the pace with which it proceeded, worried pro-democracy elements within the civil society – particularly NGO activists and academics – who had taken part in the reform movement even in the years preceding the onset of democratization. They have worked on the prospects and the need for democratic change in Indonesia through various means: direct participation in the democratic movements, policy advocacy, and conducting research and studies on the issue. Focus on the military dimension of democratic reform, however, is still limited. As the prospects for military reform became uncertain in the late 1999, some academicians and NGO activists began to see the need for putting together a coordinated effort to address the issue. The opening up of political space after the collapse of New Order regime provided an opportunity for their involvement. It was within that context that a coalition of civil society elements began to take form at the end of 1999.

The Birth of Civil Society Actors: The Case of the ProPatria Coalition

The initiative to form a coalition of civil society to address the problem of military reform was taken by a small NGO called ProPatria Institute in October 1999.³ Through the able leadership of its director, T. Hari Prihatono, ProPatria managed for the first time to bring a diverse group of civil society activists and academics

² Indeed, the military had promised to reduce its political role, among others, by (a) liquidating social-political offices within its organization; (b) banning its members from taking up civilian jobs while still in service; (c) separating the police from the military; (d) severing its ties with Golkar, Suharto's electoral vehicle; and (e) accepting the reduction of reserved seats for the military both in national and local parliaments.

³ The discussion in this section is primarily drawn from author's own personal notes based on his experience as a member of the ProPatria Working Group since the group was established in October 1999.

together to meet and discuss the challenges of redefining the role and function of the military in post-authoritarian Indonesia. The main focus of the meeting, which lasted for 2 days in Bogor on the outskirts of Jakarta, was on the need for Indonesia to establish civilian control of the military and implement the concept of civilian supremacy through the framework of security sector reform (SSR). While there was a consensus among the participants about the role of civil society and the imperative of a coherent strategy, they initially differed regarding the best approach for implementing the agenda. Three particular views emerged in the meeting. The first view, especially expressed by some activists with human rights background, suggested that the agenda should be carried out through sustained public pressure on the military and civilian government. The second view, held by some academics, maintained that a confrontational strategy would not work and suggested that the agenda for reform should be advanced through public education. The third view, while maintaining the need for public pressure, argued that there should also be a strategy of persuading the military and civilian government by working with them closely. This view was shared by the majority of participants, both from the academia and NGO activists. Despite the differences, the Bogor meeting managed to produce a document on the roadmap for SSR in Indonesia.

The Bogor meeting set the stage for coordinated involvement and participation of civilian military reformers in the process of military reform in Indonesia. In February 2000, ProPatria organized a meeting, the first of its kind, between participants of the Bogor meeting and top military officers (both retired and active) during which the roadmap for Indonesia's SSR was presented and debated. Similar meetings were also held with members of parliament, government officials, and NGOs during the period February-April 2000. Encouraged by the positive responses from the participants, including from the military, ProPatria continued to maintain the loosely organized coalition. As the ProPatria-led coalition began to establish itself as an independent and credible group of civilian military reformers, its work began to attract the attention of the media and the civilian government. ProPatria's role in military reform took a new, more significant direction when the group was invited in May 2000 by the Ministry of Defense to officially participate in the drafting committee of the State Defense Bill until it was passed by the Parliament in January 2002.

After completing its work on the State Defense Law, ProPatria was involved in the drafting of the Armed Forces Bill. Aware of the formidable task at hand, in October 2002, ProPatria sought to consolidate the coalition through the establishment of *Kelompok Kerja Reformasi Sektor Keamanan Indonesia* (Indonesia's Working Group on Security Sector Reform, hereafter ProPatria WG). The membership was drawn from various civil society institutions, primarily from NGOs and academics working in universities and research institutes, with several original participants of the Bogor meeting serving as core members. Active members of ProPatria WG include, among others, Hari Prihatono (ProPatria WG), Rizal Sukma (Centre for Strategic and International Studies, CSIS), Kusananto Anggoro (CSIS), Edy Prasetyono (CSIS), Ikrar Nusa Bhakti (Indonesia's Academy of Sciences, LIPI), Riefqi Muna (LIPI), Indra Samego (LIPI), the late Munir Thalib (KontraS), Fajrul Falakh (Gadjah Mada

University of Yogyakarta), Cornelis Lay (Gadjah Mada University), Andi Widjajanto (Pacivis, University of Indonesia), Bambang Widjajanto (Lembaga Bantuan Hukum or Indonesia's Legal Aid Institute, LBH), Jaleswari Pramodhawardani (LOGOS), Bob Sugeng Hadiwinata (Parahyangan University of Bandung), and Anak Agung Banyu Perwita (Parahyangan University).⁴

In addition to its direct involvement and participation in military reform, ProPatria WG also functioned as an informal "coordinating board" for various civil society actors involved in the process. As the scope for SSR is too broad to be tackled by one actor, several – including some members of ProPatria WG – also carried out their own activities in various issue areas of military reform in particular and security sector reform in general. LOGOS, for example, focused its works on the role of the military in business, military financing, and defense budget. LIPI also ran its own program to encourage the military to reform its organizational structures and doctrines. Additionally, it worked on the Military Support to Civilian Authorities Bill. The Pacivis-UI formed a working group on intelligence reform and organized a series of activities – workshops and public advocacy – to push for intelligence reform. KontraS and Imparsial, another NGO working on human rights, played a leading role in pushing the government and the parliament to reform the military justice system (the complete list is provided in Table 7.1 below). As these groups are also members of ProPatria WG, they often exchanged information and coordinated their activities with each other. In other words, there was, and still is, effective "division of labor" among these various actors.

Indeed, ProPatria WG is not the only actor involved in the process of military reform in Indonesia. However, it is by far the most enduring one, and its imprint on the state of military reform in Indonesia is noticeable. As of today, ProPatria WG is still active, even though the intensity of its work and the number of its activities had begun to decline by October 2004. Members of ProPatria WG continue to serve as resource persons for the media, government agencies, and even the military itself on military and defense-related issues. At the same time, ProPatria WG continues to expand the scope of its activities into specific issues such as the role of the military in post-conflict peace-building. Given such breadth and depth of its activities in advocating military reform, the experience of ProPatria WG provides a gamut of lessons to be learned, both in terms of approaches it has adopted, strategies it has employed, and the expertise it has acquired over the course of a decade of its involvement and participation.

⁴ CSIS is an independent think-tank. LIPI is a government-funded research institute. Parahyangan University is a private university based in Bandung. Gadjah Mada University and the University of Indonesia are state universities. Pacivis is affiliated with the University of Indonesia, led by Andi Widjajanto. LOGOS, KontraS, and LBH are prominent NGOs. Over time, active members of ProPatria WG changed according to the working agenda of the group.

Table 7.1 Civil society's work on defense and military legislations

| Category | Regulations | Advocating institute |
|------------------------------|---|--|
| State defense | 1. Law on National Security | ProPatria Institute |
| | 2. Law on State Defense | ProPatria Institute |
| | 3. Law on State Intelligence | Pacivis University of Indonesia |
| | 4. Law on State Secrecy | Pacivis University of Indonesia LBH |
| | 5. Laws on Anti-Terrorism | Imparsial KONTRAS |
| Military organization | 6. Law on TNI | ProPatria Institute Imparsial KontraS |
| | 7. Law on Military Tribunal | Law Faculty, University of Indonesia LBH Imparsial |
| | 8. Law on Reserve Forces | – |
| Defense resources | 9. Law on Mobilization | – |
| | 10. Law on Mandatory Military Conscription | – |
| | 11. Law on Strategic Defense Compartment Management | LIPI |
| | 12. Law on Defense Resources Management | – |
| Military operations | 13. Law on State of Emergency | ProPatria Institute |
| | 14. Law on Military Operations other than War | LIPI ProPatria Institute |

Source: Widjajanto (2007, pp. 22, 23)

ProPatria's Success Story: Approaches, Strategies and Expertise

It has been mentioned earlier that members of ProPatria WG are of the view that it needs to engage the military and the civilian government to bring about military reform by persuading and working with them closely. Its approach has been primarily non-confrontational and critical collaboration (Haseman & Lachica, 2005, p. 65), designed to engage the military and the civilian government in a persuasive negotiation supported by the strength of informed analysis, personal networks, impartiality and an, albeit limited, repertoire of expertise. ProPatria WG also employed a wide range of mechanisms and activities, notable amongst which are policy advocacy, public awareness campaigns, public education, and policy discussions with key governmental security actors such as the Ministry of Defense, the Parliament, and the military itself. It is through a combination of these strategies and mechanisms that most of ProPatria's work has come to be appreciated by security sector stakeholders in the country.

Research and Studies

Typical of the work of ProPatria WG is its readiness and ability to produce extensive research and studies on issues at hand.⁵ In addition to their utility for subsequent advocacy work, research and studies conducted by ProPatria WG served as an important factor in establishing the credentials and credibility of the group, especially in the eyes of the military. The research and studies demonstrate that “they know what they are talking about”. Within the Indonesian context, this credential issue is important for the group to establish a good rapport with the military. For the military to appreciate and recognize the useful role of civilian actors in military-related issues, it needs to be convinced that its affairs should no longer be an exclusive domain of the military. Indeed, the Indonesian military has often argued that the principle of civilian control of the military and civilian supremacy cannot be established in Indonesia until the civilians themselves are “mature” enough to acquire sufficient knowledge on military and defense affairs.

The work of ProPatria WG quickly gained recognition within military circles after the publication of the roadmap for SSR and the subsequent discussions with the military during the period of February-April 2000. During the first meeting, some military participants took a hostile stand and dismissed the group as novices without sufficient knowledge and expertise on military and defense affairs. They also accused ProPatria WG of trying to undermine and discredit the military by using alien Western concepts such as civilian supremacy, civil-military relations, and civilian control of the military. For example, they argued that within the Indonesian context, there should not be the distinction between civilians and military as the two work in partnership to develop the country. Despite such hostile responses, however, members of the group were able to convince most of the military participants that a comprehensive reform process, which required the establishment of a civilian control over the military, would in the end work for the benefit of the military and the country.

Technical Assistance to the Legislation Process

As mentioned earlier, ProPatria's direct involvement in military reform came after the government began to initiate the process of revising defense- and military-related laws in late 1999. The first law to be amended was the Law No. 20/1982 on the General Guidelines on State Defense and Security. When the revised draft prepared by the Ministry of Defense was publicized in early 2000, it was heavily criticized by civil society groups and pro-reform parliamentarians for failing to provide clear directions for military reform, especially on the questions of civilian

⁵ For the collection of ProPatria's research and studies, see Widjajanto (2004b) and Prihatono (2006).

control, the functions and role of the military, defense policy, and parliamentary oversight. The newly appointed civilian Minister of Defense, Mahfud M.D., invited ProPatria WG to provide its inputs on how the draft should be improved. This marked the beginning of the participation by civilian actors outside the government in military reform through the legislation drafting process.

ProPatria's involvement and participation became official when Minister Mahfud commissioned a new drafting committee tasked with revising the draft Bill on State Defense. Several members of ProPatria WG were appointed as members of the new drafting committee, which also included representatives of the military headquarters. Before the final draft was submitted to the Parliament, it went through a series of public consultations. ProPatria WG took an active role in organizing public consultation meetings for the bill. Indeed, the bill was passed into law by the Parliament with substantial inputs from civil society. The drafting of the Bill on the Armed Forces, which started in 2002 immediately after the passing of the State Defense Law No. 3/2002, also followed a similar process. Members of ProPatria WG were again invited to serve in the drafting committee commissioned by the Ministry of Defense. However, unlike during the drafting of the State Defense Bill, this time the military headquarters also sought some inputs from civil society groups. While a degree of conservatism remained visible among some military members of the drafting committee, the fact that they were actively seeking non-military inputs to the draft was warmly appreciated.

Policy Discussions and Networking

In order to socialize its work and agenda, ProPatria also organized policy discussion meetings and focused group discussions in an informal setting with the military, parliamentarians, and NGOs. Drawing its strength from personal networks of its members, ProPatria's policy discussion series managed to attract a substantial number of participants. Many of them were key stakeholders and occupied important policy-making positions within the military, Ministry of Defense, and the Parliament. Minister of Defense Juwono Sudarsono himself often participated in these meetings and gave his support to the process. Indeed, several members of ProPatria WG are his former students at the University of Indonesia, while others have maintained close association with him in one form or another.⁶ These meetings

⁶ During his post-graduate years at the London School of Economics, Rizal Sukma, for example, worked under Professor Michael Leifer, with whom Minister Sudarsono also worked when he was a Ph.D. student at the same school. Edy Prasetyono and Andi Widjajanto were Minister Sudarsono's students when he was a professor at the University of Indonesia. Minister Sudarsono was also an external examiner to Kusnanto Anggoro when he was defending his Ph.D. thesis at the University of Glasgow, UK. Many members of the Commission I of the Indonesian Parliament, which deals with foreign affairs and defense, are also close and long time personal friends of members of *ProPatria* WG.

often took place in the evening, as one member of ProPatria WG puts it, "after office hours when officers can think and talk like civilians."⁷ The good use of networking capacity, particularly cultivated carefully and tirelessly by ProPatria Executive Director Hari Prihatono, proved to be one of the most crucial assets of the group in broadening its acceptance not only by NGO activists and the media, but also by military officers and government officials. In this context, it is also important to note that close personal networking with, and support from, pro-reform elements within the military itself proved to be crucial for the success of ProPatria WG.⁸

Networking and close working relationships with broader civil society actors also constitute an important feature of ProPatria's strategies. Members of ProPatria WG were also regularly invited by human rights NGOs to share their knowledge and expertise on military and defense affairs. For example, Imparsial, a leading human rights NGO that run a number of courses on security sector reform for journalists, often invited members of ProPatria WG to give lectures and lead the discussions in such programs. Individual members of ProPatria WG also participated in various press conferences held by NGOs on certain aspects of military reform. Additionally, they made themselves available to the media who regularly asked for their opinions on the subject. Members of ProPatria WG also provided a pool of talents for talk shows broadcasted by television and radio across the country. In other words, the media served as an important conduit for these civilian military reformers to raise public awareness on the imperative of reforming the military and bringing it under the civilian control.

Challenges and the Limits of Civil Society Actors

Active participation by civil society actors is not without challenges, including the challenge to cope with its own limitations. The first of such challenges is the continued resistance and opposition from conservative elements within some military quarters against the involvement of non-state civilian actors in military reform. These conservative military officers argued that due to the military's expertise and experience in defense matters, it should be given the autonomy to carry out and supervise its own reform without any interference from the civilian. Moreover, they also accused civil society actors of advancing the agendas of

⁷ Edy Prasetyono, quoted in Haseman and Lachica (2005:65).

⁸ Rizal Sukma, Edy Prasetyono, and Kusnanto Anggoro had been regular lecturers at various Military Command and Staff Colleges long before the democratization took place. Hari Prihatono is a gifted "lobbyist" who managed to forge a close relationship with top military officers and received their trust. Andi Widjajanto is the son of the late Maj. Gen. Theo Syafei, a close confidant of President Megawati Sukarnoputri. Through these networking activities ProPatria WG managed to convince top military leaders of its genuine intention to work towards the creation of better and more professional armed forces.

foreign interests, mainly the West, in undermining and controlling Indonesia by separating the military from the people. ProPatria's SSR programs, for example, were seen as an attempt to undermine the military's role and credibility in the eyes of the international community and the Indonesian public.⁹ Being charged as an extension of foreign interest constituted the most difficult challenge facing ProPatria WG in the early years of the Reform Era.

The second challenge stems from the nature of democratic transition that, as discussed earlier, allowed the creation of bargaining space between the military and the new civilian political forces. The civilian power elites are still worried about the influential position of the military in politics, and still perceive the TNI as a formidable political force. Moreover, the highly competitive political system, characterized by intense political struggle among major political groups, preserves the space for the military to retain political significance and influence. For example, many political parties and civilian leaders still seek support from the military in the competition against their opponents. Even though civilian political forces are now relatively free from military intervention, they have been reluctant to initiate policy measures that might harm military interests. In other words, a fractured civilian elite complicates the reform process. The willingness to compromise is still great enough that some drastic measures needed to push for further reform have often been delayed. Fragmented and weak civilian elites have to a degree preserved the space for the military to retain its influence in shaping the direction and determining the pace of reform.

Third, until very recently, the residual influence of the military in politics has also been sustained by rampant security problems in post-authoritarian Indonesia. The most difficult issues for the civilian government to handle were the outbreak of communal violence and the threat of separatism. The ability of the state to address these problems has been severely hampered by the lack of professionalism within the police force. With such internal security problems, it has been difficult for the civilian government to prevent the military from playing an internal security role (Mietzner, 2006, p. 38). Since the end of 2002, the threat of terrorism has also aggravated the challenge of keeping the military from exercising internal security functions. Currently, both the Parliament and the government agree with the military that it needs to be involved in the efforts to combat terrorism. Civil society organizations, while insisting that such a role for the military would require specific regulations, are concerned about possible abuses of power by the military.¹⁰

The fourth challenge is the lack of defense expertise among the civilians. As most Indonesian civilian elites are only familiar with the political role of the military, the focus of attention has been mostly on the issue of the military and politics. Meanwhile, effective control of the military also requires concrete

⁹ This accusation was based on the fact that most of the funding for ProPatria activities came from foreign donors, such as USAID and DFID.

¹⁰ The Jakarta Globe, 1 September 2009, accessed online <http://www.thejakartaglobe.com/home/indonesia-to-form-agency-to-oversee-arms-trade/327485> on 2 July 2012.

measures on defense reform. Eradicating the political role of the military constitutes only half of the required military reform. Reforming defense policies and posture, doctrines, and education should also form an inalienable part of military reform. In this context, it is not easy to convince the military to subscribe to the principle of civilian supremacy if they perceive that the civilians have no adequate knowledge and expertise about defense issues. The repertoire of expertise within even ProPatria WG is limited. Of all members of the Working Group, only two – Andi Widjajanto and Riefqi Muna – are professionally trained in defense studies.¹¹ While the government began to take necessary measures to address this problem, such as through the establishment of an Indonesian Defense University in 2008, there is still the need for Indonesia to expand its civilian defense community.

Fifth, there is a difficulty in sustaining constant public pressure and support for further reform. The ability of civil society, academics, and reform-minded members of the parliament to sustain such pressure is limited. They are often distracted by other equally important issues. The absence of critical mass that could act as a catalyst for change within the wider society also serves as a challenge to civilian military reformers advancing their agenda further. Indeed, the military reform in Indonesia has since 2004 proceeded at a much slower pace. The repeated calls by civil society actors for further and faster reform have largely been ignored. As of 2011, the state of military reform in Indonesia is not much different from where it was in 2004. While the military has largely maintained its commitment to stay out of politics, it continues to play an influential role in defense and security policy-making. Moreover, despite various attempts by the government to place the military under the Ministry of Defense, the move continues to be resisted by military leaders. The Indonesian military continues to report directly to the President.

These limitations explain the failures of ProPatria WG in several key areas of military reform despite its efforts to address them. The first is the failure to address the problem of impunity manifested in the inability (or unwillingness) of the civilian government to bring justice to military officers involved in the violation of human rights in the past. The government and the military have resisted the attempt by Parliament to reform the military justice system. Second, ProPatria WG has not been able to persuade the government and the military to change the way the military is deployed. The territorial command system (KOTER), in which military units are deployed in tandem with civilian administrative units from province down to village level, remains intact. Third, ProPatria WG has not been able to encourage the government to change the way it formulates national defense policy and strategy. Even though the authority to formulate defense policy now officially rests with the Ministry of Defense, in reality the military still plays a dominant role in this area. Indeed, all these failures remain high on the agenda for the next stage of military reform for Indonesia.

¹¹ Andi Widjajanto received his Master's degree at the National Defense University in Washington D.C., while Riefqi Muna holds a Ph.D. degree in defense studies from the Cranfield University in the United Kingdom. Few others are trained in Law or Sociology. The majority of members of the ProPatria WG, however, are trained either in Political Science or International Relations.

Conclusion

The role of civil society actors in military reform should be understood within, and made possible by, unique circumstances peculiar to Indonesia in the aftermath of the collapse of the military-backed authoritarian regime in May 1998. The introduction of democracy has allowed civil society actors to express their voices, participate in the process of reform, and influence the direction and the state of reform. All these have been made possible by a capacity to combine networking and expertise and turn it into the most valuable asset skillfully employed through a critical collaboration approach by civil society actors. This has been well demonstrated in the case of the work of ProPatria WG. Despite its small numbers, members of the ProPatria WG managed to exert considerable influence on the reform process through various strategies and mechanisms of engagement. However, the extent to which that role has been exercised has also been subject to a number of constraints. While ProPatria WG has registered significant achievements, it has also had a fair share of failures in persuading the government and the military to initiate further reform.

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Chapter 8

Parliament, Civil Society and Military Reform in Nigeria

E. Remi Aiyede

Introduction

Nigeria marked her 50 years of independence in October 2010. More than three decades of this period were under autocratic military rule. The current experiment with democracy, the Fourth Republic, which commenced on 29 May 1999 when retired General Olusegun Obasanjo was sworn-in as president, is the longest attempt of practicing democratic governance in the history of the country. Indeed, the successful transition from one democratic government to another in 2007 and the peaceful transmission of political power following the death of President Umar Musa Yar'Adua, a Muslim from the North to his Vice President, Goodluck Jonathan, a Christian from the South, in controversial circumstances without the intervention of the military marked a watershed in the institutionalization of democratic processes and the subordination of the military to civil control.

Yet, the democracy of the Fourth Republic was much less resilient than on first sight appears. It was faced with several crises in which fears of a military intervention were looming. The first drama reflecting anxiety over a military coup occurred in the first year of the return to civil rule in 1999 when a motion was tabled in the Senate calling for a pact with the United States to secure Nigeria's nascent democracy against military incursion (Abiodun, 2000, p. 25).¹ The second was a call by Senator Joseph Kennedy Waku in an interview with *Tell* magazine on the military to take over power.² While the first instance attracted strong protest from the public opposed to the suggested dependence on a foreign power to secure

¹ A similar attempt in the First Republic by the Tafawa Balewa government (1960–1966) to enter into a defence pact with the United Kingdom was abandoned because of public opposition.

² *BBC News*, 3 February 2000, available at <http://news.bbc.co.uk/2/hi/africa/629438.stm> (15 December 2010).

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democracy against the military, the second case earned the senator a suspension from the Senate and a threat of recall from his constituency. The third came when former Chief of Army Staff (1999–2001), retired General Victor Malu, made a statement on 30 January 2006 that he regretted not mobilizing the army to overthrow President Obasanjo. This provoked a crucial meeting of the leadership of the ruling People's Democratic Party (PDP) although it went without consequence.³ The fourth was the secret return of terminally ill President Yar'Adua into the country in March 2010 under the cover of night with the mobilization of about 500 military personnel to provide security at the airport at Abuja, without the knowledge of Acting President Goodluck Jonathan. These incidents have kept alive the possibility of relapse into military rule. Indeed, in March 2010 the Chief of Army Staff, Lieutenant General Abdulrahman Dambazau, had to restate the commitment of the military to its constitutional role, assuring the public and the government that the military will resist all efforts by politicians to drag it into politics.⁴ While the debate about the prospect of a return of the military has been rekindled by the above incidents, there have been moves by the various governments in the last decade of democratic rule to promote the consolidation of democracy by promoting military reform.

Military reform has been influenced by a number of factors including the practical need to ensure the subordination of the military to civil control, the influence of the global movement to address security concerns and the commitment of donors to military reform as part of the agenda to advance the democratization process in the country. While numerous studies have linked security sector reform to the democratization wave that swept Africa in the 1990s (Chutter, 2000; Le Roux, 2003), few of these studies have focused on non-executive involvement in the reform process and those that have, were largely preoccupied with legislative control over the military budget and with developing appropriate mechanisms for civil society engagement in issues of security sector reform (Ball & Fayemi, 2004; Griffiths, 2008; National Democratic Institute for International Affairs, 2000; Omitoogun & Oduntan, 2006). Few studies (for instance, Garba, 2008) have thus provided a detailed investigation of the actual role of legislatures and civil society in other areas of military reform like deployment, appointment of the military service chiefs, doctrine, human rights issues and training curricula.

This chapter seeks to contribute to closing this gap by addressing the following questions: What are the powers and competences of the legislature in the reform of the military and what can civil society contribute to it? What are the challenges and obstacles to effective involvement of the legislature and civil society in the reform of the military? And what are the prospects of the reform for civil-military relations and democratic consolidation? The chapter argues that the legislature is constitutionally empowered to play critical roles in the reform of the military. However, due to lack of competence, interest and commitment to military reform, parliament and

³ *This Day*, 30 January 2006, p. 1.

⁴ *The Punch*, 3 March 2010, p. 7.

civil society have employed their powers and watchdog roles only to a very limited extent. Only gradually, over time, certain issues have emerged which have generated interaction between the military and civil society, and between parliament and the military. Such issues arise from the activities of the armed forces when they are called upon to act in aid of civil authority and from the conflicts between military personnel and civilians in the streets. These may have positive effects on parliament's and civil society's perception of military reform and their role in the reform process.

The democratization process in Nigeria was a protracted effort to remove the military from politics. Military rule has always meant the abolition of parliament and the emasculation and repression of civil society. Thus, military reform means a lot to a variety of actors, from the abolition of the military to the establishment of traditional military subordination to democratic civilian control. The deep-seated distrust of the military by parliament and civil society naturally complicates meaningful and serious engagement with the military. Therefore military reform has been largely an executive affair and part of the effort of the military to transform itself in order to improve its image of a predatory institution. The relatively marginal role of parliament and civil society in the reform process has rendered it a very elitist and exclusive affair without significant input of citizens and thereby limiting the effect on public perception of the military.

Governance Reform and the Military

The reform of the Nigerian military has been linked to local and continent-wide concern with security sector reform in Africa. Security sector reform has in turn been part of a larger reform of governance as African leaders must come to terms with the need to collectively organize security and defence under the African Union (AU). The series of crises and civil wars that ravaged many countries in the various sub-regions of the continent had forced sub-regional organs like the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC) to intervene with some success in the civil wars in their respective sub-region. In West Africa, security sector reform is informed by the effort to address the violent conflicts, security crises and instability problems that characterized politics in countries like Liberia, Sierra Leone, Nigeria and Côte d'Ivoire, which have been attributed to previous and ongoing mismanagement of the military, poor governance, ethnic tensions and state fragility. Prior to reform, the armed forces had been used to protect repressive governments, compromising the public security and justice systems and forcing people to turn to self-help and vigilantism (on the effect of vigilant groups and militia on military reform, see the contribution of Christian Lutz in this volume). ECOWAS began to insist on the intrinsic relationship between security and political good governance and to promote security sector reform in the region in the 1990s. Since then, ECOWAS adopted the Declaration of Political Principles to promote multiparty democracy and representative institutions that set guarantees for personal safety and freedom.

The Dakar Protocol on Democracy and Good Governance (2001) defined the prerequisites for peace and security covering armed forces, police and other security agencies in a democracy. The 2003 Declaration on Sub-regional Approach to Peace and Security stressed a commitment to democratic consolidation and rejection of force as a means to pursue or maintain power (Bryden, N'Diaye, & Olonisakin, 2005).

The reform of the military has also been influenced by the activities of the Western donor community's interest in promoting democratic governance and human security. In this sense, military reform is part of the larger process of governance reform and the strengthening of democratic institutions. The donor community has invested in security sector reform initiatives of which military reform has been an integral part. The goal is to define a clear role for the military under democratic governance, and to subject the military, especially the management of military expenditure, to democratic accountability. For Ball, the reform of the security sector involves establishing the legal framework and sector policy based on democratic principles, developing effective civil management and oversight mechanisms, ensuring that security institutions are affordable and accountable, and ensuring that culture and attitudes of the security institutions, especially their leadership, are supportive of good governance (Ball, 2006).

Donor community involvement has driven several efforts to define an appropriate framework for reform that can achieve a stable and effective governance of the security sector based on the established traditions of stable civil-military relations in advanced democracies. The roles of non-executive organs of government and civil society in the governance of the security sector are more broadly emphasized in the engagement with accountability and affordability. In countries like Nigeria, where democratization involves a process of withdrawal of the military from politics, and re-establishing military subordination to civil authority, the role of parliament and civil society is particularly important. Parliament is a crucial organ for democratic governance and public scrutiny is critical for securing inclusive political representation, accurate information for the public, competent lawmaking and vigilant executive oversight. Parliament's role in military reform includes laying down the legal framework of democratic security sector governance, reviewing and approving defence policies and budgets including the conditions of service of the military. It is also to oversee sectoral expenditure, procurement, operations, and deployment within the military. In some constitutions parliament is empowered to approve the declaration of war and oversee the intelligence and security agencies (National Democratic Institute for International Affairs, 2000; Pantev et al., 2005).

The Local Context and General Character of Military Reform

A major political crisis was triggered by the annulment of the 12 June 1993 presidential elections in Nigeria by military President Ibrahim Babangida. The election was supposed to conclude a protracted transition program designed

by the ruling military government to return the country to democratic rule. It was considered the freest, fairest and most peaceful election in Nigeria and the released results showed that Mushood Abiola, a Muslim from the South would win the election. The annulment of the election provoked civil society protests, deepened divisions among the various ethno-linguistic groups and generated conflictive calls either for the reconstitution or the decomposition of the military.

Although the crisis forced Babangida to step down as president, the interim government he left behind was declared illegal by a court ruling and later removed by General Sani Abacha in a bloodless coup. Abacha sought to provide his tyrannical rule with a democratic façade by announcing a transition to democracy which served the only objective of transforming him into a civilian president. Abacha died before this could happen on 8 June 1998. The unexpected death of Abacha paved the way to democracy and military reform. The reform of the military began symbolically on 18 August 1998 when General Abdulsalam Abubakar, who became the interim head of state, led senior ranks of the military at the parade ground of the Army's 82nd Division in Enugu, South Eastern Nigeria, to make a voluntary voice oath of honour to be law abiding citizens, to play by the rules of the new political game, to protect the lives and property of Nigeria, to safeguard the territorial integrity of the country and to return to the barracks on 29 May 1999.⁵ General Abubakar kept his word and eventually handed over government to democratically elected President Olusegun Obasanjo as scheduled on 29 May 1999.

Preceding General Abubakar's move was a public debate about the political interest of the military in 1994. The dominance of the military by officers of northern extraction and the annulment of the 1993 presidential election won by a Southerner had provoked open calls in the media for restructuring and reform of the military to reflect Nigeria's ethno-political composition. In the event of the debates by delegates to the 1994 constitutional conference and in the media, questions were also raised with respect to military budget, procurement, promotions, deployment, staffing and military doctrine. Three issues were particularly dominant relating to military reforms.

The first and central issue relates to how to keep the military permanently in the barracks, that is, how to prevent military seizure of power once the country successfully returns to democratic rule. The human rights movement and other civil society groups voiced concern that military officers had an entrenched interest in politics because of the privileges, rapid promotions and stupendous wealth that political office confer on soldiers. Military officers were believed to be no longer content with the drab and unspectacular life in the barracks (Adekanye, 1997). The ostensible corporate interests of the military thus raised the question of how civil-military relations in Nigeria should be organized.

⁵ *The Guardian*, 19 August 1998.

The second major issue had to do with the ethno-regional structure of the military institution. It was argued that the North's dominance of the officer corps has enabled it to use the institution as an instrument for perpetuating its hold on power at the centre. The situation was described by retired General Chris Ali in this way: "With the Northern control of the Army thus established and consolidated, it was not long for the vital interests of the North to dominate the incipient political inversion of the Army into a political arm of the Northern hegemonic resurgence" (Ali, 2001, p. 210).

The third issue is the concern of some serving and retired officers of the military about the professional status and poor image of the military in society. The military was continually blamed for Nigeria's developmental failures and the highhandedness and lawless behaviour of troops in their interaction with civilians under military rule. This is reflected in the words of the first minister of defence under the Obasanjo presidency, a retired general in the army, T.Y. Danjuma, who told senior military officers that the behaviour of military personnel has "so tarnished our image that many of us are ashamed to walk the streets in uniform. These are the real challenges we have as professionals and it is my duty to reverse this trends."⁶

Three suggestions were offered to address these concerns by the various representatives of Nigeria's ethnic groups, scholars and the leadership of the military. The first was the call for a complete overhaul or disbanding of the military in favour of an enlarged police and civil defence force – an arrangement that is cheaper, more democratic and less favourable to coups (Ake, 1996, p. 15). The second called for the decentralization of the military structure into zonal commands. This was to ensure that no particular region or ethnic group could dominate the military institution. The third is the reform or transformation of the military by reprofessionalizing and depoliticizing it. With no consensus on these issues, General Abubakar and his cohorts managed the withdrawal of the military from politics by handing over power through an electoral process to a retired general and former military Head of State, Olusegun Obasanjo, a Southerner. Thus, governance and military reform in the immediate post-military era effectively began under President Obasanjo.

Shortly after he assumed office, President Obasanjo retired 93 generals and officers across the forces who had held political offices in the past. The latter included ministerial posts, positions as military administrators and heading notable task forces. Additional retirements were effected based on health grounds, issues of discipline, failure in promotion examinations or attaining the specific age limits of a particular rank. The reforms included military re-professionalization and refocusing the military to its constitutional role, an effort to transform the defence sector into an effective and efficient force capable of deterring external aggression and maintaining internal security within the framework of democratic civilian control (Adekanye, 2005; Anifowose & Aiyede, 2005).

⁶ *The News*, 12 July 1999, p. 14.

To achieve these objectives President Obasanjo sought American and British assistance. A private corporation, Military Professional Resource International (MPRI) began the process of reform under the United States Government's International Military Education and Training (IMET) programme, with additional support by the British Defence Advisory Team (BDAT).⁷ President Obasanjo had set up a local working group on security and defence to examine the state of security and defence and evolve policies to address the issues. The committee, consisting of seven senior military officers and three civilians, noted that an absence of an integrated policy document or framework for security and defence limited the capacity of the security and defence community. Observing that elements of security and defence policies were currently scattered throughout the constitution, legislative acts and administrative orders, the committee recommended the production of a comprehensive policy on security and defence drawn up in an inclusive and open manner to deal with the problems. It also recommended that Nigeria should provide leadership in the initiation, formulation and implementation of a security and defence policy for ECOWAS and the African Union (Security and Defence Policy Group n.d.).

In 2001, a defence policy document was drafted, drawing from the proposals of the Defence Policy Group, by a defence policy committee set up by the president. The 2001 document suggested a new unified command structure for the armed forces to reflect an envisioned joint operations structure that does not change the present organizational structure of each service of the military: Navy, Air force and Army. According to the document, Nigeria would have five unified commands: the Eastern Command, the Western Command, Coastal Command, Air Defence Command, and Training and Doctrine Command. In this way, the Training and Doctrine Command (TRADOC), was to be organized as a tri-service establishment, although each service was to conduct the training of its personnel to ensure that they were ready to fit into the joint training/exercises of the unified commands. The Defence Headquarters was to be responsible for funding and administration of the unified commands and military formations were to be grouped functionally into each of the unified commands to reflect their assigned roles and a tri-service structure. This new structure was abandoned in the 2004 policy paper which the president presented to the National Assembly as the National Defence Policy.

The 2004 document was strongly criticized for the lack of inclusiveness in the drafting process by the federal legislature and other stakeholders, including the Ministry of Foreign Affairs, the Ministry of Finance and the states. As a result,

⁷ The activities of MPRI included help with redefining the role, missions and procedures in the Ministry of Defence, professional development of doctrine, training management, including the establishment of an Armed Forces Simulation Centre at the Command and Staff College Jaji, and civil-military coordination, especially relations with the legislature. The British Defence Advisory Team's activities included training in the various armed forces schools and providing infrastructure for the Peacekeeping Wing in the Infantry Corps Centre and School, Jaji, and the Nigeria Army Training Centre, Kontangora.

the president withdrew the document and circulated it for comments and inputs from stakeholders before the final document was produced. The National Defence Policy document eventually approved by the Federal Executive Council and signed by President Obasanjo in 2006 nevertheless did not include significant changes of the 2004 document. The 2006 document became the major guide for military reform in Nigeria. It rests on a human security perspective and envisages military contribution to matters related to intelligence, operations and logistics and accorded a more prominent role to civilians in policy formulation and defence spending. It also emphasized the need to reform the military along the following principles: supremacy of the constitution and rule of law, role of the military in defence of democracy rather than of the government of the day, and civilian control of the military including the national parliament and military professionalism (Federal Government of Nigeria, 2006).

However, by the end of the second term of the Obasanjo presidency in 2007, structural and institutional change was modest. Under Obasanjo's successor Umaru Musa Yar'Adua, the reform of the military became a matter for the Ministry of Defence, largely driven by the military itself. The interest in reform within the armed forces was kept alive by some leading officers like Lieutenant General Martin Agwai who introduced change management in the army as chief of Army Staff. Change management was later extended and modified into a comprehensive Armed Forces Transformation program.

An Armed Forces Transformation Committee consisting of civilian staff and military officers of the Ministry of Defence was subsequently formed to provide a guide for transforming the military. The committee documents published in 2008 conceptualized military transformation as a process of restructuring the Ministry of Defence for enhanced management of national defence. It also includes the development of a National Military Strategy and Joint Operational Doctrine, providing ways and means for achieving a highly professional and motivated defence force, and establishing joint acquisition and maintenance processes of minor and major military hardware. In addition, establishing a Military Research and Development and Defence Industrial Base programme and establishing a credible force structure with capabilities that would meet current and future challenges are important elements of military transformation. The output from the committee included a national military strategy document, two volumes of joint doctrine for the armed forces and a proposed structure for the higher management of defence. The latter sought to integrate both civilian and military leadership for the control, coordination and management of resources for the defence of the country. According to these documents, it is envisaged that the military strategy will be revised every 5 years, while the joint doctrine will be reviewed every 2 years.

These doctrines emphasized the primacy of political leaders, elected officials and their appointed subordinates in making broad national policies and procedures in defence as reflecting the sovereignty of the people. Military officials are responsible for rendering advice and making recommendations on professional matters, which include military capabilities, limitations and projections with timely, complete and accurate information to the National Assembly whenever required,

to enable the latter to fulfil its constitutional responsibilities in the domain of military affairs. Military leaders are to be responsive to public opinion in the course of any assigned mission, especially while employing force by providing timely and accurate information to citizens (Ministry of Defence, 2008).

A series of efforts have been made to promote the transformation program within the military establishment. Several seminars, tours, conferences and workshops have been organized to explain and move the change process forward. The military has drawn on the resources of independent think tanks and private organizations such as FUTeLIV Konsult and Impact for Change and Development to educate its officers on how to improve relations with the media and civil society (Onwudiwe & Osaghae, 2010), while the three services have developed their own public relations directorates.⁸

Although the military reform and transformation process has been informed by the general need for governance reform and initiated by the presidency under the Obasanjo administration, the process has subsequently been taken over by the military itself with the consent of the executive, especially the Ministry of Defence. A survey conducted in 2009 on the perception of military officers on the military transformation program showed that 71.1% of the officers believe that the transformation program has had a positive impact on their service; only 1.5% thought it had had a negative effect. For 65.8% of respondents, the programme is good, while only 5.8% think the program is poor (Oladeji, 2010).

The Parliament in Nigeria

At independence in 1960, Nigeria adopted the Westminster model of parliamentary government. The First Republic, however, collapsed with the coup on 15 January 1966. When the military returned the country to civilian rule in 1979, the parliamentary model of government was replaced by an American presidential system. But the Second Republic was ended abruptly on 31 December 1983 by another military coup, 3 months after a second general election. The country only returned to democratic rule in 1999. Under the military regimes parliamentary functions were fused with executive functions and performed by the military junta in power. Thus, Nigeria's parliamentary development has been the prime casualty of military rule.

The 1999 Constitution established a presidential system of government characterized by the principles of separation of powers, checks and balances and a bi-cameral national parliament. The Senate is composed of 109 senators elected from the 36 states of the Federation (three from each state) and the Federal Capital Territory, Abuja. The House of Representatives is composed of 360 members.

⁸The military continues to draw on the services of academics, civil society think tanks and members of the academia to develop its capacity in a range of areas relevant to its peace-building and other activities in aid of civil authorities.

While the distribution of membership of the Senate is based on an equal number per state, membership of the House of Representatives is based on the population of each state of the Federation. There are no reserved seats for the military or any professional body or association in either chamber of the National Assembly.

The Constitution also provides a very elaborate description of the functions and broad powers for the national parliament in governance and specifically defence and security matters. Section 4 (1&2) of the Constitution confers to the bi-cameral national parliament the power to “make laws for peace, order and good government of the Federation, or any matter included in the exclusive legislative list of the Constitution”. Within the federal distribution of responsibilities, the national government has exclusive rights over defence and security (arms, ammunition and explosives), the armed forces (military, police) and other government security services.

For the purpose of lawmaking, a bill may originate from the Senate or the House, but the president has to give assent to it for it to become law. Most bills, however, originate from the executive. The president is obliged to signify that he assents or will not assent to a bill within 30 days. The National Assembly is empowered to override the presidential veto regarding a bill by a two-thirds majority of members of both houses passing the bill in a joint sitting. The National Assembly also has powers to impeach the president if he or she is involved in “gross misconduct” which means “a grave violation of the Constitution” or “a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct” (Section 143).

The Constitution particularly empowers the legislature in budgetary and tax matters, while the responsibility for budget proposals is with the executive. Public spending shall be done only as stipulated by the Constitution or through the Appropriation Act or any other Act of Parliament. Such spending must be in a manner as prescribed by the National Assembly. The oversight powers of the National Assembly are clearly elaborated in this regard. For this purpose, Sections 88 and 89 grant the Assembly power to conduct investigations as well as powers to take evidence and summon any person in Nigeria to give evidence.

Formally, the Constitution also vests sizeable powers in the National Assembly to facilitate military reform. It empowers the Parliament to pass legislation on military reform and to supervise the management and transformation of the security sector. It empowers the legislature to determine the conditions under which the president may deploy the military to suppress insurrection and act in aid of civil authorities (Section 217, 2c). Furthermore, “the president cannot declare war between the Federation and another country except with the resolution of both Houses of the National Assembly sitting in a joint session” (Section 5, 4). Although the president is permitted to deploy forces outside the country in consultation with the National Defence Council if he believes that national security is under imminent threat, he must seek the consent of the Senate within 7 days of actual combat. The Senate must then give or refuse consent within 14 days (Section 5, 5). Section 218, 4 empowers the National Assembly to make laws for the regulation of the powers exercisable by the president as commander in chief and for the appointment, promotion and disciplinary control of members of the armed forces.

The Constitution also makes elaborate provision for the smooth running of the National Assembly. Each House enjoys independence in determining its internal regulations and procedures, including procedures for summoning officials and recess of the house. Both chambers have a term of 4 years, except in a situation where the Federation is at war or it is not feasible to conduct elections. In the latter circumstance, the period may be extended for 6 months at any one time by a resolution of the National Assembly. The president, however, issues the proclamation or dissolution of the National Assembly. The National Assembly elects its own leadership. It recruits its own staff and disciplines it.

The National Assembly operates a committee system in performing its responsibilities. There are four classes of committees: the special committees, standing committees, *ad hoc* committees and committee of the whole house. There are also joint sittings of both arms of the National Assembly. The special committees and the standing committees are the life wires of the parliament. The number and leadership of these committees have generated a lot of controversy both within parliament and among the wider Nigerian population. The choice of leadership for these committees is usually identified as a major source of conflict within parliament. Leadership of legislative committees is currently viewed as a major means of legislative patronage. As a former Senate President put it: "Everybody wants to become a committee chairman so as to attract projects to his constituency. This has led to the abuse of the committee system and instability in the National Assembly" (Anyim, 2007, p. 122).

The fact that committees are havens of political patronage explains why the Fourth Senate (1999–2003) had 39 standing committees and 6 special committees, bringing the total number of committees to 45. The Fifth (2003–2007) and Sixth Senate (2007–2011) had 63 and 55 committees, respectively. The Fourth House of Representatives (1999–2003) had 5 special committees and 40 standing committees, the total number of committees being 45. In the Fifth (2003–2007) and Sixth House of Representatives (2007–2011) the number of committees surged to 71 and 85, respectively. The fragmented committee structure of both Houses also extends to the defence sector. The Senate maintains a Committee on Defence and Army, a Committee on the Navy, a Committee on the Air Force and another Committee on National Security and Intelligence. The House of Representatives has a Committee on Defence, a Committee on National Security, a Committee on the Army, a Committee on the Navy and a Committee on the Air Force.

However, the substantial formal powers of Parliament have not made the National Assembly an effective agent of reform. This is partly because of the huge capacity gap and infrastructural challenges that the legislature had to surmount at inception. The president of the Sixth Parliament identified inadequate access to research and information; dearth of parliamentary facilities; inadequately trained and prepared legislators; near absence of trained and professional staff; poor public perception and lack of understanding of the work of the National Assembly; and an overbearing executive as major challenges to the legislature (Nnamani, 2006, p. 75).

Parliamentary capacity-building has been hamstrung by a series of conflicts with the presidency over the nature of its oversight powers during the Fourth and Fifth

Parliament (Aiyede, 2005a). The committees suffer from lack of office accommodation for both junior and senior staff, lack of basic infrastructure such as telephones, photocopying machines and other vital working equipment. Secretariat activities of the committees are poorly funded and friction between committee staff and political aides of members of the committees are common (Ojaghohunmi, 2005, p. 6).

In the bid to strengthen its budgetary and oversight capacity, in conjunction with the African Capacity Building Foundation, a Policy Analysis and Research Project (PARP) commenced in 2004 to build capacity of both legislators and legislative staff. Also, an Act to establish a National Assembly Budget and Research Office (NABRO) was passed in second reading on 14 December 2010. NABRO is expected to improve the skills and capacity of legislators and legislative staff in understanding the technicalities and processes of budgeting, and to bring together experts and civil society budget groups to improve the process. Similar efforts had been made since 2000 to establish a budget office for the National Assembly but the processes were not concluded before the end of term of the fourth and fifth assemblies. Due to the low re-election rates of parliamentarians, which has been less than 30%, and the slow institutionalization of parliamentary procedures and practices, capacity-building measures have met with little success (Hamalai, 2009). Recurrent infighting, corruption and excessive preoccupation with personal emoluments and gratification have rendered its relationship and engagement with civil society and the media very poor. The legislature suffers from a highly unfavourable public image as a result of a series of financial scandals and remains very unpopular as an agent of accountability.⁹ This poor image further worsened in a recent exchange between the Governor of the Central Bank of Nigeria (CBN), Lamido Sanusi, and the legislators. The CBN governor had declared in a public lecture that the National Assembly gulps 25% of the Federal Government expenditure on overhead in 2010 and was subsequently summoned by both houses of the National Assembly to apologize for misinforming the public. At the Senate, where the governor first appeared, he insisted that his figures were accurate. This was repeated at the House of Representatives. The event was followed by an outcry in the media for the legislators to scale their salaries downwards and publish their salaries and emoluments to inform the public.¹⁰

Parliament and Military Reform

Parliaments usually perform three core functions, that is, representative, legislative and oversight functions (see also the introductory chapter of this volume). Accordingly, studying the contributions of the legislature to military reform entails

⁹ *The News*, 28 July 2010, pp. 18–25; *Newswatch*, 12 July 2010, pp. 12–20.

¹⁰ *The Punch*, 3 December 2010, p. 2; *The Punch*, 8 December 2010, p.2.

scrutiny as to what extent the military is represented in the legislature, to what extent it is involved in initiating constitutional changes and legislation facilitating military reform and how effectively it scrutinizes the defence budget, procurement, military doctrine, troop deployment, respect for human rights and many other operational issues.

The National Assembly and Military Representation

Due to the suspension of the legislature during Abacha's military rule, there was no need for the National Assembly elected in 1999 to initiate constitutional amendments or to pass laws that would abolish reserved seats for the military and terminate military representation in the legislature. However, the absence of reserved military seats does not mean that the military is not represented in the legislature. As a result of the high attrition rate of armed forces personnel in Nigeria due to early and often abrupt involuntary retirement, there is a large pool of former military officers who enter politics at various levels of the political system. Many of them have joined political parties, vied for parliamentary seats and have been elected as Senators or House members. Although the defence-related committees in both Houses have been headed by civilians without military backgrounds, every committee has at least one senior retired military officer as member. But it is not clear what effect this has on the competence and effectiveness of the committees. Yet it can be argued with some confidence that the presence of retired military officers in the legislature does not imply that they act as extended arms of the incumbent military leadership. In fact, many of them are alienated from the military institution as a consequence of the often humiliating circumstances of their early retirement. Some of them have taken positions in public debates which are at variance with the military's corporate interests. One such example is retired Major Stanley D. Ngadda who, together with other members of the House of Representatives, called for the removal of military barracks from Abuja to border towns because of the fear of coups (Izukanne, 2006, p. 53). Many others, however, as a result of their socialization through military training and many years of service in the armed forces, continue to uphold the military's claim of superiority in Nigerian society and hence only reluctantly pave the way for a greater role of civilians in the military reform process.

The National Assembly and Military Legislation

The National Assembly has not been a very effective legislator in the past decade. Between 1999 and 2005, it passed only 92 bills, of which 82 were endorsed to by the President (Nnamani, 2006, pp. 8–12). Even less active was the legislature in the field of military legislation. Four military reform bills initiated by the Fourth House

of Representatives (1999–2003) could not be passed before the end of the legislative term. But subsequent Houses were no longer interested in them and did not table them again (see also the contribution of Elaigwu in this volume). The bills sought to entrust developmental missions to the military which is, in the view of Western concepts of security sector reform, a quite controversial proposal given the fact that developmental tasks are normally performed by civilian agencies and that they would entrench the military to an even greater extent in Nigerian society than hitherto.

In general, thus, one may argue that neither the Senate nor the House of Representatives committees have demonstrated enough interest and competence in military reform. Throughout the National Assembly's existence, the issue of reviewing the 1999 Constitution was on the legislature's agenda. But except for the question of how coup plotters may be sanctioned, democratizing the military was never an issue. Of much greater concern for the legislators were ceremonial issues such as the question of who heads the Joint Committee of both houses set up for conducting the constitutional review. As a result, the process of reviewing the constitution was paralyzed for months. In the end both houses carried out independent reviews and later set up a conference committee to harmonize the proposals of the two chambers.¹¹

Military activities in aid of civil authorities, such as the deployment of the military to police duties in several trouble spots in the country, which are not likely to cease, put the military in public spotlight through the media and Parliament is increasingly forced to intervene as these missions generate public debates and controversies. In 2008, a bill for the Suppression of Insurrection Conditions passed second reading and was referred to the Defence Committee of the House of Representatives. The bill defines conditions under which the president may deploy troops and provides guidelines for the conduct of troops so deployed. A public hearing was conducted on the bill by the House on 24 February 2009. However, the outcome of the debates and subsequent comments by some members of parliament show that Parliament is likely to leave the deployment of troops to the discretion of the president.¹² In an interview with Sufuyan Ojeifor of *This Day* newspaper, the Chairman of the Senate Committee on Defence and Army, Ibrahim Ida, stated that the decision to participate in peacekeeping or the deployment of troops to quash domestic unrest is purely the responsibility of executive. In his words "The decision of where to go is exclusively that of the executive. They need, however, the concurrence of the National Assembly before they can deploy troops outside. Sincerely speaking, we leave that to the executive. They interact with the political environment on the continent and the world at large."¹³

¹¹ See also Editorial, *Nigerian Tribune*, 31 March 2010 and 2 July 2010.

¹² *Leadership*, 25 February 2009.

¹³ *This Day*, 24 April 2009.

Most recently, in 2010, the legislators have conducted public hearings on the proposed amendment of the 2004 Pension Reform Act. The envisaged amendment seeks to remove the military from the contributory pension reform system to the abandoned “pay as you go” defined benefit pension system.¹⁴ A bill seeking to establish a Maritime Security Agency, including the formation of a coast guard, is also under consideration in the National Assembly, although the Navy strongly opposed the establishment of the body during a public hearing in the House in January 2010.¹⁵

The National Assembly and Military Oversight

More tangible but still quite weak were the legislature’s activities in supervising the military. To some extent this was due to the often tight-lipped attitude of the military which provided legislators little insight into its operations. The military justified its restrictive information policy with the argument that defence matters are vital for national security and should therefore be treated in a secretive way.

This pattern of legislature-military interaction also hardly changed with the establishment of an Office of Legislative Affairs, a liaison with the National Assembly, the Office of the President and the National Security Agency. The office was set up as part of the Military Professional Resources International (MPRI) program to improve the relations between the legislature and the military. Unfortunately, though, neither the legislature nor the military were seriously committed to the effective operation of the office. Although as a first step a military officer holding the rank of colonel was attached to the National Assembly in 2000, the office was closed in less than 6 months. It was reopened in 2005, with a group captain of the Air Force currently heading the office. Only after reopening did the office become more effective and it is now coordinating inquiries on defence matters and facilitating official visits and tours of defence committees to military establishments in Nigeria as well as units deployed to other countries such as the Sudan. It also handles petitions on military matters submitted to the Senate and the House of Representatives, and arranges for military witnesses and testimonies at committee hearings. Another function is to assist the professional staff of Parliament on research issues relating to defence. With all these functions, the office may

¹⁴ During the public hearing organized by the House of Representatives, labour unions opposed the removal of the military from the contributory pension system arguing that it can undermine the sanity the scheme has brought into pension administration in Nigeria by triggering off similar agitation from other sectors of the economy. The unions suggested that the government should opt for making full contributions for the military as against the current payment of some percentage for them. The bill was passed by the National Assembly on 1 April 2011 and signed into law on 7 April 2011 by the President. See *Daily Champion*, 7 July 2010.

¹⁵ *Next*, 17 March 2010.

indeed play a catalytic role in improving the interaction and cooperation between the Ministry of Defence (including the Defence Headquarters and Tri-Service establishments) and the two chambers of the National Assembly.

The rules of procedure of both chambers of the National Assembly require the Committees on Defence to oversee the size and composition of the armed forces, but Parliament is only able to provide a manpower ceiling through the process of budget approval. The military authorities at the Army depot in Zaria politely turned down the attempt by the House committee to participate in the recruitment of non-commissioned officers in 2004 (Garba, 2008, p. 185).

The Committees on Defence in the Fourth and Fifth Senate have been headed by influential senators such as Adolphus Wabara (Chairman) and Pius Anyim (Vice Chairman) who both later became Presidents of the Senate. The current Senate President (2007–2011, Seventh Senate), Senator David Mark, a retired Brigadier General, was a member of the Senate Committee on Defence in the Sixth Senate. In spite of the heavyweights in the Defence Committees, the Senate has not demonstrated more engagement in terms of military oversight than the House. By contrast, it is the House which has been more active in engaging the military based on the number of investigations it has carried out on military-related events. This might be the result of the fact that it has more committees than the Senate that deal directly with security and defence matters.

Parliament has played only a limited role in supervising the drafting process of the 2006 National Defence Policy (Federal Government of Nigeria, 2006). Nor has it been active in overseeing the ongoing military transformation process. When the initial draft copy of the defence policy was presented to the National Assembly in 2004, the document was rejected on the grounds that the legislature and other stakeholders (such as the Ministry of Foreign Affairs and the Ministry of Finance), were not involved in the process. The president withdrew and then circulated the draft to these stakeholders such as the legislature, the state governments and other federal government ministries for comments. But few comments were received from them, where they were received at all. Hence, the final document signed by the president and published in 2006 was not significantly different from the one presented to the National Assembly in 2004.

The comparatively weak oversight capacity of the Nigerian legislature is most evident in the way it actually exercises its formally extensive powers over the budget process. Omitoogun & Oduntan identified a general lack of experience, frequent changes in membership of the committees, corruption and the absence of a defence policy to provide the guiding principles for both civilian and military leaders in the scrutiny of budgetary proposals as factors accounting for this weakness (Omitoogun & Oduntan, 2006). Defence matters were not discussed openly and in its examination, the Defence Committee relied chiefly on retired military personnel among its members. Military budget estimates presented to Parliament were rarely reduced, and funds for personnel costs were approved without knowledge of the real personnel strength of the armed forces. Omitoogun and Oduntan thus criticized that “[. . .] the National Assembly colludes with the executive to hide information on the defence sector from the general public” (ibid., p. 175). They

called for publication of a defence policy, strengthening of the Ministry of Defence, educating legislators on military matters and broadening of the defence policy discussions to include civil society (*ibid.*, p. 179).

There are indications that after 2005 the legislature has become more active in military and defence matters, even though most of these investigations have not markedly curtailed military autonomy in Nigeria. The House Committee on the Navy, for instance, investigated the case of the missing ship *MT African Pride* in 2004, a ship that was allegedly involved in oil bunkering in which senior naval officers were indicted.¹⁶ The House Committee on Defence summoned and questioned the Minister of Defence in the deployment of military personnel, without the knowledge of the acting president, to receive President Umaru Yar'Adua after his return from Saudi Arabia in February 2010. In a meeting with the Minister of Defence in April 2010 over petitions from aggrieved officers who were retired from the armed forces, a member of the Committee on Defence, Umar Bature, even asked for a review of the defence policy, albeit without consequences.¹⁷

The formal institutional powers of Parliament have not been fully realized in practice not just because of the absence of the required competence by the relevant committees. Parliament lacks the confidence and willingness to draw on the expertise in civil society and the academia to enable it to play a positive and active role in the military reform process. Garba argues rightly that the major challenge of the national parliament in performing oversight is attitudinal. "They do not appreciate the enormous role they have in possessing the authority to fully scrutinize all aspects of defence, including deciding on items/weapons to be procured [. . .] Members see their role as limited simply to budget approval and monitoring budget implementation" (Garba, 2008, p. 195). Indeed, despite the efforts of donor agencies to support parliamentary interaction with civil society, the predatory orientation of politics and the immersion of Parliament in the struggle for patronage has rendered it unpopular and made it the focus of civil society antagonism. There are, however, grounds to expect competencies of parliament to increase with exposure to military affairs over time if the current turnover rate among parliamentarians reduces. Even so, these advantages can only be realized if legislative orientation and attitude is transformed so that lawmakers act more in the public interest instead of the current self-serving attitude that defines the character of parliament.

Civil Society and the Reform Process

The concept of civil society denotes voluntary associations, including the universities and research institutes, non-governmental development organizations (NGOs), social movements and a pluralistic media, as well as the public expression

¹⁶ *This Day*, 14 April 2005.

¹⁷ *Next*, 1 May 2010.

of the interests, priorities, grievances and values around which these associations are based. They seek to ensure that government executes its responsibilities transparently and accountably. Civil society often seeks to influence policy, provide an alternative analysis and help educate and inform policy makers and the wider society. The range of functions includes advocacy, education, informal oversight, independent monitoring, policy support and service delivery. Civil society can act as a watchdog, monitoring the development, use and activities of the military; promoting dialogue in order to generate change without being co-opted by the government; and help develop norms of democratic behaviour. It can provide technical knowledge and expertise for policymaking and policy implementation in the defence sector (Ball, 2006). Ball cautions however, that civil society involvement may vary according to context and is dependent upon the overall state of democratic governance in that particular context (ibid.). There are both internal and external constraints to civil society involvement in the security sector. Internal constraints include a lack of expertise and lack of confidence or even unwillingness to engage. External constraints include government suspicion and donor policies that give inadequate attention to strengthening democratic governance.

In Nigeria, the return to democratic rule was one of the declared goals of the country's pro-democracy groups which have championed the rule of law, human rights and other democratic norms since the late 1980s. They raised public awareness of human rights issues and abuses, demanded the release of innocent detainees, facilitated prison reforms and fought for the amendment of obnoxious decrees. They spearheaded the mass protest and civil disobedience that hounded General Babangida out of power. Their activities served to delegitimize military rule and to support Nigeria's return to democratic rule in 1999 (Diamond, 1995; Enemu & Momoh, 1999). Yet, their activities depended strongly on the political space permitted to them by the military rulers. The Abacha regime in particular severely curtailed the activities of pro-democracy organizations which subsequently went into disarray. Not surprisingly, thus, they played only a minimal role in the design and implementation of the short transition program through which the General Abubakar-led military government returned the country to civilian rule. In general, the military governments shaped civil society more than civil society has shaped political events during the struggle that forced the military out of politics; this is because it was constrained by the overarching character of the state as the dominant employer, bearer of opportunities for upward social mobility and manipulator (Agbaje, 1990; Aiyede, 2003, 2005b).

As I have shown earlier, the initial steps taken by the Obasanjo presidency to reform the military, and the process of developing the 2006 National Defence Policy included little if any input at all from civil society. With the exception of a few organizations, such as the Centre for Democracy and Development (CDD) and the African Strategic and Peace Research Group, there are few civil society organizations with expertise in military reform. Even these have not played a significant role in public oversight of security institutions.

Civil society has thus also played little or no role as a source of ideas for the reform of the military. Defense and foreign policymaking remains a domain of the

executive and the administrative elite. While the idea of broader inclusion of civil society organizations (CSOs) in the monitoring and control of security institutions is considered essential to democratic control of the armed forces by experts, existing military-civil society partnerships tend to favour organizations that support state policy. Civil society continues to raise a strong voice against any sign of a return to military rule during moments of crisis, such as the breakdown of law and order in the case of inter-communal violence. The series of religious or election-related conflicts in Jos and Bauchi, or the military operations in the Niger Delta have been cases in point. Civil society was also active during the confusion that attended the failure of President Yar'Adua to transfer power to the Acting President, Goodluck Jonathan, after leaving the country for over 80 days for medical treatment in disregard of Section 144 of the Constitution, and the subsequent deployment of troops to the airport in Abuja during his nocturnal return to the country in February 2010.

Since the return to democratic rule in 1999, the media has covered military activities arising from security decisions, especially military activities against militants in the Niger Delta and the deployment of troops to quell recurrent violence in Jos, Odi, Zaki Biam and Onitsha. In these instances the military has been accused of excessive use of force, looting, rape and torture of citizens (Nwolise, 2007). In the Jos case the commanding officer was accused of taking sides with Muslims by the governor of the state (a Christian and retired air force officer) and the media.¹⁸ The distrust of the military arising from the repression under military rule reflects on the way the media sometimes present these activities to the public. The media has also reported regularly on issues such as promotions and retirements in the military arising from the reform process without linking it to the broader agenda of reform.¹⁹ This is because it is largely ignorant of the transformations going on within the military. Thus, the antagonistic relations between the media and the military under military dictatorship continue to affect contemporary media-military relations. Media reports on the military often emphasize corruption in the army, controversies over ethnic background in the deployment of officers and welfare issues such as military pensions.²⁰ There is a dearth of analysis and information to the public of key issues relating to military reform.

Conclusion

The reform of the military in Nigeria is an integral part of the transition from military dictatorship to civilian rule and was given momentum by the Obasanjo presidency, especially in its early stages. The process has been owned and taken

¹⁸ *The Punch*, 10 March 2010.

¹⁹ *This Day*, 24 February 2009; *This Day*, 30 June 2010.

²⁰ *The News*, 13 February 2008, p. 18–26; *Tell*, 26 July 2010, pp.42–43.

over by the military itself and has been accepted by the larger executive branch, especially the Ministry of Defence. While the need to ensure that Parliament and civil society participate in the reform process is emphasized by advocates of security sector reform, the military seem to prefer a secretive and guarded process.

Parliament has extensive formal lawmaking and oversight powers over defence and security issues but lacks the required competence, confidence and political will to draw on the limited expertise in civil society and the academia to enable it to play a positive and pro-active role in the military reform process. Nonetheless, Parliament is increasingly forced to intervene in issues relating to military activities in aid of civil authorities and fall outs from the military transformation process. As a result, the consciousness and involvement of Parliament in the reform process may gradually deepen in the long run. However, with the reliance on the Military Liaison Office as a major source of information apart from public hearings, parliamentary perceptions of military affairs are likely to be influenced more by the military than other informed views from non-military sources in the short run.

Civil society involvement in military reform process is also relatively weak in Nigeria. This is largely because few organizations have interest and expertise in security issues in general and military affairs in particular. Members of the National Assembly have so far failed to systematically draw from the limited expertise in academia and civil society to carry out effective oversight and to exert public pressure on the military to give up its guarded reserved domains. Nigeria has had limited donor intervention in the reform process, and the interventions did not incorporate civil society involvement because of the focus on institutional reforms and direct capacity-building and training assistance to the military. As suggested by Fayemi, military reform must be viewed as part of a larger security sector reform and as a process of dialogue and consensus-building in order to contribute to the process of recapturing the culture of compromise and dialogue that was lost during three decades of authoritarian military rule and social exclusion (Fayemi, 2003).

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Part IV
Rogue Forces and Military Reform

Chapter 9

Security Challenges and Military Reform in Post-authoritarian Indonesia: The Impact of Separatism, Terrorism, and Communal Violence

Jun Honna

Introduction

For over a decade, observers have witnessed the development of military reform in Indonesia. This reform is a significant part of the country's political transformation, one that was precipitated by the end of Suharto's long dictatorship (1966–1998). The evaluation of military reform is, however, mixed. There is a consensus that the military elite has contributed significantly to the dismantling of the authoritarian political system by accepting the public demand for military withdrawal from politics and supporting a peaceful transition to democratically-elected civilian governments during the post-Suharto period. Unlike in Thailand and the Philippines, where civilian political elites use the military in everyday power struggles, and generals intimidate and pressure civilian governments, the Indonesian military (Tentara Nasional Indonesia, or TNI) has succeeded in maintaining a degree of institutional autonomy vis-à-vis political elites. This perception fuels opinion that TNI is seriously committed to institutional self-reform with a goal of professionalizing the organizational orientation.

Critics and skeptics argue, however, that the apparent military withdrawal from political participation does not necessarily signal the success of military reform. TNI no longer dictates, but, as critics usually emphasize, Indonesia does not yet have effective civilian control over core military policies, including TNI's budget and organizational design. Clearly, parliamentary oversight of defense affairs has been weak. Civilian bureaucrats in the Defense Ministry defer to, and are directed by, active-duty generals who dominate top strategic positions within the ministry. Military spending, in addition to "off-budget" fundraising typically conducted by TNI's territorial commands throughout the archipelago, lacks transparency. It is these factors that support pessimistic evaluations of military reform in Indonesia

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where a decade of democratic governance has failed to establish a viable mechanism for civilian control of the military.

Thus, there are objective reasons for positive and negative evaluations of military reform; the former focuses on the historical trend in civil-military relations while the latter focuses on the everyday policy level. The discourse on TNI reform is robust and features the three following points. First, after a decade of post-Suharto politics, TNI is no longer a major political player in democratizing Indonesia. Second, civilian leaders are mostly indifferent to the problem of past atrocities committed by the military, as evident in the fact that not one high-ranking army officer has been brought to justice since Suharto stepped down in 1998. Third, civilian political elites have played a minimal role in shaping the agenda of military reform, allowing the military a free hand in determining the pace and extent of reform. Indonesia's elite consensus regarding post-authoritarian civil-military relations is based on a grand bargain – i.e. TNI supports transition to civilian-led democracy and promises military disengagement from politics while civilian leaders respect TNI's institutional autonomy and overlook its lack of accountability. Indonesia's seemingly stable civil-military relations today are based on this grand bargain, one that reflects the reality of the power equilibrium between civilian and military elites.

Why is this equilibrium stable? This chapter argues that elite risk assessment and state security management are key elements in this equilibrium. During the initial post-Suharto democratic transition period, various security threats influenced the mindset of political leaders and how they dealt with TNI reform. There are three critical areas of security management that have influenced elite attitudes. The first is separatism, i.e. the problem of the nation-state and sovereignty. The second is terrorism, which represents a transnational security agenda. The third is communal violence involving local religious-ethnic schisms. By examining these different security dimensions during the crucial time of regime transition between 1998 and 2004, one can understand why civil society demands for comprehensive military reform have been reduced to the TNI's withdrawal from the formal political process. Demands for a reckoning and accountability, in addition to civilian oversight, have been sidelined leaving "back to the barracks" as the most tangible reform achievement.

Separatism and Counterinsurgency in Aceh

Under the authoritarian regime of President Suharto, Jakarta's exploitation of Aceh was aimed at controlling natural resources – namely oil and gas – that were generating export revenues that bolstered the authoritarian state. Aceh's resistance to Jakarta was embodied in a secessionist movement, while the military played a vital role in repressing local society in Aceh for decades, especially since the late 1980s when the government escalated counterinsurgency policies by classifying Aceh as a military operation zone (DOM). Under the DOM, the military wielded unaccountable and untethered authority in the name of crushing the separatist group called Free Aceh Movement (GAM) which in turn led to the killing of many GAM

fighters, kidnapping and torturing of suspected GAM supporters, and applying any and all means to intimidate and pressure both actual and potential anti-government figures.¹ Suharto and his generals justified these abuses and excesses as measures necessary to maintain political stability and thereby sustain economic growth and development.

The fall of Suharto undermined this doctrine ratifying state terror as a means to support political stability and economic development. The momentum shifted to separatists in Aceh, East Timor and Papua, three peripheral areas that had all experienced long-term repression by the central government during the Suharto era. Demands for independence escalated in these resource-rich territories soon after Suharto's downfall, and the post-authoritarian government led by President B.J. Habibie allowed people in East Timor to conduct a referendum that won overwhelming public support for independence in 1999. At this time, General Wiranto, TNI Commander, was cornered into admitting the mass killings of Acehese people and accepting the blame for failing to prevent the independence of East Timor. Furthermore, military repression in Aceh and East Timor tarnished the international reputation of the nation and the TNI.

These setbacks were a great humiliation for the TNI, and it learned one important lesson, that is, civilian political leaders could endanger Indonesia's territorial integrity, something that was sacred and inviolable in the eyes of the military elite. Following Habibie's presidency and during the subsequent Abdurrahman Wahid administration (1999–2001), TNI leadership felt growing distrust of civilian politicians and what they perceived to be inept and amateurish meddling in security affairs. In November 1999, when Wahid insisted on the possibility of conducting a referendum in Aceh similar to East Timor, he inflamed TNI distrust of civilian government and undermined those elements within the military that were supportive of civilian supremacy.²

For TNI, holding a referendum in Aceh was a nightmare scenario in terms of institutional interests and reputation risk, carrying implications far more troubling than independence in East Timor. Thus, TNI worked to derail the president's initiative. Army Chief of Staff Endriartono Sutarto reasserted the hardline approach to Aceh's independence movement despite the president's wishes by emphasizing the priority of preserving NKRI (the unitary state of the Republic of Indonesia). Political initiatives to negotiate with GAM and other pro-referendum civilian groups in Aceh were repeatedly ignored by the army leadership which insisted that *NKRI adalah harga mati* (NKRI is non-negotiable) for Indonesia (Honna, 2008). By invoking nationalism in this manner, the post-Suharto military sought to re-legitimize its hardline approach to the security situation in Aceh while reasserting its New Order role as the "guardian" of the nation. National unity was its trump card in justifying military insubordination and making a sham of civilian

¹ Amnesty International estimated that some 2,000 civilians were killed during the first 4 years of DOM between 1989 and 1993. See Amnesty International (1994). About DOM and military repression in Aceh, see Sukma (2004). About GAM, see Schulze (2004).

² For details, see, for example, Aspinall and Crouch (2003, p. 9).

supremacy. Although the Wahid government negotiated a ceasefire agreement in May 2000, it was soon undermined by the army which claimed that the agreement merely strengthened the GAM secessionist movement. Reports of armed clashes between TNI and GAM combatants, summary executions and mass killings increased within a few months of the ceasefire agreement, creating facts on the ground that undermined the trust necessary to the peace process (Aspinall & Crouch, 2003, pp. 17, 18). GAM quickly understood that a ceasefire with the government did not mean a cessation of hostilities with the military. The government believed that it was dangerous to prioritize a military solution to the Aceh problem, a view expressed by Susilo Bambang Yudhoyono,³ a retired army general who served as the Coordinating Minister for Political and Security Affairs during the Wahid presidency, and was later elected President in 2004. Despite Yudhoyono's views, TNI defied the government and stepped up attacks on GAM bases in April 2001.

Three months later, in July 2001, Wahid was impeached by the parliament. Wahid's small political party, PKB (National Awakening Party), could not prevent two big political parties, Golkar and PDI-P (Indonesian Democratic Party for Struggle), from ousting Wahid who was replaced by his Vice President Megawati Sukarnoputri. She was the daughter of the iconic founding father of Indonesia, Sukarno, known for his strong views about territorial integrity and aggrandizement. As leader of PDI-P, Megawati was known to be sympathetic to patriotic military generals shunned by Wahid (Honna, 2003, Chap. 7). Soon after she took power, TNI escalated the Aceh conflict, thus sabotaging peace talks with GAM. The army, at that time led by an ultra-nationalist general, Ryamizard Ryacudu, insisted that defending NKRI was TNI's duty and there was no room for bargaining with separatists. The army territorial command in Aceh also started to mobilize right-wing militia groups and recruit their members from outside of Aceh – mainly from Java – to take part in the anti-GAM movement. The army sought to sow dissension and spark unrest in the territory to support its contention that Aceh might degenerate into a “civil war” if it did not intervene assertively, thereby wrapping itself in the flag of patriotic duty while raising the specter of violent chaos as a means of mobilizing Indonesian public opinion in support of suppression. Indeed, this tactic had already been deployed in East Timor, where it failed largely because it had been exposed and countered by the UN and international media. There was not the same level of international presence and scrutiny in Aceh and Megawati was both influenced by the patriotic rhetoric of the military elite and incapable of taming army aggression even if she was so inclined.

The Aceh problem entered a new phase in May 2003 when Ryacudu's army successfully manipulated instability and convinced Megawati to impose martial law in Aceh so that it could conduct massive military operations against GAM. The government dispatched around 35,000 troops to defeat GAM which had an estimated 5,000 rebels under arms. This was the largest military operation the TNI had undertaken in its history. Under martial law, the mass media was strictly

³ Susilo Bambang Yudhoyono, “*Aceh Perlu Keadilan Kesejahteraan dan Keamanan*”, Jakarta: Kantor Menko Polsoskam 2001.

limited, and access to Aceh from outside was also heavily restricted. The TNI issued daily reports, but they did not enjoy much credibility. With the introduction of martial law, local governments in Aceh were effectively placed under the control of TNI's local territorial commands. Under such conditions, military violence including extra-judicial killings, abductions, forced disappearances and displacement, was widely reported (Human Rights Watch, 2003). The war in Aceh was justified as a patriotic action to save Indonesia from the threat of disintegration or "Balkanization", and TNI's aggressive approach was largely endorsed by civilian political elites in the parliament who feared being labeled unpatriotic.

In December 2004, the war finally came to an end following a massive tsunami that killed more than 200,000 people in Aceh-Nias. Ryacudu insisted on continuing the fight against GAM, but Yudhoyono – the newly elected president who defeated Megawati in the country's first direct presidential elections in 2004 – seized the opportunity cast up by this historic disaster to exit the war. GAM also agreed to withdraw its demands for independence and promised to participate in the rebuilding of Aceh.

How did the experience of counterinsurgency in Aceh influence the direction of military reform? There were at least three significant consequences that should be highlighted. First, TNI successfully swayed public opinion and overcame opposition by civilian politicians by highlighting the danger of "another East Timor". It did so by invoking national unity (NKRI) and staking out a position as the patriotic guardian of it. This posturing effectively undermined the appeals of civil society and political elites to sustain reform pressures aiming to consolidate civilian control of the military. Nationalist discourse was hijacked by the military to neutralize reformist pressures and reassert prerogatives reminiscent of the New Order. Clearly, this was a setback for military reform and a reminder that the military jealously and effectively guards its institutional interests.

Second, the secessionist movement shifted the balance of power within the TNI, empowering conservatives and hardliners who viewed military reform as a ploy to undermine TNI's dignity and historic role in winning independence and safeguarding the nation from various threats. These anti-reform officers could be mainly seen in the field command and intelligence sectors, and they gained influence in the process of escalating armed conflicts with GAM in Aceh. Especially under the leadership of Ryamizard Ryacudu, the army chief from 2002 to 2005, the space within the officer corps to promote reform policies aiming to downsize the role of the army in society shrank. Moreover, the army chief intervened in the formulation of the TNI Law in 2003 by insisting on the inclusion of an article enabling the army to dispatch troops without presidential approval in the event of an emergency, raising public concerns about both the threat of a military coup and a military veto over civilian policies.⁴ Clearly conservatives in the military vitiated the reform process during this period.

⁴ For details, see *The Editors* (2005, p. 131).

Third, the war in Aceh exposed the disadvantages of civilian political leaders managing security problems, as they were easily outmaneuvered by the military and its institutional resources including a presence throughout the archipelago. Civilian-led peace negotiations were repeatedly disrespected, ignored and undermined by the army. The army leadership believed that the negotiation would only benefit GAM because a ceasefire would provide an opportunity to regroup, recruit new combatants, internationalize the issue, and gain local support for independence. Thus, in the eyes of army hardliners, it was legitimate to bypass what they saw as a bad call by inept and ill-informed politicians in order to prevent Indonesia's disintegration. From this experience, TNI strengthened two perceptions regarding civil-military relations in the age of democracy. First, civilian politicians were unreliable in defending Indonesia's territorial integrity. Second, TNI could act independently from the civilian government in the name of saving the state. These perceptions undoubtedly contributed to the demoralization of reformist officers who supported consolidating the civilian control principle, but emboldened those who favor military autonomy.

Certainly, separatism played a significant role in determining the direction of military reform in post-authoritarian Indonesia. Governments led by two prominent democratic leaders, i.e. Abdurrahman Wahid and Megawati Sukarnoputri, failed to convince army generals about the need for strengthening accountability and respecting civilian supremacy. Politicians were sidelined from managing security issues by TNI's nationalistic rhetoric and campaign to leave such important matters up to the professionals. This professionally orchestrated campaign made it difficult for military critics and reformers to assert their case without running the risk of being branded unpatriotic. No politicians in the parliament warned about the escalating assertiveness of the army leadership in Aceh. Even after the peace agreement in 2005, parliament has shown no appetite for an inquiry into military operations under martial law in Aceh despite demands from domestic NGOs – which had recorded a lot of misconduct by the military, mainly violence and smuggling – to investigate. Weak political will to assert civilian supremacy is thus another important lesson emboldening military hardliners, suggesting that prospects for significant reforms are limited.

Terrorism and Military Operations Other Than Warfare (MOOTW)

Another important change in the security situation after the country's democratic transition was the rise of terrorism. Only a few years after the fall of Suharto, Indonesia became famous for harboring a regional terrorist network, Jemaah Islamiyah (JI), leading the Western security community to identify Indonesia as

the second front in the “global campaign” against terrorism.⁵ JI’s terrorist operations mainly targeted foreigners as in the Bali bombing in October 2002, the Jakarta Marriott Hotel bombing in August 2003, the Australian Embassy bombing in July 2004, another bombing in Bali in October 2005, and the bombings of two hotels in Jakarta (Ritz-Carlton and Marriott) in July 2009. These frequent incidents lead the international community to see Indonesia as a hotbed of transnational terrorism. Rather than going into the details of terrorist activities in Indonesia, my concern here is how the problem of terrorism has influenced military reform.

Soon after the first Bali bombing in 2002, Indonesia’s security community sought to synchronize with the global agenda for counter-terrorism and the “war on terrorism” (*perang terhadap terorisme*). Significantly, for TNI, this provided an opportunity to question the validity of the organizational reform initiated in 1999, i.e. the separation of military and police (Honna, 2010). Although this reform policy for splitting the police and military was initiated by Lt. Gen. Yudhoyono (at that time TNI’s Chief of Staff for Territorial Affairs) and his reformist colleagues, the military returned to the pre-Suharto era organization of three services, army, navy and air force. This functional separation was accompanied by a redefinition of responsibilities between the police and the military. In an attempt to professionalize the security services, the military was assigned responsibility for national “defense” and the police given the role of maintaining domestic “security” and “order”. From the beginning, however, many conservative officers believed that the police were not capable of handling domestic security on their own, meaning that in reality the military would continue to be involved in all security affairs.

Against this background, the war on terrorism created an institutional opportunity for TNI to regain lost turf and deflect pressures to reform. Military officers began to insist that defense and internal security were inseparable in practice, and they invoked the concept of a “gray zone”, meaning that there is no strict separation between external defense and internal security. TNI asserted that Indonesia’s geopolitical circumstances required the military to defend the nation from domestic penetration by external threats and that domestic security should be an integral part of “defense” operations. From this standpoint, the army began to criticize the Defense Law enacted in 2002. They zeroed in Article 7 of the law, which stated that the role of the military was to respond only to military threats, but assigned non-military threats to other government institutions. In the eyes of army hardliners, this law ignored the “gray zone” and did not reflect the reality of defense-security linkages.

The October 2002 terrorist bombing in Bali revealed Indonesia’s vulnerable security conditions and the need for a more integrated and better coordinated response. The calls for improving Indonesia’s security management by the international community, and the need to protect the valuable tourist industry, allowed TNI to revitalize the *babinsa* – the village level unit in the territorial command – to

⁵ About Jemaah Islamiyah and its international network, see the reports of the International Crisis Group (ICG) (2002a, 2002b).

detect possible terrorist movements.⁶ TNI's territorial command system had been a main target of reform pressure as it was seen as a tool of repression during the Suharto era. Thus, the demand for relinquishing the territorial command was widespread after the fall of Suharto, but in the aftermath of the Bali bombing, Indonesia's political community was reticent about questioning TNI's redeployment of territorial command resources for counter-terrorism operations.

Subsequently in 2003, when the TNI published its first post-Suharto Defense White Book, the army orchestrated the "gray zone" argument emphasizing that defense and security were indivisible (Departemen Pertahanan, 2003). TNI claimed that the primary concerns of Indonesia's "defense" sector had shifted from "traditional" threats – i.e. conventional military attacks by foreign countries – to "non-traditional" ones such as terrorism, piracy, illegal migrants, separatist movements and internal armed rebellions. According to the White Book, in order to respond to these new threats, the TNI needed to strengthen its capacity and role in military operations other than warfare (MOOTW) in which the demarcation between defense and security is irrelevant. Since then, TNI intensified internal socialization about the legitimacy of defense-security synergy by developing guidelines regarding non-traditional military threats and responses.⁷

Interestingly, TNI's new "gray zone" theory developed in tandem with efforts by the international community to upgrade the capacity of the national police in combating terrorism. In 2003, a year after the Bali bombing, the police established Special Detachment 88 (Densus 88), a 400-man counter-terrorism squad which was funded, equipped and trained by the United States and Australia. TNI, having lost international cooperation in the aftermath of the "dirty war" in East Timor, and given institutional rivalry, was threatened by the police seizing the opportunity of battling terrorism to attract significant international support. In fact, the TNI Commander at that time, Gen. Endriartono Sutarto, lobbied to create a TNI anti-terrorist task force, but failed (Sebastian, 2006, p. 157). It was against this background that the "gray zone" theory and MOOTW were invoked to create space for the military to become involved in counter-terrorism activities. As Mietzner suggests, it was the 2004 bombing in front of the Australian Embassy that finally convinced President Megawati to mobilize TNI for anti-terrorist operations (Mietzner, 2006, p. 41). Then in 2010, following strong lobbying by the military, the Yudhoyono administration established a National Anti-Terrorism Agency (BNPT) directly under the president. Aside from Densus 88, the BNPT included the National Intelligence Agency (BIN), and anti-terror units from the TNI including the army, navy and air force. According to the president's spokesman, "placing all these units under one command will increase the effectiveness and efficiency of

⁶ See "Palglima Bantah Babinsa Pernah Ditiadakan", *Koran Tempo*, 22 November 2002; "Babinsa 'Crucial' to Help Stamp Out Terrorists", *The Jakarta Post*, 28 February 2005.

⁷ For the guidelines see Markas Besar TNI, *Naskah Sementara Buku Petunjuk Operasi Tentang Operasi Militer Selain Perang*, Jakarta: Mabes TNI, October 2003.

human resources.”⁸ No security insider, however, believed so; many saw the development as a project of the TNI to seize a piece of the pie from the police and reassert and institutionalize its involvement in domestic security.

In this way, TNI skillfully neutralized pressure to limit its role to external defense by incorporating non-traditional security issues into the scope of the “defense” agenda. In redefining defense threats, it effectively sidestepped laws which attempted to restrict its role to “defense” affairs. Although the TNI’s efforts to undo the separation of security and defense partly reflected its long-standing self-image as the sole guardian of the nation, it also reflected institutional resistance to reform targeting the territorial command structure. Significantly, the army’s territorial commands have been vital for fundraising, generating economic opportunities, and maintaining the size of a force that is the largest – and thus most powerful and prestigious service – within the military. It is via this territorial command system that army officers have gained access to the local politico-economic elite and wielded oligarchic power in the provinces (Honna, 2006; Mietzner, 2003).

The separation of the police from the military was the first reform project in post-authoritarian civil-military relations. It was designed with the expectation of promoting military professionalism in external defense matters and was also a backlash against military abuses during the Suharto era. However, the TNI is apparently not willing to relinquish domestic security functions to the police, because it adamantly believes that losing this security role would endanger the *raison d’être* of its territorial command system, a key and cherished institutional foundation. The lessons from this institutional rivalry as played out in the war against terrorism highlight how the military’s self-perceived role as national guardian dovetails with its institutional interests in ways that complicate and slow down the agenda of reform. The military still feels it is the sole arbiter of what is best for the military and the nation, and thus continues to circle the wagons against reformers who think otherwise. The war on terror has been a good opportunity to claw back some power and influence over internal security and thus overturn prior reforms shifting such responsibilities to the police.

Social Violence, Militias, and Military Business

In tandem with problems of separatism and terrorism discussed above, there were waves of local security disturbances in the post-Suharto era caused by communal violence between different religious, ethnic and social groups. In responding to separatism and terrorism, TNI could brand its enemy as subversives, and target them accordingly relying on its combat expertise. Communal violence created a

⁸“New Body to Have TNI, Police as Partners”, *The Jakarta Post*, 26 July 2010.

different challenge for military engagement because it was not expected to combat and eliminate the enemy, but rather stop the armed conflict and violence between local civilian antagonists. In the early years of regime transition in the post-Suharto era, Indonesia experienced various incidents of communal violence that killed more than 10,000 people (Bertrand, 2004, p. 1) and displaced over one million refugees throughout the archipelago. Notable cases were West and Central Kalimantan, Ambon (Maluku) and Poso (Sulawesi). How did these local conflicts influence the role of TNI and what was the impact on military reform?

Each case of communal violence had its local dynamics and this determined the behavior of TNI's territorial command in dealing with the local situation. In West Kalimantan, the ethnic war between Dayaks and Madurese erupted in 1996–1997 and again in 1999, which resulted in massacres of Madurese migrants by local Dayaks. The war leaped across the province in 2000 and the ethnic cleansing of about 500 Madurese by Dayaks happened in the town of Sampit in Central Kalimantan in 2001 (ICG, 2001b). The police, who had been in charge of internal security since 1999, proved incapable of stopping the massacre while TNI was deployed too slowly. The main reason for the failure of the local territorial command to contain the scale of violence was no doubt the lack of professionalism. The TNI was not trusted by the indigenous Dayak community as the former had exploited Dayak land by promoting illegal logging in the forest for decades. TNI's involvement in illegal logging was one of its typical business activities aiming to accumulate off-budget revenue to improve soldiers' welfare and cover other operational costs. For Dayaks, the TNI was the enemy that could not be trusted. In facing the riots of Dayaks against Madurese, TNI found that it was powerless to calm down Dayaks because they believed soldiers were never neutral or trustworthy.

In addition to large-scale ethnic violence, post-Suharto Indonesia experienced inter-religious violence, as in the cases of Ambon and Poso. Let us examine the case of Ambon here. As van Klinken suggests, the eruption of fighting in January 1999 made Ambon the sight of the most shocking violence seen in Indonesia since the anti-communist pogroms of 1965–1966 (van Klinken, 2007, p. 88). Until the peace agreement in 2002, Ambon suffered from an intense religious conflict that persisted partly due to an incapable local security apparatus that also took part in the fighting. In addition, there was a massive influx of outside militia forces that escalated and prolonged the conflict. What started ostensibly as a quarrel between a minibus driver and a passenger, spun out of control after the 1999 general election in June, as riots broke out in Ambon and the surrounding areas. This religious war lasted for 3 years, and was fueled by the military.

First, the local military command apparently abandoned its professional duty to maintain neutrality and became actively involved in the violence by backing Muslim groups against Christians. It was not hard to imagine how local soldiers, whose families and communities were attacked by the rival religious group, became angry and took revenge on the enemy. Some of these soldiers deserted their units and worked as mercenaries. They joined the war by training militias, supplying weapons to gangs, and leading the attack. Brig. Gen. Mustopo, who headed the Ambon Command in 2001–2002, acknowledged that about 18% of his

soldiers, or several hundred troops, deserted in 2000 alone.⁹ The local military command was clearly in chaos as troops siding with Muslim groups fought against Christian combatants who had many sympathizers in the local police (about 70% of the Ambon police were Christian) (Crouch, 2010, p. 249). The proxy war continued as Jakarta's TNI headquarters did not pay enough attention to the developments in Ambon in early 1999 as it was preoccupied with the situation in East Timor and preparing for the anticipated crisis after the referendum planned for August.

Second, the local military command also encouraged paramilitary groups consisting of youth gangs and militias to participate in the communal violence. For the Christian side, prominent groups included Laskar Kristus, Maluku Sovereignty Front (FKM), and Christian Boys (Coker). It was later revealed that Coker's leader, Berthy Loupatty, worked for the Army Special Force (Kopassus). On the Muslim side, Laskar Jihad and Laskar Mujahidin were two notorious groups, both coming from outside of Ambon. The presence of Laskar Jihad, in particular, was very important in understanding the role of TNI. Laskar Jihad was originally formed in 1999 as the militant wing of a Salafi Islamic organization in Yogyakarta, and it soon became active in recruiting volunteer fighters in Java who could help Muslims in the war in Ambon. President Wahid barred the group from Ambon, but about 3,000 Laskar Jihad members arrived there in May 2000 with the support of the local military command which later supplied them with standard military weapons (Hasan, 2006, pp. 186–190). Following the arrival of Laskar Jihad, the religious killing intensified and shifted the power balance in favor of the Muslims in line with local soldiers' sympathies. Aside from this tactical advantage, the TNI also had a material interest in welcoming Laskar Jihad to Ambon. As discussed above, local TNI units were typically involved in off-budget business activities – such as illegal logging – to earn extra-revenue. In the Ambon conflict, the military could profit from supplying weapons and ammunition to the well-funded Laskar Jihad. The collaboration between the military and Laskar Jihad lasted until mid-2001 when Wahid, who was highly unpopular among military elites, was replaced by Megawati as president, and the U.S.-led war on terrorism generated pressures on the Indonesian government to crack down on radical groups, including Laskar Jihad. It was under the Megawati government in early 2002 that the peace agreement was initiated in Ambon. Although this chapter does not discuss the religious war in Poso between 1998 and 2001, the local military command in Poso and Laskar Jihad engaged in similar collaborative relations (Sangaji, 2007).

Communal violence had a significant impact on military reform in Indonesia. First, TNI's territorial commands in remote areas were deeply involved in the local political economy, and the communal conflict, which destabilized the authority of post-Suharto civilian governments in these regions, effectively strengthened the

⁹“Maaf, Salah Pengertian”, *Tempo*, May 26, 2002. For more, see International Crisis Group (2002c).

autonomy of local military commands in exercising political and business power. For the local TNI, the reform discourse at the national level – for example, political non-intervention, withdrawal from internal security, and abandoning non-military positions reserved for the military – was not relevant amid the security crisis. Sustaining low-intensity conflict in fact helped extend the opportunity for local commands to advance their business interests, involving protection rackets, illegal logging, arms smuggling, and so on. In this sense, the post-authoritarian reform aiming to promote a professional military was in practice undermined seriously at the local level where the conflict erupted and restoration of order, if not law, became the top priority. Intentionally or not, TNI's territorial commands more or less played this "politics of insecurity" during the outbreak of communal violence in West and Central Kalimantan, Ambon and Poso during the early years of the democratic transition.

Second, at the national level, the spread of local conflicts and the apparent inability of the police to handle these security problems effectively empowered anti-reform conservatives within the TNI who argued that splitting the police from the military was misguided. Significantly, the local chaos strengthened their hand in establishing local military commands in post-conflict areas in the name of defending national stability. In Ambon, soon after the conflict erupted, the Ambon Regional Command (Kodam XVI/Pattimura) was established in May 1999. In Kalimantan, the TNI newly created a Regional Command (Kodam XII/Tanjungpura) overseeing West and Central Kalimantan. Moreover, following the conflict in Poso the regency was divided into three areas with the creation of two independent regencies, namely Morowali (1999) and Tojo Una-una (2004). This administrative division was aimed at alleviating the conflict and promoting peace, but for TNI, the new regencies provided an opportunity to establish new local commands. TNI has insisted that it is not the TNI, but local officials who decide whether or not to have a local military command. It is not so difficult for TNI, however, to invoke the politics of insecurity and "enlighten" local parliamentarians about the utility of embracing territorial commands in their regencies. Seemingly the current TNI leadership is not in a hurry to establish local commands there, perhaps reflecting the reality of today's civil-military relations in which civilian elites no longer pressure TNI to abolish its territorial command system. This hands-off policy means that the TNI faces little pressure to enhance accountability for the entrepreneurial, fundraising activities of local territorial commands.

Conclusion

Military reform is not produced in a political black box; it is indeed a product of politics shaped by the tug-of-war between reformers and the old guard within the military; between political and military elites; and between civil society and the state power. Various tugs-of-war and the opportunities created by crisis determine the pace, scope and direction of military reform. Significantly, battles over reform

are influenced by the country's perceived security condition of the time. In times of peace, for example, reform pressures can be powerful, but during crisis, resistance to change and space for backsliding on reform emerges.

This chapter clarifies the ways in which TNI has manipulated the state of "insecurity" to control the pace and direction of military reform. I examined how different security problems – namely the secessionist movement in Aceh, transnational terrorism in Java and Bali, and communal violence in Kalimantan and Ambon – influenced civil-military relations and military reform. First, separatism in Indonesia provided TNI with an opportunity to assume the guardian role of fighting to preserve national unity and to stave off the threat of disintegration. By invoking nationalism, national security and the prospect of Balkanization, TNI was able to justify resisting and sabotaging efforts of civilian political leaders to negotiate with rebels. Undoubtedly, the success of TNI in defending its control over security matters and insulating TNI from civilian meddling has emboldened anti-reform elements in the military who understand how to legitimize their insubordinate and illicit actions and know they can do so with impunity.

Second, I discussed how the war against terrorism enabled TNI to question the validity of separating security and defense by redefining security threats and its role in dealing with them. As the global war on terrorism bolstered the role of the police, TNI invoked the "gray zone" theory, claiming that the emergence of "non-traditional" threats – such as terrorism and transnational crimes – requires military activities in areas that lay in-between traditional concepts of security and defense. To some extent, this was TNI's initiative against the 1999 reform of splitting the police from the military and a strategy for reclaiming some of the turf lost to the police when the institutions were split apart. TNI's strategy was relatively successful and its role in domestic counter-terrorism operations was institutionalized by the creation of the National Anti-Terrorism Agency (BNPT) in 2010.

Finally, we have seen the impact of communal violence. In conflict areas, the concept of military reform was viewed as irrelevant and meaningless. Ethnic and religious violence in Kalimantan and Ambon clearly illustrated the autonomy of local commands vis-à-vis TNI headquarters in Jakarta, particularly concerning their off-budget fundraising. The communal fighting was partially related to local military business activities – such as illegal logging and arms trade ventures – that significantly compromised TNI's professional stature and effectiveness in dealing with local conflict. In Ambon, the TNI worsened the situation by involving outside paramilitary gangs and militias. This military sabotage illustrated TNI's lack of organizational accountability at the local level, while its manipulation of insecurity effectively convinced political leaders about the need for increasing the number of territorial commands, countering pressures from civil society to reduce their number.

In his recent book, a long-time observer of the Indonesian military, Harold Crouch, argues that there are four unresolved issues regarding military reform in Indonesia; namely the "grey zone," territorial structure, military finances, and human rights violations (Crouch, 2010). My discussion in this chapter examines

all these issues and links them together in the context of TNI's politics of (in) security. Many agree that TNI – in line with the democratic transition – has withdrawn from politics, meaning non-intervention in elections, no seats in parliaments, and no political sections in TNI's structure. These developments all vouch for TNI's withdrawal from the “formal” political process and institutions. It does not mean, however, that TNI cannot play politics outside these formal channels. As we have seen, the military can influence, sabotage and bypass political decisions by civilian authorities and dictate the pace and scope of reform by playing the politics of (in)security. Thus, for democratic reformers in Indonesia it is important to understand why and how the military is resisting reforms in order to structure incentives and disincentives accordingly.

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Chapter 10

The Niger Delta Conflict and Military Reform in Nigeria

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Introduction

In terms of democratic governance, Nigeria has a troubled history. Since its independence in 1960, Nigeria was under military rule for 29 years. Several *coup d'états* led to frequent changes in military regimes, interrupted by three failed attempts to establish a fragile democratic system – none lasting longer than 6 years (1960–1966, 1979–1983 and 1993). With the renewed transition to a democratic system in 1999, Nigeria experienced its longest period of civilian rule. But this transition process is complicated by severe internal tensions. One of the most important is the Niger Delta conflict. At the core of this conflict lies the dispute about the control over resources. Nigeria is one of the world top ten oil exporting countries with oil revenues generating 40% of the Gross Domestic Product (GDP) and over 70% of the federal budget. While the oil deposits are almost completely located in the Niger Delta, this region is, with almost 80% of the population living below the poverty line, one of the poorest of Nigeria (Joel, 2008, p. 163).

Hardly surprisingly, thus, tensions arose between the central government and local residents over the distribution of oil revenues. Since 1990 various resistance groups emerged in the Niger Delta and the conflict is marked by a steady escalation of violence which gained momentum after the democratic transition of 1999. Especially since the discussion of the “greed”-thesis (Collier & Hoeffler, 2000) on rebellion in resource abundant countries, there has been a vast literature on the emergence of the Niger Delta conflict and on the formation of militia groups. In this context the military is primarily examined as an actor exacerbating or containing

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insurgency (e.g. International Crisis Group, 2006a, p. 25; Oyefusi, 2008, p. 542 f.),¹ while the impact of the Niger Delta resistance on the professionalism of the military is largely neglected. Yet, the large-scale deployment of the military to domestic crisis zones may have significant repercussions on civil-military relations. The central question of this chapter is therefore how the involvement of the Nigerian armed forces in the Niger Delta conflict affects military reform.

I subsequently argue that, through the escalation of violence, the military has become strongly enmeshed in domestic security affairs, which contradicts the western ideal of military reform. As long as civilian control is guaranteed and civilian political institutions have sufficient legitimacy, a domestic engagement is not necessarily a crucial problem for the democratic ethos of the military (Alagappa, 2001, p. 4). However, I will show that in the case of the Niger Delta conflict the military is deeply involved in human rights violations and attacks on civilians without fearing consequences, as the military often enjoys impunity. A second major obstacle for military reform is the unclear legal provisions on domestic troop deployment which is contested between the executive and the legislative branch. This situation is further aggravated by a tendency of the military to act on its own. The last effect I will discuss is the involvement of military officers in illicit revenue generation.

In order to elaborate these arguments it is necessary to shortly introduce the main characteristics of the Niger Delta Conflict. Therefore, the first part of this chapter outlines the origins of the conflict over the control of oil revenues between contending regional interests. The second section introduces the most important insurgency groups since the 1990s. This lays the groundwork for the analysis of the involvement of the military in the Niger Delta, as it highlights the different threats to oil operations and subsequent physical security. The third part examines the role of the military in domestic security restoration and the extent to which the military is involved in the Niger Delta. The following section deals with the consequences of the involvement of the military as outlined above. The concluding section summarizes the findings.

The Role of Oil in the Niger Delta Conflict

Since the exploration of oil in Nigeria, the country's economy underwent a transformation towards a strong oil dependency. In the process, Nigeria became a classical rentier state.² Within this setting, a dispute over the control of oil revenues evolved between the federal government and representatives of the Niger Delta.

¹ In the theoretical literature, the efficiency of the military usually just determines the minimum capacity to act, which rebels have to develop as they seek to survive (Collier & Hoeffler, 2000, p. 5; Gates, 2002, p. 121; Fearon & Laitin, 2003, p. 75; Weinstein, 2005, p. 599; Collier et al., 2009, p. 4).

² A rentier state is defined by Beblawi as a state that generates its revenues by a concentration of exports and "only a few are engaged in the generation of this rent (wealth), the majority being only involved in the distribution or utilization of it" (cited in Ross, 2001, p. 329).

The relationship between the Nigerian federal government and the oil-producing states is important for understanding the origin of the Niger Delta conflict. The roots of these tensions can be traced back to the nation-building process. Since the amalgamation of two British Protectorates in 1914, several conflict lines have exacerbated Nigerian nation-building. Because of their heterogeneity, the Islamic North and the Christian South were treated as if they did not belong together by the British rulers (Omeje, 2006, p. 25 f.; Adejumbi & Aderemi, 2002, p. 192 f.). In 1939, the southern part was divided into a western and an eastern part, each representing one main ethnic group – the Yoruba and the Ibo. After independence (1960), the North was able to form a government without cooperating with the southern politicians. With more than 250 different ethnic groups, the interests of most ethnic minorities were thus hardly represented in the newly independent Nigerian state.³ In each region the economic and political interests of the dominant ethnic group eclipse the political positions of minorities. As a result loyalties are more focused on the individual region instead of the nation state (Ikime, 2002, p. 54).

The strongest outbreak of the tensions in Nigeria was the Biafra War (1967–1970). When the secessionists annexed the oil fields in the Niger Delta, control over oil became a central topic in Nigerian politics for the first time.⁴ At the time the war started, with less than 11% of GDP (1966), oil exports did not constitute the main source of income, clearly trailing agriculture which amounted for over 55% of GDP. However, the growth rate in the oil sector was 38% in the final years preceding the war – almost 20 times higher than agricultural growth. Consequently, the oil sector was already of strategic relevance (Adejumbi & Aderemi, 2002, p. 195). Oil revenues proved to be increasingly crucial for the state's capacity to act, resulting in the federal government's intention to gain more control over the oil sector (Ikporukpo, 2002, p. 211). Therefore, it enforced the Petroleum Act of 1969, which vested "the entire ownership and control of all petroleum in, under or upon any lands [...] in the state".⁵ The circumstances of how this legislation was promulgated had, and still have, significant impact on the tensions between the Niger Delta and the federal government, because:

[it] was initially a war instrument against a secessionist regime but it was never repealed. In the eyes of many activists on the issue, the government thus continues metaphorically to wage war against the same oil-producing communities it sought to 'liberate' during the Biafran war. (International Crisis Group, 2006b, p. 4)

With oil prices rising since the 1970s, there was a strong state-driven extension of the Nigerian oil sector. This led to the classic "Dutch Disease" syndrome: a contraction of the agriculture sector and the loss of international competitiveness of

³ Due to this ethnic-linguistic diversity Nigeria is today subdivided into 36 states.

⁴ Oil control was an important strategic feature for the Biafra movement, although it was not "a basic cause of secession" (Isumonah, 2002, p. 32).

⁵ Petroleum Act (1969), §1,1.

non-oil exports, due to an appreciation of real exchange rates (Jerome, 2007, p. 95). As a result, oil resources constitute 90% of foreign income and over 70% of government revenues today. It was this transformation of the economy that made Nigeria one of the most oil dependent states in the world (Ross, 2003, p. 19 f.). Political elites solely focused on the control of oil rents and the use of them for maintaining their patrimonial networks, because “it is at the level(s) of the collection, and distribution of oil revenues, that state ownership of oil represents real power” (Obi, 2007, p. 22).

The dispute about revenue distribution in Nigeria is dominated by two basic principles. Representatives of the Niger Delta stress the “principle of derivation”, which awards oil rents to the states where the oil revenues are generated. They justify their demands mainly with historical and environmental reasons. Before oil was extracted in economically profitable quantities and the regionally diversified agricultural sector constituted the main source of revenues, all rents flowed to their states of origin. Even more important for today’s oil production are the environmental effects, especially oil spills⁶ and gas flaring,⁷ which primarily affect local residents (Ukiwo, 2008, p. 81). However, the federal government and especially northern elites stress the “principle of need”, which allocates incomes by the share of responsibility in public goods creation to the different layers of the state – favoring the nationalization of revenues. Advocates for the centralization of revenues argue that this practice ensures a minimum national standard of living and minimizes regional differences. Furthermore, it has been argued that all oil deposits were vested in the crown, and with independence were transferred to the Nigerian state and not to the Niger Delta region (ibid., p. 80).

In the independence constitution (1960) the principle of derivation was reduced to 50%. At this moment, the overall importance of the oil sector was still small and each region had quite a strong and export-oriented agricultural production. Thus, the representatives of the dominant ethnic groups did not have an incentive to modify the distribution formula (Anugwom, 2005, p. 102). But the more oil rents contributed to the national budget, the more revenue generation was centralized. In 1970, the derivation principle shrunk to 45% and 5 years later dropped to only 20% (Ebeku, 2006, p. 292 f.). Ukiwo attributes this to the weak position of the oil-producing regions after the Biafra War (2008, p. 87). In the wake of peak prices for oil, the federal government cut the share of derivation down to a mere

⁶ Between 1976 and 1990 almost 2,800 oil spills with over two million barrels of oil entering the environment were registered in Nigeria (Daniel-Kalio & Braide, 2002, p. 441). In the 2005–2009 period, Shell alone reported between 150 and 250 accidents per year, with the volume of oil losses rising from 15,000 barrels in 2005 to over 100,000 barrels in 2008 and 2009 (SPDC, 2010, p. 2). The latest major accident occurred in December 2011 with at least 40,000 barrels of oil spilled (*The Guardian*, 22 December 2011, <http://www.guardian.co.uk/environment/2011/dec/22/nigerian-shell-oil-spill> accessed 10 February 2012).

⁷ Gas flaring refers to the burning of gas caused by oil drilling. In Nigeria is world’s number one gas flarer, with over 16 billion of cubic meters gas flared per year (Environmental Rights Action, 2005, p. 12). For the adverse effects on health conditions of the local residents, see Ibid., p. 24.

1.5% in 1982, provoking tensions between the oil-producing states and the federal government as political elites in the Niger Delta considered this process a discrimination of their ethnic groups (Omeje, 2006, p. 39). As a result of the early opposition, derivation was doubled to 3% in 1993. With the transition to democracy the derivation share on oil revenues increased to 13%.

Insurgency in the Niger Delta

The distribution of oil revenues constitutes a central, albeit not the only, motivation for the formation of different resistance groups in the Niger Delta since the 1990s. The history of militant groups shows a steady increase of violence as means to improve the position against the federal government. While the first protest groups were completely non-violent, with the transition to democratic rule militia groups resorted to increasingly violent tactics. Since the rise of today's most prominent group – the Movement of the Emancipation of the Niger Delta (MEND) – the spectrum of security threats has broadened significantly.

One of the first regions where oil was drilled was the Ogoniland. The Ogoni are an ethnic group and estimated to be half a million people living in an area of about 400 square miles in River State. In 1990 the Movement for the Survival of the Ogoni People (MOSOP) was founded, headed by the famous writer Ken Saro-Wiwa. The organization formulated its goals in the Ogoni Bill of Rights (OBR), with greater autonomy from the federal government as its main demand.⁸ But an OBR amendment of 1993 made clear that “the Ogoni people abjure violence in their just struggle for their rights within the Federal Republic of Nigeria” (cited in Unrepresented Nations & Peoples Organization, 1995, p. 9). In order to confront the state and the oil industry, MOSOP organized large-scale protest marches, such as on 4 January 1993, when over 250,000 Ogoni demonstrated against the environmental degradation caused by oil operations.

While MOSOP's protest was non-violent, the state's response was predominantly repressive. The state's reaction is one of the most illustrative examples of how the military regime suppressed civil society and laid the foundation for the subsequent escalation of violence. The security apparatus was used to keep the Ogoni under surveillance, detaining and torturing them – often without official charge or trial (Unrepresented Nations & Peoples Organization, 1995, p. 17). Attacks on Ogoni villages became a common feature of Niger Delta politics for the next years (Human Rights Watch, 2002, p. 20). Only with the death of Gen. Abacha in June 1998 and the following interim administration under Gen. Abdulsalam Abubakar, did the situation for the Niger Delta improve. The new government also ceased attacks on Ogoni villages (Oyinlade & Vincent, 2002, p. 145).

⁸ cf. Ogoni Bill of Rights (1990), (<http://www.waado.org/nigerdelta/RightsDeclaration/Ogoni.html>, accessed: 19 February 2011).

Nevertheless, the repression against the MOSOP had already influenced the sentiment of the Youths⁹: they interpreted the inability of MOSOP to defend itself against the state's security forces as a failure of non-violent dissent and regarded their ethnic leaders as too weak to enforce significant change (Osaghae et al., 2007, p. 11; Watts, 2008, p. 67). As a result, they started to mobilize themselves, with the Ijaw Youth Council (IYC) emerging as the most influential organization (Ukiwo, 2007, p. 600 f.). In this situation, financial and logistical support by political elites led to a new kind of struggle. Prior to the elections of 2003 almost all political parties hired and armed political "thugs" in the Niger Delta to disrupt their opponent's campaigns (Human Rights Watch, 2005, p. 4). The most important groups were the Niger Delta Peoples Volunteer Force (NDPVF) led by Alhaji Dokubo Asari and their rivals, the Niger Delta Vigilante (NDV) under the command of Ateke Tom. Cult and vigilante groups joined one of the two camps in order to protect their interests in oil theft, building a bipolar conflict structure (Hazen & Horner, 2007, p. 128).

The conflict escalated between 2003 and 2004, as tensions between the NDV and the NDPVF intensified. In the clashes between the two groups, dozens of innocent people and hundreds of militants died and about 50,000 people lost their homes (Best & Kemedi, 2005, p. 21–23). Clashes between the two factions were mostly located near strategically important locations for illegal oil bunkering (a Nigerian term for oil theft), because this constitutes the main income source of militant groups (Osaghae et al., 2007, p. 25 f.). Normally the crude oil is stolen directly from the transport system of oil companies (Onuoha, 2008, p. 104). The control of oil bunkering enables the militants to purchase arms and increases their capacity to launch military operations. About 10% of the total oil production in Nigeria is lost due to oil bunkering. This amounts to a volume between 100,000 and 700,000 barrels per day or 1.5–6.5 billion US dollars per year (Asuni, 2009a, p. 6). A conflict consultant group contracted by Shell, WAC Global Services, thus concludes that "[o]ne day's worth of illegal oil bunkering in the Niger Delta (at 100,000 barrels and US\$15/b) will buy quality weapons for and sustain a group of 1,500 youths for 2 months" (WAC, 2003, p. 43).¹⁰ Especially after the elections of 2003, rebels tried to compensate their lost sources of income by intensifying oil theft. They used techniques of a much higher degree of professionalism and built a growing number of illegal oil refineries in the Niger Delta creeks, so that today there are over 1,000

⁹ "Youths" is an overall term for often unemployed and unmarried boys and men between the ages 15 and 40, sometimes older (International Crisis Group 2006d, p. 6). For a discussion of the "Youth" concept and culture see Ikelegbe (2006, p. 88–91); Osaghae et al. (2007, p. 3 f.).

¹⁰ Considering that oil prices between 2005 and 2010 averaged around 75 USD/b and reached pikes over 140 USD/b (June & July 2008) the estimation is quite conservative (US Energy Information Agency, http://www.eia.doe.gov/dnav/pet/xls/PET_PRI_WCO_K_W.xls), even if it is taken into account, that black marked prices are estimated to be only a third of international oil prices (Ikelegbe, 2005, p. 222).

of these mostly improvised oil facilities and over 200 vessels are involved in the transport of stolen oil (Onuoha, 2008, p. 106).¹¹

With the extension of fighting to Port Hartcourt, the “oil capital” of the delta, President Obasanjo tried to chime in as a mediator. He arranged a ceasefire between Asari and Tom in October 2004, along with disarmament, demobilization and reintegration (DDR) approaches (Stratfor, 2009, p. 3). In this process, rebel leaders like Asari were criticized by ordinary rank-and-file militants to have betrayed the movement for financial gain (Hazen & Horner, 2007, p. 130).¹² Thus a deep rift split the former coalitions built around Asari and Ateke Tom. Although the war between the NDPVF and NDV came to a halt with the ceasefire, Asari was still engaged in separatist movements before he was detained on grounds of treason. In retaliation, Ijaw Youths threatened to destroy oil facilities (International Crisis Group, 2006a, p. 5), but without the central leader, their capacity to act shrank drastically. The whole organization built around Asari and former coalitions with small gangs and cult groups broke up in the amnesty process, as internal conflicts about the benefits of the program divided the militants. The vanguard role of NDPVF had come to an end, a vacuum that the Movement of the Emancipation of the Niger Delta (MEND) soon filled (Hazen & Horner, 2007, p. 79).

MEND can be best described as an umbrella organization of rebel groups that claims to fight for self-determination of the Niger Delta. Even if MEND is the most important rebel group in the Niger Delta at present, it is still difficult to identify its organizational structure. MEND is “something like a ‘franchise’ insofar as it operates in a tense and complex way with other shady militant groups” (Watts, 2008, p. 69). The decentralized network structure encumbers efforts to track down MEND operatives, which insulates its leaders from state repression or the inclusion into patronage networks of political elites (Hanson, 2007) – a lesson learnt from MOSOP and NDPVF. MEND cadres use different means to exert pressure on the state apparatus: the destruction of oil facilities on land and offshore; and direct attacks on security personnel and kidnapping.

From the very beginning MEND has been associated with oil sabotage. MEND gave its first sign of existence through a pipeline explosion at the end of 2005. As the attack aimed at stopping oil production instead of profiting from oil bunkering, it could be argued that this was “[t]he first act of oil terrorism in Nigeria” (Onuoha, 2008, p. 107). Compared to NDPVF this was a completely new tactic. The rebels do not only try to steal oil, but also to destroy oil facilities to reduce the main revenue source of the state until the government makes concessions to the rebels. The Niger

¹¹ *The Punch*, 16 December 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1262255331&Category=news>, accessed 19 February 2011. *Nigerian Compass*, 24 February 2010, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1316496820&Category=news>, accessed 10 February 2012; Legal Oil, 13 September 2011, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1316496820&Category=news>, accessed 10 February 2012.

¹² The federal government paid between 120,000 and 1,800,000 Naira (1,000–12,000 USD) per weapon (Elendu Reports, 14 November 2005), with an additional payment from the River State governor of US\$1,800 per weapon (Stratfor, 2009, p. 3).

Delta has a vast oil distribution network with over 3,000 km of pipelines crossing the area, providing plenty of opportunity for oil sabotage, as it is almost impossible to keep this far reaching network completely under control (International Crisis Group, 2006a, p. 24).

These attacks became a common tactic of MEND, leading to massive shortages in oil production for Nigeria. With a single attack on oil transportation facilities, MEND was able to reduce oil production in Nigeria by about one-third (850,000 bpd) in October 2006. While in 2007 oil vandalism declined, attacks on oil facilities rose sharply in mid-2008. The oil production shrank for some time to one-third of the maximum capacity.¹³ An oil blockade of this extent was unprecedented.¹⁴ The militants also developed sophisticated techniques to carry out attacks on offshore oil operations. In early January 2006 they attacked an oil platform 10 miles offshore¹⁵ and sank an oil barge on 3 October 2006. Until 2008, MEND expanded its range of operations to 80 miles offshore (International Crisis Group, 2009, p. 3). With 114 piracy attacks in the same year, the waters of Nigeria were among the most dangerous worldwide – next only to Somalia. In 2010 the number of incidents dropped to 58 from 91 the previous year, but the level of violence in these incidents rose sharply.¹⁶ The damage for the economy is tremendous: the federal government estimates losses due to illegal maritime activities to be 10% of the Nigerian GDP.¹⁷

An additional tactic MEND has employed is the systematic kidnapping of foreign oil workers. Kidnapping evolved to a widespread industry throughout the Niger Delta, with militants as well as ordinary criminals participating.¹⁸ Between May and August 2006 alone, 37 foreign workers were kidnapped, an average of three incidents per month.¹⁹ In the run-up to the elections of April 2007 a second boom of kidnapping occurred. As a response to the incidents in the summer of 2006, most Transnational Companies (TNCs) had withdrawn their external staff or increased security precautions dramatically. As a result, locals increasingly became kidnap victims, rising to 353 abducted Nigerians in 2008. The Nigerian Minister of Police reported in 2009 that over 500 incidents of kidnapping occurred in the first 6 months of that year.²⁰

¹³ *Stakeholder Democracy Network*, Newswire July 2008, pp. 1 f.

¹⁴ *Stakeholder Democracy Network*, Newswire June 2009, p.1.

¹⁵ *Vanguard*, 16 January 2006, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1138832936&Category=news>, accessed 19 February 2011.

¹⁶ Agence France-Presse, 3 January 2011, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1294812419&Category=news>, accessed 19 February 2011.

¹⁷ *Toboc*, 3 June 2010, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1282786985&Category=news>, accessed 19 February 2011.

¹⁸ *Leadership*, 25 September 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1255471619&Category=news>, accessed 19 February 2011.

¹⁹ Nigeria Master Web, *Chronology of Nigerian militants' Attacks 2006–2007*, <http://www.africanmasterweb.com/AdSense/NigerianMilitants06Chronology.html>, accessed 19 February 2011.

²⁰ *Daily Independent*, 23 July 2009, <http://allafrica.com/stories/200907230111.html>, accessed 10 February 2012.

Military Engagement in the Niger Delta

As shown above, the security situation worsened in the Niger Delta through increasing militancy. The central question of this chapter is how this trend affected the military. This section thus examines the involvement of the military in domestic security enforcement and shows that the armed forces play a significant role in Niger Delta affairs due to escalated security threats. Especially since the emergence of MEND, all branches of the military have been deployed in the Niger Delta and entrenched their position by a differentiation and specialization of their engagement. Before examining the actual involvement in domestic security affairs, we must take a look at the role of the military mandated by the constitution, as this lays the groundwork for the legal use of the military.

The role of the Nigerian Army is described in Section 217 of the 1999 constitution. It shall:

- (a) Defend[. . .] Nigeria from external aggression;
- (b) Maintain[. . .] its territorial integrity and secure[. . .] its borders from violation on land, sea, or air;
- (c) Suppress[. . .] insurrection and act[. . .] in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly
- (d) Perform[. . .] such other functions as may be prescribed by an Act of the National Assembly.²¹

While subsection (a) and (b) describe the traditional role of the military as the state's institution to defend the country against external threats, section (c) contains the groundwork for the domestic use of the military in the Niger Delta. In respect to military reform, the ideal situation would be a military only used against external threats, while the police enforce internal security. However, confronting a major internal security threat may make it necessary to entrust the military with domestic security tasks, but the competences and assignments for the military should be clearly defined (Organization for Economic Cooperation & Development, 2007, p. 124). As the Nigerian constitution generally permits the use of military force against insurgencies, I will now turn to the question as to how the Niger Delta rebellion involved the military in domestic security matters.

At the beginning of the period under study, the government employed the paramilitary Mobile Police (MPOL) to suppress early resistance in the Niger Delta. When the Shell Petroleum Development Company (SPDC) became the target of the first major incidence of violence in October 1990, the oil company called for the MPOL. The latter dissolved the protest and raided the town of Umuechem (River State) from where most of the Youth protesters came. During the operation, 80 villagers died and almost 500 houses were destroyed (Human Rights Watch, 1999, p. 112).

²¹ Nigerian Constitution 1999: §217, 2.

In response to the growing tensions with the Ogoni, Shell decided in 1993 to withdraw oil operations from Ogoni land and published a report, stating a financial loss of 200 million US\$ and calling for immediate action (International Crisis Group, 2008, p. 3). With the withdrawal from oil operations in the Ogoniland, the military was brought in to enforce internal security. Three months after publicizing the economic costs of the Ogoni crisis, the police chief of River State called for “the Nigerian Army, the Nigerian Air Force, the Nigerian Navy and the Nigerian Police [...] [to] restore and maintain law and order in Ogoni land” (cited in International Crisis Group, 2008, p. 3). The later commander of the Internal Security Task Force (ISTF), Major Paul Okuntimo, wrote an internal memo to the River State government, concluding that “Shell operations [are] still impossible unless ruthless military operations are undertaken for smooth economic activities to commence” and recommended “wasting operations coupled with psychological tactics of displacement/wasting” (Unrepresented Nations & Peoples Organization, 1995, p. 17).

From May 1994 onward, the newly created ISTF launched a large-scale offensive and raided Ogoni villages systematically. The ISTF was essentially composed of army soldiers and it replaced and absorbed the paramilitary Mobile Police (MPOL). In the first days 18 villages were attacked, looted and pillaged. Several residents lost their lives, women were raped and hundreds of Ogoni Youths were detained and tortured (Unrepresented Nations & Peoples Organization, 1995, p. 25 f.). The ISTF was withdrawn to the barracks in September 1998 and military camps within Ogoniland were disbanded (Human Rights Watch, 1999, p. 117). Thus it appeared as if the democratization process would bring a clear division between internal security enforcement, provided by the police, and external defence by the military as suggested by Western blueprints of security sector reform.

However, with the escalation of violence between the NDPVF and the NDV after the 2003 elections, the situation changed because of the heightened security threat. The Police were not able to fight the well equipped rebels effectively and could not assure the security of the local population (Human Rights Watch, 2005, p. 17). In May 2004, River State Governor Odili launched an offensive against Asari, using police and military personnel. But the NDPVF defended itself so effectively that they took the fight to the River State capital Port Hartcourt, sending alarming signals to the oil industry (Statfor, 2009, p. 2). This forced Odili to call for military support from Abuja. In September 2004, President Gen. Obasanjo mobilized the Joint Task Force (JTF), also known as Operation Restore Hope, to fight the NDPVF. The JTF is, similar to the former ISTF, an amalgam of the Armed Forces, the police and the State Security Service. It was set up as a reaction to the growing unrest in the delta in 2003 and 2004.²² The force undertook air strikes against several villages, which were presumed to be rebel camps (Human Rights Watch, 2005, p. 19). After the ceasefire between the two vigilante groups, the JTF was not disbanded, but as a result of the formation of MEND instead increased its engagement in the Niger Delta.

²² *This Day*, 24 December 2010, <http://www.thisdaylive.com/articles/understanding-the-joint-task-force/71401/>, accessed 19 February 2011.

As previously mentioned, MEND intensified attacks on oil installations, and it destroyed pipelines instead of simply manipulating them. Guarding oil installations and ensuring oil operations thus became a major justification for the JTF in the Niger Delta.²³ This is expressed literally in the reorganization of the Task Force in January 2012, when its codename was changed from Operation “Restore Hope” to “Pulo Shield”, “*pulo*” being an Ijaw word for oil.²⁴ While protecting oil installations, soldiers clashed regularly with militants. Furthermore the JTF also carried out attacks against militants’ camps and on illegal oil refineries, destroying over 600 of the latter in 2009 and about 500 refineries in a single operation in March 2011.²⁵ In summer 2009, the Niger Delta Conflict reached its climax and escalated in a dramatic civil war-like situation. Large-scale military attacks on rebel camps in Delta State started on 13 May 2009, and led to a sealing of the area. The military used gunboats, helicopter gun ships and deployed 3,000 ground troops.²⁶ Thousands of residents fled because of the clashes between the military and the rebels.²⁷ In the following weeks, troops successively attacked villages in River and Delta States till the end of June 2009. Reports on the fighting differed widely, as the region was completely sealed off for observers. While the military announced that there were no civilian casualties, a spokesman of the Ijaw National Congress reported thousands of deaths.²⁸

A prominent justification for the raid in 2009 was the attempt to free hostages held by militants, but even before this the military was strongly involved in chasing kidnappers. At the height of the kidnapping wave in August 2006, Obasanjo instructed the security forces to answer “force with force” and ordered a crackdown on hostage takers.²⁹ Only a few days later, soldiers burned down a village in order to take revenge for the death of one of their men. After the abduction of 15 children in Aba, Abia, President Goodluck Jonathan deployed the JTF to the city in order to track down the kidnapping gangs in October 2010. The fighting resulted in an official death toll of 172 alleged kidnappers and over 200 arrests. The following

²³ *ibid.*

²⁴ *This Day*, 12 January 2012, <http://www.thisdaylive.com/articles/jtf-in-niger-delta-restructured/106882/>, accessed 10 February 2012.

²⁵ *The Punch*, 16 December 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1262255331&Category=news>, accessed 19 February 2011; *Agence France Press*, 7 March 2011, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1299577453&Category=news>, accessed 10 February 2012.

²⁶ *The Punch*, 16 May 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1242461086&Category=news>, accessed 19 February 2011.

²⁷ *BBC News*, 19 May 2009, <http://news.bbc.co.uk/2/hi/africa/8062315.stm>, accessed 19 February 2011.

²⁸ *Stakeholder Democracy Network*, Newswire May 2009, pp. 1 f.; *BBC News*, 18 May 2009, <http://news.bbc.co.uk/2/hi/africa/8054585.stm>, accessed 19 February 2011.

²⁹ *Integrated Regional Information Networks (INRI)*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60373>, accessed 19 February 2011.

weeks the JTF was further prosecuting kidnapers in the Delta, raising the number of arrests to 450.³⁰

The Navy has also been involved in the Niger Delta conflict due to the geographical conditions in the delta, which is mainly covered by swamps and creeks. The Navy's vanguard position in securing Nigeria's waters is challenged by the Maritime Security Agency Bill which, despite strong opposition, passed second reading of the Senate in December 2011.³¹ The bill proposes that the new agency should "provide clear direction and leadership in the establishment of a platform for national maritime security [...]"³² and would thus overlap with the Navy's responsibilities. But up to now, the Navy has been the most important institution to confront MEND. With the rise of MEND the tasks for the Navy have broadened, as MEND also conducted maritime operations. In the Armed Forces Act of 1993, the Navy is explicitly charged to fight oil bunkering.³³ Since February 2001, the Navy has been involved in operations against oil bunkering, escorting oil tankers and checking vessels for illegal cargo (Davis et al., 2006, p. 11). With the deteriorated maritime security situation caused by MEND, especially offshore kidnappings, the Navy faced new challenges. The Navy's adjustment strategy to the new situation focused primarily on increasing effectiveness, especially by addressing equipment deficits (Asuni, 2009a, p. 9)³⁴ and forming Special Forces. Since 2005, the Navy has been equipped with additional combat vessels and surveillance helicopters (Davis et al., 2006, p. 14).³⁵ In order to further improve the military's ability to confront militants, a special unit, the Nigerian Navy Special Boat Service (NNSBS), was established. The new special force was designed on the model of the US Navy Seals and similar Special Forces. The Navy stated that the specialization within the Nigerian Navy became necessary because of the incessant attacks on oil facilities.³⁶ Yet, the JTF was increasingly confronted with claims of human rights abuses and reports of extrajudicial killings. For example, the

³⁰ *Vanguard*, 26 November 2010, <http://www.vanguardngr.com/2010/11/jtf-arrests-450-suspected-kidnappers-in-s-east-army-chief/>, accessed 19 February 2011; *Leadership*, 13 October 2010, <http://allafrica.com/stories/201010130500.html>, accessed 19 February 2011.

³¹ *Vanguard*, 11 December 2011, <http://www.vanguardngr.com/2011/12/maritime-security-agency-bill-passes-second-reading-at-senate/>, accessed 10 February 2012.

³² Maritime Security Agency (Establishment, ect.) Bill 2011, Part II, Section 3 (a), www.nass.gov.ng/nass/legislation.php?id=1218, accessed 10 February 2012.

³³ Armed Forces Act, Decree No 105 of 1993, § 4,(a),i.

³⁴ *Vanguard*, 24 January 2006, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1138919228&Category=news>, accessed 19 February 2011.

³⁵ *Vanguard*, 25 January 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1232956444&Category=news>, accessed 19 February 2011; *Vanguard*, 16 November 2011, <http://www.vanguardngr.com/2011/11/navy-acquires-6-gun-boats-for-n-delta-creeks/>, accessed 10 February 2012; *Vanguard*, 14 December 2011, <http://www.vanguardngr.com/2011/12/nns-thunder-arrives-soon/>, accessed 10 February 2012.

³⁶ *Daily Sun*, 25 December 2009, <http://www.sunnewsonline.com/webpages/features/featurettes/2009/dec/25/Featurettes-25-12-2009-002.htm>, accessed 19 February 2011.

Maritime Workers Union of Nigeria accused the JTF of killing 90 unarmed civilians and of destroying over 300 boats of members of the union in 2008 alone (International Crisis Group, 2009, p. 4).

Consequences for Military Reform

The continuing presence of the JTF in the Niger Delta has generated much criticism of the military. The Niger Delta Civil Society Coalition condemned the “military security only” approach and *ad hoc* responses to militants, which cause massive harm for civilians.³⁷ This section examines the three most important incidents of this kind, namely the attack on Odi in 1999, Odioma in 2005 and the latest attack on Ayakoromo in November 2010. There is a consistent lack of investigation on these incidents, giving the military impunity for human rights violations. The attacks also reveal a major problem of accountability and deficient control over military forces. The latter is illustrated by the parliamentary debate on the military raid in the Niger Delta in May 2009. Besides the impact on civil-military relations, the persistent engagement in the Niger Delta also affects the professionalism of the Armed Forces. Frequent interaction between the military and militants encourages illicit support of and active involvement in oil bunkering, small arms trade and information sharing with rebels.

Human Right Violations and the Democratic Control of the Military

The first incident, a military raid on the village of Odi in November 1999, took place a few months after the democratic transition. The central government sought to prosecute suspects from Odi who allegedly had killed seven police officers. When the community failed to hand over the Youths the military attacked and destroyed Odi using armoured vehicles and tanks. Accounts of the death toll varied widely. While government sources reported 23 casualties, independent observers estimated that several hundred villagers had lost their lives in the attack (International Crisis Group, 2006c, p. 6). Such events further increased the grievances of the Youths and strengthened militant groups (Watts, 2008, p. 67), especially since there was no investigation in the Odi raid and no soldiers were prosecuted (Human Rights Watch, 2002, p. 21).³⁸

³⁷ *Niger Delta Civil Society Coalition* (NDCSC), 5 Sept 2008, <http://www.wmd.org/documents/1008demnews10.pdf>, accessed 19 February 2011.

³⁸ *The Nation*, 31 October 2010, <http://thenationonlineg.net/web3/Sunday-magazine/cover/17496.html>, accessed 19 February 2011.

The Odi incident brought a crucial problem of Nigerian civil-military relations to light: the lack of clear legislation over the deployment of troops. In the impeachment initiated by the House of Representatives against President Obasanjo in 2002, the latter was accused to have:

[. . .] authorised the deployment of military troops to Odi to massacre innocent citizens without recourse to the National Assembly contrary to section 217(2) C of the 1999 Constitution which requires firstly for some conditions to be prescribed by an Act of the National Assembly for the use of the Military in that regard.³⁹

Obasajo, on the other hand, referred to section 218 (1) of the 1999 constitution and section 8(1) of the Armed Forces Act No. 105 of 1993, arguing that he is “not required [. . .] to have recourse to the National Assembly”.⁴⁰ He further belittled the role of the National Assembly in the definition of the use of military by stating that:

Undoubtedly, it was not the intention of the framers of the Constitution that a Section of the country that is engulfed in crisis be allowed to degenerate and be destroyed only because the National Assembly is yet to enact an Act prescribing conditions under which the Armed Forces would operate when called upon to act in aid of civil authorities. And if the National Assembly has to enact laws for each situation the affected areas would have been completely destroyed before the Law is enacted.⁴¹

This statement shows how Obasanjo places the operational effectiveness of the military over democratic control mechanisms. This is particularly crucial, as attacks like on Odi did not remain an isolated incident.

On 19 February 2005, soldiers of the JTF invaded Odioma village in Bayelsa State after an attack on a government delegation. The military opened fire on civilians, raped women, and pillaged the village (International Crisis Group, 2006c, p. 7). A similar raid occurred between 15 and 17 February 2005, on the Ijaw town Okerenkoko in an attempt to stop oil bunkering. As a result, the “[e]nraged youth all over Ijawland vowed revenge” (Okonta, 2005, p. 12). The Youths’ radicalization as a reaction to military attacks is compounded by the entrenched impunity of soldiers and the lack of accountability for military actions. The Odioma raid was, in contrast to the Odi incident, examined by a judicial commission of inquiry, but the final report, handed over to Bayelsa State Governor Diepreye Alamieyeseigha in June 2005, was never made public (Amnesty International, 2010, p. 110).⁴² The Chief of Defence Staff, Gen Andrew Azazi declared in 2008, that the invasion of Odioma was not authorized by the president and denied any involvement of the JTF in this incident.⁴³

³⁹ Reps’ 17-point-charge against Obasanjo, September 2002, http://www.nigerdeltacongress.com/articles/reps_17pointcharge_against_obasan.htm, accessed 19 February 2011.

⁴⁰ Response of the President of the Federal Republic of Nigeria Chief Olusegun Obasanjo, GCFR, to Allegations made against him by the House of Representatives to the Peoples Democratic Party, http://www.nigerdeltacongress.com/articles/response_to_house_of_representat.htm, accessed 19 February 2011.

⁴¹ Ibid.

⁴² Amnesty International, 19 February 2006, Public Statement, AFR 44/005/2006, p. 1.

⁴³ Vanguard, 24 February 2008, <http://groups.yahoo.com/group/Naija-news/message/4985>, accessed 19 February 2011.

Heavy clashes between the military and MEND also occurred in late 2010, when 19 days after an attack on JTF forces on 18 November 2010, the military invaded the town of Ayakoromo (Delta State) in order to arrest a militant leader. The operation allegedly claimed over 100 casualties and seemed to have been an attempt to take revenge for the eight soldiers killed in November. The JTF denies these claims, but also refused to provide an official death toll. Due to public pressure and media reports on genocide in Ayakoromo, an IYC delegation was allowed to visit the town several days after the attack.⁴⁴ However, no official investigation was implemented to reveal the circumstances of the engagement by the JTF, triggering accusations that raids by the JTF are often not directed to enforce security. Civil society groups claim that the JTF has a habit of punishing communities which are believed to cooperate with militants after members of the security sector are killed by armed rebels.⁴⁵

These three incidents demonstrate major problems in the democratic control of the military: an unclear legislation on troop deployment, lack of transparency and accountability, as well as unauthorized operations by the military. This deplorable state of affairs is particularly disturbing in a situation like the large-scale military attack between May and June 2009. Senate Leader Teslim Folarin stated that his chamber was not even officially informed of the attacks in May 2009 and added that “soldiers are reacting to the death of their own”.⁴⁶ With regard to the high level of engagement and the humanitarian consequences for non-militant residents, this act shows the dominance of executive decision-making in national security affairs, and the urgent need of a clear definition of the conditions for the use of military force in domestic affairs. The House of Representatives proposed such a bill in February 2009, but at the time of writing in early 2012 no act has been passed.⁴⁷ That such a bill is highly urgent was seen once again in January 2012, when President Goodluck Jonathan deployed soldiers in Lagos, in a response to local strikes against the reduction of oil subsidies.⁴⁸ But if one considers the strong legislative support for

⁴⁴ *This Day*, 19 November 2010, <http://www.thisdaylive.com/articles/jtf-intensifies-raids-on-militants-camps/73836/>, accessed 19 February 2011; *This Day*, 8 December 2010, <http://www.thisdaylive.com/articles/ayakoromo-attack-the-truth-and-fiction/72425/>, accessed 19 February 2011; *Stakeholder Democracy Network*, Newswire Late 2010, p. 1.

⁴⁵ *Stakeholder Democracy Network*, Newswire Late 2010, p. 1.

⁴⁶ *Nigerian Best Forum*, 30 May 2009, <http://www.nigerianbestforum.com/generaltopics/?p=5139>, accessed 19 February 2011; *This Day*, 30 May 2009, <http://www.nigerianbestforum.com/generaltopics/?p=6518>, accessed 19 February 2011.

⁴⁷ A Bill for an Act to prescribe conditions under which the President of the Federal Republic of Nigeria can call out the Armed Forces to suppress insurrection and for related matters, <http://www.nass.gov.ng/nass2/legislation.php>, accessed 10 February 2012. *This Day*, 24 February 2009, <http://allafrica.com/stories/200902250278.html>, accessed 19 February 2011; *Leadership*, 25 February 2009, <http://allafrica.com/stories/200902250472.html>, accessed 19 February 2011.

⁴⁸ GIN, 18 January 2012, <http://saharareporters.com/news-page/nigeria-orders-troops-lagos-union-heads-cancel-strike>, accessed 10 February 2012; *Saturday Tribune*, 21 January 2012, <http://tribune.com.ng/sat/index.php/politics-today/6402-when-can-a-president-deploy-troops-in-the-country.html>, accessed 10 February 2012.

the military engagement in the Niger Delta, it seems very unlikely that this bill is going to pass as long as the Niger Delta Conflict does not ease and civil authorities are more concerned about security restoration than democratic control.

A very illustrative example for the lack of interest in overseeing the Niger Delta operations of the military is the debate in the House of Representatives immediately after the first major military raids in May 2009. A motion to stop military operations in order to support the affected areas with relief material was quickly aborted by the House of Representatives.⁴⁹ A prayer to “call on all parties to [sic] the Niger Delta confrontations to maintain peace” was rejected, as well as the amendment to “[u]rge the Joint Task Force to be discrete and efficient in the use of their Military power”.⁵⁰ Instead, the House passed a resolution that supported the operations and, beyond that, favored the extension of military action to neighboring states. The majority of the House considered this as a necessary action in order to prevent a relocation of militia camps.⁵¹ Thus large-scale attacks of the military became a feature of Niger Delta politics with the blessing of the legislature. A popular, albeit cynical, argument of the supporters of the use of military force in the Niger Delta is that the Nigerian army is fully prepared to fight against rebels, because over 2,000 soldiers served in peacekeeping missions and gained experience in such deployments.⁵² Nevertheless, the argument of the northern representative, Mohammed Ibn N’Allah (People’s Democratic Party, PDP) that the Nigerian state “can do away with 20 million militants for the rest [sic] 120 million Nigerians to live”⁵³ shows literally how geopolitical zones dominated parliamentary voting. The domestic use of military forces is supported by the legislature and political elites, especially from the northern part of Nigeria, as long as it is perceived to be promoting state security.

Illicit Activities and Military Professionalism

Militants in the Niger Delta are reportedly supported by security forces. An obvious example is the use of the JTF to fight along with the Niger Delta Vigilantes against

⁴⁹ *This Day*, 21 May 2009, http://www.nigeria70.com/nigerian_news_paper/n_delta_house_aborts_motion_on_military_action/108392, accessed 19 February 2011.

⁵⁰ Fourth Republic, 3rd National Assembly, Second Session, No. 108, 985, 21 May 2009, http://www.speakersoffice.gov.ng/newsroom_votes.htm, accessed 19 February 2011.

⁵¹ *The Nation*, 22 May 2009, <http://thenationonline.net/web2/articles/4346/1/Extend-military-operation-to-Bayelsa-Rivers-Reps-tell-YarAdua-/Page1.html>, accessed 19 February 2011; *Nigerian Best Forum*, 22 May 2009, <http://www.nigerianbestforum.com/generaltopics/?p=5139>, accessed 19 February 2011; Fourth Republic, 3rd National Assembly, Second Session, No. 108, 985, 21 May 2009, http://www.speakersoffice.gov.ng/newsroom_votes.htm, accessed 19 February 2011.

⁵² *The Nation*, 22 May 2009, cited above.

⁵³ *This Day*, 22 May 2009, <http://allafrica.com/stories/200905220003.html>, accessed 19 February 2011.

the NDPVF in 2004. In this case the military directly supported a militant group in their power struggle for the leading position in the Niger Delta. As the operations were ordered by civilian authorities, in particular River State Governor Odili, these can not be considered a politically motivated interference into Niger Delta affairs by the military. But in such a situation soldiers of the JTF directly contact militants and can build up personal connections for illicit activities. A survey of militants showed that a quarter of all respondents were supported by the military in obtaining small arms (Hazen & Horner, 2007, p. 34). Furthermore, it is very likely that the soldiers are training militants in military tactics (ibid.). In this way, the points of contact between rebels and soldiers foster the security threats which the JTF faces. This is reinforced by the sale of information about military operations to rebel leaders by security operatives.⁵⁴

The deepest involvement of the military in illegal revenue generation is its participation in oil bunkering, eroding confidence in the military. For instance, leaked U.S. cables criticize the military of benefiting financially from its presence in the Niger Delta, and accuse it of becoming dependent on illicit revenues: “[t]he military wants to remain in the Niger Delta because they profit enormously from money charged for escorting illegally bunkered crude and from money extorted in the name of providing security on the roads”.⁵⁵ As a result of such allegations, calls to investigate the military by the Economic and Financial Crimes Commission (EFCC) arose (International Crisis Group, 2009, p. 4 f.). There is evidence that the military is engaged in illegal oil bunkering, as even the Chief of Defence Staff, Air Marshal Paul Dike, deplored publicly the involvement of soldiers in bunkering.⁵⁶ Watts summarizes the multilayered structure of oil bunkering as follows:

The low level oil theft ‘(bunkering’)[sic] that is controlled by the rebels as one way of financing their struggle, is organized through a vast state-centred syndicate linking high ranking military, politicians, the security apparatuses, and the Niger Delta special military task forces, and the navy coast guard. (Watts, 2008, p. 59)

As argued by Watts, there are two levels of involvement in oil bunkering: the actual oil theft and the broader organization of large-scale oil bunkering infrastructure. On the first level, low-ranking military officers in particular are accused of supporting bunkering. They cooperate directly with militants while they are on duty, and use their position as guards to enable them to “tip” oil installations.⁵⁷ U.S. cables compared “the relationship between the JTF and major militant groups to arrangements between rival gangs in U.S. urban areas; generally each JTF unit and militant band had its own territory in which they operated and from which they

⁵⁴ *Vanguard*, 27 September 2008, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1222585000&Category=news>, accessed 19 February 2011.

⁵⁵ Cited in *Vanguard*, 13 April 2011, <http://www.vanguardngr.com/2011/04/politicians-military-behind-oil-thefts-wikileaks/>, accessed 10 February 2012.

⁵⁶ *Vanguard*, 27 September 2008, cited above.

⁵⁷ *The Tide*, 26 January 2010, <http://www.thetidewsonline.com/?p=8476>, accessed 19 February 2011.

derived their illicit incomes”⁵⁸ and traces this back to the fact that “[p]rofits from illegal bunkering became high enough in the last several years to enable both JTF members and ‘militants’ to profit and co-exist without seriously interfering with each other’s activities. Fighting only erupted when disputes arose about boundaries”.⁵⁹ Even more important are the higher ranks, as they organize and cover large-scale theft. Security operatives confirm the involvement of retired generals in bunkering. They claim that they were given the order by high-ranking military officers not to intercept or even release already arrested vessels.⁶⁰ The connections between armed forces personnel and oil bunkering syndicates thus directly undermine effective law enforcement.

With regard to the control of the military a very crucial question is whether individual military officers are engaged in oil bunkering for personal gain or whether the military as an institution creates significant extra-budgetary revenues beyond civilian oversight (Hendrickson & Ball, 2002, p. 1). Lewis characterizes the nature of Nigerian rent allocation and oil-related corruption as “fragmented, competitive and anarchic” (Lewis, 2007, p. 285), resulting in fewer reinvestments of illicit profits within Nigeria.⁶¹ Therefore, it is alleged here that the participation in bunkering directly serves the individual officers and is not channelled significantly into institutional off-budgets. Data on the use of oil bunkering profits are very rare due to the clandestine nature of these activities (Hendrickson & Ball, 2002, p. 2). As a result, this claim can only be illustrated by interpretations of single reports and remains somewhat speculative.

However, reports by residents accuse soldiers of profiting from their duty in the Niger Delta due to their oil bunkering activities (Davis et al., 2006, p. 4).⁶² For the higher ranked generals the issue is more complex. On the one hand, there is an incentive to resort to oil bunkering in an attempt to supplement the inadequate defence budget for the acquisition of badly needed equipment.⁶³ Furthermore, high-ranking officers are afraid of being transferred out of the Niger Delta if they do not support bunkering (Davis et al., 2006, p. 4). On the other hand, two circumstances make a large-scale generation of extra-budgetary income unlikely. First, it is predominantly retired generals that are directly engaged in oil bunkering. As they

⁵⁸ *Reuters*, 7 September 2011, <http://af.reuters.com/article/worldNews/idAFTRE78659720110907?sp=true>, accessed 10 February 2012.

⁵⁹ *Ibid.*

⁶⁰ *Vanguard*, 27 March 2009, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1238832400&Category=news>, accessed 19 February 2011. A Militant leader stated also that even an active general controls vessels for oil bunkering.

⁶¹ Lewis contrasts this against the more domestic value-creating use of corruption money in Indonesia (*Ibid.*, p. 284).

⁶² *Integrated Regional Information Networks* (INRI), 17 November 2008, <http://www.irinnews.org/report.aspx?reportid=60373>, accessed 19 February 2011; *Vanguard*, 19 September 2011, <http://www.vanguardngr.com/2011/09/jtf-gunboats-raise-tension-in-bayelsa/>, accessed 10 February 2012.

⁶³ *Vanguard*, 24 January 2006, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1138919228&Category=news>, accessed 19 February 2011.

have resigned from duty, they are no longer part of the military as an institution and therefore will hardly create revenues for the military establishment. Second, confrontations between retired military officers and the JTF commanders confirm the impression that personal interests are stronger incentives for oil bunkering than attempts to create significant extra-budgetary revenues.⁶⁴ Nonetheless, it cannot be ruled out that high-ranking officers build up secret accounts for the military as an institution, as relations to oil bunkering syndicates are sometimes institutionalized in contractual form (Asuni, 2009b, p. 14).

Conclusion

The Nigerian military is engaged in a broad and intensive way in the Niger Delta. Before the democratic transition the military was clearly used to restore smooth oil production by the Abacha regime. After a short period of relative disengagement between 1999 and 2003 (marred, however, by repeated punitive incursions in the delta region), the military was brought back in by the creation of the JTF, as a reaction to the escalating violence in the Niger Delta. Because of the intensified security threat caused by MEND, all parts of the military, namely the Army, the Navy and the Air Force, were engaged in the Niger Delta. The foundation of special units can be taken as indicator that the focus on military reform lies more in the effectiveness of the use of military force than in the disengagement in domestic affairs.

The persistent presence of the military in the Delta crisis region caused a number of problems for civil-military relations. Several attacks on entire villages – as shown in the Odi, Odioma and Ayakoromo incidents – have caused grave harm for civilians. This is yet more problematic as these incidents have exhibited a lack of accountability and oversight by civilian authorities. Unclear legal powers for the deployment of the military in Odi; the lack of accountability for the Odioma attack; and recurring critique of the motivation of attacks such as in Ayakoromo illustrate the need for further reforms. Yet this chapter has revealed that the willingness of civilian authorities to strengthen democratic control over the security sector is limited: the parliamentary debate concerning the engagement of the military in mid-2009 has shown that the restoration of reliable oil production has a higher priority than the control over military operations. Besides the effects on civil-military relations, the entrenchment of the JTF in the Niger Delta also has negative consequences on its professionalism. The involvement in illicit revenue generation directly undermines security restoration in the Delta. Altogether, the conflict about oil control in the Niger Delta constitutes a considerable obstacle for military reforms and improvements of civil-military relations which depend, at least partially, on progress in the Niger Delta.

⁶⁴ *Vanguard*, 2 July 2010, <http://www.legaloil.com/NewsItem.asp?DocumentIDX=1282356218&Category=news>, accessed February 2011.

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Part V

Conclusion

Chapter 11

Reviving Security Sector Reform in Transition States: Lessons Learned from Indonesia and Nigeria

Hans Born

Introduction

Democratic consolidation and security sector reform are inextricably linked. Moreover, incomplete civilian control of the security sector results in delayed or stalled security sector reform processes, which in turn harm democratization and even lead to democratic deconsolidation. This is the main outcome of the comparative study into the governance of military reform in Indonesia and Nigeria after their return to democracy in 1990s.

The concluding chapter of this volume revisits the main actors and key issues that have led to a delay or stalling of security sector reform and its consequences for democratic consolidation. Following the introductory chapter, security sector reform (SSR) concepts serve in this study as an analytical framework for assessing the two country case studies. The governance dimension as championed by SSR expands the range of legitimate actors from the executive (head of state and cabinet ministers) to parliament, civil society, independent watchdogs and audit institutions. In doing so, it is possible to distinguish between civilian control (by the executive alone) and democratic control which includes not only a wider range of institutions (the executive, legislature and civil society) but also the existence of a proper system of checks and balances to prevent the military from becoming a tool for the ruling party in government. For the sake of study, the analyses of SSR in Indonesia and Nigeria have been limited to the military as the main actor of the security sector in transition states. As mentioned in the introductory chapter, while the broader SSR paradigm may indeed allow designing a more holistic and systematic reform agenda, it may have the disadvantage to blur the centrality of the military for the success of democratic transitions, in particular in the case of Indonesia and Nigeria. With regards to the role of the military in democratic consolidation and

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deconsolidation, previous research has indicated that effective civilian and democratic control of the military goes beyond the absence of a *coup d'etat* by the military. As Croissant et al. argue, comprehensive or full civilian and democratic control includes five areas of decision-making in civil-military relations, i.e. elite recruitment, public policy, internal security, external security and military organization (Croissant, Kuehn, Chambers, & Wolf, 2010, pp. 950–975):

1. The military has no role in *elite recruitment*, i.e. the rules, criteria and processes of recruiting, selecting and legitimizing political office holders.
2. Civilians, alone, have full control of agenda-setting and the formulation, adoption and implementation of all *public policy* (with the exception of the narrow security and defense policy domain).
3. Civilian authorities make decisions about the mandate, operations and resources of the military in their role in *internal security*. The military only plays a role in internal security under very specific conditions, e.g. emergency situations. Law enforcement, including maintaining public order and the rule of law, is a task for the police and civilian judicial authorities.
4. All policies and operations to defend the state against *external threats* are under the command of civilian authorities. While the military plays an important role in the formulation and implementation of national defense policy, the civilians have the ultimate decision-making authority.
5. Whereas the military needs to have necessary autonomy in their internal affairs, civilians have the ultimate decision-making authority over the *military organization*, including its size, force structure and the procurement of defense equipment, as well as the training, doctrine, recruitment and selection of military personnel.

While some contributors to this volume (Elaiwu) assert that the military always interferes with politics in democracies, we think it would be more appropriate to make a distinction between interference versus legitimate influence of the military on democratic decision-making processes. Military interference disrupts democratic decision-making and would always be unwarranted and illegal. Military influence on democratic decision-making processes is legitimate as long as it takes place within the legal framework, civilians retain ultimate command authority, and influence is based on military professional expertise. This implies that the military can only exercise influence in areas within their competence, i.e. internal and external security as well as the military organization, on the conditions that any influence on politics is within the limits of the law and that civilians have the last word. However, military influence would be unwarranted in the case of elite recruitment and public policy, as these areas are both outside the legal mandate of the military and outside their competence.

In the next sections, I will analyse to what extent legitimate governance actors (executive, parliament and civil society) have exercised comprehensive civilian control over these five areas in Indonesia and Nigeria.

Indonesia

Elite Recruitment

The disengagement of the Indonesian military (Tentara Nasional Indonesia, TNI) from politics has been a protracted process. In this lengthy process that has not ended yet, one may distinguish negative and positive factors leading to political elite recruitment free from military interference. On the negative side, the Indonesian military was able to occupy parliamentary seats years after the regime change in 1998. Only in 2004 was the military (and the police) forced to give up its reserved seats in parliament. Furthermore, the military commander of the Indonesian armed forces (TNI) is a member of the cabinet and directly subordinated to the president. Therefore, the top military commander has direct access to policy making in cabinet meetings (Sebastian & Gindsarsah). This leads to a weak position of the minister of defense, who has only limited authority over the military. On the positive side, the TNI is no longer in the forefront of national politics, it has dissociated itself from political parties and it has adopted a neutral position during national parliamentary and presidential elections. In addition, unlike in Nigeria, during the first years after regime change, Indonesia has witnessed the birth of an independent defense expert community that has engaged in dialogue and discussions about military reforms with parliamentarians, members of the executive and the military. With regards to the parliament (Dewan Perwakilan Rakyat, DPR), according to Sukma a “new parliamentary assertiveness” was displayed after the regime change. Among its achievements, it adopted constitutional amendments that ended military representation in parliament; it adopted important reform legislation concerning national defense and the military; it scrutinized military procurement and budget; and it grilled designated military commanders in parliamentary hearings (Rüland & Manea). However, this “new parliamentary activism” was severely hampered by a high turnover after each election (more than 70% of parliamentarians were not re-elected after each election) leading to a brain-drain of experienced parliamentarians. Furthermore, in the wake of a new nationalism the ideas and norms of legislators and the military converged, both aspiring for Indonesia to be a regional leader in Southeast Asia. For this purpose a strong, well-funded and well-equipped military was in the interest of both parliamentarians and the military.

Public Policy

The second area is public policy, in which the military should not play any leading or independent role. During the authoritarian regime, the military was omni-present in public policy through the so-called *dwi fungsi* (dual function) which gave the military many domestic socio-political functions. The dual function was supported by a vast military territorial command structure, which parallels the civilian

administration apparatus down to the village level. While the dual function doctrine has been abandoned, the military is still present in everyday life via the territorial command structure and its duty to assist local government. This is an entry point for the military to be engaged in local politics and for pursuing non-military and even illegal functions at the local levels.

Furthermore, transitional justice and prosecuting military personnel involved in human rights violations during the Suharto era, is another area of public policy where the military has managed to make an impact. The military sought to prevent the new democratic rulers from prosecuting human rights violations committed by the armed forces under the *ancien regime*. It was successful by having the parliament adopt a constitutional clause that human rights violations cannot be tried by a law with retrospective effect (Rüland & Manea).

Internal Security

In 2000, in order to professionalize the security sector, the parliament passed a law giving the military the responsibility for national defense. Additionally, the police were separated from the military and given the mandate to deal with maintaining internal security. It was an attempt to get the TNI back in the barracks without involvement in domestic policy or policing. This was a severe blow to the military as it had seen itself as the prime security providing institution against domestic and external threats. For the military, internal security, and national defense are an inseparable “gray zone”. Moreover, taking the internal security tasks away from the military also denies the military access to economic resources and rent-seeking activities. Indeed, with the police having a greater responsibility for internal security, it carved out for itself a greater share of the spoils that the TNI formerly enjoyed (Mietzner & Misol). However, rising communal violence, separatism (mainly in Aceh) and terrorist attacks paved the way for the TNI to re-enter the realm of domestic policing. Some even believed that rogue military elements were behind violence in various parts of Indonesia, in an attempt to destabilize the young democracy (Rüland & Manea). For example, Honna details in his chapter how the army with excessive force tried to undermine the ceasefire agreement in Aceh which the Wahid government had negotiated in 2000. Parliament did not hold the TNI accountable for its covert operations in Aceh. On the contrary, because national unity was at stake, the majority of parliamentarians sided with the armed forces and gave the military full discretion over its operations (Rüland & Manea). Furthermore, while the responsibility for anti-terrorism activities was given to the police after the Bali bombings of 2003, the military was able to take much of it back by integrating all anti-terrorism efforts into one unit (called BNPT), directly under the president, in 2010 (Honna). This signifies a long-term strategy of the military to restore its role in domestic security by branding the forces behind separatism and terrorism as enemies of the state that must be countered by military force.

External Security

On paper, civilian supremacy over external defense and security policy seems to be well established. Law No. 2/2002 regulates, among other issues, the role and authority of the Ministry of defense in defense policy making. Consequently, the Ministry of defense released four official documents in 2008: one each on defense doctrine, strategy and posture as well as a fourth, the defense white paper, in 2008. In reality, however, the military still plays the dominant role in this area with little input from civilian authorities, let alone from civil society groups (Sukma). Furthermore, in terms of military deployments abroad (and at home), Law No. 34/2004, for instance, stipulates that the TNI cannot deploy a military task force without approval of the president and that the DPR needs to be informed of military deployments within 48 hours. However, the provisions of this law are incomplete, as they hold no obligation on the part of the president to determine the strategic objective, time limit and operational terms of the military operation, nor the rules of engagement. Without these provisions, there are no parameters for parliament to approve or reject the president's decision. Furthermore, there are no provisions to promote parliamentary oversight over the scope and direction of military operations (Sebastian & Iisgindarsah).

Military Organization

Effective civilian and democratic control of the military organization would include both the hardware (size, force structure, budget) as well as the software (key appointments, military culture, military justice and key parameters of human resources management). After regime change in 1998, key legislation was adopted that brought the military organization under greater civilian control. Decrees No. VI/2000 and No. VII/2000 of the Consultative People's Assembly (MPR) mandated the separation of the police from the military and distinguished the functions that the police and the military should perform. Furthermore, Law No. 3/2002 and Law No. 34/2004 laid down the role of the Indonesian parliament (DPR) to approve or reject defense budget proposals, the use of force by the president, and the appointment of TNI commander-in-chief. It also stipulated that the military should withdraw from military business and that policy and defense strategy as well as administrative support of TNI will be placed under coordination of the ministry of defense. However, the civilian and democratic control of the military organization is still far from complete, both in scope and implementation. First, TNI was able to put on hold the reorganization of the territorial command structure which continues to give it leverage to influence domestic security as well as public policy at the regional and local levels (see above). Second, while TNI was ordered to withdraw from business – consequently, off-budget funds in TNI's expenditure decreased from approximately 70% in 2000 to 20% in 2010 – it still

retained military cooperatives and foundations (Mietzner & Misol). Moreover, the reform process did not tackle the issue of illicit commercial activities by military officers. Therefore, TNI still has the opportunity to finance (covert) operations outside the control of civilian authorities as it had done before (Mietzner & Misol). Third, while the DPR has the legal authority to exercise budget control, it is hampered by the lack of sufficient expertise to fully process and understand the military budget. In addition, it does not scrutinize the implementation of the budget, with the State Audit Agency (BPK) remaining rather toothless to effectively deal with malpractice. It is estimated that 30% of the defense budget is lost due to corruption (Rüland & Manea). Fourth, the mindset of the officer corps has not changed, in spite of the abolition of the dual function doctrine, which gave the military a role in politics and national development. There remains a contempt for civilian rule and party politics. The military mindset holds the belief that that the TNI is above political party rivalries and that the TNI is the only true guardian of the state. One can expect or hope that this authoritarian mindset will fade away after the last cadet indoctrinated by the military schools of the former regime has retired, which is likely to happen approximately 30 years after the regime change in 1998. Last but not least, the legislation that outlined the objectives of military reform as mentioned before left military reform in the hands of the military itself. Indeed, Sukma argues that the regulation that outlined the reform of the military was too vague; it did not specify how military reform should be carried out and which changes are required to implement the reforms. It also did not establish civilian control over the reform processes, which gave TNI a free hand in initiating its own reform (Sukma), something which Indonesia has in common with Nigeria.

Nigeria

Elite Recruitment

After over 50 years of independence, of which more than three decades were under military rule, there are still signs that the elite are taking the threat of military coups seriously. The most important symbol of the fear for military coups is the “anti-coup” article in the new constitution of Nigeria: “The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution” (Section 1 (2), Federal Government of Nigeria, 1999). Another expression of the fear of coups is that legislators called for the removal of military barracks from Abuja in order to keep the military as far away from the centre of power as possible (Aiyede). While some fear military coups, others desire the military to come back in politics. Various politicians and former top generals have indicated that only the military is capable of ruling the country, that they regret that the military did not stage a coup in the last decade or that the

military officers have superior qualities over civilians (Aiyede). This implies that while the democratic institutions have been set up, a democratic culture within some circles of the ruling elite and the military is lagging behind (Elaigwu).

While the military has no reserved seats in parliament, a large pool of retired military officers have entered the political system at various levels, as is the case, for example, with former President Olusegun Obasanjo or the current President of the Senate David Mark – both are examples of influential retired military officers that occupy influential positions in politics. Nearly every parliamentary committee dealing with defense issues has a former military officer as a member. While not every retired military officer in parliament acts as an extended arm of the armed forces, it might create real or perceived conflicts of interest with negative consequences for the effectiveness of parliament as it gets too closely associated with the armed forces. Effective parliamentary oversight over the military is hindered by three further factors. First, parliamentary oversight is heavily fragmented with nine committees dealing with defense issues – four in the Senate and five in the National Assembly. The reason for this high amount of committees is that parliamentary committees are opportunities for patronage in terms of appointments, contracts and funds (Aiyede). Second, while the military-parliamentary liaison office (headed by a military officer) might facilitate oversight, it also increases the risk of the parliament becoming too dependent on information from the military, instead of information provided by other independent sources, notably civil society. Third, as is the case in Indonesia, the effectiveness of the parliament is diminished by the low re-election rate of members of parliament (less than 30%), which decreases the average experience and expertise of parliamentarians dealing with the oversight of the armed forces.

While both parliament and civil society can play an important role as independent watchdogs, the space for civil society to fulfil the functions of advocacy, education, informal oversight and independent monitoring of the military is very limited in Nigeria. As both Aiyede and Manea & Rüländ point out, the activities of NGOs in Nigeria depend strongly on the space permitted by the military. Defense-related research and training institutions tightly control the experts and scholarly networks dealing with the armed forces in Nigeria. It is yet to be seen to what extent the recently adopted Freedom of Information Act in 2011 will facilitate research and investigatory journalism in defense-related matters due to greater access to information.

Public Policy

The analysis of the contributions on Nigeria shows that the military has influenced public policy on two important occasions. First and importantly, the 1999 regime change was a top-down decision by the military without participation of civilians (Manea & Rüländ). In particular, the new constitution was enacted under close supervision by the military government of General Abubakar. In a rather non-transparent manner, the constitution was drafted by a small group of individuals

belonging to the government and the military appointed Tobi-committee, tasked with reviewing the constitution. Furthermore, the constitution was enacted by military decree and it was noted that the provisions of the current constitution makes it nearly impossible for future civilian administrations to question the activities of military rulers during the former military regime (Manea & Rüländ). Second, then President Obasanjo set up the so-called Oputa Panel in 1999 that was tasked with investigating human rights violations committed by the military during the former regime. The members of the panel were appointed by and reported to Obasanjo (himself a former general). However, former military rulers refused to cooperate with the panel and challenged the legality of the panel in court. Because of strong opposition from the military and because of a court ruling that the panel was not duly set up, President Obasanjo (and his successors) decided not to publish the findings and to ignore the recommendations up to this day. The government's unwillingness or incapacity to implement the findings has increased a culture of impunity within the military.

Internal Security

While one of the tenets of civilian and democratic control is that the military should be playing a role in internal security under very specific and narrowly defined conditions, the recent history of Nigeria shows that the military was active in hundreds of cases of communal, religious and electoral violence. The military approach of the government to internal unrest reinforced the image of the military as the prime security providing institution to the detriment of the weaker Nigerian Police Force (Elaiḡwu). Some of the contributors to this volume point out that the military committed excessive use of force, looted and burned down villages, collectively punished civilians for revenge, and raped and tortured citizens (Aiyede, Lutz). These derailments of the use of force consequently contributed to the negative spiral of violence by enraging the parties in conflict. As Lutz demonstrates in the case of the Niger Delta conflict, the use of the military in maintaining internal security is plagued by four problems. First, the legislation on internal troop deployment is unclear. Moreover, in the past, the legislative branch has contested the unchecked power of the president to deploy the military, but up to this day, parliament did not manage to enact a law that would regulate military engagement in domestic conflict. Second, excessive use of force and alleged crimes committed by the military are hardly investigated, if at all, by judicial and other state authorities. This leads to a situation in which the military can act with impunity. Third, on various occasions, the military was engaged in operations that were not authorized by legitimate civilian authorities, nor did those authorities receive prior information. Fourth, the military or some within the military profited financially from the conflict by conducting illegal commercial activities, e.g. "oil bunkering" (theft of oil). One can conclude that an appropriate system of checks and balances of executive authority over the domestic use of the military is lacking. Moreover,

insofar as executive leaders are in command of military operations (as the military sometimes seems to act on its own or executive leaders deny responsibility), there is no role for parliament to discuss or investigate let alone to approve or reject internal security operations of the military.

Whereas the use of the military in internal security can have short-term benefits, such as providing security and stability, there are also long-term risks. These risks are that an increasing spiral of violence can lead to deep rifts and frustrations in society. The second risk of the domestic use of the military is that the military will take sides or be perceived to take sides with one of the parties in conflict. For example, in the case of recurring violence in Jos in 2008, the military was accused of inflaming the conflict and taking sides with the Muslims against the Christians (Aiyede). These serious accusations – whether they are based on facts or not – lead to a dangerous politicization of the military in domestic conflict

External Security

The civilian and democratic control of external security should extend to both policy and operations to defend the country against external threats. With regards to policy, President Obasanjo presented to the National Assembly the draft National defense Policy in 2004. This document was heavily criticized for not consulting the parliament, ministry of foreign affairs, ministry of finance and other external non-military stakeholders during the drafting process (Aiyede). Ultimately, since the Nigerian Parliament has no formal powers to approve or reject external crisis management or security policy concepts, this document was not adopted by the parliament but by the Federal Executive Council in 2006. The only way for Parliament to check external security policy is to approve or to reject external deployments abroad (as stipulated in section [Reviving SSR Processes in Transition States](#) of the Nigerian Constitution). However, the Nigerian Parliament cannot make use of the budget control prerogative to stop or modify UN peacekeeping operations because they are not paid for by the treasury but by the UN. The UN's reimbursements for Nigeria's peacekeeping operations are directly paid to an account in New York to which the Nigerian Parliament has no access or information about how the money is spent. The leadership of the National Assembly is aware of this situation but is weary of investigating the matter (Garba, 2008, p. 196).

Military Organization

The initial steps of military reform after regime change were highly symbolic and directed by the President without substantial inputs by other actors such as Parliament and civil society. First, in 1999, the Interim President and General Abdulsalam Abubakar requested the senior military generals in a public event to

solemnly promise to respect the new democracy, rule of law and the life and property of Nigerian citizens. A second reform measure was taken by President Obasanjo, who retired 93 top military officers in 1999 who held political posts under the former regime. Third, the President hired the private military security company MPRI to civilianize the Nigerian military, to conduct workshops on civil-military relations and to train Nigerian soldiers for peacekeeping operations. Manea and Rüländ point out that, as with other military reform measures, no other actors were involved in contracting MPRI, which was highly controversial without much impact on military transformation (Manea & Rüländ). A fourth reform measure was the 2006 National Defense Policy. This policy document was drafted by military officials and adopted by the president – it can be seen as another indicator that military reforms were driven by the military itself without notable inputs (let alone guidance) from Parliament or civil society.

The National Assembly tried to enact four crucial laws that would regulate reserve officer forces, the role of the military in emergency situations and the limits of the role of the military in national development. However, these pieces of legislation – as was the case with draft laws to regulate the power of the president to make domestic military deployments – never became law. In comparison with Indonesia, it is rather significant how little Parliament has used its law-making function as a way to establish democratic control and to limit the role of the military outside the barracks. Equally, the power of the purse was not exhausted by Parliament to exercise democratic control over the armed forces. Military budgetary data were often kept secret or disclosed very late in order to avoid serious scrutiny by the National Assembly. As mentioned before, expenditures for UN deployments abroad are off-limits for parliamentarians. Furthermore, the Auditor-General cannot really exercise independent financial auditing as he is a political appointee depending on the goodwill of the President. In the same vein, military procurement is in the hands of the military itself without much control by the minister of defense, let alone Parliament (Manea & Rüländ).

Lessons Learned

The analysis of these five areas leads to a rather ambiguous assessment of democratic and civilian control of the military in Indonesia and even a more negative assessment in Nigeria. Six major lessons learned can be drawn from the two case studies.

The first lesson learned is that the basic first-generation security sector reform (setting up appropriate institutions, enacting legal framework) has not been completed in Indonesia and even to a lesser extent in Nigeria. With regards to Nigeria, various crucial laws have not been enacted that would have regulated domestic military deployments, the use of the military in emergency situations, as well as the role of the military in national development. In Indonesia, first-generation SSR is more or less completed with the exception of four issues:

off-budget funding of the military, territorial command structure of the military and military justice reform and the continued gray zone of the role of the military *vis-à-vis* the police in domestic security. From these two case studies, we can learn that the completion of first-generation reform cannot be taken for granted. Years after regime change there is still unfinished business in the regulatory framework of the military. The danger of an incomplete first-generation reform is that second-generation reform cannot be fully implemented, which further protracts democratic consolidation processes.

A second lesson learned is that while the danger of a military coup is perhaps not eminent in Indonesia and Nigeria, incomplete or delayed SSR leads to numerous opportunities for the military to interfere with democratic decision-making in both formal and informal ways. In the case of Indonesia, the chief of the armed forces (like the police and state intelligence) still has a formal seat in the cabinet, which dilutes the lines of command between the chief of the staff of the armed forces and the minister of defense. Moreover, it erodes the concept of political responsibility of the minister of defense towards parliament and the president. Second, in both countries prominent retired military generals play or have played a prominent role politics after regime change. They occupy very senior political positions up to the level of head of state and the speaker of the Senate. While they are no longer in uniform, they are still inextricably part of the military's old-boys network leading to informal communicative links between politicians and the military outside the scope of public accountability.

A third lesson that can be drawn from both countries is that civil society, the executive and parliament have not closely supervised and regulated the reform of the military. For example, the adoption of the national defense concept and the military reorganization in Nigeria have been more or less conducted without close executive oversight and certainly little to no parliamentary oversight. In Indonesia, the laws and decrees that outlined military reform were rather vague and did not establish civilian oversight of the reform processes. Greater civilian supervision would have led to clearer objectives, conditions and timetables. Instead, as a consequence, the military is in the position to alter, delay or even halt reform processes.

A fourth lesson learned from the analysis of civilian and democratic control of the five areas above is that, while civilian executive control does exist, in most cases democratic control by parliament or civil society is either lacking or incomplete. This was particularly the case in Nigeria, where the parliament adopted hardly any laws that would have regulated the conduct, policy and supervision of the military. Equally, civil society played a minor role in military reform in Nigeria, with the state defense research and education institutions dominating the field. More so in Nigeria than in Indonesia, the military is an exclusive tool of the executive over which the parliament has little to no oversight, e.g. domestic military deployments in Nigeria. The danger is that without a system of checks and balances, the military might become a tool of the party in government and be deployed in internal conflict without sufficient public debate.

A fifth lesson is that power struggles among civilian elites such as in Indonesia in 1999–2001 and in Nigeria in 2002 may markedly strengthen the stature of the military. In fact, in both cases, during civilian conflict the president and political parties in the legislature, the military used its umpire function and involvement in these struggles to stop or dilute SSR process that would have strengthened democratic and civilian control.

A sixth lesson learned is that the military profits from internal conflict and protracted violence either on the level of individual officers (in Nigeria) or on the level of the military as an institution (in Indonesia). The conduct of illicit commercial profiting from conflict and domestic violence constitutes a grave danger to the further stability of the two young democracies. Indeed, a military that plays a role in perpetuating conflict erodes the legitimacy of not only the military itself but also of the civilian authorities under whose name the military is acting.

A seventh lesson learned is that culture matters. With regard to the military organization, we have observed that it can take a long time before the military officers, who are trained and indoctrinated by the military academies of the former regime, are entirely phased out. *Ancien regime* norms and values include the belief that soldiers are superior to civilians, that the military is the only institution that can lead the nation and that the military should be active in economic and national development. As long as officers instilled with these values occupy key decision-making positions, it will be difficult, if not impossible, to instil respect for democracy within military circles. Alternately, culture also matters among politicians. In particular in Nigeria, various key politicians have publicly stated that military officers have superior qualities compared with civilian authorities and that the military should return to politics. These types of norms and values within political circles obstruct the establishment of civilian supremacy. If this culture persists in both military and political circles, these are clear signs that second-generation SSR has failed.

These lessons learned lead to the conclusion that incomplete or stalled SSR processes give the military the opportunity to interfere with democratic decision-making processes and to continue to act with impunity and to conduct illicit commercial activities. This is dangerous for any young democracy, as it will erode the trust of people in both civilian and military authorities. Moreover, it shows that the avoidance of military coups is not sufficient to keep the military out of politics. The analyses have shown that the military has formal and informal ways to interfere with democratic decision-making processes in the area of internal security, external security and military organization. Therefore, it is vital that stalled security sector reform processes are reinvigorated.

Reviving SSR Processes in Transition States

The lessons learned drawn from the analysis of SSR processes in Indonesia and Nigeria give some interesting insight into how SSR processes in transition states can be put back on track.

First, this book has clearly demonstrated that the absence of military coups does not imply comprehensive civilian and democratic control of the military. Interference and undue influence of the military in politics, public policy, domestic security, external security and military organization leads to long-term instability and legitimacy deficits of democratic institutions. This will weaken civilian institutions and lead to a situation that the military can stage and legitimize a return to politics. Therefore, it is important that both the international community and domestic actors remain committed to the cause of further democratization of security and defense in transition states after regime change. It implies that both international and national actors should not be satisfied with the absence of military coups alone. They should be engaged in security sector reform reviews that identify and address gaps in the five areas mentioned above.

This leads to the second observation that gaps can be found in all of the areas above and relate to both first-generation SSR (designing and setting up a regulatory framework and democratic institutions) as well as second-generation SSR, i.e. the capacity, expertise and willingness of oversight institutions to hold the military accountable. More specifically the international and national actors could focus on addressing the following gaps. The Table 11.1 gives an indicative and non-exhaustive overview of the areas, gaps and possible interventions.

A third observation is that the ruling political and military elite of transition states might not have an interest in strengthening civilian and democratic control of the military because it would lead to more transparency and accountability, as well as power-sharing with parliament and giving space to civil society to participate in military reform. In this sense, SSR is not attractive for those in power. International and national actors need to acknowledge that SSR is a political process with winners and losers, as well as with benefits and costs for political rulers. In particular, from the point of view of the international community, it is important to make SSR programmes attractive for the ruling elite. One way of doing this is to condition technical military support programs, i.e. no or less financial or other support for modernization of the military without strengthening civilian and democratic oversight of the military. Indeed, effective military units funded by donor-states can be used to provide security and stability, but they can also be used to suppress legitimate democratic protest and to stage military coups.

A fourth observation is that culture matters in SSR processes and that cultural change can take a long time. For example, it was mentioned that military officers who were trained by the old regime might stick to their old beliefs and habits (of contempt for civilians and rule of law), which might destabilize civil-military relations of young democracies. The Nigerian and Indonesian case studies show that these cultural change processes can be accelerated and modified by taking symbolic and structural measures. First, as the Nigerian heads of states did during and after transition, they demanded that the Nigerian military symbolically and publicly promise to respect the new democratic order. In addition, they sent all military officers who occupied political functions during the former regime into early retirement. These steps are highly symbolical for they draw a line with the old regime, and they make it clear to both the public and the military that regime change

Table 11.1 Gaps and possible interventions in five areas of civil-military relations in transition states, based on analysis of military reform in Indonesia and Nigeria after regime change

| Area | Gap | Intervention |
|-----------------------|---|--|
| Elite recruitment | Seats for military in cabinet and parliament | Military personnel can have only advisory positions to political decision-making bodies |
| | Retired military officers in key political positions | Former military officers can not serve in politics directly after their retirement |
| Public policy | Impunity of human rights violations committed by the military | Military justice reform |
| | Intervention in local politics | Regulation of military assistance to civil authorities |
| Internal security | Frequent military domestic deployments | Regulation of supervision and conditions for domestic military deployment; |
| | Human rights violations due to the excessive use of force | Military justice reform |
| External security | Formulation of national defense policy without consultation of stakeholders | Formulation of national defense policy on the basis of inclusive multi-stakeholder dialogue |
| | Deployments abroad without financial control or parliamentary debate and approval | Regulatory framework for deployments abroad; international aid for peacekeeping operations should be conditioned |
| Military organization | Off-budget financing of the military and irregularities in military budget | Outlawing off-budget financing; strong oversight powers of supreme audit institutions; public accountability for defense procurement decisions |
| | Military enjoys full autonomy in conducting military reform processes | Regulatory framework that outlines the objectives, conditions, timetable and supervision of military reform |

will also imply change within the military. Second, cultural change will also be reinforced if the new ruling elite takes steps that will end the habits and routines of the military that contravenes the rule of law. This refers in particular to human rights violations committed during domestic military deployments. This would require, however, the regulation and implementation of (military) justice reform in order to halt criminal or disciplinary offences.

A fifth observation is that the proper phasing and the civilian management of SSR processes are essential for its success. In this context, one can deduce from the two case studies the following phasing of SSR processes. First, the military are subjected to symbolic reform acts including the public display of allegiance to the new order and the sacking of “political soldiers”. A second step is that the ruling elite enacts a legal framework that establish civilian supremacy over the military. The third step refers to the implementation and translation of the legal framework into military reform. The two country studies show, however, that civilian authorities are not closely involved in this third phase, i.e. civilian authorities

delegate reform processes to the military without proper control. Too much autonomy of the military will result in the delay or tampering of reform processes. Therefore, it is crucial that civilian authorities remain committed to military reform after the initial phases of SSR. Indeed, lack of civilian oversight might give the military the opportunity to turn back to the old situation or re-interpret the new legal framework in such a way that the *status quo* can be maintained.

A fifth and last observation is that military reform depends on and needs to be coordinated with reforms in other areas of the security sector, as well as the wider area of democratic institutions of transition states. In particular, this pertains to the reform of civilian executive institutions, parliament, justice sector as well as civil society institutions. The two country studies demonstrate that the lack of executive control and justice reform, fragmented parliamentary oversight of the military, and weak civil society have a negative effect on SSR.

In conclusion, SSR is a highly political project which is not only motivated by highly principled aims of democratic consolidation of the security sector but also by specific interests and power bases of the stakeholders involved. In this context, SSR is not a linear process, but, rather, it is characterized by shifting interests, power bases and alliances, which may lead to delaying, repeating, halting or even annulling of SSR advancements (Hills, 2010, p. 179). However, the two case studies also show that it is necessary to advance comprehensive SSR for an incomplete SSR will put democratic consolidation at risk.

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