Building Integrity and Reducing Corruption in Defence

A Compendium of Best Practices

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Geneva Centre for the Democratic Control of Armed Forces
(DCAF)
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The Geneva Centre for the Democratic Control of Armed Forces is one of the world's leading institutions in the areas of security sector reform (SSR) and security sector governance (SSG).

DCAF provides in-country advisory support and practical assistance programmes, develops and promotes appropriate democratic norms at the international and national levels, advocates good practices and makes policy recommendations to ensure effective democratic governance of the security sector.

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FOREWORD

One of the less heralded benefits of the watershed changes in the international security equation—enabled twenty years ago as a result of the demise of Soviet rule—has been the reappraisal of the notion that the end always justifies the means. The end purpose of all defence efforts shifted from withstanding and defeating a known mighty enemy to ensuring wider security in an unstable and multipolar world. Concomitantly, new light was shed on the means to achieve a more comprehensive security. New notions such as human security and good governance became more central in the efforts of governments and the international community to help the transition from a Cold War posture to better working societies confronting the challenges of globalisation.

NATO and its member states contributed to this evolution. The alliance opened itself up to new partnerships and memberships. As it started adapting its structures, as member states downsized and reoriented their armed forces, more and more attention was also devoted to the pressing reform needs of its potential future members and active partners. The reform of the security sector was first encouraged among NATO's former potential foes. But as reforms progressed, a wider approach was taken to the full range of transformations underway. These range from the parliamentary oversight of the armed forces to the furtherance of international humanitarian law, as well as the many necessary interactions between the military and civilians, defence institutions, police, civil society, international organisations and NGOs.

This much wider approach to the workings of the security sector and all its actors soon led to a better understanding of what it takes to optimise security and maximise returns on political, economic and social investments in the stabilisation of conflicts and tensions. Ethics were better seen as being instrumental in furthering the end goal of lasting security. NGOs such as Transparency International (TI) rose to new levels of acceptance and respect and a number of governments decided to focus more keenly on the promises borne by a new spirit of openness and efficiency. A new initiative was thus launched within the EAPC/PfP framework, whose title is self-explanatory: *Building Integrity and Reducing Corruption Risk in the Defence Establishments*. This initiative and its related Trust Fund, led by Poland, Switzerland and the United Kingdom, are an important part and extension of the Partnership Action Plan on Defence Institution Building (PAP-DIB) chapter of cooperation established some years ago after the Istanbul Summit. The needs in this field appear to be considerable and must be taken into account in the new areas of operation of NATO and some of its partners.

The work undertaken under this heading by the NATO International Secretariat and the participating countries has from the start been enabled and strengthened by external actors such as TI, the Defence Academy of the United Kingdom and the Geneva

Centre for the Democratic Control of Armed Forces (DCAF), which has produced the present Building Integrity Compendium. Indeed, DCAF has developed expertise in matters related to transparency building, expressed in a good number of publications, among which are the Handbook for Parliamentarians co-published with the Inter-Parliamentary Union in some 50 languages, as well as the DCAF-NATO Parliamentary Assembly handbook "Oversight and Guidance," now under revision and slated to be re-published in 2010 as yet another Swiss PfP contribution. More generally, DCAF's commitment to the PAP-DIB action plan is evidenced by manifold contributions and inputs in a wide number of cases benefiting individual countries as well as the Euro-Atlantic community as a whole. Together with the Geneva Centre for Security Policy (GCSP), as well as the abovementioned partners, DCAF has organised a number of seminars and conferences to take stock, reveal best practices and launch integrity in defence management programmes.

Alongside its NATO partners, the Swiss government, for its part, is committed to supporting DCAF and the GCSP and to furthering the aims of the PAP-DIB action plan in the fields of integrity and transparency building. The task that lies ahead remains as large and complex as the imperfections of human nature. But the results collectively achieved so far in the fields of defence reform, stabilisation of conflict-prone regions and the extension of international cooperation bear witness to the promise encapsulated in this worthy compendium.

Ambassador Jean-Jacques de Dardel
Head of the Swiss Mission to NATO

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Part I
Introduction

Corruption is a scourge upon the development of all countries, undermining public confidence in the institutions of the state. It particularly impedes the progress of countries in transition, misappropriating much-needed capital away from the state. Resources provided through corrupt practices are often transformed into economic and political influence, thus weakening democratic institutions and further expanding corruption in a vicious cycle.

The defence sector often provides a fertile ground for such malign activities due to the culture of secrecy and impunity that shields it from rigorous scrutiny. Chapter 1 outlines main enablers and effects of defence corruption. Chapter 2 presents the foundations of a strategic approach to reduce corruption risks in defence. It combines efforts to build integrity, increase transparency and improve accountability. Such a combination increases the moral burden of corrupt behaviour, reduces perceived rewards and increases the expected costs, or punishment.

The introductory part of the compendium also provides examples of national and international approaches to the reduction of corruption risks in defence – approaches that constitute an integral part of broader efforts towards security sector reform and defence institution building. Ultimately, the most effective means of combating corruption and building integrity in the defence sector is through a broader reform process: a norms transfer to inculcate the sector with the highest democratic ideals and practices, thus addressing the root causes of corruption.

Chapter 1
The Corruption Curse

Corruption hinders the development and undermines the security of modern societies and decreases trust in public institutions. Defence is not immune to the scourge of corruption. This may come as a surprise to many, given the high regard that the public generally has for the military around the world. Taking a global average, the military is one of the top three most respected institutions and is almost as trusted in terms of corruption as NGOs and religious bodies (see Figure 1.1 below).[1] In many countries, the military is perceived as less corrupt than political parties, legislatures, business companies and the media.

This standing of the military, however, varies strongly across countries and regions. For example, in Western Europe and the United States the military is broadly perceived as being free of corruption. However, in the newly independent states of Central
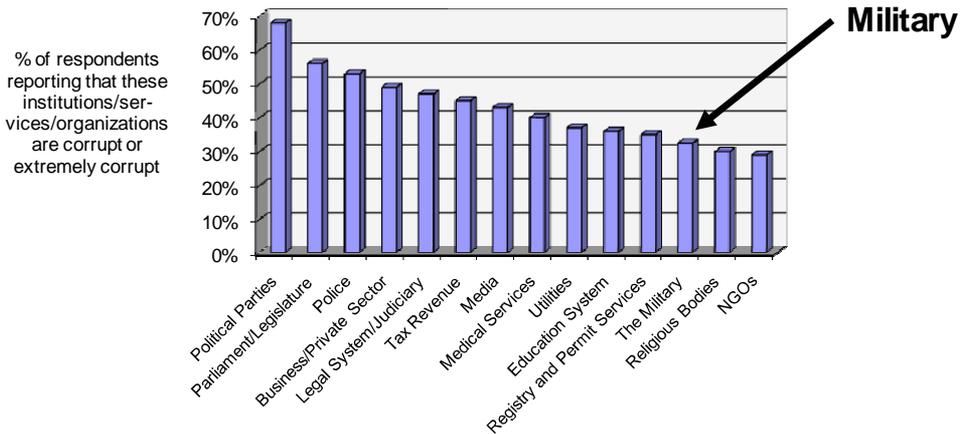
Figure 1.1: Perceived Corruption.

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[1] Data from the 2006 Transparency International/Gallup survey "Global Corruption Barometer," as presented in Mark Pyman, Dominic Scott, Alan Waldron and Inese Voika, "Building Integrity and Reducing Corruption Risk in Defense Establishments," *Connections: The Quarterly Journal* 7:2 (Summer 2008): 21–44.

and Eastern Europe, and in Africa and Latin America in particular, the military does not fare as well.[2]

Notwithstanding the high esteem for the military in most societies, Transparency International studies have rated defence among the most corrupt sectors entrusted with the management of public resources, along with extraction of oil and gas and construction industries.[3] In the latest available study, defence falls to #13 on the list of industrial sectors, where bribes to public officials are expected to be paid, and to #8 on the "State Capture" list.[4]

The treatise in this compendium acknowledges that the high esteem for the military and the high corruption potential of defence co-exist. This unusual co-existence and the complex interaction of perceptions and behavioural patterns impact the design and the implementation of counter corruption strategies and integrity building programmes.

Where the military is a highly regarded institution, the defence establishment can inspire and lead wider institutional reform within a country. But it is also possible that, due to the lack of transparency and informed public debate on defence, a high regard for the military can hinder the implementation of integrity building programmes.

Needless to say, countering defence corruption in countries where the military is seen as corrupt is imperative. Often these are countries where corruption permeates many public and private sectors. In such cases, the example of successful reform of defence institutions may have considerable positive impact on other public institutions.

Part I of this compendium presents national and international experience in building democratic and effective defence institutions and countering corruption in defence. The following chapter presents the foundations of a strategic approach to reduce corruption risks in defence. The approach combines efforts to build integrity, increase transparency and improve accountability. Such a combination increases the moral burden of corrupt behaviour, reduces perceived rewards and increases the expected costs, or punishment.

The practicalities of designing and implementing integrity building programmes in defence are discussed in part IV of the compendium. Of particular importance in this regard is to acknowledge cultural specifics of the defence organisation in a particular country and to strengthen those features of the organisational culture that contribute to

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2   Pyman, et al., "Building Integrity and Reducing Corruption Risk," (2008), 31.

3   Ibid., 22.

4   Transparency International website, "Bribe Payers Index 2008 Table", www.transparency.org/policy_research/surveys_indices/bpi/bpi_2008#bpi_table. The sectoral ranking evaluates the likelihood of companies from the 19 sectors in the study to engage in "state capture," whereby parties attempt to wield undue influence on government rules, regulations and decision making through private payments to public officials.

individual and organisational integrity and deter corrupt behaviour. These good practices can then be disseminated to other public organisations in the country.

Sources of Corruption in Defence

Corruption is the abuse of a position of trust for dishonest gain. Corruption within the defence sector may take many forms: kickbacks and bribes, the awarding of non-competitive contracts or the manipulation of soldier payrolls. The recent and rapid growth of private military and security companies—performing activities previously within the realm of the state that are outsourced in accordance with limited regulations—has further increased opportunities for graft.

Part II of the compendium includes nine chapters that look in detail at the sources and the reasons for corruption in defence. The majority of chapters examine corrupt behaviour, as well as good practices in building integrity and enhancing transparency and accountability in main defence management areas: personnel policies and manpower management, defence budgeting and financial management, procurement, offset arrangements, outsourcing, privatization, public-private partnerships in defence, utilisation of surplus equipment and infrastructure, and the involvement of defence personnel and assets in economic activities. Chapter 12 focuses on corruption risks and integrity issues related to contemporary military operations, while chapter 13 examines defence-related corruption in countries with unresolved territorial disputes.

Below is a list of some of the rationale that facilitates corrupt practices, namely "secrecy," "urgency" and "concern for the people." Although benign at first glance, the regular reference to these themes strongly limits transparency of decision making and implementation, as well as the accountability of players in the defence sector, and thus creates a breeding ground for corruption.

Secrecy is the first and worst enemy of transparency in defence. The prolific reference to secrecy in order to "protect national security interests" severely limits the opportunities for parliamentarian oversight and other forms of societal control of the executive. In defence procurement, for example, the reference to secrecy strongly limits the number of potential bidders or even leads to single source procurement. That not only prevents competition but, much too often, such schemes are designed and maintained in order to facilitate corrupt practices.

The reference to *urgency* in meeting operational and other defence requirements allows for the implementation of simplified procedures or directly defying the rules, e.g. not holding open tenders and thus circumventing tender requirements for openness and competitiveness. A reference to urgency is often made in the defence establishments of new NATO members and partner countries that contribute to international operations on an ad hoc basis or with "contingents" assembled for a single operational rotation. The need to meet urgent requirements, especially when combined with refer-

ences to secrecy, creates an excellent ground for non-transparent and arbitrary decisions and, hence, for corruption.

Populist slogans also often indicate corruption. One example is the call to "buy national" defence products and services, even when there are only a few or just a single national supplier of those products or services with questionable international competitiveness. Another example is the "concern for the soldiers' well-being" that has led to non-transparent exchanges of redundant military properties for housing for the military, non-transparent recreation contracts, etc. A third example is the call to act in the "public benefit," e.g. through offset arrangements[5] that not only distort market mechanisms but also are conducive for paybacks in variety of ways.

This is just a sample of the main "enemies" of transparency and accountability of the defence establishment that also serve to increase the corruption potential of defence with abundant negative consequences.

Effects of Corruption in Defence

Uncurbed defence corruption poses considerable challenges to the efficiency of the defence establishment and the operational effectiveness of the armed forces, lowers the esteem of the society and international partners for the military, endangers the security of the citizens and, in its extreme manifestation, threatens the democratic governance mechanisms and even the foundations of modern states. These effects are examined below in five relatively distinct groups.

Diversion of Scarce Resources

Corruption is costly. It diverts scarce resources from the generation of the defence capabilities a country needs at a proper cost and limits the opportunities to engage the armed forces in operations that enhance the security of the country and its allies. That means that the country is inefficient in implementing its security and defence policies and has lower levels of defence capabilities available to address security challenges and threats.

Box 1.1 provides an example of the cost of corruption in terms of wasted money and lost opportunities for technological modernisation of defence. It needs to be noted that the text in Box 1.1 accounts only for corruption cases brought to the attention of prosecution authorities.

From a societal perspective, defence corruption also occurs at the expense of more socially productive investments, such as education, healthcare, innovation and competitiveness.

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[5]   See Chapter 8 of this compendium for details.

Limited Operational Effectiveness

When a country deploys its troops in operations, corruption dramatically impacts their operational effectiveness. Less than adequate capabilities limit the role and the usefulness of the military units. Equipment of lower quality puts the soldiers at higher risk and potentially increases the casualties. By default, the morale of soldiers who had to pay to get into an operation is low.

Corruption may be used, and in fact is used, by terrorists and organised crime to acquire information, know-how, dangerous materials, weapon technologies and systems. Corruption may further compromise operational security, as shown in the example presented in Box 1.2.

Lower Morale and Regard for the Defence Institution

Even occasional cases of corruption in defence put a stain on the whole defence establishment and may have a detrimental effect on public trust in the military and the ethos of the armed forces of the country. The pride of the military and defence civilians in their service to the country is seriously degraded when they learn of corruption among their leadership. The lack of punishment in publicly known cases of drastic corruption among the high ranks of government further degrades the morale of the defence personnel and the public's esteem in the military. That has a negative effect on the opportunity to attract quality people to serve either in uniform or as civilian defence experts.

Box 1.1. Direct Costs of Corruption

In an interview with *Rossiiskaya Gazeta*, Major General Alexander Sorochkin, deputy chair of the Prosecutor's Office Investigations Committee, admitted that corruption in the Russian Armed Forces resulted in losses of 2.2 billion rubles ($78.6 million) to the state budget in the first nine months of 2008 and the number of corruption-related crimes in the Russian Armed Forces increased by at least 30% compared to the same period in 2007 to a total of 1,400. The money lost is "enough to buy at least 30 modern T-90 main battle tanks," while general officers have been involved in at least 18 of the corruption cases.

Russia's chief military prosecutor, Sergei Fridinsky, has added that while the total number of crimes had declined in the country, offences in the first nine months of 2008 soared 220% among the interior troops, 60% in the Emergencies Ministry, more than 10% in the border guard units of the Federal Security Service and 24% in the Defence Ministry. Among these crimes, instances of bribe-taking and office abuse increased 50% and over half of the offences were related to military property and budget funds.

Russian President Dmitry Medvedev has made the fight against corruption one of his top priorities since coming to office in May 2008, signing a decree to set up a presidential anti-corruption council just two weeks after his inauguration.

Source: "Military corruption costs Russia almost $80 million in 2008," *RIA Novosti* (2 December 2008), http://en.rian.ru/russia/20081202/118637765.html.

Box 1.2. Corruption and Security Threats in Volatile Areas

The corruption and ideological conversion of law enforcement officers by extremists in the North Caucasus has emerged as a major security threat, as the investigations of many major terrorist attacks have unearthed cases of corrupt or ideologically driven police officers who have assisted the attackers. Neither the boosting of passive defence measures nor increased preventive strikes against militant hideouts will succeed in curbing domestic terrorism if the Russian authorities fail to take serious action to root out the corruption that plagues the country's law enforcement community.

Source: Simon Saradzhyan, "Dynamics of Maritime Terrorist Threats to Russia and the Government's Response," *Connections: The Quarterly Journal* 8:3 (Summer 2009): 53–84.

Corruption reduces public trust in the military. Endemic corruption can have detrimental effects on public trust in the defence institution. Box 1.3 provides an example in which the public regard went so low that the resulting cuts in the defence budget jeopardised even the nominal functioning of the defence establishment.

Corruption-based limitations on capability and low morale, discussed in the previous section, reduce the credibility of national forces deployed on multinational peace missions.

Overall, defence corruption has a negative impact on the prestige of the armed forces—and the country as a whole—in the eyes of allies, partners and international organisations such as NATO, as well as in the wider international community.

Immediate Security Threat

Furthermore, corruption-based links of security and defence organisations to organised crime pose immediate threats to the security of the country and its citizens. Corrupted defence and security sectors are conducive for the creation and functioning of organised crime and piracy groups. Box 1.2 provides one example; another example is described in Box 1.4.

Threat to the Foundations of the State

Defence sometimes serves as a focus of corruption across government and involves numerous actors. In lacking transparency and accountability to the public and civil society, it is relatively easy to divert money from the defence sector and for behind-the-scenes networks to keep corrupt officials, businesses, intermediaries, accountants and lawyers, facilitated by spin doctors and fraudulent media, in business.

Box 1.3. Loss of Public Trust and Resulting Cuts of the Defence Budget

For years, there have been suspicions and media hints of large scale corruption in the Bulgarian defence ministry and armed forces but only a few cases of petty corruption have been officially acknowledged. Only after the change in government in 2009, the Ministry of Defence and the law enforcement agencies started to investigate the activities of the top leadership in defence. Dozens of instances of corruption emerged and by December 2009 Bulgarian prosecutors had charged a former defence minister with abuse of power in three cases.

The official report for the first 100 days of the new government acknowledged that the ministry and the armed forces are at the edge of a moral crisis and stated that "main attributes of the people in defence such as duty, honour, integrity, confidence, and self-esteem were provoked by bad governance and corruption."

While important for cleaning the defence establishment from practices of mismanagement, waste and corruption, the disclosure of the scale and methods of corruption in defence increased the resentment among the people. The public trust in the defence institution further eroded. One of the consequences was the severe cut in the defence budget, never witnessed before in the history of the country (see Figure 1.2). It is important to note that the economic and financial crisis had only a minor effect on this cut and, given the "morale collapse" of the defence institution, no defence experts, think tanks or media challenged this ruthless downsizing of the defence budget.
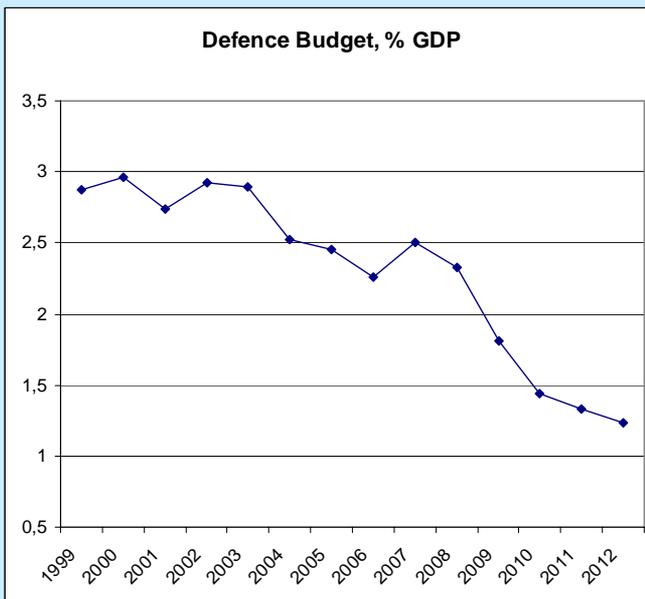
Defence Budget, % GDP

Figure 1.2: Bulgarian Defence Budget as a Percentage of GDP.

On the other hand, this severe cut jeopardised the sustainment of the armed forces and the development of requisite capabilities, thus turning systemic corruption into a threat to national

security and the international stance of the country as a reliable ally.

Sources: "Former Bulgarian Defence Minister Facing Contract Fraud Charges," *Agence France-Presse* (20 November 2009), www.defensenews.com/story.php?i=4386991&c=EUR; "The Defence Ministry in a Financial and Morale Collapse," *Mediapool.bg* (9 November 2009), www.mediapool.bg/show/?Storyid= 158371.

In such "grand" corruption, oligarchic circles and shady businesses criminalise the economy and the politics of the country and impose their private interests – a phenomenon known in the specialised literature as "state capture."[6]

In this train of thought, countering corruption does not mean simply introduction of regulations or "cleansing" the government; to defeat corruption means to take the country back from the oligarchic circles of corrupt officials, firms and ways of conducting illegal business and to establish the rule of law, applied universally and in a transparent manner.

In a situation when the security or the very existence of the country is under threat either by external or internal enemies, or both, the situation is further aggravated by endemic corruption. Box 1.5 highlights some of the ways in which corruption threatens the stability of a country.

Box 1.4. Piracy and Its Links to Corruption

On November 15, 2008, Somali pirates hijacked the oil tanker Sirius Star carrying 25 crewmen and 2.2 million barrels of oil. The ship was estimated to be worth approximately US$150 million, with its cargo worth at least another US$100 million. That incident, and a series of similar pirate attacks on smaller vessels, led to increased demands for naval presence in large areas of the Indian Ocean.

There are many reasons for the recent increase of piracy off the Somali coast. One reason rarely referred to is the corruption linkage between pirates and Somalia's politico-military elites. According to Roger Middleton, consultant researcher at Chatham House, pirates are "paying off any significant political and military powers so they can carry on with their activities unhindered."

Source: Barney Jopson, "Somalia's bandits broaden their horizons," *Financial Times* (19 November 2008), 5.

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6   See, for example, Joel S. Hellman, Geraint Jones and Daniel Kaufmann, *Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition*, World Bank Policy Research Working Paper No. 2444 (September 2000).

Box 1.5. Corruption Impedes Stabilisation and Reconstruction Efforts.

General Stanley McChrystal repeatedly highlights corruption and weak state institutions as a major threat to the success of ISAF and Operation Enduring Freedom. He states that insufficient comprehension of the dynamics of corruption and criminality has led to a "crisis of confidence among Afghans." US General Robert Cone, commander of the force that trains the Afghan army and police, has expressed similar sentiments noting, "Endemic corruption is one of the main obstacles to the Afghan army and police being able to take over their country's security duties."

Corruption and chronic mismanagement have been blamed for holding back reconstruction efforts in the country. International aid workers have said that up to one third of the funding already dispersed (about US$15 billion) has been wasted, which has deepened the resentment of locals toward foreign troops. A day after President Hamid Karzai was sworn in for a second term, the U.S. Defence Secretary Robert Gates said "donors should tighten control of how the 'significant influx' of money into the country is used." Western leaders have put pressure on Mr. Karzai to deal with corruption and remove former warlords from government.

Fifteen current and former Afghan ministers are under investigation over allegations of corruption that have plagued the government of President Karzai. In his inaugural address for his second term as president, Karzai pledged to arrest those who spread corruption. International leaders, who have threatened to hold back troops and development aid unless Karzai cleans up corruption in his government, are watching closely to see if he keeps his promise.

Sources: "McChrystal: More forces or 'mission failure'," *Washington Post* (21 September 2009), www.washingtonpost.com/wpdyn/content/article/2009/09/20/AR2009092002920.html; Jon Hemming, "Corruption holds back Afghan army expansion," *Reuters* (11 December 2008), www.reuters.com/article/worldNews/idUSTRE4BA5S420081211?pageNumber=1&virtualBrandChannel=0; "US Secretary of Defence Robert Gates in the Pentagon," *BBC News* (21 November 2009); AJ Henninger, "Corruption: 15 Afghan ministers under investigation; bribes, perks, skimming," *on the DEFENSE* (November 24, 2009), http://onthedefense.wordpress.com/2009/11/24/corruption-15-afghan-ministers-under-investigation-bribes-perks-skimming.

Is Defence Corruption a Never-ending Story?

Defeating defence corruption is a notoriously difficult endeavour but is a pre-condition for regaining societal confidence and provision of defence and security at an affordable cost and with acceptable risk. And while it is far from clear whether defence corruption can be entirely overcome, there are proven approaches and good practices that, when implemented in the proper context, can be used to curb corruption.

In addition to the good practices in functional defence areas presented in part II of the compendium, part III presents details on relevant regulatory frameworks and proven practical approaches to integrity building at the level of the individual, the executive branch of government and the defence ministry in particular, parliaments and

audit offices, ombudsman institutions, the defence industry, civil society and the media, and international organizations.

Even a long journey starts with a few steps. While the treatment of defence corruption risks and counter-corruption strategies and measures in this compendium is comprehensive and detailed, the application of the approach is always context specific and requires establishment of clear priorities and realism in matching objectives and resources. Box 1.6 presents an example in defining a set of practical measures in an ambitious programme to drastically reduce defence corruption.

Box 1.6. Establishing Practical Priorities in Reducing Defence Corruption Risks

A non-governmental study, conducted in 2008, identified several key measures that would lead to a quick reduction of the corruption potential in the Bulgarian defence establishment:

- Creation of favourable normative and procedural conditions for eradication of corruption in defence, with a priority on:
  - Elaboration and steady application of objective-oriented budgeting, based on programmes;
  - Substantial increase in transparency of the procurement process and admission of a maximum number of bidders in tender procedures;
  - Immediate discharging of the Ministry of Defence and the military from all types of economic functions;
  - Suspension of property exchanges and of similar transactions;
  - Sending to operations abroad only existing units with already developed capabilities.

- Conducting additional studies on problems connected with corruption in stabilization and reconstruction operations; formulation and realization of offset and similar programs and projects; identification of the roots of non-efficient management; development and comparative analysis of methods and approaches for solving those issues.

- Monitoring the level of corruption potential in the defence sector, of the measures undertaken by the legislative and executive power, business and non-governmental organizations to counter corruption, and of the real level of corruption.

In 2009, members of the study team were assigned to leadership positions in the Ministry of Defence and immediately embarked on realising these recommendations.

Source: Todor Tagarev, "Defence Decision-making and Corruption Risks," in *Integrity in Defence: Effective, Transparent and Accountable Management*, Avgustina Tzvetkova, ed. (Sofia: Euro-Atlantic Education Initiative, 2009), 189–214.

Chapter 2

A Strategic Approach to Building Integrity and Reducing Corruption in Defence

The crippling costs of corruption, discussed in chapter 1, can be reduced significantly through the application of proven principles, mechanisms and practices of good governance. Governments have a wide spectrum of choices in their efforts to minimize corruption. These can be distilled into three main categories:

- Building integrity;
- Increasing transparency; and
- Improving accountability.

A simple strategic framework offers an illustration and serves as a guide to shape government investments to counter corruption. This framework combines a philosophical view of corruption with an economic perspective. It couples views on ethics of the great German Enlightenment figure, Emmanuel Kant, with the utilitarian perspective attributed to the 19th century English philosopher, John Stuart Mill.

Mill's utilitarian perspective reappears in a contemporary economic model of crime developed by Nobel Prize winner Gary Becker entitled *Crime and Punishment: An Economic Approach*.[1] The theory of rational crime proposed by Becker requires that we place ourselves in the shoes of a public employee, bureaucrat or elected government official. According to Becker, any individual with an opportunity to be corrupt evaluates the potential (marginal) benefits of their actions against the expected (marginal) costs if detected and punished. Becker conjectures "… individuals become criminals because of the financial and other rewards from crime compared to legal work, taking account of the likelihood of apprehension and conviction, and the severity of punishment."[2] His framework was later extended to include the ethical costs of crime.[3]

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[1] Gary S. Becker, "Crime and Punishment: An Economic Approach," *Journal of Political Economy* 76 (1968): 169–217.

[2] Ibid., 176.

[3] Michael K. Block and John M. Heineke, "A Labor Theoretic Analysis of the Criminal Choice," *The American Economic Review* 63:3 (1975): 314–25.

According to this approach, two major factors help deter the corruption of elected officials, civilian and military government employees, defence contractors and others in the defence sector. The first is a culturally determined ethical or "moral burden" – if individuals recognize corrupt actions as immoral and unethical, this deters corruption. The second major factor is the "Expected Punishment" – if individuals recognize their actions are illegal, and that they may be discovered and imprisoned, this deters corruption. From this perspective, when evaluating whether or not to engage in corrupt practices, individuals often implicitly consider two costs: 1) the ethical or moral burden of committing an illegal act; and 2) the probability of being arrested and punished. These costs are then compared to potential rewards.

Assuming diminishing marginal benefits of corrupt actions and increasing marginal costs (see Figure 2.1) an opportunistic official would be tempted to engage in corruption as long as their perceived marginal benefits exceed their expected marginal costs, up to the point where marginal benefits equal marginal costs. Aggregating individual returns over all those engaged in corruption offers a lower bound on the costs of corruption. The total costs of corruption must also capture damage to the moral fabric of society and distortions in the economy that raise the cost of public services and reduce overall economic growth. In this framework, the two ways to decrease corruption are to reduce perceived marginal benefits or to increase the expected marginal costs of engaging in corrupt behaviour.
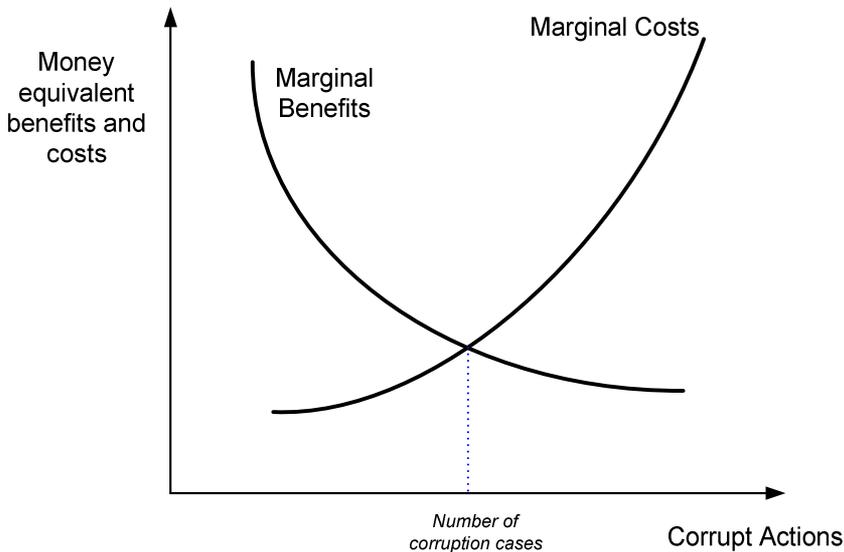
Figure 2.1: Expected Costs versus Potential Rewards from Corrupt Actions.

Modifying the Expected Costs of Corrupt Behaviour

The expected costs for an individual considering an act of corruption include a moral component and the likelihood of being punished. But why should anyone care about being moral? Classical philosophers provide a range of answers:[4]

- Being true to one's own rational nature (Kant);

- Because one aspires to human fulfilment (Aristotle); or

- Because keeping one's contract with one's fellow citizens is necessary to prevent social chaos and warfare (Hobbes).

In Kant's conception, "the moral agent must have an exemplary character, one which recognizes the rational demands of duty upon him even when there are no external incentives or constraints to compel, constrain, or otherwise shape his behaviour."[5] Kant talks about "the Moral Law within" and "imperatives of duty." According to Kant, "we are to do our duty regardless of the consequences."[6] We are acting in a morally worthy fashion, and possess what Kant calls "a morally good will," only if we are "individuals who can be counted upon to do what we know we must and ought to do, even when there are no external forms of incentive or accountability in place."[7] In sum, we should not require external inducements or constraints to force us to behave morally.

In sharp contrast to Kantian ethics is the so-called "utilitarian" school of John Stuart Mill who recognizes that "… as fallible human beings we will not always be adequately motivated by… *moral* reasons for obeying the law."[8] Contemporary thinking about the historically-conditioned, cultural grounding of morality needs to be mixed with "social and political responsibilities to establish justice, equality, and… rule of law."[9]

On the one hand, *building integrity* supports the Kantian ethics view. Investing in ethics training, cultural awareness, formal and informal codes of conduct, reputation, ideals, core values, honour, etc. increases the "Moral Burden" of corrupt actions. On the other hand, *increasing transparency* and *improving accountability* reflect Mill's utilitarian perspective. For instance, utilitarians believe the guilty should be punished only if the punishment would serve some deterrent (or preventative) purpose. They

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4 George Lucas and William Rubel, eds., *The Moral Foundations of Leadership* (Boston, MA: Pearson Education, 2004), 116.

5 Ibid., 184.

6 Ibid., 133.

7 Ibid., 161.

8 Ibid., 386.

9 Ibid., 159.

> **Box 2.1. Emmanuel Kant and "the Moral Law within": Lessons for Defence Officials**
>
> The moral agent must have an exemplary character, one which recognizes the rational demands of duty upon him even when there are no external incentives or constraints to compel, constrain or otherwise shape his behaviour.
>
> Defence officials and military officers are acting in a morally worthy fashion and possess a "morally good will" only if they are individuals that can be counted upon to do what they know they must and ought to do, even when there are no external forms of incentive or accountability in place.

consider not the punishment but the threat of punishment as most important and set the task "to find the right punishment that will serve as the optimum deterrent."[10]

Policymakers can increase the threat of punishment in three ways:

1. By increasing the probability of detection;
2. By increasing the probability of conviction given detection; and
3. By increasing the severity of the punishment.

Each approach corresponds to a different component of law enforcement:

1. Systematic monitoring for violations of the law and identifying and arresting offenders (here transparency increases the probability of detection);
2. An independent court system to assess guilt (accountability increases the probability of prosecution given detection); and
3. A corrections system to administer punishment (here accountability provides for independent assessment of penalties given conviction, and the recovery of misappropriated assets).

Since law enforcement is costly, the optimal level of enforcement will likely minimize but not entirely eliminate corruption (see Figure 2.1 and Figure 2.2). Increasing transparency—investing in building defence institutions by implementing effective and efficient budgeting and accounting systems, systematic application of economic and decision tools, independent financial audits, monitoring and oversight, etc.—increases the probability that corrupt actions will be detected. Improving accountability—investing in judicial reforms such as the promotion of an independent judiciary, enforcing laws, rules and regulations, etc.—increases the probability an individual will be convicted if detected and influences the assessment of penalties.

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[10] Ibid., 149.

Box 2.2. Utilitarian Theory on Rationality of Criminal Behaviour

Utilitarian theory predicts the likelihood an individual chooses to commit a crime will fall in response to an increase in either the probability or severity of punishment. Empirical work by Ehrlich (1973) demonstrates that increases in both the certainty and severity of imprisonment consistently have negative impacts on crime rates. Trumbull (1989) finds evidence that, for most crimes, certainty of imprisonment has a greater effect than severity of imprisonment. Block & Gerety (1995) find that prisoners are more easily deterred by increases in the probability of punishment (certainty) than its severity.

   Collectively, these studies help explain Becker's (1968) observation that "a common generalization by persons with judicial experience is that a change in the probability has a greater effect on the number of offences than a change in the punishment." If these results apply more broadly, then strategic investments in defence institutions that increase transparency could generate powerful deterrent effects that reduce corruption in the defence sector.

Sources: Isaac Ehrlich, "Participation in Illegitimate Activities: A Theoretical and Empirical Investigation," *Journal of Political Economy* 81:3 (May–June 1973): 52–65; William N. Trumbull, "Estimations of the Economic Model of Crime Using Aggregate and Individual Level of Data," *Southern Economic Journal* 56 (1989): 423–39; Michael K. Block and Vernon E. Gerety, "Some Experimental Evidence on Differences between Student and Prisoner Reactions to Monetary Penalties and Risk," *Journal of Legal Studies* 22 (1995): 123–38.

Modifying the Potential Rewards of Corrupt Behaviour

The potential reward from an act of corruption depends on the amount of resources that are under the control of the public official and the discretionary power s/he has, and is heavily influenced by the level of transparency and accountability.

    The combination of high discretionary power (high marginal benefits of corruption) and low accountability (low expected costs) is considered among the most common causes of corruption.[11] Corruption risks increase dramatically in the absence of trans-

Box 2.3. Expected Cost of Corruption

The expected cost to a public official, military officer or defence contractor of engaging in corrupt behaviour consists of two components:

$$\text{EXPECTED COST} = \text{MORAL BURDEN} + \text{EXPECTED PUNISHMENT}$$

Where: EXPECTED PUNISHMENT = (Probability of Detection) x (Probability of Conviction if Detected) x Penalty

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[11] Minxin Pei, "Government by Corruption," *Forbes* (January 26, 2009).

parency and when limited alternatives are available and officials are paid below market incomes. Alternatively, the discretionary power of defence officials is limited when the decision-making process is transparent, includes consistent and readily accessible decision criteria and measurable results, and there are multiple alternatives provided by open and fair competition (for example, in defence procurement). The potential for corrupt behaviour related to discretionary power would be further reduced if defence officials are held accountable in a systematic manner to superiors, parliamentary committees and auditors, not only for legality of procedures (financial audits) but also for objectively assessing alternative solutions (managerial audits). Efforts to reduce corruption can usefully be combined with an increased focus on the efficiency and effectiveness of public expenditures.

Finally, in order to benefit from corrupt activities, officials invest effort—and possibly money—to minimize detection. Increasing transparency and accountability increases the cost of such efforts and therefore contributes to lower corruption. It is also useful to recognise that individuals have different attitudes towards risk – some are risk seekers, while others are risk-averse. Greater risk aversion in opportunistic public officials would be associated with lower perceived marginal benefits and higher expected marginal costs of engaging in corrupt actions. Therefore, turning to Figure 2.2, highly risk averse individuals would be expected to participate in significantly lower levels of corrupt activity (at a point where their lower marginal benefit curve intersects their higher marginal cost curve).

A Strategic Approach to Reduce Corruption

The strategic approach proposed in this compendium (illustrated in Figure 2.2) aims at reducing corruption in the defence sector by:

- Reducing perceived rewards of corrupt behaviour (reducing marginal benefits); and
- Increasing the expected costs (increasing marginal costs).

This is bound to lead to a change of behaviour of defence officials, resulting in lower numbers of cases of corruption and reduced cost of corruption to the public, as indicated in Figure 2.2.

This framework offers an approach to good governance with a special focus on integrity, transparency and accountability:

- Building integrity increases the *moral burden* of corrupt behaviour through professional codes of conduct, ethics training, education, cultural exchanges, etc. This also contributes to reducing any perceived benefits of corrupt activity.
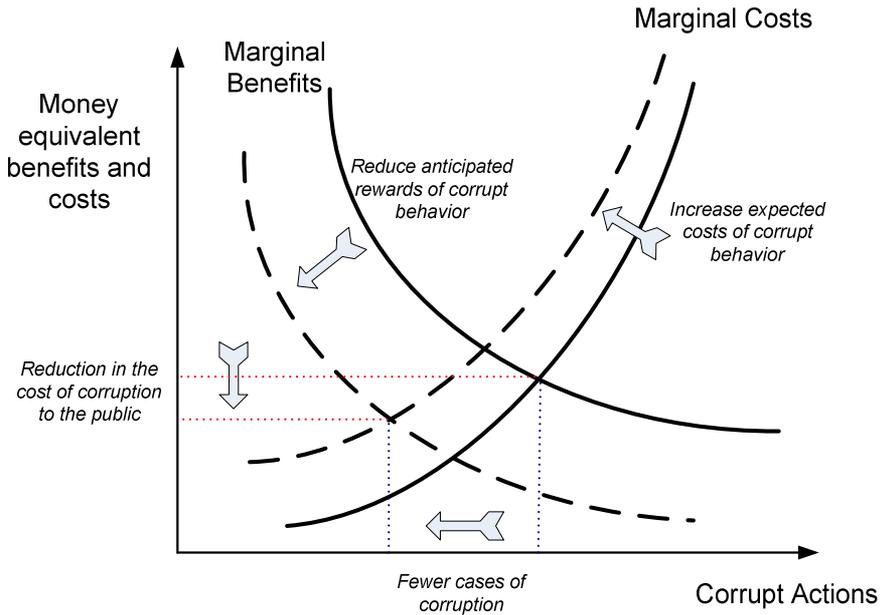
Figure 2.2: Foundations of the strategic approach to reducing defence corruption.

- Increasing transparency increases *expected punishment* by raising the probability of detection. This increases the expected costs of corrupt activity. Moreover, transparency of defence decision making, in combination with open and fair competition in appointments, career advancement, procurement of goods and services, etc., limits discretionary power and, hence, reduces the potential benefits of corruption. Defence institution building, in particular the explicit development of defence policy and strategy, planning, budgeting and resources management, is the main venue for increasing transparency, effectiveness and efficiency.

- Improving accountability through legislative and judicial reforms increases the *expected punishment* of corrupt behaviour by raising the probability of conviction if detected and the penalty if convicted. It increases the expected costs of corrupt behaviour and reduces the perceived net benefits of a corrupt act.

Box 2.4. Empirical Evidence in Support of the Selected Approach

Setting the strategic approach to reducing corruption in defence in a good governance framework is based on solid empirical evidence. Since 1996, the Worldwide Governance Indicators project reports aggregate and individual governance indicators for 212 countries and territories over the period 1996–2008 for six dimensions of governance: voice and accountability; political stability and absence of violence; government effectiveness; regulatory quality; rule of law; and control of corruption.

The analysis of the time series for two of the newer NATO members—Bulgaria and Slovakia, which joined the alliance in 2004—reveals a strong correlation between governance and the level of corruption. As an example, Figure 2.3 presents the percentile ranking of the two countries along the dimensions of "government effectiveness" and "control of corruption." Other data series also indicate dependence between corruption levels and other governance indicators: corruption is consistently lower when a country scores highly in regard to openness, accountability, effective government and rule of law.
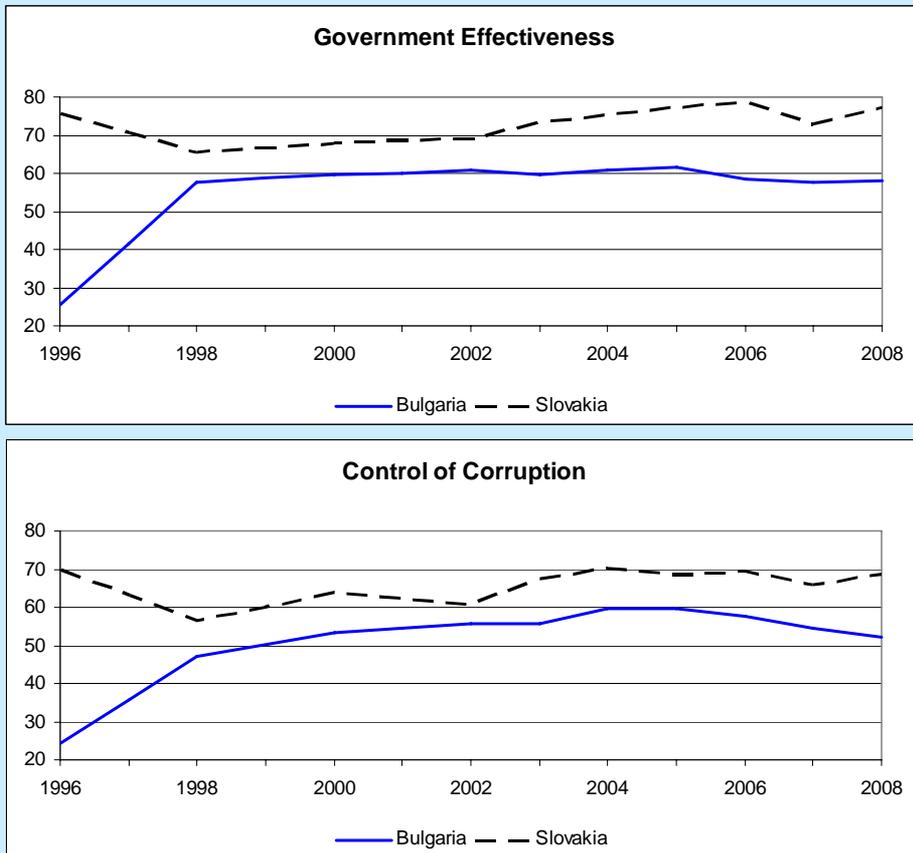
Figure 2.3: Correlation between Effective Government and Control of Corruption.

Given a country's limited defence resources, and the relative costs of building integrity, increasing transparency and improving accountability, the objective of each nation, as well as the NATO Alliance, should be to find an optimal mix of investments in integrity, transparency and accountability that minimizes corruption while preserving the efficiency and effectiveness of defence forces. This optimal mix will depend on a particular country's circumstances, costs and culture. What is considered optimal in one country may be very different in another. It must be recognized that the effectiveness of a country's investments in building integrity, increasing transparency and improving accountability partly depends on its history and can change over time.

Therefore, it is recommended that countries adopt a multi-year programmatic approach to integrity building initiatives that reduce the perceived benefits of corrupt actions and increase the expected costs. This approach can include regular assessments of institutional capabilities and responses to corruption that emphasize both the prevention and treatment of corrupt behaviour, including clear definitions and measures of success.

Sources: Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, *Governance Matters VIII: Aggregate and Individual Governance Indicators*, 1996-2008 (June 29, 2009), World Bank Policy Research Working Paper No. 4978; Ilin Stanev, "Daniel Kaufmann: Radical Transparency is the Best Solution for Reducing Corruption," *Capital* 29 (25 July 2009), 22–23.

Recommendations

- Approach the problem of defence-related corruption strategically, aiming to reduce potential rewards of corrupt behaviour (reduce marginal benefits), while increasing the moral burden and the expected punishment (increase marginal costs).

- Reduce corruption through good governance, evaluating alternative approaches to deter corruption and to respond to corrupt behaviour.

- Adopt a multi-year programmatic approach to integrity building initiatives.

- Based on a country's costs and political realities, find the optimal mix of investments to build integrity, increase transparency and improve accountability that minimizes corruption risks, while preserving or increasing the efficiency and effectiveness of defence expenditures.

- Conduct regular assessments of institutional capabilities and responses to corruption and periodically review the optimality of the chosen mix of investments.

Chapter 3

NATO and the Evolution of the Building Integrity Initiative

The Principles of NATO

NATO was founded in 1949 with an enduring vision: the indivisibility of Allied security. More than sixty years later, NATO continues to sustain this vision and remains the primary forum for security consultations among the allies of Europe and North America. These consultations take place through a transatlantic framework that underpins the collective defence of the populations and territory of NATO states, as well as ensuring the ability of its forces to perform a full range of missions and operations.

The common vision and shared democratic values embodied in the Washington Treaty of 1949 are the inspiration that enables NATO to not only maintain its core purpose of territorial defence but to address and respond to the emerging challenges of the 21st century.[1]

NATO Partnerships

The process of Euro-Atlantic integration, together with the development of NATO's relations with many countries across the globe, has been considerably strengthened and nurtured through the various distinctive partnerships that NATO has developed since the 1990s, strengthening the political dimension of NATO. NATO's policy of outreach through partnerships, dialogue and cooperation is an essential part of the Alliance's purpose and tasks. The Alliance's partnerships across the globe have an enduring value, contributing to stability and security in the Euro-Atlantic area and beyond. In the same spirit, the contributions of partners to NATO's missions and operations are highly valued.

The Euro-Atlantic Partnership Council

The largest of the formal partnerships is the Euro-Atlantic Partnership Council (EAPC). Established in 1997, the EAPC superseded the North Atlantic Cooperation Council (NACC) that was initially established in 1991. The formation of the EAPC reflected the realisation that it was increasingly important to create a security forum better able to promote a more enhanced and operational partnership, in line with the growing aspirations of Allies and Partners for a more sophisticated partnership relationship. The 50-

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[1] The new NATO Strategic Concept to meet the challenges and threats of the 21st Century will be introduced at the Lisbon Summit in the autumn of 2010.

nation Euro-Atlantic Partnership Council (28 Allies and 22 Partners) has therefore evolved as a multilateral forum for dialogue and consultation on political and security-related issues among Allies and Partner countries.

NATO remains committed to substantive political discussions and effective political cooperation within the Euro-Atlantic Partnership Council and Partnership for Peace, based on shared values and principles. Based upon these values and principles, NATO encourages and continues to support further defence, and other, reforms among its partners, including within the strategically important regions of the Caucasus and Central Asia.

NATO and the 60th Anniversary Summit

NATO's 60th anniversary summit at Strasbourg-Kehl was an occasion to recall the Alliance's major contribution to peace and security in Europe and the wider world. It was also a timely reminder of NATO's willingness and commitment to reach out to Europe's neighbours to the East and South to promote trust, dialogue and cooperation.

NATO's success in preserving peace and stability within the Euro-Atlantic region has sometimes meant that these achievements can be taken for granted. However, they are not self evident. They enshrine: the peaceful ending of the Cold War and the transformation of former Warsaw pact countries; the ending of the division within the European continent; the building of a permanent transatlantic community of values and interests; the integration and coordination of US, Canadian and European military forces and capabilities; the contribution to building a new cooperative European security system; and support for the arms control and disarmament processes that helped to end the conflicts in the Balkans and paved the way for Euro-Atlantic integration of the region.

The Evolution of the Building Integrity Initiative

Following discussions between representatives of the NATO Defence and Security Economics Directorate, Political Affairs and Security Policy Division and the defence team of Transparency International (the pre-eminent non-governmental organisation monitoring international public corruption), the NATO Political-Military Steering Committee and Political Committee, within the EAPC framework, prepared an initial report on building integrity in defence establishments, outlining possible EAPC contributions to building integrity in the security sector. This report was approved by EAPC Ambassadors in November 2007.

The genesis of the Building Integrity initiative also benefited in 2007 from a major conference addressing *inter alia*, the linkages between reducing corruption and the better management of defence resources. This conference, organised by the NATO Economic Committee in EAPC session,[2] together with a workshop on Building

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[2] Defence Economics IX: Lessons Learned in Defence Resource Management from the NATO Accession 2004", Ljubljana, Slovenia, September 2007.

Transparency and Integrity in the Defence and Security Sector,[3] did much to demonstrate the importance of, and interest in, the role and measurement of integrity in the better management of defence resources.

Within the EAPC framework, the Building Integrity initiative has been conceived and nurtured in a 10 point Work Plan. The heart of the 10 point EAPC Building Integrity Work plan has been the development of an education module led by the UK; a Self Assessment Questionnaire, developed by Poland; and the development of this Best Practices Compendium led by Switzerland.

Building Integrity and NATO Summit Declarations 2009 and 2008

NATO's commitment to meeting the challenge of introducing reforms to combat corruption and foster good governance in the defence sector was underscored in the communiqué from the 60th Anniversary Summit in Kehl-Strasbourg where Heads of State and Government (paragraph 36) encouraged the EAPC "to further develop the Building Integrity initiative which promotes transparency and accountability in the defence sector, and to report back to us on this initiative at our next Summit" (in Lisbon in autumn 2010).

This declaration followed on the seminal statement on the Building Integrity initiative at the 2008 summit in Bucharest. In Bucharest, Heads of State and Government had asserted that: "We will give priority to several new practical initiatives, which include building integrity in defence institutions…"(Paragraph 32)

Trust Funds and the Building Integrity Trust Fund

The Building Integrity Trust Fund is funded through voluntary contributions and is led jointly by three nations: Poland, Switzerland and the United Kingdom. This fund was launched on 1 July 2008 in order to build integrity and reduce the risk of corruption in defence establishments.

This is the first trust fund project aimed at providing practical support to defence institution building. The pilot project phase (Phase 1) was based upon three pillars: a training module in Bulding Integrity in Defence Establishments; an Integrity Self-Assessment Process; and a Compendium of Best Practices in Building Integrity and Reducing Corruption in Defence. In practice, these elements have implied the development of building integrity courses for civilian and military personnel that have been offered on a trial basis at the United Kingdom Defence Academy, the NATO School in Germany and The Peace Support Operations Training Centre in Bosnia-Herzegovina. The practical training in the other two elements has led to the development of a self assessment tool (that various nations have used in a trial) and the commissioning of essays for this Compendium. These activities have benefited significantly from the advice, inputs and contributions of partners from civil society, including the Centre for the

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3   Building Transparency and Integrity in the Defence and Security Sector, UK Defence Academy, Shrivenham, UK, July 2007.

Democratic Control of the Armed Forces and the Geneva Centre for Security Policy, Switzerland, the United Kingdom Defence Academy, (a Partner for Peace Training and Education Centre of Excellence) and Transparency International. Phase 2 of the activities underpinned by the Trust Fund will consider the best ways of embedding and deepening this cooperation.

Training and Education

In reaching out to Partners old and new, it is vital to recognise that the continual process of managing change in the defence and security sector requires further, and deeper, training and education of individuals and personnel. More than 50% of NATO's partnership programme is devoted to training and education, incorporating operational capabilities and good governance.

In the case of the Building Integrity initiative, this project has been developed in close consultation with Partnership for Peace (PfP) training centres and representatives of other international organizations. In addition to supporting PfP priorities, the initiative is intended to help nations meet their obligations within the UN framework, including the implementation of the UN Convention against Corruption.

The Financial and Democratic Challenges to Defence Reform

The budgets for training and education in the defence sector, and elsewhere, within national economies will not escape from the potential savings that finance ministries are seeking to effect at a time of economic hardship. The global economic crisis has imposed, and is imposing, severe and sustained pressures on the financial resources of the public sector of many countries. Such pressures, reflected in growing public sector deficits and rising national debt, have created highly publicised political and social unrest in developed and less developed economies alike.

In this volatile environment afflicting many countries, the claims of the defence and security sectors to maintain or increase their shares of public expenditure are subject to increasing scrutiny and critical evaluation. Increasingly, the imperative is to ensure that scarce resources allocated to the defence sector are used not only efficiently (through strong defence resource management) but are seen to be accountable and transparent. This is vital if taxpayers are to be convinced that their tax revenues are being used by governments in ways that are both judicious and honest. The Building Integrity initiative can make an important contribution to raising public awareness of the application of prudent, ethical and transparent financial management in the defence sector.

NATO Values and Building Integrity

NATO has, since its inception, emphasised that membership of the Alliance is based on values and performance that are underpinned by various key ideals such as: democratic governance and the protection of human rights; recruitment, on the basis of merit, of competent and credible professionals to public service; the establishing of

more effective, accountable and transparent administration at all levels of Government; and the implementation of measurable improvements in fighting corruption, upholding justice and the rule of law.

Following the introduction of the Partnership Action Plan in Defence Institution Building at the NATO Summit in Istanbul in 2004, a foundation for improving the efficient and accountable management of defence resources was established. The development of a practical programme to combat corruption, strengthen governance and build integrity in the defence sector is increasingly seen as vital to the efforts of partners to build efficient and transparent defence institutions. In this regard, the efforts of the Euro-Atlantic Partnership Council to highlight the value of anti-corruption initiatives have been, and are, of great importance.

Transformation and the Management of Change in the Defence Sector

During its six decades, NATO has sought to strengthen the Alliance and its partnerships through managing change and encouraging transformation in the defence sector. The ten pillars of the Partnership for Peace Framework Document on Defence Institution Building[4] was, as previously noted, a major initiative that has supported defence institution building and security sector reform in countries inside and outside the Partnership for Peace.

The tools and methodologies of defence reform, exemplified by the Building Integrity initiative, have supported, and are supporting, ongoing reform in NATO members, as well as in the diverse partnerships with more than 40 countries in Eastern and Central Europe, the Middle East, Africa, the Gulf and, further a field, to countries such as Australia, Japan, South Korea, New Zealand and Singapore. The Building Integrity tools, when completed, will be made available to all interested parties through the NATO website.

The International Effort in Reducing Risks in Corruption

Neither NATO nor the EAPC have the international lead in building integrity or reducing risks of corruption. NATO's efforts support the wider international effort and are directed at developing practical activities to help nations meet their international treaty obligations to the UN, (the UN Convention against Corruption), the Organisation for Economic Cooperation and Development (OECD) and others. The efforts undertaken by NATO and the EAPC are targeted at building integrity, increasing transparency and improving accountability within the defence and security sector, specifically.

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4   The Partnership Action Plan on Defence Institution Building (PAP-DIB) aims to reinforce efforts by Partner countries to reform and restructure their defence institutions to meet domestic needs as well as international commitments. Effective and efficient state defence institutions under civilian and democratic control are fundamental to stability in the Euro-Atlantic area, and essential for international security cooperation.

NATO's values, previously defined, are fundamental to the further strengthening of governance in defence ministries. Defence ministries in Allied and Partner nations are in no doubt as to the continuing challenges posed by corruption and recognise the need to implement measures that will address this malaise in a serious, comprehensive and transparent manner.

National Ownership and International Cooperation

Participation in, and implementation of, the Building Integrity initiative is the decision and responsibility of nations. National ownership and commitment is the pre-requisite and basis of involvement. As the initiative has developed, it has clearly benefited from excellent and ongoing cooperation between nations, NATO, defence industry and Transparency International. This cooperation is testimony to the strength that comes from the shared values and interests of all of the relevant organisations and actors.

As previously noted, the interest in, and support for, building integrity reflects the financial pressures increasingly imposed by finance ministries upon defence and security budgets at a time of increasing financial stringency arising from the deep and damaging international recession. Allies and Partners understand the need to spend increasingly scarce resources in an effective, efficient and visible manner. In this regard, the Building Integrity initiative can contribute to this objective in providing practical tools to build capacity and ensure value for money.

Working in Cooperation

NATO's experiences in Afghanistan and the Balkans have demonstrated that the security challenges of today necessitate that the international community works cooperatively in combining civil and military measures and coordination. Working together effectively requires the cooperation and contribution of all major actors. It is essential for all international actors to act in a concerted manner that takes into account respective strengths and mandates. NATO is strengthening its ability to work effectively with partner countries, international organisations, non-governmental organisations and local authorities, enhancing synergy at all levels. Such cooperation applies equally to NATO operations and the continuing efforts to transform in order to meet the challenges of the 21st Century. The principal international organisations are increasingly involved in the development and delivery of policies that will bring a more integrated approach to defence reform, security and development.

Such an integrated approach applies not only to operations but more broadly to many of NATO's efforts, such as the building of integrity, the fight against terrorism and the enhancing of energy security. For these and other reasons, NATO will continue to seek permanent, structured and cooperative relationships with partner countries and important international organisations (including the European Union, the United Nations, the World Bank, the International Monetary Fund and the Organisation for Economic Cooperation and Development).

The Deliberations and Findings of the Monterey Conference February 2009

At the end of February 2009, an important international conference took place in Monterey, California to take stock of what had been achieved in the development of the Building Integrity initiative and to contemplate the road ahead in broadening and deepening the implementation of the initiative.

NATO, in cooperation with the Naval Postgraduate School (the Partnership for Peace Training and Education Centre in North America) and Transparency International, conducted a conference that sought to evaluate the progress made in developing practical tools and to exchange views on the further implementation of the Partnership Action Plan on Defence Institution Building agreed at the Istanbul Summit.

The Monterey Recommendations

The recommendations from the Monterey Conference were intended as a contribution to the stocktaking report that was delivered to EAPC Ambassadors and as guidance in the further development of a programme of work, including identifying practical activities to be undertaken by NATO and the EAPC in support of the UN-led effort to build integrity, increase transparency and improve accountability in the defence sector.

Strengthening Integrity in Theatre

In cooperation with other international organisations, NATO has focused upon assessing the economic footprint of the International Assistance Security Force (ISAF) and Provincial Reconstruction Teams (PRTs) in Afghanistan. In this regard, work has been undertaken to identify mechanisms that would build integrity, increase transparency and improve accountability in order to encourage more effective and efficient spending of resources in theatre, accelerate economic development, and promote best practices.

In collaboration with other international organisations, NATO has developed and supported events focused on exchange of knowledge and expertise and the promotion of best practices for PRTs (including events organised in capitals as well as Afghanistan).

Strengthening Integrity through Education

It was recommended that lead nations would continue to provide support through the Building Integrity Trust Fund to implement the Building Integrity in Defence Establishments (BIDE) package. This package included 2009 trial courses in Ukraine, Bosnia-Herzegovina and Afghanistan.

Taking account of the work undertaken by the NATO School in using electronic platforms, and the experience of others (such as the African Security Sector Reform Network,) efforts have continued in order to develop a network of practitioners able to promote best practices and exchange experiences and information.

The UK Defence Academy, together with other interested parties, has continued to develop course material to be used as a "stand alone" and to support a Distance Learning Module. Taking account of the results of 2008 self assessment process and the 2009 trials, recommendations are being developed to strengthen the link with ongoing NATO Partnership for Peace (PfP) force planning activities and other tailored programmes of work such as Individual Partnership Action Plans.

Working with interested NATO and national education institutions, including PfP Training and Education Centres, as well as representatives of civil society, a schedule of BIDE activities for 2010-2012 has been developed. Such activities include the preparation of modules to be integrated into existing training and education (such as development of a pre-deployment training module).

Efforts have been made with others, such as the NATO Parliamentary Assembly, to pursue potential opportunities for collaboration that draws upon the expertise of parliamentarians. This offers the possibility of developing modules tailored for members of parliament and staffers.

Strengthening Integrity in Procurement

The conference took account of the initiatives and efforts of the aerospace and defence industry to develop a common Trans-Atlantic industry code of conduct. Efforts continue to be made to incorporate such developments into the further elaboration of the Building Integrity in Defence Establishments (BIDE) initiative. On this basis, it has been agreed to explore the feasibility of a best practices workshop on Common Industry Standards on building integrity, increasing transparency and improving accountability.

Furthermore, the intention is to continue to promote the exchange of nations' experiences on reducing corruption risks in procurement. These exchanges can include the development of workshops and roundtables, focusing on improving financial rules and regulations, implementing Building Integrity ethics programmes, and using e-procurement to increase competition and improve accountability. A Best Practice Workshop on "Ethics and Procurement took place in Norway in autumn 2009.

In addition, it was recognised that offsets accompanying defence procurement can involve additional corruption risks and contribute to a misallocation of resources. All nations might review policies directed at offsets in order to take steps to identify the risks and to increase transparency and improve accountability accompanying the implementation of offsets. Such steps can include a review of procedures associated with the award of offsets, ensuring that tender prices, with and without offsets, will be compared in order to facilitate a quantitative assessment of the costs and benefits.

Strengthening Integrity through Research and Analysis

The importance of encouraging the NATO Defence College, the NATO School, and relevant PfP Training and Education Centres and NATO Centres of Excellence to incorporate Building Integrity initiatives in their courses and research agendas has been

widely acknowledged. Such efforts might include the strengthening of integrity at the level of PRTs and identifying best practices, with the results to be shared in NATO and national publications and conferences.

NATO/EAPC Support to Strengthening Integrity

It is clear that nations need to reinforce existing efforts for the development and implementation of the Building Integrity work programme. Drawing on voluntary national contributions and interns, such an approach can enhance national capacity building efforts and promote best practices.

A key element in the ongoing work of the initiative is for nations to continue to provide resources to the Building Integrity Trust Fund in Phase 2. In addition, the NATO International Staff will continue to work with the Organisation for Economic Cooperation and Development to identify contributions to the Trust Fund that are eligible as Official Development Assistance.

Future Work and Ambitions

The Monterey Conference was a major milestone in propelling the Building Integrity initiative. The conference took note of the proposal that a similar stocktaking conference on Building Integrity in Defence Establishments could take place in 2011 with the Naval Postgraduate School once more acting as the host. From these recommendations, a stocktaking report has been prepared for EAPC Ambassadors, including the proposed work programme for 2010-2012.

Building Integrity in a Turbulent World

The defence and security sectors of many countries are part of an ongoing international financial turbulence that is imposing severe budgetary pressures. Major defence and security reviews are taking place to assess the correct level of resources to flow into these sectors, given the competing claims of so many other areas of public expenditure such health, education and transport infrastructure.

In the three years since the Building Integrity initiative was launched, the need to strengthen values, governance, reforms and international cooperation remains of paramount importance. The initiative has an enduring importance in enabling nations to implement mechanisms that will raise the standards of public administration, accountability and judicial reforms. Such mechanisms will also assist in providing additional resources for defence capabilities by reducing the waste of resources from corruption.

In conclusion, *The Building Integrity and Reducing Corruption in Defence Compendium of Best Practices* offers considerable insights and draws upon a variety of experiences concerning practical approaches for tackling the corruption challenge. These insights and experiences will help nations to implement far-reaching defence reforms that can serve to reduce corruption risks in defence and security sectors of nations across the world.

Chapter 4

National Approaches in Support of Building Integrity and Reducing Corruption in Defence

It is not only NATO as an alliance but also individual member countries and partners that support integrity building initiatives. This chapter presents several examples of state-of-the-art approaches to support such initiatives and recommendations derived from best practices.

Box 4.1 presents a national view that supports the wider role of NATO and the Euro-Atlantic Partnership Council (EAPC) in initiatives aimed to build integrity and reduce corruption risks in defence establishments.

Box 4.1. Fighting Corruption in Defence: A View from Switzerland

The importance of fighting corruption is taking on increasing significance in the realm of international security. This is being recognised within the NATO Alliance and by its civil society partners. In each of the big topics in international security today—weapons of mass destruction, missile defence, civil wars, climate change—building integrity, increasing transparency and establishing the rule of law will have a strong impact in and of themselves, and will also thereby have a strong impact on international security.

With this recognition, Switzerland supports the EAPC Partnership Action Plan on Defence Institution Building and is among the lead nations, together with Poland and the United Kingdom, for the Building Integrity Trust Fund.

Source: HE Ambassador Jean-Jacques de Dardel, Ambassador of Switzerland to NATO, Address to the Building Integrity and Defence Institution Building Conference, Monterey, CA (25-27 February 2009).

The U.S. Approach to Integrity Building [1]

Foundations

The US approach in assisting partners' efforts to reduce defence corruption is based on the strength of partnerships, a comprehensive approach to security sector reform and a focus on enhancing defence institutions.

It recognises the importance of partnerships in helping nations provide for their own security, as well as for the common security. Secretary of Defense Robert Gates, during a much-heralded lecture at Kansas State University in 2007, has said that, "arguably, the most important military component in our common struggle against terrorism is not the fighting we do ourselves, but how we enable and empower our partners to defend and govern themselves." Consistent with Secretary Gates' remarks, the US Department of Defense has substantially increased the resources devoted to enhancing the governance capacity of partner countries.

Secondly, the Department of Defense, the Department of State and the US Agency for International Development (USAID) have agreed on a common set of guiding principles for a more comprehensive approach to security sector reform.[2] The document provides practitioners from the two departments and USAID with guidelines for planning and implementing security sector reform programs with foreign partner nations and deals comprehensively with reform efforts directed at the institutions, processes and forces that provide security and promote the rule of law.

One of these guiding principles is that operational support must be balanced with institutional reform. Thus, the emphasis is on how the forces built with US assistance are managed, financed, monitored and supported. It is recognised that success and sustainability of the forces depends on the institutions and processes that support these forces, as well as the human capacity to lead and manage them. The guidelines further note that the principles of good governance—accountability, transparency, respect for human rights and legitimacy—must be mainstreamed into the development of security forces and institutions.

The understanding that building integrity is an integral and indispensable part of building defence institutions forms the third foundation of the US approach. In part, the US concern about integrity proceeds directly from the concern about corruption and its

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[1]   The description of the US approach is based on the presentation of Honorable Joseph Benkert, Assistant Secretary of Defense for Global Security Affairs, USA. *Building Integrity and Defence Institution Building*, Conference Report (Monterey, CA: 25–27 February 2009).

[2]   US Agency for International Development, US Department of Defense and US Department of State, *Security Sector Reform* (February 2009), www.state.gov/documents/organization/115810.pdf.

corrosive effects. Corruption is a threat to our common security. It is no less dangerous than an external foe sabotaging the defence capacity. It gives aid and comfort to our common enemies.

Building integrity and reducing corruption are two sides of the same coin. The concern for integrity, however, has a more positive basis. Just as the responsibility for security is shared, so is our responsibility to defend it with institutions that reflect the nature of the North-Atlantic Alliance, an alliance to safeguard the freedom of our people and founded on principles of democracy, individual liberty and the rule of law. The United States seeks to work with NATO and international and non-governmental organizations toward improving defence institutions through greater transparency and accountability.

Key Components

Building integrity, transparency and accountability into defence institutions has internal elements of institutional capacity, as well as some external elements. Institutional capacity is the people, processes, organization and infrastructure required to develop, manage, sustain and employ capabilities to achieve national security goals. It is critical, therefore, to address all of these components—people, processes, organizations and infrastructure—in integrity building programmes.

People

Success starts with people. Institutions are only shells in which talented professionals turn ideas and resources into the tools of security. Education and training of defence professionals, both military and civilian, is therefore at the core of fostering a culture of integrity in defence institutions. Integrity must be a prominent feature in professional development systems. Education must prepare the most likely targets of corruption, for example those in the acquisition field, to recognize clear ethical boundaries and provide support systems for legal advice and counselling so that they can respond appropriately.

A culture of integrity is essential but defence professionals also need the tools to act on these principles. Education of defence professionals needs to provide them with the means of assessing their institutions' transparency and accountability, knowledge of best practices in these areas and a practical understanding of how to implement these practices. Education and training that fosters ethics and integrity, and provides the tools to build institutional integrity, is not a one-time event but a continuing requirement over a professional career.

Processes and Mechanisms

A second required component of institutional capacity is building integrity into the processes and mechanisms around which institutions function. It is well understood

that transparency mechanisms need to be integral to planning, budgeting and procurement systems. Contracting and procurement systems should include multiple-key systems that require oversight and clearly defined points of approval and review. Consistent with national security, there should be systems to provide external reviews of these processes and the decisions resulting from them. These mechanisms and processes must be informed by the host nations' history, legal system and culture, and will not work without host nation ownership.

Organization

The third critical element is the internal organizations that promote and provide accountability and oversight. In the United States, for example, almost all government agencies have independent monitors – the inspectors general. They provide accountability and support anonymous reporting by those who may fear retaliation in response to taking courageous action.

In addition to independent monitors, there are internal organizations that help prevent problems – for example, legal and ethical advisors that can guide policymakers or officials at potential points of failure. A small amount of prevention, perhaps in the form of periodic legal review or advice to a procurement official, may avoid the need for more costly investigations and prosecutions.

Infrastructure

Fourth, there is the infrastructure of integrity, transparency and accountability. The term "infrastructure" often engenders thoughts of buildings and computer systems. We mean here the legal and policy frameworks that are essential to integrity in defence institutions – for example, the requirement to develop and publish standards of conduct and procedures that codify the processes and mechanisms of transparency and accountability. Integrity pacts—one of the "best practices" in building integrity—are excellent examples of going beyond traditional means to build the infrastructure of integrity.[3]

External Components

There are also elements of integrity, transparency and accountability that are external to defence institutions and yet critical to their success. Defence institution building campaigns will not be fully successful if they are not integrated with broader security sector reform efforts external to defence institutions.

The guidelines for US government security sector reform efforts, issued in February 2009, are unique in that they were jointly developed and issued by the Defense Department, the State Department and the Agency for International Development.

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[3]   Chapters 7, 16 and 17 provide guidelines and examples of implementation of Defense Integrity Pacts.

They are significant in that they recognize the need for more comprehensive approaches that integrate defence, development and diplomatic tools across the range of institutions and elements relevant to security sector reform, including components external to security institutions.

The first and perhaps most important external components are the parliaments and legislatures, needed to provide a strong foundation in law for defence sector work. These laws must be proscriptive, requiring transparency, and prohibitive, defining illegal acts and demanding accountability. Parliaments should provide oversight of security institutions and play a critical role in ensuring transparency and accountability in defence budgeting and acquisition. Our approach to integrity in defence institutions must include programs to support the key role of elected legislatures.

Second, the defence sector requires a strong external rule of law framework to effectively ensure transparency and accountability. It is recognised, for example, that bolstering a defence institution's criminal investigative capacity may prove an exercise in futility without ensuring that the host country's justice system is well-functioning. A country's security policies and practices must be founded on the rule of law and linked to the broader justice sector. Our assistance should aim to ensure that defence institutions operate within a functioning framework of domestic and international law, and that these institutions support efforts to promote and enforce the rule of law.

NATO membership responsibilities include political as well as military elements. The concept that defence is interconnected with the other aspects of governance is well-grounded in the alliance. Thus, efforts to build integrity in defence institutions need to be synchronized with security sector reform efforts in other ministries.[4]

Third, civil society organizations have a role to play in ensuring transparency and accountability in defence institutions. Actors such as professional organizations, civilian review boards, think tanks, advocacy organizations, non-governmental organizations, media and other groups are included here. Responsible civil society organizations should be looked upon as partners and enablers toward a common goal of institutional integrity.

In addition to monitoring security sector performance, civil society has an important role in articulating public demand for integrity, transparency and accountability from all levels and branches of government. Leaders are expected to address the requirement for an institutional culture of integrity. This culture must be inherent in all components of government and at all levels, and be bolstered by civil society. Our common work is building the capacity of individual nations to provide for their own security and—as allies and partners—to contribute to our common security. This work requires not only building capable security forces but building the capabilities and capacity of institutions

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[4]   NATO expects that this understanding is reflected in any "Membership Action Plan" of a partner country.

that manage and support these forces. To be effective and to be seen as legitimate, these institutions need to demonstrate integrity, to be transparent and accountable.

The United States can help in building such institutions.

The Canadian Approach to Security Sector Reform and its Role in Afghanistan [5]

Canada has been an important player in Afghanistan, punching above its weight, particularly if one considers the development resources it has brought to the table and the military responsibilities it has assumed in the conflict in view of its traditional peace-keeping role. Canada is only one actor in a broad coalition of other countries and their peace support forces, as well as NGOs, intergovernmental organizations, private military and security companies, and the local and international media (not to mention the Afghan government itself, whose role is crucial).

The Canadian approach to SSR in Afghanistan is some seven years old. Canadians have attempted to take a comprehensive and integrated approach in their efforts and have encouraged other governments—donors as well as the Afghan government—to do likewise. A balance has been sought between governance initiatives and those seeking to enhance the ability of the Afghan security forces to assume responsibility for security delivery in the country on behalf of the population. These positive elements form an integral part of the current Canadian government's new approach to Afghanistan.

Since the end of the Cold War, Canada has adopted four overarching frameworks for conceptualizing and orienting its activities on behalf of development and, in particular, on behalf of troubled states: human security, the 3-D approach, the "whole of government" approach and security sector reform. While these concepts have entered the policy discourse at different intervals, they are not mutually exclusive (Figure 4.1). Instead, they tend to enjoy a certain level of simultaneous currency and they all figure in varying degrees as mobilizing constructs for Canada's involvement in Afghanistan.

Canada's objectives in Afghanistan have varied little since the initial engagements involving Canadian troops in 2001–02 and despite the three changes of government that have taken place in Canada during this period. Among the main objectives is to foster stability and development in Afghanistan in keeping with Canada's general commitment to promoting human security in fragile states. [6]

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[5]   This section is based on: David Law, "Canada in Afghanistan: Concepts, Policies, Actors, and Prospects," *Connections: The Quarterly Journal* 8:3 (Summer 2009): 25–51.

[6]   "Independent Panel on Canada's Future Role in Afghanistan" (known also as the *Manley Report*) (2008), http://dsp-psd.pwgsc.gc.ca/collection_2008/dfait-maeci/FR5-20-1-2008E.pdf.

Canada's combat mission in Afghanistan has been the defining fact that has made it possible for the Canadian contingent to carry out a range of SSR-related activities. The overarching framework for these activities is laid out in the *Afghanistan Compact* and the more detailed Afghanistan National Development Strategy (ANDS), which has set out a five-year program of cooperation between the government of Afghanistan and the international community in three areas: security; governance, rule of law and human rights; and economic and social development (with counter-narcotics as a cross-cutting fourth program area). The activities of the main Canadian governmental departments engaged in Afghanistan have dovetailed closely with the first three of these program areas.

The work of the Provincial Reconstruction Teams (PRTs) in Afghanistan has been vital with respect to SSR. PRTs are civil-military partnerships designed to facilitate the development of a secure environment for reconstruction in the Afghan regions. PRTs are structured as civil-military partnerships. Only the military elements of PRTs are integrated in the ISAF chain of command. Among the primary purposes of PRTs is to support, as appropriate (and within their means and capabilities), security sector reform activities in order to facilitate the reconstruction effort.
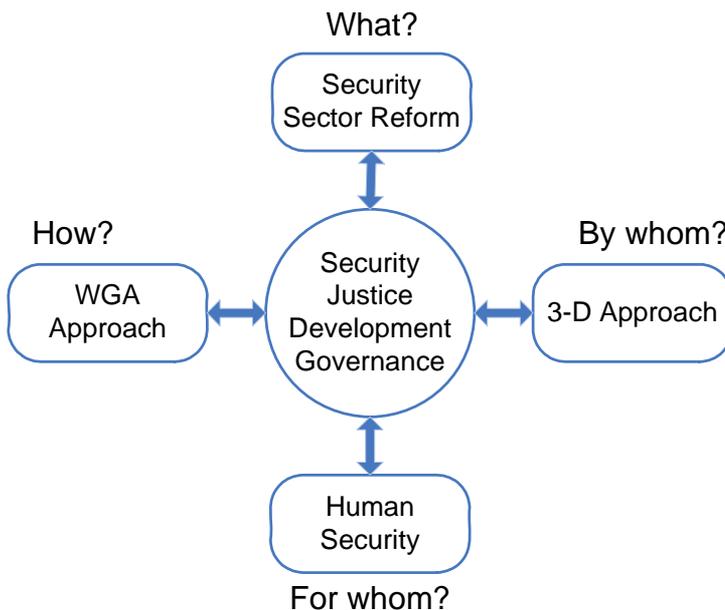
Figure 4.1: Concepts and Relationships in Security and Development.

In follow-up to the *Manley Report*, Ottawa has published a report titled "Canada's Engagement in Afghanistan: Setting a Course to 2011."[7] This report offers a candid assessment of the situation in Afghanistan. Regarding governance, it decries persistent shortcomings owing to the weak capacity of Afghan government institutions and waning public trust because of continuing widespread corruption. The report lays out a number of initiatives that have been undertaken:

- At home, Canada created a Cabinet Committee on Afghanistan and inter-departmental coordination of Canadian policy has been moved to the Privy Council of the prime minister, with a dedicated full-time staff headed by deputy ministers from Foreign Affairs, Defence, Public Safety, and the Canadian International Development Agency.

- Ottawa has committed itself to making quarterly reports to parliament and its newly created Special Committee on Afghanistan, and to ensuring a better flow of information to the press and the Canadian public regarding its policy in Afghanistan. Ottawa has also promised to develop a system of benchmarks for measuring progress on the security, governance and development fronts in Afghanistan, and on Canadian efforts in these regards.

- Canadian efforts within Afghanistan have been recalibrated. Security and development assistance have been focused on the Kandahar province, while a senior-level civilian representative is to be appointed to the PRT in Kandahar and the overall number of Canadian civilians in the country is set to increase significantly. In-country, Canadian actors are to be given more discretion in making policy to address local conditions. In the country as a whole, Canada is committed to pursuing its efforts to advance Afghanistan's capacity for democratic governance and effective government decision making, as well as helping to bring about national political reconciliation.

Recommendations

- Initiatives to build integrity in defence need to be examined primarily in the context of defence institution building.

- Defence institution building, in particular in fragile states, is to be set in wider security sector reform efforts, closely coordinated with development assistance.

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[7] Government of Canada, *Canada's Engagement in Afghanistan: Setting a Course to 2011* (Ottawa: Government of Canada, June 2008).

Box 4.2. Principles for Good International Engagement in Fragile States

In 2007, the OECD Development Assistance Committee, comprising development ministers and heads of agencies of most donor countries, endorsed a Policy Commitment and set of Principles for Good International Engagement in Fragile States and Situations.

These principles reflect a growing consensus that fragile states require responses that are different from better performing countries, and recognise that:

- Fragile states confront particularly severe development challenges such as weak governance, limited administrative capacity, chronic humanitarian crisis, persistent social tensions, violence or the legacy of civil war;

- A durable exit from poverty and insecurity for the world's most fragile states will need to be driven by their own leadership and people;

- Although international engagement will not by itself put an end to state fragility, the adoption of the shared principles can help maximize the positive impact of engagement and minimise unintentional harm.

The long-term vision for international engagement in fragile states is to help national reformers build legitimate, effective and resilient state institutions. Progress towards this goal requires joined-up and coherent action within and among governments and organisations. The principles, therefore, emphasise the need to:

- Take context as the starting point;

- Ensure all activities do no harm;

- Focus on state-building as the central objective;

- Prioritise prevention;

- Recognise the links between political, security and development objectives;

- Promote non discrimination as a basis for inclusive and stable societies;

- Align with local priorities in different ways in different contexts;

- Agree on practical coordination mechanisms between international actors;

- Act fast but stay engaged long enough to give success a chance;

- Avoid pockets of exclusion ("aid orphans").

By 2007, the principles were field-tested in nine countries and already started to catalyse behaviour change among donors. Ongoing work of the OECD DAC Fragile State Group aims to offer more operational guidance consistent with the principles in order to sharpen donor strategies and programmes in fragile states.

Source: OECD DCD-DAC, "Principles for Good International Engagement in Fragile States" website, www.oecd.org/document/46/0,3343,en_2649_33693550_35233262_1_1_1_1,00.html; OECD, *Whole of Government Approaches to Fragile States* (Paris: OECD, 2007), www.oecd.org/dataoecd/15/24/37826256.pdf.

- Interagency coordination, both at home and in theatre, is key for the success of security sector reform efforts.

- Interagency coordination that is transparent and provides mechanisms for timely accountability to parliaments and involvement of civil society is key for the legitimacy of security and development missions and continuous public support.

Part II
Corruption Risks and Vulnerabilities in Defence

The second part of the compendium includes nine chapters that examine in detail the sources and the reasons for corruption in defence. Seven of the chapters examine corrupt behaviour, as well as good practices in building integrity and enhancing transparency and accountability in main defence management areas: personnel policies and manpower management, defence budgeting and financial management, procurement, offset arrangements, outsourcing, privatization, public-private partnerships in defence, utilisation of surplus equipment and infrastructure, and the involvement of defence personnel and assets in economic activities. Chapter 12 focuses on corruption risks and integrity issues related to contemporary military operations, while Chapter 13 examines defence-related corruption in countries with unresolved territorial disputes or frozen conflicts.

Chapter 5
Personnel Policies

For the general public, corruption in personnel issues—including but not limited to the personnel management system—are neither the most visible nor the most sensational forms of corruption. They are, however, often the most pervasive and arguably the most corrosive to the defence system as a whole since they undermine the effective use of its most vital resource—its people. This chapter will examine the sources and impact of corrupt practices in the area of personnel, and will present the principles of successful anticorruption measures, as well as some examples of how these principles have been successfully applied in practice.

The goal of the defence personnel management system is to ensure that the right numbers of people with the right mix of skills and experience are in the right positions to provide for defence outputs—current operations, future capabilities, command and control, etc. If the personnel management system is to function effectively, it must perform two complementary functions (see Figure 5.1):

1. Determine human resource requirements, based on current and future defence requirements and force plans. These include short-term requirements to meet the needs of the current force, mid-term (5-6 year) requirements for the evolving force, and long-term (15+ year) requirements for meeting long-term development goals.

2. Manage and develop people—as individuals and in aggregate—to maximize the human resources available to meet requirements. This requires systematic efforts to attract, train, motivate, assign, promote and retain personnel to ensure an available pool of personnel with needed professional competencies (knowledge, skills and experience).

For corrupt officials, it is the second function that is the most interesting; personnel management decisions that have a direct impact on people's lives provide substantial opportunities for corruption. The first function is of less (illicit) interest, as the decisions involved are not easily translated into individual benefit. Yet from the perspective of building integrity, the existence of an effective requirements system is essential, since this creates a clear standard measure, linked to defence policy and plans, against which to measure the effectiveness of personnel decisions.

Requirements (Demand):

Policy → Planning/ Programming → Force Structure → Personnel Requirements (Indexed to time)

Personnel Requirements (Indexed to time) ↕ Manning Current Force

Development (Supply):

Recruitment/ Conscription → Training/ Education → Qualification/ Promotion → Assignment → Release
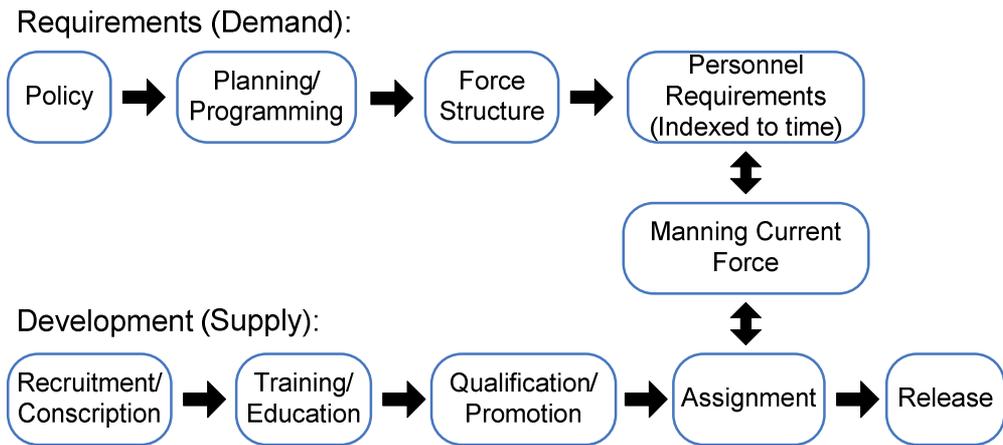
Figure 5.1: Personnel Management Functions (Simplified).[1]

Forms of Corruption Related to Personnel Issues

Officials with responsibility for personnel decisions have tremendous scope for corruption, whether they be in a serviceman's chain of command or in specialized personnel administrations. Any decision that has an impact on a serviceman can be a vehicle: favourable assignments, financial or professional awards, or distribution of scarce benefits (for example, housing). So are issues of a more mundane nature, such as daily work assignment or authorization of time off. In addition, the tremendous authority that superiors have over subordinates—by law or custom—also provides opportunities for corruption, either through bribery by subordinates to avoid difficult or dangerous work, or though extortion by superiors or older soldiers. In general, however, corruption in the personnel area falls into three principle forms: theft/extortion, bribery and influence networks.

Theft/Extortion

Officials charged with providing a benefit, such as serviceman's pay or material allowances like food, uniforms, or housing, divert a share of these assets to personal use. This is sometimes done by blatantly not delivering the goods but more frequently uses deceptive techniques like "ghost soldiers" or cash kickbacks. Another sort of corruption is when superiors—whether officers or other soldiers—abuse their authority to steal personal property or extort payment or personal services, based on direct threats to

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[1]   Adapted from Jack Treddenick, "Manpower Management," in *Defence Management: An Introduction* (Geneva: DCAF, 2009), 127.

career or safety. Soviet-style "nomenklatura" systems, with their strong commanders' prerogatives and embedded hazing systems, provide considerable opportunities for such abuse of authority.

Bribery

Officials with the power to provide a positive personnel decision accept—or expect—compensation from the individual who benefits by that decision. This can range from minor gifts (e.g. a bottle of wine or vodka) to major cash bribes. In otherwise functioning systems, this is most often used to bend or break rules so that the individual gains a benefit (i.e. favourable assignment, selection for education, extended time off) that would not be granted through a strict application of regulations or policy. Where corruption is endemic, bribe expectations are systemic; without one, the system will not deliver the desired results, regardless of the merits of the case. Where the benefit to the individual of a personnel decision is monetary (for example, an assignment with additional pay), the expected bribe is frequently proportionate to that expected benefit. While on the surface such systemic corruption may seem merely transactional, with prices well-known and evenly applied, it is at its core coercive – based on the denial of rights legitimately due to servicemen by those in positions of trust or responsibility.

Influence Networks

This is a variation on bribery and frequently co-exists with it. Rather than money alone, the currency of corruption is information, favours and influence. In authoritarian, stove-piped bureaucracies information is at a premium and informal exchange of information outside official channels can provide substantial benefits in terms of influence (or corruption opportunities). In addition, where formal coordination systems are cumbersome, mutual exchange of favours can become the norm for achieving results. This can develop into complex networks of mutual exchange of influence and favours, like the "blat" system in Soviet times, resulting in the development of informal "clans" and patron-client relationships. Favours inside the defence system may be linked via clan or family relations to quid-pro-quo and patron-client relations in wider society.

Risks and Remedies in Specific Personnel Management Areas

Every phase of the personnel management cycle (see Figure 5.1) has specific corruption risks, established schemes and possible remedies. This section will identify some risks and schemes and provide a few specific examples of best practices to limit corruption risk. However, it should not be seen as exhaustive; corruption schemes are limited only by opportunity and imagination.

Recruitment/Conscription

Conscription. Avoiding conscription has been a major source of corruption since Napoleon first introduced the modern conscription system in France. Today, it is a major industry in some countries; in Russia, where conscription is paired with brutal conditions of service, a single draft deferment costs just under $7000 and conscription-related bribes nationwide are estimated at $350 million annually.[2] The method for avoiding conscription is usually the procurement of a document falsely showing that the prospective conscript is medically disqualified or subject to an educational deferment. It is also possible to obtain a forged certificate indicating that a prospective conscript has already served. Producing these documents can involve a network of corrupt officials in conscription centres, together with doctors and educators. In addition to outright draft avoidance, conscription officials may provide preferential assignment to non-combat or less demanding assignments in return for bribes. They may also use the threat of dangerous duty to extort bribes. Conscription-avoidance schemes are usually systemic and pyramidal, with a percentage of funds brought in at the bottom paid in "tribute" to senior officials at the defence ministry and/or armed forces staff under whose protection and patronage the scheme operates. Control of this lucrative operation can be a key, unspoken issue in MOD restructuring efforts and can create a secret lobby against efforts to move to a volunteer force.

Training/Education

Initial officer training

In countries where the prestige of military service is high, selection to initial officer training programs can be highly competitive – it is not unusual for less than 10% of applicants to be accepted.[3] Social pressure on admission boards to accept candidates from elite families can be considerable, in addition to illegal financial incentives by those who see military service as a ticket to joining the social elite. Common methods of corrupt influence include inflated ratings at personal interviews (often a major part of the application process) and provision of questions ahead of time for written or oral exams. Exceptional candidates without connections are on rare occasion given the opportunity to gain a well-connected patron.

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[2] Estimate by Moscow-based NGO Indem, from: Alastair Gee, "In Russia, the Favorite Pastime of Draft Dodging," *US News & World Report* (29 December 2008).

[3] For example, for the Class of 2013 at the US Naval Academy (Annapolis), only 8.1% of applicants were admitted: www.usna.edu/Admissions/documents/Class%20Portrait%202013.pdf.

Higher military education (staff and war college)

Screening for acceptance into these career-enhancing educational opportunities can offer significant potential for corruption. In some countries, candidates are expected to visit members of the review boards on an individual basis to bring gifts and ensure their participation in patron-client relationships. During the course of studies, teachers

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Box 5.1. Building Integrity in Selection for Initial Officer Training

In the United States, coveted appointments to the four-year service academies have historically been the subject of political pressure. This has been regulated by creating a political "nomination" process separate from the "admissions" process. All US Congressional representatives and senators have the right to have five constituents attend each academy at any one time. For every vacancy, they are authorized up to ten nominations. Many representatives and senators run local competitions to select their nominees, although nominations are also sometimes given out as political favours. In addition, the US president is allowed to appoint up to one hundred candidates per year from those with at least one parent actively serving in the armed forces, and the vice-president is allowed to have five candidates, open for general competition. Additional nominations are available to active (enlisted) service members and children of medal-of-honour winners.

This nomination process creates a legitimate avenue for political influence, while channelling and limiting it. Politicians have a distinct deliverable that they can provide to a constituent. Yet the impact of this influence is limited to the first cut, reducing the pool from some 15,000 applicants (to use the example of the US Naval Academy) to an average of approximately 4,500. The academy then uses a rigorous admissions process, which is completely separate from the nomination process and involves external boards, to identify the 1,250 candidates that will be offered appointments. Since candidates apply for nominations (to political figures) and appointments (to the Naval Academy) in parallel, the academy can work informally with cooperative nominating authorities to ensure that top candidates for admission also receive a nomination. A second benefit of the nomination process is that it ensures geographical diversity of academy students (and thus the officer corps) across the various territorial districts and states represented by nominating representatives and senators.

In a younger democracy, Ukraine, prestige and historical traditions of military service also make positions in initial officer training institutions highly competitive. Until recently, admissions were largely the business of local admissions boards. This was identified as a corruption risk by the new defence ministry leadership that arrived in early 2005. They downsized a bloated educational system, cutting enrolment in half and approved a program to reduce entry-level officers' training institutions from 9 to 5 (with a reduction in overall academic institutions from over 60 to 12) by 2011. Stronger central oversight of testing and admissions were put in place, under the supervision of a deputy defence minister. This substantially reduced corruption opportunities.

Sources: White Book, Defence Policy of Ukraine 2005, www.mil.gov.ua; US Naval Academy Admissions website, www.usna.edu/Admissions/.

may also affect scores and assessments based on bribes or influence, thus affecting assignment and career development after graduation.

Education abroad

The combination of educational, career and financial opportunities inherent in these postings make assignment to education abroad a top corruption risk. Such opportunities are usually offered through international cooperation programs, frequently with full external financing. As a result, frequently neither normal selection procedures (used for national courses) nor normal internal financial oversight procedures apply, leaving officials responsible for international cooperation, education and personnel management with considerable discretion—and little systemic accountability—regarding selection of participants. In addition to promoting the candidacies of particular individuals based on connections or bribes, it is common for the responsible departments to try and keep a certain number of positions to be distributed to internal candidates. Senior-level review, often put in place as a check on corruption, can also provide a vehicle for it when senior leaders lack integrity. Foreign partners are frequently aware of this problem but are put in the dilemma of having to accept the candidates provided or forcing the politically and professionally embarrassing cancellation of courses.

Assignments abroad

Coveted positions abroad include attaché postings, staff assignments to international organizations (like the UN, EU or NATO), liaison positions at international commands and multinational headquarters, as well as direct participation in peacekeeping operations. Like education abroad, such assignments often provide vastly increased pay and substantial career opportunities. Many staff postings also offer a higher quality of life for the individual and family. Yet, while there is considerable corruption risk, there are also two limiting factors. First, many of these positions are nationally funded and therefore selection may be under greater scrutiny. Second, many posts abroad have high political visibility. In these cases, direct bribery to achieve a position is risky and influence becomes the corrupt currency of choice. On the other hand, those seeking lower level positions abroad are much more likely to be forced to make cash payments. And despite political visibility, all but the most senior personnel may still be forced to corruptly "motivate" a substantial number of minor or mid-level officials whose support is needed for required administrative or financials steps.

Corruption risk for participation in peacekeeping operations, however, can be considerably greater. Financial benefits for participating in operations abroad can be substantial since many nations have laws setting pay for peacekeepers at levels related to the United Nations' reimbursements (e.g. 50% of the UN reimbursement, coming to about US$700/month). Unlike those in staff positions abroad, who have to cope with higher living expenses, this money is almost entirely disposable income. The amount

of the bribe can thus be 15–20% of the expected financial windfall (e.g. up to US$1000 for a 6-month deployment) or even higher. With dozens or even hundreds of people required for a single operation, and applicants many times this number, corruption risk and potential profit can be very high – particularly in countries where peacekeeping contingents are cobbled together from disparate groups of individual soldiers.

Pay & Benefits

Ghost soldiers

Commanders, often with the acquiescence of administrative officials, keep a number of fictitious soldiers on their roster, receiving pay, food and equipment that can be pocketed or sold. These "ghost soldiers" sometimes account for up to 20–30% of a force. There are also cases of election rigging where such "ghost soldiers" vote—not surprisingly—overwhelmingly for the government candidate.

Bonuses/prizes

Complex systems of bonuses or awards can be used by those in a position to distribute them as a tool for ensuring patron-client relationships and potentially for corruption.

Housing

In post-communist countries, housing entitlements for active and retired armed forces personnel often significantly exceeds supply. Distribution of housing is therefore frequently linked to bribery or influence peddling. One variant is to unequally distribute funds to build apartments of grossly different sizes, pressuring junior personnel to take sub-standard housing while senior personnel get luxury apartments.

Medical

Free medical care is a frequent benefit for servicemen, retirees and their dependents. Nevertheless, quality care is sometimes provided only after bribing doctors or administrators.

Career Management

In systems where promotion is conditional on occupying a post designated for the appropriate rank, assignment is the most crucial issue for career management. In exchange for money or favours, personnel managers may provide advance notice of openings, preference candidates for assignment and seek to influence commanders to accept these candidates. Applicants may also be requested to visit commanders for a personal interview, at which a gift might be expected or a bribe solicited. The same scheme works for those seeking safe, quiet assignments or postings with potential for participating in corruption. In the latter case, substantial "advance bribes" may need to be paid to senior officials on the assumption of future illicit income.

Box 5.2: Building Integrity in Selection for Education or Assignment Abroad

At the end of the 1990s, the Ukrainian system had difficulty making effective use of the many training and education opportunities available through Partnership for Peace (PfP) and bilateral military cooperation programs. Decisions were driven by supply—course availability—rather than a clear set of requirements. Selection of personnel was cosily arranged between the Defence Ministry Personnel Department and International Cooperation Department, with little effective oversight. Corruption and influence peddling were rife in the selection process.

A number of factors helped improve the situation over the next several years. The creation of the General Staff Partnership for Peace and Peacekeeping Operations Directorate (PPOD) in 1999 provided an institutional proponent for requirements-driven international cooperation, focused on building interoperability and preparing for operations. That same year, NATO opened a liaison office, co-located with the PPOD, which added vital real-time information, resources and political support to PPOD's efforts. An important step in this effort was a General Staff decision to link specific activities to specific partnership goals (objectives for reform or increasing interoperability).

By 2002, these efforts had some success: participation in many training and operations-related PfP activities became more consistent and the quality of personnel attending improved. But two problems remained. First, there was little improvement in selection for long-term educational opportunities abroad, which were largely bilateral and therefore outside the NATO and PPOD remit. Secondly, the system for using local "military commissariats" to man special ad hoc units for peacekeeping operations allowed considerable corruption.

The leadership that came to the Defence Ministry in February 2005, after the Orange Revolution, took significant steps to address these corruption problems. The minister ordered the development of an annual plan of all activities abroad, together with the names and positions of personnel designated to attend, and insisted on personally signing orders for all appointments abroad. While cumbersome, this high-level visibility helped discipline the system to clearly link participation in specific activities to actual requirements. To help the minister's assessments, the MOD High Attestation Committee, chaired by the First Deputy Minister, reviewed multiple candidates for key activities like long-term courses abroad, UN observer missions and NATO postings on a competitive basis. The minister also issued guidance that individuals that had previously studied abroad, served on international staffs, or participated in UN missions must typically wait 5 years before they are eligible for similar opportunities a second time.

Regarding peacekeeping operations, the MOD, supported by advice from NATO, changed the method for generating forces away from creating "ad hoc" units and toward deployment of standing units. This eliminated the need for reservists to be recalled via the "commissariats," which considerably reduced corruption risk.

Finally, Ukraine's Ministry of Defence worked closely with NATO's Professional Development Program for civilian personnel in order to establish a requirements-based, competitive system to drive appointments (see Chapter 22 for more detail on the PDP).

In some systems, candidates for assignment or promotion need to appear personally for questioning before review boards, adding a considerable element of subjectivity

to the board's decision. Where board membership is constant, candidates may also be expected to first visit key members in order to gain their support – a process that provides ample corruption opportunities. It also has the effect of ensuring that candidates are well-embedded in patron-client relationships.

Box 5.3. Building Integrity in Promotion Selection Boards

In order to ensure that selection of officers for promotion is as objective as possible, the United States operates a highly regulated system of selection boards. A similar process is used to screen for major career milestones.

Convening & Guidance. Boards are convened as needed (usually annually) by the secretary (senior political appointee) responsible for the relevant military service. Each rank and competitive category (e.g. combat arms officers, engineering officers, medical officers, etc.) has a separate board but they often meet at the same time and place. The secretary provides a Memorandum of Instruction that sets out selection methods, factors to be considered, the maximum numbers of officers to be selected and reports to be made.

Membership. Boards consist of at least five active duty officers, selected randomly from lists of nominees provided by commanders as meeting the highest standards of professionalism and integrity. They must be of a higher rank than the officers under consideration. Often, board members are unaware of the specific board on which they will serve prior to arriving at its location. No officer may serve on two successive selection boards for the same rank and competitive category. Boards are assigned recorders for taking minutes and administrative support. These are often personnel managers but must not be direct managers of any candidate.

Board members are prohibited from divulging their involvement in an ongoing selection board to anyone outside their immediate chain of command. Informal office calls or social visits in the area of the board deliberations are prohibited. No board member may divulge details of the deliberative process to outside parties, including seniors and subordinates, nor divulge any results before the official release of the selection list. Board members serve under oath to not engage in or give the appearance of preferential treatment to any individual or group of officers under consideration. Board members are obligated to report any suspected impropriety.

Integrity of Process. Information to be provided to the board is strictly regulated and comes from the officer's personnel record and correspondence. Boards are announced at least 30 days ahead of time, along with the names of all officers to be considered by the board, to provide candidates time to review, correct and update their official records. Officers may write a letter to the board providing additional information or clarification. No memoranda, good or bad, may be forwarded from third parties, except where attached to correspondence provided by the officer. Some information, like spouse employment, is forbidden for consideration.

No board member may introduce into deliberation any information, good or bad, other than that allowed by regulation. Board members' personal knowledge or evaluation of a candidate's professional qualifications can only be considered by boards selecting for promotion to general officer. No one has the right to represent themselves or anyone else in person in front of the board or the secretary; efforts to communicate with board members to influence decisions are

an infraction of military regulations. The secretary has the right to appear before the board; however, all comments made will be recorded, written and distributed to all board members.

The secretary or designee will conduct random interviews of board presidents, members, recorders and administrative staff to ensure that boards are conducted according to applicable law, regulation and guidelines.

Integrity of Decisions. Recommendations are made by a majority vote of board members; the president of the board is not permitted to use his authority to prevent a vote on any given candidate. No official, civilian or military, may direct that a particular individual be recommended or not recommended by the board. The Board Report is submitted to the secretary, who may forward it to the US president for approval, or return it to the board with a request to review certain matters. If the secretary requests the removal of a name, and provides the board with additional information, this information must also be provided to the individual, who is given a chance to respond. The secretary does not, however, have the right to change the board report; only the US president has the right to remove the name of an officer recommended for promotion prior to the report's approval. Following approval, the report is submitted to the US Senate, who approves all promotions to the rank of major and above.

Source: Department of the Army, *Officer Promotions*, Army Regulation 600–8–29 (25 February 2005), www.army.mil/usapa/epubs/pdf/r600_8_29.pdf.

Applying the Strategic Approach: Integrity, Transparency, Accountability

Humans are complex creatures. Assessing this complexity is difficult by logic alone and our judgements about others are often highly intuitive. This is necessary and good: our intuitive assessments about other people take into account an enormous amount of information and are reasonably accurate. However, intuition is also highly subjective, diverse between people and prone to influence by other psychological factors. In personnel management, as in leadership, the principle challenge is not to eliminate intuitive assessment and judgement but rather to balance it with standardisation and objectivity. Any anti-corruption effort must take the limits of objectivity on personnel matters into account if it is to succeed.

Integrity

At its most fundamental, integrity is about the decision-making process. What information was input? What was the decision? Who made it? Why? The integrity of decision making is maximized—and standardization and objectivity supported—if functions within the personnel system are clearly delineated. Key functions should include:

- *Determining current/future personnel requirements:* This creates the independent yardstick by which other actions are measured. It is a logical Ministry of Defence/General Staff function.

- *Strategic planning for manpower use and development:* This sets out policies and approaches for developing human resources needed to meet requirements in the short-, mid- and long-term. It includes developing guidance (for approval by political authority) for major actions, like selection boards, as well as setting the framework in which daily personnel decisions will be taken by personnel administrators and commanders. This is also logically a Ministry of Defence/General Staff function – but separate from requirements.

- *Personnel administration:* This supports the real-time personnel actions needed to recruit, train, educate, promote, qualify, assign and release specific servicemen. In many systems, there is an autonomous, centrally-run personnel administration working directly for senior MOD/armed forces leadership (within guidance determined by strategic planning). In other systems, this is a function delegated to services. Within personnel administration, there may also be a healthy division of function between those responsible for career management (representing individuals) and those responsible for requirements (representing commanders).

- *Personnel boards:* These provide for consideration, with maximum objectivity and standardisation, of a consolidated group of candidates for actions like promotion and major career milestones. Having temporary boards that are brought together once to act as an impartial jury, based on strict regulations and guidance, also helps ensure impartiality and reduce corruption risk. See Box 5.3 for a detailed example.

- *Statistics/assessment:* This ensures that accurate information regarding personnel actions—and their aggregate impact—is collected, analyzed and distributed to all relevant institutions. Ideally, this should be done with a high degree of autonomy to ensure accurate information on the effectiveness of personnel management is being provided to senior leaders.

- *Commanders:* The principle day-to-day customer of the personnel system, who need to have the flexibility within their commands to freely apply human resources and perform the highly intuitive skill of leadership to achieve objectives. Commanders, or other superiors, are also the principle source of information on personnel performance and frequently play a major role in lobbying the careers of their subordinates and agreeing to incoming assignments. Yet their authority should not be arbitrary or absolute, lest for the sake of short-term expediency it violate the rights of subordinates or undermine the long-term interest of the armed forces in the development of its human resources.

Each element above works to bring a particular perspective to the personnel management process. As they do so, their interaction maximizes the integrity of the system

as a whole and increases standardization and objectivity. For this to work, however, it is important to have internal transparency – whereby accurate information is effectively distributed to all elements of the system. Of course, the smooth interaction between various elements is also important to ensure the system operates efficiently.

Transparency

Ensuring transparency in the area of personnel issues is complicated by several factors. Many important personnel actions are of a routine, almost daily nature, and their application is diffused across the entire system. Collecting accurate information on these actions is a challenge, since administrative reporting is usually done via chain-of-command, making it unlikely that negative information will be forwarded to a higher authority. Automated, real-time reporting systems, delegated to administrative officials within commands, can help ensure that the central personnel management system has complete, up-to-date information on personnel actions taken by commanders.

Another challenge is the cultural divide between units and central staffs. Local deviations from written laws and regulations are often socially sanctioned (and perpetrators protected) by unwritten norms and traditions. These unwritten norms are frequently reinforced by the belief that they are an essential part of a military culture that is vital for success in combat – a strong imperative for those who believe they are likely to face the test of battle. The enforcement of these cultural norms creates strong disincentives for whistleblowers. This can only be mitigated by building trust between the central personnel system and commanders; that is, the "operational" side of the armed forces must believe that the personnel management system supports the goal of victory in battle – rather than administrative perfection. Regular distribution of relevant information via message, commanders' conferences and rotation of operational personnel into the personnel management system can help convince commanders to be constructive stakeholders in the wider personnel system, rather than just focusing on protecting their own prerogatives.

Two additional aspects of transparency are worth mentioning. First is the need to ensure clarity and broad understanding of personnel requirements in order to ensure that all elements of the personnel system share a common vision. Second is the need for transparency to individual servicemen. Servicemen should have full access to their record and be in a position to dispute and change parts that are in error or that they feel do not accurately represent their performance. Likewise, commanders' evaluations should be fully briefed to subordinates and the latter allowed to make a written statement or to appeal the evaluation. Finally, the results of administrative decisions affecting large groups of servicemen should be published; for example, the results of promotion boards or the list of officers awaiting apartments (and their place in the queue). The implementation of these lists should also be publicly available.

Accountability

Three levels of accountability are of specific interest for personnel issues. First is the accountability of commanders and supervisors to the central personnel administration for the execution of their role in the personnel system. Second is the accountability of the central personnel manager to the politically appointed civilian executives responsible for the defence establishment. Third is the responsibility of those executives to parliament and the public.

The individual nature of personnel issues requires a great deal of nuance and judgement in dealing with specific situations. Best practice indicates that supervisors that are in regular contact with the individual are in the best position to make such subjective judgements. Thus, while it is possible to submit such decisions for review by higher authority, this does not necessarily increase objectivity. If mechanisms are not in place to bring new information to the review process, such review can rather act as a further opportunity for subjective decisions – and under conditions where the reviewer is far removed from the practical results of the problem. It is important, therefore, that central personnel administrations minimize the number of commanders' decisions subject to automatic review; rather, they should require automatic reporting and track overall trends to ensure the consistent application of regulations and judgement.

For example, commanders are rightfully the final decision authority on requests for leave (vacation) time; review at a higher level should only be automatic in cases where denial of leave would result in certain negative results (e.g. six months without leave, loss of annual leave allowance, etc.) However, by tracking aggregate data, the central personnel administration can ensure that a commander's discretion is being applied evenly by looking for statistical abnormalities like excessive lost leave for specific personnel or commanders.

Likewise, senior-level executives are well advised to apply oversight mostly at the aggregate level, rather than micromanaging specific personnel cases. A principle goal should be directing and ensuring the integrity of the planning and personnel management systems. Important tools include validation of requirements, issuing planning guidance and providing instructions for selection boards. It is also important to carefully review results of specific personnel programs to determine if they are having the desired impact. Of course, senior executives should review specific personnel decisions with high visibility (and potentially, high corruption risk), as well as conduct spot-checks to verify system integrity.

A key moment for influencing individual decisions is the selection of senior civil and military cadre. Best practice will have political discretion applied in making (or validating) a specific selection out of a pool of candidates that have already been identified by professional military or civil service boards as being qualified.

Political appointees themselves should be accountable to the government and legislature. Legislative powers should include approving reports from promotion or selection boards, as well as individual approval for senior cadre. The legislature should also ensure a clear legal framework regarding human rights and working conditions in the armed forces. An ombudsman should be charged with ensuring that workplace rights are respected.

Final Thoughts

Corruption in the area of personnel can substantially undermine defence output—and national security—in favour of personal gain. Given the enormous resources and time invested in personnel—decades in the case of senior leaders and technical experts—the damage can be serious and lasting. Such corruption can become entrenched, systemic and self-perpetuating as those who paid or pulled strings to rise insist that future generations follow the same path. The result can be the creation of a "shadow system" based on personal contacts, loyalty and corruption that is often linked through retired officers and their families to the wider clan systems within the state. This subverts the regular chain of command and undermines the military ethos of shared risks, meritocracy and willingness to sacrifice personal profit for wider goals.

Dedicated efforts are needed to counter corruption in personnel systems and prevent—or reverse—damage to defence capability and military ethos. Dedicated efforts require the dedicated attention of senior leaders, as well as devoted staff. This staff can be quite small if it is professional, empowered and has direct access to the responsible senior leader.

Of course, a key task for this staff will be to identify and counter specific corruption risks and schemes within the personnel management system. But that should not distract from the principle goal: to build integrity, transparency and accountability of key decision-making processes. This is best done through implementing a system that balances central policy, decision making and oversight with commanders' discretion and initiative. Criteria for inputs and decision making should be clear. Information should be available to all stakeholders (within the bounds of privacy) and there should be measures in place to ensure its accuracy. There should be clarity on who is responsible for decisions and to whom they are accountable. Perhaps most importantly, by focusing on a common set of requirements that reflect a common vision and military ethos, corruption can be made anathema by exposing it for what it is – a key component of possible military failure.

Chapter 6
Defence Budgeting
and Financial Management

Defence budgeting is the process of allocating financial resources to defence activities. It is a comprehensive process encompassing budget planning, execution, reporting and auditing. Transparent defence budgeting and accountable financial management are key to ensuring the integrity of all defence activities and reducing the potential for corruption in defence. Non-transparent financial management in defence combined with the lack of accountability is a powerful enabler of corrupt practices. Even if there are no obvious cases of corruption, poor planning, a disconnect between policymaking, planning and budgeting, and poor control of expenditures severely undermine performance in the defence sector and de-motivate both military and civilian personnel.

This chapter focuses on budgeting principles and process issues. Of key interest is how to promote integrity in the budgeting process. The roles of parliament, the audit office, society and other players in the process are examined in the respective chapters in part III of this Compendium.

Principles and Requirements

Budgeting and financial management in defence reflect the budgeting procedures and practices used in the public sector. Hence, the analysis of enablers of corruption in defence, related to financial management, may start with an analysis of the implementation of key principles of sound budgeting in the public sector, presented in Box 6.1. Although the mandate of the World Bank does not cover security and defence, these principles equally apply to budgeting and financial management in the defence sector.

In the modern understanding of defence budgeting, the allocation of money—and, respectively, people, materiel and infrastructure—to defence activities clearly supports the attainment of security and defence objectives and the implementation of military strategy. In the words of former US President Harry S. Truman, "strategy, programs, and budget are all aspects of the same basic decisions."[1]

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[1] *Public Papers of Presidents of the USA, Harry Truman, 1945* (Washington, DC: US Government Printing Office, 1961), 551.

Box 6.1. Key Principles of Sound Budgeting of the Public Sector

The World Bank defines the following key principles of sound budgeting and financial management, fully applicable to defence budgeting:

- *Comprehensiveness:* The budget must encompass all fiscal operations;
- *Discipline:* Decision making must be restrained by resource realities over the medium term; the budget should absorb only those resources necessary to implement government policies; and budget allocations should be adhered to;
- *Legitimacy:* Policymakers who can change policies during implementation must take part in the formulation and agree to the original policy;
- *Flexibility:* Decisions should be pushed to the point where all relevant information is available;
- *Predictability:* There must be stability in macro and strategic policy and in funding of existing policy;
- *Contestability:* All sectors must compete on an equal footing for funding during budget planning;
- *Honesty:* The budget must be derived from unbiased projections of revenue and expenditure;
- *Information:* A medium-term aggregate expenditure baseline against which the budgetary impact of policy changes can be measured and accurate information on costs, outputs and outcomes should be available;
- *Transparency:* Decision makers should have all relevant issues and information before them when they make decisions and these decisions and their basis should be communicated to the public;
- *Accountability:* Decision makers are responsible for the exercise of the authority provided to them.

Source: World Bank, *Public Expenditure Management Handbook* (Washington, DC: The World Bank, 1998), 1–2.

That has not always been the case. In *cameralistic* budgeting and accounting systems, introduced in Europe in the late middle ages, the sovereign spends a certain amount of money for a fiscal year and, although spending is controlled, there is no rigorous assessment of results. Such systems are also known as "input-oriented" budgeting and financial management systems and in many countries still serve to manage defence finances. Parliaments vote on a budget proposal by the government expressed in money to be spent, for example, on military and civilian personnel, operations and maintenance, capital investments and research and development. In practice, and even with much higher level of detail, such presentation of the proposed de-

fence budget alone does not provide for understanding the linkage between policy objectives and budget requests.

In turn, the provision of clear and auditable linkages between objectives, strategy and implementation is indispensable for assessing both results and performance. Box 6.2 presents the critical dimensions of performance in assessing public financial management systems and practices.

Process Integrity

In contrast to "input-oriented" budgeting, "output-" and "outcome-oriented" systems are used to translate security and defence objectives into capability requirements and respective programs, and then into budget requests. The best known system of this type is the US DoD's Planning, Programming, and Budgeting System (PPBS), instituted in the early 1960s by DoD Comptroller Charles J. Hitch under the direction of the then Secretary of Defense Robert S. McNamara. Many countries, in particular the countries of Central and Eastern Europe and former Soviet republics in their post-communist transition, attempt to replicate or adapt the US PPBS as the main tool for effective and efficient management of their defence establishments and a basis for effective democratic oversight of defence.

Box 6.2. Critical Dimensions in Measuring Performance of Public Financial Management

The Public Expenditure and Financial Accountability (PEFA) initiative of the World Bank has identified six critical dimensions of performance of an open and orderly Performance Measurement Framework system, as follows:

1. *Credibility of the budget:* The budget is realistic and is implemented as intended;
2. *Comprehensiveness and transparency:* The budget and the fiscal risk oversight are comprehensive and fiscal and budget information is accessible to the public;
3. *Policy-based budgeting:* The budget is prepared with due regard to government policy;
4. *Predictability and control in budget execution:* The budget is implemented in an orderly and predictable manner and there are arrangements for the exercise of control and stewardship in the use of public funds;
5. *Accounting, recording and reporting:* Adequate records and information are produced, maintained and disseminated to meet decision-making control, management and reporting purposes;
6. *External scrutiny and audit:* Arrangements for scrutiny of public finances and follow up by the executive are operating.

Source: World Bank, *Public Financial Management: Performance Measurement Framework* (Washington, DC: PEFA Secretariat, June 2005), 2.

Systems like the PPBS provide for a transparent linkage between defence objectives and budgets, as well as between long- and mid-term plans and programs and current activities. Decision makers both in the executive and the legislature are able to understand what would be the impact of a certain decision in terms of overall allocation to defence and its distribution among defence activities, or programs, on the potential to meet defence objectives and, respectively, on the risks for the security of the country. Such systems also serve to provide budgeting flexibility in changing conditions while preserving transparency and accountability.

However, PPBS—in itself a powerful decision support mechanism—does not guarantee integrity of the whole defence management cycle. For that purpose it needs to be complemented by sound arrangements for oversight of budget execution, accountability, assessment and auditing mechanisms. Therefore, recently the US DoD explicitly added the phases of **E**xecution and **A**ssessment to "PPB" and is currently using the term PPBEA system. PPBEA provides for comprehensive control over inputs and legitimacy, management efficiency and effectiveness.[2]

Some countries refer to the need to align defence objectives, strategy, plans and results of implementation and keep them aligned in a changing environment as *strategic defence management*. Box 6.3 provides a national example of how defence budgeting and financial management are set into a strategic management framework that guarantees policy orientation, transparency, credibility and internal and external scrutiny in a dynamic planning and execution environment.[3]

It is also important to preserve the integrity of the budgeting process in changing circumstances, in particular when countries have a longer budgetary outlook, e.g. like the four-year outlook in the UK example presented in Box 6.4, combined with delegation of authority for budget execution.

The Netherlands defence establishment, for example, has a mechanism in place for making short-term adjustments for urgently required capabilities in the day-to-day operational process, the so called fast-track procurement. These are normally relatively small programs and fall within the authority of the budget holder. This may happen in a planning system which is sufficiently robust to produce realistic plans and flexible enough to accommodate unforeseen circumstances. In any case, such budget expenditures must remain subject to standing internal and external scrutiny and audit arrangements, no matter what the level of urgency and/or secrecy of the requirement.

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[2]   Francois Melese, "Instruments for Measuring Accountability, Transparency and Control of Expenditures in the Security and Defence Sector," presentation to the NATO-RACVIAC conference on *Better Management of Defence Resources, Including Building Integrity in the Armed Forces*, Zagreb, Croatia (14-16 September 2009).

[3]   This is an example of the process approach to enhancing defence budgeting and financial management. For an example of supporting organisational changes see Box 17.1.

Box 6.3. Financial Management in a Strategic Defence Management Framework

To provide for credibility, transparency, policy orientation of plans, budgets and audits, the Ministry of Defence of Bulgaria is in the process of implementing a new, comprehensive strategic defence management framework. It focuses on five core processes:

1. Review of defence policy;
2. Political guidance;
3. Review of capability requirements;
4. Capability delivery;
5. Assessment of performance and results.

A defence policy review is conducted at the beginning of the term of each new cabinet and results in the publication of a Defence White Paper, presented also to parliament. The review may be conducted within this regular cycle given considerable changes in the defence environment, e.g. in an economic and financial crisis (or, for a partner country willing to join NATO, upon an invitation to join the alliance).

The minister of defence issues policy and planning guidance at the beginning of each annual planning cycle, and also when assessments within the budget year point to the need to realign objectives, plans and resource constraints.

The review of capability requirements is conducted bi-annually, in coordination with NATO and EU defence planning processes. It results in a decision on a portfolio of future defence capabilities that is comprehensive and realistic. Sub-sets of this portfolio are assigned as capability targets to programme managers to be met through the next core process.

The capability delivery process includes *programming*, *short-term planning* and *implementation*. Defence programmes specify how assigned capability targets will be achieved in future years. Once the programme decision has been made, the first one or two years of the defence programmes are further detailed along capability components (or types of resources), e.g. in a defence budget, procurement plan, plans for recruitment, training, infrastructure development, etc. All these plans are then implemented within the budget year.

The assessment process is used to check the legality of expenditures made, to measure performance and results, and to assess the outcome of all defence activities. It is conducted every four months and includes a review of planning assumptions. It provides feedback to the political leadership and may also result in a recommendation to realign objectives, strategies and constraints through a review of either plans or programmes or, if planning assumptions have changed considerably, a review of capability requirements or even the country's defence policy.

This approach builds on earlier experience of the MOD and lessons learned in applying a Planning, Programming, and Budgeting system. It continues to provide for policy-based budgeting and adds several essential features: (1) It institutes the understanding of defence capabilities as the output of all defence management activities, including financial management, and the main measure in assessing performance and results; (2) To financial control, it adds regular assessment of efficiency and effectiveness; and (3) It allows policymakers to balance defence objectives, plans and resources and, more importantly, to

keep these aligned under changing circumstances.

The introduction of such a strategic management approach allows for qualitative improvement of credibility of the defence budget, enhances predictability and control in budget execution, aids external scrutiny and audit, and facilitates continuous improvement of business processes and planning methods.

Sources: For details on process # 4, refer to Todor Tagarev, "Introduction to Program-based Force Development" in *Defence Management: An Introduction* (Geneva: DCAF, 2009), 75–92; For policies and practices of other countries in strategic defence management, the reader may refer to Stephan De Spiegeleire, et al., *Closing the Loop: Towards Strategic Defence Management* (The Hague: The Hague Centre for Strategic Studies, April 2009).

Delegation and Accountability

One of the reasons for inefficiency of many budgeting systems is the centralization not only of budget planning but also during the execution phase. Extreme centralization of decision-making arrangements, so typical for the Soviet command system, still impacts management styles in the post-Soviet space. In many cases it is the minister of defence who has to authorize even very small expenditures.

Such centralization in itself slows down the decision-making process and leaves little time for consideration of alternatives. Even more troublesome is the loss of transparency: while expenditure proposals are pushed up through hierarchical levels, always with the signature of the person in charge of each unit at the respective level of the defence organization, it is not difficult to lose track of who really generated the spending proposal and how it impacts other defence activities.

Organizations with efficient management deal with this problem through delegation of authority and responsibility. Box 6.4 provides an example of delegation that goes hand in hand with rigorous accountability, reporting and audit arrangements.

Credibility and Comprehensiveness

To be credible, the defence budget needs to be realistic and implemented as intended. To assure credibility, the budgeting process and the defence budget need to be comprehensive and based on reliable data and information.

Reliability here is examined from three main perspectives:

1. Preliminary costing of defence programmes and projects is based on reliable statistical information or, when such statistics are not available, on rigorous benchmarking studies. Regular use of independent assessments prior to a decision to dedicate significant resources to a certain programme or project may be a major enabler for the reliability of all budget proposals.

Box 6.4. Delegation of Authority to and Accountability of Budget Holders in the UK Ministry of Defence

Most of the activities in the UK defence establishment are managed through eight Top Level Budget (TLB) holders. The outcomes that TLB holders are required to deliver, as well as the resources that are provided to them to do so, are set out in the Defence Plan.

The MoD permanent under secretary grants each TLB holder extensive delegated powers over personnel, infrastructure and budget. Each TLB holder has a Service Delivery Agreement with the permanent under secretary and the chief of the defence staff, which specifies:

- The outputs required of the TLB;

- The resources that are provided to deliver those outputs; and

- The financial, personnel, commercial and other authority delegated to the TLB holder.

The agreement also includes TLB performance targets, which are derived from the objectives and targets in the Defence Plan.

TLB holders are responsible for managing the performance of their organisations, including the performance of subordinate business units and agencies. The chief executives of these units and agencies receive appropriate delegated authorities and are accountable to the TLB holder for the use of their resources.

TLB holders are then held accountable to the permanent secretary and the chief of the defence staff through the Defence Board for the delivery of their outcomes and the use of their resources, while the permanent secretary—as the departmental accounting officer—is personally accountable to parliament for the economic, efficient and effective use of defence resources, prudent administration and the regularity and propriety of defence expenditure.

To combine delegation of authority and accountability, the UK Ministry of Defence applies an approach known as Balanced Scorecard. This is a strategic planning and management system used to align business activities at all levels to the vision and strategy of the organisation, cascade objectives and metrics, improve internal and external communications and monitor organisational performance against strategic goals.

Sources: UK Ministry of Defence, *How Defence works. Defence Framework* (London: Ministry of Defence, 2009); UK Ministry of Defence, *Defence Plan 2007* (London: Ministry of Defence, 2007).

2. Proper accounting is in place. The accounting system is also comprehensive, timely and subject to regular audits.

3. There is an understanding of the risks associated with the implementation of all major programmes or projects and adequate risk management procedures and instruments are in place.

The following three aspects of comprehensiveness of defence budgeting are key in assuring credibility:

1. *Budget planners encompass all fiscal operations and all activities of the defence establishment*. Nothing is done and no payment is made outside the defence budget. In case the defence establishment is involved in economic activities or is allowed to charge customers for certain services, all respective transactions are covered by the budgeting procedures. That includes international transactions and transfers from one budget year to another, as well as eventual reimbursements for defence expenditures.

2. *The budgeting process is examined comprehensively*, as an end-to-end process starting with formulation of policy objectives, through defence requirements and programmes, all the way through to budget execution, reporting and auditing the reports. The integrity of this process is preserved at all times.

3. *The planning processes, at several of its phases, include examination of alternatives*. Planners search the space of all possible solutions or, when that is not possible due to a limited analytical capacity, they still evaluate two or more qualitatively different alternative solutions for the requirement under examination.

Thorough auditing of implementation and results adds important lessons and facilitates the enhancement of defence budgeting and financial management. Preliminary audits of selected issues, conducted by people not directly involved in the planning process before significant resources are committed, are also seen as an important tool for integrity building and reducing the corruption potential in defence.[4]

Transparency in a Multinational Framework

For the last several decades, the transparency of defence budgeting and budgets has been seen as an important security and confidence building measure. Not surprisingly, one of the first initiatives within the Stability Pact for South Eastern Europe, launched after the end of the wars in the 1990s in the former Yugoslavia, was the Budget Transparency Initiative (BTI). It is briefly presented in Box 6.5.

One of the goals of the initiative was to exchange information on budgeting processes and rationale, as well as on defence budgets. For many years, the two yearbooks, published by the secretariat of the initiative, served as the most comprehensive and authoritative sources of military budgeting information for the countries in South Eastern Europe, widely available to the public.[5]

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[4] Valeri Ratchev, "Effective Defence Policy through Integrated Management, Transparency, and Accountability," in *Integrity in Defence: Effective, Transparent and Accountable Management* (Sofia: Euro-Atlantic Education Initiative, 2009), 1–94.

[5] Budget Transparency Initiative Secretariat, *Yearbook on Defence Spending in South-Eastern Europe – 2001* (Sofia: Budget Transparency Initiative Secretariat, 2002).

> ## Box 6.5. An Example of a Regional Approach Encouraging Transparency of Defence Budgeting
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> Throughout the 1990s, the region of South Eastern Europe (SEE) was in turmoil. SEE countries suffered from war and conflict, enduring at the same time the hardships of the transition to market economies. With the end of hot conflicts, democratic transformations led to fundamental restructuring of armed forces, changing the role of the military in the national political systems. All SEE countries embarked on a process of establishing effective democratic control over the armed forces, motivated to introduce the practices of transparency and accountability throughout government, the area of defence included.
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> Therefore, one of the very early initiatives within the Stability Pact for South Eastern Europe aimed to promote the transparency of defence budgeting; transparency being understood both in terms of availability of information on budgets and budget execution and in terms of an open, policy-oriented decision-making process, open to societal involvement as appropriate. Understanding that military budgeting is at the heart of the democratic control of armed forces and comprehensive regional stability, the Budget Transparency Initiative (BTI) of the Stability Pact aims to promote domestic and international transparency of defence budgets and the defence budgeting process throughout South Eastern Europe and to encourage good practices in defence decision making (policymaking, planning, programming and budgeting), with particular reference to accountability.

The second goal was to identify good practices from within countries facing similar challenges and to promote good governance in defence. One of the tools for identifying and disseminating good practices in defence budgeting was the adoption of a common methodology. The methodology, officially endorsed in 2003, consists of a benchmark, questionnaire and a process to identify areas where improvement is most needed and sources of advice. The benchmark is presented in the next section.

The implementation of this approach in a regional or other multinational setting involves peer review and pressure in disseminating budget information, sharing budgeting experience and investing in enhancement. There is practical evidence that such a multinational approach serves as an efficient facilitator in introducing good practices in defence budgeting and financial management. It is also seen as a promising venue in increasing integrity and reducing corruption potential in defence.

South East European Benchmark of a Budgeting Process

The methodology for assessing transparency of defence budgeting in South East European countries envisioned comparison of specific prescriptions and practices

against an idealised system serving as a benchmark.[6] Such a system does not necessarily exist. The budgeting system described below may be considered "best" in "good governance" terms of effectiveness, transparency and accountability and does not take into account sometimes legitimate concerns of sensitivity of information, secrecy and limitation on the access to information.

The benchmark is described in five major categories of criteria assessing: (1) goal orientation of the budgeting process; (2) scope and effectiveness of the budget planning process; (3) budget execution and effective oversight; (4) transparency of defence budgeting and budgets; and (5) assurance of integrity of defence budgeting.

1. Military Budgeting as an Integral Component of the Security and Defence Policy

a. Objectives, vision, strategy

Military budgeting is a process well incorporated in the defence planning framework, guaranteeing the implementation of a clearly stated defence policy in the mid- and long-term. The country has clearly stated the objectives of its security and defence policies in a small number of legislative acts with apparent interrelationships among them. There is a comprehensive strategy to achieve the objectives of the security and defence policy, i.e., to join an alliance. This strategy—elaborated in a legislative act—is broadly assessed as realistic. The country has a vision of its force structure ten or more years in the future. The vision is feasible and sufficiently elaborated to guide R&D, technology development and acquisition policies. Its implementation is supported by a roughly costed long-term force development plan. The vision and the long-term plan are approved either by the government or by the legislature.

b. Programmatic approach

The country has an established process for development of a mid-term plan, or defence programme,[7] designed to accomplish the objectives of the stated defence policy. The defence programme and its components are clearly designed to meet policy objectives. It incorporates diverse requirements, e.g., of national defence and allied planning. The defence programme further includes programmes and projects considered of highest priority in terms of policy objectives. In a compre-

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[6]   The methodology, including the benchmark and the questionnaire, is presented in detail in Todor Tagarev, "A Means of Comparing Military Budgeting Processes in South East Europe," *Information & Security: An International Journal* 11 (2003): 95–135.

[7]   For example, the US uses the term *Future Years Defense Program (FYDP)*. A number of South East European countries have also accepted the term *programme* to denote a *resource constraint mid-term plan for development of defence and the armed forces*.

hensive manner it covers all defence activities and costs, including personnel, operations and maintenance, procurement, utilisation, education and training, research and technology development, etc. The defence programme is constrained by anticipated resources. It further constrains any other defence resource requirements posed, for example, by acquisition programmes or operational plans. It contains alternative options to reflect thoroughly described contingencies. The defence programme effectively incorporates performance indicators. The level of detail for the first planning year[8] of the defence programme is sufficient to allow for its accurate transformation into a budget plan.

c. Defence and force planning risks
There is a clear understanding of the risk level associated with the budgeted force structure and defence posture both in the short- and mid-term.[9] The country has a methodology to assess risks associated with defence and force planning, and this methodology is adequate to the country's needs. It has established procedures to develop scenarios for force implementation, to assess probability of occurrence of each scenario under clearly stated assumptions, to simulate performance of planned forces, to analyse simulation results and deduct risk. Furthermore, the assessment of risk is supported by relevant tools, while the experts involved have the necessary knowledge and experience. Finally, risk assessment is fully and effectively incorporated within the defence and force planning cycle.

d. Objective-oriented military budgeting
The budgeting procedure is clearly oriented to reflect precise policy objectives and programme decisions. It allows for efficient and effective translation of policy and programme decisions into budgets.

2. Budget Planning

a. Military budget planning
Roles and responsibilities within the executive branch and among the braches of power regarding military budgeting are very clear. These apply to the distribution of roles and responsibilities among the executive branch, the legislature and the head of state (the supreme commander); among the senior military authorities, the civilian Ministry of Defence (MOD) officials and the Ministry of Finance; and the roles and responsibilities of the public sector, commercial organisations and lobbying

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8   Or the first two planning years, in case the respective country has a two-year budget.

9   For elaboration on planning risks, the reader may refer to Hari Bucur-Marcu, Philipp Fluri, Todor Tagarev, eds., *Defence Management: An Introduction* (Geneva: DCAF, 2009), 67–71, www.dcaf.ch/publications/kms/details.cfm?ord279=title&q279=management&lng=en&id=105 077&nav1=5.

groups, particularly the relationships between the executives and commercial or-ganisations owned by the MOD or other governmental agencies.

b. Flexibility

Roles and responsibilities for key aspects of military budgeting are defined through comprehensive legislation, regulations and instructions, covered by a budget sys-tem law. A degree of flexibility is available to the executives in spending public funds. Programmes and the budget can be changed out of the regular planning cy-cle. However, the discretionary powers of the executives are clearly described in legal acts. Contingency or reserve provisions of the budget law specify clear and stringent conditions for the use of funds. Executive reports on spending contin-gency funds are independently audited.

c. Military budgets

In a comprehensive manner, the military budget covers all financing (subsidies and "revenues"/ "incomes") and spending. Comprehensively, with clearly defined sources and elaborated purpose, the military budget accounts for the subsidy from the state budget to the Ministry of Defence; subsidies from the state budget to other organisations performing defence and defence-related activities, i.e., mainte-nance of wartime reserves; funding from other national programs, i.e., for prepara-tion for NATO membership; funding through international and bilateral programmes (with clear regulations for using reimbursed funds); revenues from sales of excess equipment, infrastructure, etc.; and revenues from the profits of commercial organi-sations and organisations providing goods and services to outside organisations, when the MOD owns or has a share in these organisations.

The country has the capacity—methodology, adequate knowledge and trained people—to estimate accurately all future defence expenditures, including the ex-penditures according to the *UN Instrument for Standardised Reporting of Military Expenditures*, taxes, social and medical insurance costs, retirement costs and the costs for social adaptation of prematurely released military personnel, expenditures on utilisation of weapon systems, equipment and infrastructure, costs to cover pre-vious contracts and loan servicing costs, as well as any contingent liabilities.

All revenues and expenditures are classified in a way that is compatible with international standards, i.e., GFS[10] and the UN Instrument. Budget information is presented in a way that facilitates policy analysis and promotes accountability. The military budget is represented in the form of appropriations, giving considerable detail. It provides detailed distribution among defence organisations, as well as among defence programmes. In the latter case, the budget clearly presents the re-

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[10] GFS or Government Finance Statistics. Details on the UN classification are available on-line at: http://unstats.un.org/unsd/class/family/family2.asp?Cl=218.

sources allotted to training, maintenance, procurement, research and development, etc., for each programme and its elements.

3. Budget Execution and Oversight

a. Budget execution

The country has a comprehensive accounting system that provides a reliable basis for assessing payment arrears. The accounting system is capable of generating data on all stages of the "incomes" and payments along budget appropriations, as well as along organisations and programmes.

Personnel, operations and maintenance, procurement and R&D regulations are standardised and accessible to all interested parties. There are clear criteria for discretion on employment and payment, allowing for competitive recruitment. The regulations for open tendering for procurement, R&D and other contracting services are clear and comprehensive and the personnel involved in their implementation is adequately qualified. All these regulations are fully observed in practice.

b. Auditing

In the defence establishment and/or in the executive branch there is a strong capacity for internal audit. Internal audit procedures are clear and subject to effective process review by external auditors. There is a strong audit capacity both in terms of financial compliance and effectiveness of performance ("value-for-money" audits). Additionally, there is a strong capacity for independent audits, i.e., through a National Audit Office working for the legislature. Independent audit requirements and procedures are clearly established in law. There is a strong independent capacity for audits in terms of financial compliance and identification of fraud/ mismanagement cases, as well as for "value-for-money" audits. Independent think tanks (universities, academic institutes and other non-governmental organisations) complement "value-for-money" audits in particular areas of interest, i.e., force modernisation programmes. Non-governmental organisations have a notable capacity and track record of successful performance reports. Their reports have had noticeable impact on decision makers and societal attitudes.

c. Reporting

The government presents regular fiscal reports to the legislature and the public. A mid-year report on budget developments is presented to the legislature. More frequent—quarterly and monthly—reports are also published. Final accounts are presented to the legislature within six months of the end of the fiscal year. They are

accompanied by a comprehensive and in-depth analysis of performance relative to the major defence programmes.[11]

4. Transparency of Military Budgeting

a. Transparent decision making

All aspects of military budgeting (planning, execution and assessment of implementation) are transparent to decision makers and the public. All participants in the budgeting process—civilian and military planners, ministers of defence and finance, governmental councils, legislature and its committees, the head of state, audit office, lobbying groups, non-governmental profit and not-for-profit organisations, media and society at large—exercise their influence according to clear rules and with full understanding of all aspects of the military budgeting process and adhere to the principles of democratic governance.

b. Availability of information

Publications of military budgets and related information—major security and defence policy documents, defence programmes, implementation and audit reports—are readily available to the public. The rules for disclosing military budgets and related information are also public. They are clearly defined in law and leave very little room for discretion by the executive agencies. The government and the respective agencies are legally obliged to publish information on military budgets in details, allowing rigorous analysis by an informed observer. The information is provided in printed version and online, both in the native language and in another commonly used language, i.e., in English. Furthermore, the executives, i.e. the minister of defence, are obliged by law to respond in writing to requests for information. If a portion of a related document is classified,[12] that portion is deleted and the rest of the document is provided to the enquiring organisation or person.

Aggregate information on the budget and the actual or expected output of the two preceding fiscal years is readily available. Aggregate information on the budget forecasts for five or more years following the budget year is also available.

The country complies with international treaties and agreements that require disclosure of military budgeting information, i.e., UN and OSCE agreements and Stability Pact initiatives, regularly providing complete and accurate information on time.

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[11] In Bulgaria, for example, the prime minister is legally obliged to present to the legislature the "Annual Report on Defence and the Armed Forces." Although not explicitly required by law, the expectation is that the report will analyse performance and will relate that to actual defence expenditures.

[12] Not as a general rule, but based on a specific decision for classification of a particular piece of information.

5. Assuring Integrity

Military budgeting is based on rigorous and reliable forecasting of the budget/fiscal constraints in a comprehensive and consistent quantitative macroeconomic framework. All underlying assumptions for budget planning, i.e., major fiscal risks, uncertain costs, specific expenditure commitments, etc., are clearly documented and properly accounted for. Furthermore, major underlying assumptions, such as macroeconomic forecasts and fiscal forecasts, are assessed by independent experts.

All defence programmes are costed using a comprehensive and consistent set of cost factors that are clearly related to the findings of an independent national statistics agency. Integrity checks are supported by an information system. Programming and budgeting are systematically supported by an information system with tools for automated analysis and decision-making support, allowing collaborative work. The accounting basis is clearly indicated, with a full statement indicating any changes in practices as well as current accounting policy.

Alternative programmes and budgets, corresponding to different assumptions, are clearly identified and documented. There is a clear written procedure to transition from one alternative to another, and transition points are also clearly documented. History of both plans and implementation results and assessments is readily available.

Fiscal reports are internally consistent and reconciled with relevant data from other sources. Effectively and in a timely manner, accounting reports are reconciled with budget appropriations and with bank accounts. Auditing of accounting reports is also timely and effective. There is rigorous reconciliation of fiscal and monetary data. A national statistics agency is provided with institutional independence to verify the quality of budget data. International standards for budget data integrity and quality are fully adhered to.

Chapter 7
Defence Procurement

Defence procurement is an integral part of two fairly distinct processes:

1. The process of acquiring new defence capabilities, e.g. through introduction of more advanced weapon systems; or
2. The process of maintaining existing capabilities through provision of spare parts, fuel, logistics services, etc.

In lacking integrity of organisations, procedures and individuals involved, both of these processes are prone to corruption. This chapter focuses mostly on the first process for a number of reasons:

- It usually involves larger amounts of money;
- Linking defence needs to actual procurement is far from trivial;
- It often involves advanced technologies and, respectively, there are a handful of potential providers;
- Procurement options are even more limited when security of supply or other national security considerations come into play;
- The statistics on costs is limited, hard to attain or non-existent.

As a result of these and other reasons, defence acquisition involves higher corruption risks. For example, consistently more than half of the cases covered by the Defence Anti-Corruption Digest[1] relate to international acquisition of new weapon systems and equipment. Notwithstanding the focus of acquisition, most of the findings and the recommendations in this chapter are applicable also to procurement within the process of maintaining existing capabilities.

Studies on procurement-related corruption often focus on contractual issues, i.e. this phase of the acquisition process when public officials prepare, sign and manage contracts with suppliers of defence equipment and services. However, in order to reveal the mechanisms of corruption, one needs to examine the acquisition process comprehensively and to develop corruption reduction measures respectively.

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[1] This digest is published regularly by Transparency International. See: www.defenceagainstcorruption.org/news/digest-navigationmenu-111.

Integrity of the Acquisition Process

Defence acquisition is the process of adding new or enhancing existing defence capabilities, in particular when that involves insertion of new technologies. Box 7.1 provides a definition of the scope of the term and delineates three major areas of acquisition activities.

Key for reducing the potential for procurement-related corruption is the integrity of the decision-making process. Decision making has to be regulated in a way that assures procurement decisions and actual procurements clearly relate to defence policy objectives and account for fiscal and other resource constraints. Regulations have to provide for a clear causal link from defence objectives to procurement.

Box 7.1. Scope of Defence Acquisition

The term "defence acquisition" covers a wide range of disciplines and tasks that can essentially be broken down into three broad areas of activity:

- Deciding what to acquire;
- Deciding how to acquire it;
- Acquiring it.

Deciding *what to acquire*, on the surface a simple task, is both far from trivial and key to the overall success of an acquisition project. Defence budgets, although usually among the larger components of public spending, are rarely sufficient to cover all defence requirements and acquisition projects must be carefully prioritised in order to assemble an overall defence programme that is as comprehensive and as balanced as possible (and, of course, individual projects must be properly managed to ensure that they represent good value for money and an appropriate use of defence resources). Close examination of competing requirements and creative thinking about the means to address them are thus essential for successful acquisition; investment in these activities will help to reduce project risk and increase the overall chance of project success.

Deciding *how to acquire* equipment and/or services is usually achieved through the preparation of an acquisition strategy, a formal document that records and justifies the various decisions taken. Once again, investment here will help to reduce risk and raise the chances of project success. The practice of actually *acquiring* the equipment and/or services, supporting them through their in-service life and eventually disposing of them is often broken down into a series of phases to make the overall task more manageable and to introduce points at which the project can be reviewed and decisions about its future taken. This is known as an acquisition cycle.

These three areas of activity are interrelated and will not necessarily take place sequentially as their presentation in the form of a list suggests. There is much benefit in including activities aimed at identifying and clarifying what is to be acquired within the acquisition cycle itself.

Source: Anthony Lawrence, "Acquisition Management," in *Defence Management: An Introduction* (Geneva: DCAF, 2009), 156–157.

First, policy makers and planners have to clearly state mission needs. This statement[2] must justify in rigorous analytical terms the need to resolve a shortfall in defence capabilities or to explore a technological opportunity for performing defence missions more efficiently or effectively. It must be derived from rigorous mission analysis, i.e., analysis of current and forecasted mission capabilities in relation to projected demand for services,[3] and must contain sufficient quantitative information to establish and justify the need. Extensive performance analysis should be completed and capability shortfalls should be identified before preparing the statement. The statement may also include an assessment of the impact if the mission need is not provided, as well as its criticality, timeframe and long-range resource planning estimates.

Second is the definition of operational requirements. It elaborates qualitative and quantitative parameters that specify the desired capabilities of a system and serve as a basis for determining the operational effectiveness and suitability of a system prior to deployment.

Third, and only after the first two steps are well understood and documented, one may transition to defining technical requirements and standards and proceed to procurement and the respective budget planning. The definitions of mission needs and operational requirements serve also to define some of the main criteria for assessment of bids and, respectively, for selection of suppliers, as well as in assessing actual deliveries of defence equipment, systems and services. Box 7.2 presents the experience of the Ministry of National Defence of Poland in preventing procurement-related corruption.

The preservation of causality among the steps in the procurement process is vital for the integrity of the decision-making process. It also provides for independent assessment[4]—e.g. prior to the commitment of considerable public resources—as well as for auditing the results and the implementation of acquisition decisions, either by responsible state organisations or by independent monitors.

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[2]   The US Department of Defense and other US federal agencies are required to produce an official document under the title "Mission Need Statement." See for example: Federal Aviation Administration, "Mission Analysis. Appendix B: Mission Need Statement Template," http://fast.faa.gov.

[3]   In defence, this is usually part of a comprehensive review of defence policy, e.g. a "Strategic Defence Review" or a "Quadrennial Defence Review."

[4]   An assessment that is independent from the one made by the proponents of a particular acquisition decision. It may be performed by a specially designated team, internally for the defence establishment, by another state organisation or by an independent monitor. For the latter, see the box on "Defence Integrity Pacts" below.

Box 7.2. Preserving the Integrity of the Defence Procurement Process and Preventing Corruption in Poland

Defence procurement is *the* area of high corruption risk. There are several key points in the process, which should be tackled with special attention to reduce this risk to a minimum. They exist during the preparatory stage, during the tender or negotiation, as well as in the implementation of the contract. It is necessary to address specific issues, for instance by asking particular questions, in all of the key elements. The most important of them are listed below. In the practice of the Polish Ministry of National Defence it is the duty of the Anti-corruption Procedures Bureau to raise these questions, prepare opinions and suggest solutions.

Preventing corruption in procurement – key points and key questions	
Operational requirements	Do they enable fair competition?
Technical requirements	Are they accurate and objective?
Acquisition plan and budget	Is the volume justified by real needs?
Unplanned purchases	Justified by urgent operational needs?
Single source proc. or tender	Is the single source proc. justified?
Evaluation criteria	Are they accurate and objective?
Conflict of interests	Do you prevent its occurrence?
Quality assurance, testing	Are the proper tests expected?
The contract	Is it accurate and assure MoD rights?
The contract implementation	Is it proper? Changes justified only?

Preparatory stage

Operational requirements for new arms: Do they enable fair competition in the future? Are they based on real operational needs or simply on something seen in an advertising brochure?

Technical requirements of new arms: Are they based on operational requirements or are they simply copied from a technical specification of a specific product? Are they accurate and objective? Do they enable fair competition? If not, is that shown clearly and justified?

Planning and budgeting: Is the acquisition plan prepared for buying capabilities and systems or isolated items only? Is the volume of the purchase justified by real needs? Are the funds secured for the whole project, for upcoming years as well? Are the unplanned purchases reliably justified by real urgent operational needs?

Proceedings of procurement

Competitiveness: Is the procedure competitive, particularly the tender process? If not, can a single source procedure or limited tender be justified? Is the procedure as competitive as possible?

Evaluation criteria, documentation: Are they clear and accurate? Are they fair for all competitors? Is the weight of the objective criteria (such as price or life cycle cost) bigger than the subjective ones (such as additional capabilities)? Is the whole tender documentation clear and objective?

Conflict of interests: Have the tender committee members, as well as the other officials participating in the preparatory or implementation stages, identified any relationships with the potential bidders that can be regarded as a conflict of interest? Did they sign a declaration confirming no conflicts of interest? If so, how was this verified?

Tender committee works: Has the committee worked as it was set out and agreed in the documentation?

Contract and its implementation

Quality assurance, testing: Are the proper (objective and based on reliable methodology) tests expected? Is the quality assurance process expected in contract implementation?

Contract draft and final contract: Is it accurate and does it assure MoD rights?

Contract implementation: Is the contract implemented as it was signed? Are changes or amendments to the contract justified?

The integrity of the decision making process is key for assuring transparency of the process. There have been cases when, as "a sign of transparency," bids are open in front of TV cameras, while at the same time tender specifications are written in a way that strongly favours a particular supplier or even eliminates all of its competitors.

Additional measures to guarantee transparency of defence procurement include:

- Publicly available and highly visible defence policy documents that provide clear, consistent and credible guidelines on defence modernisation;

- Advanced notification of potential suppliers, including companies in the national defence industrial base, on forthcoming acquisitions and anticipated requirements;

- Open competitive bidding, e.g. through the use of the European Bulletin Board (EBB) on Defence Contracts Opportunities,[5] maintained by the European Defence Agency;

- Use of life-cycle costs, instead of just up-front costs, in acquisition planning and in comparing the bids of competing suppliers;[6] and

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5   See www.eda.europa.eu/ebbweb.

- Rigorous risk assessment and transparent risk management.

Box 7.3 lists a number of negative consequences, including high corruption risks, as a result of the lack of transparency in defence procurement.

Defence establishments and parliamentarian committees that see gaps in the process for defence procurement and embark on enhancing its integrity should consider the implementation of the international standard ISO 15288[7] and the related NATO publication AAP-48. NATO has decided to follow ISO/IEC 15288 in dividing the whole system life cycle into six stages:

1. Concept
2. Development
3. Production
4. Utilisation

Box 7.3. Consequences of the Lack of Transparency in Defence Procurement

Loosely defined or overly ambiguous arms procurement policies, as well as highly confidential procurement processes regularly lead to:

- Insufficient examination of the rationale for weapons systems procurement;
- Inefficiencies in government decisions with unhealthy consequences for national and regional security;
- Apprehension in neighbouring countries;
- Corruption in arms procurement and in all kinds of military-related procurement decisions; and
- Serious damage to public confidence in the armed forces, which may be discredited and subjected to unnecessary controversies.

Source: Hans Born, et al., *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, 6th edition (Lausanne: Inter-Parliamentary Union and the Geneva Centre for the Democratic Control of Armed Forces, 2007), 173.

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[6]   To guarantee comparability of life-cycle cost estimates and efficient benchmarking, it is recommended to adhere to common cost models. See: *Code of Practice for Life Cycle Costing*, RTO-TR-SAS-069 (Paris: NATO Research and Technology Agency, September 2009); *Methods and Models for Life Cycle Costing*, RTO-TR-SAS-054 (Paris: NATO Research and Technology Agency, June 2007); and *Cost Structure and Life Cycle Costs for Military Systems*, RTO-TR-058 (Paris: NATO Research and Technology Agency, September 2003).

[7]   See: ISO/IEC 12207:2008, "Systems and Software Engineering – System Life Cycle Processes," edition 2 (International Organization for Standardization, 2008).

5. Support

6. Retirement.

Each stage represents one essential period of the life cycle of a defence system. The partitioning of the system life cycle into stages is based on the practicality of doing the work in small, understandable and timely steps. Stages, in addition, help address uncertainties and risk associated with cost, schedule, general objectives and decision making. Each stage has a distinct purpose and contribution to the whole life cycle. The transition between stages uses decision gates and entry/exit criteria.

Thus application of ISO 15288 and AAP-48 provides a common and integrated process framework for systems engineering and project management and allows the integration of project management disciplines and technical processes across the full life cycle and transparent interaction between participating organisations.

Structuring the life cycle of a defence system in this manner also provides for rigorous parliamentarian oversight of defence procurement. Box 7.4 presents as an example the procurement oversight as exercised by the Dutch Parliament.[8] It can be admitted that the involvement of parliament slows down the procurement process but, at the same time, it contributes to the integrity and greatly enhances the transparency of the decision-making process, thus strongly reducing the corruption potential of defence procurement.

Of particular concern is the corruption potential in offset arrangements related to defence procurement, treated in the following chapter of this compendium.

Integrity of Participating Organizations

In addition to process integrity, organisations both on the demand and the supply side of defence procurement must have integrity in order to reduce corruption risks.

This chapter examines the demand side, i.e. the organisation of defence ministries and agencies responsible for defence procurement, and the requirements of governments to defence contractors. Chapter 20 is dedicated to the supply side, i.e. the efforts of the defence industries and their associations to establish and enforce integrity standards on an international scale.

There are no generally valid models for organising defence acquisition. One general rule is that the acquisition process needs to be well coordinated with other core defence planning and management processes. Another feature of good organisational design is the clear delineation of required competencies, decision making authority

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[8]   For details set in an international comparative context see: Willem F. van Eekelen, *The Parliamentary Dimension of Defence Procurement: Requirements, Production, Cooperation and Acquisition*, Occasional Paper No. 5 (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2005).

Box 7.4. Parliamentarian Oversight of Defence Procurement: The Netherlands

The Netherlands has a long tradition and practice of strict parliamentary oversight over defence procurement. In principle, all procurement decisions exceeding 25 million euros have to pass through parliament. The vehicle for this is the so-called acquisition procedure. The government (in practice, the State Secretary for Defence who has defence materiel in his portfolio) sends a letter chosen out of four types—A, B, C or D—depending on the phase of the acquisition. Without going into details, the different phases basically go from the requirement for a new weapon system (or a successor to a present one) to a concrete proposal to buy system X from producer Y. Parliament is in a position to influence decisions at every phase of the acquisition process. So, when the government stipulates a need for replacement or acquisition (or suggests numbers of systems to be acquired) parliament may oppose or amend this. The final procurement decision (the "go ahead") may also be opposed or amended, although in practice this does not often happen. Most of the time government intentions during the entire process are influenced by the four letters—A, B, C and D—which are discussed in parliament.

For major projects exceeding 100 million euros, a special procedure has been set up ("Big Projects") involving even more detailed and frequent reporting to parliament. A typical example of this is the involvement of the Dutch government in the development phase of the Joint Strike Fighter, an American successor to the F-16. But there are other major projects, e.g. the Air Mobile Brigade. All in all, it seems that in the Netherlands the present situation is by and large judged to be satisfactory. There are discussions about the financial threshold and the wisdom of detailed parliamentary scrutiny of the sometimes very technical process. In this framework, questions are raised on the quality and independence of government information and the desirability of "counter-evidence," e.g. by an independent defence institute. Finally, the role of industry and lobbyists and their access to defence committee members is often discussed. However, no major incidents have occurred in this respect.

Source: Jan Hoekema, former Member of Parliament, the Netherlands, 2002, as quoted in Hans Born, et al., *Parliamentary Oversight of the Security Sector* (2007), 174.

and oversight responsibilities. Box 7.5 presents an understanding of acquisition competencies and stakeholders that is common for countries with well established defence governance and democratic control of defence. For post-totalitarian defence establishments, however, it is often problematic to delineate the respective competencies and to provide and coordinate the necessary expertise so that real decision makers are well known, and the decision-making process is transparent.

Of interest in that respect is the experience of Bulgaria. In autumn 2009, the minister of defence of Bulgaria, Mr. Nicklolay Mladenov, proposed amendments to the country's Law on Defence and Armed Forces, which limited his own authority in defence procurement. According to these amendments, the minister may decide on acquisitions of up to 25 million euros. For a procurement valued between 25 and 50 mil-

Box 7.5. Acquisition Competencies and Stakeholders

There are broadly four categories of people—or stakeholders—involved in defence acquisition. Firstly, there are those *who decide upon the requirements* for the equipment and/or services to be acquired. Effective requirement setting does not take place in a single moment but over a period of time and study during which the requirement is gradually clarified and elaborated in greater detail. For example, an initially broad requirement for a capability to destroy a potential enemy's main battle tanks might, through examination of the options available, be narrowed down to a requirement for a portable anti-tank missile system and eventually translated into a detailed specification describing the exact performance required. The task of implementing and managing this period of time and study—and thus defining the requirement—does not necessarily belong to a single agency but can be transferred from one group to another as the study deepens. However the task is allocated, one especially important stakeholder in this category is the user – the representative of the armed forces who is responsible for elaborating the requirement as seen by those who will eventually operate the equipment or make use of the services acquired. Clearly, the user has the expert knowledge of how military systems are employed in practice and, therefore, what sort of capability is required to prosecute a given military task. However, as will be seen, this does not necessarily make the user the best person to decide on equipment solutions to meet the capability requirement, or to manage the full acquisition process. The user community—the armed forces—will generally take the lead in the earlier stages of requirement setting but the later stages are often better handled by acquisition specialists. These form the second category of stakeholder.

Acquisition specialists will usually be responsible for managing the bulk of the acquisition project: specifying the detailed requirements, contracting with suppliers, ensuring delivery of the required equipment and/or services, managing through life support and arranging for final disposal. Because acquisition can be very complex, many nations have found it beneficial to establish departments or agencies specifically tasked with this role and to cultivate acquisition management as a career specialisation. There are many advantages to this approach, which fosters the development and sharing of acquisition expertise on both an individual and a corporate basis, while freeing the user to concentrate on core military business. More than this, however, managing an acquisition project requires that financial responsibility—the obligation to spend public funds wisely—should be delegated to the *acquisition manager* and executed through the proper employment of the budget allocated to the project. This raises an important point of principle: that the user function is best separated from the financial function. This is because the user, for understandable and perfectly justifiable reasons, tends to seek out the best technical solution to a particular requirement, whereas the wider interest of the defence establishment, not to mention governments, parliaments and taxpayers, is that a balance is struck between equipping the armed forces as well as possible and the correct spending of public funds. This in turn requires that a more neutral actor—the acquisition manager—should be entrusted with selecting the best solution to resolve the tensions that sometimes exist between these two demands.

The third category of stakeholder is made up of *those who will oversee and scrutinise* acquisition projects, usually members of the defence establishment's senior leadership. The final

category of stakeholder is the *external agencies* that have the means to supply the equipment and/or services to be acquired. They will usually be private businesses but this category may also include other government agencies or other governments.

Source: Lawrence, "Acquisition Management" (2009), 157–159.

lion euros, the Ministry of Defence needs prior authorisation by the Council of Ministers (the Cabinet), and for cases above the threshold of 50 million euros, the Council of Ministers must get prior parliamentarian approval.

Even when not all of these competencies are available, governments have at their disposal instruments to increase organisational integrity and reduce procurement-related corruption risks. Box 7.6 provides an example from the experience of Sierra Leone, which is also considered good practice.

Box 7.6. Fighting Corruption in Procurement

Abdul Tejan Cole, commissioner of the Anti Corruption Commission (ACC) in Sierra Leone, has launched an aggressive agenda aimed at strengthening transparency and accountability within all ministries, departments and agencies of Sierra Leone. The ACC was established to lead the fight against corruption, recognizing that public actors and ministries are the first line of defence. Initially, nine offences were defined as corrupt but in September 2008 the new anti-corruption law expanded corruption offences to twenty-two. Procurement offences, including actions within the bidding process, are now covered by the anti-corruption law. Previously, decisions to make procurement awards often resulted in flawed procurements and the deputy ministers responsible for procurement decisions could not be prosecuted. Corruption in procurement is recognized worldwide as a significant issue. Conflict of interest is now an offence against the law. And any breach of the code of conduct results in disciplinary action. Public officials are also required to formally disclose all assets.

A preference is now in place for trials by judge rather than jury as the commissioner notes that it is easier to successfully bribe within a group of twelve than to bribe a judge. Sierra Leone now has two judges that specialize in corruption. Also, minimum thresholds for sentencing are now in effect. This avoids previous problems with sentences sometimes resulting in only a warning.

The UN Convention provisions have been domesticated into the national law. This strengthens the fight against corruption. Whistleblower protection has been dramatically improved under the current law. Whistleblowers now have protection under the law and are entitled to 10% of the money recovered based upon success of information, prosecution and conviction. Free telephone access to a hotline has been established. Potential whistleblowers are reminded that frivolous accusations will result in prosecution of the false reporter.

For more information on the efforts of the ACC, visit their website at www.anticorruption.sl.

One more instrument that governments can use to increase integrity of procurement is to establish requirements towards implementation of ethics standards by defence suppliers. Box 7.7 presents US defence regulations, which have been enhanced considerably in 2009.

Integrity of Individual Behaviour

No measures to counter procurement-related corruption will be fully effective if the individuals involved lack integrity. Countries often attempt to enforce both "hard" and "soft" measures in attempts to reduce corruption risks related to defence procurement.

Hard measures are used to criminalize conflicts of interest and actual acts of bribery – directly or through intermediaries. Regulations on conflicts of interest of defence officials cover the period of the actual procurement, as well as prior involvement of individuals with defence suppliers and potential involvement with contractors for a certain period after they stop working for the defence ministry or the procurement agency.

For example, many countries define as a conflict of interest the case, when a defence official—civilian or military—starts working for or receives benefits in other ways from a defence supplier for a period of one, two or more years after they stop working for the government.[9] This rule is usually applied not only to officials that have dealt with contracting per se but also to civil servants and military officers that have had a role in the whole acquisition process – from definition of requirements to assessment of the quality of the product or service delivered.

Soft regulations on individual integrity also contribute to the reduction of corruption risks. Codes of ethics, considered in this group of measures, are applied both by governmental organisations and defence suppliers.

Another measure in between the hard and soft measures is the encouragement or requirement that people who have information on corrupt behaviour in the performance or the award of a government contract report it to the authorities. That encouragement goes hand in hand with regulations that provide for protection of such "whistleblowers."

Box 7.7 provides information on US regulations that make ethics programmes, training, reporting and whistleblower protection mandatory for all defence contractors. Similar reporting requirements also apply to state employees, with a provision that any case of reporting—by mail, online or phone—would be anonymous and non-traceable

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[9]   For one such highly publicized case, as well as the reaction of the contractor and the government see www.iasa.com.au/folders/Publications/Legal_Issues/unethicalboeing.html or www.huizenga.nova.edu/6240/cases/Boeing_AirForceEthicsScandal.htm. For the reaction in Congress, see www.defense-aerospace.com/article-view/verbatim/49262/mccain-exposes-usaf-role-in-tanker-lease.html.

Box 7.7. US Federal Acquisition Regulation on Contractor Ethics Programs

Even before 2007, US defence regulations required that contractors adhere to the highest degree of integrity and honesty. Specifically, defence regulations provided that contractors should have: (1) a written code of ethical conduct; (2) ethics training for all employees; (3) periodic reviews of compliance with their code of ethical conduct; (4) internal audits, external audits, or both; (5) disciplinary action for improper conduct; (6) timely reporting to appropriate government officials of any suspected violation of law regarding government contracts; and (7) full cooperation with any government agencies responsible for either investigation or corrective action. While defence regulations provided that contractors should have such elements, they were not mandatory.

With its two amendments in 2007 and 2008, the Federal Acquisition Regulation (FAR) mandated and amplified contractor ethics program rules. Defence regulations now require government contractors to have written codes of business ethics and ethics compliance training programs for contractor employees and to post "fraud hotline" posters at contractor work sites to encourage contractor employees to report fraudulent activity in connection with performance and award of government contracts.

In addition, the amended FAR contractor ethics rules now cover wartime contracting, e.g. in Iraq and Afghanistan, and require contractors to disclose violations of criminal law involving fraud, conflicts of interest, bribery or gratuity violations or violations of the civil False Claims Act in connection with the award or performance of government contracts and subcontracts. It should be noted that these requirements are implemented by contract clause and are mandatory. Amended rules also subject contractors to suspension and debarment from government contracting for knowingly failing to disclose such violations and failing to disclose receipt of overpayments on government contracts in a timely manner.

The FAR requires that each contractor establishes internal control systems for:

- Facilitating discovery of improper conduct;
- Ensuring that corrective measures are promptly carried out;
- Otherwise promoting an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

Since January 2009, regulations of the Department of Defense (DOD) address protections for contractor employees who disclose information to government officials with regard to waste or mismanagement, danger to public health or safety, or violation of law related to a DOD contract or grant. Specifically, an employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the government information concerning contract-related violations. Also, contractors are obliged to inform their employees in writing of these federal whistleblower rights and protections.

Source: United States Government Accountability Office, *Defense Contracting Integrity: Opportunities Exist to Improve DOD's Oversight of Contractor Ethics Programs*, GAO-09-591 (Washington, DC: United States Government Accountability Office, September 2009), 6–7 and 16.

if the reporting person wishes so. Posters of the US Department of Defense that advertise such reporting lines are included in Figure 7.1 below.[10]

In Poland—one of the countries that joined NATO relatively recently—every senior officer, except for military judges and prosecutors, for which general regulations for judges and public prosecutors are valid, and junior officers serving in a finance or logistics unit is obliged to fill in an assets disclosure form. The completed forms are not public and are controlled by the Military Police. Those who in the last three years of their military service have participated in procurement processes—broadly understood to include planning, preparing and implementing the tendering procedure, or implementing the contract—cannot take up a job in a defence company. Defence companies are those that produce or offer defence goods, services or construction, and it does not matter whether they have participated in MoD tenders or not.[11]

Integrity Pacts

The final focus in the examination of how procurement-related corruption risks can be addressed is on the multi-agency, multinational frameworks and the use of outside observers of procurement processes.

Government-to-industry relationships, as well as international cooperation among defence industries, are bound to lead to international anti-corruption consortia and associated codes of conduct. Such consortia are exerting pressure for stronger anti-corruption requirements in the global regulatory framework with the goal to achieve a "no-bribes" level playing field in the arms trade.

Figure 7.1: Posters for Anonymous Whistleblowers.

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10   See www.dodig.mil.

11   Personal communication with Maciej Wnuk, 2 December 2008.

But since any long journey starts with small steps, countries embarking on the integrity building path may start with focused efforts, such as opening up a particular defence procurement case to outside scrutiny. Box 7.8 presents the experience with "Defence Integrity Pacts" – a tool developed by Transparency International specifically to counter procurement-related corruption risks and applied with increasing success throughout the world.

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Box 7.8. Strengthening Major Acquisitions with "Defence Integrity Pacts"

In the 1990s, Transparency International developed the integrity pact as a tool governments can use to combat corruption at the tendering and contract stage of procurement. Transparency International's defence team has since developed this for application to defence procurements. The Defence Integrity Pact is a contract that binds bidders and buyers to non-bribery pledges on a specific procurement. Transparency International has pioneered their use in civilian sectors for some fifteen years now and they have become well-established in countries such as Mexico.

Defence Integrity Pacts bind all the bidders and the government together in a contract to reduce the possibility of corruption occurring prior to, during and after the tender. Usually they include pledges and undertakings by bidders not to offer and accept bribes, as well as pledges and undertakings by the governments including all their consultants and advisers. Bidders agree to withdraw from the tender if there is evidence of breach of the pledge, which may also involve further sanctions such as exclusion from bidding for subsequent contracts. Defence Integrity Pacts furthermore restrict government officials or their spouses from obtaining work at bidding firms for a set period after the bid and require disclosure of details of agents or intermediaries. What makes the tendering and contract process of Defence Integrity Pacts particularly transparent is the appointment of an independent monitor or monitoring team. The independent monitor is to be provided access to all meetings and unrestricted access to all documents. To be successful and trusted, only highly regarded persons with both in-country and external expertise should be selected as independent monitors, and their funding needs to be sufficiently secure for a long-term commitment.

Transparency International's defence programme has worked with the governments of Colombia and Poland to apply these pacts to major defence procurements. Defence Integrity Pacts need to be engaged at the earliest possible stage. They offer the potential for much greater transparency and because they improve contract documentation and oversight as well as evaluation, they can lead to better equipment specification and better value for money. Use of tools such as Defence Integrity Pacts can also serve as a catalyst for change for other organisations and ministries.

For more information on Defence Integrity Pacts in Colombia, see: M. Pyman, A. Waldron and L. Avelia, "Practical Implication of Defence Integrity Pacts. Experience in Columbia" (2006); Transparencia por Colombia and Transparency International UK, "An independent review of the procurement of military items" (2006). Both publications can be downloaded from www.defenceagainstcorruption.org.

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Chapter 8
Offset Arrangements

Building integrity and reducing corruption risk in defence acquisition covers many specialist areas: from the way that technical specifications are developed, to the evaluation process, through to the way Defence Ministry procurement functions are organised. In most of these subject areas, there is increasingly a reasonable body of knowledge on what constitutes good integrity practice. Yet in one area—offsets—there is remarkably little scrutiny and very little discussion or development of good practice, despite the large and rapidly growing part that offset packages play in modern defence acquisition.

Transparency International's (TI) assessment is that offsets are a major corruption risk, even in the most developed nations. In TI's experience, defence officials from many countries also share this view, while governments are not properly managing this risk today. There is an urgent need for a concerted effort by industry and governments internationally to set and enforce a much stronger regime of transparency and integrity standards related to offsets.

This chapter starts with a brief discussion on current offsets usage. It then outlines specific corruption risks and the experience to date in examining offsets contracts. The final section presents what are currently considered minimum standards of good practice.

Current Offsets Usage

Offsets are broadly defined as compensation practices that are required as a condition of a purchase of equipment or services from a foreign company. They are separated into direct offsets, which are contractual arrangements that involve defence and articles and services referenced in the sales agreements for military exports, and indirect offsets, which are articles and services unrelated to the defence items or services in the sales agreement.

Offsets started in Europe after 1945 as one way to help restore the European economies after World War Two. They are used almost exclusively in defence deals. Nowadays, most countries require offsets to a value equivalent to 100% of the main contract value. At the upper level are, for example, Austria at 174% and the Netherlands at 118%. At the low end are countries that seek to discourage offsets, for example Taiwan at 20% or Thailand at 27%. In aerospace, countries will generally only demand that up to 20% of the offsets package be direct. Most offsets are indirect; the average from 1995 to 2005 being 60% indirect vs. 40% direct.

Their use has been growing substantially over the last ten years. The offset value has gone from an average of 49% of contract value in 1995 to 103% in 2005. Large defence companies have sizeable offset departments and extensive obligations. Lockheed Martin, for example, one of the largest defence contractors, has some US$19 billion of offset obligations across 12 countries.[1]

Furthermore, there are moves in a number of countries, e.g. India, Brazil, to extend the use of offsets outside of defence purchases to other areas of government spending.

Weighting of Offset Packages in the Tender Evaluation

There is a wide range of weightings, ranging from 60% in a country such as Turkey to 40% in Canada, down to 10–15% in countries where the Defence Ministry is seeking to limit the influence of the offset package on the choice of the defence equipment.[2]

Overhead Costs of Offsets

There is a dearth of information on the true costs of offsets. Offsets tenders do not require the cost to be separately broken out or identified. TI has observed data ranging from an average 5–8% uplift over the main contract costs in one Defence Ministry, through to figures of 15–30% uplift on the main contract cost for specific large contracts in other countries.

In addition to that are the costs of managing offset arrangements in the purchasing country, e.g. to sustain an offset office and its personnel.

Benefits of Offsets

There is a considerable debate among defence economists concerning the actual benefits of offsets. The dispute is rendered unanswerable by the almost total lack of economic analysis of the impact of offset packages, together with the lack of publicly available data on the performance of offset contracts. As Steve Schooner, dean of procurement law at George Washington University put it recently:

> There is currently broad consensus on issues such as the need for transparency, integrity, and accountability in defence procurement. Yet on the offsets issue, consensus is a long way off. There is no agreement internationally, and countries are nowhere near reaching one. As an example of how far away agreement is, the EDA Code of Conduct comically seeks at once to increase and decrease offsets. Similarly, the World Trade Organisation says offsets are bad and bans them in other sectors, yet it says they are ac-

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[1] *Building Integrity and Defence Institution Building*, Conference Report (Monterey, CA, 25-27 February 2009), 91.

[2] Ibid., 91–92.

ceptable in defence. Nor is there agreement at national levels. The US derides offsets, yet maintains a "buy-American" policy in defence... Therefore much of what can realistically be done is simply to try to improve the process of offset management, while slowly moving towards consensus over whether offsets should exist at all.[3]

There is a growing understanding that whatever the merits of offsets, a minimum and necessary first step is that they be transparent and contracted for in a way that satisfies all reasonable integrity standards.

Political Dimension of Offsets

For governments, offsets can offer an opportunity to ease the politics of major defence spending. They seem to promise technology transfers, research and development and an enlarged industrial base, alongside investment and high-skilled employment. The politics of the offset purchase can overshadow completely the need or the desirability of the military acquisition. This also creates a significant tension between the two different parts of the government involved – usually the Finance or Economics Ministry supervising the offset purchase and the Defence Ministry purchasing the military asset.

Offset Corruption Risks

Offset corruption risks are revealed in publicly available commentary and allegations in official reports, academic research and interviews conducted by Transparency International, and in newspaper articles.

EDA Report on Offsets

The European Defence Agency commissioned a team to research the phenomenon of defence offsets, with particular reference to the effect of offsets on the development of a European defence industrial base. The result was a major report on offsets, published in July 2007. While corruption risk was not the main focus of the paper, the authors discovered unease with the opportunities for corruption afforded by the opacity of offsets packages. The report states:

> Finally there is an aspect that did feature in some interviews. This is the issue of corruption in relation to defence contracts and its real or alleged links to offset. This is not a property of offset *per se*, but it seems indisputable that opaque and un-professional offset implementation provides scope for corruption potentially leading to another system being chosen than would have occurred in an open and transparent market. It was a recurring story in interviews how old offset practices have been found insufficient and subsequently replaced. Even though in particular pMS [participating Member State] representatives naturally claim that their current offset practices are well functioning, it is our

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3   Ibid., 97.

impression that the transparency and professionalism of offset practices vary widely between pMS and that there is considerable scope for improvement.[4]

Academic Research

The Centre for International Cooperation and Security, in its report "The impact of arms transfers on poverty and development," argued that:

> Another potential avenue for corrupt practices is through "offsets." Earlier the role of offsets was considered in terms of the impact of arms transfers on military expenditure. But it is important to also consider whether offset packages can help conceal large bribes or commissions, or whether they unduly influence a country's decision when procuring weapons. Offset packages "have a reputation for raising the cost of a deal by around one-fifth; being difficult to monitor; failing to bring the benefits promised at the time of sale; and contributing to corruption." Offsets can also help feed into domestic corruption relationships as contracts can be channelled through local firms chosen for their political connections. In the South African deal, subcontracts with local firms allowed further opportunities for officials to line their pockets.[5]

There are various academic analyses of the economic impact of offsets, at least one of which considers related corruption risk.[6] Trevor Taylor's aim was to consider whether procurement officials made decisions as to the requirement for and form of offsets packages according to economic rationale or political rationale. It is an empirical paper based on transaction-level data to estimate the models, and forms a cross-section study across a range of countries worldwide. His results suggest that while government procurement officials select offsets according to economic rationale, political economy variables are also very important. Some offsets agreements see economic variables (like price, quality, transaction costs and industrial development policy) dominate political variables (such as bureaucrat maximisation, national security considerations and interest group theory). In other circumstances, however, the attributes of the offsets package may reflect political priorities. He concludes as follows:

> A recommendation to address such corruption would begin with efforts to increase the transparency of offsets. For example, each country should employ a group of

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4   E. Anders Eriksson with M. Axelson, K. Hartley, M. Mason, A.S. Stenérus and M. Trybus, *Study on the effects of offsets on the Development of a European Defence Industry and Market* (Brussels: European Defence Agency, 2007), 46, www.eda.europa.eu/Default.aspx.

5   Mike Bourne, Malcolm Chalmers, Tim Heath, Nick Hooper and Mandy Turner, *The Impact of Arms Transfers on Poverty and Development*, Centre for International Cooperation and Security (University of Bradford, September 2004), 44, http://www.bradford.ac.uk/acad/cics/publications/AVPI/transfers/AVPI_Arms_Transfers_and_Poverty.pdf.

6   Trevor K. Taylor, "Modelling Offset Policy in Government Procurement," *Journal of Policy Modelling* 25:9 (2003): 985–98.

independent, outside auditors that would assess the merits of each offsets proposal, and then perform the detailed ex post benefit-cost accounting. This benefit-cost accounting should be published and subjected to external scrutiny.

TI Public Interviews with Defence Experts

Frank Boland, director, Force Planning, Defence Policy and Planning Division, NATO:

Offsets have become popular, because at first glance they appear to be a good deal for governments. If they are spending money on imports, then offsets allow governments to try to recoup foreign exchange – so one can see the attraction… [However] it has been the case that many offsets simply do not materialise. The real problem is that offsets distort decision making. Militaries may want equipment for particular needs; offsets allow for procurements to be overridden by extraneous considerations.[7]

Ghanim Al Najjar, senior professor of political science, Kuwait University:

Offset programmes are supposed to transform new projects in Kuwait as part of the re-payment. Offsets are not even nearly functioning. Nobody really knows what is happening with offsets. Most of the money that was allocated has not been spent. Is there any oversight of offset delivery? Not exactly: there isn't much money that has been spent so far. I don't think there is good supervision of it. People are waiting to see how effective the offset programme will be in terms of local projects, but often it is the case that the procedures are complex, or the programme is not paying much. Sometimes, the money which is supposedly allocated is there but not supervised.

Even when there is no suspicion of corruption, offset practices often raise a number of concerns, such as:

- Lack of clarity on how offset proposals will be evaluated;
- No clear national strategy as to what the offsets should achieve;
- With more than one ministry involved, because of the offsets, there is huge scope to lose control of the procurement and its proper evaluation;
- Offsets negotiations with bidders being initiated only after the contract is awarded;
- Inadequate offset oversight mechanisms pre and post contract award (including life of offset programme and applicable to prime and sub-contractors);

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7   Interview published in Transparency International Defence Anti-Corruption Digest, No. 17 (June 2007), www.defenceagainstcorruption.org.

Box 8.1. Newspaper Allegations of Corruption in the Use of Offsets

Portugal: The Central Department of Investigation and Penal Action (DCIAP) is investigating the offset contract for the purchase of two submarines to the German Submarine Consortium. With a value of 1210 million, the offset contract, whose goal is to ensure the fulfilment of that value on investments made in Portugal, was negotiated with the Ministry of Defence by Escom, company of the Group Espírito Santo (GES) that was targeted in Portugal's process.

South Africa: The South African arms purchase in 1999 has been controversial both for various allegations of corruption involving European firms and senior South African politicians. While the South African government has repeatedly highlighted the offsets agreements attached to their arms purchases, the media has been far more sceptical – *Business Day* complained in February 2008 that the success of the offsets packages has been difficult to establish independently as their requests for information were rejected on the grounds of commercial sensitivity. ThyssenKrupp, who have been under investigation by South Africa's elite serious crime squad over allegations of corruption in the sale of the frigates, have been reported to have fallen behind in their offsets programme. However, the clearest links between corruption and offset have been reported in relation to the purchase of Gripen fighters from BAE and SAAB. The South African *Mail & Guardian* reported on 20 March 2008 that the defence minister at the time of the purchase, Joe Modise, secretly received shares in the Conlog/Log-Tek electronics group, which stood to benefit substantially from arms deal offset agreements.

Czech Republic: In the Czech Republic, there was another case of purchase of Gripen fighters being investigated for bribery with questions raised over the offsets package included in the deal. Investigations centred on payments to senior Czech officials allegedly made in 2001 and on the structure of the tender, which competitors for the contract withdrew after complaints that the government had intentionally drawn up a contract that would generate a victory for the Gripen fighters. The offsets deal that accompanied the package was also criticised at the time of purchase as being illusory, with two finance ministers at the time resigning for this reason.

UK and Saudi Arabia: The Al Yamamah contract negotiated in the 1980s between the UK government on behalf of BAE and Saudi Arabia is the largest export in UK history and a continuing source of controversy. The contract contained a well-known offset clause whereby some of the revenues generated by BAE from the contract were reinvested into the UK defence industry; the offset has been reported to have had few discernible benefits. Amongst the US Department of Justice's concerns, the offsets clause was reported to be part of the investigation.

Israel: In September 2005, *Defense News* reported that as part of a major investigation into allegations of fraudulent payments made overseas, the headquarters of Israel's largest aerospace and defence firm, Israel Aircraft Industries, was raided by police. The investigation was focused on ten years worth of suspected graft and kickbacks and centred on the disbursement of both export sales and offsets deals.

Romania: In the Romanian purchase of two frigates in 2003, allegations emerged as to the payment of commissions. The crucial part of the investigation focused on irregularities in the contract and lost funds centred on the offsets package. In June 2006, the *Bucharest Daily News* reported that "the real stake appears to be the implementation of the off-set contract."

Under this contract, BAE Systems was to use 80% of the acquisition sum to buy products and services from Romania in a combination of direct and indirect offsets. The offsets have continued to prove controversial, as the *Jurnalul National* reported in September 2003 that the Romanian Ministry of Defence intended to take BAE Systems to court if the company did not fulfil its obligations under the offset agreement. The report also stated that the deal remains under investigation in the UK by the Serious Fraud Office.

Taiwan: In an article in *Defense News* on US concerns with defence procurement processes in Taiwan, corruption and payments paid to officials were highlighted as major problems with defence deals. Amongst the recommendations for improving processes, there was reported to be broad agreement that tackling corruption would require commissions and offsets to be either tightly controlled or ended altogether.

Sources: "Arms deal crusader is back in court," *Business Day* (25 February 2008), http://www.armsdeal-vpo.co.za/articles12/crusader.html; "Arms probe reopened," *Mail & Guardian* (20 March 2008), www.mg.co.za/article/2008-03-20-arms-probe-reopened; Jeremy Druker, "Czech-BAE corruption probe worries Prague," *ISN Security Watch* (27 February 2007); "Israel Police Raid IAI," *Defense News* (30 September 2005); "Romania Will Sue BAE Systems for Breach of Contract," *Jurnalul National* (03 September 2007); "U.S. Warns Taiwan: Clean Up Defense Procurement," *Defense News* (11 September 2006).

- Inadequate or even non-existent penalty mechanisms for not delivering agreed offset obligations;
- Inadequate processes for legal oversight, mediation, and litigation;
- Inadequate timeframe to allow bidders to prepare offset packages;
- Too diverse offset options, with no precise requirements and clear selection criteria;
- Many offset option elements fall outside the expertise of potential bidders;
- Lack of experienced personnel to evaluate offset options; and
- Members of oversight committees lack the expertise to assess offsets proposals and implementation.

Specific Corruption Risks of Offsets

There are three specific corruption risks related to offsets:

Improperly Influencing the Need for a Capability

The choice by government of what is needed—or even *whether* a capability is needed—can be influenced by the other "goodies" that can be on offer in a defence

purchase. Defence purchases are rarely a simple economic purchase. They often have an international political dimension in which the purchasing nation is also hoping to deepen political relations with the supplying nation. They also often are large enough to have an impact on the domestic political agenda. In such cases, the offer of a raft of apparent free goods can influence local politics in favour of the purchase. Further, an attractive range of additional benefits can make an otherwise unattractive product seem attractive. This was alleged to be the case in the Czech Republic, where there is ongoing questioning of the need for the fast jets in the first place, and South African arms deals, which have been dogged with suggestions of purchasing the wrong platforms and of illegality.

Influencing the Competitive Decision in Non-Transparent Ways

It can be unclear, sometimes deliberately so, just how the relative merits of the bidders offset packages are balanced against the other decision criteria. Just how are offsets merits balanced against economic, technical and other criteria? This is hard to do given the very different nature of the criteria. There have often been allegations of this having been improperly done, for example in the South African arms purchase.

Allowing Favours to be Repaid

Offsets arrangements are often commitments that are not centred on until sometime after the award of the contract. They can then take years to be fully established. Through this time delay, and the usual lessening of political and media scrutiny, there is scope for opaque deals and the return of favours that helped ensure the award of the contract. The offset contracts are also often poorly monitored, so that the chances of uncovering such corruption are poor.

Reducing Offsets-related Corruption Risk

There are two broad choices in addressing these risks: 1) abandon the use of offsets in defence contracts; or 2) greatly strengthen the controls and oversight surrounding them. Such controls need to be in place throughout the life of the offset programme, even if it is for 20 years or more.

There are some signs that the issue of corruption risks of offsets is being addressed, as the following examples indicate:

- The practice whereby offset negotiations happened only after awarding a contract has changed dramatically in the past couple of years. More and more countries are now requiring the offset agreement to be negotiated and finalized prior to the signing of the procurement contract. Industry experts anticipate that this trend will continue, where it will become the standard condition of a country's offset policy rather than an exception.

- The formal regime of penalties for non-performance is becoming stricter. In a large majority of countries, penalties range from 3%–10% of the unfulfilled balance offset obligation at the various milestone periods, at the end of the performance period or both, while a few apply the penalty to the sales contract value. What is changing is the form of these penalties. Normally they are in the form of liquidated damages – meaning that when you pay the penalty it "liquidates" or satisfies your remaining obligation. More recently, according to industry offset experts, many countries are moving toward non-liquidated damages, which means that you must pay the penalty and still fulfil your offset obligation or face possible blacklisting from future government procurements until the obligation has been satisfied. In addition, the defence contractors are normally required to issue a performance bond upfront to cover the potential penalties. The performance bond value is reduced in proportion to the receipt of offset credits by the defence contractor in satisfaction of the offset obligation.

- In May 2008 at its main annual meeting, the Global Industry Cooperation Conference—organised by the major offsets associations—started a discussion on corruption risks related to offsets and the ways to prevent corrupt practices.

- An offset workshop during a major NATO conference on "Building Integrity and Defence Institution Building" held in Monterey, California in February 2009, brought together senior defence officials and senior representatives from major European and US defence companies. They made a number of proposals to NATO that are under consideration.

These are important steps towards a more comprehensive approach to reducing corruption risks of offsets, which would be based on:

- Raising transparency and improving reporting;
- Strengthening accountability and integrity;
- Good functional processes;
- Disclosure of conflicts of interest; and
- Proactive engagement by the key players.

The suggested improvements and proposals in each of these areas, taken together, would constitute good practice. The reader should be aware though that integrity in offsets tendering is such a new subject that many of the suggestions, whilst seemingly useful and constructive, have yet to be implemented and tested on a sustained basis.

Transparency and Reporting

The bid specification should require that bids be submitted with two prices: one with the offsets package and one without the offsets package. This proposal is in line with a draft recommendation from the aforementioned "Building Integrity and Defence Institution Building" conference:

> Enhancing and increasing transparency in the process of developing, implementing, and managing offsets programmes, with transparency understood to include consideration of the true cost of offsets on the part of governments, governments to seek tenders which both include and exclude proposed offsets programmes so as to allow appropriate considerations of the costs and benefits of the offsets packages, and which take into account the goals and objectives of the country's intentions for their offsets programmes.[8]

There should be a requirement by the government for a detailed report each year on the performance against the contracts of all the offsets contracts that have been entered into in relation to each major acquisition. This report should be published, which is generally not the case today.

The government should publish the criteria for the evaluation of the main contract and the offset package, including the detailed weightings given to each element and the weightings achieved by each of the shortlist bidders. This is not yet common practice.

There should be a definite requirement for an independent evaluation of the costs and expected benefits of the offsets package, to be completed some 2–3 years after the contract award. The evaluation should be published, which almost never happens at present.

Civil society scrutiny can be a good way of bringing non-transparent aspects of the proposals to light. The government should actively seek to involve civil society in a discussion of the proposed offsets packages.

Strengthening Accountability and Integrity

Defence budgets and actual defence spending are analysed by a national audit office and presented to parliament or the supreme decision-making body in most countries. The same level of independent scrutiny should be applied to all offset deals.

Given the risks of contracts being passed to companies to reward favours or to benefit related individuals, there needs to be stronger conflict of interest disclosure by all those related to the acquisitions and a requirement for wider due diligence on the agents and offset brokers involved. The defence industry associations could help by

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[8] *Building Integrity and Defence Institution Building*, Conference Report (2009), 101.

Box 8.2. Transparency in Managing Indirect Offsets

Following the introduction of the requirement for offsets accompanying large defence procurements, in 2006 the Government of Bulgaria created the "Offset Programmes" Directorate with the Ministry of Economy and Energy (MEE). The directorate is responsible for managing indirect offsets.

   This directorate created and maintains a webpage at the MEE website (see: www.mee.government.bg/offsetp/offsetp.html). This webpage provides detailed information on:

- Offsets related regulations;
- Priority economic sectors where the government invites offsets-related investments;
- Method for factoring an offset project (in calculating its contribution—or *offset benefit*—to meeting offset obligations), depending on the economic sector and technological level;
- Registry of the companies that have expressed their interest and meet the criteria for "offset recipients." As of July 2009, the registry includes 64 Bulgarian companies;
- A list of offsets proposals, approved by the Ministry of Economy and Energy. Twenty-four investments proposals are listed as of July 2009. The potential investment value is also available to the public. Defence contractors can pick one or more of these proposals to meet their offset obligations;
- Ongoing offset projects, with their net value and offsets benefit (the average multiplying factor for the projects, listed as of July 2009, is about 3);
- A list of offsets agreements with defence contractors, supplying weapon systems and equipment to the Bulgarian armed forces, and the respective offset projects. For each project the webpage provides the net value, the multiplying factor and the offsets benefit, deadline and interim milestones, and a short description.

In addition, the webpage provides links to relevant reports and conference proceedings. The full information on the webpage is available in Bulgarian. The most important part of the information is also available in English at www.mee.government.bg/eng/offsetp/offsetp.html.

producing guidance on this (see also the recommendations below on action by industry and associations).

   All those involved in tendering, up to and including the tender evaluation committees and the relevant ministers, should be required to submit annual conflict of interest statements.

Good Functional Processes

The lower the percentage weight given to the offset contract in the evaluation, the lower the level of risk. A low weight, e.g. 10–15 %, is considered reasonable. Where the weighting is higher, the corruption risks are correspondingly higher and more of these other measures need to be put in place.

Government procurement departments need to recognise that offset contracts are a major undertaking of their own. They are not a simple "add on" to the main contract. A dedicated team should be set up to deal with offsets and ensure that the offset contract preparation receives the same attention as the main contract. Additionally, the lead ministry needs to clarify clearly and in writing before the acquisition process begins the exact split of responsibilities between the ministries involved (if there is more than one of them). The lead ministry should also insist on clear pre-award commitments.

Proactive Action by Defence Companies

Individual companies should apply the full weight of their compliance programmes to the offset programmes and the staff and consultants involved in them. This does not seem to be the case at present.

Second, defence company standards of business conduct and business ethics should be extended to refer *explicitly* to offsets and the need for controls.

Companies may well get a supportive reception if they voice their concerns over the risks to prospective purchasers. Based on our experience, purchasing governments may well appreciate an opportunity to make specific requests and set requirements in respect to offset transparency, if they know they will have the support of at least some of the bidders.

Proactive Action by Industry and Pan-Government Organisations

TI has made a surprising observation: companies with otherwise excellent anti-bribery compliance programmes become reticent on the subject of offset programmes. The same applies to defence industry associations. The following are constructive steps that the industry could take to show its concern in this area:

- Defence Industry Associations should be ready to set standards for well-controlled offset programmes that they expect their members to adhere to;

- They could also produce guidance on the detailed due diligence requirements to be satisfied by offset brokers. This must include a requirement on the companies and the brokers to satisfy themselves that the companies receiving the offset contracts do not have any improper connection to persons in the government or political parties;

- This particularly applies to the European Defence Association (ASD) and the US Aerospace Industry Association, AIA, given the work they are already engaged in to raise anti-corruption standards in international arms sales;

- The European Defence Agency is doing excellent work in the field of opening up defence procurement across Europe. Its approach to offsets however is

contradictory, confusing and weak. Their current code of practice in this area is particularly poor, and, astonishingly, makes no reference at all to corruption risks. EDA should consider reconvening an offsets task force that looks specifically at ways to raise the integrity in the tendering and implementation of offset packages.

Proactive Action by Civil Society and Media Organisations

Offsets have remained a "hidden" topic, despite the risks outlined above. There is clearly a need for civil society organisations that promote good governance and transparency to be more active in this area. Governments that have taken measures to open up the discussion of offsets to such debate are to be encouraged.

Given the increasing scale of offsets and their expansion outside defence into other areas of commerce, it is strongly in the interest of good governance that the subject is more widely discussed in countries.

Conclusions

Offsets are a major corruption risk. They have the potential to divert proper decision making on defence needs and are an easy conduit for rewarding companies and individuals. They are remarkably unregulated and almost entirely opaque.

Industry and government readiness to address corruption risk is in the process of changing for the better. However, corruption in offset transactions remains largely untouched. Governments would best eliminate this risk, and possibly gain better value, if they decide to abandon the practice of seeking offsets. Where that is not possible, both governments and companies can relatively easily take steps to make these transactions more transparent and less at risk from corruption.

Chapter 9

Opportunities and Risks with Outsourcing, Privatization and Public-Private Partnerships in Defence

Introduction

Many of the same lessons that apply in standard defence procurements to curb corruption also apply in less traditional contracting arrangements such as outsourcing ("market testing" and "competitive sourcing"), privatization and public-private partnerships (PPPs). Two constants are the importance of sustained competition and independent oversight. Applying these two lessons together with a country-specific mix of integrity, transparency and accountability tools can decrease corruption by increasing the expected costs to opportunistic officials of engaging in corrupt behaviour.[1]

Modern Ministries of Defence are concerned with two things:

- Effectiveness – producing the best possible defence forces to satisfy both national and collective security demands; and
- Efficiency – making the best use of limited budgets.

Given the current budget environment, this involves rethinking the way defence does business. The challenge of streamlining government to become more efficient and effective has been answered by looking to the private sector.

NATO members and partners find themselves increasingly relying on the private sector in three ways:

1. To provide weapons and support services (outsourcing);
2. To raise revenues by selling excess property and facilities no longer needed (privatization); and, particularly when budgets are tight,
3. To solicit private sector investment in defence projects and operations (public-private partnerships).

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[1] Simeon Djankov and Peter Murrell, "Enterprise Restructuring in Transition: A Quantitative Survey," *Journal of Economic Literature* 40:3 (September 2002): 739–92.

Box 9.1. Sourcing Options

Outsourcing: Organizational activities are contracted out to vendors or suppliers who specialize in these activities (usually in a competitive fashion).

Competitive Sourcing: Current public providers and private providers compete (also known as Public-Private Competitions or "Market Testing").

Privatization: Current government capital equipment, facilities and workers are moved into the private sector – either competitively or on a sole-source basis.

Public-Private Partnerships (PPPs): A cooperative venture between the public and private sectors, built on the expertise of each partner, that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards. Attempts are made to combine the best of both the public and private sectors—either in a competitive or sole-source environment. One type of public-private partnership is the private finance initiative. With private financing, instead of having the government finance public investments, work is actually financed by the private sector in exchange for a share of savings, or government guaranteed purchases.

Government Entrepreneurship ("Franchising"): One government agency specializes in a given function and provides it to other government agencies or even to the private sector – again, either competitively or on a sole-source basis.

Sources: Jacques S. Gansler and Roger C. Lipitz, *Moving Toward Market-Based Government: The Changing Role of Government as the Provider*, New Ways to Manage Series (Arlington, VA: IBM Endowment for the Business of Government, 2003), 10, http://www.businessofgovernment.org/pdfs/Gansler_Report.pdf; The Canadian Council for Public-Private Partnerships, www.pppcouncil.ca.

Whereas outsourcing, privatization and PPPs offer considerable opportunities to improve the efficiency and effectiveness of defence forces, there is a dark side – corruption. To achieve desired results from outsourcing, privatization and PPPs requires a delicate balance of enlightened and ethical leadership, strong institutions (competitive markets, clear rules and regulations, a competent legal/judicial system) and effective oversight (measurement and monitoring/audit capabilities) to deter corruption without stifling efficiency or effectiveness. Combining basic integrity and good institutions guarantees the best possible outcomes from outsourcing, privatization and PPPs.

Ideally, the objective of each NATO member and partner country would be to find an optimum mix of initiatives to build integrity, increase transparency and improve accountability, in cooperation with other members and partners, to minimize corruption risks in outsourcing, privatization and PPPs. Coordinated anti-corruption initiatives—such as Transparency International's "Defence Integrity Pacts" (see chapters 7 and 17 for examples)—encourage credible commitments on the part of key players that increase the efficiency and effectiveness of national and collective security obligations.

Corruption Risks in the "Make-or-Buy" Decision

A challenge that every Ministry of Defence (MoD) faces is whether to "make-or-buy" defence equipment, infrastructure, supplies and support services. Should the MoD become more involved in defence business (make), or should it turn more defence business over to the private sector (buy)?

Two key steps are required to solve the "make-or-buy?" decision: the first involves an "effectiveness" review and the second an "efficiency" review. Examples of effectiveness reviews are the US "Quadrennial Defense Review (QDR)" or its "Base Realignment and Closure (BRAC)" process. Effectiveness reviews evaluate the appropriate size and composition of defence infrastructure and support activities in the face of existing and emerging threats, and in cooperation with alliance members and their partners. Given a determination of the appropriate capabilities and force structure, efficiency reviews investigate opportunities to reduce costs and/or improve performance.

Effectiveness reviews result in two categories of assets and activities: "necessary" and "unnecessary." Unnecessary infrastructure and support activities are candidates for divestiture or privatization. Necessary assets and activities can be further sub-divided into those that are "inherently governmental" and those that are more "commercial" in nature.

Box 9.2. Military "Infrastructure" and Sourcing Options

Military "infrastructure" typically includes:

- Acquisition
- Central logistics
- Central personnel
- Communications
- Force management
- Installations
- Medical functions
- Science & technology
- Education & training.

All three sourcing options discussed in this chapter are utilised by militaries around the world. For example:

- Outsourcing is used to provide logistics services;
- Public-private partnerships for military housing (installations); and
- Privatization in providing many medical functions.

The US Office of Management and Budget Circular A-76 defines an "inherently governmental activity" as:

> …an activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying government authority and/or in making decisions for the government.[2]

Commercial infrastructure and support activities may be discovered to be candidates for outsourcing through "market testing" or "competitive sourcing." Meanwhile, where tight budgets restrict defence investments, public-private partnerships (PPPs) enable government to take advantage of privately owned infrastructure, technology, capabilities or private investment funding to improve inherently governmental or retained commercial activities (see Figure 9.1). The term private finance initiative (PFI) is used in the United Kingdom.
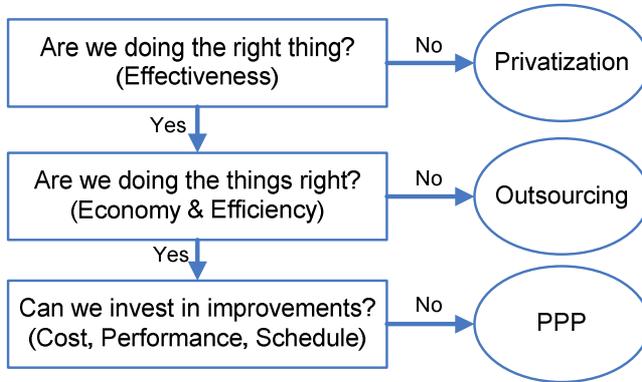
Figure 9.1: Defence Decision Map.

Efficiency assessments require that governments apply internal metrics that allow them to benchmark in-house costs with the costs of commercial providers of defence capabilities and services. This suggests a transition to some form of activity-based costing to determine the complete costs associated with a public function. This "total cost" must include all "indirect" costs that support the particular function being performed, including many costs not currently attributed to that function – such as finance, legal support, personnel management, etc.[3] Meanwhile, in anticipating the costs of outsourcing and PPPs, one needs to account not only for government's costs of obtaining products and services in the contract but also for government's costs of writing, moni-

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2   Mitchell E. Daniels, Jr., *Circular A-76 Revised* (Washington, DC: US Office of Management and Budget, May 29, 2003), www.whitehouse.gov/omb/circulars/a076/a76_rev2003.pdf.

3   Gansler and Lipitz, *Moving Toward Market-Based Government* (2003), 11.

Box 9.3. Outsourcing Benefits from Public-Private Competitions

U.K. Ministry of Defence "Market Testing":

- From FY87 to FY92, MoD competed for 246 activities with an average first-year savings of 24 percent.

In 1966, the US Office of Management & Budget (OMB) issued Circular A-76: Performance of Commercial Activities, which established the policy for acquiring commercial activities. In 1979, the OMB issued procedures for A-76 cost comparison studies to determine whether commercial activities should be performed by government, by another federal agency or by the private sector. The objective of A-76 is to provide a "fair" public-private competitive sourcing process, seeking to determine the most cost-effective method of obtaining services that are available from the commercial market.

- From FY79 to FY96, the US Army completed 486 cost comparisons. In-house won 240, contractors won 228. Savings averaged 28 percent of pre-competition costs, saving USD 4 billion over the period.
- From FY78 to FY92, the Department of Defense held 2000 competitions with an average savings of 30 percent.

At present, an A-76 study requires an agency to develop a Performance Work Statement to identify the work to be done; to prepare a government in-house cost estimate based upon a Most Efficient Organization that can accomplish the work; to solicit bids to perform this work from the private sector; and to compare this estimate with the lowest or best-value offer from the private sector. The government converts to performance by the private sector if the offer is lower than the in-house estimate either by 10 percent of direct personnel costs or by $10 million over the length of the specified performance period. The time period established for cost comparisons is 24 months for a single function and 48 months for multifunction competitions.

By the end of the 1990s, the OMB estimated savings of roughly $9.2 billion in DoD operating costs between 1997 and 2005 and $2.8 billion in annual recurring savings after 2005 resulting from A-76 studies.

Source: Gansler and Lipitz, *Moving Toward Market-based Government* (2003).

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toring and managing the contract, including the risk of higher costs later as the government begins to rely more heavily on a winning contractor. Finally, corruption risks need to be addressed early in the assessment process as this can significantly increase transaction costs and destroy public confidence in outsourcing, privatization and PPPs.[4]

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[4] Francois Melese, Raymond Franck, Diana Angelis and John Dillard, "Applying Insights from Transaction Cost Economics to Improve Cost Estimates for Public Sector Purchases: The Case of U.S. Military Acquisition," *International Public Management Journal* 10:4 (October 2007): 357–85.

Box 9.4. Selected Examples of Outsourcing, Privatization and PPPs

Areas used by the Australian defence forces are centrally managed by the Defence Estate Organization (DEO). The mission of the DEO is to manage these assets according to business principles that optimize government revenue. Armed forces are the tenants and many buildings and much of the land has been sold and leased back. Privatizing assets and disposing of unused or underutilised property raises revenues.

   Areas used by the Polish defence forces are centrally managed by the Military Property Agency. The mission is to sell off all redundant military property, from hardware to former military installations. Any profits from sales go directly to the MoD, which uses them to modernize the Polish armed forces.

Source: Bonn International Centre for Conversion (BICC), *Conversion Survey 2001—Global Disarmament, Demilitarization and Demobilization* (Germany: NOMOS, 2001).

Public-private competitions should always be structured to take into account the government's need for high-quality, reliable and sustained performance, as well as the opportunity for cost savings and the risk of corruption. Efficiency reviews can encourage innovation and investment. Regardless of whether the public or the private sector wins the cost comparison, Department of Defence officials have noted that savings of 20 percent or more are not uncommon. This is because properly conducted competitions can promote efficiency, minimize corruption and improve the performance of defence activities.[5]

Corruption Risks in Outsourcing, Privatization & PPPs

Selling (privatizing/divesting) un-needed assets allows governments to focus on core activities, and to reduce costly subsidies and the burden on taxpayers. Auctioning unnecessary defence assets and activities can create new business opportunities for the private sector. It can also raise government revenues to recapitalize defence operations or to reduce budget deficits. Alternatively, voucher privatizations encourage widespread share ownership and entrepreneurial initiative to operate assets and activities that benefit shareholders.

   The following goals apply to many outsourcing, privatization and public-private partnership initiatives:

- Improve efficiency and reduce government borrowing (cost savings);
- Improve effectiveness (boost performance);
- Encourage share ownership;

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[5]   Commercial Activities Panel, *Improving the Sourcing Decisions of the Government* (Washington, DC: Government Accounting Office, 2002).

- Generate auction revenues for defence recapitalization or to reduce public debt; and

- Focus on core activities.

While significant public benefits can result from a competitive and transparent process of outsourcing, privatization and PPPs, there are also serious risks.

The first risk is that if specific assets, activities or resources (land, labour, capital, etc.) are sufficiently valuable to the private sector, special private interests may attempt to bias public results in favour of outsourcing, privatization or PPPs. The risk is that through legal lobbying and illegal bribes or favours, those who stand to gain will attempt to influence the political and bureaucratic process so that valuable assets are determined to be "unnecessary" for future defence forces, leading to their transfer into private hands through privatization. Alternatively, legal and illegal political and bureaucratic influence might be used in order to "purchase" valuable outsourcing or public-private partnership opportunities.

Another factor poses an equally significant risk. Defence ministries are often subjected to intense public pressure and (legal and illegal) lobbying by states, cities, localities and special business interests to prevent base closings or property transfers through privatization, outsourcing or PPPs that might entail the loss of current revenues and jobs – even when those assets or activities are no longer necessary for national security.

In recent decades, the US has been relatively successful in addressing these conflicting risks. In several of its recent "effectiveness" reviews of defence infrastructure and support activities, the US established an independent Base Realignment and Closure (BRAC) commission (see Box 9.6 for details). One key innovation minimized legal lobbying and illegal influence peddling. The commission's recommendations could not be amended and were non-negotiable. Once presented to the president and Congress, they could only be approved, or rejected, in their entirety.

Outsourcing, privatization & PPPs can take place through several methods:

1. Sole-sourcing or direct sale to, or joint ventures with, a strategic investor;

2. Competitive sealed-bid or online auctions resulting in the sale of assets (or granting of contracts) to the highest (lowest) bidder; and

3. In the case of privatization – initial public share offerings (IPOs), voucher-based distribution or direct sales to the public, employee share ownership plans and/or management buyouts, or some combination.

Each of these methods is vulnerable to corruption.

Box 9.5. Selected Military Value Criteria for U.S. Base Realignment & Closure (BRAC)

The BRAC commission used criteria that were fully transparent to all stakeholders, as well as to the general public. For example, the commission considered:

- The current and future mission requirements and the impact on operational readiness of the Department of Defense's total force;
- The availability and condition of land, facilities and associated airspace at both the existing and potential receiving locations;
- The ability to accommodate contingency, mobilization and future total force requirements at both the existing and potential receiving locations;
- Cost and manpower implications, etc.

Box 9.6. Corrupt Behaviour in Share Privatizations

Following voucher privatization programs, in several countries managers or shareowners with major stakes in firms attempted to gain control of firms through various means. One means used to gain control of firms at the expense of original shareholders is called "dilution." This involves issuing new shares at levels which dilute total equity per share. Some dilution is common in most countries. For example, dilution occurs anytime firms issue options to management to purchase future shares at rates considerably below market prices.

Advice Regarding Personnel of the Privatization Agency and of the Share/Trust Fund to Reduce Corruption Risk:

- Assure that the personnel of the Privatization Agency and of the Share/Trust Fund are fully and adequately trained, both initially and thereafter in regular intervals, as well as effectively supervised and adequately safeguarded against corruptive influences;
- Assure that all officers and staff of the Privatization Agency and of the Share/Trust Fund publicly disclose, in regular intervals, their income, assets and any potential conflicts of interest;
- Assure adequate payment structures for the officers and staff of the Privatization Agency and the Share/Trust Fund;
- Assure clear conflict of interest rules for all staff of both institutions. To be avoided in particular are appointments of staff based not on merit (competence and experience) but on political connections;
- Require ethical commitments ("I will not accept or demand any bribes myself or tolerate bribery by others and will voluntarily disclose any potential conflict of interest") from all officers and selected staff involved in decision making in the privatization process;
- Assure that the privatization institution employs independent outside experts for decisions on technical aspects for which it lacks the necessary expertise;

- Introduce and sustain adequate rotation rules (no officer or staff may remain in a sensitive position long enough to develop improper connections or dependencies with potential bribers); and

- Introduce and assure the obligation of all officers and staff in both institutions, and all other officials involved in privatization matters, to report any suspicion or knowledge of corrupt behaviour to the relevant authorities, irrespective of whether the briber is an official or a private person, and provide corresponding whistleblower protection.

In cases where privatization is managed by technical ministries rather than a special privatization agency, assure that all the safeguards recommended above for the Privatization Agency are applied *mutatis mutandis* to the relevant officials and staff of the respective technical ministry.

Sources: Michael H. Wiehen, *Avoiding Corruption in Privatization: A Practical Guide* (Germany: GTZ, 2004); Excerpts from Division 42 Sector Project: Development and Testing of Strategies and Instruments for the Prevention of Corruption, 20–25: www.u4.no/document/literature/gtzcorruptionandprivatization.pdf; Jeffrey Miller, "Evaluation of Mass Privatization in Bulgaria," William Davidson Institute Working Paper #814 (March 2006).

Corruption often originates either with a bidder (offering an illegal payment to influence the outcome, i.e. bribery) or a public official (demanding a payment to influence the outcome, i.e. extortion). As Rose-Ackerman points out, "… a firm may pay to be included in the list of qualified bidders or to restrict their number. It may pay to obtain a low assessment of the public property to be leased or sold off, or to be favored in the selection process… firms that make payoffs expect not only to win the contract or… auction, but also to obtain inefficient subsidies, monopoly benefits, and regulatory laxness in the future."[6] Furthermore, the greater the risk of corruption, the more difficult it is to attract foreign direct investment and new technology, the fewer the competitors, and the worse the outcomes.

It may be useful to have a central independent anti-corruption institution to oversee non-traditional procurement, including outsourcing, privatization and PPPs. With strong support from the legislative, executive and judicial branches of government, such an institution should be capable of investigating and prosecuting corruption, wherever it appears.

Conclusions

Corruption risks not only depend on the competitive environment and methods chosen for outsourcing, privatization or PPPs but also on the integrity of public officials and

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6   Susan Rose-Ackerman, *When is Corruption Harmful* (Washington, DC: World Bank, 1996).

Box 9.7. Principles of a Market-Based Approach for Outsourcing, Privatization & PPPs

Gansler and Lipitz (2003) formulate four principles of a market-based approach for outsourcing, privatization and PPPs:

1. The key to success is shifting from a monopoly to a competitive environment;

2. Competition must be run for "best value" rather than simply low cost;

3. Even when government contracts out work, it does not give up its management responsibilities;

4. There is a critical need for key measures of performance and cost that will be continuously monitored and reported.

Source: Gansler and Lipitz, *Moving Toward Market-based Government* (2003), 9–11.

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private contractors, and the transparency and accountability of governance mechanisms and institutions.

The risk of corruption can be significantly reduced through integrity pacts developed by Transparency International. Integrity pacts require that all participants engage in transparent contracting arrangements, which include monitoring and oversight by civil society.

Agreements on Codes of Conduct provide even more leverage, requiring that public officials and private contractors promise to refrain from all corrupt activities and, more importantly, that they are held accountable in case of violations. Parties agree in advance to specific sanctions, which include loss of the contract, forfeiture of bid bonds, liability for damages and blacklisting from future public competitions. Organizations such as the OECD, OSCE, EU and the World Bank offer anti-corruption regulations that can reinforce integrity pacts and include clear rules for public disclosure of assets, income and potential conflicts of interest by politicians and public officials.

In conclusion, making the best use of defence resources often requires outsourcing, privatization and PPPs. Many of the same lessons that apply in standard defence procurements to curb corruption also apply to such "non-traditional" contracting arrangements. The constants are sustained competition, transparent contracting arrangements and independent oversight. Applying these lessons together with a country-specific mix of integrity, transparency and accountability tools can reduce corruption by lowering the benefits and increasing the costs of engaging in corrupt behaviour.

Box 9.8. Avoiding Corruption in Privatization

Risk Indicators for Corruption:

- Parliament/legislature subject to undue influence by the private sector, enabled also by the absence of adequate campaign finance laws and procedures;

- Absence of transparency of public administration in general as well as non-public, non-transparent decision making by the government;

- Inadequate access of the public at large (including civil society) to information about government programs, processes and decisions; absence of opportunity for public discussion of government programs and decision making and of opportunities for the public and civil society to participate in the development of privatization strategy and policy, and of the privatization law, institutions and program;

- Absence of:
    - An effective control system (by the parliament, the administration and/or external, independent institutions) for the privatization program;
    - Accountability systems and controls for the politicians and officials involved in the privatization program;
    - Opportunity for the public or officials to register suspicion of corruption confidentially or anonymously;
    - Criminal, civil and disciplinary processes against politicians and officials who have been implicated in previous cases or have otherwise been suspected of corrupt behaviour;
    - Effective criminal sanctions instruments and institutions, as well as ineffective enforcement of existing sanctions instruments;
    - National rules for the public disclosure of assets, income and potential conflicts of interest by politicians and public officials involved in privatization decisions;
    - Independent, courageous media;
    - Corporate governance instruments and institutions; and

- Continued service of politicians and officials in critical positions, despite obvious conflicts of interest (possibly even despite accusations and/or convictions of previous corruption offences).

Audit and Control Systems to Counter Corruption:

- Install and sustain effective audit and control systems (internal and external audit, parliamentary oversight, etc.) and functions over all decisions of the Privatization Agency and the Share/Trust Fund, including both policy and single-enterprise decisions:
    - The relevant state control and audit institutions should have and exercise authority over all privatization decisions, whether taken in the Privatization Agency or elsewhere;
    - The assessments of the audit and control institutions should be fully transparent;

> o   Assure that any reports of violations or inadequate compliance are properly followed up and lead to corrections and improvements;
>
> o   Give civil society involved in privatization monitoring and control access to all relevant documentation, including normally confidential documents, under a commitment to treat such information as confidential, except when violations are discovered and not corrected;
>
> - Assure and monitor the functioning of the appropriate audit and control institutions and instruments. Furthermore, assure the enforcement of criminal, civil and disciplinary sanctions against politicians and officials caught in breaking laws and rules, including:
>
>   o   Disciplinary measures, including removal from current functions and non-eligibility for future public functions;
>
>   o   Confiscation of illegally obtained property;
>
>   o   Liability for damages; and
>
>   o   Confinement and monetary fines.
>
> *Source:* Michael H. Wiehen, *Avoiding Corruption in Privatization: A Practical Guide* (Germany: GTZ, 2004), www.u4.no/ document/literature/gtzcorruptionandprivatization.pdf.

Recommendations:

- Formulate clear and transparent defence guidance, policies, budgets and decision processes, and performance metrics.

- Conduct regular assessments of effectiveness of delivering a defence capability by the defence establishment, starting with support capabilities such as infrastructure development and maintenance, medical support, etc., and moving towards combat support services such as air refuelling, support to deployed forces, etc. Incorporate such assessments into strategic defence reviews or similar processes.

- Conduct regular assessments of efficiency of delivering a defence capability by the defence establishment and through alternative sourcing, e.g. outsourcing or public-private partnership, taking into account cost efficiencies as well as the government's need for high quality, reliable and sustained performance.

- Provide clear and efficiently enforced legal and economic rules and regulations for outsourcing, privatization and public-private partnerships.

Box 9.9. Transparency of PPPs

The Canadian Council for Public-Private Partnerships (http://www.pppcouncil.ca) was established in 1993 as a member-sponsored organization with representatives from both the public and the private sectors. As proponents of the concept of public-private partnerships (PPPs), the council conducts research, publishes findings, facilitates forums for discussion, sponsors an annual conference on topics related to PPPs (both domestic and international) and celebrates successful public-private partnerships through a National Awards Program.

As a national, authoritative voice on the topic of public-private partnerships, the council supports political officials and decision makers in exploring and developing partnerships with the private sector. Alternatively, the council strives to create opportunities for the private sector to work with governments on public-private projects that cover the spectrum from simple contracts to full privatizations.

Besides encouraging and providing information on public-private partnerships, the council stimulates dialogue between public and private sector decision makers on the financing and delivery of public services, educates the public, conducts objective research on key issues that influence the effective use of partnerships and publishes research papers, case studies, guidelines, opinion surveys and national inventories on key public-private partnership subjects.

As a transparency measure, the council maintains an open access PPP project database, called "PPP Project Tracker" (available at www.pppcouncil.ca/resources_project_tracker.asp). This database covers projects in the proposal stage, recently conducted projects and cancelled projects. For each ongoing project the public can access the following information: project title, a brief description, the total cost of the project, model of the public-private partnership and project duration, current and next stage of the project, website for additional information and the point of contact.

In May 2009, the minister of defence of Canada announced that a major security infrastructure project will be procured as a public-private partnership. Although security clearances will be required from vendors, the procurement notice is published on the council website.

For the models of public-private partnerships, see: http://www.pppcouncil.ca/aboutPPP_definition.asp.

- Provide for effective and transparent functioning of legislative, judicial and bureaucratic structures, including internal and external audits, parliamentary oversight and public access to information (with due account for sensitivity of some of the information).

Chapter 10

Utilisation of Surplus Equipment and Infrastructure

In the process of adaptation to the post-Cold War security environment, the countries on the two sides of the then dividing line reduced their armed forces significantly. A considerable amount of weapon systems, equipment, ammunitions and military sites became unnecessary in the process. Defence establishments to the West of the dividing line did have to resolve certain challenges but the combination of sound defence management mechanisms, parliamentarian scrutiny and societal interest kept the problem manageable. To the East of that line, however, countries had to deal with the issue of defence surpluses in parallel with the return to free market and the principles of democratic rule, with burning conflicts on their territories or nearby, very limited transparency and, generally, quite weak democratic institutions.

Not surprisingly, defence establishments in Eastern, South-Eastern Europe and elsewhere were not able to cope efficiently with this legacy and still face numerous problems. First, maintaining surpluses costs much. Secondly, poor protection, storage and handling of surpluses directly threatens the life of soldiers, employees, the people working or living in nearby communities and the environment, and increases the risk of illicit trafficking and uncontrolled spread to criminals and even terrorists. And third, non-transparent and unaccountable management of the surpluses involves very high corruption risks.

This chapter examines these three groups of problems and presents examples of good practice in resolving them. The final section provides a list of recommendations, the implementation of which lowers the corruption potential of utilisation.[1]

Waste of Resources

The costs of removing defence materiel that has become redundant may be significant. On the other hand, keeping redundant weapon systems, equipment, ammunition and infrastructure diverts valuable human and financial resources away from developing necessary defence capabilities and deploying armed forces in operations that increase the security of the nation, its allies and partners. As the example in Box 10.1

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[1] Here the term "utilisation" denotes the removal of surplus defence materiel and infrastructure from the defence establishment through sale, exchange, donation, conversion, destruction or other legitimate ways.

> ## Box 10.1. Indirect Costs of Delayed Utilisation
>
> As a member of NATO since 2004 and of the EU since 2007, Bulgaria continues to deal with the legacy of its large Cold War military. Twenty years after the fall of the Berlin Wall, the defence establishment still cannot get rid of numerous weapon systems, tens of thousands of tons of ammunition and hundreds of military sites that it does not need. On average, the speed of utilisation of surplus defence materiel hardly exceeds the pace with which the military fills in the stock of redundant weapons and ammunition and releases additional infrastructure.
>
> On the other hand, the country strives to meet its alliance commitments for contribution to international operations and development of interoperable defence capabilities. Hence, the cost of keeping surpluses is mostly covered by limiting long-term investments. For example, the cost of outsourcing the guarding of redundant infrastructure alone consistently exceeds the money Bulgaria invests in defence research and technological development.

shows, inefficient utilisation also impairs the long-term development of the national defence capacity.

Security and Safety Risks

Any stock of ammunition, explosive material and detonating devices creates risks for the security of the people responsible for protecting and handling them, for nearby communities and for the environment. But when such stocks are handled by active military units, and in accordance with strict rules and procedures, these are routine risks.

The situation may change dramatically when the military gets rid of the ammunition and leaves only limited personnel to handle the surpluses. Often this task is outsourced and the stockpiles are guarded by private companies and may be handled by technical personnel, possibly with lower qualifications and discipline. The risks are even higher in the presence of abandoned or damaged ammunition and explosives in post-conflict zones. Box 10.2 describes the threat and provides examples of the possible damages, including casualties caused by explosive events in ammunition storage areas.

No less important than the safety risks are the security implications of poorly protected stocks of surplus weapon systems and ammunition. The European Union, for example, has consistently expressed the view that stockpile management is an important means to block one of the most damaging channels for acquiring illicit weapons and ammunition. The EU includes in "weapons management" a wide range of issues, such as stockpile management, marking and record keeping of weapons and ammunition, identification of surplus weapons, disposal of weapons and the fight

Box 10.2. The Threat from Explosive Events in Ammunition Storage Areas

News of major ammunition depot explosions makes the headlines several times in any single year but many minor events go unreported. All of these events have a devastating impact on local communities. Large numbers of casualties, widespread destruction of infrastructure and the disruption of the livelihood of entire communities often result. In addition to the immediate human suffering, such explosions can have major negative effects on the environment and, in states with limited means to finance the technically challenging clean-up costs, local populations, especially children, are all too often exposed to the risk of injury or death due to the unexploded ordnance that tends to litter large areas for extended periods of time after the initial undesirable ammunition explosion.

The table below contains details of selected explosive events within ammunition storage areas from the mid-1990s onward.

Date	Country	Location	Fatalities	Injured	Possible Cause
March 97	Albania	15 locations	56	59	Human Error & Security
06 May 04	Ukraine	Novobogdanovka	5	10	Fire (Human Error - Smoking)
31 Mar 05	Cambodia	Andong Chen	6	20	High Temperature
08 Dec 05	Pakistan	Jhandola	12	50	Handling
08 Jul 06	Montenegro	Vir	0	32	Lightning
19 Oct 06	Serbia	Paracin	0	10	Not Known
02 Mar 07	Slovakia	Novaky	8	45	Not Known
26 Jul 07	Syria	Aleppo	15	50	Propellant Fire
09 Jul 08	Uzbekistan	Kagan	3	21	Fire
04 Dec 08	India	Gandhidamn	2	6	Fire
19 Mar 09	Kazakhstan	Darbaza (Arys)	4	16	Fire

Source: The Threat from Explosive Events in Ammunition Storage Areas (Kent, UK: ECAO-Explosive Capabilities Limited, 15 July 2009), www.iansa.org/un/documents/ExplosiveEvents1995-2009.pdf.

against corruption. The intensity of conflicts could be diminished significantly by interrupting the influx of ammunition and by drying up the stream of its illegal delivery. Surplus ammunition has been diverted from military stockpiles into zones of instability where it has fuelled conflicts. It is also getting into the hands of criminal gangs and terrorists.[2]

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[2]   *Debate Continues on Small Arms Conference Recommendations*, UN General Assembly DC/3008, Preparatory Committee for Review Conference on Illicit Small Arms Trade (16 January 2006), www.un.org/News/Press/docs/2006/dc3008.doc.htm.

Many international organisations recognise these risks and create conditions for assistance and cooperation in eliminating stocks of surplus weapons and ammunition. Box 10.3 describes briefly the arrangements for international assistance agreed in the framework of the Organization for Security and Co-operation in Europe (OSCE).

Since the beginning of the century, NATO undertook an important role in resolving the problems with large weapons and ammunition stocks. NATO serves as a clearing-house of donor assistance through the Partnership for Peace Trust Funds, while NAMSA, the NATO Maintenance and Supply Agency, is the first choice for an executive agent. Box 10.4 provides additional information for this role of NATO.

The achievements of the arms destruction trust fund are impressive. Just during its first five years, the fund has raised more than 16 million euros in voluntary contributions for a number of projects across the Euro-Atlantic area and provided for the destruction of approximately 2.5 million landmines, 325 high-altitude anti-aircraft missiles,

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Box 10.3. International Assistance in Managing Stockpiles of Conventional Weapons

The participating states in the OSCE recognize that the risks posed by surplus stockpiles of conventional ammunitions, explosive material and detonating devices are often created by precarious and unsatisfactory conditions of storage. Therefore, they agree that stockpile security should be taken into account and that proper national security and safety control over stockpiles of conventional ammunition, explosive material and detonating devices is essential in order to prevent risks of explosion and pollution, as well as loss through theft, corruption and neglect.

Among the indicators in considering whether a surplus should be considered a risk, the OSCE includes:

- The procedures to maximize the security of conventional ammunition, explosive material and detonating devices in transport;
- The training of staff in effective stockpile management and security procedures; and
- The system for application of supervisory and auditing responsibilities.

The OSCE provides a framework for technical, financial, consultative and other assistance to nations facing high levels of risk in storing surplus ammunition and explosives. This assistance is provided on a voluntary basis, when the requesting nation acts in a fully transparent manner and accepts management of the assistance effort by a joint project team.

Source: OSCE, *OSCE Document on Stockpiles of Conventional Ammunition* (Vienna: Organization for Security and Co-operation in Europe, November 2003), www.osce.org/item/1538.html.

Box 10.4. NATO and Demilitarization of Surplus Weapons and Ammunition

The NATO Partnership for Peace (PfP) Trust Funds originated in September 2000 and now covers destruction of all types of weapons and conventional ammunition. Trust fund projects originally were developed in countries of the Balkans and the Former Soviet Union, which possessed large surplus stocks of weapons and munitions that were difficult to maintain safely and securely. There are four fundamental elements of trust fund programmes: an appeal for assistance from the host country; fundraising by the lead nation; development and signing of legal and financial agreements; and the execution of the project. The last is normally entrusted to the NATO Maintenance and Supply Agency (NAMSA). Demilitarization of munitions is part of its core business and it has the necessary contracting, project management and financial management capabilities. There are now 34 eligible countries of the PfP, Mediterranean Dialogue and Istanbul Cooperation Initiatives. Projects have been completed or are planned in Afghanistan, Albania, Azerbaijan, Belarus, Bosnia-Herzegovina, Georgia, Jordan, Kazakhstan, Moldova, Montenegro, Tajikistan, Serbia and Ukraine. The NATO Trust Fund process has been a successful vehicle for international cooperation and is likely to continue for several years. There is scope for other international organizations to cooperate with NATO in developing and executing projects of this type.

Source: Peter Courtney-Green, "NATO and Demilitarization of Surplus Weapons and Ammunition," *Contemporary Security Policy* 29:1 (April 2008): 15–31.

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320 tons of rocket fuel, 28,000 small arms and light weapons and 1,800 tons of ammunition.[3]

Through the trust funds, NATO not just resolves an existing problem but invests in the capability of the supported country to conduct future demilitarization activities on its own[4] or to manage its munitions stockpiles in a safe, accountable and secure manner.[5]

As part of stockpile management, IANSA, the International Action Network on Small Arms, identifies some key recommendations in defining and disposing of surplus weapon systems and ammunition (presented in Box 10.5). Some of these recommendations directly address the risk of corruption related to surplus weapons and ammunition, examined in the next section.

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[3] "Fifth Anniversary of Arms Destruction Trust Fund," *NATO News* (16 November 2005), www.nato.int/cps/en/natolive/ news_21574.htm?selectedLocale=en.

[4] "NATO to Help Georgia Destroy More Missiles," *NATO News* (24 October 2007), www.nato.int/cps/en/natolive/ news_7925.htm?selectedLocale=en.

[5] "NATO Assists Afghanistan to Improve Munitions Stockpile Safety," *NATO News* (7 May 2008), www.nato.int/cps/en/ natolive/news_7258.htm?selectedLocale=en.

Box 10.5. Excerpts from IANSA's Recommendations for Stockpile Management

Stockpile security:

- Maintaining stockpiles in appropriate structures, with security systems in suitable locations identified following a risk assessment for the local population;
- Storing arms and ammunition under the appropriate temperature and climate conditions;
- Only permitting access to the stockpile by authorised, properly trained and vetted personnel;
- Recording and reporting the humanitarian impact if misuse does occurs, even inadvertently.

Surplus identification, based on the following variables:

- External and internal threat perception, as well as national security/defence strategy and doctrine;
- Relevant policy and legislation, as well as budget and expenditure priorities;
- Size of the official security forces to be armed;
- Accurate, planned and regularly updated size of military reserves;
- Availability of appropriate safe storage facilities and capacity to maintain and secure them.

Disposal and destruction:

- Ensuring stocks are appropriately maintained, secured and transported up to the point of destruction;
- Expediting the destruction of redundant, surplus and damaged explosives stocks without delay;
- Earmarking a proper destruction site and assembling the necessary destruction equipment or facilities;
- Adhering to the specific destruction measures outlined in the 2000 report of the UN Secretary General of 15 November 2000 (paragraph 19);
- Measures to mitigate harm to people, livestock, property and the environment from the destruction;
- Planning, design and implementation of destruction by appropriately trained destruction specialists.

Source: IANSA, *Stockpile management & surplus disposal* (2007), http://www.iansa.org/un/documents/StockpileManagement.pdf.

Corruption Potential of the Utilisation

The parliamentarian and public attention related to defence is often focused on the procurement of new weapon systems or construction projects, in particular in cases of high-value contracts. Less flashy but rich with corruption potential are the cases when the Ministry of Defence sells redundant weapon systems, equipment or infrastructure.

Box 10.6 presents one case of corruption related to the sale of surplus tanks. Somewhat unexpectedly, the example comes from a nation that is consistently ranked by TI among the countries with lowest level of corruption – Finland.[6] In this particular case, corruption was promptly revealed and the persons involved were released from their positions and charged by the state prosecution.

That is rarely the case in countries with less transparent and accountable management of defence, where corruption risks relate to four main types of utilisation acts.

First is the contracting for the destruction of surplus weapon systems, equipment and ammunition. Just like in other defence contracts, corruption risks decrease with the implementation of open tenders and transparent, competitive procedures with clearly formulated requirements, including requirements for environmental safety. On the contrary, corruption potential increases when competition is limited or tender requirements favour a particular company. At the extreme, the defence ministry might use a sole source procedure, e.g. leading to a contract with a company owned by the defence ministry. In one such case the executive director of a defence company was later arrested and charged for giving the work to a private subcontractor.[7]

Second is the outsourcing of specific services, e.g. the provision of security of weapons and ammunition storage areas. Again, transparency and open competition are the main remedies against corruption but too often defence officials are tempted to limit the competition or even to go to direct negotiations with a single company. The corruption in such cases feeds back to the safety and security problems described in the previous section – both sides have an interest to prolong the contract as much as possible, and the destruction of surpluses is delayed respectively.

The third type of act is the selling of surplus weapon systems, equipment and infrastructure. While the buyer-seller relationship here is reversed, the same anti-corruption requirements apply. The requirement for transparency applies to the procedure, pertinent regulations, items being sold and their condition. Fuzzy rules and procedures, combined with a lack of transparency, increase significantly the discretionary

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[6] In the 2008 Corruption Perception Index, Finland ranks 5th among the countries with least corruption.

[7] "The Executive Director of the Defence Company Terem was Arrested," *DarikNews* (9 September 2009), http://dariknews.bg/view_article.php?article_id=397074.

Box 10.6. Corruption Charges Related to Utilisation of Surplus Weapon Systems

The Finnish State Prosecutor Jorma Äijälä is bringing criminal charges against five individuals. Two of the accused worked in directorial positions with the Defence Forces. The remaining three were employed by a recycling company. The case relates to a bidding contest in which the Defence Forces were seeking a buyer to scrap and recycle 360 obsolete armoured vehicles from 2007–2009. According to the prosecution, the winner triumphed in the bidding contest through illegitimate means and the opposing bidding contestant suffered EUR 350,000 in damages.

On the Defence Forces' side, the gravest criminal charges will be filed against a then sales manager, who is no longer employed by the military. According to the indictment, he received bribes from representatives of the winning company and subsequently misled those deciding on the bidding contest into thinking that its offer was superior to the one presented by the competition. The state prosecutor calls for the sales manager to be penalised for acceptance of bribery, aggravated fraud, aggravated misuse of his official position and infringement of official secrets. According to Äijälä, the bribery charge relates to having been entertained.

The police suspected that the manager in question would also have received EUR 6,000 in cash. A managerial level employee of the winning company admitted having handed this sum of money in a brown envelope to the sales manager at the request of one of the employee's superiors. The state prosecutor, however, considered the evidence insufficient with regard to the EUR 6,000 bribe.

Another Defence Forces director will be charged for negligence in duty, or, in practice, for being careless. The director trusted the false price comparison produced by the sales manager, based on which he then prepared a proposal briefing. The proposal briefing advanced in the Defence Forces hierarchy upwards without anyone reviewing the sales manager's figures. The final decision on the scrap deal was made in accordance with the proposal briefing by the then minister of defence.

Representatives of the contracted company will be charged for aggravated fraud, misuse of business secrets and giving a bribe. The police also suspected the firm's managing director and deputy managing director of wrongdoing but the prosecutor could not file any charges.

Source: "Deal to Scrap Army Tanks Leads to Bribery Trial," *Helsingin Sanomat, International Edition* (26 November 2009), http://www.hs.fi/english/article/Deal+to+scrap+army+tanks+leads+to+bribery+trial/1135251039606.

power of the official and, respectively, the corruption potential of utilisation. The requirement for competitiveness applies as in the previous two types of acts.

The way the Department of Defence of Australia deals with redundant properties may be considered best practice. The department examines the disposal of surplus defence property as a distinct phase, included in a streamlined process of infrastruc-

ture asset life-cycle management.[8] The disposal procedure is simple, clear (see Figure 10.1) and available through the internet to all interested in the issue.[9] Everyone interested can quickly figure out what are the main steps of the process, the considerations followed, the expected outcome of the particular activity, the applicable regulations and even to access the text of the regulations. Thus, the limited discretionary power of the public official, in combination with a competitive procedure, strongly reduces the corruption potential of the utilisation.

The fourth and final type of act examined here involves barter. This is possibly the type of utilisation involving the highest corruption risk. For example, in many countries the military is among the biggest "owners" of properties and some of these properties, already redundant, are at very attractive locations, e.g. in the centre of a city. There have been cases when, under the slogan of "concern for the soldiers," defence officials exchange attractive properties for housing, handpicking the provider of the housing. Probably the only effective remedy against corruption here is to legally ban such exchanges.

Recommendations

The final section of this chapter summarises the recommendations to enhance the governance mechanisms and reduce the utilisation-related corruption, in addition to the contracting-related recommendations in the previous section.

Awareness

Defence ministries, parliaments and societal organisations should raise the awareness of the problem of surplus weapon systems, equipment, ammunition and infrastructure in all its dimensions, including the corruption potential of the utilisation.

Defence Planning and Plans

Sound defence planning is a prerequisite for the effective management of surpluses. It puts the problem in a longer-term perspective. First, sound defence planning eliminates the instances when the defence establishment invests in the development of weapon systems and/or infrastructure that, in a follow-up update of force development

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[8]   Australian Government, Department of Defence, *Infrastructure Management*, www.defence.gov.au/IM.

[9]   Australian Government, Department of Defence, *Guidelines for the Disposal of Surplus Defence Property*, Version 4.9 (September 2009), http://www.defence.gov.au/im/disposal/main.htm.

plans, are declared redundant. Second, well thought-out defence plans provide reliable, advance information on the types and quantities of equipment and infrastructure

Step 1:
Declare a property surplus to Defence requirements

1) Property that might be surplus to requirements identified
2) Appoint Project Director
3) Prepare business case including: risk identification; risk analysis; risk mitigation; programming schedule; property valuation
4) Include the property in the Defence Property Disposal Program

Scenario 1
Open Market Sale

Scenario 2
Priority Sale

Step 2: Prepare the property for disposal

1) Prepare Property Disposal Project Plan
2) Prepare Procurement and Evaluation Plan
3) Complete due diligence
4) Undertake environmental and other works as required
5) Obtain Environmental clearances
6) Refer the proposal to the Minister for Finance and Deregulation and the Minister for Housing for consideration

Step 2: Prepare the property for disposal

1) Defence receives submission from proponent via the Parliamentary Secretary (Defence) for a Priority Sale
2) If the property is surplus, consult Dept of Finance and Deregulation
3) Refer the proposal to the Minister for Finance and Deregulation and the Minister for Housing for consideration and approval
4) Obtain LAA approval from Department of Finance and Deregulation
5) Advise proponent of decision (subject to due diligence); Include Contract of Sale and request agreement
6) Complete due diligence studies and work as required

Step 3a:
Dispose of the property on the Open Market

1) Confirm property is available for disposal and review disposal strategy as required
2) Obtain LAA approval from Department of Finance and Deregulation
3) Determine method of sale (Tender; Auction; Private Treaty) and prepare appropriate documentation
4) Prepare - Contract of Sale and Standard Tender Conditions
5) Marketing Agent advertises the disposal of the property
6) Register the disposal on AusTender
7) Conduct disposal in accordance with approved method of sale
8) Evaluate offers
9) Advise proponents as necessary
10) Contract Exchange
11) Complete and distribute disposal notification (day of sale)

Step 3b:
Dispose of the property by Priority Sale

1) Prepare Ministerial Submission including: Letter for Parliamentary Secretary (Defence) to advise successful proponent; Confidentiality agreement; Media release (with Public Affairs clearance)
2) Finalise - Contract of Sale for contract exchange
3) Complete and distribute disposal notification Minute (day of sale)

Step 4:
Settle and complete the disposal

1) Confirm legislative compliance
2) Obtain settlement statement from lawyers
3) Forward tax invoice to Lawyers for settlement; Issue settlement instructions if required
4) Complete Notification of Disposal form (settlement)
5) Pay final invoices and write back purchase orders
6) Close the project in ROMAN and update the Property Database
7) End of project report

Figure 10.1. Managing the Disposal of Surplus Defence Property.

to be made redundant, as well as the stocks of ammunition to be destroyed. Third, business, and the defence industry in particular, may use that information to invest in the respective capacity and become competitive nationally and possibly internationally.

Local Ownership

The role of external actors in small arms disarmament and the destruction of surplus stocks is often key in starting the process. Very often countries want to destroy at least part of their surplus stocks but are unable—for financial or technological reasons—or unwilling to make significant investments of their own. Nevertheless, these countries will benefit from taking ownership of the problem and be proactive in the relationships with donors. Donor countries, on their side, should encourage local governments to take ownership,[10] while at the same time seeking increased transparency and accountability in the process of utilisation.

Adopt a Programmatic Approach in Managing Surpluses

In a short-term outlook it is always cheaper to store and guard than to destroy surplus weapons and ammunition. But this short horizon is detrimental in the long run. Therefore, it is recommended to adopt a programmatic approach towards utilisation, just like in dealing with other legacy issues. That entails, *inter alia:*

- Setting clear objectives and performance measures;
- Estimating costs over the medium term;
- Designing and comparing alternatives;
- Making utilisation visible in the program structure of the defence institution;
- Centralising the management of the respective programme.

Seek International Assistance

International assistance is available when the problems are particularly acute. Large scale incidents in storage houses further attract the attention of the international community. It is preferable, however, that countries with large stocks of surplus weapon systems and ammunition and little money and/or know-how are proactive in seeking international assistance. Increased transparency and the application of the programmatic approach will entice donors who will see that their financial support will be effectively utilised and will contribute to the development of indigenous capacity.

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[10] Sami Faltas, "Bulgaria and Romania: Quick Start, Ambiguous Progress," *Contemporary Security Policy* 29:1 (April 2008): 78–102.

Public-Private Partnerships

Explore the power and vigour of public-private partnerships, for example in developing dual-use infrastructure. In doing so, guarantee a clear understanding of costs and benefits and transparent implementation of the negotiated arrangements.

Adopt Life Cycle Management of Defence Systems

To prevent the reoccurrence of similar problems in the future, take the life cycle approach in managing the acquisition of weapon systems and developing infrastructure.

In conclusion, the implementation of the principles of good governance is the foundation on which legacy problems may be resolved effectively and efficiently. The sensible management of weapons and ammunition stockpiles, the transparency and accountability in utilising surplus weapons and infrastructure are key enablers in resolving the overall problem of surpluses and sharply reduce the corruption risks associated with utilisation.

Chapter 11

The Involvement of Defence Personnel and Assets in Economic Activities

Introduction

In transition democracies, the military remains influential in the country's political and economic system. The dark past of political and security situations in some transition democracies successfully established the military as the core actor in these countries. The military created the social and political basis for their supremacy over civilian oversight through their domination of the effective legal control of violence. Thus, it is not surprising if the military still has strong power within the society. Ironically, sometimes civilian politicians also took advantage from this situation by creating mutual relationships with the military through the politics of violence to maintain their power and create uncertainty in the democratization process.

One of the most significant impacts of military intervention in the political and economic system is the transformation of the military as an economic actor. In this sense, the military uses its resources (personnel and assets) to get involved in economic activities. From this short explanation, it can be understood that these economic activities cover both personal and institutional aspects of the military. Later, these economic activities violate the essential role of the military within the state system and also threaten human rights.

This chapter is specifically intended to analyze the involvement of defence (military) personnel and assets in economic activities through the conceptual discussion of the military as an economic actor and the perverse impact of military economic activity using the case study of the Indonesian Military's (TNI: *Tentara Nasional Indonesia*) business activities.

The Transformation of the Military as an Economic Actor

Defence is the most expensive and complex feature of the state. It is widely recognized that to develop an ideal defence capability the state should spend a huge amount of funds from its national budget. On the other hand, the state should also prioritize spending on other areas such as education, public welfare and health, which

are increasingly costly. This dilemma does not automatically stipulate the transformation of the military into economic actors in order to create sustainable financing for the defence budget. In short, the military is not trained to be profit-oriented but to be a professional security actor even with the minimum budget. However, the trend of military economic activity has not decreased yet. In fact, in countries such as Bangladesh, the Philippines, Pakistan, China and Russia, the military is still actively involved in profit-oriented activities, whether legal or illegal. Such a trend shows that there is still growing discourse on the logic behind the transformation of the military as an economic actor.

According to Brömmelhörster and Paes, there are several common reasons for the involvement of the military in economic activity. First, the military has access to material and human resources that are less accessible to civilians and that enable them to carry out other tasks. Secondly, the military often turns to private enterprise to make up shortfalls in defence budgets. Thirdly, weak states and poor civilian control of the military create an added incentive for military elites to undertake commercial enterprises. Fourth, the roots of some military businesses can be traced back to measures taken in order for insurgent forces to be self-sufficient. Finally, even when security threats have subsided, downsizing of the armed forces is difficult to achieve and militaries are therefore used in secondary roles.[1] Based on these explanations, we could generalize more specific situations for military involvement in economic activities.

There are two types of situations that stimulate militaries to transform into economic actors; namely, the politico-economy nexus and the lack of state budget fulfilment. Politics and economy are like two sides of a coin. Hence, it is widely accepted that if military actors have the political power then they will also play a significant role within the economic sphere in the state and *vice versa*. In this case, the economic activity of the military substantially contributes to the political power of their civilian ally or their military leaders. Such a relationship between the military and the politico-economy power frequently happens under oppressive governments; for example, in Indonesia during General Suharto's regime.

However, military economic activities do not always exclusively stand for their political power. In non-authoritarian countries or transition democracies, after the removal of their political power, the military is being pushed to be professional. Unfortunately, the pressure to professionalize the military is not backed by proper financial support from the government. As a consequence, the military obtains the justification to perform economic activities as their budget is not fully supported by the government. Such off-budget funds are claimed to finance the deficit of military budgets, even though in reality such economic activities tend to accumulate profit for high-ranking military offi-

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[1]   Jörn Brömmelhörster and Wolf-Christian Paes, eds., *The Military as an Economic Actor: Soldiers in Business* (New York: Palgrave Macmillan, 2003).

cers. Ball and Hendrickson argue that there are several factors that may encourage off-budget military spending: a strong executive decision-making culture; the role played by the military in the social and economic sectors; security problems; institutional fragility; and military involvement in protecting or selling natural resources.[2]

Both types of military involvement in economic activities are not independent. In fact, such situations are supportive in their nature, as can be seen in the case of Indonesian military business.

The Structure of Indonesian Military Business Activities

Historically, the TNI's business activity was established under General Suharto's oppressive regime from 1967–1998. During Suharto's leadership, the TNI was given the privilege of managing their budget and operations without any critical oversight from the parliament or civil society organizations. Through ABRI's (former name of the TNI) *dwifungsi* doctrine, the TNI was granted extensive social and political roles. According to the doctrine, the Indonesian Military were both defenders of the nation and a social-political force in national development.[3] As a consequence, the doctrine justified TNI participation in the development agenda, especially regarding economic development in the country.[4]

Following the expansive role of the TNI, in the 1970s the TNI built their business empire, which was set up via the establishment of foundations and cooperatives. Based on the Human Rights Watch Report on the Indonesian Military's business activity in 2006, there are certain types of military personnel and assets that have been involved in economic activity since the Suharto era:[5]

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[2] Dylan Hendrickson and Nicole Ball, "Off-budget Military Expenditure and Revenue: Issues and Policy Perspectives for Donors," Conflict Security and Development Group Occasional Papers (2002).

[3] Leonard C Sebastian, *Realpolitik Ideology: Indonesia's use of Military Force* (Singapore: ISEAS, 2006), 323–325. See also: GlobalSecurity.org, "ABRI-Armed Forces of the Republic of Indonesia," www.globalsecurity.org/military/world/indonesia/abri.htm. In addition, ABRI also received non-electoral seats in the parliament and plays an important role as the gatekeeper for the Suharto government.

[4] For details on TNI's intervention in the political and economic system under Suharto, see: Harold Crouch, *The Army and Politics in Indonesia* (Jakarta & Kuala Lumpur: Equinox Publishing, 2007); Sukardi Rinakit, *The Indonesian Military After the New Order* (Copenhagen: NIAS Press, 2005); Leonard C. Sebastian, *Realpolitik Ideology: Indonesia's Use of Military Force* (Singapore: ISEAS, 2006).

[5] See for details: Human Rights Watch, *Too High a Price, The Human Rights Cost of the Indonesian Military's Economic Activities* 18:5(C) (June 2006), www.hrw.org/en/reports/2006/06/20/too-high-price-1.

a. Military-owned Business

- *Foundations (yayasan)*

  The military foundations were established in the 1960s to provide social services such as housing and education for troops and their families. In the process, such foundations were expanded into business units presumably to finance the soldiers' welfare. In addition, these tax-exempt foundations supervise many important military business units. The army, through the Kartika Eka Paksi Foundation (YKEP), owns a total of 26 firms and seven joint ventures.[6] YKEP's business activities are managed by a holding company, PT Tri Usaha Bhakti. The various army interests include the Sudirman Central Business District, which owns 44 hectares in what is known as Jakarta's "Golden Triangle," the Artha Graha Bank, Cigna Indonesia Assurance, Danayasa Artatama (the Hotel Borobudur), other real estate, timber, golf courses and manufacturing.[7]

  Meanwhile, the navy, through the Bhumyamca Foundation, controls five firms with total assets of Rp 200 billion or $25 million. The foundation's business interests include Admiral Lines (shipping), resorts, an oil refinery, property rental, import-export, cocoa plantations, maritime electronics and telecommunications, a taxi company and diving services.

  Finally, the air force and the Adi Upaya Foundation manage 17 firms, including a bank.[8] The foundation owns the Bank Angkasa, together with the National Electricity Company Pension Fund and private investors. The foundation's other interests include golf courses, container services, hotels, logging, aviation and aerial photography enterprises.[9] Despite this institutional business, the TNI personnel, from high-ranking officer to low-ranking soldier were actively involved in businesses like forestry, mining, oil and security guards.[10]

- *Cooperatives (Koperasi)*

  The military cooperatives were established to improve the welfare of soldiers by providing subsidized commodities, such as rice, to soldiers and families.

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[6] Rachel Langit, "Indonesia's Military: Business as Usual," *Asia Times Online* (16 August 2002), www.atimes.com/ atimes/Southeast_Asia/DH16Ae06.html.

[7] Angel Rabasa and John Haseman, *The Military and Democracy in Indonesia: Challenges, Politics, and Power*, Monograph Report (Pittsburg: RAND, 2002), 74.

[8] Langit, "Indonesia's Military" (2002).

[9] Rabasa and Haseman, *The Military and Democracy* (2002), 76.

[10] Ibid., 75.

Box 11.1. Racketeering

The practice of racketeering in the TNI took form as TNI personnel offering protection for criminal activity. For example, in Medan, North Sumatra, the military involvement in crime is well-organized. According to an interview conducted by Human Rights Watch, Medan residents said that the protection rackets are regularized, with shop owners and trucks paying monthly fees and showing stickers designating which military group or associated gang supported them. Another example is in illegal logging activity where TNI personnel, especially on the Indonesia-Malaysia border, were offering "protection" to illegal loggers in return for payment or were reaping the benefits of seized log cargoes, which they later sold for their own financial benefit. Another profitable activity is allowing illegal log transporters who have been captured to go free for a price (bribing).

Sources: Human Rights Watch, *Too High a Price, The Human Rights Cost of the Indonesian Military's Economic Activities* 18:5(C) (June 2006), 66, http://www.hrw.org/en/reports/2006/06/20/too-high-price-1; A.C. Casson, et al., *A Multistakeholder Action Plan to Curb Illegal Logging and Improve Law Enforcement in Indonesia*, WWF Indonesia, World Bank, DFID-Multistakeholder Forestry Program (October 2006), www.sekala.net/files/FLEGedit4Sept06.pdf.

However, like the foundations, the military cooperatives also expanded into wide-ranging business activities such as hotels and cargo companies.

- *Forestry operations*
  In 1967, the Suharto government granted concession rights of more than one million hectares of forest along the Indonesia-Malaysia border to a military-owned company PT Yamaker. The decision was based on "national security considerations" during the preliminary border dispute between Indonesia and Malaysia. Since then, the number of military-owned companies and military personnel receiving this privilege has increased.[11]

b. Military Collaboration with Private Business

This type of military economic activity covers the military business alliance with private companies, whether they are national or foreign companies. In this kind of relationship, the military acts as the business broker; for example, arranging government licenses and blocking other competitors, gaining access to goods and services, transporting on military vehicles for a fee and leasing out land. Private companies also contribute to

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[11] Suripto, a senior politician from the Prosperous Justice Party and a former secretary in the Department of Forestry once said that military members managed to get shares in approximately 550 logging concessions. Quoted from: Andreas Harsono, *Indonesian Military and Prostitution Racket*, www.globalintegrity.org/reports/2006/INDONESIA/notebook.cfm.

the military "acquaintance funds." For example, a developer provided land and buildings worth Rp. 18.5 billion ($1.95 million) to locate an army base inside a West Java industrial zone known as Jababeka. The donation made good business sense, an official of the industrial zone argued, since the presence of military personnel "can deter people from carrying out crimes here."

c. Military Involvement in Criminal Activity

Some forms of this economic activity are illegal logging and racketeering (when the military acts as the protector of criminal activities such as gambling operations, drug trafficking and prostitution). Racketeering is the most popular form of low-rank to middle-rank economic activity in the TNI (see Box 11.1 above).

d. Military Corruption

In the military, the biggest potential area for corruption is defence procurement. For example, in 2004 the army planned to buy MI-17s from Russia. Accordingly, the Members of Commission I (defence commission) of the parliament (DPR) had received reports the helicopters should have been valued at only $17.6 million, a price 25 percent lower than the $21.6 million the army had agreed to pay. Later, the helicopters were due at the end of February but, as *Tempo* magazine reported, a Russian firm stopped assembling them as it had not received the down payment of $3.2 million.[12]

However, the TNI's economic activity is not only pushed by their active role in the political sphere as the guardian of the Suharto regime but also by the fact that the government is only able to finance 25–30 percent of the total defence budget. Hence, the remaining 70 percent is derived from the practice of military business. The TNI's economic activity can be seen in a pyramid showing TNI's economic support structure (see Figure 11.1).[13] At the top of the pyramid is the government's official defence budget which only covers about one-third of the total budget. At the second level are the state enterprises in which some retired high-ranking military officers filled the managerial positions and thus encourage the domination of military-owned enterprises to maintain contracts with the state enterprises such as *Pertamina* (the state oil and gas company). At the third level are the military cooperatives and foundations, which have already been explained above. Finally, at the lowest level are the other re-

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[12] Quoted from: Munir, "Corruption threatens Indonesia's defense system," *The Jakarta Post*, 3 January 2004, http://www.thejakartapost.com/news/2004/03/01/corruption-threatens-indonesia039s-defense-system.html. Further investigation by the National Team for Corruption Eradication (*Timnas Tipikor*) found the involvement of army officers in the procurement corruption scandal. See: "The Corruption in DoD involves TNI," *Republika Daily* (25 March 2006).

[13] Rabasa and Haseman, *The Military and Democracy* (2002), 73.
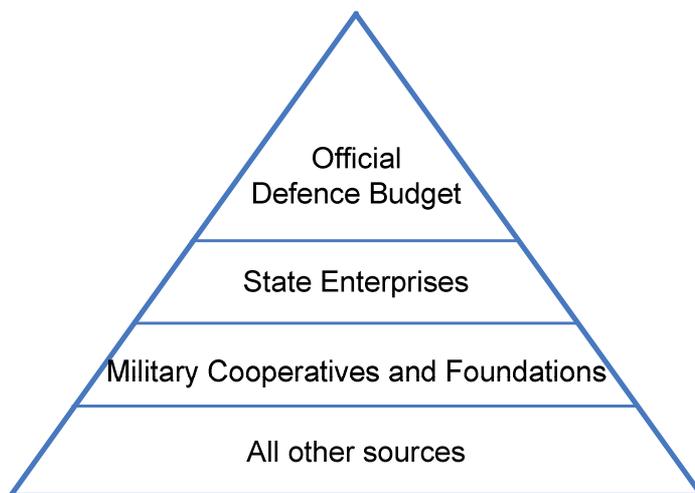
Figure 11.1. The TNI Economic Support Structure.

sources. Examples of this type of fundraising activity are military collaboration with private business and military involvement in criminal activities (racketeering).

In 1998, the Asian economic crisis hit the country and triggered a massive social movement targeting the Suharto government. The reformation movement (*gerakan reformasi*) led by students and activists ended with the resignation of Suharto in May 1998. Subsequently, the movement turned into a democratization process, which encouraged the TNI (and also the Indonesian Police) to reform its institutions and personnel. In 2004, the new TNI law (Law No.34/2004) was passed in parliament (see Box 11.2).

The new law stipulates the government should take over all business activities that are directly or indirectly managed by the TNI before October 2009. Subsequently, in 2005 the government established the TNI Business Supervision and Transformation Team (TSTB) to verify the TNI businesses and provide recommendations to the government on the TNI's business takeover issue. Based on the team report in 2006, the TNI owns 23 foundations, which are supervising 53 companies, and 1,321 cooperatives. The TNI also owns 1,618 properties, covering more than 16,500 hectares, and 6,699 buildings. Overall, the report shows the TNI's business assets are worth Rp 2.2 trillion (US $235.4 million).[14]

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[14] "TNI Business Takeover 'Merely a Formality'," *The Jakarta Post* (15 November 2009), www.thejakartapost.com/news/2009/10/15/tni-business-takeover-merely-a-formality039.html.

Box 11.2. TNI Law No. 34/2004

Chapter II, Article 2(d) states that:

Professional soldiers, that are well-trained, well-educated, well-equipped, do not involve in politics, do not involve in business and his/her welfare is guaranteed by the state, and support state political decisions that are based on democratic principle, civilian supremacy, human rights, national law and international law and that have been ratified by the state.

In addition, Article 39 of the law also states that any TNI member is prohibited to be involved:

1.   As a member of a political party;
2.   In political activities;
3.   In business activities;
4.   In any activities intended to gain parliamentary seats in the elections and/or other political positions.

Source: TNI Law No. 34/2004.

Even though the TNI business assets have been verified, the road to take over the assets is still rather long. Until now, the TNI business issue remains the major roadblock for military reform in Indonesia because the government has been acting sluggishly on the issue. The toughest challenge comes from the budget issue of defence personnel. The TNI budget is far from enough to finance the development of a professional cadre. From the overall budget, at least 45 percent is used for the soldier's welfare issue and around 30 percent is used for defence technology, maintenance and development.[15] In addition, the current government is only able to provide half of the required defence budget. Hence, limited public finances impose further consideration on the process of taking over the TNI businesses.[16]

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[15] See: Eric Hendra, "The TNI's Business," in *Almanac on Security Sector Reform in Indonesia 2007*, ed. Beni Sukadis (Jakarta: LESPERSSI & DCAF, 2007), 121.

[16] As Daniel Lev, an Indonesian expert from the University of Washington once said on the issue of the Indonesian military budget, "If your budget provides about one-third or one-half of what you need, you're going to steal the rest of it." Quoted from: Taufik Darusman, "Putting The Military out of Business," *The Jakarta Globe* (*27* September 2009), http://thejakartaglobe.com/columns/taufik-darusman-putting-the-military-out-of-business/332030.

The Perverse Impact of the Military as an Economic Actor

Professionalism

The direct implication of the military transformation into an economic actor is their lack of professionalism. By involving themselves in profit-oriented activities, the military could lose its essence as the security actor of the state. In this sense, the military becomes more interested in profit-oriented activities than in providing security to the state and the citizens. The worst scenario from this lack of professionalism is that the military detaches itself from state control. The military's ability to finance the defence budget (even if it's only partially) will increase its sense of independence from the state and thus create the risk of wider military intervention in the social, political and economic spheres of society.

Accountability

The other negative impact of the military as an economic actor is the lack of accountability. If the military is able to fulfil its own budget through independent economic activities, then the issue of accountability of the military budget and operations to the state will potentially be diminished. The risk of this situation is high. If the state is unable to control the military budget and operations, then the military can perform other duties and responsibilities that violate state regulations or even threaten state and citizen security. In short, the military becomes a serious potential internal threat to the state and citizens.

In advanced democracies, the defence budget is actively controlled by democratic civilian oversight mechanisms such as the parliament and non-governmental organizations. This situation is based on the well-established understanding that the military is part of the state apparatus which is responsible for the provision of security and is fully supported by the government. However, in transition democracies, there are some difficulties in overseeing defence spending. There are several reasons for this problem but the most common one is the issue of secrecy of the defence posture, which is reflected in the budget. Sometimes, the military is afraid that their budget will spill into the public area and thus expose its capabilities to civilians or even to potential enemies.

Another reason is the lack of confidence from civilians, especially those in the parliament, to perform critical oversight of the military institution. The major issue here is the military image, which affects the mindset and the rules of the game in the state system. The image of the military as superior to civilians, exclusive, patriotic and controlling legal violence sometimes creates barriers for civilians to react on the budget issues. Indeed, the lack of knowledge on military budgeting and operations on the part of members of parliament also contributes to this situation.

Human Rights Violations

The wider impact of military economic activity is human rights violations. As mentioned above, the military represents the state apparatus, which represents the effective legal control of violence. However, when the military's economic activity combines profit-oriented efforts with the control of violence in a situation where there are difficulties with civilian oversight it may lead to a disaster. An example of military involvement in economic activity that violates human rights is the case of the Freeport security agreement with the TNI in West Papua, Indonesia (see Box 11.3).

Freeport's security arrangement with the TNI echoes the hidden alternative for the TNI to keep their involvement in economic activity. Under article 7 (2) of the new TNI law, the TNI's core function include security of vital national sites. In reality, such a function proved to be one of the main sources of off-budget funding for the TNI.

In January 2006, the Coordinating Ministry for Political, Legal and Security Affairs decided Freeport Indonesia, ExxonMobil and PT Arun LNG were vital sites for the country. Freeport Indonesia, which operates in West Papua Province, has publicly acknowledged destroying the environment less contributes to the welfare of the Papuan people. Later, the existence of Freeport Indonesia fuelled hatred from the West Papuan people and provided the impetus for the organization for the Papua's Independence (OPM: Organisasi Papua Merdeka). Unfortunately, due to its status as a vital national site, Freeport gets full security protection from the TNI (and also the Indonesian National Police). In this case the local people, especially the OPM, are seen by the TNI as the most pressing threat to Freeport.

Conclusion: Pulling the Military Out of Economic Activities

The Indonesian experience has shown that the involvement of the military in economic activities is extensive. The military's economic activities are destructive to their professionalism, affecting their budget transparency and even violating human rights.

Overall, the main problem in military economic activities is the defence budget. Of course, a budget scheme that supports soldiers and their families would insulate the military from economic activities. However, it should be noted that a transparent budget is more important than increasing the welfare of soldiers. Without any responsibility for the effectiveness and efficiency of the defence budget, it is impossible to keep the military out of economic activities.

Additionally, the military's economic activities, specifically in the case of the Indonesian Military's business activities, are not only related to the problem of soldier welfare and insufficient defence budgets. The Indonesian Military's business activity is very complex and deeply rooted in the society's day-to-day life. Since its long development and diffusion in the society, military business in Indonesia is viewed as an ac-

Box 11.3. Freeport's Security Arrangement with the TNI and Human Rights Violations

The presence of TNI in the Freeport area is ironic. While they maintained the security of the vital economic interests in a fashion which largely violated human rights by targeting local people or alleged OPM members, they also received payment from the company, which is not transparent. For example, in the mid-1990s, troops at the mine site allegedly used company vehicles, offices and shipping containers to transport and detain people they then tortured or killed, which were suspected security threats or members of the OPM. Unfortunately, the company said it bore no responsibility for how its equipment was used by the military. Indeed, the Indonesian Human Rights Commission (Komnas HAM) has stated that the involvement of the TNI in Freeport security measures violates human rights in West Papua.

The number of state security personnel in Freeport has risen in the recent year. As of 2005, more than 2,400 government security personnel (military and police) were located in the general area of Freeport's operations. In 2005, the company's spending for military and police security protection funds reached $66 million. Freeport said that the money was used to pay for transportation, food and barracks for the security personnel. However, the investigative reports published in 2005 by the NGO Global Witness and the *New York Times* suggested that Freeport directed a large portion of its security payments to individuals. These reports alleged that the company had made large, direct payments to individual Indonesian military and police officers, as well as to units in the field. The *New York Times*, citing company documents it obtained and verified as authentic, said such payments totaled about $20 million from 1998 to 2004.

Sources: Kurniawan Tri Yunanto, "Komnas HAM: Freeport Represents Colonialism in Papua," *VHRmedia* (2 December 2009), http://www.vhrmedia.com/Komnas-HAM--Freeport-Represents-Colonialism-in-Papua-news2775.html; Human Rights Watch, *Too High a Price, The Human Rights Cost of the Indonesian Military's Economic Activities* 18:5(C) (June 2006), 48–56, http://www.hrw.org/en/reports/2006/06/20/too-high-price-1.

ceptable form of military activity by most Indonesians. Given the situation and general attitudes, removing the military from economic activities in Indonesia could take a long time. In this case, the government should not only restrict the military from economic activities but also restrict or punish the Indonesians that are enjoying economic cooperation with military personnel or institutions. Such a strategy has never been pursued by the Indonesian government.

To conclude, economic activity basically involves two important features: supply and demand. In the military's economic activity, the military acts as the supplier and the demand comes from society. Therefore, in order to fully remove the military role in economic activity, then we should also cut the demand and not only restrict the supply.

Chapter 12
Integrity Issues Related to Military Operations

Corruption accompanies not only the management of the defence establishment in peacetime but also the immediate preparation of forces for operational deployment, the conduct of peacekeeping missions, as well as stabilization and reconstruction operations. Of primary concern in the beginning of the twenty-first century is the prolific use of contractors, in particular the involvement of private military and security companies. Hence this chapter is dedicated to the problem of corruption related primarily to the use of contractors in operations. It also outlines good practices in increasing integrity in the use of private security and military companies in theatres of operations.

Corruption not only demoralizes peacekeepers but also reduces the credibility of national and international peace efforts. Concern about corruption in Afghanistan for example is approaching a point where it directly threatens the success of the Government of Afghanistan as well as the NATO-led mission.

At the present time, the military forces of NATO member nations cannot undertake operations of any sort, for any purpose whatsoever, either individually or in coalition exercises, without the support and active participation of "private military contractors." This rapidly growing dependency of NATO's militaries on the private sector has developed over the past two decades, since the end of the Cold War. This development is counter-intuitive as well as quite astonishing in its extent, inasmuch as the United Nations Convention Against Mercenaries of 1989[1] is commonly understood as intending to inhibit (rather than foster) the growth of private military forces and outlaw their use by UN member nations.

The first response to this apparent paradox is that the private military contractors (PMCs) now critically relied upon to support NATO coalition operations in war zones are not, strictly speaking, "mercenaries" in the technical sense. The UN convention on mercenaries itself characterizes a "mercenary" as an individual hired and employed to bear arms and to serve as a soldier for a government other than his own. The vast majority of PMC employees, by contrast, do not bear weapons of any sort and are also

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[1] United Nations General Assembly, *International Convention against the Recruitment, Use, Financing and Training of Mercenaries,* 72nd plenary meeting (4 December 1989), A/RES/44/34.

Box 12.1. Corruption Challenges and Good Practice in Pre-deployment Activities

Countries are often called upon by international organizations to deploy forces in peace operations. On occasion, such decisions are made at short notice, while national forces are not ready for such deployment and need additional weapons systems, communications, individual and other types of equipment in order to meet the requirements of the specific theatre of operations.

Procurement procedures are then implemented under much shorter deadlines, without a proper competitive process. In addition, cost considerations are often belittled by minimal interoperability requirements and "noble concerns" for the safety of the soldier, sailor or airman. Procurement processes, which may already lack integrity under normal procurement conditions, are becoming extremely vulnerable to corruption.

Another vulnerability results from the lack of clear criteria and transparent procedures for selection of the personnel to be deployed, in particular when the remuneration during deployment is several times higher than the normal salary.

Cases when some of the military pays to be deployed or hastily procured equipment is of rather low quality may have a demoralizing effect on the deployed unit.

Most of the good practices—enhancing the integrity in procurement and personnel management as discussed in previous chapters—are applicable here too. These apply particularly to the transparent rules and selection on merit for personnel to be deployed, as well as competitive procurement and sound quality control of procured equipment.

The measure of fundamental importance, however, is to deploy not contingents, i.e. units specially assembled and manned for the particular mission and disbanded upon their return home, but standing organizational units. This measure is even more effective when the country has a transparent defence policy and sound defence planning mechanisms. In such cases deployable units are identified in advance, they have the capabilities required for specific missions and theatres of operations and may need only minimal additional assets and training to be brought up to some requirements, unforeseen in advance.

directly employed by the military services or diplomatic agencies of their own nation, deployed under their own government's auspices to serve on foreign soil.

The critical dependence of NATO's member-nation military and diplomatic personnel upon the private sector does not result from a deliberate policy by member states to privatize their militaries. Rather, in an era characterized by voluntary, non-conscript military services and increasingly severe economic constraints, it has proven increasingly necessary, as well as more cost-effective, to outsource a number of non-combat but mission-critical operations and services to the private sector. These outsourced or "privatized" functions typically range from supplying and preparing food, to providing maintenance and sanitation at military outposts and even to supervising the training of

Box 12.2. Fraud, Mismanagement and Misbehaviour in UN Peacekeeping Operations

A UN task force has uncovered a pervasive pattern of corruption and mismanagement involving hundreds of millions of dollars in contracts for fuel, food, construction and other materials and services used by UN peacekeeping operations, which are in the midst of their largest expansion in 15 years. It identified multiple instances of fraud, corruption, waste and mismanagement at UN headquarters and peacekeeping missions, including ten significant instances of fraud and corruption with aggregate value in excess of US$610 million.

In addition to the corruption, there are also problems with other forms of misbehaviour. By 2006, nearly 300 UN peacekeeping personnel had been investigated for sexual crimes. 170 peacekeepers, including 17 civilians and 16 police, have been sent home. As a result, in the same year the U.S. and Japan—two of the largest contributors to UN peacekeeping operations—were threatening to withhold funds unless the UN cracks down on corruption.

Sources: "Peacekeeping: Cleaning up Corruption," *Strategy Page* (2 March 2006), www.strategypage.com/htmw/htun/articles/20060302.aspx; Colum Lynch, "U.N. Finds Fraud, Mismanagement in Peacekeeping," *Washington Post* (December 18, 2007), A06.

host country police and military forces during peacekeeping and stability operations (as, for example, in Bosnia, Kosovo and presently Afghanistan).

At the far extreme of this range of private services, however, is the increasing use of Armed Private Security Contractors (APSCs) to provide security for diplomatic missions and personnel, to protect vital supply convoys and even to guard military installations themselves (for which APSCs serve as sentries or police). As with the larger phenomenon of increasing involvement of the private sector in military operations generally, this reliance on APSCs has not resulted from a deliberate, collective or even well thought out strategic or policy decision by NATO's member nations. Instead, the increased reliance upon private security forces in war zones is largely the result of an extension of conventional domestic practice within those member nations themselves. In most NATO countries, for example, private firms have long been retained to provide guards, sentries and traffic police for domestic or "in-country" military installations as readily as other firms have long been retained on those same military installations to operate the motor pool, provide routine building maintenance or grounds keeping, or to supply, deliver, prepare and serve food for troops in the mess hall.

Thus, the rapid growth of reliance upon the private sector to support NATO military missions abroad can be seen largely as a form of "mission creep." That is, present reliance on the private sector stems from an unreflective extension of customary domestic practices into the international arena, primarily out of necessity or convenience, without much thought for the long-term implications or consequences of extending such practices. Borrowing a phrase from the late philosopher Hannah Arendt, we might

term this the "banality" of the private sector, in marked contrast to the historically malevolent or sinister moral reputation attached (for example, by Machiavelli) to any reliance on mercenary military forces. Whether banal or malevolent, however, this situation is unlikely to change. How might NATO's military forces and diplomatic missions most adequately cope with this new feature of modern warfare?

Presumed Benefits of the Private Sector

Proponents of this dramatically increased reliance upon the private sector would assert that this public-private partnership in the military realm is beneficial rather than sinister. Indeed, the commercial or corporate sector's motto of "faster, cheaper, better" seems well suited to providing reliable, quality food and sanitation services for NATO military personnel deployed (often with little advance warning or preparation) in peacekeeping or stability operations, such as a humanitarian catastrophe. This tacit policy serves to increase the number of highly-trained uniformed personnel who are available to engage in the primary military mission of life-saving, peacekeeping, or nation-building, while leaving logistical concerns in the hands of non-military support personnel. Likewise, proponents of the present arrangement argue, the private sector is able to mobilize quickly to provide technologically complex logistical support such as weapons systems maintenance, operational advice and technical consulting. It takes months or even years for military units to recruit, train and deploy uniformed personnel with these requisite technical skills. By contrast, a contract may be "let out" to a private defence contractor to provide skilled technical support personnel during a military crisis with very little lead time.

As an additional economic consideration, military personnel in service to their country enlist, or are commissioned, to serve for a specified period of time. During that assigned period of national service, they are salaried with full benefits whether or not they are actually deployed in military operations. Upon leaving their nation's military service, such personnel may be entitled to a range of "veteran's benefits," from education to health care, for the remainder of their lives. By contrast, employees of a private military contractor are governed strictly by the terms of their employer's contract. They are usually paid quite generously, but only while deployed on assignment, and are usually responsible for providing their own benefits (such as health care and life insurance) from their salaries. Private employees can be let go or reassigned quickly when the PMC's primary contract (or the need for their individual services) terminates. There is no lifetime guarantee of residual benefits at public expense.

Finally, advocates of this increasing reliance on a public-private military partnership note that the "irregular" or unconventional military operations (or irregular warfare – IW) in which NATO forces will likely be involved for the foreseeable future—counterinsurgency (COIN), humanitarian assistance, or peacekeeping in failed states—often have

an underlying economic cause. Private contractors based in NATO countries frequently, upon arrival in a "failed state" or an unstable zone of conflict, offer employment to local inhabitants (to cook, clean, provide other labour, and even serve as translators). The use of PMCs during such IW operations thus provides a reliable source of jobs and income to the most desperately impoverished population in the target country, and serves to promote economic stability and heightened security in contested regions of the world. It is for such reasons that military leaders and policy experts generally conclude that contemporary and future military operations are "unsustainable" apart from reliance upon the private sector.

The Ethical and Leadership Challenges

These arguments in support of the present public-private military partnership, however, should not be allowed to minimize a number of complex ethical challenges that this arrangement inevitably has already posed and will likely continue to generate. Ideally, for

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Box 12.3. Self-Regulation of Private Military and Security Companies through a Code of Conduct

Codes of conduct (CoC) are self-imposed corporate obligations that impose normative standards that are not part of a company's original core business. From a corporate point of view, codes of conduct are part of PR work, risk management and a company's socio-political contributions.

While private military and security companies (PMSCs) are often aware that they are not operating in a legal vacuum, there is often uncertainty as to the rules in force—particularly in conflict regions—and not infrequently a degree of ignorance with regard to international standards. Hence, a code of conduct for PMSCs is a useful tool to overcome shortcomings at the level of regulation and implementation, address third party concerns (like those of activist NGOs) and to protect the interests of corporations.

The aim of a code of conduct for PMSCs is first of all to formulate duties based on international standards of human rights protection and international humanitarian law that businesses must respect. Respectively, a CoC should address the protection of the right to life and bodily integrity, employment rights, particular gender specific duties to respect and bans on sexual violence and exploitation, and a ban on corruption.

The second major component of a CoC is the provision for implementation of obligations, including procedures regarding PMSC accountability and responsibility, monitoring and reporting mechanisms.

Source: Nils Roseman, *Code of Conduct: Tool for Self-Regulation for Private Military and Security Companies*, Occasional Paper #15 (Geneva: DCAF, 2008).

example, the contracts required for provision of specific services to military and diplomatic services should be negotiated transparently, through a fully open and competitive bidding and procurement process designed to assure the highest quality service at the best price. Likewise, proponents of the current system often claim that the terms of compliance specified in the contract itself will provide sufficiently for accountability and oversight, both of the PMC and of the behaviour of its employees. Thus, poor performance or insufficient compliance by the contractor with the terms of the contract, or improper behaviour in the host or client country by a contractor's employees, should serve as grounds for dismissing those employees or terminating the contract with the firm. The existence of these commercial sanctions in the "free market" are often touted as adequate mechanisms to enforce compliance, guarantee satisfactory performance and ensure best practices by all parties.

Regrettably, in actual practice, these "free market" ideals are seldom attained. Transparency in bidding and contract procurement is frequently absent, and the prospects for favouritism, graft, cronyism, bribery and corruption are rife. More often than not, even absent corrupt motives and unscrupulous character, NATO member states simply lack a sufficient number of trained and experienced procurement officers to supervise these negotiations properly. Those assigned to these duties, moreover, even given the highest level of competence and the best of civic intentions, may be rapidly overwhelmed by the size and scope of their task, particularly in the chaotic and compelling circumstances accompanying armed intervention in a failed state, or in the midst of an unfolding humanitarian crisis. The urgent need for a wide range of diverse services in the midst of war does not constitute (to put it mildly) an ideal situation within which to publicize, receive, review and award large and complex contracts in a just and orderly fashion, nor to establish effective external controls and oversight to ensure full compliance.

Even if overworked and overwhelmed government contracting officers are not subjected to bribery and corruption, there are ample opportunities for unscrupulous and even incompetent PMCs, or the occasional unscrupulous employee, to take advantage of these unsettled circumstances. At present, for example, there is no accepted and generally recognized system—certainly not at the international level—for evaluating, registering or licensing private contractors, or otherwise defining or upholding reasonable professional standards of performance on the part of companies and their employees. When errors of procurement are made, or incompetence discovered, there is often little recourse open to the aggrieved parties beyond termination of the contract.

Furthermore, even the very best and most reliable private firms (just as their domestic counterparts do upon occasion) may hire an incompetent or unscrupulous employee. The sanctions available for disciplining inappropriate, unprofessional, or even

criminal conduct are often woefully inadequate and hardly sufficient to serve as a deterrent to malevolent behaviour. It hardly seems sufficient, for example, to punish an employee found to have engaged in criminal conspiracy, kidnapping and human trafficking (as happened, for example, in Kosovo) merely with dismissal and severance of pay and privileges. Yet, under current circumstances, there is little other recourse available. Thus, establishing and sustaining what are sometimes termed the "inherently governmental" functions of contract supervision, oversight and accountability (particularly of individual personnel) in zones of combat constitutes, in actual practice, a formidable challenge.

The allegedly unprovoked and indiscriminate killing of seventeen Iraqi civilian bystanders in Monsour Square, Baghdad, on 17 September 2007 by security guards employed by the former U.S. firm Blackwater Worldwide, constituted a dramatic illustration of the range of problems associated with building integrity and ensuring best practices by private contractors in zones of conflict. That specific incident has been denounced as an example of regrettable indifference and unprofessional lack of concern of private security employees for the welfare of the local populace. Such criticisms, however, altogether miss the most salient feature of that unfortunate incident. The "welfare of the local populace" is, by definition, seldom if ever the principal, or even the proper motive for a private, commercial contractor. Instead, it is concern for the welfare and safety of the customer or paying client that constitutes the overwhelming contractual concern of the APSC and its employees.

This factor underscores sharply the underlying differences of organizational values and intentions between public and professional organizations (such as a democratic nation's military forces) and private, commercial organizations. The former exist to serve their nation and its legitimate interests. Its individual members, accordingly, in their professional training and orientation, are routinely and extensively socialized into that ethic of public service and sacrifice. Private commercial organizations, by contrast, exist to serve their customers and clients. The welfare of the wider public is guaranteed through their activities only insofar as these commercial firms operate within a well-defined system of legal jurisdiction and accountability – one that, for example, is competent to detect and punish both private firms and their individual employees for their failure to exercise due care, or for criminal negligence. In regions of armed conflict, let alone in failed states, it is precisely these systems of accountability and jurisdiction that have deteriorated. Absent the firm rule of law, the local population is left to rely upon the good will of the private firm, as well as upon the character of its individual employees. When these fail, there is little left for victims in the way of recourse.

Recognizing this dilemma, the professional military forces of NATO member states are imbued with a sense of public service and public accountability. Character education is a hallmark of professional military education within these nations. The goal of

character education and "professional military socialization" is to ensure that individual members of each nation's military may be empowered to use deadly force when necessary and entrusted to use such force responsibly and economically, and only insofar as is necessary to achieve legitimate national aims. Individual failures in exercising this weighty responsibility—for example, engaging in criminal activities (robbery, rape, extortion or murder), or behaving in a careless, negligent or indiscriminate manner when using deadly force—are accountable under stern military law and discipline.

Nothing could be more different from what might be termed the private sector or "corporate" ethic, which focuses on corporate ambition and achievement within a competitive environment, with "successful performance" judged almost entirely in terms of client and customer satisfaction. Former Blackwater CEO Erik Prince, for example, proudly emphasizes his (former) organization's immaculate performance record in having never allowed a single client or "principal" to come to bodily harm during nearly seven years of providing security services in highly volatile and extremely hazardous war zones. This is indeed a remarkable and enviable performance record, indicative of the highest standards of competence in providing for client security. That is precisely the service that Blackwater Worldwide, Inc. pledged to provide.

The difficulty, however, is that this record on behalf of its own clients is not the only standard by which to judge the performance of APSCs. Critics from the military perspective complain that this very record of accomplishment itself constitutes a stark problem. The aggressive, militant and belligerent behaviour of APSC personnel, through which such protection to clients is accorded, offends and alienates the local population and, as in Monsour Square, often also threatens them with disproportionate and highly inappropriate risk of harm or death. This is because the welfare of non-contractual third parties, such as the local population, simply doesn't count in terms of compliance with the contract. Thus, the very success and proficiency of the APSC (as judged by this corporate or contractual standard) simultaneously impedes the military's larger mission objectives of gaining the loyalty and trust of the local population in a failed state by guaranteeing their safety and security and ensuring the rule of law.

Promoting PMC Best Practices and Building Integrity in NATO Operations

The vast majority of these ethical challenges have been generated simply by the presence of APSCs in zones of combat where legal jurisdiction and accountability have been decidedly ambiguous. APSCs, however, constitute only a tiny fraction of the PMCs operating in conflict zones. The particular dilemma they present, moreover, has been specifically and meticulously addressed in the deliberations of international legal experts under the auspices of the International Committee of the Red Cross (ICRC), as

summarized in the Montreux Document.[2] That document carefully sets forth proposals to amend legal statutes, clarify and extend appropriate legal jurisdiction over APSCs operating in war zones, remove areas of ambiguity in the interests of all concerned parties and otherwise promote best practices by host and client states. As such, this document should be read and critically pondered by NATO member states, and its provisions for law and best practice with regard to the use of armed private security contractors, insofar as is feasible, should be followed.

Recommendations

C3 and the Comprehensive Approach[3] to Operations

Mid-career officers from NATO and allied military services routinely concur that the chief challenge to effective liaison with private contractors in operations is C3, or communication, command and control. Absent clear lines of authority or well-defined operating procedures, commanding officers are forced to rely on proactive individual initiative and engagement with private-sector units operating in their spheres of command. Safe and effective coordination has been found largely to depend on good will and the ability on both sides to recognize and respect common interests.

The current unified approach to military, diplomatic, NGOs and private companies working together in conflict zones should not blind leaders to the complexities of commanding disparate kinds of organizations under a single command "umbrella." Under that umbrella will be organizations whose underlying missions and corporate virtues are in serious tension. This tension will be resolved only through a unified command structure, with the NATO military commanders at the top of the command hierarchy, in sole possession of the final authority and responsibility for the battle space, subordinating all actions to their command.

Law versus Character

Conventional war, irregular war and counterinsurgency all inherently represent circumstances in which the normal rule of law—and mechanisms for accountability, oversight and compliance—have deteriorated. Under such bleak circumstances, the use of deadly force should be entrusted only to those individuals whose character and whose

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[2] United Nations General Assembly & International Committee of the Red Cross, *Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflict* (2008), A/63/467–S/2008/636, www.icrc.org/Web/Eng/siteeng0.nsf/html/montreux-document-170908.

[3] *NATO Website,* "A Comprehensive Approach" (March 2009), http://www.nato.int/issues/comprehensiveapproach/index.html.

Box 12.4. The Montreux Document on Private Military and Security Companies

Recent years have seen an increase in the use of PMSCs and with it the demand for a clarification of pertinent legal obligations under international humanitarian law and human rights law. The Montreux Document, 17 September 2008, identifies and promotes good practices relating to PMSCs under the following themes:

- *Determination of services:* which services may or may not be contracted out to PMSCs, taking into account factors such as whether a particular service could cause PMSC personnel to become involved in direct participation in hostilities.

- *Procedure for the selection and contracting of PMSCs:* assessing the capacity of the PMSC to carry out its activities in conformity with relevant national and international law; providing adequate resources and drawing on relevant expertise for selecting and contracting PMSCs; ensuring transparency and supervision in the selection and contracting of PMSCs through public disclosure of contracting regulations and of general information about specific contracts; publication of an overview of incident reports, complaints and sanctions; oversight by parliamentary bodies, including through annual reports or notification of particular contracts to such bodies.

- *Criteria for the selection of PMSCs:* ensuring that lowest price is not the only criterion for the selection, taking into account the past conduct of the PMSC and its personnel, financial, economic and management capacity of the PMSC, training of personnel both prior to any deployment and on an ongoing basis on a variety of issues, including on measures against bribery, corruption, and other crimes; the existence of monitoring, supervisory, and internal accountability mechanisms, etc.

- *Terms of contract with PMSCs:* including contractual clauses and performance requirements that ensure respect for relevant national law, international humanitarian law and human rights law by the contracted PMSC.

- *Monitoring compliance and ensuring accountability:* providing for criminal jurisdiction in national legislation over crimes under international law committed by PMSCs and their personnel; considering the establishment of corporate criminal responsibility and criminal jurisdiction over serious crimes committed by PMSC personnel abroad.

The same practices and requirements are applied, as appropriate, where a contracted PMSC subcontracts with another PMSC.

While the Montreux document is addressed to states, the good practices may be of value for other entities such as international organisations, NGOs and companies that contract PMSCs, as well as for PMSCs themselves.

organizational "professional ethic" we can still both trust and hold accountable for failures. This is the core virtue of the military profession. The disintegration of law and order, and the consequent erosion of normal oversight and accountability, pose challenges to the moral character of any individual. The military works carefully to cultivate

the kind of character that can withstand those temptations, remain steady in areas of disequilibrium and thus help restore law and order.

The private or "corporate ethic," by contrast, is wholly unoriented to this unique problem. By design, corporations rely upon the external oversight of society and the law to keep unhealthy ambitions in check. Hence, we cannot and must not deploy armed private contractors as guards, sentries, or even prison guards inside areas beset by insurgency. Private security contractors should only be rearward deployed (as they are now domestically within NATO member nations) – i.e., only in regions in which law, security and accountability for wrong-doing are not fundamentally in question.

Eroding the Professional Military Ethic

In counterinsurgency operations and in irregular warfare generally, building trust with the local population constitutes NATO's best weapon. If, on the one hand, private security contractors can perform equally well all the activities that the military understands as its core mission, then why bother to sustain a military force at all? We maintain, in contrast, that there is something distinctive about a professional military ethic that emphasizes "selfless service to the nation and its allies."

Accordingly, the governments of individual NATO member states should not adopt policies or practices regarding the use of private military contractors or security contractors that diminish, denigrate, or erode that ethic, or otherwise undermine civil-military relations within their respective countries. For core military missions involving irregular warfare, stabilization and reconstruction, or nation-building in particular, NATO's core professional military virtues of sacrifice and selfless public service must be relied upon as the only proven means of building and maintaining public trust, both within our respective countries, as well as abroad.

Contractors and Humanitarian Interventions

The sole possible exception to the foregoing provision may be during calls for humanitarian military intervention (HI). This is a special case, involving a serious equivocation over the meaning of "defensive operations." HIs are "defensive operations" in a very different sense than, for example, sentries and prison guards (or even convoy escorts) are deemed "defensive." In HI, by contrast, defence of innocent victims of genocide involves offensive military action: engaging the enemy, exchanges of fire and active pursuit of aggressors. Absent compelling national interest or even willingness among U.N.-member nations to come to the aid of victims of genocide, the prospects for employing private security contractors deserves consideration.

In general, the organizational "vectors" of public and commercial (private) military organizations do not align well in war zones. HI, however, is an area in which the corporate vector, aimed at protecting the contractual client or principal (in this case, the

potential victims of genocide), may prove surprisingly more effective than the public vector of national military forces (which aim at the defence of their own nation, countrymen and allies).

Inherently Governmental Functions

The widespread debate in NATO diplomatic circles over what is or is not "inherently governmental" seems misplaced. A government's role is accountability and oversight; its guiding watchword is "transparency" in the public interest. Otherwise, there is no sharply defined public-private boundary. Where the private sector mantra of "better, cheaper and faster" holds sway (as in providing food service, mechanical and engineering expertise and even local language skills), a viable continuing partnership is desirable. The government role here is to improve procurement and contract oversight capacities within a functioning legal framework.

Contractors and Combat Support

Use of private contractors for logistical and combat support seems appropriate, flexible and cost-effective. The role of the government and the military in these instances is to improve the ability to procure, manage and oversee contracts, to provide a legal framework for jurisdiction of private contracting personnel, and to ensure full compliance both with the terms of each contract and with the general rule of law in accordance with the provisions for best practice outlined in the UN/ICRC Montreux Document of 2008. Care should be taken, however, to ensure that reliance on the private sector for these functions does not inadvertently result in a failure (e.g., during an extreme crisis, or in the heat of combat) of private contractors to continue to provide essential combat support (food, fuel, supplies) to military personnel dependent upon them for survival and mission accomplishment.

Contractor Licensing

PMCs and APSCs complain that their industry is rife with unqualified and sub-par organizations and personnel. Their trade associations should work with NATO organizations to develop effective licensing and regulation of contractors, establish minimum qualifications, experience and resources defining eligibility of private firms to engage in competitive bidding for military, defence, or diplomatic contracts, and to dismiss or declare ineligible those individuals or organizations who violate these norms.

Code of Professional Ethics

Likewise, trade associations should be required to convene their members to forge a common code of ethics governing professional behaviour in their various contracting

activities. Adherence to this code would be an essential requirement for licensing and contract bidding eligibility.

Prospects for "Proxy Wars"

Finally, regardless of the policy NATO and its member states adopt toward use of private security contractors, other nations outside the alliance will likely continue to employ and deploy armed PMSCs. There is a concern by the prospects for contractors from one NATO country working at cross purposes with contractors from allied nations, for example, in providing maritime security. Likewise, it is not unrealistic to worry that NATO military forces, or armed private security contractors based in NATO member nations, might one day face a "proxy war" in Africa or Southeast Asia against armed private military contractors from an adversary power.

Preparing Future Military Leaders

Defence colleges and academies should develop courses and resources to address the PMSC and APSC policy issues, especially the leadership and ethics challenges identified above. In so doing, it would be wise to make use of the experiences of both junior and senior officers recently returned from deployment. In many cases, their experiences will outrun resident instructor expertise in our respective military and defence academies. It would also be wise to engage the private sector itself by inviting leading representatives from established private military and security companies to lecture, and to discuss their own experiences and recommendations in the classrooms of defence academies and colleges.

Combating Defence-related Corruption in Countries with Unresolved Territorial Disputes or Frozen Conflicts

Unresolved territorial disputes and frozen conflicts can substantially increase corruption risks in their region. Prime examples are the unresolved territorial disputes over secession on the territory of the former Soviet Union: Nagorno-Karabakh in Azerbaijan, Transdnistria in Moldova and, until August 2008, Abkhazia and South Ossetia in Georgia. They also include situations like the conflict between Greek and Turkish communities in Cyprus and the India-Pakistan conflict over Kashmir.

Generally speaking, countries with frozen conflicts have high rates of corruption. Box 13.1 shows the ratings of some relevant countries on Transparency International's 2008 Corruption Perceptions Index. Unsolved territorial disputes and frozen conflicts clearly add a number of specific elements to the corruption equation yet their influence should not be exaggerated. The level of corruption in a given country is often more related to societal and economic factors than the existence of a frozen conflict. For example, the high levels of defence-related corruption that existed in Georgia before the 2003 Rose Revolution were more closely related to the state of financial ruin of Georgia's Ministry of Defence than the threat posed by the secessionist regions of Abkhazia and South Ossetia. Especially in the former Soviet space, one of the most corrupt regions in the world, it is hard to divorce "normal" corruption from corruption that is causally linked to the existence of unsolved territorial conflicts.

Frozen Conflicts as Drivers of Corruption Risk

The principle factors that increase corruption risks for defence and security establishments in regions with unresolved territorial disputes and frozen conflicts are: increased military expenditures, reduced transparency, the creation of legal "grey zones" and the existence of unregulated paramilitary formations. This is frequently compounded by an ideology of "national survival" and high levels of public support for the military that can lead to tacit tolerance of corrupt activities as the price to pay for national security.

Box 13.1. CPI and Percent of GDP for Defence in Selected Countries with Unresolved Territorial Disputes or Frozen Conflicts

Conflict	Country	CPI, 2009 (best = 10)	% GDP for Defence (world average= 2.2%)	
Kashmir	India	3.4	2.5	2007
	Pakistan	2.4	3.1	2007
Nagorno-Karabakh	Azerbaijan	2.3	3.4	2006
	Armenia	2.7	3.0	2007
S. Ossetia / Abkhasia	Georgia	4.1	9.2	2007
	Russia	2.2	3.5	2007 (est.)
Transdniestria	Moldova	3.3	0.5	2007
Cyprus	Greece	3.8	3.3	2007
	Turkey	4.4	2.5	2007 (est.)
Darfur	Sudan	1.5	4.4	2006

Sources: TI Corruption Perceptions Index: www.transparency.org/policy_research/surveys_indices/cpi; SIPRI Military Expenditure Database: http://milexdata.sipri.org/.

Increased Spending

Frozen conflicts are characterized by competitiveness, mistrust and militarization, which make arms races the usual practice for each of the conflicting sides. For example, the conflict over the disputed territory of Kashmir has helped drive India to be the second largest importer of arms in the world, Pakistan to allocate the largest portion of its state budget to defence and both countries to develop nuclear arsenals. Territorial disputes regarding Abkhazia and South Ossetia (both supported by Russia) have driven Georgia to increase its defence budget from 42 million Lari (20 million US dollars) in 2003 to 1.4 billion Lari (830 million US dollars) in 2007, giving it one of the largest proportions of state budget allocated to defence in the world (9.2% of GDP in 2007, according to SIPRI).[1] Whilst this has been presented to the international community as necessary for the implementation of reforms related to NATO integration, to domestic audiences Georgian officials have often cited the existence of frozen conflicts as an argument for a high military budget. The two other South Caucasian countries—Armenia and Azerbaijan—faced with the unresolved territorial dispute in Nagorno-Karabakh, have also paid special attention to military preparations and significantly increased defence spending. Box 13.1 shows that almost all the previously mentioned countries

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[1] SIPRI Military Expenditure Database: http://milexdata.sipri.org/.

with frozen conflicts spend a significantly greater proportion of GDP on defence than the weighted world average (of 2.2% GDP).

This increased spending substantially increases the opportunity for corruption, particularly where fears of renewed conflict overshadow the case for transparency. It may also tend to shift patterns of corruption away from low-level, need-driven corruption to high-level, greed-driven corruption.

Reduced Transparency

In addition to driving increased budgets, the militarized situation surrounding frozen conflicts tends to reduce transparency in defence institutions, justified in terms of the security threat that faces the country from secessionist regions. Myriad expenses, from combat operations to construction and procurement, can be closed to scrutiny due to national security reasons. For example, former Georgian Defence Minister Irakli Okruashvili proudly stated that he "closed off the Ministry of Defence" because many officials "do not work for their country but for another state" in a period when "two uncontrolled armies" are stationed in Georgian territory.[2] Over-classification, under the pretext of "enemies behind the ceasefire line" also reduces the effectiveness of external oversight, like parliamentary committees and audit chambers, as well as hampering public oversight though civil society institutions. The political climate and regulations in countries with territorial disputes or frozen conflicts can also help corrupt elites control media and other information resources under the pretext of preventing the enemy's ideological sabotage and information wars.

Legal Vacuum

Transparency and accountability are further depredated by the existence of secessionist enclaves, which are black holes in the international system, without international recognition and not bound by international law. Frequently, secessionist sides in a frozen conflict are able to establish (usually in a "hot" phase of the conflict) and maintain (in the "frozen" phase) de facto independent territories, often with military, financial and information support from a large regional patron. Without formal relations, but with the need nonetheless for meetings, discussions, negotiations and even signing agreements, the only outlet for cross-frontier relations is through unofficial contacts. These are less transparent and thus more likely to be of a corrupt or criminal nature. Likewise, secessionist entities exist in a legal vacuum, as they are bound neither by the domestic law of the state of which they are nominally part, nor by the law of the patron state. It should not be surprising, therefore, that corrupt or criminal activities are frequently the principle sources of income for such entities.

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2   Interview with Rezonansi newspaper, 11/07/05.

Unregulated Forces

This legal vacuum is compounded by the proliferation of unregulated forces, including separatists and paramilitaries. Separatist forces are not internationally recognized and thus can only arm themselves with illegal military procurements. Smuggling of armaments, both light and heavy, is often done through corrupt arrangements with civil and military officials from both conflicting sides, as well as with third parties. For example, during the war in Chechnya, Russian servicemen have been involved in illegal arms deals with Chechen separatists, as well as embezzling the lion's share of lucrative military investments during post-conflict rebuilding. At the same time, Russia was illegally supplying tanks, armoured personnel carriers, heavy guns, military helicopters and light weapons to Abkhaz and Ossetian separatists, providing also military training to their armed forces.

Paramilitary detachments, which often consist of unregulated "volunteers," are usually the most inclined to looting and corruption since they are less disciplined and less institutionalized than regular military forces. Yet the weakness of law enforcement structures combined with a culture of violence, greed and hatred create fertile ground for broad criminality and corruption. Thus, corrupt actors can include government and military officials, defence companies, army officers and soldiers, guerrillas, professional smugglers and even civilians. They conduct a wide variety of illegal activity: the arms trade, human trafficking, drug smuggling and extortion of money and other valuables from the peaceful population. The latter can be particularly corrosive as it leads to the criminalization of security.

Frozen Conflicts' Impact on Forms of Corruption

In general terms, corruption can be divided into three kinds: need driven or "petty" corruption; greed-driven or "elite" corruption; and "pyramidal" corruption that connects high ranking government and military officials with low- and middle-level servicemen.[3] Frozen conflicts have an impact on all three sorts, creating a nexus between high- and low-level corruption, together with organized crime and smuggling. These networks frequently work smoothly across the various sides of the conflict zone, with little regard to loyalties.

Petty corruption involves low- and middle-level servicemen who are unable to satisfy their basic social needs with their low salaries and social benefits. In normal conditions, this level of corruption may look comparatively modest, even though it may involve large numbers of servicemen involved in petty theft and diversion of funds. In conflict zones, however, petty corruption can become brutal. Servicemen know the

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[3] Mats R. Berdal and David M. Malone, eds., *Greed and Grievance: Economic Agendas in Civil Wars* (London: Lynne Rienner, 2000).

taste of blood, with personal experience of combat and even military crimes. In post-war or frozen situations, soldiers often feel entitled—by virtue of their participation in combat—to a better life; yet they see no means to achieve their goals other than criminality. In this brutal environment, it becomes psychologically easy for servicemen to terrorize the local population through extortion, assassinations, kidnappings, hostage takings and even torture.

Elite corruption usually involves high ranking military and government officials, as well as private companies and middlemen/agents. The usual vehicle is procurement and arms deals on both national and international levels. Direct bribes, consultant fees and overpaying subcontractors for low quality goods are common procurement schemes. Construction is another high-risk area for corruption, especially in building and restoration of destroyed military objects and infrastructure in post-war periods. Due to their control over financial, military and law enforcement resources, high ranking officials do not usually have to rely on organized crime groups. There may be, however, a symbiotic merging of state and criminal structures, particularly in and near separatist enclaves. Since elite corruption is less visible to the broader public than petty corruption, it does not touch ordinary citizens' interests directly and may escape political notice (unless used for political purposes). Ultimately, however, it may have the most serious negative impact on a country's national security.

Pyramidal corruption connects together high ranking government and military officials with low- and middle-level servicemen, resulting in redistribution of illegal income and a flow of corrupt money from the bottom up. It frequently includes a direct nexus of corrupt officials and servicemen with organized crime groups and professional arms smugglers, and is typical in authoritarian countries, post-Soviet states and separatist enclaves. In some cases, professional criminal groupings capture the state or even implement a form of "criminal totalitarianism." The nexus between corrupt officials and criminals can extend to the extreme criminalization of defence structures, to the point that it becomes difficult to delineate between "mere" corrupt servicemen and professional criminals. Military and paramilitary structures (sometimes including peacekeepers) can participate in criminal networks that smuggle arms, drugs, cigarettes, stolen vehicles and people under the umbrella of corrupt government officials so that frozen conflict becomes a profitable source of income for all conflicting sides. Driven from top and bottom, corruption becomes systemic and penetrates to all levels of military, paramilitary and civilian structures. It also frequently penetrates into civilian society, especially into communities of socially vulnerable IDPs (internally displaced persons) and refugees. Conflict-driven corruption becomes an integral part of public life, thus developing constituencies that may oppose conflict resolution.

Corruption in peacekeeping forces is also, unfortunately, not infrequent in conflict zones. Peacekeepers may represent an international organization (such as the UN or

NATO), a separate country, or even separatist forces, with different levels of discipline, responsibility, remuneration and external control on their activities. Their regular contacts with local guerrillas, warlords, military, law enforcement, government representatives and the population from both conflicting sides expose them to criminal and corrupt networks. Their position of authority and freedom of movement can make them a valuable asset, worth bribing.

Anti-corruption Actions

Fighting defence-related corruption in countries with unresolved territorial disputes or frozen conflicts requires a multi-dimensional approach that extends beyond the reform of military and law enforcement structures. In general, anti-corruption efforts are not effective if the main methods are detainments and arrests; if systems remain unchanged, one generation of corrupt public officials and servants will simply replace another. Efficient and sustainable efforts are possible only through implementation of well-thought out and comprehensive anti-corruption reforms.

It is important for the government that implements anti-corruption reforms to have sufficient levels of legitimacy, and defence officials and servicemen need enough power and freedom to make responsible decisions, for example, concerning military procurements. This should be combined, however, with well-elaborated accountability procedures, including audit, accounting and financial crime reporting standards. These should cover both the open part of the defence budget and the secret one – which should be kept as small as possible.

Box 13.2. Main Elements of Anti-Corruption Reform

The Anti-Corruption Reform includes the following main elements:

- Creation of efficient decision-making systems that allow reformist political and military leaders to adopt and control the implementation of an anti-corruption strategy;
- Staff optimization, including professional tests to weed out incompetent (or corrupt) servicemen and the hiring of new military personnel with sufficient salaries and a high level of discipline;
- Sufficient finance and oversight for logistical support including construction and repairing of military installations, modern equipment, ammunition and infrastructure development;
- Institutional reform to optimize the competencies of defence institutions, their internal relations and their relations with civil institutions and international organizations;
- Legislative reform; and
- The inclusion of leading international organizations (NATO, the OECD, DCAF, Transparency International, etc.) and democratic nation states to help facilitate reform in the defence sector, as well as conflict resolution, through training, logistical and financial support.

Transparency in decision making and resources is also important – first of all within the government, where appropriate mechanisms should be set up to review decisions related to national security secrets. Transparency to the broader public through civil society organizations is also important, since NGOs and free media play a vital role in raising public awareness and changing public attitudes regarding defence-related corruption. The establishment of public oversight councils and the creation of a single database containing all types of public information on Defence Ministry activities are two practical measures that have proven helpful. Of course, these measures are dependent on the strength of democratic institutions in society and functioning civil-military relations. This is especially difficult in conflict zones where NGOs, free media and human rights institutions operate with difficulty.

Another tool for accountability is parliamentary investigation groups, which can address the threat of corruption in the defence system. Such groups can include civil society representatives and should have the mandate to monitor and control implementation of anti-corruption measures in the defence sector. The parliamentary groups can also develop anti-corruption legislation, for example regulating tenders, incorporating safeguards against kickbacks and improving quality control.[4]

A number of actions can also be taken to specifically address corruption risks associated with frozen conflicts. First is establishing discipline by eliminating non-state paramilitaries or armed "volunteer" formations. Disarmament and demobilization of these groups help the state to establish a monopoly on the use of force, and should be an early step for any government with the political will to stabilize the post-conflict situation and fight corruption.[5] Further efforts can then be made to increase the good order, discipline and professionalism of government forces, to include measures to ensure sufficient social conditions and salaries.

Secondly, since it is the unstable conflict situation (or threat of conflict) that drives frozen conflict-related corruption risks, it is important to end fighting and establish some modicum of security. This will allow a transfer of political energy from operational issues like training and equipping programs toward improving governance. The longer security can be maintained, the more the possibilities for cross-border communication and cooperation, the less relevant paramilitary groups are for the security situation, and the less political authorities are inclined to use them for political reasons.

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[4]   Transparency International Georgia, *Anti-Corruption Policy: Recommendations by Civil Society Representatives and Experts* (30 March 2009), www.transparency.ge/files/215_490_ 158736_Anti-Corruption Policy Recommendations by Civil Society ENG.pdf.

[5]   The Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Security Sector Reform in Post-Conflict Peacebuilding* (May 2009), http://www.dcaf.ch/publications/kms/ details.cfm?lng=en&id=100048&nav1=5.

Thirdly, it is important that anti-corruption measures have public support. This requires, first of all, efforts to turn public opinion against corruption. Systematic and sustained information support, anti-corruption TV and radio programs and publications in print media can help the public better understand the negative consequences of corruption on real combat capability and national security more widely. This can be a strong factor in shifting public perceptions, even when gift culture and tolerance to corruption have previously dominated in society.

The Example of Georgia

Immediately following independence, in 1992 and 1993, Georgia faced armed conflicts in South Ossetia and Abkhazia, which resulted in the creation of separatist enclaves under Russian protection. During and just after these armed conflicts, Georgian military structures resembled separate criminal-patriotic detachments, badly disciplined, equipped and trained and "self-financed" through bribery, embezzlement, extortion and looting. In 1994–1995 the government disarmed, dismissed and eliminated most of these detachments using the newly created armed forces and law enforcement structures. But there was no political will to fight corruption and the government did so only rhetorically. In 2002, a survey by the Georgian Opinion Research Business International (GORBI) indicated that 92 percent of respondents thought that corruption was widespread among public officials.[6]

The logical consequence of this situation was the anti-corruption "Rose Revolution" in November 2003. Following the revolution, the new government immediately embarked on reforms to combat the previously endemic levels of corruption in state institutions. Part of the rationale for this was to strengthen the Georgian state to an extent that it would be capable of defending itself against the threat posed by the frozen conflicts, as well as building a Georgian state that Abkhaz and Ossetians would want to live in. Thus, beginning in 2004, serious anti-corruption reforms were implemented in the defence sector.

Personnel policy was one key area of effort. Generals and senior officers who lacked professional skills or resisted reform were dismissed and a younger generation of servicemen (part of them Western educated) was hired. Incentives for petty corruption were turned around through the combination of increased wages and strictly enforced regulations. For example, in 2004, when the wage of a corporal amounted to GEL107 a month (around $50 at contemporary exchange rates), officers often supplemented their wages with bribe payments (often in exchange for releasing conscripts from duty) or through low-level embezzlement of state funds meant for food or clothes.

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6   Georgian Opinion Research Business International (GORBI), *Corruption Survey in Georgia – Second Wave* (2002), www.gorbi.com/store/en/20030307_055847.ppt.

As of 2008, a corporal earned GEL925 (approximately $560) a month, an increase of 864%. Petty corruption is therefore neither necessary nor attractive.

Programming. One externally-supported measure to increase transparency with the Georgian government was the adoption of a US-sponsored PPBS/FMS (Planning Programming and Budgeting System/Financial Management System). This innovation, introduced in 2006, provides for multi-year planning and transparency inside the government and defence establishment regarding allocation of resources toward objectives. The system also clarifies and divides areas of responsibility between civil and military personnel and theoretically liberates the military operational side of the armed forces' work from political objectives. However, there is little sign of such clarity either between institutions or inside the Ministry of Defence. Anecdotal evidence from journalists, experts and NGOs suggest that the level of openness at the Ministry of Defence still depends largely on the attitude of the minister.

Procurement. Despite the fact that contracts over a certain value are meant to be given out through tenders, defence procurement has often not been conducted according to the law. Especially in the early years of Saakashvili's presidency, large projects were often carried out on the basis of "negotiations with individuals" (sole source procurement). The most notable case was the construction of the Gori and Senaki military bases and hospital, which was contracted out though sole source procurement to a firm owned by Kibar Khalvashi, an ally of Defence Minister Okruashvili. This case later ended in government accusations of embezzlement. In addition, excessive and unaccountable defence spending has been justified in terms of internal conflicts, with the relocation of Georgia's main military hospital from Tbilisi to Gori and the location of the base on the main road facing South Ossetia as examples. These high profile cases seem to have taken place, however, against the background of a general shift since 2004 away from sole source procurement and toward tenders.

Defence restructuring and state capacity. These changes were part of the overall restructuring of the whole defence sector, backed with dramatically increased funding from the state budget and supported by assistance from NATO, the US, the UK, France, Germany, Turkey, and other countries. From 2003 to 2008 the defence budget increased from 30 million GEL (Georgian Laries) to approximately 2 billion GEL. In addition to better salaries for servicemen, this funding went toward repairing military equipment and barracks, new procurements and training. The Ministry of Defence was reorganized and a civilian minister of defence was appointed.

Defence restructuring was part of a wider effort to increase state capacity. An important element of that was the disarming of criminal armed guerrilla movements in Western Georgia and a crackdown on the *kanonieri kurdi*[7] (Georgian criminal bosses).

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7   Literally, "thieves-in-law."

As a result, Georgian security institutions now possess a monopoly on the use of force and paramilitary and underground organizations no longer exert the corrupting influence they once did.

Positive impact. These reforms have had tangible success at massively reducing corruption, particularly the lower-level petty corruption that affects the broad public. Many corrupt networks in the defence sector and other security and law enforcement structures have been destroyed and public perception has improved dramatically. Transparency International's Corruption Perception Indexes demonstrate Georgia's significant progress in implementing its anti-corruption strategy (see Box 13.3).

There has also been tremendous improvement in military professionalism: prior to the adoption of Georgia's NATO IPAP (Individual Partnership Action Plan) in 2004, the Georgian armed forces barely functioned as an organization; today they are a more modern, disciplined, well-paid, trained and better equipped army that is close to NATO standards and free of petty corruption. This was demonstrated during the Russian-Georgian war in August 2008, where the NATO-trained Georgian army, in which paramilitary and "volunteer" armed groups were long ago eliminated, showed more discipline than Russian and their separatist allies, whom journalists video recorded in repeated cases of bribery, extortion and looting.

Dilemma of increased capacity. The bottom line is that Georgia's state institutions, including the armed forces, now possess the authority and strength to implement and enforce anti-corruption measures. However, it is precisely this increased state capacity that has helped create a situation where access to information has become much more difficult and institutions meant to scrutinize the Ministry of Defence have become weaker. Thus, while there have been very few proven cases of corruption in the Georgian military since 2004, there is a perception that the reduction in petty corruption has been accompanied by increased opportunities for high-level corruption. As one Georgian military expert put it: "if a cook of a military unit used to steal two kilograms of potatoes, he may no longer do so because there is control, discipline and … because he now has a salary of 1000 lari. However, when the matter concerns tenders, construction, purchasing of cars, purchasing of military equipment and ammunition, here one

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Box 13.3. Georgian Ratings on Corruption Perception Index (CPI), 2004-2008

Year	2004	2005	2006	2007	2008
CPI Rank	133	130	99	79	67
	(of 145)	(of 158)	(of 163)	(of 179)	(of 180)

Sources: TI Corruption Perceptions Index: www.transparency.org/policy_research/surveys_indices/cpi.

has to deal with such large amounts of funds that somebody may steal 42mn [the equivalent of the 2003 annual military budget] overnight."[8]

Transparency has been a significant casualty of this situation. A 2008 survey of journalists, experts and local NGOs carried out by the Association for Justice and Liberty showed that only 23% of journalists used the Ministry of Defence's public relations department as a source of information; instead, they preferred to talk to military experts and insiders with knowledge of the personal politics and the behind-the-scenes manoeuvring. More worryingly, the report quotes journalists as saying that obtaining information from the government is "practically impossible."[9] The problem does not end there: half the defence budget is deemed "classified" and the breakdown of the budget is quite general. Until 2006, the Ministry of Defence was partly funded through a secret Army Development Fund on which no information was made available. While the abolition of this fund was a positive step, budgetary transparency has not improved greatly since then. The last openly available full budget breakdown is from 2007, with large sums categorized vaguely as "other expenditures." This perception is supplemented by the much publicized US intelligence report on the state of the Georgian army which states that the selection of cadres depends on "personal relationships" and that information is "hierarchical and tightly controlled."[10]

Parliamentary & public accountability. A number of institutions have been created to help improve parliamentary and public accountability. This includes the Civil Council on Defence and Security, an organization established as a forum for dialogue between the Ministry of Defence and the NGO sector that has now been reinvigorated after having been sidelined by Okruashvili during his time in the ministry. Aside from the Chamber of Control and the parliament (which is responsible for approving the budget), there is also the parliamentary Trust Group of MPs who have access to classified details that are considered sensitive.

However, prominent Georgian military experts believe that all of these mechanisms have failed to work in practice. In a 2007 survey, 80% of experts and journalists said that parliamentary control was "insufficient."[11] For example, the parliamentary Trust Group is legally supposed to include at least one deputy from the parliamentary minority. In reality, the opposition's candidate for membership of the Trust Group was rejected and there was no opposition representative in this group until the new parliament was convened in 2008. There are now two opposition representatives on this

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8   Personal interview with Irakli Sesiashvili, director of Association "Justice and Liberty," 13 January 2009.

9   Irakli Sesiashvili, *The Transparency of the Ministry of Defense: The Problems and Prospects* (26 April 07), www.ajl.ge/pages.php?lang_id=eng&cat_id=1&news_id=3.

10   *New York Times*, 18 December 2008.

11   Conducted by Georgia for NATO in 2007.

group but one of them has complained that not a single meeting of the Trust Group has taken place since the convening of the 2008 parliament,[12] a year in which major combat operations were conducted against Russia. In the case of the Chamber of Control, reports are currently not released on the Internet and even in comparison to the basic level of control it exerted before the Rose Revolution, this institution has not been active in publicizing problems. Indeed, Paata Zakareishvili, an expert on defence and conflict issues, has called the Chamber of Control "a body that has no function in this country.... It is totally paralysed."[13] Sometimes, even officials authorized to conduct oversight are denied access to information and the Public Ombudsman, who is charged with monitoring the human rights situation within the Georgian armed forces, has been prevented from visiting military detention facilities to monitor conditions.[14]

In short, there is widespread dissatisfaction, including from NATO and other international organisations, with the way institutions that "on paper" are supposed to be scrutinising the Ministry of Defence are working. Some, such as Georgian military expert Irakli Sesiashvili, explain that this is due to the fact that the government controls all these bodies, since it currently possesses a constitutional majority in parliament[15] and can appoint whomever it wishes to head such oversight institutions. Ironically, before 2004, governments had to coexist with a far less pliant parliament and a largely oppositional mass media. The split nature of the Georgian elite and the weakness of the state pre-2004 also fostered a sort of pluralism, where individual officials were relatively independent and they were better able to perform their regulatory function.

All of the above creates a fertile environment for corruption to thrive. This perception is supported by the few confirmed high-level corruption cases that have been revealed in recent years. The most important was undoubtedly the allegations against former defence minister Irakli Okruashvili, who was arrested two days after he publically accused the president of murder and corruption on live TV. The Chamber of Control claimed to have evidence that Okruashvili had embezzled 103 million Lari (60 million US dollars), embezzling money earmarked for fuel and building contracts, amongst other crimes. Yet the report was never released. In the other significant corruption case, key defence ministry officials closely allied to members of the government opposed to Okruashvili were accused of corruption by Okruashvili while he was

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[12] Reference to Gia Tortladze – Interview with Tea Akubardia, 15 January 2009.

[13] Interview with author, 13 January 2009.

[14] Ombudsman's Annual Report 2007.

[15] Most of the opposition resigned their seats in protest at what they believed to be a fraudulent election.

minister.[16] It is not credible that these two cases, only revealed as a result of internal strife in the government, mark the extent of the problem. Rather, it is likely that they are only the tip of the iceberg.

Lessons Learned

The Georgian case provides a number of useful lessons. First is the value of specific actions to counter corruption risks associated with frozen conflicts. This includes the disbanding of non-state paramilitary formations, increasing salaries and discipline within the armed forces, and focusing on building societal trust in the armed forces.

Second is the importance of state capacity in dealing with corruption. The weakening of the state, partly caused by the existence of frozen conflicts, meant that corruption flourished in the 1990s in Georgia. Since 2004, however, the Georgian state has strengthened, leading to a decline in petty corruption. However, the increase in state capacity has also allowed for greater protection of information, which, without effective counterbalances, has resulted in a decline in the level of transparency. The failure to put effective democratic control mechanisms in place to oversee this increased state capacity was a major oversight.

Third is the indivisibility of the defence sector from the rest of the political system in terms of the fight against corruption and the establishment of democratically accountable armed forces. Transparency and open discussion constitute the best mechanism for fighting well-concealed, high level corruption. Thus, states with internal conflicts cannot be allowed to follow their natural instincts (and perhaps cultural traditions) to shut their defence institutions behind a wall of secrecy, keeping defence and national security issues out of bounds for public discussion. For this to change, effort needs to be directed at both the reinvigoration of civil society and media interest, as well as the opening up of state institutions to public scrutiny. The inevitable negative impact of corruption on combat effectiveness can be an important tool for mobilizing public interest.

Fourth is the importance of going beyond surface level reform. Georgia has made great progress in harmonising the workings of its defence structures with that of NATO, increasing theoretical accountability (e.g. through the introduction of PPBS), eradicating low-level corruption, and creating a parliamentary group to monitor the armed forces. However, this strengthened institutional and legislative base has not been matched with a similar level of political will. Indeed, over the past several years, the only times high-level corruption has been pursued is in the context of political conflict within the government.

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[16] They were accused of embezzlement of funds meant for the reconstruction of a military barracks near Tbilisi but were later cleared and moved to the National Security Council to the dissatisfaction of Mr. Okruashvili who maintained that these officials were guilty and were being protected by those who wanted to undermine him.

Finally, much of the progress that has been achieved in Georgia regarding anti-corruption and democratic control of defence institutions has been due to rigorous international assessment and pressure to meet relevant NATO or European standards. This kind of honest and intrusive relationship should be continued with regard to both Georgia and the other states in the region.

Part III
Building Integrity and Reducing the Corruption Potential in Defence Establishments

The third part of the compendium looks at the players in integrity building and their roles. It starts with a chapter on the importance of integrity building. The following chapters examine the role of regulatory frameworks, the individual, the executive branch of government (with a focus on the defence ministry), parliaments and audit offices, the ombuds institution, the defence industry, civil society and the media, and international organizations. Each chapter presents principles and good practices in building integrity and reducing corruption risks in defence establishments.

Chapter 14
The Importance of Integrity Building

One does not fight corruption by fighting corruption – merely prosecuting an individual, or declaring another anticorruption campaign, redrafting another anticorruption decree, or establishing yet another anticorruption commission.[1]

Daniel Kaufmann, Senior Fellow at the Brookings Institution and former Director for Global Governance at the World Bank Institute

Building integrity and fighting corruption are two sides of the same coin and both need to be addressed in any national or sectoral plan. Corruption, or the abuse of entrusted office for private gain, must be rendered as high risk and low reward. It is the aim of integrity building to achieve this in a way that does not obstruct the efficiency of governments or the private sector.[2]

Barriers to corruption can be erected through increasing accountability and transparency. Accountability means that holders of public office are responsible to the public for their decisions and actions. Holders of public office must submit themselves to the level of scrutiny appropriate to their office. One means to hold public officials accountable is through transparency and availability of information. Transparency and accountability allow fewer opportunities for the abuse of public systems. One of the frequent issues in the defence and security realm is that such transparency is often lacking.

This chapter examines the importance of integrity building in defence by demonstrating what integrity means in the defence and security arenas, and shows why building integrity must be a priority for armed forces. It also gives examples of tools that can be used to achieve this goal and present how some countries are successfully using these tools to strengthen integrity in their defence and security ministries and their armed forces.

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[1] "Anti Corruption is Signed into Treaty," *WBI Themes* (7 January 2004), http://info.worldbank.org/etools/docs/library/95071/merida/index.html.

[2] Jeremy Pope, *Confronting Corruption: The Elements of a National Integrity System*, TI Source Book 2000 (Berlin: Transparency International, 2000), www.transparency.org/publications/sourcebook.

What is Meant by "Integrity"?

Integrity is a term often used in combination with national security: securing the integrity of the national territory is a purpose explicitly stated in many national constitutions for their national armed forces. In Latin America, for instance, 11 out of 16 countries state the purpose of guaranteeing integrity in one form or another in their constitutions.[3]

Integrity is a value that is often attributed to soldiers. The US Army, for example, teaches integrity as one of the *Seven Core Army Values* taught to soldiers in the Army's Basic Combat Training: "As your integrity grows, so does the trust others place in you."[4]

Integrity is indeed a crucial value for armed forces around the world, both in its technical and its moral meaning.

Establishing and maintaining integrity in public institutions encompasses a variety of elements, which together foster an ethical environment. These elements are:

- Norms of individual and collective behaviour;
- Clearly established and respected codes of conduct;
- Leadership by example;
- Legislation and regulations;
- Effective training and regular reinforcement of that training;
- Assurance and enforcement.

Box 14.1. Definition of Integrity

In a *technical sense*, integrity is applied to objects to judge the quality of a system. Integrity in this sense means that a system is fully functional and intact. A system has integrity if it works as intended and fits seamlessly into the larger system of which it is a part. A defence system, for example, retains its integrity as long as it is not breached.

In a *moral sense*, integrity refers to the consistency of actions, values, principles and outcomes. Integrity in an individual therefore means that the person has values in which they believe and to which they stand up for. Applied to a work context, an individual has integrity if they are doing their work honestly, competently and completely. Integrity is usually measured through surveys and audits.

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[3]   The countries are: Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay. See: Red de Seguridad y Defensa de América Latina (Latin America Security and Defence Network, or RESDAL): *Comparative Atlas of Defence in Latin America*, 2008 Edition (Buenos Aires, Argentina, 2008).

[4]   US Army, "Soldier Life," www.goarmy.com/life/living_the_army_values.jsp.

Integrity in the Military

When looking at a ranking of the most trusted sectors of society, it may not seem surprising that the military gets high marks. In the 2006/2007 global corruption survey by Transparency International,[5] the military ranked as the third most trusted group in society—when expressed as a global average—only behind religious bodies and non-governmental organisations. The military was more trusted than the media, the private sector, parliament and political parties (see Figure 14.1 and Figure 14.2).

This survey suggests people in most countries trust their armed forces. Understanding this is a powerful way in which a country can go about addressing the issue of integrity building. Surveys like this can be used to help a defence ministry diagnose the level of confidence in the national defence establishment, and to build momentum for reform.[6]

In order to live up to the level of trust placed in them, militaries must constantly strive to build and maintain integrity. Failure to do so is costly and a waste of scarce resources, manifested in several ways. It is widely acknowledged that corruption raises transactions costs and uncertainty in an economy.[7] Applied to armed forces this means that money lost through corruption would have been invested either in better military equipment, or could have been used in other non-defence expenditures in more productive outlays. Money diverted from defence spending has an adverse impact on the operational effectiveness of the military forces, and reduces public trust in and acceptance of the armed forces, both nationally and internationally. Civilian and military pride in their service to the country is seriously affected when corruption becomes apparent, stripping the military of one of its most valuable assets – public trust.[8]

Nevertheless, despite the favourable average perception of the military, there is substantial variation between countries. Figure 14.2 presents a graph of the results from the 2006 and 2007 Global Corruption Barometer as they relate to the military.[9]

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[5] Transparency International, *Global Corruption Barometer* (2007), www.transparency.org/ policyresearch/surveys _indices/gcb/2007.

[6] Dominic Scott and Mark Pyman, "Public Perceptions of Corruption in the Military in Europe and the Rest of the World," *European Security* 17:4 (December 2008), 495–515.

[7] See, for example, Paolo Mauro, "Corruption and Growth," *The Quarterly Journal of Economics* 110:3 (1995), 681–712; and Paolo Mauro, "Corruption and Composition of Government Expenditure," *Journal of Public Economics* 69:2 (1998), 263–79.

[8] Mark Pyman, Dominic Scott, Alan Waldron and Inese Voika, "Building Integrity and Reducing Corruption Risk in Defense Establishments," *Connections: The Quarterly Journal* 7:2 (Summer 2008), 21–44.

[9] Transparency International, *Global Corruption Barometer* (2007).
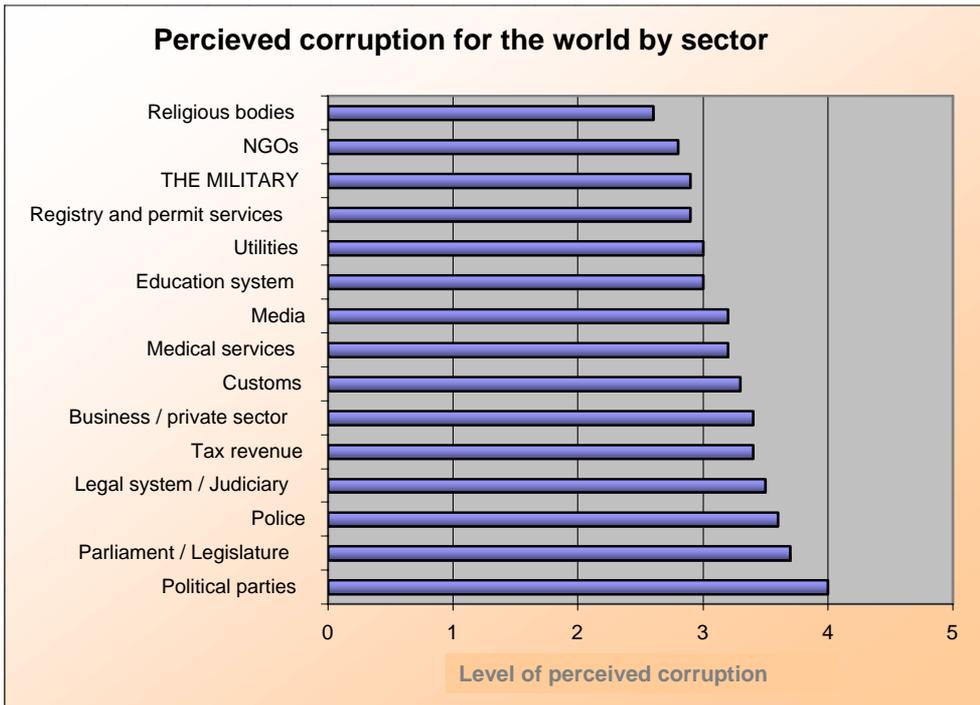
Figure 14.1. Trust in the Military vis-à-vis Other Sectors of Society.

Tools for Building Integrity

Nations must ensure that the opportunities for corrupt practices are minimised. They can do this in several ways.

One of the first steps is to analyse the kind of corruption issues that exist in the national context; these issues will vary substantially from one nation to another. For example, corruption around conscription is a major issue in Russia and many other East European states but would not be relevant to many other nations. After this assessment, appropriate remedial measures and systems and procedures to address those corruption issues can be put in place. To be successful and sustainable, it is essential for such procedures to be promoted and forcefully led by the political and military leadership. If the drivers of the reforms are not regarded as having enthusiasm or integrity themselves, this will seriously damage the commitment of defence officials and the armed forces.

While the basic concepts and foundations of an integrity system are easily understood, it is equally important that the measures being proposed to strengthen it be grounded in reality and practicality. The international defence programme at Transpar-
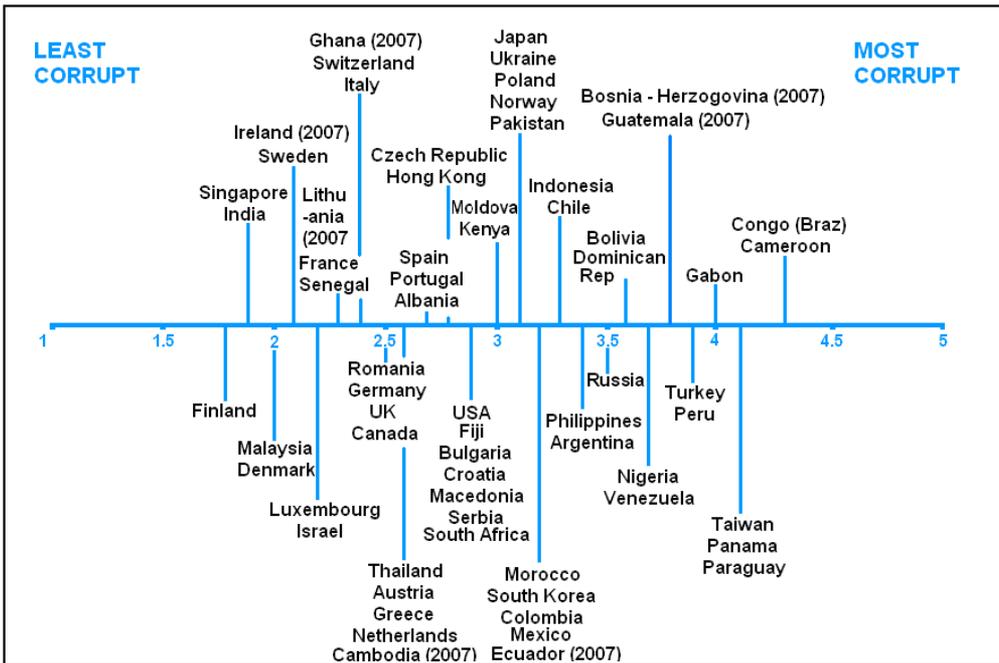
Figure 14.2. Comparisons of Levels of Trust in the Military.

ency International (UK) has been working on twelve practical mechanisms for strengthening integrity in defence establishments. These twelve mechanisms are listed in Box 14.2.

Practical tools support nations in determining their corruption risk and in training their personnel to enable them to tackle existing problems. These tools have been developed as crucial first steps in addressing corruption challenges in nations and in building integrity in defence institutions. They provide states with the necessary tools to assess their own risk, the necessary know-how to address the issue and guidance on how to tackle the issue.

Many of these tools available to defence ministries, as well as good practice in their implementation, are described in this compendium.

Conclusion

Strengthening good governance in defence establishments by building integrity as well as addressing corruption risks directly is a powerful and motivating approach. In the past, there has been a tendency to see fighting corruption as a matter of law, regulations and effective prosecution. While these are necessary measures to curb corruption, they are neither sufficient nor encouraging for government officials, armed forces, or the public. Working on building integrity is more rewarding and motivating. It is also

Box 14.2. Practical Reform Approaches

1. Raising the transparency of the defence policy and defence budgeting
2. Making a sound diagnosis of the corruption and integrity issues
3. Developing a defence integrity and corruption risk action plan
4. Making the subject discussable
5. Engaging civil society
6. Engaging defence contractors
7. Setting clear standards of business conduct for officials and officers
8. Using surveys and metrics to monitor performance
9. Establishing dedicated integrity training modules
10. Using independent monitors on public procurements
11. Raising the transparency of offsets
12. Procurement directorate reforms

Source: Detail can be found in Mark Pyman, *Building Integrity and Reducing Corruption Risk in Defence Establishments. Ten Practical Reforms* (London: Transparency International – UK, 2009), www.defenceagainstcorruption.org/index.php/publications.

more sustainable. Building integrity is also advantageous for the implementing defence ministry: it leads to an increased level of trust in the armed forces, minimises the potential for violations in procurement and other areas of defence management, and saves money through fighting inefficiencies. Ultimately, the largest benefits for senior officers are the positive effects that this has on the quality of military effectiveness and in raising public trust in the armed forces.

Recommendations

The following approach is recommended to all nations that consider initiatives to build integrity in defence establishments:

*   Make your own diagnosis of corruption risks in defence and security;
*   Develop support for tackling this issue across a wide range of stakeholders;
*   Consider which package of measures to use – both integrity building and anti-corruption controls;
*   Assemble these in a coherent and widely discussed plan; and
*   Implement the plan in a low profile way and sustain it over several years.

The following chapters examine the place and the role of a variety of players in building integrity and reducing corruption risks in defence establishments. As can be expected, one of the chapters looks at the defence ministry as the main player within the executive branch of government. Other chapters examine the role of the individual person, regulatory frameworks, parliaments and audit offices, the ombudsman institution, the defence industry, the civil society and the media, and international organizations. Each chapter presents principles of countering corruption through building integrity, increasing transparency and improving accountability, and provides examples of good practice in various settings.

Chapter 15
Regulatory Frameworks

There are a number of regulatory and legal mechanisms to tackle corruption at both the state and international levels. Although such frameworks are not in themselves solutions to corruption, they are nonetheless a pre-requisite to fighting it. This chapter outlines both coercive mechanisms, including examples of enforcing such mechanisms, and voluntary guidelines, such as Defence Integrity Pacts, arms control codes of conduct, etc. "Best practice" in this regard comes from both national and international regulations. The final section of the chapter presents examples of regulations that facilitate transparency and accountability, and thus the enhancement of integrity in defence.

The first type of these regulations—coercive measures based on law—are not specific to defence nor should they be: corruption is or has to be made illegal no matter in what sector of society it takes place, while the penalty has to be commensurate to the damages incurred from the corrupt activity. Voluntary guidelines, on the other hand, may account for the specifics of the corporate culture of the defence establishment and build on the esprit and the honour of military and defence civilians alike. The regulations to provide transparency and accountability take into account the sensitivities of some of the information on security and defence, and the specific activities of the security and defence sectors.

Coercive Measures

Corruption harms societal development, infringes on moral norms and impairs social cohesion. There seems to be an agreement that certain political, social or commercial practices are corrupt and in most countries in the world these are considered illegal. But even though the phenomenon of corruption is widely spread in modern society and has a long history, the challenge to provide a common definition, equally accepted in every nation, seems insurmountable. In different frameworks, the international community has preferred to concentrate on the definition of certain forms of corruption, e.g. "illicit payments" (UN), "bribery of foreign public officials in international business transactions" (OECD), or "corruption involving officials of the European Communities or officials of Member States of the European Union" (EU).[1]

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[1] Council of Europe, *Explanatory Report*, Criminal Law Convention on Corruption, ETS No. 173, http://conventions.coe.int/Treaty/EN/Reports/Html/173.htm.

Transparency International defines corruption simply as "the misuse of entrusted power for private benefit." Although short, this definition contains three essential elements: first, a misuse of power; second, a power that is entrusted, both in the private and in the public sectors; and third, the misuse is for private benefit, i.e. not only to the benefit of the person misusing the power but also to the benefit of members of his or her immediate family and friends.[2]

Definitions, used in the discussion in international fora, are also quite broad. Box 15.1 provides the text of the provisional definition used by the Multidisciplinary Group on Corruption (GMC), established in the framework of the Council of Europe in September 1994, and the rationale for choosing such a broad definition.

Not surprisingly, national definitions of corruption also differ. Box 15.2 presents definitions and approaches to defining corruption offenses in criminal laws of three countries.

Box 15.1. A Starting Point for Defining Corruption

The GMC started its work on the basis of the following provisional definition: "Corruption as dealt with by the Council of Europe's GMC is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public or private sector, which violates their duties that follow from their status as a public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or for others."

The purpose of this definition was to ensure that no matter would be excluded from its work. While such a definition would not necessarily match the legal definition of corruption in most member states, particularly not the definition given by the criminal law, its advantage was that it would not restrict the discussion to excessively narrow confines. As the drafting of the convention's text progressed, that general definition translated into several common operational definitions of corruption which could be transposed into national laws, albeit, in certain cases, with some amendment to those laws. It is worth underlining, in this respect, that the present convention not only contains a commonly agreed definition of bribery, both from the passive and active side, which serves as the basis of various forms of criminalisation, but also defines other forms of corrupt behaviour such as private sector corruption and trading in influence, closely linked to bribery and commonly understood as specific forms of corruption. Thus, the present convention has, as one of its main characteristics, a wide scope, which reflects the Council of Europe's comprehensive approach to the fight against corruption as a threat to democratic values, the rule of law, human rights and social and economic progress.

Source: Council of Europe, *Explanatory Report*, Criminal Law Convention on Corruption, ETS No. 173, Items #24 and #25.

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[2] Jeremy Pope, *Confronting Corruption: The Elements of a National Integrity System* (Berlin: Transparency International, 2000), 1, footnote 2.

Box 15.2. National Legal Definitions of Corruption Offences

France

Offences of corruption are treated by the Criminal Code of France. It distinguishes passive and active corruption. Passive corruption is defined as "direct or indirect request or acceptance, without right, of offers, promises, donations, gifts or advantages, when done by a person holding public authority or discharging a public service mission, or by a person holding a public electoral mandate." According to Article 432-11, such an offence is punished by ten years imprisonment and a fine of €150,000 where it is committed:

1. To carry out or abstain from carrying out an act relating to his office, duty, or mandate, or facilitated by his office, duty or mandate; or

2. To abuse his real or alleged influence with a view to obtaining from any public body or administration any distinction, employment, contract or any other favourable decision.

Active corruption is defined in Article 433-1 as "direct or indirect proposal, without right, at any time, of offers, promises, donations, gifts or advantages to obtain from a person holding public authority or discharging a public service mission or holding a public electoral mandate that he: carry out or abstain from carrying out an act relating to his office, duty or mandate or facilitated by his office, duty or mandate; abuse his real or alleged public influence with a view to obtaining from a public body any distinction, contract…."

Federal Republic of Germany

German criminal law criminalises the acceptance of a benefit or a bribe, as well as the act of granting a benefit or a bribe. It explicitly refers to military personnel, e.g. Section 333 of the Criminal Law (Strafgesetzbuch) states that "(1) Whoever offers, promises or grants a benefit to a public official, a person with specific public service obligations or a soldier in the Federal Armed Forces, for that person or a third person, for the discharge of a duty…."

The United States

It is a crime under US law to bribe both domestic and non-US government officials, and to engage in private commercial bribery. Bribery, however, falls under several distinct federal and state criminal statutes. In general, the prohibited conduct involves paying, offering, attempting or promising to pay public officials improperly to influence their official acts, or, in the private context, causing an employee or agent to act in a way contrary to the interests of their employer. US law also generally recognizes the concept of aiding and abetting a violation and conspiring to engage in violative conduct as separate criminal offences.

Source: Roger Best and Patricia Barratt, *Anti-Corruption Legislation – an International Perspective* (London: Clifford Chance, 2005).

Actors in Corruption

Criminal law prosecutes offenders, regardless of whether they are on the originating or on the receiving end of corruption, or facilitate corruption and the distribution of its rewards. The Council of Europe's Criminal Law Convention on Corruption, for example, covers both active and passive bribery of domestic and foreign public officials, of national and foreign parliamentarians and members of international parliamentary assemblies, of international civil servants, as well as of domestic, foreign and international judges and officials of international courts. In 2003, domestic and foreign arbitrators and jurors were added to the list of potential actors in corruption offenses.[3]

Trading in Influence

The Criminal Law Convention covers both the public and the private sector. In addition to the more immediate rewards, it requires that criminal law prosecutes trading in influence. According to Article 12 of the convention, its parties "shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making" of the officials defined above "in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result."[4]

Corporate Liability

Companies are also liable according to criminal law in cases where the briber acts for their account or on their behalf and the bribed person is a public official, irrespective of whether the undue advantage is actually for himself or for someone else. The corporate liability does not exclude in any manner criminal proceedings against the individual involved in corruption.

Sanctions

International conventions require that the sanctions for corruption offenses are effective, proportionate and dissuasive. That may include penalties involving deprivation of liberty of natural persons, which can further give rise to extradition.

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[3] Council of Europe, *The Additional Protocol to the Criminal Law Convention on Corruption* (Strasbourg, 15 May 2003).

[4] Council of Europe, *Criminal Law Convention on Corruption*, ETS No. 173, Article 12.

Sanctions should be seen as fair and have a preventive effect. Box 15.3 identifies a set of general principles in criminalising corruption.

Box 15.3. General Principles in Criminalising Corruption

The TI Source Book 2000 identifies the following eight principles that have to be followed in criminalising corruption:

1. Laws against corruption should comply with international human rights standards and afford a fair trial to those accused. It is crucial that criminal laws against corruption respect human rights guarantees, under a Constitutional Bill of Rights or an international code, to ensure specific procedures are not struck down by the courts as being unconstitutional.

2. Laws should not be seen as being unduly repressive. They should enjoy popular public support. If not, they risk a lack of enforcement.

3. There should be clear guidelines on sentencing so that sentences are consistent between one offender and another, and fair, but not outrageously punitive.

4. Combining the various criminal laws dealing with corruption and secret commissions together in a single law has much merit. It reduces the possibility of loopholes and can demonstrate the seriousness with which the law treats this form of behaviour by making it plain that anti-corruption offences apply to the public and private sectors alike. Whichever course is chosen, the offence of giving and receiving "secret commissions" should be provided for.

5. Regular reviews of the criminal law framework (including laws of evidence and of the adequacy of existing penalties) are essential.… For example, the criminal law should be able to redress corrupt corporate practices such as "bidding rings" for public contracts, in which apparent competitors collude among themselves to decide who will get a particular contract and at what price.

6. Special provisions may be necessary in corruption cases which require individuals, once they are shown to be wealthy beyond the capacity of known sources of income, to establish the origins of that wealth to the satisfaction of the court.

7. Special provisions will be needed to ensure that the proceeds of corruption can be recaptured by the state as they will often be in the hands of third parties or even located out of the country. The criminal law should provide for the tracing, seizure, freezing and forfeiture of illicit earnings from corruption.

8. Provisions will also be needed to ensure that the crime of corruption is seen to include both the payment as well as the receipt of bribes.

Source: Pope, *Confronting Corruption* (2000), 270–72.

Freezing, Seizure and Confiscation

The sanctions may be monetary or include deprivation of liberty, or both. But the punitive measure alone may not suffice unless the gains from the corrupt activities are recovered by the state. Therefore, the legislation shall provide for depriving the individual from the rewards of the corruption offense.

Law shall enable the confiscation of proceeds of the corruption offence or property, the value of which corresponds to that of such proceeds, as well as property, equipment or other instrumentalities used in or destined for use in corruption offences.[5] The UN Convention Against Corruption further stipulates that if the proceeds "have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds."[6] The same applies for income or other benefits derived from such proceeds or property.

Money Laundering of Proceeds from Corruption Offences

The success of a criminal enterprise, such as corruption, depends on its ability to sanitize its ill-gotten gains by moving them through lax or corrupt national financial systems, or to evade national restrictions through offshore banking, secret financial havens and the like. Box 15.4 describes the threat of allowing culprits to evade national legal regulations. The threat of laundering multiplies when it "allows criminals and terrorists to operate freely, using their financial gains to expand their criminal pursuits and fostering illegal activities such as corruption, drug trafficking, arms trafficking, smuggling, and financing of terrorism."[7]

Therefore, the laundering of proceeds deriving from corruption offences, including bribery and trading in influence, shall also be criminalised. The Council of Europe's *Criminal Law Convention on Corruption* refers in that regard to the *Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime*,[8] also adopted in the framework of the Council of Europe.

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[5] United Nations Office on Drugs and Crime, *United Nations Convention Against Corruption* (New York: United Nations, 2004), Article 31 (1), http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

[6] Ibid., Article 31 (5).

[7] The World Bank Institute "Governance & Anti-Corruption" Learning Program: Money Laundering.

[8] Council of Europe, *Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime*, ETS No. 141 (1990). See also: Council of Europe*, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (Warsaw: 16 May 2005), http://conventions.coe.int/Treaty/EN/Treaties/HTML/198.htm.

> ### Box 15.4. Evading National Legal Regulations
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> Offshore banking, secret financial havens, money laundering and corruption steadily corrode the foundations of the nation-state. Offshore tax havens, spread by new computing and tele-communications, provide an unprecedented tax shelter, enabling rich citizens and corporations to escape the national tax system – eroding the tax base, weakening state finance and under-mining the legitimacy of the tax system in the eyes of ordinary citizens. Offshore havens also promote money laundering, aiding criminal antisocial activities of all kinds, beyond the detection of national authorities. Corruption of public officials flourishes under such conditions, further eroding the capacity of the state to operate "legally" and to command the loyalty of its ordinary citizens.
>
> *Source:* Global Policy Forum website, "State Sovereignty and Corruption," www.globalpolicy.org/nations-a-states/ state-sovereignty-and-corruption.html.

The same applies to accounting offences, including acts or omissions, when committed intentionally, in order to commit, conceal or disguise corruption offences. Such account offences may involve the creation or the use of an invoice or any other accounting document or record containing false or incomplete information, as well unlawful omission to make a record of a payment.

Special Powers

There is wide international agreement that the effective prevention and prosecution of corruption offenses may require some special powers, such as utilising specialized authorities, the use of special investigative techniques and the admission of the evidence from the application of such techniques in court proceedings.

The Council of Europe Criminal Law Convention calls for introduction of measures as necessary to ensure that persons or entities are specialised in the fight against corruption through law enforcement (Article 20). These persons or entities shall have the necessary independence in accordance with the fundamental principles of the country's legal system in order to be able to carry out their functions effectively and free from any undue pressure. It has to be assured also that the staff of such entities has adequate training and financial resources in line with the tasks assigned.

It should be further noted that the independence of specialised authorities for the fight against corruption cannot be absolute. Their activities should be integrated and coordinated to the maximum extent possible with more traditional law enforcement work. They are independent only as much as is necessary to properly perform their functions.[9]

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[9]   Council of Europe, *Explanatory Report*, Criminal Law Convention on Corruption, ETS No. 173, item 99.

South Africa's jurisdiction on such specialised authorities is presented in Box 15.5.

Box 15.5. Statute of a Special Investigating Unit

In conditions specified by law, the president of South Africa may establish a Special Investigating Unit in order to investigate matters of corruption, to refer such matters to an existing Special Investigating Unit for investigation, and to establish one or more Special Tribunals to adjudicate upon justifiable civil disputes emanating from any investigation of any particular Special Investigating Unit (SIU).

The SIU jurisdiction is to investigate alleged cases of:

   a) Serious maladministration in connection with the affairs of any state institution;
   b) Improper or unlawful conduct by employees of any state institution;
   c) Unlawful appropriation or expenditure of public money or property;
   d) Unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon state property;
   e) Intentional or negligent loss of public money or damage to public property;
   f) Corruption offences committed in connection with the affairs of any state institution; or
   g) Unlawful or improper conduct by any person which has caused or may cause serious harm to the interests of the public or any category thereof.

The functions of a Special Investigating Unit are:

   a) To investigate all allegations regarding the matter concerned;
   b) To collect evidence regarding acts or omissions which are relevant to its investigation and, if applicable, to institute proceedings in a Special Tribunal against the parties concerned;
   c) To present evidence in proceedings brought before a Special Tribunal;
   d) To refer evidence regarding or which points to the commission of an offence to the relevant prosecuting authority;
   e) To perform such functions which are not in conflict with the provisions of this act, as the president may from time to time request;
   f) From time-to-time, as directed by the president, to report on the progress made in the investigation and matters brought before the Special Tribunal concerned;
   g) Upon the conclusion of the investigation, to submit a final report to the president; and
   h) To at least twice a year submit a report to parliament on the investigations by and the activities, composition and expenditure of such a unit.

Source: Special Investigating Units and Special Tribunals Act No. 74 of 1996, *Government Gazette* 26311 (South Africa: 28 April 2004), www.siu.org.za/legislation/act2005.pdf.

Article 50 of the UN Convention Against Corruption calls for authorising the use of special investigative techniques, as well as to admit the evidence from the application of such techniques in court proceedings (see Box 15.6 for details). The area of defence is not excluded from the use of special powers and techniques.

Box 15.6. Special Investigative Techniques

In order to combat corruption effectively, a country—to the extent permitted by the basic principles of its legal system and in accordance with the conditions prescribed by law—shall take such measures as may be necessary to allow for the appropriate use by its competent authorities of controlled delivery and, where appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

States Parties to the Convention are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level.

In the absence of such an agreement or arrangement, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

Source: United Nations Office on Drugs and Crime, *United Nations Convention Against Corruption* (New York: United Nations, 2004), Article 50, 41.

Protection of Witnesses, Experts, Victims and Reporting Persons

In order to fight corruption effectively, countries need to introduce an appropriate system of protection for witnesses and other persons cooperating with the judicial authorities. That includes appropriate legal frameworks, as well as financial resources. Moreover, "provisions should be made for the granting of immunity or the adequate reduction of penalties in respect of persons charged with corruption offences who contribute to the investigation, disclosure or prevention of crime."[10]

The level of protection should be "effective" and "appropriate" vis-à-vis the risks that exist for collaborators of justice, witnesses or whistleblowers. In some cases it

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[10] Conclusions and Recommendations of the 2nd European Conference of Specialised Services in the Fight Against Corruption (Tallinn, October 1997), as quoted in Council of Europe, *Explanatory Report*, Criminal Law Convention on Corruption, ETS No. 173, item 108.

could be sufficient, for instance, to maintain their name undisclosed during the proceedings, in other cases they would need bodyguards, in extreme cases more far-reaching witness protection measures such as change of identity, work, domicile, etc. might be necessary.[11]

Countries are expected to incorporate into their domestic legal systems appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning corruption offences.[12]

The US extends that concept to persons involved in the corruption offence, encouraging them to come forward and offer evidence. The first person "involved in a Securities And Exchange Commission offence who 'blows the whistle' is granted automatic immunity."[13] A simple measure like this can break the silence over an otherwise seen as mutually beneficial and highly secretive act.

International Cooperation in Enforcing Anti-corruption Legislation

The international community has invested considerable efforts in devising and implementing a body of legal regulations and requirements aimed to curb corruption. The enforcement of the respective body of legislation, which is predominantly national, requires extensive international cooperation. Towards this purpose, the UN Convention Against Corruption, for example, thoroughly treats the issues of extradition, transfer of sentenced persons, mutual legal assistance, transfer of criminal proceedings, law enforcement cooperation and the conduct of joint investigations.

Other conventions, such as the Criminal Law Convention of the Council of Europe, elaborate the further organizational and information exchange aspects of international cooperation in the fight against corruption. The intention is to provide means and channels of international cooperation, where procedural and sometimes political obstacles delay or prevent the prosecution of the offenders in cross-border cases of corruption.

International conventions also introduce monitoring mechanisms and usually envision programmes for assisting individual countries in combating corruption.

International criminal anti-corruption regulations often include provisions aimed to facilitate both the preventive and the punitive effects, such as provisions for access to information. These aspects will be treated later in the chapter, following the examination of civil law and administrative measures against corruption.

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[11] Council of Europe, *Explanatory Report*, Criminal Law Convention on Corruption, ETS No. 173, item 113.

[12] United Nations Office on Drugs and Crime, *United Nations Convention Against Corruption* (New York: United Nations, 2004), Article 33.

[13] Pope, *Confronting Corruption* (2000), 273.

Finally, Article 61 of the UN Convention Against Corruption envisions international exchange of information and best practice. It requires participating to "consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption."

Civil Law

Civil law enables persons who have suffered damage as a result of corruption to defend their rights and interests or may empower citizens to enforce anti-corruption laws where public authorities fail to do so. The reasons to go beyond criminal law in persecuting corruption offences are summarised in Box 15.7.

The Civil Law Convention on Corruption of the Council of Europe in Article 2 defines corruption as "requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof."

Box 15.7. Criminal Law does not Suffice to Counter Corruption Offences

The first line of attack in combating corruption is the criminal justice system and a successful prosecution is certainly first prize. It not only leaves society with a sense of vindication but is also a strong deterrent against would-be perpetrators. Practice has shown, however, that the criminal justice system alone does not contain sufficient weaponry to ensure victory over the perpetrators of corruption. Corruption is normally committed in a clandestine manner to ensure that it is as difficult as possible to discover. Even if it is discovered, complex schemes are used to unsure that it is difficult to prove.

The result is that it is often extremely difficult to obtain sufficient evidence to secure a conviction. This problem is compounded by the scarcity of eyewitnesses, the need to rely on admissible documentary evidence, the shortage of skilled prosecutors in this field and the burden of having to prove your case beyond a reasonable doubt. The confidence of society is often decreased further because courts often do not impose very serious sentences for economic crime, despite legislation that prescribes a 15 year sentence for economic crime involving more than R500 000. Finally, perpetrators are often released from prison long before they have served the sentences imposed by the courts. The result is that the public is left with the perception that the bad guys outgun the authorities and that crime pays. Thus it became clear that society needs more weapons in its arsenal to fight corruption.

Source: Willie Hofmeyr, *The Use of Civil Law in Combating Corruption*, Head of Special Investigating Unit, South Africa, http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Hofmeyr.pdf.

International conventions treat comprehensively the use of civil law remedies against any form of corruption, addressing topics such as:

- Determination of the main potential victims of corrupt behaviours;
- Problems of evidence and of proof of the causal link between acts and damage;
- The fiscal aspects of illicit payments and their relation to the distortion of competition;
- Validity of contracts;
- Role of auditors;
- Protection of employees;
- Procedures, including litigation costs, and international cooperation.[14]

A key difference with the application of civil law comes with the reversal of the burden of proof and requesting the provision of "credible evidence." For example, when a person in a position of trust has accumulated considerable wealth that could not have come from his or her official salary, the investigating agency makes a formal request and then it is up to the person to provide an explanation. When the individual fails to give a likely explanation, the matter may go to a court hearing.[15]

The Inter-American Convention Against Corruption, for instance, expresses this concept in the following terms:

Subject to its Constitution and the fundamental principles of its legal system, each State Party that has not yet done so shall take the necessary measures to establish under its laws as an offense a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions.[16]

One potentially powerful approach, known as "Qui tam," is ingrained in US legislation and may be worthy of consideration by others. It is briefly presented in Box 15.8.

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[14] For details, the reader may refer to Council of Europe, *Explanatory Report*, Civil Law Convention on Corruption, ETS No. 174, http://conventions.coe.int/Treaty/EN/Reports/Html/174.htm.

[15] Pope, *Confronting Corruption* (2000), 275.

[16] *Inter-American Convention Against Corruption*, adopted by the Organization of American States (March 1996), Article IX, www.oas.org/juridico/english/Treaties/b-58.html.

Box 15.8. *Qui tam*, or "who brings the action for the king also does so for himself"

The roots of this approach lie in mediaeval England as early as 1424, where someone who uncovered evidence of illegal conduct was rewarded with a share of the penalties paid by the wrongdoer. Early in its own life, the US Congress imported the notion into almost all of the first 14 American statutes which imposed penalties. The present-day US False Claims Act had its origins in the American Civil War, where the large-scale fraud of government contractors cheated the Union out of resources it could ill afford to lose. Congress and the president sought to enlist the support of private individuals in the struggle to root out fraud and swell the state's coffers.

Quite simply, the government had neither the time nor the resources to address the issue effectively and by empowering members of the public to act in its name (and share in the proceeds recovered), they increased the risk factor, unlocked private enthusiasm and, ultimately, recovered billions of dollars which would otherwise have been lost to the state. This would seem to be an attractive position for governments who find themselves in the same position today.

The approach has been strengthened over the years and in 1986 Congress described it as the government's "primary litigative tool for combating fraud." Similar provisions also apply in other federal statutes, such as the area of patent infringement.

The US False Claims Act creates a civil liability where false transactions have taken place (which capture deliberate ignorance and reckless disregard of truth or falsity as well as actual knowledge), and there is no requirement of a specific intent to defraud. As the court actions are civil in nature—not criminal—the facts do not have to be established "beyond reasonable doubt" but to the slightly lower standard applicable in civil cases.

Defendants face a minimum penalty of $5000 for every separate false claim, plus three times the amount of damage caused to the government by the defendant's acts.

"Qui tam" actions can be started by individuals (they do not have to wait for the government to take action) and there are protections for whistleblowers to safeguard them against reprisals. The government is served with copies of the proceedings and has 60 days in which to decide whether the Department of Justice will intervene and take over primary responsibility for conducting the action. Even where it does, the original claimant has a right to remain as a party to the action, so it cannot be settled without the originator being heard on the issue. At the end of the day, a successful private claimant receives either 10 percent of the sum recovered (where the government takes the action over), or 25 percent (where it has not).

There are safeguards against frivolous claims. The government can intervene and settle the claim, or else can ask the court to strike it out. The court can also restrict the originator's part in the litigation where unrestricted participation would be for the purposes of harassment. And where the claim fails because the claim was frivolous or vexatious, the court may award reasonable legal fees and expenses against the claimant. Some claimants have received million dollar awards and the resulting publicity may encourage others to come forward.

Source: Pope, *Confronting Corruption* (2000), 280–81.

Voluntary Guidelines

Codes of Conduct for Public Officials

Voluntary guidelines have an impact on individual and corporate behaviour that complements the preventive power of potential coercive measures against corruption offences established by law. In the area of defence, such guidelines, most often in the form of "codes of ethics" or "codes of conduct," build on the specific corporate culture of the military and other defence personnel. The overwhelming majority of people in defence take pride in serving the nation and its people and strongly resent any act that puts a stain on the establishment. In such an environment, voluntary regulations of both individual and organisational behaviour can make a real change.

The main requirements to the conduct of individuals in public service are outlined in Article 8 of the UN Convention Against Corruption. Furthermore, both the United Nations and the Council of Europe have adopted model codes of conduct for public officials. These codes identify general principles of integrity for public officials and address specific issues such as conflicts of interest, the misuse of confidential information and the acceptance of gifts and hospitality.

The International Code of Conduct for Public Officials assumes a public office is a position of trust and hence the ultimate loyalty of public officials shall be to the public interests of their country as expressed through its democratic institutions.[17] It further stipulates that public officials shall perform their duties and functions efficiently, effectively and with integrity, and shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.

Conflict of Interest. A public official should not allow his or her private interest to conflict with his or her public position. The public official's private interest includes any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent. The public official should never take undue advantage of his or her position for his or her private interest both during office and after leaving their official positions.[18]

Disclosure of Assets. According to their position and as permitted or required by law and administrative policies, public officials shall comply with requirements to de-

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[17] *International Code of Conduct for Public Officials*, adopted by the UN General Assembly in resolution 51/59 (12 December 1996), www.un.org/documents/ga/res/51/a51r059.htm.

[18] Ibid. See also: Council of Europe, *Codes of Conduct for Public Officials*, Recommendation Rec(2000)10 and explanatory memorandum (Strasbourg: Council of Europe Publishing, January 2001).

clare or to disclose personal assets and liabilities, as well as those of their spouses and/or dependants, if possible.

Acceptance of Gifts or Other Favours. Public officials should not solicit or receive directly or indirectly any gift or other favour that may influence the exercise of their functions, the performance of their duties or their judgement. Usually, officials are allowed to receive some symbolic gifts, when the monetary value of such token gifts combined, per year, is under a certain threshold.

Confidential Information. The public official has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her employment. Such restrictions also apply after leaving public office. Confidentiality can be broken only when national legislation, the performance of duty or the needs of justice strictly require otherwise.

In addition, codes of conduct of public officials often include, *inter alia*, clauses defining:

- Conditions under which they need to report to the competent authorities actual, intended, or requested breaches of the code, the law and administrative procedures;

- Requirements for regular declaration of interests;

- Requirements not to engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties;

- Rules on how to react to improper offers; and/or

- A requirement not to give preferential treatment or privileged access to the public service to former public officials.[19]

Observance of the code. Such codes of conduct are issued under the authority of the respective minister or the head of the public service. The public official has a duty to conduct himself or herself in accordance with this code and therefore to keep himself or herself informed of its provisions and any amendments. He or she should seek advice from an appropriate source when unsure of how to proceed. The provisions of the code form part of the terms of employment of the public official. Breach of them may result in disciplinary action. The public official who negotiates terms of employment should include in them a provision to the effect that this code is to be observed and forms part of the employment contract. Subsequently, the official who supervises or manages other public officials has the responsibility to see that they observe the code and to take or propose appropriate disciplinary action for breaches of it.

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[19] For details on these and other clauses see *Codes of Conduct for Public Officials.*

And finally, the public administration regularly reviews the provisions of the code of conduct and amends it as appropriate.[20]

Codes of Conduct in the Private Sector

Just like in the public sector, companies also have codes of conducts that treat corrupt behaviour of their employees among other unacceptable conduct. Chapter 20 provides examples of codes of conduct of major defence suppliers.

On the international stage, the Organization for Economic Co-operation and Development gave momentum to the inclusion of corruption and its cross-border manifestations with the 1999 Convention on Combating Bribery of Foreign Officials in International Business Transactions.[21] The stipulations of the convention are fully applicable to arms trade.

Bribery and conflict of interest are among the most commonly addressed behaviours in codes of conduct. Academic analysis even concludes that the presence or absence of a bribery policy is a key indicator of the overall ethicalness of a company.[22]

On the other hand, empirical research leads to the conclusion that various types of corporate behaviour are generally unaffected by international codes and more closely affected by other factors. Nevertheless, research establishes that codes of conduct may have a positive impact. For example, corruption is not directly decreased by codes but codes open a more formal and constructive dialogue and thus contrast positively.[23]

In combination with government regulation and codes of conduct of professional associations, corporate codes of conduct are suggested as effective ways of implementing industry wide change in conflict of interest and bribery policy.[24]

There are a number of defence-related professional associations with codes of ethics. In the US, for example, most of the major defence contractors belong to the Defense Industry Initiative (see Box 20.1). In Europe, similar activities are conducted in the framework of the Aerospace and Defence Industries Association of Europe (ASD),

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[20] Ibid., 14, Article 28.

[21] Organization for Economic Co-operation and Development, *Convention on Combating Bribery of Foreign Officials in International Business Transactions* (February 1999), www.oecd.org/document/21/0,3343,en_2649_34859_2017813 _1_1_1_1,00.html.

[22] Bert Scholtens and Lammertjan Dam, "Cultural Values and International Differences in Business Ethics," *Journal of Business Ethics* 75:3 (2007): 273–84, as quoted in A. Scott Carson, Mark Baetz, Shelley McGill, *Codes of Conduct in the Private Sector* (Toronto: EthicsCentre CA, April 2008), 16, www.ethicscentre.ca/EN/resources/ethicscentre_codes_april08.pdf.

[23] Carson, Baetz and McGill, *Codes of Conduct* (2008), 13.

[24] Ibid., 19.

and they resulted in "Common Industry Standards for European Aerospace and Defence." Box 20.2 provides a brief description of the ASD ethics and anti-corruption activities.

Integrity Pacts

Transparency International came forward with an innovative form of integrity building and promoting proper conduct on the side of both public officials and defence suppliers. The so-called "Defence Integrity Pacts" are designated to curb corruption in defence contracting. The idea, briefly presented in Box 15.9, has been implemented in Poland. Other NATO and partner countries are making the first steps in introducing Defence Integrity Pacts. The Ministry of Defence of Bulgaria, for one, considers making such pacts obligatory for high value defence procurements.

As in the examination of corruption risks and codes of conduct of public officials and defence suppliers, such voluntary frameworks are strengthened by governmental regulations. Box 7.7 provides an example of US federal regulations, requiring that defence contractors have ethics programmes and subjecting contractors to suspension

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Box 15.9. Defence Integrity Pacts

Integrity Pacts are tools developed by Transparency International to tackle corruption in public contracting. These have since been developed for application to defence procurement.

A Defence Integrity Pact usually contains three main features:

- A short contract in which all bidders and the procuring organisation agree to certain specified no-bribery pledges and the bidders agree to enhanced disclosure rules. Bidders also agree to sanctions, including withdrawal from the tender, in the event they are found in violation of the agreed pledges.

- An Independent Monitor who ensures that all the parties abide by their commitments under the pact. This usually includes the use of an independent technical expert who reviews the tender documents for undue or corrupt influence and who is available to bidders in case of concern or complaint.

- More public transparency of documents and processes. This also allows greater scope for input from the public and civil society, and enhances confidence in the process through increased transparency.

A sample Defence Integrity Pact is available on Transparency International's Defence Against Corruption website, at: www.defenceagainstcorruption.org/index.php?option=com_docman&task=doc_download&gid=37.

Source: Mark Pyman, *Building Integrity and Reducing Corruption Risk in Defence Establishments: Ten Practical Reforms* (London: Transparency International – UK, April 2009), 36.

and debarment from government contracting for failing to abide by such program-mes.[25]

The cross-border application of this principle, i.e. introducing internationally valid debarment[26] for corruption offenses, might turn into an even more powerful instrument in curbing corruption related to the procurement of defence products and services.

Access to Information, Transparency and Governance

Most of the regulations discussed so far could not be effectively enforced unless the activities of public officials are transparent and the government is accountable to the people. The UN Convention Against Corruption sets explicit requirements for transparency and accountability (Article 10). It requests that countries take such measures as may be necessary to enhance transparency in their public administration. Among the measures prescribed by the UN convention in order to enhance transparency and accountability are:

- Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

- Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

- Publishing information, which may include periodic reports on the risks of corruption in its public administration.

A relatively simple measure with a solid preventive effect is to make publically available the information on the assets of public officials once they come into office and to update that information on a regular basis.

Transparency may be considerably enhanced by introduction of a law on the freedom of information. Thus, by law, members of society will have guaranteed access to information. National experience in that regard differs. Some laws limit access by applying only to information related to public functions or information of public importance, or by requiring requesters to give reasons why he or she needs the information. As a rule, however, access to information should apply to "all information held, re-

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[25] In this particular case, for knowingly failing to disclose violations of the False Claims Act in connection with the award or performance of government contracts and subcontracts and failing to disclose receipt of overpayments on government contracts in a timely manner.

[26] Just like debarment of a company by one US department bars it from getting contracts from any federal department.

gardless of form, source, date of creation, official status, whether it was created by the body that holds it, and whether it is classified."[27]

In terms of ways of facilitating access, a freedom of information law should meet several international standards providing for:

- The right to make oral requests;
- An obligation for public bodies to appoint information officers to assist requesters;
- An obligation to provide information as soon as possible and, in any case, within a set time limit;
- The right to specify the form of access preferred, such as inspection of the document requested, an electronic copy, or a photocopy; and
- The right to written notice, with reasons, for any refusal of access.[28]

Recent work by the World Bank calls for promoting the access to information and transparency in the judicial branch, making it more democratic and open to citizens. That issue has two dimensions – providing access to information and transparency regarding the administrative functioning of the judiciary, as well as its jurisdictional functions. The first dimension covers budget issues, assets and income disclosure statements, and court statistics, transparency and citizen participation in the process to appoint judges, while the second treats the publication of court sentences, access to case files in corruption cases and disciplinary procedures of judicial officials.[29]

Good governance is the basis of the strategic approach to reducing defence corruption risks, adopted in this compendium. Much in that regard can be accomplished administratively and without any need to reform the law at all. That includes measures to abolish unnecessary licences, streamline procedures, limit areas of discretion (and defining criteria where they are necessary), creating avenues for citizens to complain effectively, and many others.[30]

Both part II and part III of the compendium provide examples in enhancing good governance in defence, and the impact respective practices have on curbing defence corruption.

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[27] Toby Mendel, "Legislation on Freedom of Information: Trends and Standards," *PREMNotes*, No. 93 (World Bank, October 2004), http://siteresources.worldbank.org/PSGLP/Resources/premnote93.pdf.

[28] Ibid., 2.

[29] Alvaro Herrero and Gaspar Lopez, *Access to Information and Transparency in the Judiciary*, WBI Working Paper (Buenos Aires, Asociación por los Derechos Civiles, April 2009), http://go.worldbank.org/IIB514XG10.

[30] Pope, *Confronting Corruption* (2000), 270.

In that respect, the 1993 US Government Performance and Results Act provides an example of a comprehensive framework for limiting waste and inefficiency of government, addressing adequately vital public needs and maintaining public confidence. The act is intended to:

1) Improve the confidence of the American people in the capability of the Federal Government by systematically holding federal agencies accountable for achieving program results;

2) Initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals and reporting publicly on their progress;

3) Improve federal program effectiveness and public accountability by promoting a new focus on results, service quality and customer satisfaction;

4) Help federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;

5) Improve congressional decision making by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of federal programs and spending; and

6) Improve internal management of the federal government.[31]

In sum, the act requires introduction in all governmental agencies of strategic planning, annual performance plans and reports, and performance budgeting, while providing for managerial accountability and flexibility. Box 15.10 presents an example of educational support to the implementation of the US Government Performance and Results Act throughout the defence establishment.

Conclusion: On the Importance of Legal Regulations

It is beyond doubt that the efforts to curb corruption in defence, as in most sectors of public activity, have to be based on an adequate legal framework. That framework should provide for prevention of corruption, prosecution of offenders and confiscation of the rewards from corruption offences, while protecting victims, witnesses and whistleblowers. The enforcement of such coercive mechanisms requires a level of access to information and international cooperation, adequate to the realities of the globalised world.

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[31] The White House, Office of Management and Budget, *Government Performance Results Act of 1993*, www.whitehouse.gov/omb/mgmt-gpra_gplaw2m.

Box 15.10. Educational Support to Performance Management

The Information Resource Management College—part of the US National Defense University in Washington—provides education to mid-career and senior defence officials, both military and civilian, in performance management and related disciplines.

The Advanced Management Program is a 14-week resident graduate program. Three of its core courses directly support the increase of performance in defence:

- The course "Policy Foundations of Information Resources Management" presents public sector resource management concepts, policies and policy constituencies, focusing on the application of these concepts and policies as mechanisms of modern governance. It focuses on the application and interaction of financial, information and human resources to achieve legislative and policy goals and accomplish agency missions.

- The course "Measuring Results of Organizational Performance" provides strategies and techniques for assessing an organization's performance results as part of strategic planning or budgeting processes. It leverages lessons learned from inter-agency experience concerning approaches and resources required to establish and validate performance measurement instrumentation, collect and organize performance data, and analyze and report results.

- The course "Strategies for Process Improvement" focuses on strategies, methods and resources for improving, managing and controlling processes within and across federal agencies.

Source: National Defense University, Information Resources Management College website, "Advanced Management Program (AMP)," www.ndu.edu/irmc/pcs/pcs_amp.html.

In the review of criminal and civil anti-corruption legislation we need to recognise the interconnections between different strategies. For example, removing the controls on press freedom will be of little consequence if reporters do not have adequate access to government data. Likewise, efforts to enhance anti-corruption laws would not bring expected results if law enforcement is weak and corrupt.

When legislation is enforced effectively, regular reviews and updates will allow for changing corrupt practices and evolving technological means to exchange benefits and launder money. On the other hand, when legislation is fairly good but the enforcement is weak, we should not concentrate excessively on the legal framework but focus instead on improving the institutional mechanisms and drawing civil society and the private sector into the integrity building reform.

Voluntary guidelines, streamlined administrative procedures, increase of transparency and enhancement of management mechanisms, parliamentarian oversight and societal involvement—treated in the remaining chapters of this compendium—contribute to the institutional capacity to counter defence corruption.

Chapter 16
The Human in the Loop

Whatever the legislative and organisational framework, it is people who make up the defence establishment. The fundamental objective, therefore, of anti-corruption efforts in defence is to influence human behaviour: to promote professional and ethical behaviour and discourage the use of public office for private gain. Chapter two set out two approaches to doing that. The first dissuades corrupt action by increasing the moral cost or "moral burden" of corruption. The second aims to deter corruption by increasing the perceived risks, through a combination of increasing the probability of detection and increasing the probability of punishment. Three specific tools were introduced to help achieve these goals: building integrity, increasing transparency and improving accountability.

This chapter will expand on these approaches and tools. In considering how best to understand and influence the actions of particular individuals, it will consider the drivers of behaviour as well as the broader organisational contexts in which those drivers exert their influence. It will also consider how organisations can best reinforce positive ethical and professional behaviours, as well as discourage unethical behaviour. Finally, it will consider how to help shape the organisational environment in which individuals make ethical decisions.

Drivers of Human Behaviour

Behaviour encompasses all human actions or, in scientific terms "the combination of observable and describable responses of an agent to internal and external stimuli." Ethical actions are a subset of overall behaviour. Behaviour can be conscious or subconscious, overt or covert, voluntary or involuntary, and include any externally visible action that a person can take like talking, moving and expressing emotion. Behaviour is conditioned both by internal drivers (within the person) and by the environment. Internal drivers include heredity, knowledge, personality, attitude, values, abilities and needs. Environmental drivers include social drivers (derived from other people), physical drivers (climate, topography, infrastructure, objects) and events.

Specific behaviours are humans' effort to influence our environment to meet our needs. These needs are manifested in our consciousness as desires but described scientifically in both their conscious and unconscious forms as "drivers." The consequences, both intentional and unintentional, of behaviours create feedback, either directly, through our perception that a need was (or was not) met, or through social cues – the messages we receive from other people. That feedback then becomes an external driver influencing subsequent behaviour. Feedback is reinforced through consistency and can be internalized, for example through the adoption of societal norms.

Behaviours often have unintended positive or negative consequences, which can be in relation to the need targeted, as well as tangential or completely separate areas. Perceiving feedback in these latter circumstances may be difficult, since the logical connection between the behaviour and the feedback may not be so obvious. For example, on receiving a prestigious award, a person may accurately perceive that it was the result of many hours of voluntary after-hours work. Yet the same person may not perceive that co-workers resent the award and fear the expectation that they, too, should put in unpaid overtime.

All needs are not created equal. In the mid-twentieth century, psychologist Abraham Maslow noted that certain needs, when unmet, are more powerful drivers of behaviour than others. When humans are thirsty, we look for water before we search for food; when hungry, the search for food overshadows concerns about job satisfaction; when feeling insecure (physically, emotionally, financially) we find it difficult to focus on realizing our full human potential through "self-actualisation." Maslow suggested a five-layer "hierarchy of needs" in which it was essential to meet the needs of each lower layer before proceeding to higher ones.[1] Once lower order needs are met, however, they lose relevance as drivers of behaviour and the person increasingly looks to meet higher order needs. Maslow's hierarchy is still widely used today and is worth a closer look (see Figure 16.1 for a graphical representation). The hierarchy includes the following elements:

Physiological

The need for oxygen, food, water and a relatively constant body temperature are the most compelling. This layer also includes the need to be active, to rest, to sleep, to eliminate wastes, to avoid pain and to have sex. If deprived of these needs, they take first place in a person's search for satisfaction.

Safety/Security

When immediate physiological needs are satisfied and no longer drive behaviour, the need for safety and security awakens. This includes protection of our physical bodies and our health, as well as the resources that we rely on to meet our physical needs into the future. These can include material resources like money and property, social resources like family and employment, or even a more general desire for structure, order and limits.

Love/Belonging

When the need for physiological well-being and safety/security are satisfied, people become more aware of feelings of loneliness and alienation. These are manifestations

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[1]   First set out in Maslow's paper "A Theory of Human Motivation," *Psychological Review* 50:4 (July 1943): 370–396.
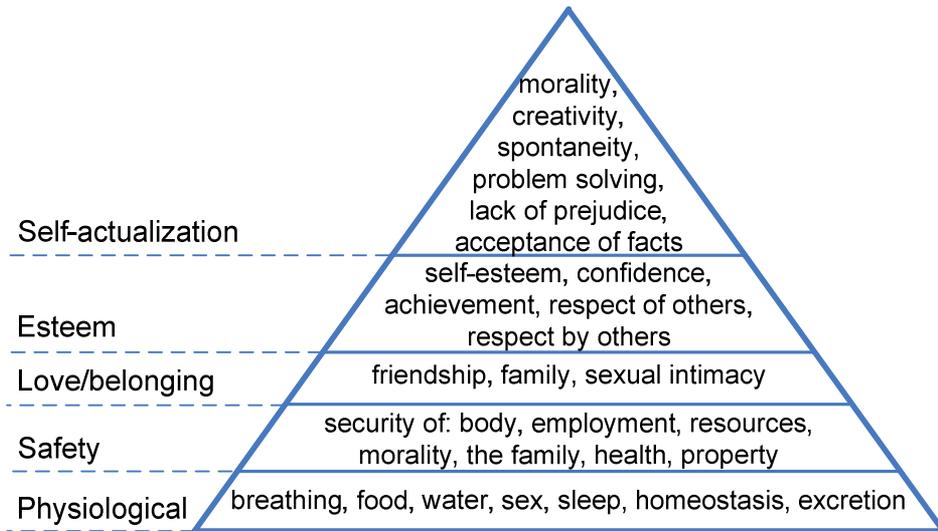
Figure 16.1: Maslow's Hierarchy of Needs.[2]

of a need for love, affection and belongingness (in the same way that hunger is a manifestation of the need for food) and are met by friendship, sweethearts, affectionate relationships and the sense of community. It involves expressing feelings for others, receiving their feelings for us and having a sense of belonging.

Esteem

When needs identified in the first three layers are satisfied, people focus on their desire to feel respected and valuable. Maslow identified two forms of this need. The first form is satisfied by expressions of respect from others, leading to feeling of status, recognition, appreciation, attention, reputation, dignity and even dominance (validated by others' submission). Maslow considered this to be a lower form of meeting the need for esteem because it is dependent on the actions of others. The second form is self-respect, including feelings like confidence, competence, achievement and self-reliance. Maslow considered this the higher form because it is less dependent on actions by other people.

Self-Actualisation

When all lower needs are satisfied, people focus on their need for "self-actualisation" – that is, the desire to express their unique abilities and role as an individual: "A musi-

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[2] Janet A. Simons, Donald B. Irwin and Beverly A. Drinnien, *Psychology – The Search for Understanding* (New York: West Publishing Company, 1987).

cian must make music, an artist must paint, and a poet must write." The responses needed to meet these needs include creativity, self-awareness, ethics and seeking knowledge. In practice, the application of these responses is highly individualistic, in contrast to the clear and fairly universal responses needed to meet needs in the lower four levels.

Understanding the basic dynamics of human behaviour—drivers, behaviour, consequences and feedback—is important to effective management and leadership. Maslow's hierarchy of needs provides a valuable additional tool to differentiate between and understand the various needs that drive workplace behaviour. It can also help in the design and targeting of anti-corruption efforts. For example, traditional deterrence efforts act at the level of security by threatening loss of pay, position, or freedom for those caught in corrupt activity. But these risks may have a reduced deterrent value for those individuals who today feel secure; with their attention focused on higher levels of needs—like relationships or esteem—they may be poorly attuned to risks at the level of security (until they become immanent). For such individuals, deterrents that put at risk relationships or reputation might prove more effective. The same can be said about efforts to build integrity, which in its pure "Kantian" form is most relevant to only that small portion of the population that is focused on moral self-actualisation. In sum, both deterrents and rewards should be designed to appeal to a wide cross-section of needs.

The Organisational Context

Before looking in more detail at promoting ethical behaviour, we will consider the organisational context in which that behaviour takes place. Traditionally, discussions of organisations begin with a structural diagram, move on to responsibilities and interrelationships, and then address key processes. The human element is often underrepresented. More useful for the purposes of countering corruption is an organisational behaviour approach, which focuses on systemic analysis of the interrelationship between individuals, groups, the organisation itself and the social system inside and around it. Some selected aspects of such an analysis are addressed below.

Individual behaviour, seen from the perspective of the relationship to the organisation, falls into three dimensions. A first dimension is *task performance:* the sets of activities and results that must be performed to produce the desired outputs. In most organisations, this dimension receives the most managerial attention, with the principle issue being the motivation of individuals and teams to increase efficiency and effectiveness. A second dimension is *ethical performance:* ensuring that activities are performed in a way that meets standards of ethics. At a minimum, this should be the standard of legality; ideally, it also includes efforts to live according to societal values of right and wrong. This dimension is the central focus of anti-corruption efforts, as well as compliance efforts more widely. The third dimension is *contextual performance:* activities that fall outside strict task performance but contribute to the effectiveness of co-workers, groups, or the organisation – that is, the broader context in which an individ-

ual works. This dimension is often somewhat neglected yet it represents an important long-term investment in shaping the organisational and cultural environment in which tasks are done and ethical choices made.

It is useful to note that anti-corruption efforts are but a piece of a wider ethical environment. Ethical issues are a part of daily business, even where there is little corruption. Common unethical behaviour includes cutting corners on quality control, covering up incidents, abusing or lying about sick days, deceiving customers and putting inappropriate pressure on co-workers. Surveys indicate that those who engage in unethical behaviour most often cite causes linked to management: pressure to meet budgets and quotas, weak leadership, insufficient resources, workload and lack of recognition. Personal financial problems come near the bottom of the list.

Personality consists of stable patterns of behaviour expressed over time. Personality is multi-faceted and varied; yet in terms of the way people accommodate to work, there are only three principle *organisational personality orientations*. These are:

- *Organisationalist*. Strong identification with the organisation for which they work; seek organisational rewards and advancement as important measures of success.

- *Professional*. Strong identification with the substance of work, rather than the organisation for which they do it.

- *Indifferent*. Identification is more focused on things outside of work.

For any given person, these factors coexist in a state of balance, with one usually dominant. They are a key driver of commitment. Other organisational commitment factors include continuance (the job is better than what else is out there), identity (strong belief in common goals and values) and normative (social pressures).

These personality-related factors have direct relevance to anti-corruption programs. Firstly, efforts to build integrity can gain important "psychological allies" if they are focused on positive changes that are aligned with organisational personality orientation. By focusing on a positive agenda of improving the organisation or task performance, rather than simply increasing the "moral burden" of corrupt action, a greater number of individuals can be mobilized to achieve positive systemic results – with the positive "secondary" side affect of reducing corruption. Such efforts will be most effective if they address a variety of the drivers of commitment—organisational loyalty, dedication to task performance, job security, ideology or social pressures—thus appealing to the widest possible group of officials.

Organisational issues can have a significant impact on individuals' susceptibility or resistance to corruption, as well as the success of integrity building efforts. These include issues such as structure and responsibilities, coordination and the decision-making processes. They also touch on motivational efforts and organisational culture, which will be addressed in later sections.

Structure is one of the characteristics of an organisation most visible from the outside and is—probably not coincidentally—one of the favourite targets for change in the

name of reform. Without addressing the merits of any particular structure, several human factors are worth mentioning. First, whatever the structure, it is important that responsibilities are clearly delineated, without overlap or gaps. This helps avoid unnecessary confusion and conflict, particular at the level of managers – a group of individuals that are often naturally competitive and protective of perceived prerogatives. Effective division of responsibilities can also help build integrity by ensuring that multiple stakeholders, each with a distinct institutional perspective and mandate, are involved in decision making. For example, in the area of personnel management, separate staff elements should be responsible for determining personnel requirements for strategic planning to develop human resources, for real-time career management for individual personnel and for program assessment. Similarly, in the area of procurement, separate staff elements should be responsible for requirements, planning, contracting and audit. This creates a system of natural checks and balances.

Effective mechanisms for *horizontal coordination* are vital for ensuring integrity and transparency. The coordination system should allow all stakeholders to share common information, make assessments based on their various institutional perspectives and openly discuss these with their peers in order to build bottom-up solutions. Information should flow freely, ideally using a system that "pushes" it to all relevant stakeholders. Regular inter-departmental meetings help ensure transparency; in their absence, coordination is done through more opaque informal mechanisms. It can help coordination and increase transparency if staff elements with closely related functions have a common senior sponsor (e.g. deputy minister). On the other hand, elements conducting oversight (e.g. audit departments, inspector generals) should not have a common senior sponsor with elements for which they are responsible.

Human factors also play an important role in ensuring integrity of *decision making*. Participants in decision-making processes should be clearly identified and they should have clear direction regarding legitimate inputs, desired outputs and decision criteria. Decision makers should disclose conflicts of interest, recusing themselves when appropriate, and provide transparency on their finances. Box 16.1 shows UN guidelines on conflict of interest for public officials.

Motivating Ethical Behaviour

Motivating sustained performance is a key managerial task in any organisation. The principle challenge in doing this is aligning organisational interests—task, ethical and contextual performance—with the needs of individuals for physiological satisfaction, security, belonging, esteem and self-actualisation. Motivation is best done through a combination of positive feedback mechanisms, such as:

- Praise, recognition and respect (which meet the need for esteem);
- Team-building, loyalty and good communication (which help build a sense of belonging);

> ## Box 16.1. UN Guidelines on Conflict of Interest for Public Officials
>
> II. Conflict of Interest and Disqualification
>
> Public officials shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.
>
> Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.
>
> Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.
>
> Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.
>
> *Source:* United Nations, *UN International Code of Conduct for Public Officials*, Annex, A/RES/51/59, 82nd plenary meeting (12 December 1996).

- Financial incentives (which meet the need for security and provide resources relevant to activities that meet higher level needs); and
- Advancement (which contributes to a sense of esteem and self-actualisation).

Motivation is increased when feedback is regularly repeated in response to good performance. Significantly, all of the motivators listed above are positive. Used rarely, negative reinforcement can discourage negative behaviours but it loses effectiveness if used too frequently. Negative reinforcement also has serious side affects in terms of morale and motivation, and only very limited usefulness in motivating positive performance. This underlines again the importance of a positive approach to countering corruption, using constructive feedback to link integrity, transparency and accountability to positive organisational and personal agendas.

Systemic corruption is an indication that an organisation's motivation mechanisms have failed and no longer provide sufficient prospects for individuals in the organisation to meet their needs. If the organisation is unable to provide a warm work environment or a wage sufficient to put food on the table then workers will call in absent rather than freeze and steal rather than starve. If the chain of command is unable to prevent threats and bullying from senior soldiers, servicemen will seek security by accommodating with these groups, even if the price of accommodation includes participation in

corrupt or other criminal behaviour. If the system is unpredictable and disorderly, indi-viduals will trust their career development to patrons and friends, rather than the per-sonnel department. If there is weak corporate identity, individuals will develop their sense of belonging in informal groups within the organisation. If the public esteem for the armed forces is low, then the value of "honest service" as a vehicle for esteem is diminished and the value of economic success "at any cost" comes to the fore. Finally, if the system is sufficiently dysfunctional, even dedicated professionals might see no alternative to illegal (but in their view ethical) action in order to get the job done.

The challenge, therefore, for building integrity in systems with entrenched corrup-tion is not just motivating ethical behaviour; rather, it is helping re-establish functioning motivation mechanisms in a way that will re-align individual and organisational incen-tives (see Box 16.2 for suggested guidelines). This requires particular attention to the issue of organisational culture.

Organisational Culture

In addition to structures, regulations and processes, each institution has its own or-ganisational culture. This is "the way business is done here" – a pattern of shared ba-sic assumptions and approaches that the group considers valid for meeting internal tasks and relating to external actors. It is actively taught to new members of the group as the correct way to perceive and act on those issues. It consists of three layers:

Box 16.2. Guidelines for Establishing Motivational Mechanisms

1. Establish clear expectations for performance in all areas: task, ethical, contextual. Publish clear policies and standards; establish a code of conduct for civil and military officials.

2. Establish procedures that are clear, accurate and work smoothly. Assessment, promotion and assignment procedures are seen as fairness issues and should be high on the agenda. Introduce incentives targeted to individuals at various levels on Maslow's hierarchy.

3. Train managers in the new policies and procedures. Make it clear that the goal is improving quality and performance by doing business in new, more effective ways.

4. Build ownership in efforts to create a new, functioning system through personal commitment by leadership, including frank (closed-door) discussions with civil and military managers and unit visits.

5. Use information efforts to reach out to servicemen, defence officials and the public. Out-reach to families can be an important tool in acceptance of the new standards (and any resul-tant loss of income).

6. Have clear, proportional sanctions for violations. Conserve resources by focusing on admin-istrative punishment for procedural violations, rather than criminal proceedings. Nevertheless, a few well-publicized (and well-deserved) cases of punishment early will raise awareness of the new expectations.

7. Regularly review progress with all major stakeholders.

- Those visible to the outside world, including the way the organisation presents itself in facilities, furnishings and dress codes, as well as how it conducts its external interactions;

- The professed internal culture, including mission statements, slogans, codes of conduct and personal values widely expressed throughout the organisation;

- Tacit assumptions, which are unseen and assumed, not generally identified in everyday interactions inside the organisation; some "unspoken rules" may exist subconsciously, and others may be taboo (or discussed only during smoke breaks).

While the first level can be observed, and the second identified through surveys and interviews, it is difficult for outsiders (including new leadership) to understand culture at the third level. This is one of the reasons why organisational culture is the most difficult organisational attribute to change, outlasting organisation, processes, leadership and all other physical attributes of the organisation. Another reason for its resilience is that organisational culture is driven by the personality of the managers in what is known as the dominant coalition – the group of effective and essential managers and leadership that collectively control the organisation's resources and set its goals.

Organisational culture is found not only in the formal organisation but also in the informal organisation – the unofficial working and social relationships that exist in parallel with every formal organisation. The informal organisation has several important functions:

- Perpetuate the group's cultural and social values;

- Provide social status and satisfaction through close personal interaction;

- Promote communication among members about management actions;

- Provide social control by influencing and regulating behaviour inside and outside the group.

Informal organisations exhibit high resistance to change; they seek to perpetuate the values and lifestyle that they hold in common and have effective social control tools to maintain conformity inside the group and coordinate the group's external influence. Where the informal organisation intersects with the dominant coalition, resistance to change can become powerfully entrenched.

Organisational Culture and Motivation: Friend or Foe?

Organisational culture is nested in an iron triangle of formal organisation, informal organisation and the dominant coalition, giving it a powerful effect on influencing behaviour. When an employee meets the same assumptions and approaches in daily business, in social interactions and in contact with senior managers, these are quickly assimilated as social norms and become an internal driver of behaviour.

Where this culture remains predominantly ethical and professional, it can be harnessed by leadership as a powerful driver for positive behaviour. Positive social tools to reinforce behaviour that builds integrity can include peer awards, publication of articles or mention at senior level meetings. Negative tools can include peer review boards, naming and shaming, social shunning and dismissal/suspension. In order to be effective, however, the group must perceive ownership of these tools, and that they are being wielded in the interest of the group and its social norms.

In situations where corruption has become the norm, the role of organisational culture may not be so positive. Corruption networks form their own informal organisation(s). In cases of extreme systemic dysfunction, defence professionals many have turned to these informal networks to achieve results that the official organisation could not – even in professional matters. Indeed, through corruption and influence peddling, the informal organisation may have been able to consistently provide stronger and more consistent behaviour incentives than the formal system. The result can be a de facto shift in the "dominant coalition" to the informal organisation; in effect, *institutional capture* by a shadow elite.

In this case, reform-minded leadership will be faced with an organisational culture, propagated through powerful informal networks, that actively encourages corrupt behaviour. If not addressed, it risks undermining all other changes; structures and processes will change, but not "the way business is done here." A number of strategies have been developed to overcome this resistance (Box 16.3 provides an example).

Efforts to change organisational culture can consume enormous resources in terms of leadership time and significantly disrupt the organisation's daily operations. In countries where corruption is endemic in society, defence leadership will face additional challenges in creating a culture with norms that differ from society at large. In determining their level of ambition for cultural change, a key question for leadership is whether a critical mass of senior managers (who form much of the dominant coalition) will support the effort. Without their clear support, or the ability to find supportive and competent replacements, other scarce resources like leadership time and political capital will likely prove insufficient to push through broad cultural transformation throughout the entire defence establishment.

A two-level approach can help moderate the level of ambition without abandoning the goal of cultural change. On one level, an extensive information campaign ensures that new standards of behaviour and new deterrents are understood throughout the entire defence structure. Paired with modest enforcement efforts, the goal of this effort is to have a real (but likely modest) quantitative reduction in corruption. At the same time, working with a small group of professionals, a more intensive effort has the goal of qualitatively transforming "the way things are done" in one area of the defence establishment. Success in this area can become a model for others and can also provide a supply of committed personnel with relevant experience who can act as internal change agents in other parts of the defence system.

Box 16.3. Organisational Culture Change Strategy

Changing organisational culture is a long-term project. At a minimum, employees need time to get used to new ways of doing business. In companies with a very strong and specific culture, there will likely be strong resistance. The following guidelines for cultural change can serve as a basis on which to develop an implementation strategy:

Formulate a clear strategic vision
A clear vision of the firm's new strategy, shared values and behaviours is needed to provide the impulse and direction for implementing cultural change.

Display top-management commitment
Cultural change must be led from the top, since the willingness of senior management to change is a prerequisite for success and an important indicator for the rest of the organisation.

Model cultural change at the highest level
Senior management's commitment to change must be noticeable in new values and behaviours that model those to be introduced in the rest of the company. It is also useful for management to show continuity of current culture in a way that calms fears about radical change.

Modify the organisation to support organisational change
This could be a minor adjustment to accommodate a new element of culture or a shift to a different model (e.g. autocratic to collegial) to help drive change.

Select and socialize newcomers and terminate deviants
Modifying organisational membership can help implement cultural change; people can be selected and terminated based on their fit with the new culture.

Develop ethical and legal sensitivity
Change in people's rights, roles and responsibilities may have ethical and legal implications.

Source (adapted from): Thomas G. Cummings and Christopher G. Worley, *Organisation Development and Change*, 8th Ed. (Thomson South-Western, 2005).

Within the civilian defence ministry, logical areas for such a targeted effort include policy departments, audit departments or a selected cadre of reform-minded mid-level and senior managers. Within the armed forces, operational officers with international experience may have the right attitude and position to link ethical behaviour to a military ethos that considers integrity to be an important component of operational success.

A useful concept to support such an intensive effort is the idea of a *community of practice*. This is a group of people who share a profession and actively interact to exchange relevant knowledge. By sharing knowledge and social interaction, they naturally develop a sense of joint enterprise—the thing that binds them together—and create their own informal organisation. This can help counterbalance the influence of corrupt informal organisations and provide a mechanism for introducing cultural change

even if there is insufficient support by mid-level managers. The group's informal inter-actions also help its members build social capital that is useful for task fulfilment and career advancement. Box 16.4 provides some guidelines on developing a successful community of practice.

Box 16.4. Cultivating a Successful Community of Practice

A community of practice succeeds depending on its purpose and objective, as well as the in-terests and resources of its members. These seven actions can help a community of practice be successful:

- Welcome and cultivate members with different levels of participation, forming a core (leadership) group, an active group and a peripheral group;
- Find and nurture a regular rhythm for the community; members should regularly meet, reflect and evolve;
- Combine familiarity and excitement; offer both expected and innovative learning op-portunities;
- Develop both public and private community spaces;
- Create opportunities for open dialogue within as well as with outside perspectives;
- Focus on the value of the community and provide explicit opportunities to discuss it;
- Design the community to evolve naturally.

Source: Etienne Wenger, Richard McDermott and William M. Snyder, *Cultivating Communities of Practice* (Boston, MA: Harvard Business Press, 2002).

Summary

Even in systems with high levels of corruption, most people face the question "to be or not to be corrupt" relatively rarely. On the other hand, they make a myriad of daily de-cisions that influence the corruption climate by impacting integrity, transparency or ac-countability. Motivating those constructive decisions should be the principle objective of anti-corruption efforts. This will be most successful when individual, organisational and social interests align and receive positive reinforcement. Individual needs should be targeted with full understanding of their diversity and the hierarchy in which they operate. Organisational needs can be supported by ensuring clear institutional respon-sibilities, effective horizontal coordination and decision-making integrity. If an organi-sation's culture is ethical, it can serve as a powerful motivator, mobilizing social feed-back across formal processes, the informal organisation and the managerial group. If organisational culture is not ethical, then its transformation becomes a top priority for defence leadership; unchanged, it will undermine all other reforms. This is a long-term effort but can be achievable with political will, ingenuity in developing allies inside the system and patience.

Chapter 17
The Role of Government

The legitimacy of all governments ultimately depends upon public confidence in their ability to effectively and efficiently deliver public goods—in this case, defence capability—and uphold the public trust. By diverting public goods to private interests, corruption undermines that ability. It is in governments' self-interest, therefore, to lead in the fight against corruption. To be effective, anti-corruption efforts should complement broader reform strategies, like the development of a coherent policy, planning, programming and budgeting system (PPBS), with an eye to building the integrity of decision making. There must be a readiness to conform to best practices in transparency and accountability, such as providing timely information to defence leadership, parliament and the public. Effective internal control mechanisms should be in place, supported by easily applied administrative sanctions to correct malpractice in cases where criminal prosecution would be doubtful or disproportionate. Since modern defence management methods require considerable delegation of responsibility and authority, it is essential to invest in building the professional abilities and public service ethos of the relevant civilian and military cadre. Experience shows that with sufficient leadership and attention, the Defence Ministry and armed forces can set a positive example for the rest of government and society.

Corruption Risks

The main areas endangered by corruption are well-known. These include areas of major direct budget distribution: procurement of weapons, equipment, fuel, food and other supplies, infrastructure construction and maintenance, and research/technology projects. Another area with high corruption risk is disposal of surplus property and equipment, which can be knowingly transferred to the civilian sector at a cost far less than its worth. The areas of distributions and admissions offer substantial possibilities for corruption: housing allocation, selection for education (especially abroad) and assignment (especially to well-paid missions abroad). In conscript systems, a particular high risk area is exemptions from service or assignment to less difficult or dangerous occupations. Finally, the abuse of power and privileges provides opportunities for extortion from subordinates. Areas that deserve particular attention are those with limited oversight: flexible operational funds, restricted or "black" projects and projects resourced by foreign military missions (where the interaction of two countries' oversight systems might leave gaps).

Corruption occurs even in developed democracies, although it is for the most part an individual rather than systemic phenomena. In the MODs of young democracies, however, corruption is more often present on a systemic level. This can involve a

broad circle of perpetrators, both civilian and military, and may be linked more widely to corruption within society and ruling elites. Particularly vulnerable are areas where effective civilian management is not yet in place due to the absence of civilian experts (and thus are still under control of the military), a shortage of skilled and reliable civilian experts, or lack of good traditions and practices. Post-totalitarian regimes can face especially high risks due to large a number of defence-owned enterprises, huge volumes of redundant equipment and ill-conceived efforts to close budget gaps. Particularly damaging is the creation of non-budget "special" funds, which require the military to earn its own revenue to meet defence needs. These provide broad prospects and logical justification for corruption by openly promoting commercialization of the defence establishment.

Economic and social depravation can also play a major role in fostering corruption. In the severe economic crisis that many post-Warsaw Pact states experienced during the 1990s, officers' pay plummeted below subsistence to as little as $30–50 per month. At the same time, there was a severe housing shortage and a meltdown of the once generous social support system. Servicemen faced stark choices: retire and try their luck in private business, moonlight at one or more additional jobs, or engage in corruption. Economic depravation was accompanied by a drastic drop in social status, fed by a backlash against the ills of the communist militaries. As the social status and self-esteem of officers and professional non-commissioned officers degraded, so did their incentive for self-control. In some countries, this "survival period" lasted for a decade, during which corruption became deeply entrenched in defence institutions and the military culture.

Building Integrity in Defence Management

The goal of defence management is to efficiently and effectively deliver the defence capability needed to adequately protect society – the "public good" of the defence system. In democracies, this is closely linked to civil democratic control and public accountability. In other words, governmental structures and individual functionaries use public resources (taxpayers' money) in a legal framework and under parliamentary, media and societal control.[1] Strengthening mechanisms for effective management, accountability and transparency naturally reduces opportunities for corruption.

Several basic principles can be applied to ensure integrity of decision-making processes, be they selection boards, tender committees or leadership decisions. To the maximum extent possible, these processes should be governed by written regulation. Such regulation should identify participants and their responsibilities (all major stakeholders should be included). It should define legitimate inputs (both in terms of appropriateness for consideration and ensuring accuracy) and decision-making crite-

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[1]   As compared with authoritarian or totalitarian regimes where the defence minister is often a uniformed general responding directly and solely to the head of state, who may also have a military background.

ria. It should also define legitimate outputs of the process, in terms of public good. Goals and objectives should be documented, approved by the official responsible for guidance and oversight of the process and transparent to all stakeholders. Decisions and their rationale should be set out in writing. Information should, in all but extreme cases, be equally available to all participants. To the maximum extent possible, outputs should be measurable and actions taken to assess performance and provide accountability. Vague, opaque procedures and blurry assessment and accountability are tell-tale signs of embedded corruption. The following paragraphs apply these principles to various areas of defence management.

Policy, Planning, Programming and Budgeting

Effective defence management links resource allocation as clearly as possible with the intended result, be it current operations, improved capabilities for the future or increased social protection for servicemen. This requires, in the first place, clarity and transparency on defence objectives—for example, the roles, missions and tasks of the armed forces—and on the measures that will be taken to meet them. These should be clearly set out in strategic guidance documents that have the greatest possible visibility within the defence system (in the UK, for example, through annual Defence Strategic Guidance approved by the minister) and transparency to the parliament and public (in Ukraine, for example, by an annual public "White Book" report on the status of the armed forces).

The development of plans and decisions on resource allocation (often referred to as "programming") should be closely linked with the defence outputs defined by policy. Written planning and programming guidance should be drawn directly from strategic guidance documents, reviewed by MOD policy staff, and approved by the minister. Operational plans (current, contingency) and force development plans (organization, equipping, manning, training/education and infrastructure) should also be closely linked to resource allocation. In order to better make these links, many new democracies have implemented variations on the US-developed Planning, Programming and Budgeting System (PPBS).

The core element of PPBS is programming, which links resource allocation with planning over the mid-term (usually five years) and gives visibility on all inputs required to achieve specific outputs. Programming decisions then drive, rather mechanistically, budget development and implementation. Moving the centre of gravity for resource allocation to programming instead of budgeting significantly improves system integrity. Programming brings a far greater number of players to discussions on resource allocation and improves internal transparency. The five-year programming window allows better assessment of the impact of resource allocations than a one- or two-year budget. Responsibility for allocating resources and accountability for achieving outputs is unified under program managers, who submit proposals to a senior-level Program

Review Board that includes a broad group of officials responsible for policy and implementation (as well as finance). This dilutes the monopoly that finance departments often have in budget-driven systems, where they often lead in both shaping budgets and distributing allocated funds in a less than transparent manner.

Normative and organisational arrangements should support the smooth transition from defence policy objectives and long-term plans to defence programmes, and then from programmes to budgets and implementation. Box 17.1 provides an example of an organisational solution intended to guarantee that short-term plans, including the defence budget, and implementation activities clearly correspond to defence programmes, thus preserving the integrity of the resource management process.

Box 17.1. Organisational Solution to Consistency of Planning Disciplines and Processes

Defence ministries in many post-totalitarian countries, inspired by the US experience, attempt to enhance their resource management systems through introduction of Planning, Programming, and Budgeting Systems (PPBS). PPBS, when properly implemented, are a powerful management tool with the potential to provide for substantial increase in the transparency of the decision-making process and the accountability of "line managers." The Ministry of Defence of Bulgaria, for example, has applied a program-based resource management system since 2000.

On the other hand, organisational resistance to the introduction of such new management tools is not rare. Combined with limited knowledge and weak leadership, it often leads to overwhelming challenges: how to provide for effective interaction among planning disciplines, how to guarantee that programmes lead to the achievement of defence goals and objectives, and that financial and procurement management is clearly in line with approved defence programmes, etc. In particular, when defence ministries have to deal with growing operational demands or are under financial duress, budgeting and procurement decisions follow a logic that often differs from the rationale of the defence programmes. That inevitably leads to a loss of transparency and blurs accountability.

In August 2009—in its first month in office after parliamentary elections—the leadership of the Ministry of Defence of Bulgaria made one organizational change: it created a "Planning, Programming, and Budget" Directorate. Thus, it allocated to a single organisation the functions of long-term defence planning, programming and short-term planning for financial and material resources. This is seen primarily as an organisational solution to the problem of providing consistency between budgets, procurement and construction plans, on one hand, and defence programmes, on the other. Furthermore, this consistency is maintained even when circumstances change, thus preserving the transparency and accountability of defence resource management and lowering the corruption risks.

Personnel Management

People are the most valuable resource of the defence system, yet personnel management is often highly subjective. This subjectivity is magnified in systems where commanders are key players in every major personnel decision. Moving to a more centralised personnel management system can significantly improve the integrity and accountability of the process. This requires effort to standardize performance assessment by objective characteristics and the use of well-regulated personnel boards to assess candidates for promotion or selection for major assignments (e.g. command or professional education). Appointments to senior or highly sought after positions, like major command, long-term education abroad and positions of special trust and responsibility, should be subject to ministerial oversight. A top-level review board, including senior military and civil servants, can help ensure transparent and objective decision making. A more centralised system can also improve oversight and reduce corruption risk in processes like testing for initial officer's education, recruitment and exemptions from conscript service.

Equipment, Logistics and Infrastructure

This is perhaps the area of highest corruption risk due to the large amounts of money involved in acquisition, maintenance and service contracts. To ensure that procurement supports real operational needs, it is important to have close oversight and review of the entire requirements process, from designation of an operational need through technical specifications, tendering and quality testing of the delivered product. To ensure the efficiency and fairness of the system it is important to safeguard the integrity of the competitive system, including level tender conditions, bid evaluation procedures and contract drafts. Placing information on upcoming and ongoing procurements on the internet is a good way to improve transparency and promote increased competition. It also allows vendors to file a complaint if they feel unfairly excluded from a competition. "Single sourcing" or non-competitive purchases should be strictly limited.

Requirements and tendering committees can play an important role in building integrity by ensuring internal transparency to major stakeholders. Special regulations should require that members of tender committees disclose conflicts of interests and recuse themselves from participating in relevant deliberations and decisions. To ensure better application of safeguards, it can also be useful to limit the number of procurement officials and bidding committees. Information on previous misconduct by tender participants and their possible blacklisting can also help ensure the integrity of the process (see Box 17.2).

Box 17.2. Cleaning up Public Procurement: Publishing Misconduct & Administrative Debarment

Publishing contractor misconduct can play an important role in helping to maintain the integrity of public procurement. In the United States, since 2002 the non-governmental Project On Government Oversight (POGO) has maintained a Federal Contractor Misconduct Database (FCMD) that includes over 750 instances of misconduct including fraud, antitrust, environmental, securities and labour law violations since 1995. It also matches that list against the top 100 federal contractors. The US National Defence Authorization Act for Fiscal Year 2009 has a provision to establish a database of information regarding the integrity and performance of federal contractors and grantees, modelled after the POGO database, although not accessible to the public.

It is useful to note that 25 of the top 100 contractors in the FCMD have no known instances of misconduct and 14 of the contractors only have one instance. Thus, 39 of the top 100 government contractors do not show a pattern of misconduct, belying the myth that any company big enough to do business with the government will inevitably have multiple instances of wrongdoing.

The government of the Czech Republic has recently gone one step further, introducing in its latest anti-corruption program the instrument of barring certain companies convicted of corrupt activities from participating in public contracts (i.e. blacklisting). This measure has long been championed by the Czech branch of Transparency International, which considers that it would provide an important administrative measure to purify the market of those companies that corrupt it, pending the completion of investigations and prosecutions. It would also create a credible deterrent for other potential wrongdoers. A 2007 report lists recommendations for the success of the debarment program, including: public availably of rules; the binding nature of the blacklist for all procurement; a fair process with equal conditions applied to all; and strictly administrative penalties, with the goal of encouraging reform rather than inducing bankruptcy. The report also recommends that blacklisting should be a part of a more complex strategy of anti-corruption measures in public procurement: observation of the codes of ethics of public contracts, integrity pacts, whistleblower protection, leniency programs and other measures.

Sources: "Project on Government Oversight Releases New Federal Contractor Misconduct Database," *Ethics World* (15 October 2008), www.ethicsworld.org/publicsectorgovernance/publicprocurement.php #pogo; "TI Czech Supports Blacklisting to Clean Up Public Procurement. Report provides key conditions for blacklisting to be successful," *Ethics World* (11 December 2007), www.ethicsworld.org/ publicsectorgovernance/ publicprocurement.php#blacklisting.

Disposal of surplus equipment and infrastructure introduces additional challenges to integrity. Here the challenge is to effectively assess whether an item is actually surplus and, if so, its worth. Open auctions with good transparency on items to be sold can help ensure that MOD extracts the maximum possible value from surplus items. Countries with significant surplus may wish to establish specialized departments to

manage the process of transfer or disposal, thus removing MOD from the role of auctioneer.

Inspection and Audit

Effective inspection and audit systems play a major role in deterring potential corruption by providing a real chance of detection and punishment. Even in the absence of corruption they are important tools to ensure effective and efficient use of scarce resources and the integrity of the defence management and decision-making systems. These can include both inspections for legality, such as those usually performed by inspector generals, or checks by audit bodies on the efficiency, effectiveness and integrity of processes. Measures to strengthen inspection and audit can include increasing the number and professional preparation of inspectors, refining procedures and increasing powers, and better use of information technology.

Transparency and Accountability

Transparency of information and accountability to higher authority are significant instruments to build integrity and deter corruption. Traditional methods of external transparency include public white papers and reports to parliament (see chapters 18 and 21). These are important tools to limit officials′ frequently all-too-convenient use of secrecy to avoid accountability. Secret categories or projects should be used in only the most urgent circumstances and with appropriate (classified) oversight. Transparency and public accountability can also be developed through innovative relations with civil society, like establishing civil advisory boards and including board members in ministry business. Such direct contacts between the defence establishment and civil society can also help ensure that the political elite stay accountable to the public for its defence policy.

Equally important is transparency inside the ministry. Internally, horizontal transparency promotes inclusive, effective decision making. It also has a deterrent effect on corruption by distributing information within a peer community that is most likely to detect and potentially act against wrongdoing. Proper application of management principles will also promote vertical transparency, with accurate information passed up the chain of command in sufficient detail to provide a clear picture without overwhelming leaders′ ability to adsorb it. Such practical transparency has the added benefit of making accountability more relevant.

Professional Cadre

Equally important to building integrity of decision-making processes is building integrity within the professional cadres—civil servants and professional military—that are the implementers of those processes. In the context of democratic civilian control it is civilian (rather than military) authorities within MOD who take responsibility for the state of national defence and lead in major policy development, administrative control, legal support, procurement and budgetary functions. This allows the uniformed military to

focus on their indigenous business of training troops, operational planning and conduct of operations. Notwithstanding their public trust, senior civilian officials present a significant corruption risk, particularly in transition countries where they may be intertwined with corrupt political and societal elites.

A key element to effective civilian control is the development of a cadre of civilian experts in the MOD who can serve as professional intermediaries between the military and the government and society. The fostering of a public service ethos within this cadre is a powerful tool in building integrity, albeit one that takes time, particularly for post-totalitarian states where corruption has become deeply entrenched in society. The observations made by the German political scholar and sociologist Max Weber over 90 years ago are still valid today: "Modern bureaucracy in the interest of integrity has developed a high sense of status honour; without this sense the danger of an awful corruption and a vulgar Philistinism threatens fatally. And without such integrity, even the purely technical functions of the state apparatus would be endangered."[2] On the other hand, fostering "honour sense" within the professional civil service will provide a degree of inoculation even against senior-level misdeeds.

Professional training in defence management can be an important tool in building this public service ethos. It is particularly effective in the context of international cooperation, which helps build a sense of belonging to an international community with its own norms and practices. Programs like NATO's Defence Institution Building and the NATO-Ukraine Professional Development Program provide good examples of successful efforts. Recruiting personnel from outside the current defence establishment can also help to build a public service culture. Experience shows the importance of steps by senior leadership to establish new norms and standards – and to implement these standards by personal example.

Constructive tension between the military and civil service, with different roles but a common civil service ethos, can be of particular value in ensuring defence integrity. In many countries, the military is considered to be one of the least corrupt institutions. According to Transparency International, "The 2007 Global Corruption Barometer (GCB) shows that the military is held on average in higher regard than all other sectors of society – except religious groups and civil society organizations (CSOs)."[3] If the armed forces is provided with sufficient compensation to eliminate "corruption by need" and is removed from economic areas where "corruption by greed" is most tempting, then it has the potential to maintain an independent culture of integrity. If allowed to exert their professional voice within the decision-making system, the military can play an important role in promoting integrity throughout the defence system and government more widely.

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[2] Max Weber, H.H. Gerth and C. Wright Mills, *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1958), 88.

[3] Transparency International, "Addressing Corruption and Building Integrity in Defense Establishments," TI Working Paper #2 (2007), 2.

It goes without saying, however, that no defence system is immune from the ills of society, including corruption. Effective sanctions for misdeeds, particularly administrative measures that can be applied quickly to restore system integrity (rather than strictly to punish) are an important tool for the MOD to enforce a stricter standard than that observed by society at large.

Box 17.3 provides an example of how the principles discussed above have been applied in the particular case of Ukraine's post-Orange Revolution reformist government.

Box 17.3. Ukraine's Integrity Building Effort Post-Orange Revolution (2005-2007)

Before the end of 2004, Ukraine was a transitional, quasi-democratic state suffering from widespread corruption that permeated the government, including the Defence Ministry. Corruption was especially bad in departments related to the appropriation of scarce budgetary funding: logistics, acquisition, medical support, disposal of redundant ammunition and equipment, demilitarizing of surplus land and infrastructure, R&D orders, communication, maintenance and construction, etc. Corruption was also felt in the distribution and selection processes: education, career promotion (for "good" positions or "good" places of service), distribution of housing – even in training and selection for peacekeeping missions and in education abroad.

The Orange Revolution of November–December 2004 did not immediately repair the country's ills but it did allow more democracy. Two aspects in particular had a healthy effect on countering systemic corruption in the Defence Ministry. First was true freedom of expression, greater transparency and higher expectations, which improved public oversight. Second was the arrival of many honest, responsible professionals, untainted by corruption, to positions of responsibility in the Defence Ministry (and the government more widely).

A new team of civilian leadership arrived at the Defence Ministry in February 2005. Much of this team was retired military with experience in the think tank community or the commercial sector. There they found a number of officials with high potential but who had lost motivation in what was an unexpectedly poor professional environment. The new team, under the leadership of Minister Anatoliy Grytsenko, took a number of quick steps to unlock this potential by establishing new norms and standards. The strategy that he implemented included the following elements:

Strongly discourage corrupt behaviour. Officials implicated in corruption were immediately suspended from executing their duties, pending investigation. External agencies were brought in to help with investigations, in particular military counterintelligence (in the Security Service) and Interior Ministry anticorruption bodies. When investigations proved wrongdoing, the MOD took quick action, using its own authority where possible to force resignation, dishonourably discharge, reduce military rank, etc. Over a dozen general officers and many more senior officers were thus removed during the first few months of 2005. In many cases, files were then transferred to the Prosecutor General's Office for criminal procedures. The principle of immediate responsibility, regardless of status or rank, continued through Minister Grytsenko's tenure (until Dec 2007), with the dismissal of officials as senior as a deputy defence minister and a service commander.

Streamline defence management processes. Streamlining procedures improved management and reduced risks of corruption and misappropriation. In some cases, optimizing practices eliminated opportunities for corruption; for example, the decision to assign complete, pre-exiting units to peacekeeping operations removed local mobilization departments' lucrative role in selecting servicemen for well-paying peacekeeping assignments abroad. Planning and budgeting improvements included steps toward implementing a PPBS system, better procedures for developing strategic guidance documents and the creation of a special "ad hoc" budgetary commission. That commission brought senior MOD and General Staff officials responsible for policy, planning, operations and finance together under the chairmanship of the first deputy minister to provide timely strategic input for drafting and implementing the budget. A similar top-level board helped to increase transparency and accountability for critical personnel selections, in support of a transition from a *nomenklatura* to a more centralized personnel management system. The selection process for military educational institutions was also centralized, allowing for better supervision over candidates' testing and other entrance selection processes. Similarly, acquisition procedures were consolidated, with three bidding committees taking over responsibilities that had previously been executed by several dozen. Finally, a special department, with the head appointed by the government, was established to manage the transfer or disposal of surplus equipment. The MOD supported legislation that would relinquish its rights to sell surplus directly to buyers and pass the responsibility for auctions and other forms of transfers to authorized governmental agents. A key element of these reforms was to minimize the involvement of military personnel in economic activity.

Strengthen the system of inspecting and auditing. The authority and manpower of the inspection and auditing system was increased, with the key elements being the MOD Main Military Inspection, the MOD Main Control-Auditing Directorate and the General Staff Control-Auditing Directorate. Structural and procedural reforms to this system helped improve its effectiveness, as did efforts to attract the best personnel, increase their professionalism and safeguard their integrity. Finally, the ministry began to introduce modern computer-based administration and management systems that would allow for precise accounting and supervision of all financial, material and personnel flows.

Promote democratization and public transparency. For the new MOD leadership it was immediately clear that the struggle against corruption would require the strengthening of democratic institutions and increasing transparency in defence. A Civil Council (*Gromads'ka Rada*) was created, with over 70 representatives from different NGOs and think tanks, in order to provide for direct communication with civil society. This advisory body also had important supervisory functions; for instance, a member of the council was always present at the minister's regular reception hours, when citizens could address requests and complaints to the minister personally. Another example of transparency and accountability was the annual "White Book," which gave a detailed report to the Ukrainian public on major defence activity during the year. Finally, the ministry created officers' councils in brigades and in higher headquarters. These councils performed certain advisory and supervisory functions, as well as helping to build officers' sense of honour, dignity and intolerance to corruption.

The example of Ukraine's Defence Ministry in 2005–2007 demonstrates that energetic, concentrated and consistent efforts to fight corruption can produce significant results, even in an

environment of widespread corruption in other government departments and society. The key factors behind these results can be formulated in words like democratization and transparency, streamlining and concentration, leadership and teamwork, effective inspection and auditing, and quick and proportional punishment. It is noteworthy that NATO officials, while sometimes having reservations about the readiness of Ukraine as a whole to join the alliance, frequently admitted the success of Ukraine's Defence Ministry in reaching NATO standards.

The Defence Ministry's success at countering corruption, against a continuing high level of corruption in the country overall, came at a price. This price was the level of high-level supervision needed to ensure integrity. Too many decision-making responsibilities were placed at the level of deputy ministers and the minister himself, slowing processes and leading to near exhaustion of the MOD leadership and their support staff. This produced a big difference but to be sustainable in the long run, systemic changes in society and the creation of self-sustaining dynamics within professional cadre are needed.

Preventing Conflict of Interest

In order to ensure the integrity of government decision making, it is important to identify and eliminate conflicts of interest. This is important first of all for senior leaders and members of committees and boards (e.g. for tendering or assessing promotions) for whom disclosure and recusal requirements apply. This is also important for all uniformed and civilian officials – any one of which may have the opportunity to inappropriately influence decision making. Codes of conduct are a useful tool for preventing conflicts of interest in the broader sense. These may regulate such issues as (examples are drawn from the Polish code of conduct for relations with industry):

- Acceptance of gifts and other benefits (general rule: no gifts);
- Participation in industry sponsored events (limited to common events directly linked to signing or implementation of a contract);
- Presentation of defence goods and services by industry (direct presentations, no agents); and
- Renting of military property for external events (defence industrial lobbying prohibited).

Other regulations may define obligations relating to professional military service, for example:

- Prohibition on taking up additional work for the defence industry during military service;
- Obligations for all officers to submit asset disclosures; and
- Moratorium on defence industry employment (three years after the end of the service for military personnel involved in procurements or implementing contracts).

One of the aims of the Polish code was to eliminate "intermediaries" from the relationship between the Ministry and defence industry, often presenting themselves as "independent" experts, journalists and publishers but whose activities were non-transparent, unregistered industrial lobbying. Governments should demand that suppliers fully disclose the use of agents and intermediaries, their identities and payments, and the terms of their contracts. This is particularly important in identifying the possible improper role of current or former senior officials or family members in influencing government decisions.

Anti-Corruption Bodies

In addition to efforts aimed at promoting good governance, defence ministries have also found it useful to create dedicated anti-corruption bodies and strategies. Two principle approaches can be taken for establishing anti-corruption bodies in the ministry: enforcement and prevention.

An enforcement approach calls for the establishment of dedicated investigative bodies. These institutions have essentially law enforcement functions and carry out independent investigations into major fraud plots and organised crime. The MOD can also gain support from external agencies to more effectively investigate corruption.

The prevention approach calls for establishing a bureau for anti-corruption procedures and policy. This bureau may serve as a watchdog for general legislative processes in the ministry, analyzing proposed new regulations and procedures from the point of view of their legality, transparency, prevention of conflicts of interest and good governance. It may also provide independent expert advice to the minister or other officials, particularly in cases where the minister has been asked to approve actions beyond existing procedures, such as acquiring armaments based on urgent operational need. The bureau may analyse whether such proposals are legal, economical and well-justified, as well as recommend the correct and legal way to address them. The bureau can also advise officers and officials to help them stay compliant with regulations and codes of conduct. Dedicated anti-corruption bureaus also usually play a key role in developing and implementing anti-corruption strategies. Such bureaus can also help supervise key elements of the procurement process. Information on the Polish example is in Box 17.4.

Concluding Thoughts: Strategy & Sequencing

All too frequently, efforts to build integrity are reactive, implemented in response to scandals that exceed society's patience. While immediate action is called for to restore public confidence, the short timelines involved often result in a patchwork of actions and mixed results that may alienate the defence institutions. Box 17.5 gives one such example.

Box 17.4. Building Integrity – The Polish Story

According to the Transparency International Corruption Perceptions Index, in 2005 Poland was the most corrupt country within the European Union. At that time, the anti-corruption efforts of the Ministry of National Defence were quite inefficient, as they were in the whole of the Polish administration. On the positive side, many institutions were involved in counteracting corruption in defence; on the negative side, the anti-corruption activities of these institutions were completely uncoordinated. Many corrupt schemes were uncovered, a few officers and civilians were charged and a special report on corruption in defence was prepared for the minister. But despite the report, knowledge of corruption schemes was not used to carry out systematic changes. There was no focus within the ministry on preventing corruption, no anti-corruption policy was introduced and there was no integrity building program. In this environment, anti-corruption measures were ineffective.

Not surprisingly, corruption was a major issue in the presidential and parliamentary election campaigns in 2005. Following that election, the Polish Ministry of National Defence introduced an anti-corruption plan. This was driven by support from the minister at the top level, who appointed an experienced anti-corruption expert inside the organisation to develop and implement the plan. The Anti-Corruption Procedures Bureau, reporting directly to the minister, was founded early in 2006 as a new body with the mission of improving procedures for integrity and creating anti-corruption policy. Four civilians were employed, all from outside the defence sector and industry, in order to preclude any possible conflicts of interest. Most of them had an anti-corruption background from NGOs, local administration or the judiciary. The primary idea of its foundation was to anchor the anticorruption duties more firmly in the structure of the ministry.

Starting with practical reforms, the bureau decided to tackle corruption from the top, from the point where potential losses for the society were highest. The aim was to show the reforms as serious and reliable. To define our priorities we provided a short risk assessment to determine the highest corruption risk area with the emphasis on heavy potential financial losses and senior officials' engagement. As a result, we assessed public procurement of military equipment as the most important issue to tackle. It was less transparent than normal public procurement, consumed a significant part of the budget (c. 20%, more than €1M/year) and engaged top management of the ministry and armed forces.

Reform of the procurement system comprised several elements, including:

- Increasing transparency by putting information on planned, ongoing and finished procurements on the web;
- Extending the use of electronic auctions;
- Enhancing quality assurance, including additional tests of the Rosomak armoured vehicle, for which ballistic resistance had not been properly tested previously during the procurement process;
- Preventing conflicts of interest of the tender committee members through additional regulations;

- Promoting more competition through the limitation of single source procedures to the well-justifiable cases; and

- Preliminary auditing by the bureau of key procurement documents, such as technical requirements, tender conditions, bid evaluation procedures and contract drafts.

In addition, a new code of conduct for military and civilian personnel in relations with the defence industry was developed, containing general commonsense principles and detailed regulations such as a "no gifts" policy and a policy of no cooperation or participation in events sponsored by industry.

The bureau also started cooperation with Transparency International (UK), introducing some elements of Defence Integrity Pacts—which introduces oversight together with the independent review of equipment specifications and contracts—into a tender for the acquisition of VIP jet aircraft.

As a result of these reforms, today the Polish Ministry of Defence buys equipment of better quality for less money. Procurements are better prepared overall and more focused on buying capabilities and not just goods. Poland's lessons learned are applicable to other countries and we found that even small changes in key points can have a major impact. Building integrity and reducing corruption risk is not an insurmountable task if tackled coherently.

On the other hand, a well-targeted, proactive strategy can help prevent scandals—and mitigate the need for ad hoc responses. Box 17.6 sets out an example of a road map for developing such a strategy.

Officials tasked with developing and implementing such a strategy should take into account the real conditions of society and institutions not to dilute efforts but to target them realistically. Even the term "anti-corruption" should be applied cautiously, particularly in situations where officials may perceive corruption as essential for their livelihood or even for their legitimate professional activity; for example, supply officers are legendary for using barter and informal agreements (often encouraged by commanders) when the formal supply system is unable to provide crucial parts in a timely manner. Attacking such barter arrangements without improving the system that makes it necessary will be considered by many officials as counterproductive at best and hostile at worst.

This suggests a three-tiered approach. The first tier addresses what British scholar James Sherr has called (in the case of Ukraine) the "realistic and urgent goal: creating a state of affairs where corruption is a matter of choice rather than a necessity of life."[4] This should be combined with measures that protect junior personnel from being pressured into joining "corruption pyramids" where they are forced into corrupt schemes and a portion of their gains passed to senior officials. The second tier looks to streamline procedures and improve management and governance. Focusing on *improving*

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[4]   James Sherr, "Ukraine and NATO: Today Realism, Tomorrow Membership?" *Dzerkalo Tyzhnia* # 42 (570), (29 October–4 November 2005).

Box 17.5. Reacting to Scandal – The Peruvian Example

In response to domestic insurgency, Peru's Intelligence Service was greatly increased during the 1990s. Yet the service was also used to keep tight control of political opposition to the government of President Alberto Fujimori. Officially a presidential advisor, Vladimiro Montesinos was the real chief of the Intelligence Service and de facto controlled the national defence institutions, reporting only to the president. Under his direction, the Intelligence Service bribed and blackmailed important public figures, provided weapons to Colombian guerrillas and even accepted large sums of money from drug traffickers. In 2000, Montesinos was caught bribing an official on tape, leading to his dismissal and, in November 2000, to President Fujimori's resignation.

An interim government was established and, in the few months before a new elected government took office, it initiated a number of steps aimed to regain civil control over the security establishment. The Intelligence Service and Defence Ministry were reorganized, their budgets reduced, and Congress given stronger oversight of both of them. Top security officials were prosecuted for corruption and human rights abuses during the internal war, as well as corruption in weapons acquisitions during the 1995 border war with Ecuador. Some retired military officers and security experts helped in this reform process, which was deepened by the administration elected in July 2001. The National Intelligence Service was reformed several times in the following years, reducing its activities quite significantly, and Congressional control was strengthened through the Defence Commission and the Intelligence Commission. To improve confidentiality, beginning in 2006 membership in the Intelligence Commission was set at a full five-year Congressional term, rather than being renewed yearly, as with other Congressional commissions.

Overall, these actions were well-received by the public, and helped restore confidence. Within the security institutions, however, it was perceived as "collective punishment" for the improper behaviour of former leaders. Thus, national security institutions have become more transparent but with a significant loss of effectiveness. This has been one factor in the resurgence of terrorist activity and a general perception of vulnerability to a better armed Chile.

Source: Dr. Jorge Ortiz, Instituto Peruano de Economica y Politica

capability rather than *countering* corruption can help build bridges to professional constituencies within the defence establishment. When defence officials are able to live and work effectively without corruption, they will willingly support the third tier: a dedicated anti-corruption campaign.

The fact that corruption exists virtually everywhere does doom defence ministries to the same level of corruption as the rest of society. Even in countries with endemic corruption, factors like rising public expectations and increasing public oversight can combine with the mission-oriented ethos of the defence establishment to create an island of integrity. Paradoxically, most societies, even if corrupt, consider integrity in the armed forces and defence civil service as a matter of national pride and respect. Ironi-

cally, authoritarian regimes may find this situation uncomfortable, since corruption is frequently a means to tie defence and security sector leadership to the regime and thus ensure their support against the public, should it be necessary. Thus, democratic governance helps build defence integrity and defence integrity helps promote democracy. A wise government will work with, and benefit from, this positive and mutually reinforcing dynamic.

Box 17.6. Road Map for Integrity Reforms

The following road map on integrity reforms in defence is based on the Polish experience.

First, carry out a self-assessment of corruption risks to identify the issues in need of reform. NATO offers a tool, the Integrity Self-Assessment Questionnaire, and can also provide subject matter expertise. After assessing the areas of corruption, determine priorities for addressing them. Reliable reforms should start from the top, where high corruption risk intersects with heavy potential losses and senior officials. Then prepare the strategy, which should set priorities, identify key points for change and set out an action plan, needed budget and staff.

The action plan should be implemented by full-time staff designated for this job. This means officials for whom prevention of corruption and building integrity are the main tasks of their job description. Engaging new people from outside the defence establishment and defence industry can protect against conflicts of interest.

In preparing reforms, concentrate on substantive changes. This means change the law and procedures first and make personnel changes afterwards. Substantive changes are more durable.

Cooperate with anti-corruption institutions in and outside of defence. Law enforcement agencies can share knowledge of new corruption schemes and civil society organisations can be an excellent source of advice. Train staff and educate defence personnel. NATO offers a tool, namely the education module on integrity building in defence. In searching for solutions, learn from the best practices of other countries and institutions.

When starting your effort, there will be many requests to deal with specific issues. Limited resources will not allow you to deal with all of them effectively. Concentrate on priorities. And be consistent in your activities: supervise implementation of newly introduced rules comprehensively and over a protracted period of time.

Finally, use moments of high political will to introduce substantial reforms. These can be implemented in periods of lower political will. And even when there is no political will, some of the reforms will be continued.

Integrity reforms – How to start and continue?

Carry out a self assessment of corruption risks | **NATO offers a tool**

Find priority areas: high corruption risk + heavy losses + high ranks

Prepare the strategy: define priorities + find key points for change

Base activities on fully-paid staff, designated for this job

Engage new people from outside the defence establishment

Change the procedures first, make personal changes second

Cooperate with a-c institutions, in and outside defence, e.g. DIP

Train your staff, educate defence personnel | **NATO offers a tool**

Learn from the best practices | **You are reading the NATO tool**

Concentrate on priorities | Be consistent in activities

Use momentum of high political will to introduce substantial reforms

THE ROAD MAP
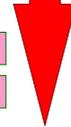
Chapter 18

The Role of Parliaments and Audit Offices

As the direct representatives of the public, parliaments are the principle source of democratic legitimacy. They are responsible for establishing the legislative framework in which government and society operate, and play the central role in overseeing the activities of the executive (in particular, defence ministries and the military), as well as defence industry and private security contractors. Parliamentary committees should be sufficiently empowered to scrutinise budget, procurement and personnel decisions in the context of national security policies and priorities. To exercise their powers effectively, they need to have sufficient access to information and the staff capacity to effectively analyse it. In many countries, parliaments have audit offices attached to them. These have an important role in carrying out detailed investigations of government expenditure and highlighting malpractice

This chapter will look at the various mechanisms and issues of parliament's role in light of the anti-corruption agenda of building integrity, increasing transparency and improving accountability.

Parliamentary Committees

Committees are parliaments' work horses. While major political issues or scandals may be played out in front of cameras in plenary, it is in committee format that parliamentarians most often hear testimony from defence officials, debate issues, conduct investigations, or commission reports. Most parliaments have a committee that bears principal responsibility for defence issues, frequently combined with national security issues more broadly. Nevertheless, various aspects of complicated issues like defence invariably cut across a number of committees – for example, finance, foreign policy, human rights and intelligence oversight.

Areas of activity for the security and defence committee include:

- Developing legislation for the defence and security sector;
- Advising on budgets and monitoring expenditures;
- Reviewing government defence policy and security strategy;
- Consulting on international commitments and treaties to be ratified by parliament;
- Advising parliament on the use of force and the deployment of troops abroad;
- Monitoring defence procurement;

- Reviewing senior appointments; and
- Monitoring personnel policy and human rights.

For committees to be effective in exerting their oversight role, three requirements must be met. Firstly, they must have the necessary *authority*, clearly delineated in legislation. This usually includes the power to:

- Hold hearings or inquiries, at which ministers, others senior executive officials, military or civilian officials and experts can be summoned to answer questions or testify;
- Request documents from the executive;
- Scrutinize the transparency and efficiency of public spending and request competent authorities to perform audits as necessary;
- Examine petitions and complaints from military personnel and civilians concerning the defence and security sector; and
- Visit and inspect bases and other premises, including troops deployed abroad.

Secondly, the committee must have the *capacity* to adequately carry out their responsibilities, in terms of qualified staff, adequate budget, access to information and the ability to arrange (and pay for) external expertise. The professional abilities of committee members are also important; they should have the appropriate education, experience and knowledge, periodically supplemented with additional training and education.

Last but not least is committee members' *attitude* toward holding government accountable and seeking the common good in a non-partisan way. Holding closed meetings, without media or the public, can be one way to help avoid partisan pressures. Off-the-record informal meetings or seminars are also an excellent tool for building common vision and moving beyond partisan politics. The most influential element, however, is the attitude and leadership of the committee chairman.

A strong, pro-active attitude can also help ensure that the committee practises *preventative oversight*. Such an investment of time in regularly scheduled and surprise unit visits, hearings and audits will save considerable time and energy that would otherwise be used reactively to address problems after they have come up.

Audit Offices

In addition to professional staff within the committee, parliaments frequently have access to information and analysis from independent audit offices. These are often attached to the legislature, either directly, like the US Congressional Budget Office, or through specific statutory responsibilities and interrelationships, like the UK National Audit Office. When working effectively, these offices provide parliament with a means to assess the executive's past and current performance. Specific actions by the audit offices may include:

- Auditing financial statements of all central government departments and executive agencies;
- Supporting budget deliberations by developing budget outlooks, analyzing budget proposals by the executive, independently validating cost estimates, and presenting alternative budget options and scenarios;
- Analyzing specific policy and program issues related to budget and finance;
- Providing a means for whistleblowers and the public to make complaints and investigating such accusations; and
- Assisting departments to improve the value for money they deliver, using audits and dissemination of best practices.

All of these efforts are dependent on the ability to accurately cost units and tasks. In addition to an accountancy or legalistic approach, a focus on "policy accountability" is also useful, as it helps link resources, performance and desired outcomes. This is made easier—and the value of auditing offices' outputs increased—when their work is linked to a Planning, Programming, Budgeting and Evaluation System (PPBES). In this case, the auditing office should pay particular attention to programming, which governs decisions on mid-term resource allocation and program evaluation. In many countries evaluation remains an underdeveloped function; not surprising, given its labour intensiveness and political sensitivity.

Box 18.1. The Role of the United Kingdom's National Audit Office

The National Audit Office (NAO), led by the Comptroller and Auditor General, focuses its efforts in three areas: ensuring value for money; supporting parliament; and providing guidance on good practice.

Value for Money
Under the National Audit Act 1983, the NAO can examine and report on the economy of public spending. Its value for money work looks at how government departments and other public bodies have spent their resources effectively and efficiently to achieve intended outcomes. The scope of this work covers a wide range of issues, from the operation of the criminal justice system to major Defence Ministry procurement projects, from improving commercial skills for government projects to improving contracting for highway maintenance. The NAO presents about 60 reports a year. All are evidence-based and draw on rigorous analysis as well as strong statutory powers that give access to relevant documents.

Support to Parliament
The head of the NAO is a statutory officer of the House of Commons and the results of its work are presented to parliament by order of the House of Commons. It works on behalf of parliament and the taxpayer to hold government to account for the use of public money and to help public services improve performance. Since 2000 it has regularly examined the key assumptions underpinning the government's projections of public finances to check their reasonable-

ness, reporting the findings alongside the government's reports. In 2007/08, it published 60 major reports to parliament and audited over 460 accounts. Beginning with the 2008–2009 cycle, audits will be made using International Financial Reporting Standards.

The NAO supports the Public Accounts Committee (PAC), other select committees from both Houses and individual members in their scrutiny of public expenditure and service delivery. The NAO has provided 17 Select Committees with a wide range of support and has recently begun producing performance briefings to assist Select Committees' annual oversight of departments' performance. It also deals with a complex and wide range of enquiries from members of parliament, which on occasion may lead to a full value for money report.

Good Practice
NAO produces technical information, guidance and good practice material that can be used by others, particularly those in public sector organizations.

Defence Issues
NAO work in this area includes financial audit of this complex department, which holds approximately £90 billion in fixed assets and manages an annual budget of nearly £34 billion. The NAO also undertakes reports assessing the value for money of Defence Ministry spending. This covers the department's ability to support current operations, as well as maintenance and development of military capabilities to meet future requirements. The NAO focuses on aspects of operational effectiveness, support for armed forces' personnel, major equipment acquisitions and underpinning infrastructure such as the Defence Estate and business change programs. Recent reports have looked at the Chinook helicopter fleet, Hercules C-130s, logistics arrangements for fast jets, recruitment and retention, the use of reserve forces and the defence information infrastructure.

Source (adapted from): National Audit Office, www.nao.org.uk.

Start at the Top: Corruption Risks and Remedies for Parliamentarians

In reducing corruption parliamentarians should be gamekeepers, establishing norms and standards for transparency, holding the government accountable for proper decision-making processes and scrutinising its audits. Yet, as in any area where there are large outlays, they are tempted to influence those decisions and sometimes do so for personal gain or for their party's coffers. In this respect, corruption in defence contracts is increasingly in the limelight. Yet there is no indication that the defence field is more prone to corruption than, say, building and infrastructure contracts. Indeed, in the wider security sector corruption plagues police and customs services far more than defence, although this is frequently petty, grassroots corruption that occurs far below the level of parliament.

Nevertheless, the defence sector does have its unique corruption risks. The circle of decision makers and interested parties usually is smaller and operates in secrecy,

expertise is less widespread, and—above all—the market is monopsonistic, i.e. the defence department is the only buyer and the number of qualified suppliers limited. Complex defence contracts with numerous sub-contractors make proper accounting difficult and procurement departments prefer to deal with a handful of trusted suppliers. Against this background, parliamentarians lobby for the economic interests of their constituency and might lend a hand in obtaining deferrals from conscription or plum jobs for their protégées. In this, there is a thin line between legitimate help to constituents and the exertion of undue influence.

There is no limit to human inventiveness and brinkmanship in finding ways to influence acquisition processes without being in outright conflict with the law. Corruption can take the form of kickbacks on (unjustifiably high) contractual payments, so-called commissions for services rendered, favours outside the contract like holiday trips for members of the family or other services, or outright payments under the table. Large scale corruption to sway the decision of influential individuals usually takes place through agents or other intermediaries, thus avoiding direct contact between supplier and buyer and making it difficult to trace payments through the banking system.[1] This underlines the importance of clear legislation on what is allowed, what is not permitted and where officials should draw the line in their contacts with suppliers. Limits should be put on the value of gifts officials and parliamentarians are allowed to accept. Parliamentarians should see to it that these rules or codes of conduct are firmly established and observed, and also apply them to themselves. They should avoid any semblance of inappropriate behaviour and, for example, not enter into contact with commercial agents or visit factories on their own, but only do so in combination with their colleagues in the defence committee.

In 2007 the democratic senator from Montana, Jon Tester, even took the innovative step of posting his daily schedule on the web. This action highlights the remedy to the risks: maximum transparency in the way parliamentarians do their work and declare their interests. Individual parliamentarians should declare their assets and interests before taking public office and do the same some years after relinquishing it. There should be a prohibition on anonymous contributions to them and to their party's finances. These measures are also in their personal interest, protecting them from incorrect accusations of fraud and enhancing public confidence in their work. In this regard, the UN International Code of Conduct for Public Officials provides a useful basis for crafting rules – in particular section II on conflict of interest and disqualification, and section III on disclosure of assets. Such disclosure is of particular importance in legislatures that are not considered a full time occupation and where members are therefore allowed to take other paid jobs. For example, in the British House of Lords 139 out of the 743 members have paid advisory functions and figure on the salary sheets of corporations.

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[1]   "The Etiquette of Bribery: How to Grease a Palm," *The Economist*, 23 December 2006.

Parliament's Role in Ensuring Defence Transparency

Parliaments play a strong role in ensuring the transparency of the Defence Department and have a number of instruments at their disposal to do so. Their members can ask written or oral questions and follow them up when the answers are unsatisfactory. A powerful tool for achieving transparency is the organisation of hearings with competing suppliers, if necessary behind closed doors to protect commercial secrets. More dramatic, but also time consuming, is a parliamentary inquiry, which aims at fact-finding and the attribution of responsibilities. Few ministers or state secretaries survive such an ordeal, for the political battle continues in the inquiry and members of the opposition have their knives out for proving the incompetence of the government. At the same time, parliamentary inquiries are often weakened by the inexperience of its members in legal questioning. They are elected for their political acumen, not for their investigative abilities.

Investigative tools are important but the best remedies to corruption are regular procedures and sticking to them: careful, line-by-line examination of the defence budget, looking for the life-cycle cost of new acquisitions, and combining the review with reports from the audit office to determine whether financial outlays are spent for the purposes indicated. Obviously, however, such procedures only work well if parliament possesses sufficient qualified staff for in-depth analysis. Provided an independent Audit Office exists, it also serves as a deterrent to malpractice, since misappropriations are likely to come to light in their reports.

In the area of procurement, the Defence Ministry should be required to provide parliament with information about military requirements, the alternatives for meeting them, the list of potential suppliers and the arguments for final procurement decisions. For example, in Belgium and the Netherlands the Minister of Defence has to follow a prescribed procedure of first including the requirement for a weapon system in a 10-year programme and subsequently explaining it, then analysing the alternatives, reporting on the negotiations and the co-production and compensation aspects (handled by the ministry of economic affairs), and finally making the decision. To support such deliberations, in 1996 Belgium established an *ad hoc* committee for military purchases of the House of Representatives. In the Netherlands, the Defence Ministry must follow a convention that parliament has sufficient time to consider contracts above Euro 50 million before the contract is signed (see Box 18.2). This normally results in a green light from the Defence Committee but members have the right to put the item on the agenda of the Second Chamber for plenary discussion and vote. In Germany, a similar procedure of enhanced scrutiny begins at the Euro 25 million level.

Box 18.2. A Model Sequence for Oversight of Defence Procurement

The following model sequence of procurement oversight is based on parliamentary practice in the Netherlands.

Requirement
The Defence Ministry informs parliament of the general operational requirement. This includes the type of equipment, an estimate of the numbers needed and the volume of funding reserved for the procurement. Parliamentarians usually focus their attention on the share of the overall budget the new plans will adsorb and pose questions concerning compatibility with other priority needs. The procurement can only move forward if the parliamentary defence commission approves the requirement, or at minimum signals acquiescence with the formula "the commission takes note of the document presented."

Preparatory Studies
Operational requirements are translated into technical specifications. The market is explored and an exhaustive list of all possible suppliers drawn up. If the product is not available now or in the immediate future, plans are drawn up for a development phase in cooperation with industry and other interested countries. A procurement strategy is established, as well as a timetable for production and delivery.

Assessment
This is a thorough study of the information provided by interested suppliers. Are they able to fulfil all specifications or do they suggest alternative ways of meeting the requirements? Is the equipment in use by other forces and what are their experiences regarding performance? What are the possibilities for co-production and compensation [offsets]? This study should lead to a short list of alternative products. The information should be subject to discussion in the competent parliamentary committee and preferably made public.

Acquisition
This involves a final recommendation and preparations for the acquisition, based on negotiated offers, possibly complemented by field trials. The armaments directorate applies a range of criteria in arriving at its final recommendation. Assuming that several alternatives meet the military requirements, other factors may come to bear: for example, life-cycle costs, gradations in military effectiveness and safety. Offset or co-production arrangements are also frequently an issue – parliamentarians want to be sure that domestic industry will be adequately involved and usually demand one hundred percent compensation for every defence dollar or euro spent abroad.

The role of parliament in each of these phases will differ, depending on the monetary value. In the Netherlands, contracts below 5 million Euros are left to the service concerned. Projects up to Euro 25 million must be included by the chief of the Defence Staff in the overall defence and communicated to parliament. Between Euro 25 and 100 million the requirement has to be approved by the parliamentary committee at the beginning of the cycle, but further execution is mandated to the service concerned, unless the project has been qualified as politically sensitive. Projects of higher value need parliamentary approval before signature. Decisions regard-

ing their implementation can only be taken by the State Secretary (deputy minister) in charge of equipment. Contracts above Euro 250 million require approval by the full cabinet and parliamentary approval.

Source: Willem F. van Eekelen, *The Parliamentary Dimension of Defence Procurement: Requirements, Production, Cooperation and Acquisition*, Occasional Paper No. 5 (Geneva: DCAF, 2005).

Allies: Media, NGOs, International Organizations, Defence Professionals

One of the challenges for parliaments is to effectively target the often tremendous resources at their disposal, in light of real limits on parliamentarians' time. Media is one source of inspiration; many question hours in Western parliaments rely on stories about scandals or ineffective government action in the morning papers. An active and inquisitive press is a requirement for effective democracy yet relying too heavily on news percolating through the media has the drawbacks of promoting reactive responses to scandals and politicisation. Sometimes parliamentarians would better use their resources if they would take some distance from short-lived media excitement and focus on longer-term policy objectives. Likewise, international institutions, like UNDP, should consider the need for balance in their funding of investigative journalism. While a good thing overall, investigative journalism can contribute to an unhelpful accusatory climate. The media should observe a code of conduct of their own.

Parliaments also have allies in the non-governmental community. Most countries have a plethora of civic organizations focused on combating corruption at the national or local levels. The challenge is to bring them into constructive relationships with parliament, rather than just accusatory ones. On the international level, a key ally in countering corruption is Transparency International, which was formed fifteen years ago and annually publishes a Bribe Payers Index, Global Corruption Barometer and Corruption Perception Index. Such "naming and shaming" of culprits—individuals, companies or entire nations—has had some impact, particularly in Western parliaments. Transparency International, through its network of national chapters, can also help mobilize national non-governmental organizations to participate constructively in parliamentary efforts to counter corruption.

A major player in assisting parliaments to build oversight capacity is the Geneva Centre for the Democratic Control of Armed Forces (DCAF), an international foundation formed by the Swiss government in 2000. DCAF identifies and promotes best practices in security sector governance at the national and international levels. It works closely with other international institutions to provide in-country advisory support and practical assistance programmes that build integrity, transparency and accountability. This is frequently done in combination with various parliamentary assemblies, like the Parliamentary Assembly of the Council of Europe and the NATO Parliamentary As-

sembly, as well as other international institutions that seek to promote best practice in security sector governance.

The Parliamentary Assembly of the Council of Europe has been particularly active in supporting defence and security sector oversight. In 2005, in response to actions taken in combating terrorism, it developed a set of detailed recommendations regarding oversight in the areas of intelligence, police, border control, defence and "national security and democracy." These underlined the need for:

- Clear and appropriate legislation to govern the activities of the security and defence sector, with clear distinctions between security and intelligence services on the one hand and law enforcement agencies on the other;

- The armed forces to remain focused on national security, without dilution by auxiliary tasks, except in exceptional circumstances;

- Functioning specialized parliamentary committees, with supervision of intelligence services and budgets as a minimum prerequisite;

- Parliamentary supervision of exceptional measures, which must not seriously hamper the exercise of fundamental constitutional rights.

The resolution also acknowledged the increasing importance of international cooperation and peacekeeping missions and emphasized that this "must not be allowed to have an adverse effect on the role of parliament in the decision-making process." It also noted that deferred transparency (declassifying confidential material after a period of time prescribed by law) could help manage the balance between confidentiality and accountability.[2]

A major anti-corruption ally among intergovernmental organizations is the Organisation for Economic Cooperation and Development (OECD). Composed of thirty industrialised nations, the OECD drafted a Treaty against Corruption in 1977 that as of today has been adopted by 38 countries. It also has a Working Group on Bribery, which is chaired by the Swiss professor Mark Pieth. A number of OECD nations have implemented anti-corruption laws based on this treaty, with substantial results. For example, Germany adopted an anti-corruption law in 1999 and has followed it up forcefully. The electronics company Siemens was prosecuted for paying €1.3 billion in bribes in more than fifty countries, including a personal payment to Nigerian President Sani Abacha. In December 2008 the inquiry into Siemens' "Schwarze Kassen" [black accounts] ended with a fine of €395 million. The OECD treaty also facilitated complementary actions in other countries. A similar inquiry in the US led to a fine of $800 million and in 2004 Italy banned Siemens from doing business with public entities for a year.

Lastly, defence professionals can form a powerful domestic ally to support effective parliamentary oversight. Defence personnel will not easily cheat on the quality and du-

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2   *Democratic Oversight of the Security Sector in Member States*, Recommendation 1713 (Parliamentary Assembly of the Council of Europe, 2005), http://assembly.coe.int/.

rability of equipment they are procuring because this might become a matter of life or death for their operational colleagues. Moreover, authorisation and accounting procedures have been regulated carefully, often in excruciating detail and requiring signatures at every level of the procurement process. Most defence departments have a special office to scrutinise this process on possible fraud. Such offices need an independent position outside the line of command and linked with staff of the inspector general. The inspector general should have a strong link with parliament, which should be consulted on his appointment.

Oversight of the Defence Industry and Arms Exports

Parliaments are frequently far stricter in oversight of national procurement than they are of foreign sales. On the one hand, this is logical since national procurement involves the parliament that appropriated taxpayers' money as a direct stakeholder. On the other hand, economic incentives focus more on industrial development than on oversight where experts are concerned. Parliamentarians are legitimately concerned about maintaining jobs in such an innovative branch of industry, focusing on state of the art technology and skilled labour. Except for the US, no country possesses a home market that is large enough to sustain a viable defence industry, making export markets or multinational production arrangements necessary for companies to remain in business. Yet for over a decade, reduced defence budgets in most Western countries have led to increased competition in third country markets. The current economic crisis makes this even more urgent. As large defence contracts are few and far between—but once obtained provide years of work for industry and guaranteed employment for constituents—some in authority are willing to close an eye when attractive contracts could be impeded by full transparency and clean practices. A number of recent cases, however, have begun to reverse this trend (see Box 18.3).

One positive note is that industry itself has begun to address the issue of corruption. In July 2006, the European aerospace and defence industry announced the creation of an international industry working group dedicated to combating corruption. It is initially intended to cover all European defence companies and their national defence associations, and then to be open to defence companies from other countries. On the same day, the formation of the UK Defence Industries Anti-Corruption Forum was announced. Will they work? That remains to be seen. The World Development Report of 1997 noted that 15 percent of all companies in industrialised countries have to pay bribes to retain their business. This figure was 40% in Asia and 60% in the Russian Federation. Reduction of corruption will depend on the perseverance of governments and parliaments, particularly in view of the fact that outside Europe and the US many people in high positions expect bribes for their participation in commercial deals. Consequently, corruption will only diminish if the risks to suppliers and buyers are high. It can be helped if the competing firms close ranks in observing a code of conduct. Parliaments can certainly play a constructive role in supporting this trend.

Box 18.3. Selected Major Corruption Cases in Foreign Sales

The most visible recent case of allowing bribery has been the dealings of British Aerospace Systems (BAE), the fourth largest defence firm in the world, with Saudi Arabia. In 2003, the Guardian newspaper revealed that BAE, with the connivance of successive British cabinets, had paid millions of bribes over the past two decades to senior Saudi officials and members of their families in return for lucrative defence contracts. The British Serious Fraud Office started an investigation and discovered the existence of a £60 million slush fund at BAE for "support services" and evidence that one billion pounds had been transferred to the Swiss bank accounts of two middlemen linked with the Saudi royal family. However, the attorney general stopped the inquiry, indicating to parliament in December 2006 that Saudi Arabia had hinted at retaliating by stopping information concerning possible terrorist attacks in the UK. Prime Minister Tony Blair supported the decision.

Such cases have also occurred in sales to NATO countries. In the mid-1970s, the Netherlands experienced an effort by Lockheed to buy influence in the acquisition of new military aircraft. At his request, Lockheed paid $1.1 million to Prince Bernhard, husband of Queen Juliana. An independent commission of inquiry concluded that his behaviour had been "reprehensible," but with the threat of a possible constitutional crisis (possible abdication by the queen) the government, in consultation with parliamentary leaders, only terminated the prince's functions as Inspector General of the Armed Forces. In roughly the same period, when the Netherlands was in the process of buying F-16 aircraft from the US, an agent linked to Dassault was suspected of attempting to bribe a parliamentarian but the case was not brought to trial.

India is a good example of a country that has suffered greatly from corruption yet it has also taken important legislative action. The purchase of Jaguar aircraft from the UK in 1978 and major contracts in the 1980s for the purchase of Bofors artillery guns, Mirage 2000 aircraft and HDW submarines were all surrounded by a stench of corruption, although nominally backed by defence requirements.

In response, in 2001 a person of impeccable integrity was appointed to introduce a measure of transparency and public accountability into the functioning of the Defence Ministry. The government issued instructions for the open declaration by foreign suppliers of the services to be rendered by their representatives and the remuneration payable to them by ways of fees, commissions or any other method. The Defence Procurement Procedure (DPP) enunciated in 2006 created registration requirements and penalties that removed the attractiveness of hiring middlemen—Indian or foreign—for promoting defence contracts. (However, by April 2008 no authorised Indian representative had been registered under this instruction.) The DPP also contains three critical elements: an offset clause, no single-vendor purchases and compulsory transfer of technology in all major contracts. In 2008, Defence Minister Antony also informed parliament of other steps to prevent corruption and to ensure transparency, including: an "Integrity Pact" between the government in all contracts above 3 billion Rupees; major decisions in the acquisition process would be taken in a collegiate manner; enhanced transparency in the conduct of field trials; and regulations on pre-bid meetings with vendors.

Sources: G. Parthasaraty, *The Era of Corruption* (28 March 2001), www.rediff.com; Defence minister A.K. Antony in a written reply in the Rajya Sabha. See www.thaindian.com (22 April 2008).

Final Thoughts

A review of contemporary recent corruption cases underlines the continuing need for transparency, as well as the important role—and limitations—of parliamentary oversight. In several cases, the executive successfully (if perhaps only temporarily) argued that the higher interests of the state overrule the inclination of parliaments to take stronger action. Nevertheless, parliamentary action has had an impact. Industrial enterprises are increasingly reluctant to even consider bribery. And overall, governments and parliaments have come together to address the issue. The Lockheed scandal (see Box 18.3) and a case with General Electric led to the adoption by the US of the Foreign Corrupt Practices Act in 1977 – and subsequent US pressure on other governments to do the same in order to get a level playing field. Parliamentarians have also frequently led national efforts to implement the OECD Convention into national law. And inter-parliamentary assemblies like the Parliamentary Assembly of the Council of Europe and the NATO Parliamentary Assembly continue to play a leading role in pushing international cooperation and standards for combating corruption.

Parliaments and parliamentarians have a sacred trust from their citizens to lead in countering corruption. And while much has been done in recent years, many more challenges remain. Parliamentarians can help meet them by ensuring that defence committees and audit offices have sufficient authority to provide effective oversight. They can work to build the needed capacity to implement these mandates, in terms of staff, budget, access to information and contracting for external expertise. Defence Committee members can demonstrate leadership in developing their professional knowledge and in showing a public-spirited, non-partisan attitude toward issues of national security – which fundamentally touch on the survival of the state. In doing so they can courageously act to ensure defence transparency, while protecting legitimate state secrets. And in all of this they can improve their effectiveness by cultivating a network of allies, domestically and internationally, that share a common interest in countering corruption and helping their countries develop as prosperous, secure democracies.

Chapter 19
The Role of Ombudsperson Institutions

In the 200 years of its history,[1] the ombudsman institution has demonstrated its value for both developing and mature democracies. The ombudsperson institution is not the primary instrument to fight corruption as a criminal activity. However, if properly designed, supported by strong political will and equipped with experienced and motivated staff, the ombuds office can be an effective instrument within a strategy of preventing, neutralising and eradicating corruption in defence.

The Ombudsman Function in Defence

In its modern interpretation, the primary function of the ombudsman is "to protect the people against violation of rights, abuse of powers, error, negligence, unfair decisions and maladministration in order to improve public administration and make the government's actions more open and the government and its servants more accountable to members of the public."[2] The essence of this explanation, as embraced by mature democracies, is that the ombudsperson is independent from the organisation subject to peoples' complaints. Hence, the ombuds institution is created by law; the ombudsperson is appointed by the legislature and serves as its agent. One of the supporting arguments is that such an arrangement helps guarantee the independence of the ombudsman, who might otherwise be reluctant to criticize the actions of agencies that are responsible to the executive. As part of the legislative branch of government, the ombudsman is not only providing a direct service to citizens, but also performs a role in the legislative oversight of the agencies under the ombudsman's jurisdiction. Since the ombudsman may only make recommendations, and may not compel the executive and judicial agencies to take substantive actions, his or her role is consistent with the concept of separation of powers.[3]

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[1] Frank Orton, former human rights ombudsman of Bosnia and Herzegovina and former Swedish ombudsman, argues that in October 1713 the king of Sweden signed an ordinance by which he established the institution of the King's Highest Ombudsman to ensure that the judges, military officers and civil servants in Sweden were observing the laws of the country and the rules laid down for them.

[2] International Ombudsman Institute, as quoted at: www.law.ualberta.ca/centres/ioi/.

[3] Comment from the *Model Ombudsman Act for the State Governments,* developed by the U.S. Ombudsman Association, www.abanet.org/adminlaw/ombuds/usoamodel1.html.

Box 19.1. Defining "Ombudsman"

Loosely translated, "ombudsman" means "the citizen's defender" or "representative of the people." Ombudsman is a gender-neutral term, used throughout the world by women and men who hold the office. However, some prefer the terms ombuds or ombudsperson (see www.usombudsman.org). Many other names are used to represent the ombudsman office. For example, in English speaking countries the names vary from *parliamentary commissioner for administration* (Sri Lanka, United Kingdom), *public protector* (South Africa), to *investigator-general* (Zambia). In a number of countries, the protection of human rights is one of the major purposes of the ombudsman office and this is often reflected in the name of the office, e.g. Mexico's *National Commission of Human Rights*, the *Civil Rights Protector* of Poland, the *Human Rights Ombudsman* of Slovenia and the *Parliamentary Commissioner for Human Rights* in Hungary.

Source: Petter Bolme, *International Overview of the Ombudsman Concept* (Stockholm: Global Reporting Sweden AB, 2008), 4.

This is the core of the original concept that, applied to defence, looks at the public protector or military ombudsman who safeguards the rights of military personnel and emphasises democratic constitutionalism within the defence forces. It is important to underline that interpretations such as "internal ombudsperson" or "inspector general" with ombuds functions, appointed by the head of the institution, deviate from the original concept. They may have positive impact in keeping the institution healthy but cannot be examined as alternatives. Bureaucracies characterized by diverse organisational cultures have introduced modified versions of the original ombuds concept with varying degrees of success. The knowledge of the basic concepts and their specific implementation mechanisms facilitates the establishment of an ombudsperson institution adequate to the strategy of building national and institutional integrity.

The establishment of a defence ombudsman institution aims to cope with two principal problems of defence in a liberal (or liberalising) democracy: to keep the relations between civil society and its military institutions under proper civil control and, simultaneously, to protect the human and social rights of the people in defence. Thus, the classical question in civil-military relations "who will guard the guardians?" is combined with another one – "how to guard the rights of guardians as citizens in uniform?" The issues, embraced by both questions, are interrelated not only conceptually but as a strategy and policy of societal and defence institutional development.

The internationally accepted role of the ombuds office is merely to investigate and recommend solutions. The establishment of such an office, therefore, does not have to be seen as a threat to any existing authority.[4] The scope of activity of a military ombudsman will be dependent, to a large extent, on the intent, influence and nature of

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[4] In many cases such activities are viewed as contrary to military subordination and are explained—rightly or wrongly—as eroding military or political authority and leadership.

the evolving defence environment. It is unlikely that it will get "out of hand."[5] Corruption, in its multiple forms and manifestations, is plausible throughout the entire spectrum of civil-military relations. Therefore, a "full-scale ombudsman" should have the responsibility and capacity to cope with all serious civil-military problems. It is worth noting that the establishment of this office in a number of countries has resulted in some remarkable developments in the conduct and behaviour of military personnel in executing their duties and responsibilities.

Models of Ombudsman Institutions

Generally, ombuds institutions are divided into two groups – "classical" and "organisational." There is constant evolution within each group and the demarcation lines among them change rapidly.[6] But defence is different both as a governmental policy and a societal detachment. For that reason there are numerous types of ombudsman institutions in defence, with widely varying tasks and authorities. Three main models may be distinguished from a practical point of view – the classical ombudsperson, the powerful institutional ombudsperson in defence, and the weak organizational ombudsperson of the armed forces.

Recalling the basic premise in management that "what is measured is what gets done," the power of the ombudsperson is examined herein as a component of the processes of monitoring and evaluation of defence governance, in particular in the formulation and implementation of defence policy.

The Classical Model of Ombudsman in Defence

This model is based on the presumption that in any parliamentary democracy the parliament is the supreme national authority. The parliament alone makes all final decisions on defence matters, including decisions on resource allocation and institutionalization of control mechanisms such as budget control, hearing of petitions, the raising of problems through parliamentary hearings, etc. These mechanisms could also include a public protector or military ombudsman who safeguards, on one hand, the parliamentarian and societal ownership of the national defence policy and emphasises democratic constitutionalism within the defence force and, on the other hand, the rights of military personnel as humans, citizens and members of the military organisation. Box 19.2 provides an example of the classical ombudsman in defence in Norway.

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[5]   Phasoane Mokgobu, "Determining a Role for a Military Ombudsman in the South African National Defence Force," *African Security Review* 8:1 (1999), www.iss.co.za/ASR/8NO1/Determining.html.

[6]   According to materials published by The Ombudsmen's Association (TOA), a U.S.-based umbrella body. See also the website of the Canadian Armed Forces ombudsman, www.ombudsman.forces.gc.ca.

Box 19.2. Classical Model of an Ombudsman in Defence in Norway

An example of a *classical* ombudsperson in defence is the Parliamentary Ombudsman for the Armed Forces of Norway – the world's first parliamentary military ombudsman established in 1952. The ombudsman and the Ombudsman's Committee are bodies of the Norwegian Parliament and part of its oversight and supervisory activities. The ombudsman shall safeguard the rights of all members (and former members) of the armed forces. Anyone who feels that he or she has been wrongly, unjustly or unreasonably treated can bring his or her case before the ombudsman. The Ombudsman's Committee is required to submit annual reports to parliament but may address a matter to parliament at any time. The ombudsman acts as an advisor to the parliament and the Ministry of Defence on matters within his sphere of competence. In its role as independent military oversight mechanism the Ombudsman's Committee inspects military units stationed at home and abroad. The ombudsman submits inspection reports with proper recommendations to the minister of defence and the chief of defence.

The ombudsman may address or take actions of his own initiative in any matter which comes to his attention. He is empowered to deal with cases involving all authorities, has access to all documents and information and may hear witnesses and experts. The ombudsman is impartial and independent of the minister of defence, the Ministry of Defence and the military authorities.

Source: Website of the Norwegian ombudsman for AF, www.ombudsmann.no/mil/english.asp.

Despite some variations in name, classical ombuds institutions for defence share some essential characteristics:

- To protect people's rights, *the ombudsman function is created by law* and the ombudsperson is *appointed by the legislative body* that provides strong legal safeguards for their independence and confidentiality of records.
- The ombudsperson has the *power to investigate* whether the government, including the Ministry of Defence (MoD) performs its functions contrary to the law or against public moral norms.
- The ombudsperson *makes proposals and issues recommendations* to the government for changing or initiating actions (including legal actions) to eliminate unfair and improper institutional performance.
- He or she makes the results of its activities *public possession* and initiates non-governmental and media *pressure* for administrative or legislative corrective action.

In all cases, the ombudsman institution must be impartial, non-partisan and non-political. But inevitably the ombudsperson is an actor in the political arena.[7] He/she is

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[7]   In this case, the political arena consists of political parties, political institutions like parliament, the government, the presidential office, non-governmental organisations and the formal and informal, legal and illegal procedures they use to interact within the arena.

in a position to initiate political responses, including through introduction of new laws or amendments, recommend dismissal of political appointees, illuminate illegal political or administrative practices and initiate sectoral or structural institutional reforms. The criticism of a ministry or other public authority represents a criticism against the governing option (party or coalition) and can be (mis)used by the opposition.[8]

The power of the *classical* ombudsperson in building national military identity and integrity is not just in investigating personal cases of violation of different rights. The ombudsperson's role in integrity building could be considerable if he or she succeeds to influence the political process at the stage of policy formulation, to strengthen the legitimacy in its implementation and to provide the society with information on achieved results. The ombudsperson would have a key role for the society and the military if he or she contributes to establishing an environment of mutual confidence and support.

The Institutional (Organisational) Model

The original concept of ombudsman is based on the independence of the ombudsman from the executive powers. Historically, during the past two centuries, most government agencies in democracies have matched the authentic ombudsman model and role by establishing internal procedures for handling complaints from employees. The classical concept has been modified by extending it to embrace so-called ombudsmen appointed by the heads of the departments or agencies being complained against. On occasion, this is seen as an alternative to the classic ombuds institution, created for the purpose of guaranteeing the liability of complex organisations such as defence. Such alternatives are established in order to meet specific needs of the organisation and their terms of reference and powers are tailored to that end. Such alternatives share some common characteristics, which clearly illustrate their specifics and limitations:

- They are set up via regulations issued by the minister of defence; as a result they do not have strong legal safeguards and autonomy guaranteed by special legislation. In some cases such ombudspersons are only mentioned as an element of the ministerial architecture.

- They are appointed by the minister of defence and report directly and only to him/her, without having direct access to the legislature.

- As MoD employees, they are part of the ministerial chain of command with all benefits and limitations stemming from that fact.

- Their reports, findings and recommendations are usually "for official use only" or even of higher level of classification.

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[8]   Ivan Bizjak, "The Ombudsman between Legislator, Administration and Citizen – Political Angle" (Copenhagen, April 2005).

- They attempt to resolve issues informally, when possible, and have the capacity to investigate and make recommendations if necessary, but following the established military order.

Analysts and practitioners have opposing opinions on how valuable this modified concept is. One point of view is that by introducing the *institutional* ombudsperson the idea has been distorted and distanced from the original idea and desired objectives. Clearly, in comparison with the classical model, any institutional ombudsperson has limited status, power and capabilities to perform his or her duties. The opposing view is that the existence of many classical and institutional persons and offices with ombuds functions has created an additional layer of scrutiny and transparency to what normally occurs in the executive organisations.

In addition, the experience of different countries, being at different stages of democratic maturity and/or defence institution building, provides arguments to delineate "strong" or "weak" versions of the institutional ombudsperson model.

Strong Institutional Ombudsman

Within the "strong" formula the ultimate goal is to create an effective and credible ombudsman *office*, with a focus on the *office.* The principal qualities of the "strong" ombuds office are independence and impartiality, confidentiality and capabilities (normative, resources, personnel) of performing credible review and investigations. Within this model the initiative and responsibilities are for the ombudsman, who should not wait for "the client" (soldier, officer, civilian employee or family member) to approach the office but monitors, studies, analyses and investigates on his or her own initiative, as well as upon special request or order.

A strong institutional ombudsman for defence exists when it has been established by law with the presumption to exercise control and provide feedback over: 1) defence policy, taken as a whole; 2) defence resource management; 3) performance of the armed forces; and 4) personnel ethos, rights and freedoms. Box 19.3 presents an example based on the experience of the Netherlands. This should be a large and functionally powerful office, usually led by an inspector general, placed outside the military command system and reporting directly to the minister of defence. All military and civilian personnel, as well as all functions performed by the MoD and the armed forces, should be under his or her oversight. The inspector general could make investigations and produce recommendations following orders, pursuing signals or on their own initiative. They are vested with considerable power and authority and there is a clear correlation between their ability to ascertain the facts and their credibility within their fields.

Within the concept of the so called Integrated Ministry of Defence, where the administrative and defence staff are organisationally and functionally integrated under the shared leadership and control of a senior civilian administrator and a chief of defence, the role and responsibilities of the inspector general's office are much larger than those of the ombudsman, who is focused mainly on people's complains. Such design

Box 19.3. The Inspector General as a Strong Institutional Ombudsman

An example of a strong institutional ombudsman is the inspector general of the Netherlands Armed Forces. He works outside the chain of command and reports directly to the minister of defence. He has a mandate to: inform and make recommendations to the minister on request or on his own initiative on matters relating to the armed forces, in addition to instituting investigations into, or fulfilling the role of mediator and adjudicator, matters relating to individual armed forces personnel or former personnel, these being submitted to him in writing by, or on behalf of, the person in question or his next of kin. His functions include giving advice, mediating at later stages in proceedings, networking and bringing any problems to the attention of those who can solve them. The two fundamentals of his office are independence and confidentiality. The inspector general has wide ranging investigative powers, including the right to access any place or document belonging to the armed forces, as well as the power to summon any armed forces personnel to a hearing.

Source: National Defence and Canadian Forces Ombudsman, *The Way Forward: Ombudsmen Models.*

of a defence agency is based on clear conceptual distinction between political, management and command functions and maximum integration of civilian and military expertise. To work properly, such a system vitally needs internal checks and balances designed to guarantee both the quality of advice and the quality of the relationship between civilians and military. In order to cope with such a challenge, the inspector general, in addition to his or her principal functions to ensure that no one suffers injustice while serving in the armed forces or working for the MoD, has the role of serving as "an internal independent audit" office. Such expansion of the ombudsman model has extremely great value for preventing and fighting corruption especially in sensitive areas such as defence acquisition and procurement, resource allocation and management. Organisationally and in terms of resources, it has to be a large and very capable office, placed outside the military chain of command and directly subordinated to the minister of defence.

Weak Institutional Ombudsman

In its "weak" version, the institutional ombudsman *assists the client* to develop, and then pursue, his or her own options to resolve problems. The onus is on the "client" (soldier, officer, civilian employee, business entity, citizen, etc.). This is a much distorted concept of the ombudsman – it looks more like an administrative "office of grievances" than an institution for defending democracy and human rights. It has some value for the people in defence and could be used to counter corruption but has rather limited value for the development of defence as an effective and democratic, transparent and accountable institution, for the society of free and active citizens, and for the parliament as a centre for democratic development and control of the executive "on behalf of the people." Typical functions of this model often include only "check-up,"

> **Box 19.4. The Model of "Weak" Institutional Ombudsman: An Example**
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> An example of an "ombudsman-like" institution is *The Inspectorate of the Minister of Defence* of the Czech Republic (which is also the case in other countries—former members of the Warsaw Pact). This is the supreme internal inspection body of the Ministry of Defence responsible for the performance of inspection operations within the Czech military, excluding the inspection of financial operations. The inspectorate cooperates with national-level inspection authorities, such as the Supreme Audit Office of the Czech Republic, the Public Defender of Rights – Ombudsman, with Czech authorities with jurisdiction over criminal prosecution and the National Security Authority. The inspectorate coordinates the anti-corruption strategy within the military and provides coordination in the implementation of anti-corruption measures. It is also responsible for investigations into the causes of air crashes. The inspectorate is headed by a director, who reports to the minister of defence.
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> *Source:* Website of the Czech Republic Ministry of Defence, www.army.cz/scripts/detail.php?id=7152.

listening, providing information, reframing issues, referring, advice, looking into a problem, formal mediation, proposing changes in certain practices, and monitoring and upward referral of trends.[9]

There are differences in the specific application of this model but one single feature is common to each: the ombudsman's duty is to ensure that the public authorities meet the requirement of lawful administration and respect for the individual rights of citizens.[10]

The Ombudsman Role for Building Integrity and Reducing Corruption Risks in Defence

Corruption is the antithesis of good governance, which is widely recognised to be essential to economic development.[11] The old and enduring view, with deep roots in some defence establishments, is that corruption is "just another business expense, normal for the market economy and those who want to make business with defence should pay it. Everybody does it!" In fact, corruption leads to poor performance with long-term implications not only for the character of the armed forces but for the nation as a whole. Corruption in defence is one of today's most serious moral challenges.

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[9] These are the "ten points" as quoted in *The Ombudsmen Association* literature.

[10] Michael Lunn, *The Ombudsman between Legislator, Administration and Citizen – Developing the Ombudsman Concept*, speech on the occasion of the 50th anniversary of the Danish ombudsman's institution, 1.

[11] As the prominent analyst of the Bulgarian transition towards democracy, Dr. Ivan Krastev once said in a TV interview, "Public officials take bribes because they do not have a reason not to take bribes. Private companies give bribes because they do not have an option not to give."

Despite the specifics of individual countries, corruption could be named a common reason for some spectacular failures in defence acquisition, sales of real estate and property management, drafting into and dismissal from military service and even in some aspects of structural reforms.

The defence decision-making process is based on and passes through the political, administrative and military sectors where: (1) military experts determine operational doctrines and required capabilities; (2) civilian managers and politicians make decisions on resource allocation, material acquisition, arms trade and organisational development; and (3) civilian defence agencies organise the acquisition of public tenders and provide services. Every sector along this process is susceptible to corruption.

Moreover, from a socio-political point of view, every potentially corrupt decision of a civilian minister runs up against the social "cost of politics," confuses the image of the politicians transferring them from a symbol of democracy into "business politicians," creates a gap in military confidence and the political leadership (notwithstanding suspicions that their military colleagues are also engaged), and forms the impression that every political party is surrounded by its own "ring of companies." At the same time, every engagement of the military in corrupt activities damages the internal ethos and morale of the people in uniform, public prestige and the national value of the defence institution. In one sentence, corruption destroys the cohesion of the national integrity system, including its military pillar.

John McMillan, the commonwealth and defence force ombudsman of Australia, based on his comprehensive experience argues, "Fighting corruption is not the main or even a major function of Ombudsman offices. They do not have the intrusive powers that are needed for that purpose, such as the power to conduct covert surveillance, intercept telephone calls, and arrest suspects for questioning. Those functions are also resource intensive and beyond the capacity of most Ombudsman offices. Rather, the core function of Ombudsman offices is twofold: to handle complaints from members of the public about shortcomings in government decision-making and service delivery; and to conduct occasional own-motion investigations into systemic problems occurring either across government or in specific agencies."[12]

Nevertheless, the role of the ombudsman institution within a holistic approach against corrupt practices has the following values and capabilities:

- The very existence of an ombudsman office and the fact that every man and woman in the defence establishment has the right to communicate to him or her any problem created by decisions or their performance is a strong argument for those in political, administrative or command power to act lawfully and with integrity.

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[12] John McMillan's speaking notes for the U.N. Conference on Anti-Corruption Measures, Good Governance and Human Rights, Poland, 8-9 November 2006.

- The establishment of an office within a defence institution, independent from the command hierarchy, creates a sense of *alternativeness* in case someone thinks that corruption is possible or it is a fact. People in defence have an option and know that the requirements to follow strict organisational procedures do not oblige them to keep quiet when witnessing corrupt behaviour.

- The easy accessibility of the ombudsperson provides opportunities to deal with "minor" cases of corruption that usually are left outside judiciary, administrative or military sanctions. However, such minor cases are often the viruses that after not so long make even solid systems like defence rotten.

- The potential of the ombuds office to examine all defence decision-making processes, which in practice means most of the government, systematically and unpredictably, having a potentially large number of sources of information, is a permanent reminder to those engaged that their work is monitored from inside and outside and every indication of corruption, or potential corruption, could trigger alarm at any stage of the decision-making or implementation processes.

- The access of the ombudsperson to classified documents and facilities is a strong deterrence factor against falsifying documents, evidence and procedures in attempts to facilitate corruption.

- The capacity of the ombudsperson to make his work public and announce all names of political, military and civilian personnel engaged in corrupt or other illegal practices, with no exemption, is a warning to every servant to stay away from corruption unless they are willing to risk their career and honour.

- The fact that every citizen, not only defence personnel, has the right to attract the attention of the office of the ombudsperson for defence creates an important sense of integrity between society (consumers of security and stakeholders of national defence) and the military, which is one of the pillars of consolidated national integrity.

Thus, the ombudsman for defence plays an important role in keeping the institution healthy, improving its governance and performance and systematically developing the ethos and morale of the people in defence in accordance with the highest professional standards and the maturity of the social and national integrity. As John McMillan has underlined, "Many ombudsman offices see themselves as a champion of complaint handling principles, freedom of information, and whistleblower protection. Those are part of the fabric of democratic values that can strengthen a system of government and act as a barrier and disincentive to corrupt and damaging practices."[13]

One noteworthy lesson from worldwide experience in fighting corruption is that a multifaceted strategy combining political, social and economic reforms with strengthening the national integrity system is likely to be more successful than piecemeal anti-

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[13] Ibid.

corruption measures, despite how decisive and crucial they are.[14] Hence, the establishment of an ombuds institution for defence is an important component of any anti-corruption strategy. Worldwide, no two models are identical (see Box 19.5 for an example of a very specific implementation of the ombudsman concept). An ombudsman model will only be successful in its implementation if it is tailored to meet the demand leading to its creation. Nevertheless, some principal considerations drawn from positive experience of defence ombudsmen from different countries and of various models could be considered when a country or a defence institution designs its ombudsman institution:

- *Vision:* The introduction of a defence (or military) ombudsman should persuade the society and the defence establishment that the national authorities (parliament, government, the head of state and the judicial system) operate in a fair, effective, accountable and transparent manner strictly within the constitutional framework and in accordance with democratic and national moral values. Achieving and sustaining mutual confidence is vital for the civil-military relations in the country and for the national security sector. Confidence as perception is the faith in the system and its ability to successfully manage national security, the defence establishment and any type of crisis.

- *Role:* The role of defence ombudsman should be to contribute to the strengthening of the identity and character of the military, defence civilians and the political leadership of national defence. In that respect, the ombudsperson has the role of a consensus-builder through dialog, mutual respect and intensive and inclusive communion of broadly shared goals and purpose.

- *Mission:* The principal mission of the ombudsperson is to contribute to enhancing the credibility and performance of defence political leadership, administration and command, since strengthening identity and integrity requires a proven record of accomplishments. The ombudsman office safeguards the society in its relations with the Ministry of Defence and the armed forces. It contributes to correcting administrative deficiencies through independent review of complaints about the ministry's administrative actions, fostering good public administration that is accountable, lawful, fair, transparent and responsive, assisting people to resolve complaints about government administrative action, developing policies and principles for accountability, reviewing statutory compliance by agencies, etc. But the mission of the ombudsman is not to replace or oppose decision making by the government, Ministry of Defence or the armed forces. Rather, the ombudsman institution exists to encourage those agencies, and civilian and military leaders within its jurisdiction, to be aware of their responsibilities to society, military and civilian personnel, to act reasonably, and to ensure that they comply with the law and

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[14] Rick Stapenhurst and Sahr John Kpundeh, *Curbing Corruption: Toward a Model for Building National Integrity* (Washington, DC: World Bank, 1999).

best practices in administration, and respect the traditional military ethos. The ombudsman for defence shall work to develop the country's defence organisation into an organisation that is shared and beneficial for all members of the community.

Box 19.5. Implementing the Concept of Ombudsman in Enhancing the Integrity of Defence Acquisition

Since 2006, Korea has operated the Defence Acquisition Programme Administration (DAPA). It was established following extensive problems with integrity and corruption in defence acquisitions in the past, and under pressure from civil society on the need for fundamental reform to introduce transparency.

In 2003, a special committee was launched to prepare the fundamental reform to defence procurement. DAPA was launched in January 2006 with the backing of a new law. It was tasked to deal with defence acquisition and procurement, with a vision to enhancing transparency, efficiency, expertise and accountability in the process. DAPA was established with a 50 percent civilian staff, which was important as the first movement into a previously untouchable or even "divine" area of government. Inviting civil society to participate in this was also a further achievement in Korea.

The tools available to DAPA included a programme execution committee, Integrity Pacts, ombudsman programmes, and "real name" policies. Three civilian ombudsmen were appointed under recommendations by Transparency International Korea, PSPD, and the Board of Audit and Inspection. The principles of activity for the ombudsman are independence, continuity, participatory process, transparency and neutrality. The ombudsman group holds weekly meetings, makes recommendations and corrections and publishes results.

The DAPA ombudsman system was the first in Korea to be based on law and the first case of participation of civil society in monitoring defence procurement. Changes are beginning to be made to old practices for the first time, with the possibility of cooperation raised.

The lessons from this process have been the following:

1. Civil society participation is possible and important in each step
2. External, participatory monitoring is crucial for enhancing integrity
3. Engagement of experts is also very important to build confidence in investigation results
4. A non-confrontational and cooperative attitude is a key factor to draw voluntary change
5. Sustaining change is as important and as difficult as achieving it.

Source: Based on the presentation of Sung-Goo Kang, Secretary-General of Transparency International Korea and Representative Ombudsman at the Defence Acquisition Programme Administration in Korea to the NATO Building Integrity conference in Monterey, California, 25-27 February 2009.

- *Functions and powers:* Despite the selected model, the main function of the defence ombudsman shall be to investigate any and every kind of complaint made against the civil service. The primary outcome from this function is not exclusively to identify a violation of law or rights but to contribute to establishing cohesion within the defence organization and throughout society. Cohesion means unity of purpose in achieving common goals.

  If the country's expectations are high, the model chosen should be close to the *classical model* where the defence ombudsman is empowered to investigate all spheres of government and the public sector, including those related to the provision and use of materiel and services. Military service, foreign relations issues, military courts, state wartime reserves, military health and recreation services, among others, fall within the scope of the ombudsman's responsibility. The ombudsman's principal duty shall be to oversee and ensure the observance of constitutional rights and legal requirements within all sectors of the defence organisation, whether they originate from within the MoD or the armed forces, defence industries or civil society. The defence ombudsman can investigate complaints about administrative actions and force employment matters but usually cannot investigate actions related to disciplinary proceedings or the grant or refusal of an honour or award to an individual. Unless under exceptional circumstances, he or she investigates complaints from serving members only after they have exhausted internal grievance mechanisms.

  If the country's ambitions are to have a *strong institutional ombudsman*, in order to be effective, he or she should be provided with legally determined independence and impartiality, confidentiality and a credible review and investigative process. Given this intent, the defence ombudsman should be able to initiate investigations, should also be required to investigate complaints and shall be bound to investigate any case where persons pursue unlawful ends within the scope of their jurisdiction, make arbitrary or unreasonable decisions, or otherwise commit mistakes or acts of negligence in the discharge of their duties.

  The functions of the *weak institutional ombudsman* shall be determined in a way that provides for work more with people until their problems are solved, thus closing the gap between "the office and the client."

  A common denominator of different models of ombudsman's powers includes, but is not limited to the following powers:[15] to investigate, on complaint or on the ombudsman's own initiative, any administrative act of the MoD without regard to the finality of the administrative act; to undertake, participate in or cooperate with persons and agencies in such conferences, inquiries, meetings, or studies which might improve the functioning of the MoD and the

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[15] Adopted from United States Ombudsman Association, *Model Ombudsman Act for State Governments* (Dayton, Ohio, February 1997).

armed forces or lessen the risks that objectionable administrative acts will incur; to make such inquiries and obtain such assistance and information from any person or defence unit; to enter and inspect without prior notice the premises of any unit; to subpoena any person to appear, to give sworn testimony or to produce documentary or other evidence that is reasonably relevant to the matters under investigation; to maintain the confidentiality of any matter related to complaints and investigations; and to prepare and administer a budget for the office of the ombudsman.

- *Values:*[16] *Independence* and *impartiality* are the hallmarks of the ombudsman institution – they are the foundation upon which this office must be built. Independence is needed to ensure actual and perceived impartiality and to establish a close relationship between the ombudsman and the minister. The *integrity* of the ombudsman is in his or her steadfast adherence to a strict moral or ethical code of conduct – his or her behaviour should convince the people in defence that their loyalty should be towards the state and its democratic political system, which will protect their rights and their earned privileges, thus enabling them to apply their efforts in a positive and responsible manner. The ombudsman shall be easily *accessible* to the military and civil servants, as well as to citizens and business people. He or she must have access to any military camp, division, unit and other work environment, to call for and have access to any and all documents pertinent to a case being investigated, with a guarantee that no documents may be withheld. *Confidentiality* should help the ombudsperson win people's reliance on the institution. The role of the ombuds office requires utmost *professionalism* by everyone on staff; their professional work strengthens the professionalism in defence institutions and generally in the government. The ombudsperson should be politically neutral; furthermore, he or she cannot be aligned with any formal or informal association within the organisation in a way that might create actual or perceived conflict of interest or compromise the neutrality of the ombuds office.

- *Appointment:* Despite which model is implemented, the ombudsperson should be appointed through consultations involving at least the minister of defence and the relevant committee of the parliament. One of the powers of this committee is to ask not only the minister but the senior leadership and every single service man and woman to testify on particular issues.

- *Staffing:* Different ombudsman offices have adopted various models of staffing, particularly when dealing with the issue of balancing the need for independent civilian personnel against the need for military knowledge and experience. The German parliamentary commissioner for the armed forces has

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[16] Values could also be explained as "standards." See: International Ombudsman Association, *International Ombudsman Association Best Practices* (A Supplement to IOA's Standards of Practice), Version 2 (March 31, 2008).

the authority to select staff members. The office has a staff of approximately 60 persons and roughly half are higher-intermediate and higher service personnel, directly concerned with the review of matters brought to the attention of the commissioner.[17] The Australian Defence Force ombudsman is staffed by members of the Australian Public Service. There are no military personnel involved in reviews by the ombuds office. In the Netherlands, the inspector general's office employs 16 military personnel and 13 civilians, while the positions of inspector general and chief of staff rotate among the three services.[18]

- *Transparency and accountability:* There should be an obligation to inform the appointing authority and the public of the activities of the ombudsman. The ombudsman, at least annually, should report generally on the activities of the office to the ombudsman's appointing authority, other policymakers and the public.[19] The list could also include a range of brochures and information sheets available to the public, better practice guides to orient people and agencies on how to deal with the ombudsman's office, inspection reports of duty service in the MoD and the armed forces, investigation reports of administrative actions of the MoD and the armed forces, an ombudsman's website and e-bulletins that describe recent case studies of finalised complaints where lessons of interest to a wider audience can be drawn, posters explaining the ombudsman's role and services, ombudsman's submissions to a parliamentary committee, and others.[20]

Conclusion

Ombudsman institutions are one of the key components of "horizontal" accountability of the state political, executive and security systems. The appointment of an ombudsperson for defence should serve to safeguard against any improper actions by the defence political, administrative or commanding body, the government or the public administration, while at the same time ensuring that the rights and duties of military personnel, civilian employees and civil society comply with democratic norms and values.

The flexibility of the ombudsman model means that integrity in defence can be promoted in numerous ways – through investigations, reports, public speeches, par-

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[17] Karl Gleumes, *The Parliamentary Commissioner for the Armed Forces: Her Role in Exercising Parliamentary Control over the Federal Armed Forces and Processing Petitions from Service Personnel,* 17.

[18] See the website (www.ombudsman.forces.gc.ca) of the ombudsman of the Canadian Defence Forces.

[19] Most offices issue a report annually that describes the work of the previous year: the number of inquiries, the number of cases resolved informally, cases investigated and investigations pending, recommendations made and whether or not they were followed.

[20] The list is based on the experience of Australian, Canadian, German, Norwegian and US ombudsman offices.

liamentary submissions and meetings with senior government managers. In any case, this shall be an office that independently receives and investigates allegations of maladministration.

In order to be effective for strengthening national and defence integrity, the ombudsman institution and its function should be established by law, protected from arbitrary removal or censure, provided with adequate budget and non-partisan staffing and should be easily accessible to every defence person and citizen. Thus, it will compel executives to respect and act on recommendations, including those addressing integrity building in defence.

Chapter 20

The Defence Industry as an Ally in Reducing Corruption

For an anti-corruption regime to function effectively, the defence industry must be associated with it. Defence suppliers increasingly recognise the importance of corporate social responsibility and legitimisation, associated with greater transparency. This chapter presents the integrity policies of two major defence contractors and outlines further measures that can be taken by the defence industry and governments to enhance the integrity of the defence sector.

1. Defence Industry as Part of the Solution to Reducing Corruption: An American Perspective

Some argue that corruption in certain marketplaces is simply a cost of doing business within that market. The implication of this premise is that efforts to fight corruption are futile and unnecessary. One should simply accept this tax on doing business and move on. This view ignores the very real evils of corruption. It destroys public trust in governments and corporations, lessens the quality of products and services procured using public funds and undermines the efficient functioning of the free marketplace. Fortunately, this view is becoming less credible in today's interconnected world where large scale corruption—which in the end is almost always discovered—is publicized and criticized to the detriment of all parties involved.

In recent years, the defence industry has been buffeted by allegations of corrupt behaviour around the globe. This has significantly weakened confidence in an industry that largely depends on public funds. It may seem incongruous therefore to say that a partnership between industry and government represents the only effective means to fight corruption. If one steps back, however, it seems logical that the problem of corruption must be attacked from both the supply side—typically the defence industry—and the demand side—typically government agencies or personnel.

This section examines the supply side of corruption, focusing on best practices undertaken by major defence corporations within the United States, Lockheed Martin in particular, to ensure that business is conducted in accordance with high ethical standards.

The Defense Industry Initiative (DII)

Most of the major defence contractors within the United States belong to the DII. The initiative was established in 1986 in response to an erosion of public confidence in the

industry caused by widely reported instances of fraud, waste and abuse both within industry and the Department of Defense. All DII signatories agree to adopt and adhere to six self-governance principles, presented in Box 20.1.

Each DII signatory agrees to complete a detailed annual questionnaire relating to their ethics programs and practices. The results of this questionnaire are compiled and reported upon in the annual DII Public Accountability Report.[1]

While all members of the DII adopt their own approach to compliance with these six principles, over time and through the sharing of best practices, the ethics programs of major US defence contractors have come to share certain common elements.

Elements of an Effective Ethics Program

a. Codes of Ethics or Conduct

Every DII signatory has adopted a code of ethics, also referred to as a code of conduct. A code of conduct sets forth the values and standards that the company and its employees are expected to uphold. To be effective, a code should reflect the company's culture and commitment to integrity. Many codes adopted by US companies set forth compliance standards, in addition to expressing the company's values. DII member codes typically include standards that address issues ranging from discrimination and harassment to business courtesies, anti-corruption and anti-kickbacks.

Lockheed Martin's code, "Setting the Standard, Code of Ethics and Business Conduct,"[2] has been in existence since the corporation's beginning. The code emphasizes

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Box 20.1. Self-governance Principles of the Defense Industry Initiative

1. Each signatory shall have and adhere to a written code of business conduct. The code establishes the high ethical values expected for all within the signatory's organization.

2. Each signatory shall train all within the organization as to their personal responsibilities under the code.

3. Signatories shall encourage internal reporting of violations of the code, with the promise of no retaliation for such reporting.

4. Signatories have the obligation to self-govern by implementing controls to monitor compliance with federal procurement laws and by adopting procedures for voluntary disclosure of violations of federal procurement laws to appropriate authorities.

5. Each signatory shall have responsibility to each other to share their best practices in implementing the DII principles; each signatory shall participate in an annual Best Practices Forum.

6. Each signatory shall be accountable to the public.

Source: Charter of the Defense Industry Initiative, Article III: www.dii.org.

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[1] The annual reports since 2003 are available on the DII website: www.dii.org.

[2] Available for download at www.lockheedmartin.com/data/assets/corporate/documents/ethics/setting-the-standard.pdf.

Lockheed Martin's commitment to the highest standard of integrity and the important role that each employee has in maintaining that commitment. It informs employees of the values that are important to Lockheed Martin and their role in upholding those values. Every employee must certify that they have received the code, read and understood it and agreed to abide by it.

Thus, for example, one section of the code entitled "Do Business Ethically Outside the United States," states that Lockheed Martin's commitment to the highest standards of ethical conduct extends globally. The code also states:

> *Bribery, violations of export and import laws, and participating in illegal boycotts, erode confidence in the marketplace, undermine democracy, distort economic and social development, and hurt everyone who depends on trust and transparency in the transaction of business.*[3]

This reflects Lockheed Martin's value, "Do What's Right." The section goes on to require employees to comply with the national and local laws of the countries in which Lockheed Martin operates. The section expressly directs employees to pay particular attention to compliance with anti-corruption laws, including those adopted under the Organisation for Economic Cooperation and Development's (OECD) Convention on Combating Bribery of Foreign Officials and the US Foreign Corrupt Practices Act, among other international anti-bribery conventions.[4]

b. Formal Ethics Organizations

Most large US defence contractors have formal ethics organizations that manage and implement the company's ethics program. Formal ethics programs help ensure that a company's code of conduct is meaningful. Typically, such a program serves at least two critically important functions: (1) communication, training and outreach with respect to the company's values, commitment to the code, and compliance; and (2) enforcement of the code.

When fulfilling its communications and outreach efforts, the organization basically is seeking to ensure that a commitment to integrity is embedded in the company's culture. In many ways, this is the most important function that a formal ethics program can fulfil. The most effective means to prevent misconduct or corruption is to ensure that you create a culture where all employees understand that they will be held accountable for their improper actions.

A culture of integrity will not take root, however, if employees believe that the organization's values and code are mere words on paper and do not represent how the company really operates. Therefore, it is very important to balance the need to protect the privacy of employees with the need to inform them about the consequences for those who choose to ignore the company's code.

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[3] Lockheed Martin, *Setting the Standard: Code of Ethics and Business Conduct* (Bethesda, MD: Lockheed Martin Corporation, October 2008), 12.

[4] Ibid., 12.

The placement of the organization within the company's governance structure is also important. It must be high enough within the organization to reinforce the importance of ethics and integrity to the organization and to ensure its independence. In the US, the majority of ethics programs report to the company's General Counsel, or directly to the CEO. Most also have established lines of reporting and/or communication with the Board of Directors.

Finally, the most effective ethics organizations have full or part time ethics officers embedded within their major lines or business. Ethics officers represent the human face of the ethics organization and are available for consultation and guidance, as well as to investigate instances of alleged misconduct. By being embedded within the business, ethics officers can also proactively offer guidance while business is being conducted.

At Lockheed Martin, the ethics organization reports to the chairman, CEO and president of Lockheed Martin, as well as to the Board of Directors. The organization has more than sixty-five full and part-time ethics officers who are embedded within the lines of business.

c. Hotlines, Helplines or Reporting Channels

An essential element of most US ethics programs is a means by which an employee can report their concerns to, or ask for guidance from, the ethics organization. Most US ethics programs have established many different avenues for employees to report their concerns, or seek guidance on ethical issues. These include in-person visits to ethics officers, sending e-mails directly to a particular ethics officer or to a corporate ethics e-mail box, posting on a designated website, or sending faxes or letters. The most important reporting channel, however, is a hotline or helpline. Typically, this is a toll-free phone number, which connects employees directly to the ethics organization. Such hotlines generally allow employees to report their concerns anonymously if they do not want to identify themselves. They also have an established means by which an employee who leaves an anonymous report can call the same hotline and receive an update on the ethics organization's investigation into their concerns.

Effective reporting channels ensure that employees who observe misconduct or feel pressure to participate in corruption have an avenue to ensure that their concerns are heard and resolved. To be effective, the company must strongly reinforce the fact that it will not permit retaliation against employees who avail themselves of these reporting channels in good faith. Fear of retaliation is one of the primary reasons that employees do not report their concerns to the company.

d. Training and Outreach

Most US ethics programs also include compliance training and training on the company's code of conduct. Compliance training is focused training that addresses particular areas of regulatory or legal risk a particular company faces in its industry. Code of conduct training, called "awareness training" at Lockheed Martin, may include compliance issues, but focuses more on a company's values, culture and ethical decision making. Neither compliance training nor code of conduct training attempts to turn em-

ployees into experts on particular laws or regulations. They are designed to raise awareness and help employees understand when they should seek guidance before acting.

At Lockheed Martin, employees are assigned computer-based compliance training based on the function they perform within the organization. For example, we do not require a mechanic who works on an airplane to take export/import training because their day-to-day responsibilities do not require them to know about this topic. All employees, on the other hand, are required to take the labour course because, as a US government contractor, this is an area about which all employees must be knowledgeable. In addition, each required compliance course must be repeated periodically – every one or two years. Finally, provision is made for those employees who do not have access to a computer or have special needs.

Awareness training is provided annually. Unlike the computer-based compliance training, the majority of Lockheed Martin's awareness training is delivered in person by the employee's leader. This is accomplished using a cascading process whereby Bob Stevens, Lockheed Martin's chairman, CEO and president, trains his staff, they train their staff, and on down through the organization until all employees are trained. The training generally takes an hour and is based on video scenarios and participative dialogue around the issues presented.

e. Communication

Effective ethics programs also expend significant effort on innovative communications vehicles to ensure all employees remember the importance of upholding the company's ethical standards. Companies use newsletters, e-mail messages, posters, postcards and websites to deliver target messages throughout the year relating to ethics and integrity. Creative communication vehicles engage employee's attention often better than required training. Many companies in the US increasingly are using technology to develop new means to deliver ethics messages to their employees. For example, companies are posting video vignettes of ethical dilemmas on YouTube and blogging about ethical dilemmas or current events involving ethical successes or failures.

At Lockheed Martin, *Integrity Minute* is the most popular communication vehicle that the ethics organization employs. The Lockheed Martin *Integrity Minute* is a short series of videos that are e-mailed to Lockheed Martin employees to complement annual awareness training by reinforcing ethics, diversity and Full Spectrum Leadership messages throughout the year. Lockheed Martin releases three *Integrity Minute* series each year. They are specifically targeted to trends that are observed in the workplace. Each series highlights important topics such as the proper conduct of international business, harassment, conflicts of interest, discrimination and other instances of employee misconduct. The scenarios are presented in two minute segments over the course of three weeks. The first two segments end with a cliff hanger and invite employees to tune in for the next week's segment to learn what happens.

Specific Techniques to Fight Corruption

Backed by a strong ethics program which ensures that integrity is part of the fabric of our company's culture, the following is a summary of certain targeted techniques that Lockheed Martin has found effective in combating corruption:

- Code of Conduct sections dealing with anti-corruption, the giving and receiving of business courtesies and conflicts of interest.
- Detailed company policies that address kickbacks, business courtesies and conflicts of interest.
- Country-specific hospitality guidelines that establish appropriate limits for business courtesies in the countries where we operate. This guidance is easily available to our employees.
- Regular reports are required of any business courtesies that exceed the hospitality guidelines and for any facilitation payments made.
- Compliance and code of conduct training specifically addressing the company's anti-corruption policies.
- Audits of all aspects of our anti-corruption efforts.
- Rigorous due diligence is performed on all third-party agents and consultants in advance of engaging such individuals. Due diligence includes, at a minimum, a review of public source information, reference checks, inquiry with in-country embassies and a face-to-face interview.
- Third-party agents and consultants are required to abide by *Setting the Standard*, Lockheed Martin's Code of Conduct and, more specifically, Lockheed Martin's anti-corruption standards.
- Agreements with third-party agents and consultants are subject to periodic review, including repeated due diligence.

2. Policy of Integrity: The Example of a European Defence Contractor

Over recent years, major international companies have come to recognise that strict ethical standards and compliance with international laws and regulations have to be an integral part of their strategic vision. Responding to major changes in the global economic and geopolitical context and the increasingly global scope of their operations, companies have taken a long, hard look at the way they conduct aspects of their business ranging from human resource management to marketing and sales, industrial operations and stakeholder relations. Adopting its corporate responsibility policy in 2001, Thales was one of the first European companies to formally embrace these changes.

A Complex, Changing Environment

Throughout its history, Thales has successfully adapted to changes in its environment. Ongoing transformations in the institutional framework governing the "sovereignty industry" in the early 21st century are at least as significant as any of these other changes.

Thales and the businesses it has acquired in other countries (the United Kingdom, Netherlands, Australia, etc.) operated for decades in a strictly national framework and under close state control. As the main customer and sometimes even a shareholder, the state was also involved in setting corporate strategy, funding research and development, granting export clearances and other aspects of the business.

Now that Thales is a "multidomestic" company, it no longer operates within a single, clearly defined and consistent national framework but rather in a strategic space with global dimensions. In this new context, tasks such as managing human resources or international business transactions are becoming ever more complex.

As global as they have become, the company's businesses still rely on technologies that are sensitive, strategic and central to the national sovereignty of each state. This structural contradiction presents many challenges both to transnational companies and their regulators, and calls for a different set of management methods based on innovative concepts of corporate governance.

More Transparency and Traceability

Adding to the complexity of this international economic environment, international organisations and national lawmakers continue to make new regulations and pass new laws, not always consistently, while stakeholders from civil society, including non-governmental organisations, continue to demand new and higher standards from the business community.

In the absence of a global model of governance, the sheer number and complexity of these different rules and requirements make the business environment even more incoherent – particularly considering that certain "soft law" codes and standards, many of them British or American in origin, are at odds with the legal systems of other countries. With increasingly globalised business and a complex legislative and normative context set by multiple bodies, demand for transparency is constantly growing, forcing companies to bring a much greater degree of openness and traceability to their business processes.

Ethical Management

As pressure on governance practices mounts around the world, the sphere of influence of public bodies—the only bodies with the power to enact "hard law"—is gradually diminishing because no hard law is perfectly aligned with economic realities for very long. Frequent revisions and amendments are needed to make laws more specific but the more they are revised, the more obscure they tend to become. As a result, there is

a growing tendency for lawmakers to lay down little more than basic legislative principles, leaving it up to companies to define their own codes, baselines and standards of ethical conduct. The concept of ethics and corporate responsibility starts where the law ends.

This shift in the governance framework places greater responsibility on companies, directly impacting their management processes and business models. Several years ago, Thales established a comprehensive policy on ethics and corporate responsibility as part of its efforts to adapt to these new conditions. In a restrictive legal and normative framework, managers are constantly required to make choices about the applicability of different standards. They have to strike a balance between minimum effort and optimum effort, weighing up their options to determine the best way to ensure sustainable growth and profitability over the long term. These choices are a key part of the manager's responsibility and they become more difficult as the number of stakeholders increases and as their demands become more specific.

Management also has to embrace and reconcile the moral expectations of all company employees, whose cultural backgrounds and traditions clearly become more diverse as the company expands its international footprint. To manage companies effectively in this globalised context, it is important to move from the implicit to the explicit, from oral tradition to written requirements, from discretionary decision making to behaviours governed by accepted best practices. A new management paradigm has emerged.

Risk Management

Any business undertaking involves a degree of risk. However, worldwide flows of sensitive technologies, growing legal complexity, new societal demands and ever more intense competition make it more important than ever before to identify and manage risks. In addition, the civil and criminal liability of companies and their leadership teams is being called into question more frequently as the business world becomes more litigious.

As a result, and in light of its sectors of activity, Thales's corporate responsibility policy is based not only on in-depth analysis of the risks of non-compliance but on rules of ethical conduct and integrity that are upheld by the company's most senior management bodies and communicated systematically to all employees. This approach boosts management awareness of the issues involved and provides a company-wide framework of continuous improvement that configures the development of the policy measures already in place.

Tailored Processes

Thales believes that doing business responsibly means, first and foremost, complying with international trade regulations and, in particular, taking measures to avoid exports of sensitive technologies and defence equipment to countries classified as risks, thereby helping address the challenges posed by the proliferation of weapons of mass

destruction and global terrorism. Internal control procedures are being reinforced throughout the company to combat corruption as effectively as possible, in a sector where transactions represent considerable sums of money and may involve countries with little concern for ethical practices.

Rigorous Procedures to Prevent Corruption

A coherent set of directives and strict procedures for delegating responsibilities is in place to ensure compliance with national and international anti-bribery laws. In particular, measures have been taken to ensure that operating units do not independently enter into contractual relationships with agents or external service providers to facilitate international business transactions. All resources supporting export sales and marketing efforts of operating units are managed by dedicated organisations, particularly by Thales International. These are the only organisations accredited by the company to handle these complex issues in their strict regulatory framework. This policy improves the efficiency of Thales's sales and marketing efforts and assures strict monitoring of the compliance of its international commercial transactions.

The procedures and directives apply to all external service providers, including individuals, consultancy firms and companies, that support Thales in marketing and sales operations involving public as well as private customers. Eligible consultants must be recognised as experts in their fields at the regional or international level. Stringent selection procedures are applied: a detailed application questionnaire must be completed, copies of company registrations and all other official documents, particularly annual reports, must be provided, and senior management must undertake to apply all legislation relating to ethical conduct in international trade. All this information is analysed and validated by an outside body. Risk factors are flagged when information provides grounds for closer investigation and referral to a higher level of management for a decision. Certain types of information are classified as "show stoppers" and bring the selection process to an immediate halt. Payments for these services are also subject to stringent procedures. For example, transfers may not be made to a financial establishment located in a tax haven, and all payments must correspond to an actual service and reflect the exact type of service provided.

All these procedures are laid down in the *Best Practices Handbook* developed and approved by Thales corporate management. A continuous improvement process is in place to increase both the exhaustiveness of the procedures and the measures taken to enforce them.

Development of Best Practices

A company is at risk if its competitors are able to meet minimum legal requirements by making less ethical choices. A sector-wide approach is therefore needed so that common standards can be developed and adopted as best practice by all companies, thereby restoring a level playing field. Thales was involved in launching just such an initiative within the Aerospace and Defence Industries Association of Europe (ASD).

Ethics and Corporate Responsibility at Thales

Thales corporate management recognises that an effective compliance policy needs to extend beyond international marketing and sales transactions to include all of the company's operations. The Thales ethics and corporate responsibility policy is anchored in a Code of Ethics issued to each employee, and in a number of company-wide sets of processes and procedures dealing with commercial, environmental, labour and societal issues. A dedicated organisation has also been established, with an Ethics and Corporate Responsibility Committee setting Thales policy and a dedicated corporate department in charge of implementing that policy. Local implementation—at the divisional and country level—is supported by a network of ethics officers.

At the same time, large-scale awareness, information and training campaigns, including an e-learning programme, have been developed to support employee engagement across the organisation and ensure that all employees share the company's ethical values.

3. Further Measures to Enhance the Integrity of the Defence Industry

Recently, major defence contractors in Western Europe and North America have made visible progress in adopting and enforcing codes of ethics and standards of zero-tolerance to corruption in all its forms. Associations of these industries have embarked on deriving lessons learned and enhancing industry standards. Box 20.2 provides an example of activities in the framework of the Aerospace and Defence Industries Association of Europe (ASD).

Addressing the supply side of corruption, major contractors and defence industry associations will continue to assess and attempt to increase the effectiveness of integrity codes and standards, to engage defence suppliers, including small and medium enterprises, and widen the geographical coverage of application. A level playing field and fair competition can be guaranteed only through application of consistent and harmonised standards among all exporting companies.

Prime defence contractors should also make sure that the sub-contractors, defence consultants, lobbyists and all other sorts of intermediaries they involve adhere to the same code of ethics, as they do. Only through full coverage of the "supply chain" may they convincingly claim that the supply they offer is free of corruption.

Governments are advised to shortlist only those participants in tenders that have endorsed common defence industry standards on integrity and corruption. Furthermore, they should debar defence suppliers that have used corruption in getting contracts and share that information with other governments. Defence industry associations would then be expected to strip such a company of its membership status.

Box 20.2. ASD Ethics and Anti-Corruption Activities

In 2006, the CEO's representing the companies that make up the ASD Council confirmed their continued dedication to contribute to a marketplace free of corruptive practices, allowing all participants in the international market to compete on an equal and fair basis.

The industry expressed its commitment to observe and apply the rules embedded in national legislation implementing the 1997 OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, as well as in other applicable law. ASD formed an "Ethics & Anti-Corruption Working Group." This group has conducted a benchmarking exercise in order to assess present practices among participating companies. The internal codes of ethics of the companies have been analysed by an independent lawyer, who also chairs the Commission on Anti-Corruption of the International Chamber of Commerce (ICC).

These activities resulted in "Common Industry Standards for European Aerospace and Defence," approved by the council in April 2007. ASD National Associations members were asked to endorse the standards, and participating companies to sign a Company Statement of Adherence. Endorsement has been requested since October 2008 and a structured process with progress indicators to encourage and convince companies to sign up to the standards is underway.

ASD, with the support of the International Chamber of Commerce, contributes to initiatives to extend the geographical scope of its ethics and anti-corruption activities also to non-OECD countries.

Sources: Aerospace and Defence Industries Association of Europe, *Annual Report 2007* (Brussels: ASD, 2008), 20, www.asd-europe.org; The "Common Industry Standards for European Aerospace and Defence" is available at: www.asd-europe.org/Objects/2/Files/WEB Common Industry Standards.pdf.

International organisations such as NATO may facilitate the development of an effective, balanced and comprehensive strategy to enhance the integrity of the defence supplier base. They may also encourage transparency in the defence industry, including transparency of ownership, and to support defence suppliers in meeting integrity requirements.

Only cooperation among governments and suppliers, intergovernmental organisations and industry associations can turn defence companies into reliable allies in the common fight against the corruption potential of the defence sector.

Chapter 21
The Role of Civil Society and the Media

Introduction

This chapter looks at the indispensable role of civil society and the media in building integrity and reducing corruption in the defence and security sector. It considers the issue of "building integrity" mainly through the lens of security sector reform (SSR), a concept that emerged in the 1990s in response to the recognition that development and security are two sides of the same coin and that efforts to improve security should be carried out within a framework of strengthening democratic or good governance. In its core, "good" governance is people-centred, equitable, accountable, and transparent. It engenders participation and consultation in planning and decision-making, effective and efficient public sector management, and actively seeks and facilitates the involvement of civil society. In other words, good governance is legitimised by participatory processes, anti-corruption efforts, and bureaucratic accountability. It emphasises efficient and effective use of resources and promotes the active involvement of the private sector and the civil society to counteract vested interests.[1]

In 2004, the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC) produced, and the membership endorsed, a policy paper that urged stakeholders to "redefine security and move the debate from the realist version to a more comprehensive and co-operative approach."[2] The OECD DAC describes SSR as the "transformation of the 'security system'—which includes all the actors, their roles, responsibilities and actions—working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework."[3] In seeking to build an "institutional culture of integrity" (Chapter 24) there would seem to be no need to reinvent the conceptual wheel: the objectives and

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[1] Hans Born, Philipp H. Fluri and Simon Lunn, eds., *Oversight and Guidance: The Relevance of Parliamentary Oversight for the Security Sector and its Reform*, A collection of articles on foundational aspects of parliamentary oversight of the security sector (DCAF/NATO Parliamentary Assembly, January 2003), Glossary, 240–241.

[2] OECD Development Assistance Committee, *Security System Reform and Governance: Policy and Good Practice* (Paris: OECD, 2004).

[3] OECD, *Security System Reform and Governance: A DAC Reference Document* (Paris: OECD, 2005), www.oecd.org/dataoecd/8/39/31785288.pdf.

standards set out in the DAC SSR framework already largely fit the bill. What is mainly lacking is effective implementation of existing standards by many governments, especially in relation to transparency and accountability,[4] and in fully embracing the potential contribution of key stakeholders, especially civil society.

As the SSR agenda has evolved in recent years, civil society has played an important role in building the integrity of this approach and there is growing acknowledgement among many states and within the United Nations that non-government actors, the media and parliamentarians can perform crucial civilian oversight and monitoring functions. Parliamentarians alone cannot guarantee effective oversight and hold the government accountable for all activities and policies within the security sector since they do not have the time, resources or expertise to do so. As the DAC describes, "the involvement of civil society in SSR programs is a precondition for wider and more inclusive local ownership and, ultimately, sustainability."[5] As a number of earlier chapters have indicated,[6] independent oversight by civil society organisations (CSOs) and the media is a necessary element of building integrity and is crucial to effective implementation of SSR initiatives to strengthen good governance in defence establishments as well as address corruption risks.

Overall, however, the practical role of CSOs and the media in SSR and integrity capacity building has been rather limited, not only in fragile or transition states (often due to the nature of authoritarian regimes and the weakness of civil society) but also in more advanced democratic societies and especially within the NATO alliance (where entry points for independent civil society engagement remain restricted, as discussed further below). This chapter aims to stimulate discussion about why this has been the case and what needs to be done to strengthen civil society and the media's role in monitoring and reforming defence establishments.

It begins by separately reviewing the roles of civil society and the media and then looks at the difficulties of applying these roles within three particular scenarios: fragile states, transition countries and the NATO Alliance. The chapter concludes by proposing some options and recommendations for protecting and enhancing the ability of civil society and the media to build integrity and reduce the corruption potential in defence establishments.

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[4]   In this discussion "accountability" basically means "answerability" – the obligations to answer questions on what has been and will be done and why. It is the definition used by William Byrd and Stéphane Guimbert in The World Bank, "Public Finance, Security, and Development: A Framework and an Application to Afghanistan," Policy Research Working Paper 4806 (The World Bank South Asia Region Poverty Reduction, Economic Management, Finance and Private Sector Development Department, January 2009), footnote 11.

[5]   OECD, *OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (2007).

[6]   See, for example, chapters 5 and 8 on national approaches and offset arrangements, respectively. Both authors argue that civil society organisations have a role to play in ensuring transparency and accountability.

The Role of Civil Society

A vibrant civil society is a basic requirement for democracy. It has the potential to counterbalance the power of the state, resist authoritarianism and, due to its pluralism, ensure that the state is not controlled by vested interests. In recent decades the political space in many parts of the world, and not just within established democracies, has been opened up by an evolving and ever-widening array of civil society groups. There is no single agreed definition of civil society. The DAC defines "civil society" as "the political space between the individual and the government, expressed by membership of non-governmental organisations (NGOs), social groups, associations and other organisations and networks. Civil society organisations include NGOs at the national level, community-based organisations, faith groups, professional and interest groups such as trade unions, the media, private business companies, bar associations, human rights groups, independent consultants, universities and independent policy think tanks."[7]

The UN Secretary-General's Panel of Eminent Persons on United Nations-Civil Society Relations draws a narrower description of civil society as encompassing associations of citizens (outside families, friends, government and businesses) entered into voluntarily to advance their interests, ideas and ideologies.[8] This chapter, however, takes the three sector model, which looks at the state as consisting of the government, the market and the citizenry, as a useful starting point to define civil society. In this perspective, civil society constitutes the third sector, existing alongside and interacting with the state and profit-seeking firms (including the media) in the form of social movements, NGOs, religious bodies, women and youth groups, indigenous peoples' organisations, professional associations, academic centres, unions, etc., that operate in individual countries or transnationally.

This definition of civil society excludes profit-making businesses (including most of the mainstream media) and organisations within the governmental sector. However, as will become clear, the boundaries between the three sectors are becoming increasingly blurred. Some overlap exists, for example, between functions of CSOs and private businesses and the media, especially in the increasing use by NGOs of "new media"[9] to perform advocacy and monitoring roles. The following paragraphs look at why civil society should play a role in building integrity and reducing corruption in defence,

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7   OECD, *OECD DAC Handbook on Security System Reform.*

8   United Nations General Assembly, *We the Peoples: Civil Society, the United Nations and Global Governance: Report of the Panel of Eminent Persons on United Nations-Civil Society Relations*, A/58/817 (New York, 11 June 2004), 13.

9   New media is a term meant to encompass the emergence of digital, computerised or networked information and communication technologies in the later part of the 20th century, such as the Internet and websites. By implication, "old media" is television programmes, feature films, magazines, books or paper-based publications.

what this role includes, the experiences in SSR to date and the contemporary backlash against NGOs.

Civil Society and the "New Diplomacy"

Civil society includes a mixed bag of organisations and movements that mobilise social energies to voice deeply felt values and visions.[10] NGOs are a core element of civil society. They may or may not be membership-based or formally registered but are usually independent of governments and political parties and often independently funded. They engage in service delivery (security is also an essential service that needs to be delivered),[11] policy advocacy and development, public education and other forms of non-profit activity and range from huge international bodies like Amnesty International, which has over 2.2 million members and subscribers in more than 150 countries and regions, to small local grassroots organisations. As for research institutes, these may either be NGOs or academic centres independent of government or, on the contrary, have links with government, for example, through state funding or the involvement of former government ministers and officials (either as members or employees).

In the past, many of the relationships between NGOs and governments were tense or indeed hostile. In many parts of the world they still are (or are becoming so again – as discussed below). Over the last two decades, however, on a number of issues and in a growing number of locations (including most of Europe and the Americas, large parts of South Asia and Africa and within isolated pockets within the Middle East), this relationship has changed from conflict to growing cooperation. Some have dubbed the constructive relationship between NGOs and governments as "the new diplomacy."[12] This has been partly a result of the growing recognition by many governments that an important element of national security and stability is achieved by promoting human security.[13]

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[10] L. David Brown, *Creating Credibility: Legitimacy and Accountability for Transnational Civil Society* (Sterling, VA: Kumarian Press, 2008), 1.

[11] Security as a public service has some distinctive characteristics that affect the way it is delivered and the options for accountability and financing arrangements. Monitoring the performance of security service providers can be difficult, as security forces are armed and potentially can threaten civilian monitors, while preparedness during peace time is often difficult to evaluate and may involve contested performance measures and outcomes. See the discussion by William Byrd and Stéphane Guimbert in The World Bank, "Public Finance" (January 2009).

[12] David Davenport, "The New Diplomacy," *Policy Review* 116 (December 2002 & January 2003).

[13] The traditional goal of "national security" has been the defence of the *state* from external threats. The focus of human security, by contrast, is the protection of *individuals*. *Human Security Brief 2006* (University of British Columbia, Human Security Centre).

Civil Society Oversight of Defence

In terms of the specific agenda of this book, civil society actors—mainly a narrow range of NGOs and research institutes—could (and in some limited cases already do) engage with governments, parliaments and the public in five main ways:

- *Public education and awareness raising*: Alerting the public to the crippling costs of corruption, as discussed in chapter 1, and consequently mobilising support for national government and international initiatives to build integrity, increase transparency and improve accountability is a crucial NGO (and media) activity. A primary aim of this awareness-raising work is ensuring that the implementation of domestic SSR initiatives is seen as an ongoing long-term process and that the public recognises the relevance of this issue to themselves and their communities. NGOs have successfully utilised shareholder activism and "name and shame" strategies as means of affecting direct action on specific issues or violations.

- *Acting as catalysts and intermediaries*: NGOs and other CSOs, such as think tanks, universities and research institutes, can play intermediary or bridge-building roles. In this respect, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and Transparency International have been two of the leading lights for over a decade and have contributed enormously to parliamentary competence and capacity building through analysis, reports and by providing training courses and seminars. Many civil society groups in Latin America and Central and Eastern Europe in the late 1980s and 1990s also played an important dialogue role as newly elected civilian governments began to restructure their armed forces. These dialogues initially helped to break down the isolation of the armed forces and opened up professional exchanges between civil society, elected officials and the military command structures. Overall, however, more civil society players need to be brought to the table, especially in fragile and transition states, to mediate between governments (especially their defence establishments) and certain sectors of society indifferent or potentially antagonistic to the government itself.

- *Providing a pool of expertise and knowledge*: A multitude of diverse grass-roots NGOs and CSOs have built up a huge store of institutional and individual staff and activist expertise and skill on successful methodologies required to tackle SSR and good governance reforms. For example, NGOs have worked with the military on increasing stockpile security measures, advised on developing weapons marking and tracing programmes and have played crucial roles in post-conflict disarmament, demobilisation and reintegration programmes. While this pool of expertise and human resources may be shallower in terms of the specific defence-related concerns set out in part II of this book, it nonetheless remains potentially available to governments or intergovernmental organisations (IGOs) to strengthen initiatives to combat the

corruption risks and vulnerabilities in defence. The deeper SSR pool of expertise may also offer important good governance "crossover" contributions and lessons that are applicable to the specialist defence management sector. But while some limited use is being made of this experience and technical expertise, for example, in parliamentary hearings, it largely remains an untapped resource. The lack of trust on both sides and competing priorities on the limited resources of humanitarian, human rights and development NGOs are contributory factors.

- *Provision of primary research and development of policy*: One of the major contributions provided by CSOs is in the research and documentation of the reality of the "corruption curse" (chapter 1), from exposing flaws or contradictions in decision making on the use of military force—in terms of both the decision to intervene in a conflict and military operations on the ground—to inappropriate, ineffective and sometimes illegal defence management, procurement and export practices. By extending public and governmental understanding of these issues, civil society and the media play a vital role in enabling the development of appropriate responses. Closely linked with this research has been the work of analytical and policy orientated NGOs and research institutes that have sought to provide new approaches and strategy options for building integrity and reducing corruption in defence. Such work includes comparing best practices in different regions of the world, developing policy initiatives and making practical proposals for policy change.

- *Monitoring practice:* Once policies aimed at tackling the "corruption curse" have been adopted by governments, NGOs also have an important role to play as "watch dogs" – monitoring the implementation of policy and calling governments to account for any shortcomings and failures that may occur. NGOs, especially national and international human rights organisations, such as Amnesty International and Human Rights Watch, have an important role in monitoring the activities of the security forces and the military to ensure that they do not commit human rights violations or breaches of international humanitarian law.

As discussed further below, there are also many difficulties and barriers to civil society undertaking these roles. At a minimum, effective governments and parliaments need to ensure access to all relevant policy documents and stimulate the existence and functioning of an independent third sector, including defence oversight. One way of achieving the latter, for example, is by commissioning independent think tanks, research institutes, universities and NGOs to carry out research and audits in specific fields of the defence and security sector (e.g. crime, procurement issues and personnel policies). However, if civil society is to play an active part in this integrity building agenda, and especially in facilitating alternative debates in the public domain, independent NGOs need to be able to recruit and retain the necessary expertise that can provide well-informed perspectives on government security policy, defence budgets,

procurement and resource options. At present, such expertise within NGOs is thin on the ground even in mature democracies and requires greater capacity building and a stronger commitment from donors to fund it.

Civil society groups have been particularly active over the decades in furthering the principles of international law, as embodied in the UN Charter and other multilateral agreements and institutions. They are often seen by many states as assistance providers and reliable partners. Citizen movements and NGOs have become major public advocates in many fields, including human rights, the environment, development, democratic governance and conflict prevention. They have helped to progress international norms and treaties, and have articulated groundbreaking moral and political standards that have later become policy and law.

Examples of significant civil society movements include the Jubilee 2000 debt campaign that persuaded G7 governments to cancel $100bn of debt owned by poor countries, the Ottawa campaign to ban landmines,[14] and the opposition to the US-led invasion of Iraq in 2003. NGOs also played a critical role in the establishment of an International Criminal Court, the decision to add an optional protocol to the Convention on the Rights of the Child (outlawing military conscription of children less than 18 years of age) and in advancing measures to combat the proliferation and misuse of small arms and light weapons (SALW).

Civil Society and SSR

Following a process led by the UK Department for International Development (DFID) and the OECD Directorate for Development Co-operation, a handbook was produced in 2007 to provide "guidance to operationalise the OECD DAC guidelines on SSR and close the gap between policy and practice."[15] On civil society involvement in SSR, the handbook asserts that, "CSOs can serve as beneficiary, informal overseer, partner and advocate of reforms as well as service provider. Support to SSR can also be provided by international civil society actors that can play a role in building capacity and designing, advocating, implementing, monitoring and evaluating reforms."[16]

NGOs offer bottom-up approaches that are often more appropriate and effective than top-down measures, for example, by providing lines of communication to communities with which states have little contact or influence. The handbook also says that:

> SSR programs should include a firm analysis of the context, role and position of civil society organizations, since their capacity, effectiveness and space to engage vary greatly from country to country. Civil society assessments must take into account the range of local actors beyond those 'approved' by the state, and identify those that genuinely fo-

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[14] See, for example: Kenneth Anderson, "The Ottawa Convention Banning Landmines: the Role of International Non-Governmental Organizations and the Idea of International Civil Society," *European Journal of International Affairs* 2:1 (2000).

[15] *OECD DAC Handbook on Security System Reform* (OECD, 2007).

[16] Ibid., 226.

cus on improving the security of the poor, of women, of children and youth, and of other groups often excluded from the security debate.[17]

The handbook also discusses points of entry for civil society, such as peace processes, national budget processes and security and defence reviews. In theory, civil society can perform many important functions, such as: monitoring defence and security-related measures; scrutinizing counter-terrorism efforts and legislation and ascertaining whether they respect human rights and the rule of law; overseeing the actions of the military, law enforcement, and other security services and publicising violations of the law or policies or negative consequences of inappropriate laws or policies; conducting investigations into alleged corruption and other abuses; and recommending guidelines for improved SSR practice. In practice, however, civil society organisations are often relegated to consultative roles[18] and the lofty principles contained in the handbook are invariably ignored.

Even the presence of an active civil society is no magic wand or guarantor of success. Prior to the 1994 genocide in Rwanda, for example, the country had one of Africa's most highly developed NGO sectors but the ethnically divided society still quickly descended into violence and chaos.[19]

A Backlash Against NGOs?

The enthusiasm for civil society that emerged in the late 1980s and 1990s with the collapse of the Berlin Wall and the spread of democratic regimes has, according to some analysts, been replaced in recent years by a backlash on many levels and fronts. This ranges from the renewed, systematic repression of civil society in authoritarian states at one end of the spectrum, to a more general querying of the probity of CSOs, especially NGOs, at the other.[20]

Domestic publics, academics, grassroots activists, intergovernmental organisations (IGOs), the media, corporations and governments increasingly question by what authority NGOs purport to speak for others and aspire to influence domestic and interna-

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[17] Ibid.

[18] Daniel Bendix and Ruth Stanley, "Deconstructing Local Ownership of Security Sector Reform: A Review of the Literature," *African Security Review* 17:2 (June 2008): 93–104.

[19] Most of the NGOs in Rwanda in 1994 were recent creations, almost wholly dependent on external donors and the state, and there were few programmes to challenge racism and ethnic hatred. See: Peter Uvin, *Aiding Violence: The Development Enterprise in Uganda* (West Hartford, CT: Kumarian Press, 1998),164–176.

[20] Jude Howell, et al., "The Backlash against Civil Society in the Wake of the Long War on Terror," *Development in Practice* 18:1 (2008): 82–93. As regards the latter, note, for example, this seemingly innocuous sentence in chapter 4 of this Compendium: "*Responsible* civil society organisations should be looked upon as partners and enablers toward a common goal of institutional integrity" [emphasis added]. However, no similar caveat is used to preface or qualify the other stakeholders.

tional polities. (This is a valid enough question but one that lies beyond the scope of this chapter.[21] Suffice it to say that integrity and accountability within CSOs and the media are crucial prerequisites for public and government acceptance of their oversight roles and as agents for change). It is a backlash that has only intensified since the 9/11 attacks and the ensuing global "war on terror." The discourse of non-state actors as threats to national security has led to restrictive legislative and regulatory measures that have made it more difficult for many NGOs to operate freely and effectively.[22] NGOs, organisations and movements that challenge repressive regimes inevitably arouse the anger of those in power but in recent years, democratic states, IGOs, and transnational corporations (TNCs) have appropriated the language of counter-terrorism to intensify their attacks against civil society critics. Negative impacts have been especially noticeable in conflict zones and among groups that challenge government policies through their work in peace building, democratisation and human rights.[23]

And if the water was not already muddy enough, governments (and increasingly the private sector) sometimes create "front" NGOs that serve to reinforce establishment positions and confuse the genuine voice of civil society.[24] In a few exceptional cases, corporations and governments have also planted "spies" within NGOs.[25] This, then, is the challenging contemporary context in which civil society is expected to contribute to building integrity and reducing corruption in defence. Instead of freely undertaking their watchdog role, many NGOs find themselves under suspicion and subject to increased state and private sector monitoring of their own activities.

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[21] For a full treatment of this issue, see: Lisa Jordan and Peter van Tuijl, eds., *NGO Accountability: Politics, Principles and Innovations* (Sterling, VA: Earthscan, 2006); and Jem Bendell, *Debating NGO Accountability*, UN-NGLS Development Dossier (United Nations, 2006).

[22] In the US, for example, where hostility toward NGO involvement in global governance issues has been a defining feature of neoconservative thinking, such restrictive policies include Executive Order 13224, the Patriot Act and voluntary Anti-Terrorist Financing guidelines for charities issued by the US Treasury. However, similar regulatory approaches to widen the authority of police, intelligence and security forces to investigate and detain suspects, with little regard for judicial oversight or the protection of individual rights, has occurred in many other states around the world.

[23] For extensive examples, see: Alistair Millar with David Cortright, Linda Gerber-Stellingwerf and George A. Lopez, *Oversight or Overlooked? Civil Society's Role in Monitoring and Reforming Security Systems and the Practice of Counterterrorism*, A report to Cordaid from the Fourth Freedom Forum and Kroc Institute for International Peace Studies at the University of Notre Dame (March 2009).

[24] Moisés Naím, "What Is a Gongo? How Government-Sponsored Groups Masquerade as Civil Society," *Foreign Policy* (May/June 2007): 96.

[25] Saeed Shah, "BAE Ordered to Identify 'Mole' Who Passed Details on Arms Protesters," *The Independent* (27 February 2007); George Monbiot, "A Parallel State," *The Guardian* (13 February 2007).

The Role of the Media

The principal watchdog function of journalists is to expose wrongdoing or misconduct. Beyond this accountability mechanism, an independent media can also function as an instrument of good governance by presenting accurate, balanced and timely information on issues of interest to society. This enables citizens to make informed decisions concerning who governs them and how they are governed. In other words, good journalism "plays a vital role in identifying what is at stake in a particular policy or decision, in framing issues for the public, analysing the issues and identifying possible solutions and alternatives."[26] Close media scrutiny is widely recognised as an important element in democratic control of armed forces. However, the interaction between the "fourth estate" and security policy is a complex subject with many nuances and this section only touches on a few of the key trends and issues.

Many of the traditional means of delivering information are being slowly superseded by the increasing pace of modern technological advances. Almost every conventional mode of media and information dissemination has a modern counterpart: terrestrial television versus satellite television; web-based publishing versus traditional publishing; and voice over internet protocol versus conventional telephony. The exponential growth of electronic news media (in both production and consumption) has been a particularly significant trend. During the 1990s, for example, satellite and cable households grew from 85 million to well over 300 million, and a dozen or more multi-regional all-news channels emerged for the first time.

Combined with the internet, which now reaches almost 1.8 billion people (over 25 % of the population) worldwide, it is now possible for many citizens to regularly access "foreign media" as an alternative source of reporting on world events. Many of these technological advances also offer journalists significant potential advantages in seeking to maintain and enhance their "freedom of speech," although some governments are responding to the challenges posed by new media technologies by deploying increasingly sophisticated technology of their own (a notable example being China's attempts to impose control through a state run internet service provider that controls access to the Internet).

Journalists encounter numerous obstacles and challenges in performing their general watchdog function, and these challenges are often exacerbated or are more acute in reporting on defence-related issues. In particular, the watchdog role of the media with regard to security and intelligence agencies is often weak, especially in peacetime.[27] This is partly due to the comparatively few journalists who specialise in the

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[26] For a detailed survey of the media's relationship with security and its governance, see Marina Caparini, ed., *Media in Security and Governance: The Role of the News Media in Security* (Geneva: DCAF, 2004), chapter 1.

[27] In contrast to peacetime reporting of military affairs, war correspondence tends to attract higher numbers of journalists. For example, about 5,000 journalists covered the 1999 Kosovo War.

field—most of whom are to be found either within the large media organisations (such as the BBC, the major US networks and other major national papers and networks) or the specialist defence media (such as the Jane's Group)—but also a decline in serious public affairs journalism and a general "dumbing-down" of news in the last decade or so. However, there are also numerous other factors that can potentially undermine the effectiveness of the media in its defence oversight role. The "public information battle-space" after 9/11 underscores many of these obstacles and challenges, just as it has done for CSOs as described earlier.[28]

A key general principle is that the media should maintain a healthy degree of independence, especially from the state and ruling government, but also from other vested interests. But since 9/11 the mainstream Western media has been criticised for being patriotic and subservient. The increasing concentration of ownership (which is only partly offset by increased diversity within the "new media") exacerbates such concerns. This close relationship between corporate interests, certain political elites and media monopolies tends to constrain independent and critical journalism. It may also reduce the spectrum of perspectives that are aired, especially on vital public issues. So, just as anti-European tabloid newspapers in the UK play an important role in sustaining a broad but uninformed euroscepticism in public debate, similar controls are exercised on the parameters of national security discourse. As one critic of the US media's "cheerleading" of interventions in Iraq and Afghanistan has put it, "many mainstream American journalists and columnists continue to resemble court scriveners of the kind the Mughal emperors employed."[29]

This tendency for co-option (reproducing official statements and perspectives rather than subjecting them to critical examination) is perhaps most common in the security field – as is the risk of "internalising" the official line or being manipulated by insiders (including officials, whistleblowers and "spin doctors"). In most NATO countries, for example, the armed forces' approach to the media is now essentially the same as that of any other large organisation, with communications directorates and public relations specialists. It is also now almost common in military operations for interested parties to hire the services of lobby firms to present their case; a practice popularised by the Kuwaiti government in 1990 and carried on throughout the disintegration of Yugoslavia and most recently by the Georgian and Afghan governments.[30]

Journalists also need some measure of protection so that they are not unjustly accused of libel, sued, imprisoned or even killed for "pointing the finger" at leading officials when they report on corruption. However, more than a third of the world's people live in countries where there is no press freedom and new kinds of conflicts between

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[28] Carl Conetta, "Disappearing the Dead: Iraq, Afghanistan, and the Idea of a 'New Warfare'," *Project on Defense Alternatives Research Monograph*, No. 9 (18 February 2004).

[29] Pankaj Mishra, "Kissinger's Fantasy is Obama's Reality," *The Guardian* (11 December 2009).

[30] Jaimy Lee, "National Security Council of Georgia hires Public Strategies," *PR Week* (19 November 2009).

Box 21.1. Investigative Journalism Reveals Cases of Defence Corruption

The Contracting Black Hole in Iraq

A combination of investigative journalism, whistleblowers, government auditors and concerned legislators have gradually stripped away US contracting practices in Iraq. A BBC Panorama investigation in 2008 claimed that as much as $23bn may have been lost, stolen or not properly accounted for in Iraq. Allegations of mismanagement, fraud and waste are legion: contractors chosen for their US government connections without a competitive bidding process; contractors inflating their costs and double counting to increase their profits and billions supposed to be used to rebuild the Iraqi military allegedly ending up in the pockets of some Iraqi government officials.

Sources: Ed Harriman, "Where Has all the Money Gone?," *London Review of Books* 27:13 (7 July 2005): 3-7; Daylight Robbery: BBC Panorama (10 June 2008), http://news.bbc.co.uk/1/hi/programmes/panorama/7438372.stm.

Funding the Taliban in Afghanistan

In 2009, investigative journalist Aram Roston traced how the Pentagon's civilian contractors in Afghanistan ended up paying insurgent groups to protect American supply routes from attack. US military officials in Kabul told Roston that a minimum of ten percent of the Pentagon's logistics contracts consists of payments to the Taliban.

Source: Aram Roston, "How the US Funds the Taliban," *The Nation*, 30 November 2009.

The Aitken Affair – UK

In April 1995, former UK defence procurement minister Jonathan Aitken promised to use the "sword of truth" against The Guardian and sued the newspaper for libel in a row over his dealings with Saudi arms traders. In 1999 he went to prison for seven months for perjury after he was revealed to have lied repeatedly.

Source: "The Aitken Affair," Special Reports, *The Guardian,* www.guardian.co.uk/aitken.

The BAE Files – UK

In February 2010, the British arms firm BAE Systems accepted guilt and agreed to pay penalties in the US and the UK totalling several hundred million dollars to settle all the long-running corruption allegations against it, first disclosed in *The Guardian* in 2003.

Source: "The BAE Files," *The Guardian*, www.guardian.co.uk/world/bae.

Operation "West End," India

Operation "West End" was a sting operation aimed at the corruption underlying India's large defence contracts. The original investigative piece by Tehelka, India's *Independent Weekly News* Magazine, in 2001 targeted several members of the then ruling coalition government. It showed several political figures, as well as senior army officials, colluding to take bribes in order to approve defence contracts. The Defence Minister resigned after the tapes were made

public, but he was reinstated later. Initially the government, instead of acting on the evidence, accused Tehelka of fabricating allegations. However, five years later, in October 2006, the Indian Central Bureau of Investigation filed charges against leading figures in the Barak missile case, claiming that there was reasonable basis to suspect corruption and criminal conspiracy.

Sources: Tarun J. Tejpal, "The Tehelka Exposé," www.taruntejpal.com/TheTehelkaExpose.htm; V. Venkatesan, "Dubious Deal," *Frontline* 23:21 (2006), http://www.hinduonnet.com/fline/fl2321/stories/20061103001804100.htm.

ethnic, ideological, religious or simply criminal interests have made investigative reporting increasingly dangerous.

Another key trend is the increased capacity of the global media to inflame "casualty sensitivity" either in support of or opposition to foreign intervention. This so-called "CNN effect" has been a subject of broad concern in the defence community since the early 1990s.[31] The initiation and the termination of US operations in Somalia and the rapid conclusion of the 1990-91 Gulf War (following circulation of images depicting the so-called "Highway of Death" incident) were both partially attributed to this effect. This in turn led to greater governmental efforts to manage the media, control the flow of information and shape the coverage of military operations post 9/11, through, for example, "embedding" in the 2003 War in Iraq and coordinated message development and dissemination. Despite a continuation of this restrictive policy in Afghanistan—including the weeding-out of "negative" embedded journalists[32]—the strategic literature has been filled with ruminations on the capacity of the Taliban and Al Qaeda to exploit both the "CNN effect" and casualty sensitivity in seeking an asymmetric advantage over the United States and its NATO allies.[33]

A final and long-standing issue of contention is secrecy. While governments may legitimately suppress information if they believe its release would harm the public or national interest, they also use "national security" as grounds for withholding informa-

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[31] Sometimes used to mean any media involvement, this expression more accurately reflects the belief that real-time television reporting in particular exercises an undue influence on crisis management and overseas military deployments by democratic countries. Margaret H. Belknap, "The CNN Effect: Strategic Enabler or Operational Risk?" *Parameters* (Autumn 2002): 100–114.

[32] Charlie Reed, "Pentagon Hires PR firm to Weed out 'Negative' Embedded Journalists," *Stars and Stripes* (25 August 2009), www.reclaimthemedia.org/propaganda_and_war/pentagon_hires_pr_firm_weed_ou2535.

[33] See, for example: Peter Singer, "Winning the War of Words: Information Warfare in Afghanistan" (The Brookings Institution, 23 October 2001); Thomas Elkjer Nissen, "The Taliban's Information Warfare – A Comparative Analysis of NATO Information Operations (Info Ops) and Taliban Information Activities," Brief (Royal Danish Defence College, December 2007); Tim Foxley, "Winning the Information War," Blog entry, SIPRI website (12 May 2009), www.sipri.org/ blogs/Afghanistan/winning-the-information-war.

tion that would cause embarrassment or scandal due to corruption or mismanagement. The climate of "securitisation" that followed 9/11 has also resulted in a renewed emphasis on government secrecy and a partial reversal of a post-Cold War trend towards greater transparency, public accountability and accessibility of official information.

Civil Society and the Media in Fragile States, Transition States and NATO

In many "fragile states"[34] abusive security operations make it very difficult and even dangerous for civil society and the media to even attempt to monitor and advocate integrity building within domestic defence establishments. The creation of special security forces and intensified operations against insurgents and alleged criminals and terrorists have led to a sharp rise in the number of unsolved cases of extrajudicial killings and abductions of human rights workers and political activists in many fragile states, including (but certainly not limited to) Bangladesh, Ethiopia, Kenya, Pakistan, Uganda and Zimbabwe. While in Colombia, Nepal, the Palestinian Territories, Somalia, Sri Lanka and other conflict zones, NGOs are sometimes seen by governments and armed rebels alike as political adversaries. In some conflict areas NGOs are denied access, while in others—such as Mogadishu and parts of Iraq and Afghanistan—CSO operations have at times become untenable because of extreme dangers.[35]

Similarly, in many "transition states,"[36] bureaucratic barriers to the legal recognition of NGOs, the poor record of political freedom and generally weak civil societies suggest that, with respect to military and security sector reform, non-state actors tend to play only a minimal role in shaping policy.[37] And as noted earlier, repressive legislation and pressures against civil society have increased post 9/11. Counter-terrorism legislation and measures against "extremism" have been used to crack down on NGOs and political activists who criticise government policies in many transition states, including (and again not limited to) China, Egypt, El Salvador, Indonesia, Jordan, the Philippines, Russia, Sudan, Tunisia, Uzbekistan and Yemen.[38] While the 1990s saw a considerable amount of bold reporting on SSR subjects in Russia, for example, in re-

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[34] Fragile states (also sometimes referred to as "failed" or "weak" states) are those that generally cannot provide security for their citizens, or their territory, and that are corrupt and illegitimate in the eyes of their citizens.

[35] For example, see: Millar, Cortright, Gerber-Stellingwerf and Lopez, *Oversight or Overlooked?* (2009).

[36] A term usually attributed to the Soviet successor states but also sometimes applied to any state transitioning from authoritarian or military rule to democratic governance.

[37] On civil society and SSR in post-communist countries, see: Marina Caparini, Philipp Fluri and Ferenc Molnar, eds., *Civil Society and the Security Sector: Concepts and Practices in New Democracies* (Berlin: LIT, 2006).

[38] For examples, see: Millar, Cortright, Gerber-Stellingwerf and Lopez, *Oversight or Overlooked?* (2009).

cent years Russian civil society and the media appears to have been very much weakened.

Nonetheless, civil society engagement and oversight of the security sector is still sometimes possible in transition states especially with external IGO support. In the former Soviet space, for example, the Organisation for Security and Cooperation in Europe (OSCE) has done much to counter such negative trends by promoting stability through the strengthening of good governance, civil society and press freedom. Similarly, the EU has, to varying degrees, shown a good understanding of the role of non-state actors as alternative entry points in fragile and transition states. The European Initiative on Human Rights (EIDHR) and Rapid Reaction Mechanism (RRM) are unique in that they fund civil society, democracy, human rights and conflict prevention projects without requiring approval from their governments.

There are also examples of important SSR related work being done by civil society actors on the ground in transition states. For example, the Southern African Defence and Security Management (SADSEM) Network is a donor supported activity within the security sector that aims to increase the professionalism and accountability of a broad range of security sector actors (including civil society) and of the interaction between them. But while there are a few limited examples of local stakeholder CSOs playing a valuable oversight and monitoring function at the "softer" end of SSR (such as policing and judicial reform), at the harder end (the defence-related missions and institutions that feature in this book), CSO activities remain almost totally unobserved.[39]

One multi-case review concluded: "in all of the countries studied, civil society is rarely a full partner and the programs remain more focused on supply of security and justice than demand for them."[40] Another review of integrated missions in Burundi, the Democratic Republic of Congo, Haiti and Kosovo found that in each case "negligible attention was granted to the development of parliamentary or civil society oversight mechanisms for the security sector. Support to strengthening the capacity of legislatures or civil society actors such as media and NGOs is generally provided by UNDP, albeit rarely with specific focus on the security sector."[41]

Another weakness of the SSR/good governance agenda is that it is invariably seen as something that other states should implement. Thus, for example, while one of the

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[39] Edward Rees, "Security Sector Reform (SSR) and Peace Operations: 'Improvisation and Confusion' from the Field," External Study for the UN Department of Peacekeeping Operations (March 2006).

[40] Christopher Stone, Joel Miller, Monica Thornton and Jennifer Trone, "Supporting Security, Justice, and Development: Lessons for a New Era" (Vera Institute of Justice, June 2005), 9, www.dfid.gov.uk/Pubs/files/security-justice-development.pdf.

[41] Heiner Hänggi and Vincenza Scherrer, "Recent Experience of UN Integrated Missions in Security Sector Reform (SSR): Review and Recommendations" (Geneva: DCAF, November 2007), www.dcaf.ch/un_ssr_pcpb/recent-experience-un-integrated-missions-071203.pdf.

Box 21.2. Civil Society Engagement and Partnerships in SSR and Defence Oversight

A number of civil society organisations and networks provide examples of successful engagement engagement in security sector reform and defence oversight. Among them are:

The African Security Sector Network (ASSN), www.africansecuritynetwork.org
Southern African Defense and Security Management Network (SADSEM), www.sadsem.org

ASSN was established in Ghana in 2003 with the aim of supporting and facilitating security sector governance in Africa through efforts including research, advocacy, capacity building, and providing points of contact for interaction and sharing information with partners and other actors. The ASSN includes the full range of actors relevant to SSR (i.e., policy makers, practitioners, donors and civil society) and has developed courses on security sector governance which are being offered, for example, by the Southern African Defense and Security Management Network (SADSEM). SADSEM is a donor supported activity within the security sector that aims to increase the professionalism and accountability of a broad range of security sector actors (including civil society) and of the interaction between them. The value of both networks is that they offer space for security officials to interact with academics and civil society and thus play an important sensitization, as well as capacity-building, role.

Saferworld – UK, www.saferworld.org.uk
Academy for Peace and Development, Somalia, www.apd-somaliland.org
Puntland Development Research Centre - Somalia, www.pdrcsomalia.org
Centre for Research and Dialogue – Somalia, www.crdsomalia.org

Saferworld began over 15 years ago to work for a regional agreement on arms transfers in the EU, a move which over time has culminated in the EU concluding a legally binding agreement on the control of arms exports. In the UK, at the turn of this century, legislation governing irresponsible arms transfers was changed for the first time since the Second World War, making it harder for arms producers and their agents to channel weapons to the places where they do most damage.

In Somalia, which has lacked effective governance for more than 18 years, Saferworld has been working with community-based organisations, the business sector and other civil society groups to bring their ideas for the security and development of the country to the attention of international policy makers, including the UN Security Council in Djibouti. Local Somali partners include the Academy for Peace and Development, Puntland Development Research Centre and the Centre for Research and Dialogue. While considerable challenges remain, the building blocks are in place to enable CSOs to input into peace and development processes and help build consensus on how to bring peace to Somalia.

leading exponents, the UK Department for International Development (DFID),[42] has done much to promote SSR and the involvement of NGOs in transition and fragile states, Britain's own recent domestic record is considerd mixed: the country's leading defence manufacturer has faced a string of corruption charges involving arms contracts in Africa, the Middle East and Eastern Europe;[43] the National Audit Office has described Britain's defence procurement programme as "unaffordable," following revelations of a £6bn to £36bn "black hole" in the MoD's spending plans.[44] The key lesson from recent British experience, therefore, is that building integrity and reducing corruption in defence begins at home. Of course, relative to the situation in most fragile and transition states, Britain's situation is far less critical.

For NATO to live up the reason for which it was created—*to safeguard the freedom, common heritage and civilisation of their peoples, founded on the principles of democracy, individual liberty and the rule of law* (North Atlantic Treaty, 1949)—it can be expected to be open, transparent and accountable to the public. NATO's system of collective decision making might be properly accountable if members of parliament were kept fully informed of NATO decisions and if they had financial control. Neither is currently the case. Scrutiny certainly exists in national legislatures and parliamentary committees, and some very effective investigation has occurred of NATO action (on Bosnia, Kosovo and Afghanistan, for instance). This, however, has often been hampered by difficulties of accessing relevant information. Further, the role of national parliaments in their arguably most important function of assenting to policy is particularly underdeveloped. Many parliaments simply lack the power of prior authorisation of military operations or of determining the length of time a mission is deployed.

Similarly, the NATO Parliamentary Assembly is not designed to have formal influence or oversight over decision making in the alliance. Defence decisions should certainly not be the exclusive preserve of the executive branch of government or powerful inter-governmental bureaucracies. This applies, for example, to procurement decisions made in the framework of the Conference of National Armaments Directors (CNAD), the senior NATO body responsible for collaboration between member states on equipment and research projects.

Citizens (and parliamentarians) in NATO member states are bound by secrecy rules that were drafted in a very different era – when the public had different expecta-

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[42] See, for example: UK Department for International Development, "Understanding and Supporting Security Sector Reform," www.dfid.gov.uk/Pubs/files/supportingsecurity.pdf.

[43] "BAE Faces Corruption Charges," *New York Times* (1 October 2009). For further background, see: "The BAE Files," *The Guardian*, www.guardian.co.uk/world/bae. Interestingly, it was a coordinated civil society action between Corner House and the Campaign Against Arms Trade that brought a judicial review of the Serious Fraud Office's termination of the investigation into BAE's contracts with Saudi Arabia.

[44] Nicholas Timmins, "Warning of 'Black Hole' in Defence Budget," *Financial Times* (15 December 2009); Jeremy Lemer, Alex Barker and James Blitz, "Damning UK Defence Equipment Review," *Financial Times* (15 October 2009).

tions about participation in defence and foreign policy, when few of its member states had adopted a national right-to-information law, and when the threat posed to the Western alliance was more profound and immediate. All of these circumstances have changed but the regime that governs the handling of shared information remains unchanged in important respects. As a consequence, it is rather difficult for legislators and citizens to participate in the formulation of policies that have a profound effect on their liberty and security.

To address these weaknesses a new civil society policy network, NATO Watch, was established in April 2009. NATO Watch aims to: encourage NATO to adopt an information openness policy consistent with the access to information laws already in place in the alliance's 28 member countries; contribute to independent monitoring and analysis of policy-making and operational activities within NATO; and increase transparency, stimulate parliamentary engagement and broaden public awareness and participation in NATO policy-making. NATO Watch associates across member states, partnership and contact countries will be encouraged to pursue these project goals through their own parliamentary representatives and national networks of decision makers and opinion-shapers.[45] Civil society groups meeting at a Shadow NATO Summit in Brussels also called on NATO to "reconnect with citizens," stating that to "deepen and extend the shared values-base within the Alliance … means an updated, more open, transparent and accountable Alliance, appropriate to 21st century expectations".[46] In addition, "Five Principles for an Open and Accountable NATO" drawn up by Access Info, call on NATO to establish guidelines for proactive publication of core information, a mechanism by which the public can file requests for information and an independent review body for hearing appeals against refusals or failures to make information public within a short time-frame.[47]

Conclusions: Increasing NGO and Governmental Integrity-building Partnerships

Civil society has a fundamental role to play in building integrity and reducing corruption in defence. Many governments already recognise the legitimate contribution of NGOs,

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[45] For further details, see: www.natowatch.org.

[46] "Citizens Declaration of Alliance Security," developed at the NATO Shadow Summit held in Brussels 31 March to 1 April 2009, www.isis-europe.org/pdf/2009_artrel_308_natoshadow_execsum_v5.pdf; see also: "The Shadow NATO Summit Report," www.isis-europe.org/pdf/2009_artrel_309_natoshadow_v11.pdf.

[47] NATO Shadow Summit Report, "Five Principles for an Open and Accountable NATO," Appendix 4. Access Info (www.access-info.org) is a human rights organisation based in Madrid, which works to promote and defend the right of access to information by promoting the transparency of national and supranational public bodies. NATO Watch and Access Info have proposed a joint civil society-NATO expert group to review the alliance's information disclosure policy.

other sections of civil society and an independent media. CSOs and the media can maintain an effective watchdog role by continuing to expose and challenge abuses within the defence sector and by building public support for more accountable governance based on the rule of law. However, in those countries where such mutually beneficial partnerships are insufficient or absent, governments should allocate space and take steps to expand or create them.

The formation of a public climate in which more than lip service is paid to this agenda may demand alterations of mindsets and the promotion of routines of openness, consultation, cooperation and trust from both governments and those nascent NGOs and civil society structures. Engagement must also take place with a wider range of those active in civil society, such as the media, NGOs, academics, trade unions and women's organizations – and not just the "establishment-friendly" defence think tanks. All too often these wider voices and roles of civil society are curtailed or disregarded. Such changes are unlikely to be achieved overnight. But the benefits for society and for governments (see chapter 14) make it a worthwhile process to embark upon.

Since the 9/11 attacks, the United States and a few of its allies have considered themselves to be at war and it is well understood that when at war the media-civil society and government-armed forces relationships are governed by different rules. In most democratic societies, the majority of people understand perfectly well that in war a government will use both secrecy and deception. But while there is little dispute that restrictions on the media and civil society should apply in wars of national survival, the invocation of these rules for "wars of choice" (which arguably includes the operation in Iraq and other security operations under the "War on Terror") has received less public support.

In response to the pressures and restrictions that have been imposed on civil society groups since 9/11, some NGOs have sought to assert their own right to operate freely without government interference and harassment. The US-based International Center for Not-for-Profit Law (ICNL), for example, has set out a series of principles of civil society protection that are based on universal human rights conventions and declarations to which virtually all governments already subscribe.[48] States must not only avoid meddling with human rights and basic freedoms, they must defend those rights and guarantee their orderly expression. It is vital that states create an enabling environment in which civil society actors can function without restraint.

In turn, civil society groups and especially the development, human rights and civil liberties communities need to engage more fully in the public debate over security strategies and the proper approach to overcoming the corruption risk in defence. These civil society actors may form an international network to express a coherent voice and engage in a common set of activities to address the challenges set out in this book. CSOs can help to craft and encourage support for that elusive optimal bal-

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48 International Center for Not-for-Profit Law and World Movement for Democracy, "Defending Civil Society," *The International Journal of Not-for-Profit Law* 10:2 (April 2008): 31-33.

ance between investments in integrity, transparency and accountability, on the one hand, and the preservation of efficiencies and effectiveness of defence forces, on the other (see chapter 2). NGOs with SSR experience are well-suited to these challenges. Many have extensive field experience in zones of conflict and their general missions, for example, in overcoming social exclusion, may provide valuable insight into what is needed to ameliorate conditions conducive to corruption in defence.

The case study on South Korea in chapter 19 shows just what can be achieved. Following extensive problems with integrity and corruption in defence acquisitions, the South Korean government initiated a process of reform in 2003. Three years later, an ombudsman system was introduced, the first in Korea to be based on law and the first case of participation of civil society in monitoring defence procurement.

CSOs need to be more proactive in communicating their experience and wisdom more widely to policymakers and the public, and should seek to take a stronger lead in reframing the political discourse on building integrity at all levels of the defence and security debate. Civil society groups should help craft a new narrative and shape the terms of the debate through an innovative policy framework that is practical, empirically based and ethically grounded. CSOs should use established mass media outlets and new communication tools (such as the internet and social networking) to communicate this perspective and to counter false claims and misinformation. To ensure that the potential role of civil society is fully utilised, the donor community is well advised to transfer resources towards enhancing the capacity of NGOs to play the roles highlighted here.

NGOs should not shun the requirement for greater transparency and accountability in their own financial affairs and operations. Legitimacy and public integrity are vital to CSOs and are essential to the effectiveness of their mission. As transparency and accountability are demanded of NGOs, however, the same transparency and accountability are needed from governments and their agencies, as well as within NATO. Throughout NATO's history, MPs in national parliaments, when asking questions about NATO decisions, have invariably been told that such decisions are confidential. When the same questions were put to the Secretary-General, he invariably replied that NATO was but an alliance of sovereign states. This catch-22 situation may have served a purpose during the Cold War but is no longer appropriate today. Adequate mechanisms for transparency and accountability within NATO are urgently required.

The Role of International Organisations

International organisations have played a central role in driving the tremendous shift in worldwide attitudes about corruption that have taken place in the past twenty years. They have also played a major role in practical efforts to counter corruption through international conventions and standards, promoting good governance, monitoring and advocacy. While most of this work has focused on the areas of international business and development, there is now growing attention to the issue of corruption in the defence and security sectors. This is a natural extension of an increasing focus on defence governance over the past decade, itself being driven by the growing understanding in institutions like NATO that effective stewardship of resources is vital to ensuring successful operations.

International organisations—for the purposes of this chapter include inter-governmental organisations and global non-governmental organisations—have tremendous resources and know-how that can be valuable to officials or citizens who wish to make a contribution to combating corruption in their own institutions or society. This chapter aims to help such readers better understand the resources available, access them and use them effectively. It will first look at the various roles and approaches to combating corruption taken by international organisations, both overall and more specifically in the area of defence. It will then examine several prominent institutions more closely before considering how to best leverage the capabilities provided by these institutions to catalyse change in the national context.

Role of International Organisations: The Broad Context

Until the early 1990s, corruption was viewed by most of the international business and development community as a regular (if not "normal") transaction cost. In some Western countries, it was not unusual for corruption payments to be listed as legitimate business expenses for tax purposes. Nevertheless, for several decades there had been a growing understanding of the tremendous burden that corruption puts on development programs as well as its distortive economic effects. Debate surrounding the US Corrupt Foreign Practices Act of 1977, for example, noted that more than 400 US corporations had admitted to paying out in excess of $300 million in corporate funds to foreign government officials – a reality that was not only unethical but also bad business, eroding confidence in the corporations in question and, by favouring private arrangements over efficiency, undermining the integrity of the free market system more

generally.[1] The tremendous corrosive effects of corruption were also brought home by the troubled "free-market" transition in Russia and other post-Soviet states, where privatisation programs recommended by well-meaning (but naïve) Western experts degenerated into wholesale theft of state assets. The creation in 1993 of Transparency International, whose founders were officials with direct experience in the damage that corruption causes to development, gave a voice to this growing awareness. Since that time, a growing network of national and international institutions have used education, lobbying and focused research to place the corruption problem—and the need to combat it—firmly on the world's political agenda.

Today, dozens of major international organisations, inter-governmental organisations and global non-governmental organisations are now actively involved in efforts to counter corruption. They fill a number of important niches in the anti-corruption ecosystem (please note that due to space limitations the organisations mentioned for each niche are representative, not exhaustive):

Developing and implementing anti-corruption agreements and standards at the global and regional levels. Over a dozen of such agreements exist today, most notably the UN Convention against Corruption (UNCAC), which came into force in December 2005, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in December 1997. Monitoring implementation of conventions is frequently an important role for institutions like the OECD, as is identifying and spreading good practice. Work is often supported through a network of organisations – for example, in Europe: the Council of Europe, GRECO (Group of States against Corruption), the European Commission and the OSCE Coordinator on Economic and Environmental Activities. In the Americas, the Organisation of American States works in support of the Inter-American Convention against Corruption. There are also niche roles: the Financial Action Task Force (FATF) leads in combating money laundering through development and implementation of international standards; the World Trade Organisation incorporates an anti-corruption role in its Working Group on Transparency in Government Procurement.

Parliamentary assemblies can help develop international agreements and approaches to countering corruption, lobby national adoption and monitor implementation. The Parliamentary Assembly of the Council of Europe (PACE) is a prime example for its work regarding the Council of Europe Criminal & Civil Law Conventions on Corruption. Another prominent organisation, the Canadian-based Global Organisation of Parliamentarians against Corruption (GOPAC), supports national parliamentarians in protecting their own integrity by adherence to a code of conduct, as well as in effectively understanding and exerting their oversight role. Usefully, this includes performance indicators for parliamentary oversight. Other regional parliamentary assemblies, like the Asian Parliamentary Assembly, also address corruption issues.

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[1] Unlawful Corporate Payments Act of 1977, Legislative History – House Report, http://10.173.2.10/criminal/fraud/fcpa/history/ 1977/houseprt.html.

Development banks have become major players in anti-corruption efforts, both in order to maintain integrity of their own programs and, more broadly, to remove what is widely acknowledged as a serious impediment to economic and social development; corruption distorts the rule of law, weakens the institutions necessary for economic growth and undermines public services on which the poor are particularly reliant. Development bank programs often take a multi-faceted approach to countering corruption, building corporate governance and management in institutions receiving loans, increasing political accountability for spending of resources, and strengthening civil society's ability to demand action and monitor compliance. The World Bank and the International Monetary Fund are the two largest global players. In addition, regional development banks such as the European Bank of Reconstruction and Development, the Asian Development Bank and the Inter-American Development Bank also have anti-corruption programs.

Major non-bank international (and national) development organisations have also increasingly targeted corruption as a part of the growing emphasis on good governance as essential to human development. Corruption is increasingly being targeted directly as its corrosive effects on governance have become better known. Institutions working to identify and spread good practice include the United Nations Development Program, the Geneva Centre for the Democratic Control of Armed Forces and the Global Facilitation Network for Security Sector Reform (GFN-SSR). In this sense, NATO also works as a "development" organisation, linking its anti-corruption programs to its interest in good security sector governance and democratic civil control.

Coordinating law enforcement actions. Global institutions like Interpol and the United Nations Office on Drugs and Crime (UNODC) play a significant role in coordinating and complementing national anti-corruption efforts. In addressing what is one of its six priority areas for fighting crime, Interpol has developed codes of ethics and conduct for law enforcement officers, standards for police forces and a Police Integrity Survey to benchmark capabilities, collated a *Library of Best Practice* to assist corruption investigators, and established a group of national contact points on corruption. It also operates the Interpol Group of Experts on Corruption (IGEC) to facilitate, in conjunction with other international stakeholders, coordination and harmonisation of national and regional approaches to combating corruption. The UNODC and Interpol have agreed to open the world's first Anti-Corruption Academy, to be located near Vienna, Austria. The European Commission also has strong anti-corruption programs, as do some regional institutions, like law enforcement task forces in the Baltic Sea and Balkans areas.

International professional organisations often have programs to maintain integrity and fight corruption in their areas of responsibility. Examples of global organisations include the International Association of Judges, the International Commission of Jurists, the International Bar Association and the International Association of Prosecutors. There are also a number of regional organisations addressing audits; for example, the Asian Organisation of Supreme Audit Institutions.

Box 22.1. List of International Organisations and Websites

Asian Development Bank	http://www.adb.org/Anticorruption/unit.asp
Asian Organisation of Supreme Audit Institutions	http://www.asosai.org
Asian Parliamentary Assembly	http://www.asianparliament.org
Council of Europe	http://www.consilium.europa.eu
European Bank of Reconstruction and Development	http://www.ebrd.com
European Commission	http://ec.europa.eu
Financial Action Task Force (FATF)	http://www.fatf-gafi.org
Geneva Centre for the Democratic Control of Armed Forces	http://www.dcaf.ch
Global Facilitation Network for Security Sector Reform (GFN-SSR)	http://www.ssrnetwork.net
Global Organisation of Parliamentarians Against Corruption (GOPAC)	http://www.gopacnetwork.org
Group of States against Corruption (GRECO)	http://www.coe.int/t/dghl/monitoring/greco/
Inter-American Development Bank	http://www.iadb.org
International Association of Judges	http://www.iaj-uim.org
International Association of Prosecutors	http://www.iap-association.org
International Bar Association	http://www.ibanet.org
International Chamber of Commerce (ICC) Anti-Corruption Commission	http://www.iccwbo.org/policy/anticorruption
International Commission of Jurists	http://www.icj.org
International Monetary Fund	http://www.imf.org
Interpol	http://www.interpol.int
North Atlantic Treaty Organisation (NATO)	http://www.nato.int
Organisation for Economic Cooperation and Development (OECD)	http://www.oecd.org
Organisation of American States	http://www.oas.org
Organisation for Security and Co-operation in Europe (OSCE) Coordinator on Economic and Environmental Activities	http://www.osce.org/eea
Parliamentary Assembly of the Council of Europe (PACE)	http://assembly.coe.int
Transparency International	http://www.transparency.org
United Nations	http://www.un.org
UNICORN	http://www.againstcorruption.org
United Nations Office on Drugs and Crime (UNODC)	http://www.unodc.org
United Nations Development Program	http://www.undp.org
World Bank	http://www.worldbank.org
World Trade Organisation	http://www.wto.org
WTO Working Group on Transparency in Government Procurement	http://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm#plurilateral

Advocacy and monitoring. A number of international non-governmental organisations work to raise awareness and promote anti-corruption action, using both political and social pressure. With an international network and over 90 national chapters, Transparency International leads in this field. Its efforts are complemented by other institutions, such as the trade union organisation UNICORN and the International Chamber of Commerce (ICC), a business association supporting an efficiently functioning global economy characterised by free and fair competition. The ICC has an Anti-Corruption Commission whose main objective is to encourage self-regulation by business in confronting issues of extortion and bribery, and to provide business input into international initiatives to fight corruption.

The Link to Defence

The defence community's awakening to the importance of governance—and the direct threat that corruption makes to it—parallels that of the development community. The case of Partnership for Peace in Central and Eastern Europe illustrates this situation well. The 1990s saw hope for a rapid democratic, free-market transformation of post-communist states. Military-to-military engagement complemented that process by bringing military professionals together in common tasks of peacekeeping and humanitarian relief. The number one task for cooperation and assistance programs at that time was therefore interoperability – the ability for military forces to have common (or at least compatible) understanding, procedures and technical capabilities needed to work side-by-side in joint operations. Democratic control of the armed forces as an issue was considered largely in terms of operational control.

The ensuing decade saw considerable progress in developing operational interoperability. However, as the 90s progressed it became clear that interoperability alone was only half of the equation: the other half was defence transformation – the development of new capabilities and methods that would match the requirements of modern operations. This drive toward transformation further accelerated when counter-terrorism missions became increasingly important following 9/11. Unlike interoperability, transformation could not be isolated as a "military-to-military" effort. On the contrary, it needed to be driven by new visions of policy, innovative planning and increased budget support. Yet while civilian democratic control was effectively in place in operational terms (i.e. the president as "commander-in-chief"), defence institutions responsible for policy, planning, resource allocation, etc. were weak in many countries. Without an effective civilian defence ministry to provide direction or lobby its interests, the military fell victim to its own inertia and the political class' apathy towards national security issues (and defence budgets).

This put the issue of security sector governance squarely on the defence cooperation agenda – a trend that was confirmed with the creation in 2004 of NATO's Partnership for Peace Defence Institution Building program. With good governance now firmly on the defence cooperation agenda, it was only a matter of time before countering corruption received due attention, in the form of NATO's program for Building Integrity and

Reducing Corruption (the sponsor of this compendium). This program sees countering corruption as an essential part of the reform process but retains its focus on developing positive dynamics of integrity, transparency and accountability as keys to effective defence management.

Selected Institutions and Programs

The role of the *United Nations* in corruption is centred around implementation of the United Nations Convention on Corruption, which came into force in December 2005. The convention seeks to develop a common global language about corruption and an effective set of benchmarks for coherent implementation strategies. It sets out a four-point approach to combating corruption, including preventative measures, criminalisation, international cooperation and asset recovery.

The UN Office of Drugs and Crime (UNODC) runs a Global Program against Corruption as a catalyst and a resource to help states effectively implement the provisions of the convention. It assists states with vulnerable developing or transitional economies by promoting anti-corruption measures in the public and private sector, including in high-level financial and political circles. Areas of work include the codification of good practice and policy, technical assistance to spread such good practices in the public and private sector and public awareness. Specific tools include a Judicial Integrity Group, a self-assessment checklist and a legislative guide for signatories to the convention.

Over the last few years, under pressure from media and member governments, the United Nations Department of Peacekeeping Operations has also increased its anti-corruption efforts, making a number of investigations and, on occasion, turning down troop contributions from countries that had a history of problems.

The *Organisation for Economic Cooperation and Development (OECD)* is an international organisation of 31 countries committed to values of pluralist democracy based on the rule of law and the respect of human rights, adherence to open and transparent market economy principles and a shared goal of sustainable development.[2] The OECD has become a major hub for dialogue on globally significant issues and contributes to efforts for a stronger, cleaner and fairer world economy. Using one of the world's largest and most reliable sources of comparable statistics, it monitors trends, analyses and forecasts economic developments and researches social changes or evolving patterns in trade, environment, agriculture, technology, taxation and public governance.

One of the important areas of the organisation's work is combating corruption. The latter threatens good governance, democratic process, sustainable development and

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[2]   The OECD member countries are: Australia, Austria, Belgium, Canada, Chile (joined in January 2010), the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

fair business practices. By employing a multidisciplinary approach the OECD addresses corruption in business, taxation, development aid and governance in member countries and beyond. This includes combating the "supply side" of bribery, preventing bribery through export credits, denying tax deductibility of bribes, promoting responsible business conduct, preventing corruption in the public sector by building a robust integrity framework and improving governance through development assistance.[3]

The OECD helps countries prevent conflicts of interest and corruption in public service. It focuses on vulnerable areas like public procurement and contract management, lobbying and political-administrative interface. Based on review and analysis of good country practices, the OECD has developed policy instruments, implementation guidelines and practical tools to help policymakers and managers promote integrity and foster resistance to corruption in the public sector.

The centrepiece of the OECD anti-corruption efforts is the 1997 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) and related instruments that address issues of taxes, export credits, bilateral aid, multinational enterprises and public procurement.[4] The convention is a legally binding international treaty that addresses "active bribery" – the individuals or companies who promise, offer or give bribes to foreign public officials in order to gain or retain business advantages. All OECD member countries plus 7 non-member economies are parties to the Anti-Bribery Convention, pledging to make bribery of foreign public officials in international business a criminal offence under their national law and implement effective policies to prevent, detect, investigate and sanction foreign bribery.

By fighting to eliminate bribery of foreign public officials from competition for contracts and investment, the OECD is making a major contribution to levelling the playing field for transnational business, including the defence industry. A unique strength of the OECD anti-bribery instruments is their rigorous, peer-driven review carried out by the OECD Working Group on Bribery. Detailed monitoring reports evaluate countries'

Box 22.2. The OECD Anti-Bribery Convention and National Security Interests

According to Article 5 of the OECD Anti-Bribery Convention, investigation and prosecution of the bribery of a foreign public official shall not be influenced by considerations of national economic interest, the potential effect upon relations with another state or the identity of the natural or legal persons involved. Article 5 acknowledges the possibility of prosecutorial discretion but limits such discretion to professional motives (e.g. the weight of evidence), excluding improper influence by concerns of a political nature. Applicability of Article 5 of the OECD Convention was tested in the UK when a major case involving the alleged bribery of a foreign public official was terminated, reportedly due to the need to safeguard national and international security.

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3   For more information, see: www.oecd.org/corruption.
4   OECD, "Key OECD Anti-Corruption Documents," www.oecd.org/document/42/0,3343,en_ 2649_37447_41799402_1_1 _1_1,00.html.

Facts. Between July 2004 and December 2006 the UK Serious Fraud Office (SFO) investigated allegations of bribery by BAE Systems in relation to the Al-Yamamah military aircraft contracts with the Kingdom of Saudi Arabia. In October 2005, BAE sought to persuade the attorney general and the SFO to stop the investigation on the grounds that its continuation would adversely affect relations between the United Kingdom and Saudi Arabia and prevent the United Kingdom securing what it described as the largest export contract in the last decade. In July 2006, when the SFO was about to obtain access to Swiss bank accounts, what were discreetly described as "Saudi representatives" made a specific threat to the prime minister's chief of staff, Jonathan Powell: if the investigation was not stopped, there would be no contract for the export of Typhoon aircraft and the previous close intelligence and diplomatic relationship would cease. Ministers advised that those threats would likely be carried out, with grave consequences for the arms trade and for the safety of British citizens and service personnel. In light of what he regarded as a grave risk to life if the threat were carried out, in December 2006 the SFO director decided to stop the investigation. In April 2008, following a request for judicial review by two NGOs, the U.K. High Court found that the Al Yamamah investigation had been unlawfully terminated in what Lord Justice Moses and Mr. Justice Sullivan described as "a successful attempt by a foreign government to pervert the course of Justice in the United Kingdom." In July 2008, the House of Lords, the highest appellate court of law in the country, upheld the SFO's appeal and overturned the High Court decision, agreeing that the SFO director acted within the limits of allowed discretion and holding that the interpretation of applicability of Article 5 to national security considerations should be left to the OECD Working Group on Bribery.

OECD Report. In its examination report on the UK, the OECD Working Group on Bribery felt it inappropriate to interpret Article 5 in the context of a country report. The report focused instead on procedures related to Article 5 and reached the following conclusions: i) where the termination of a case could appear to be based on considerations prohibited under Article 5, prosecutors must apply a "strict scrutiny" test to ensure that permissible considerations are the real basis for the decision; ii) a case must not be terminated on national security grounds unless alternative solutions have been thoroughly explored as appropriate by the whole of government.

The case of discontinued investigation in the Al-Yamamah case uncovered a number of deficiencies in the UK system of investigation and prosecution of sensitive cases involving national interests, in particular in the conditions for applying prosecutorial discretion. It underlined the need for comprehensive reform of the UK outdated anti-bribery legislation. It also pointed to the need for further academic research and an authoritative interpretation of Article 5 of the OECD Convention with a view to clarifying the scope of exceptions to enforcement of the foreign bribery offence.

Sources: OECD Working Group on Bribery, Phase 2bis Report on the UK, www.oecd.org/dataoecd/23/20/41515077.pdf; The UK High Court judgment, www.bailii.org/ew/cases/ EWHC/Admin/2008/714.html; The UK House of Lords judgment, http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080730/corner.pdf; TI 2009 Progress Report on the OECD Anti-Bribery Convention, http://www.transparency.org/news_room/in_focus/2009/oecd_pr_2009.

implementation and enforcement of anti-bribery laws and policies. A mutual evaluation process creates peer pressure within the Working Group and motivates countries to ensure the highest level of compliance with the convention.

The *Council of Europe (CoE)/GRECO* exist to uphold and further pluralist democracy, human rights and the rule of law. The council's efforts to fight corruption are due to the threat corruption presents to the very foundations of these core values. CoE's approach consists of three interrelated elements: (1) setting European norms and standards; (2) monitoring compliance with the standards; and (3) capacity building offered to individual countries and regions, through technical cooperation programs.

The Council of Europe has developed a number of legal instruments addressing issues like criminalisation of corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties. These instruments are aimed at improving the capacity of states to fight corruption domestically as well as at the international level.

The monitoring of compliance with these standards is entrusted to the Group of States against Corruption (GRECO). GRECO was established in 1999 by the Council of Europe to monitor States' compliance with the organisation's anti-corruption standards. Currently it has 46 members, 45 European States and the United States of America. GRECO's objective is to improve the ability of its members to fight corruption. It does this through a dynamic process of mutual evaluation and peer pressure based on monitoring missions to test their compliance with Council of Europe anti-corruption standards, identify deficiencies in national anti-corruption policies, and then prompt the necessary legislative, institutional and practical reforms. GRECO also provides a platform for sharing best practice in the prevention and detection of corruption.

In July 2008, *NATO* launched a Trust Fund to build integrity and reduce corruption in defence establishments. The program seeks to increase national capacity using three principle tools:

- A self assessment tool designed to measure the current state of integrity and anti-corruption programs in defence establishments;
- Building integrity courses for civilian and military personnel;
- Development of a compendium to promote best practices (the one you are currently reading).

The Building Integrity Trust Fund is being implemented together with a number of partners, including the UK Defence Academy, the Geneva Centre for the Democratic Control of Armed Forces, the Geneva Centre for Security Policy and Transparency International.

The Trust Fund is a natural extension of NATO's Partnership Action Plan for Defence Institution Building (PAP/DIB), which was launched in July 2004 to help partners develop and sustain efficient defence institutions that operate under democratic civilian control. The PAP/DIB established ten objectives (see Box 22.3) for nations building de-

fence institutions and took three major steps toward helping them achieve these ob-jectives:

- Integrating defence institution building into the defence planning process for Partnership (PfP Planning and Review Process, or PARP);
- Developing activities to facilitate exchange of experience; for example a Reference Curricula that provides in-depth learning objectives and curriculum development support;
- Helping tailor and focus bilateral defence and security assistance programs.

The Trust Fund also helps nations to meet their international obligations, including implementation of the UN Convention against Corruption, the OECD Anti-Bribery Convention, the World Bank strategy on corruption, and anti-corruption instruments of other international and regional organisations.

Box 22.3. Objectives of the PfP Action Plan for Defence Institution Building

The Action Plan's objectives include:

- Effective and transparent arrangements for the democratic control of defence activities;
- Civilian participation in developing defence and security policy;
- Effective and transparent legislative and judicial oversight of the defence sector;
- Enhanced assessment of security risks and national defence requirements, matched with developing and maintaining affordable and interoperable capabilities;
- Optimizing the management of defence ministries and other agencies which have associated force structures;
- Compliance with international norms and practices in the defence sector, including export controls;
- Effective and transparent financial, planning and resource allocation procedures in the defence area;
- Effective management of defence spending as well as of the socio-economic consequences of defence restructuring;
- Effective and transparent personnel structures and practices in the defence forces; and
- Effective international cooperation and good neighbourly relations in defence and security matters.

Source: Partnership Action Plan for Defence Institution Building, www.nato.int.

NATO's intensive security and defence cooperation with Ukraine has served as an incubator for innovative projects, under the framework of the Distinctive NATO-Ukraine Partnership. These may provide useful lessons that can be applied more widely.

One of the most successful innovations has been the creation in 1998 of the NATO-Ukraine Joint Working Group on Defence Reform (JWGDR). For over a decade, the JWGDR has helped Ukraine draw on NATO countries' experience in defence and security sector reform in formats from expert workshops to annual ministerial-level consultations. This has proven particularly valuable in helping Ukraine develop its reform agenda in ways that reflect international good practice and working together with NATO countries to manage international support for that agenda – including the development of a number of innovative programs tailored to Ukraine's requirements. This joint management has also included regular progress assessments.

A number of specific initiatives coming out of the JWGDR are worth noting:

- Expert support on key national security documents that form a road map for reform, including Defence Reviews in 2003 and 2009 and the National Security Strategy in 2006;

- Expert assistance on the development of "White Books" providing public transparency on policy and implementation for defence and the intelligence/security sector;

- Engagement of numerous allied technical advisors with Ukraine's Ministry of Defence, along with the creation of a Joint Coordinating Committee to manage efforts;

- Engagement with parliament on democratic control issues, including seminars, workshops, expertise on legislation and publication of the legislative codex on security and defence;

- The NATO-Ukraine Working Group on Civil and Democratic Control of the Intelligence Sector, which brought together dozens of intelligence officials and experts from NATO countries and Ukraine to discuss the functioning of intelligence agencies in democracies;

- A Professional Development Program that has trained hundreds of civilians working in Ukraine's defence and security institutions;

- A Partnership Network for Civil Society Expertise Development to promote the role of civil society in defence and security affairs by linking experts from Ukraine and NATO countries.

Many of these efforts were implemented in close coordination with the Geneva Centre for the Democratic Control of Armed Forces.

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is one of the world's leading institutions in the areas of security sector reform (SSR) and security sector governance (SSG). Established by the Swiss government in 2000, it operates as an international foundation with 53 member states. DCAF develops and pro-

motes appropriate democratic norms at the international and national levels, advocates good practices and conducts policy-related research on SSR issues, and provides in-country advisory support and practical assistance programs. It runs the following programs:

- Security Governance Program
- Government Advisory Program
- Parliamentary Assistance Program
- Civil Society Program
- Defence Reform Program
- Police Reform Program
- Border Security Program
- Intelligence Accountability Program
- Gender, Children and Security Program.

DCAF's priority geographical focus is on the Western Balkans and the Newly Independent States; however, it has been increasingly reaching out to the Middle East and parts of Africa, Latin America and Asia.

Transparency International (TI) is a non-partisan global network that brings together the international presence of a global NGO with the local capacities of its more than 90 national chapters. These chapters work to bring together relevant players from government, civil society, business and the media to promote transparency in elections, public administration, procurement and business. They also use advocacy campaigns to lobby governments to implement anti-corruption reforms.

TI helps these chapters with developing the skills, tools, experience, expertise and broad participation to fight corruption on the ground, as well as through global and regional initiatives.

The global priorities for TI are combating corruption in politics, public contracting and the private sector. They also support implementation of international anti-corruption conventions and work to alleviate poverty and support development. TI does not undertake investigations of alleged corruption or expose individual cases but at times will work in coalition with organisations that do.

Beginning in 2000, the UK chapter of TI began working to address corruption in the defence arena. The initial focus of this effort was in the area of arms exports, and TI brought together arms exporting governments and defence companies to consider what constructive measures might be taken to reduce corruption in this area. These ideas include the possibility of a defence consortium against corruption, strengthening the implementation of the OECD Convention, integrity pacts for procurement and closer work with other international organisations.

TI has recently begun working on a Trust Fund Project with NATO to explicitly address corruption and corruption risk in the defence sphere. It has also begun an initiative to better measure the effectiveness of effort of defence integrity programs.

Leveraging International Organisations to Catalyze Change

A tremendous number of international organisations, inter-governmental organisations and global civil society institutions are involved in combating corruption. The challenge for the reform-minded defence official or citizen is how to use that know-how to catalyze positive change. The following three approaches have proven successful:

1. *International Standards:* The national institution seeking reform engages with an international institution that is a repository of an international standard. This could be an anti-corruption standard like the OECD, or it could be a standard of ethics like the UN Guidelines on Conflict of Interest for Public Officials, or a standard for the integrity of a process, like auditing. The goal is to publicly meet the standard using any feedback mechanisms to gain the prestige, workplace pride and improved effectiveness that meeting an international standard can bring. By working closely with the assessment team, inspections become an excellent opportunity not only for feedback but also to place difficult reforms on the agenda of senior officials.

2. *Joint Projects:* The national institution seeks assistance from the international organisation to address a specific issue that is important to the institution's leadership but beyond local means to implement unaided. The result is a joint program with joint management mechanisms – that is, implementation teams, steering boards to provide direction, joint assessments and joint reporting to a body where senior officials of both sides regularly attend. This can help lock domestic institutions into frameworks where they work according to international standards of integrity, transparency and accountability. Joint projects can also be an effective mechanism for transfer of norms, values and working methods. Transparency is improved as the free flow of information up the "Western" portion of the reporting chain forces local counterparts to match that accuracy and honesty of reporting (see the example in Box 22.4).

3. *Bridge-building:* Often there are actors within a national institution, or out in society, who are potential allies in building integrity with motivation and resources (at least human resources). However, the opportunity to meet may be limited due to the nature of bureaucracy or society – for example, mutual suspicion or bureaucratic regulation. International organisations can help these natural allies to meet, share knowledge and experience, gain confidence with each other and work together in a network. In this case, it is useful if the host government encourages international organisations to make broad links within society and the state apparatus in order to have the best information and contacts available to play "matchmaker." International organisations are also usually well-placed to link domestic officials and non-governmental experts or activists to international counterparts. The development of this network can have a strong impact in at least two directions: 1) the creation of

a professional and well-integrated expert class; and 2) increased expertise in civil society, allowing for more effective independent monitoring.

Box 22.4. NATO-Ukraine Professional Development Program

In 2005, NATO and Ukraine identified a gap in training for defence officials. Military officers were regularly receiving training opportunities, abroad or in-country, but their civilian counterparts were not. This was leading to imbalances in the system.

Ukraine requested support to address the problem and in 2006 NATO and Ukraine created the NATO-Ukraine Professional Development Program, which was targeted at defence civilians. National sponsors were found and a program team was put in place at the NATO Liaison Office in Kyiv. A Ukrainian officer from the MOD Personnel Department was seconded to the implementation team, reporting to the NATO-national program manager. In addition, a local management board was made that included representation from all major stakeholders: the MOD leadership (assistant to the minister), the MOD Personnel Department, the National Security and Defence Council, the UK special defence advisor (UK being lead nation on the project), the head of the NATO Liaison Office and the program manager. On behalf of the Management Board, the program manager presented 3–4 times a year to a steering committee of major donors in Brussels.

Training and education abroad are important parts of the program and to date over 1000 Ukrainian officials have attended courses – some in-country, some abroad. As these courses are in high demand, they come with significant corruption risk (which was already endemic in national selection procedures). In order to ensure the integrity of the process, the program instituted the following procedures:

1. Requirements for training are developed a year ahead of time based on MOD transformation objectives. This helped ensure that managers were motivated to send the right people to get the job done.

2. Training requirements are matched to courses and potential students (or at least postings) and presented in an annual plan to be approved by senior MOD leadership.

3. The program staff, working with the MOD, identifies a pool of possible candidates with the right prerequisites, the right position and the supervisor's permission. These candidates are subject to:

   a) Competitive selection, including language testing and interviews, with the interview board made up of different stakeholders, and always at least one Ukrainian and one NATO official.

4. Joint management and ownership of the results, with regular assessment being provided to senior stakeholders.

On this latter point, the support of the defence leadership was crucial for maintaining the integrity of these decisions and in several cases resulted in significant punishment for those who tried to circumvent the regulations.

In all these cases, the key enabling factor is people – dedication, trustworthiness and a good rapport between partners is crucial for success. For international organisations, the number one prerequisite for success is an in-country counterpart who can work patiently with all stakeholders, help smooth over differences, take a stand when necessary and—in the end—take ownership of the process, jointly at first, and then ideally gradually accepting increased responsibility for project implementation. There is a good chance that the reader, having made it this far in the compendium, may be just such a person.

Part IV
Implementing Integrity Building Programmes

The final part of the compendium examines the practical aspects of designing and implementing integrity building programmes in defence. Of particular importance in this regard is to acknowledge the cultural specifics of the defence organisation in a particular country and to strengthen those features of the organisational culture that contribute to individual and organisational integrity and deter corrupt behaviour. These good practices can then be disseminated to other public organisations in the country.

Chapter 23
Making Change Happen

No two defence organizations face the same problems of integrity and corruption. Respectively, integrity building initiatives may require different levels and types of effort, from minor adjustments in a particular process, perhaps focused on increasing the transparency and integrity of the procurement procedure, to comprehensive endeavours aimed at enhancing the integrity of all core defence business processes and changing the general attitudes and behaviours of the people in the organisation.

This chapter is focused on the latter case. It provides the reader with an understanding of tried change management strategies and processes, with their respective strengths and weaknesses. It also informs the reader of likely pitfalls and suggestions of how to approach the challenges of creating and implementing integrity building programmes.

The design of such a programme is based on a solid understanding of the current status and trends in defence integrity and corruption risks, commitment, vision and strategy.

Assessment of Current Status

Frequently, leaders of the defence organisation initiate change under the pressure of parliamentary hearings or public opinion, related to a particular instance of corrupt behaviour. Much too often they want to demonstrate quick results, while the initiated change has only a temporary impact and yields meagre positive results, if any.

Therefore, it is strongly recommended to assess the status of integrity before embarking on the design of an integrity building programme. Such an assessment should lead to:

- Identification of the areas and defence activities involving corruption risks;
- Understanding of the reasons for actual or potential corrupt behaviour;
- Insight into perceptions and attitudes of the military, other MoD personnel and society regarding corrupt behaviour; and
- Estimation of the readiness to accept integrity measures and change.

In addition, a comprehensive and well structured assessment of defence integrity, involving the widest community of stakeholders, will contribute to:

- Understanding of causality and interdependencies among integrity enhancement measures and a variety of practices;

- Insight into who might be the likely allies and opponents of integrity building measures; and
- Identification of potential agents of change.

Studies of internal and public sources, focused discussions with people from inside and outside the defence establishment, structured questionnaires and interviews are used to assess the current status. The NATO self-assessment tool and questionnaire—one of the early results within the NATO integrity building initiative—can be particularly useful in this initial assessment. Box 23.1 provides initial information and references on this tool, available to any country and defence establishment, for adopting an anti-corruption agenda.

Box 23.1. NATO Self-Assessment Tool

A collaboration between NATO nations and Transparency International, led by Poland, resulted in an *Integrity Self-Assessment Process* for defence and security. It is available to any country wishing to use it and has already been implemented by several NATO and partner countries.

The Integrity Self-Assessment Process provides nations with a template to assess the strength of their own integrity systems. It focuses on answers provided by the Ministry of Defence and others to a detailed questionnaire that is then reviewed by an external expert review team. The questionnaire addresses the main pillars of the integrity system in the defence establishment and corruption risk across each of these. It contains guidance as to how to complete the questionnaire and how to initiate follow-up processes, comprising reform and implementation plans for building integrity and reducing corruption. The expert team assesses the responses and conducts an on-site visit to determine key strengths and weaknesses of the process, and makes a set of recommendations and observations for follow-up. The process can be conducted on a one-off basis or as part of a repeated cycle.

The Integrity Self-Assessment Process covers the following topics:
1. Democratic control and engagement;
2. National anti-corruption laws and policy;
3. Anti-corruption policy in defence and security;
4. Personnel – behaviour, policy, training, discipline;
5. Planning and budgeting;
6. Operations;
7. Procurement;
8. Engaging with defence companies and other suppliers;
9. Nation-specific questions.

Source: Mark Pyman, *Building Integrity and Reducing Corruption Risk in Defence Establishments: Ten Practical Reforms*, with foreword by Lord George Robertson of Port Ellen (UK: Transparency International, April 2009); The full description and the questionnaire are available at: Transparency International, "Integrity Self-Assessment Process," http://www.defenceagainstcorruption.org/tools-and-techniques/self-assessment-tool.

Form a Strong Coalition

Among the most useful results of the assessment of defence corruption risks is the creation of a sense of urgency.[1] Focused interviews and studies often bring forward convincing narratives and qualitative data that may agitate people who may otherwise be oblivious to the problem of corruption or its wider and long-term impact on organisational performance and ethos.

That also provides a background against which to ensure the commitment of the senior leadership, both military and civilian, across the defence organization and not just of the heads of those organisational units considered most susceptible to corruption.

It is important already at this stage to consider who would act as agents of change, as well as to start seeking support of representatives of parliament and civil society, in particular of defence think-tanks, activist groups and media. Representatives of suppliers of defence technologies, products and services may also be considered among potential allies in initiatives to counter defence corruption.

Any successful attempt at building integrity and reducing corruption in defence would build on a strong coalition of the political leadership of the Ministry of Defence, the senior military leadership, parliamentarians and lead civil society representatives, supported by major defence suppliers and benefiting from the close monitoring of an independent, critical media.

Develop and Communicate a Vision and a Strategy

Complex endeavours such as building integrity and reducing corruption in defence require visionaries, who can also approach the problem strategically and communicate their vision and strategy effectively.

First, the leadership of the defence organisation needs to properly frame the problem of integrity building and the approach to considerably reducing the potential for corruption in defence. Framing the problem too narrowly is not likely to have a long-term and systemic impact on defence corruption. On the other hand, framing the problem too broadly, e.g., as "promoting democratic and accountable defence institutions," would lead to loss of focus and may not generate the support necessary for a successful initiative. Chapter two of this compendium provides an example of how the problem and the approach to its resolution may be feasibly framed.

Next comes the formulation of a vision. The vision statement should be specific to each country and defence establishment and relevant to the status of integrity and the threat of corruption. Some may want to see corrupt defence officials land in prison, while others may call for a "corruption-free" defence establishment. There is no generally valid recipe of how to formulate a vision but it needs to be constructive and draw a

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[1] This and several of the steps below are based on John P. Kotter, *Leading Change* (Boston: Harvard Business School Press, 1996).

future that is both challenging and achievable. Box 23.2 provides guidance on how to create a vision statement.

Box 23.2. Vision Statement

Bert Nanus defines a vision as a "realistic, credible, attractive future for [an] organization." This short definition underlines the following key features of a vision statement:

- *Realistic:* A vision must be based in reality to be meaningful for an organization.
- *Credible:* A vision must be believable to be relevant. To whom must a vision be credible? Most importantly, to the members of the organization. If the members of the organization do not find the vision credible, it will not be meaningful or serve a useful purpose. One of the purposes of a vision is to inspire those in the organization to achieve a level of excellence, and to provide purpose and direction for the work of those employees. A vision which is not credible will accomplish neither of these ends.
- *Attractive:* If a vision is going to inspire and motivate those in the organization, it must be attractive. People must want to be part of this future that is envisioned for the organization.
- *Future:* A vision is not in the present, it is in the future. A vision is not where you are now; it is where you want to be in the future.

Such a vision statement can accomplish a number of things for the organization:

- *It attracts commitment and energizes people*. One of the primary reasons for having a vision for an organization is its motivational effect. When people can see that the organization is committed to a vision—and that entails more than just having a vision statement—it generates enthusiasm about the course the organization intends to follow and increases the commitment of people to work toward achieving that vision.
- *It creates meaning in the lives of members of the organization*. A vision allows people to feel like they are part of a greater whole and hence provides meaning for their work. The right vision will mean something to everyone in the organization if they can see how what they do contributes to that vision.
- *It establishes a standard of excellence*. A vision serves a very important function in establishing a standard of excellence. In fact, a good vision is all about excellence. A vision so characterized by lack of a striving for excellence would not motivate or excite anyone about that organization. The standard of excellence also can serve as a continuing goal and stimulate integrity building improvement programmes, as well as providing a measure of the worth of the organization.
- *It bridges the present and the future*. The right vision takes the organization out of the present and focuses it on the future. It is easy to get caught up in the crises of the day and to lose sight of where you were heading. A good vision can orient you to the future and provide positive direction.

Sources: Bert Nanus, *Visionary Leadership: Creating a Compelling Sense of Direction for Your Organization* (San Francisco: Jossey-Bass, 1992); "Strategic Vision," in *Strategic Leadership and Decision Making* (Washington, DC: National Defense University Press, 1997).

Collins and Porras elaborate another view on defining a vision. Conceptually, they see it as having two major components: a *Guiding Philosophy* and a *Tangible Image*, where the guiding philosophy is defined as "a system of fundamental motivating assumptions, principles, values and tenets" and stems from the organization's core beliefs, values and purpose, and the image is provided by a vivid description of the organization's mission.[2]

A vision alone is not sufficient to move the organisation from the present to the desired future. This transition from the present to the future requires a strategy that is adequate to the organisational culture and feasible. Box 23.3 provides an overview of basic change management strategies and the factors that condition the choice of one or another integrity building strategy.

Both the vision and the strategy to promote integrity and reduce corruption risks have to be clearly communicated to all members of the defence organization. Since strong anti-corruption coalitions involve stakeholders external to the defence organisation, the vision and the strategic approach also have to be communicated to the wider defence and security sector, as well as to society.

The vital importance of communications in change management has been repeatedly stressed since the issue was first formulated and developed. Clarity, continuity and constancy of communication are most effective in achieving success. Communication must also be reciprocal, e.g. leaders and change agents have to listen as well as talk. Advocacy and sponsorship are also vital in communications.[3]

The role of the minister of defence as lead communicator is a clear sign of personal commitment and, in itself, sends a strong message to all members of the defence organisation and to society, in particular when the minister regularly communicates his or her own priorities and the achievements in enhancing integrity in defence.

Box 23.3. Basic Change Management Strategies

Experienced practitioners in the management of organisational change identify four basic change management strategies, with their underlying rationale as follows:

1. *Empirical-Rational:* People are rational and will follow their self-interest, once it is revealed to them. Change is based on the communication of information and the proffering of incentives.

2. *Normative-Reeducative:* People are social beings and will adhere to cultural norms and values. Change is based on redefining and reinterpreting existing norms and values, and developing commitments to new ones.

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[2] James C. Collins and Jerry I. Porras, "Organizational Vision and Visionary Organizations," *California Management Review* 34:1 (Fall 1991), 30–52.

[3] Gregory R. Guy and Karen V. Beaman, *Effecting Change in Business Enterprises: Current Trends in Change Management*, Research Repot R-1371-05-RR (NY: The Conference Board, 2005).

3. *Power-Coercive:* People are basically compliant and will generally do what they are told or can be made to do. Change is based on the exercise of authority and the imposition of sanctions.

4. *Environmental-Adaptive:* People oppose loss and disruption but they adapt readily to new circumstances. Change is based on building a new organization and gradually transferring people from the old one to the new one.

There is no single best change strategy; leaders of change are best served by some mix of strategies. The selection of one or more of these strategies hangs on a number of factors, including:

- *Scope and Scale.* This can vary from the minor, e.g. adjusting of a process within a unit, to the complete transformation of the entire organisation. The larger the scope and scale, the more likely a broad mix of strategies will be required with the Power-Coercive strategy playing a central role.

- *Degree of Resistance.* Strong resistance argues for a coupling of Power-Coercive and Environmental-Adaptive strategies. Weak resistance or concurrence argues for a combination of Empirical-Rational and Normative-Reeducative strategies.

- *Target Population.* Large populations argue for a mix of all four strategies, "something for everyone" so to speak.

- *The Stakes.* High stakes argue for a mix of all four strategies. When the stakes are high, nothing can be left to chance.

- *The Time Frame.* Short time frames argue for a Power-Coercive strategy. Longer time frames argue for a mix of Empirical-Rational, Normative-Reeducative and Environmental-Adaptive strategies.

- *Available Expertise.* Having available adequate expertise in change management argues for some mix of the strategies outlined above. Not having it available argues for reliance on the Power-Coercive strategy.

- *Dependency.* This is a classic double-edged sword. If the organization is dependent on its people, management's ability to command or demand is limited. Conversely, if people are dependent upon the organization, their ability to oppose or resist is limited. Mutual dependency almost always signals a requirement for some level of negotiation.

In sum, people manage organisational change pretty much the same way they would manage anything else of a turbulent, messy and chaotic nature – they do not really manage it, they grapple with change. It is as much a matter of leadership ability as it is of management skills.

Sources: Fred Nickols, *Change Management 101: A Primer* (Distance Consulting, 2007), www.managementhelp.org/misc/reqs-for-successful-change.pdf; The strategies are adapted from: Warren G. Bennis, Kenneth D. Benne and Robert Chin, eds., *The Planning of Change*, 2nd Edition (NY: Holt, Rinehart and Winston, 1969).

To implement the integrity building strategy, change agents may consider a more or less formal plan or programme. Practice in that respect differs widely. Attempts have been made to use formal programmes with clearly set objectives, creation of a particular organisation with an explicit mandate, e.g. the anti-corruption bureaus in the Ministries of Defence of Poland and Ukraine, and the allocation of the requisite resources. Whether this is an effective approach or not remains to be seen.

Whatever the level of formalisation, these and other features of programmatic management, such as personal and organisational commitment, regular delivery of progress accounts with agreed measures of progress and results are common to most integrity building efforts.

Other features of a well planned, systemic process of organisational change are presented in Box 23.4.

Notwithstanding the particular approach, experienced change management professionals identify the following common features of successful change management initiatives:

- Attention to eliminating obstacles to change;
- Early demonstration of success;
- Building on initial wins to accelerate change; and
- Embedding new practices into the organisational culture.[4]

Eliminate Obstacles to Change

There is hardly ever open resistance to integrity building initiatives. On occasion, there is an opposition that is more subtle, as well as obstacles of various natures. Change agents are advised to eliminate such obstacles to change, with a particular focus on the following ones:[5]

1. Complacency driven by arrogance;
2. Self-protective immobilization driven by fear;
3. Defiance driven by anger; and
4. Hesitancy driven by pessimism.

A good communication strategy with the involvement of the most senior defence leadership is a powerful tool to reduce roadblocks to change. More specific approaches may be applied to deal with particular target groups.

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[4] Kotter, *Leading Change*.
[5] Jeanne Dininni, "Guide to Management Theory of John Kotter," *Work.com How-to Guides to Your Business* (2009).

Box 23.4. Example of a Planned, Systemic Change Process

A typical planned, systemic (and systematic) organizational development process often follows an overall approach as described below. There are many variations, e.g. combining various phases and/or splitting some into more phases. In this example it is assumed—and this is usually the case—that the leadership of the organisation tasks a change agent—either internal or external to the organisation—to manage the change process.

Phase 1: Clarifying Expectations and Roles for Change Process
This phase is sometimes called the "Contracting" and/or "Entry" phase. This phase is usually where the relationship between you (the initial change agent) and your client starts, whether you are an external or internal consultant. Experts assert that this phase is one of the most—if not the most—important phases in the organizational change process. Activities during this stage form the foundation for successful organizational change. The quality of how this phase is carried out usually is a strong indicator of how the initiative will go. This phase provides answers to a number of questions, including the following:

- Who is the current client?
- How is "success" defined?
- What is the client's readiness for change?

Phase 2: Joint Discovery to Identify Priorities for Change
The more collaborative the change agent is working with members of the client's organization, the more likely that the change effort will be successful. The change agent and the client work together during this phase to understand more about the overall priority of the change effort and how it can be addressed effectively. It might be a major problem in the organization or an exciting vision to achieve. Together, you will collect information, analyze it to identify findings and conclusions and then make recommendations from that information. Sometimes the data-collection effort is very quick, for example, facilitating a large planning meeting. Other times, the effort is more extensive, for example, evaluating an entire organization and developing a complete plan for change, conducting interviews, etc.

Sometimes people minimize the importance or skip this critical discovery phase altogether and start change management by articulating an ambitious and comprehensive vision for change. Many would argue that it is unethical to initiate a project for organizational change without fully examining (or discovering) the current situation in the client's organization. Focusing most of the change efforts on achieving a robust vision, without at least some careful discovery, often can be harmful and you can end up dealing with symptoms of current issues, rather than the root causes. Also, the project could end up pushing an exciting vision that, while initially inspiring and motivating to many, could be completely unrealistic to achieve, especially if the organization already has many current, major issues to address.

This phase also involves:

- Establishing a project team;
- Joint planning and conducting data collection;

- Joint analysis of research results;
- Joint generation of findings and conclusions;
- Joint sharing of findings and recommendations in client's organization.

Phase 3: Joint Planning of Organizational Development Activities to Address Priorities

This phase is focused on further clarifying the recommendations on how to address priorities, along with developing them into various action plans. The various plans are sometimes integrated into an overall change management plan. Thus, the early activities in this phase often overlap with, and are a continuation of, the activities near the end of the previous discovery phase. Action plans together can now provide a clear and realistic vision for change. They provide the "roadmap" for managing the transition from the present state to the desired future state.

This phase also involves:

- Selecting organizational development activities to address the findings from discovery;
- Joint development of action plans;
- Joint development of evaluation plans;
- Joint development of learning plans.

Phase 4: Change Management and Joint Evaluation

During this phase, emphasis is placed on sustaining and evaluating the change effort, including by addressing resistance that arises from members of the organization and sometimes in the change agent as well. This phase involves:

- Client's ongoing communication of action plans;
- Client's implementation of action plans;
- Client and change agent maintain momentum during change;
- Joint evaluation of project activities and desired results;

Source: Carter McNamara, "Organizational Change and Development," *Free Management Library*, www.managementhelp.org/org_chng/org_chng.htm#anchor556912.

The empowerment of the members of the organization is another instrument to circumvent or eliminate obstacles. It spans a whole range of techniques – from encouraging people to report on conflict of interest and other corruption risks, through delegating responsibilities and resources to achieve concrete integrity objectives, to assigning members of the organization to function as leaders of teams tasked to oversee processes and practice in whole areas with significant corruption risk, e.g. defence procurement, offsets, etc.

Empowerment may be particularly effective when the senior leadership of the defence establishment widely acknowledges the achievements of individuals and teams and demonstrates continuous commitment to integrity building.

And finally, it is not necessary to eliminate all barriers as a condition for taking action. Leaders and change agents may choose to eliminate some of the potential barriers, reduce the impact of others, and even ignore some obstacles with the belief that the positive reasons for change are more important than the obstructions that may be set up.

Demonstrate Quick Wins

Of particular importance is to create a momentum of change and to convince sceptics of the seriousness of intent and the feasibility of the integrity building strategy. Therefore, change agents are under pressure to start implementing the integrity building strategy or programme as soon as it has been announced and are expected to demonstrate that it is working.

Seasoned practitioners provide advice to change agents—and to leaders of the defence establishment as well—not to engage in destructive behaviours, such as focusing heavily on detail, reacting negatively to criticism, jumping to conclusions or micromanaging employees, since all such behaviours undermine their chances of success.

"Quick wins" are not necessarily related to major change in the ways the organisation is functioning. They may not have a great impact on corruption risks in quantitative terms either. What is really important is to demonstrate commitment in practice, to show resolve in the face of resistance, and to prove the feasibility of the counter-corruption strategy that is based on building integrity, increasing transparency and improving accountability.

For example, when the use of independent monitors of defence procurement cases is part of the building integrity strategy (see, for example, chapter 7 of the compendium), it is not necessary to wait for large procurement cases, e.g. for procurement of airplanes or ships. The feasibility of the approach may be tested in smaller procurements—maybe just for a few hundred thousand Euros—that still get on the radar of specialized media and non-governmental organizations. The success of such a novel approach will contribute to the initiative gaining momentum and, on the other hand, will help the change agents to foresee future obstacles and refine the integrity building strategy respectively.

Build on Initial Wins to Accelerate Change

Initial gains in building integrity and reducing corruption risks, however small at the start, have to be consolidated and then expanded to produce more of the desired changes.

The desired end state, however, may also shift. The implementation of integrity building programmes is a dynamic process, undergoing frequent revision to accommodate lessons learned from the experience gained. It may turn out that the scope of the initiative is overly ambitious or that it does not reach far enough.

In addition, change management, just like any form of management, must allow for revising plans or altering the process in the light of experience. In full accordance with the famous military aphorism, "No battle plan survives contact with the enemy,"[6] no change management plan survives contact with the real world of implementation.[7]

But there are also some constants in successful implementation, such as the need to:

- Recognise and reward performance in line with the objectives of the integrity building programme;
- Continue to clarify and communicate the scope and rationale for change;
- Provide for feedback by defence employees and external stakeholders;
- Continue with the efforts to identify potential resistance and the rationale behind it; and
- Identify and invest in competencies necessary to accelerate and institutionalize integrity.

Embed New Practices into the Organisational Culture

The final stage according to Kotter's change management treatise is to make the desired change, in this case in integrity and corruption risks in defence, irreversible.

That may be achieved when new standards and, more importantly, new behaviour characterised by integrity and zero tolerance to corruption become part of the shared attitudes, beliefs and customs of the defence organisation and its external stakeholders, including those in parliament, the defence industry, the media and so on.

Training the future leaders of the defence sector has an important role to play in the institutionalisation of such organisational culture. Box 23.5 describes the training course provided within the NATO Integrity Building Initiative to future leaders of defence in both NATO and partner countries. Box 23.6 provides an example of using role-play, which has been used successfully in the training of the next generation of leaders of the defence and security sectors in numerous partner countries.

In summary, the compendium provides many examples in dealing with particular corruption issues and practical approaches to enhancing integrity. This particular chapter examined notional processes of change management. But there is no off-the-shelf solution for each defence establishment. The application of the ideas and good practices herein to a particular setting requires imagination and strategic thinking, leadership qualities and perseverance, combined with application of good governance principles to defence.

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[6] Attributed to Field Marshall Helmuth von Moltke (1800-1891). The phrase is translated from German in the following way: "No plan of operations extends with certainty beyond the first encounter with the enemy's main strength."

[7] Guy and Beaman, *Effecting Change in Business Enterprises*.

Box 23.5. NATO Building Integrity Training Course

This UK-led initiative to train future leaders of defence establishments resulted in a five day integrity building training course, endorsed within the NATO Integrity Building Initiative.

The training course is designed for Defence Ministries, armed forces personnel and is aimed at colonel level staff. Lectures are conducted by the staff of the Defence Academy of the UK, the Geneva Centre for Security Policy, NATO, the Swedish Defence College and Transparency International, as well as external speakers from a range of government and international institutions.

The content of the lectures includes the types of corruption and vulnerabilities in the defence sector, corruption issues in military operations and peacekeeping and the role of media and managerial aspects in tackling defence corruption. It focuses on practical issues, different national experiences and the role of officers and civilians in the middle of the hierarchy in effecting change.

The main goals of the training module are to help participants to:

1.   Understand what corruption is;
2.   Understand corruption in defence;
3.   Understand ways to build integrity and tackle corruption at the political level, at the functional level and through personal behaviour;
4.   Gain confidence that the topic can be addressed.

Course participants also examine the concepts of transparency and good governance and ways to engage appropriately with defence suppliers, the public and civil society. They exchange personal experiences and learn from each other. The highlight of the course for the trainees is their individual presentations of the topic "How I will tackle integrity."

The first pilot course was conducted at the UK Defence Academy in July 2008. It was delivered to a group of eighteen international participants from Ukraine, Georgia, Azerbaijan, Armenia, Romania, Albania, Bosnia Herzegovina, Montenegro, Poland, the UK, Norway and Switzerland.

To date, the course has been delivered to participants from more than 20 nations at the NATO School Oberammergau, the Peace Support Operations Training Centre in Sarajevo and the National Defence Academy of Ukraine in Kyiv. It has had a highly enthusiastic reception from some 30 high ranking military officers and civil servants and up to 15 additional lecturers and international experts in anti-corruption participating in each of the courses.

Source: NATO Building Integrity Training Course: http://www.defenceagainstcorruption.org/tools-and-techniques/training-module.

Box 23.6. Role-Play Games: A Powerful Training Tool

As a tool for political reform, training must have the full backing of the authorities, reach the right people and enhance their knowledge and skills, as well as their attitude. However, it is never easy to influence people's attitudes because these are often deep-seated and unconscious. If we want to invite trainees to change their attitudes, we must first lead them to recognise these attitudes. Then we need to help them figure out what gives rise to the attitudes in question. Finally we must encourage them to try out and practise different attitudes. None of this can be achieved by conventional teaching. To think it can be done in a PowerPoint presentation is folly.

But imagine a role-play game in which an opposition parliamentarian is criticising a plan to buy jet fighters and a minister of defence who is arguing why the air force needs the aircraft. In real life, one of the players is indeed involved in opposition politics, while the other works for the defence establishment, but in the game, each is playing the other's role. So they are putting themselves in the shoes of the other and they now see their own role portrayed by someone else. Besides, the players experience the issues of weapons procurement in a dramatic, direct, almost tangible way. This can serve to complement what they previously learned in a more conventional training session.

At the end of day one, a trainee commented on the introductory sessions on democratic governance, saying: "I know this stuff. We had it at university." On day two, he played a leading role in a role-play game. Later, he said, "Yesterday I thought I understood what you were saying, but I didn't. NOW I understand it."

During a role-play exercise, a trainee who was playing a member of a parliamentary committee of inquiry told the game controller he was going home. The controller, taken aback, asked why. "I can't stand that arrogant minister of defence," the trainee said. The game controller pointed out that the acting was realistic, and the trainee agreed. The controller pointed out that this arrogant behaviour was serving an educational purpose, and the trainee agreed to that as well. "It's so realistic that I can't stand it, even if we are learning a lot," he said, and went home.

At the post-mortem after a role-play game, a trainee who had played a corrupt minister said: "I am disgusted at my own character. I never thought I could play such a crook." And another player, when asked whether his realistic acting was a gift or inspired by the circumstances of the game answered: "I'm a terrible actor. It was the game."

Another benefit of role-play is that it helps in group-building, which greatly benefits the subsequent class work. Finally, the excitement makes a durable impact. Long after the trainees have forgotten the instructors and the course, they will remember the game. The instructor can only provide circumstantial evidence, but we firmly believe role-play is an essential part of "best practice" in training programmes that aim to do more than convey knowledge and improve skills.

Sources: Sami Faltas, Centre for European Security Studies, www.cess.org; Sami Faltas and Merijn Hartog, "The Starlink Program: Training for Security Sector Reform in Armenia, Azerbaijan, Georgia, Moldova, and Ukraine," *Connections: The Quarterly Journal*, 7:2 (Summer 2008), 81–91.

Chapter 24

Cultural Awareness in Implementing Integrity Building Programmes

The design and implementation of effective integrity building strategies and programmes depends on the ability to capture the specific influence of given organisational cultures and, in return, to strengthen those features of the organisational culture that contribute to individual and organisational integrity and deter corrupt behaviour.

Why Culture Matters?

In many post-communist, transition and developing states, corruption has reached such a scale and caused such damage to politics, the economy, society and ordinary citizens that it may be defined as a *securitised problem*.[1] Successive governments have been incapable of finding the right solution to the securitized problem of corruption and often come to power promising to "break the back" of corruption. Yet at the end of their term, both objective criteria and perceptions indicate that not only has corruption not been reduced but its tentacles have spread more widely and deeply in society. This erodes people's faith in democracy, weakens the social fabric, deepens social stratification and provides additional channels for direct and hidden influence of oligarchic and criminal structures on the country's governance. Therefore, curbing corruption becomes a top priority of national security policy.

This applies to a great extent and with increasing urgency to the defence sector. On one hand, the military is one of the top three least corrupt sectors in all recent TI perception studies, which in itself generates legitimacy and popular support for defence organisations. On the other hand, defence traditionally has been an area closed to public and even parliamentarian scrutiny. Thus, unless there are proper mechanisms for democratic control in place or a culture of zero tolerance to corruption, defence easily turns into a quagmire of foul interests and an experimental field where new corruption scams are invented and "validated."

Previous chapters in this compendium provide examples of good practice in enhancing the integrity of defence organisations, processes and individuals and reducing corruption risks in the defence sector. However, attempts to apply such good practices in other countries frequently do not have the same effect and, no matter how good the

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[1] There are problems that concern security and those that are of core importance for security, hence they become *securitized*.

intentions, are seen as imitations of initiatives that are just not suitable for the local setting.

Fundamental cultural differences are among the reasons for failure in attempts to transfer good practice. In many instances, the application of a model that is successfully imitated at the start terminates with a fiasco or brings unsatisfactory outcomes. This is due to a neglect of local specificities, traditions, experience, organization and human culture.

In other words, *culture matters*. In implementing external models and practices there should be translation and interpretation, enabling the taking into account of local particularities, dispositions and stereotypes. It should be ensured as well that models and practices, recommended from outside, have been correctly understood and are not distorted by local attitudes and perceptions.

What Makes People and Organisations Different?

Cultural differences manifest themselves on no less than seven levels:

1. *Between the West and the East*, i.e. between the Western individualistic societies and the Eastern collectivistic ones. Besides, some Slavic and/or Orthodox countries come under the so-called "in-between" societies.

2. *Between the two shores of the Northern Atlantic*. These are not radically different communities and yet after the end of the Cold War, their strategic perceptions and priorities often diverge.

3. *Between Western and Eastern Europe, separated earlier by the real Berlin Wall and later by a virtual Iron Curtain*. Notwithstanding the genuine and in many cases colossal efforts of the former socialist countries to return to the European democratic mainstream, the legacy of the previous type of political and social arrangements has permeated into societies and individuals, in worldviews and perceptions. Since 1989, Eastern Europe has been attempting to adopt, most often uncritically, Western European norms and practices, while Western Europeans tend not to notice patterns of communication and self-organisation of communities at the local level, of social contacts, parental and neighbourhood relationships, compassion and solidarity among generations, models of domestic and friendly mutual assistance and models of advancing with small steps in the pursuit of common objectives. There are behavioural patterns of informal communities that locate themselves between the *individual*—whose social and functional importance in totalitarian societies was insignificant—and the *state,* which attempted to regulate and penetrate all spheres of life.

4. *Between the institutions of power and the common citizens within the country.* In Eastern European societies there is a dual attitude of ordinary people towards power. On one hand, there are expectations that "power" must resolve all their problems, or at least the main ones. Power is the active subject of

governance, whereas ordinary people are passive objects. On the other hand, people see that those in power have their own goals and ambitions, such as higher living standards and privileges.

5. *Between the institutions of the security sector* (i.e., the institutions authorised to apply force) *and other state institutions.* The force structures continue to view themselves as structures of higher order, in the name of which the society ought to suffer privations and restrictions because "who does not feed their own army will feed a foreign one," i.e. the resources for these structures are considered guaranteed no matter how effective or efficient is their use. Militarised thinking sustains the idea that national security is sacred, that the protection of sovereignty and independence, no matter whether relevant threats exist, is the hard mission and top priority of the country and its armed forces, which has to be resourced even if that means poor public health services, education, science and environment. Box 24.1 provides two of the widely used definitions of organisational culture and its elements.

6. *Between the defence sector and the other institutions of the national security sector.* Too many people in the defence sector keep considering that—unlike for instance police and civil protection services—the defence establishment is not bound to report on the outputs and the outcomes of its activity.

7. *Between the military and the civilians in defence.* Countries in central and Eastern Europe have achieved remarkable progress in establishing democratic civil-military relations. Nevertheless, the military and civilians rarely see themselves as a team fighting against corruption; instead, they often blame the other side for lacking integrity.

All seven levels of manifestation of national and organisational cultural peculiarities deserve due attention and effort to enhance integrity, educate translators and communicators and establish built-in prevention and early warning systems. Depending on criteria and indicators chosen, a concrete weight may be assigned to each of these seven levels and then focus efforts to minimise the damages introduced by "distortions" in transferring good practices to maximise benefits.

Cultural Layers and Corruption Attitudes

In the consideration of integrity building initiatives, change agents need to consider four main layers of acquired dispositions and stereotypes towards corruption. This is particularly important when they want to trace behaviour back to the cultural peculiarities that influence perceptions of corruption, to adopt working strategies to counter corruption and to change the attitude towards it.

Box 24.1. On the Definition of Organisational Culture

One generally accepted definition of organizational culture describes it as:

> The set of beliefs, values, and norms, together with symbols like dramatized events and personalities, that represent the unique character of an organization, and provides the context for action in it and by it.

Other respected theorists dealing with organizational culture prefer a general definition that does not eliminate factors that actually are part of corporate culture:

> A pattern of shared basic assumptions that the group learned as it solved its problems of external adaptation and internal integration that has worked well enough to be considered valid and therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems.

These two definitions are nearly the same in terms of content. In other words, as groups evolve over time, they face two basic challenges: integrating individuals into an effective whole and adapting effectively to the external environment in order to survive. As groups find solutions to these problems over time, they engage in a kind of collective learning that creates the set of shared assumptions and beliefs called "culture."

Elements of organizational culture may include:

- Stated and unstated values;
- Overt and implicit expectations for member behaviour;
- Customs and rituals;
- Stories and myths about the history of the group;
- Shop talk – typical language used in and about the group;
- Climate – the feelings evoked by the way members interact with each other, with outsiders and with their environment, including the physical space they occupy; and
- Metaphors and symbols, which may be unconscious but can be found embodied in other cultural elements.

Sources: Gareth Morgan, *Images of Organization* (Thousand Oaks, CA: Sage Publications, 1997); Edgar Schein, "Organizational Culture and Leadership" in *Classics of Organization Theory*, Jay Shafritz and J. Steven Ott, eds. (Fort Worth: Harcourt College Publishers, 2001); "Organizational Culture," www.soi.org/reading/change/culture.shtml.

- The *historical layer* is a result of influences generated by very long historical and cultural experience. In long periods of their history, people in central and Eastern Europe have been subjugated to empires run from afar. People were in permanent contact with traditions and rules that coerced them to adopt corrupt behaviour as the main or even unique condition for communication with the local representatives of the empire. For example, different behaviour under Ottoman rule was impossible; at that time, corruption was the other name

of power and a form of its functioning. Such centuries-long experience inevitably has a durable, persistent impact on individual and societal stereotypes and dispositions, which in turn influenced the choice of living strategies.

Patience and perseverance is required to deal with such "distortion" that promotes tolerance to and acceptance of corruption. Key is the so-called *soft* measures, such as leadership, education, ethical codes and personal example. Respectively, more promising is the use of incentives, rewarding achievements in integrity. The responsibility of the political leadership is huge, since each case of corruption reinforces the general belief that corruption is natural.

- The *communist layer* consists of impacts and influences generated by the Soviet type of totalitarian government with a one-party system, state ownership of all major assets, command-administrative economy and limited human rights. The communist system has grown its own corruption, related to permanent deficiency of goods, services and opportunities (requiring alternative ways of their provision and generating corrupt behaviour). Different forms of monopoly multiplied themselves time and again and, as a natural result of the mentality and abnormal monopoly of the single party, were always in power.

  Corruption stereotypes related to the impact of empires may be seen as imposed from outside and one of the symbols of foreign dominance. In contrast, corruption in a totalitarian society is internal, indigenous practice, exercised deliberately and as a personal choice made in order to achieve some aims not necessarily related to survival. For that reason, totalitarian corruption is to some extent more damaging to the society and the individual. This is manifested in reflections such as: "I am against corruption by others, but if I have the opportunity, I would take it." Pro-corruption layers of the totalitarian period must be counteracted not by sporadic work but systematically, over time. Incentives seem to be working better here: control, police measures, dismissal and other types of punishment.

- The *transitional layer* consists of impacts and influences generated by the period of transition towards democracy in a rather brief and very dynamic historical period. Seen as a transition from a totalitarian society towards a society functioning in accordance with democratic principles and the rules of the liberal market economy, it also meant brutal redistribution of ownership, where ethics and morality, concepts such as honesty, equity and legality were pushed into the background by the hyperactive strive for the enrichment of a relatively limited number of persons. Nearly everyone has benefited by liberty and democracy but the losers from the process of redistribution of ownership are many more than the winners. This does not increase the legitimacy of the transition period and undermines support for the process of democratisation. A related effect is the widely spread attitude towards power and politics, viewed mainly as a means of increasing individual influence and enrichment.

  Thus, corruption is viewed as an effective, pragmatic and rational behav-

iour, corresponding to the meaning and the nature of the transition period. So, if the "historical" and the "communist" heritage led to attitudes towards corruption that may be defined as reactive, as a way of accepting "the rules of the game," here we witnessed a qualitatively different, proactive attitude. In such an attitude, corruption is self-reproducing and is increasingly innovative, with a self-indulging rationale that "everyone does the same" and that it is only "natural" to do so.

Tackling this layer requires a systemic multi-dimensional effort encompassing political, normative, institutional and disciplinary measures. This requires clear political vision, dedication, political will, modern legislation, institutional networking and strong sanctions, including sentencing and jailing culprits.

- The *"implanted" layer* consists of impacts and influences generated by the transfer and implementation of models and practices from outside, projecting on the consciousness of the people and changing values, norms and human relations. The liberal economic model is spreading globally, advocating the dominance of the market and private ownership. But the global economy also experiences problems with manageability and global corporations tend not to take into account the interests of host nations and societies. The excessive emphasis on private and corporate interests may have a negative impact on societal and personal ethics and may facilitate corruption and other abuses of power. There are cases when international corporations use corruption channels to enter new markets, including in selling armaments. And when Western companies are involved, the negative effects on local political and business elites, as well as on the state administration, are particularly strong. Witnessing that "Westerners behave in the same manner" often removes remaining ethical barriers to corruption.

Strategies to Address Cultural Specifics

Accounting for the cultural specifics of the respective society, we can identify four main types of strategies to be implemented to address corruption.

(1) At the International Level

At this level the strategies include primarily:

- Elaboration of international standards of integrity and the use of *benchmarking* to define "best" regulations and practices to be transferred. Here a balance is needed between the general validity of standards and best practices and the need to adjust them to the particular cultural environment;
- Denying the use of double standards towards administrations and companies of the host and Western countries; introduction of ratings of firms with a "reputation of integrity" and, correspondingly, refusal to get into contractual rela-

tionships with companies that do not figure into such lists or have a low "integrity rating";

- Defence Integrity Pacts and Alliances;
- Extension of the World Bank's Public Expenditure and Financial Accountability (PEFA) process to defence;
- Strict requirements for clean procurement;
- Budget transparency and anti-corruption strategies in the defence sector;
- Allocation of considerably more funds for training; education and research in the field of integrity building and good governance.

In addition, in the majority of the new NATO and EU member countries, as well as in other states on the way to modernization, the concept of "integrity" is not clearly conceived as the opposite of corruption. Therefore, along with the efforts to build integrity, the strategic priority of the fight against corruption has to be continuously emphasized so that it does not remain hidden behind talks of integrity.

(2) At the National Level

Strategies at this level should take into account national peculiarities to the maximum extent possible. Strategies should be based on precise diagnostics of the disease and not just on its symptoms.

In many nations, the need for survival under dramatic circumstances has been conducive to imitations of adaptation and mimicry: on the surface, there is apparent adoption of the norms of the external actor, whereas national specificity remains underneath. Institutions and politicians are capable of saying and demonstrating to Europe what they think Europe wants to see. To some extent, this is the case with the fight against corruption. There is often an abundance of strategies, laws and institutions for countering corruption and the reporting to European institutions is "perfect," no matter how poor the practical results are. Thus, long-existing practices of nepotism, clientelism and favouritism easily reproduce themselves.

On the other hand, the so called "high context" often prevails in local cultures, i.e. whatever is said and done should be interpreted in the concrete cultural context and according to the circumstances. Status, respect and "saving face" are what matters most. Behaviour styles are adaptive, preferring adaptation to the environment, avoidance of direct confrontation and concealment of discrepancies.

At this level outside institutions, European or Euroatlantic institutions should adopt a type of "name and shame" strategy of explicit and dosed pressure, with continuous external oversight, frequent checks and monitoring reports, accompanied with sanctions and signs of limited trust. At the same time, in order not to make local elites lose faith nor to alienate society, there should also be periodic praising and acknowledgement of good practices that have been successfully implemented.

Such strategies include measures to:

- Incorporate systemic early warning and prevention mechanisms;
- Create barriers to corruption of a systemic nature;
- Enforce disciplinary sanctions for corrupt behaviour, including for return of misappropriated assets;
- Provide for advanced auditing of all public sector activities;
- Create a new, synchronized political and economic culture.

(3) At the Security Sector Level

The strategies at this level are bound by cultural specifics of national security sectors, particularly those related to a traditional and sometimes quite powerful secretive culture.

Even in the most transparent form of government—democracy—there are areas where transparency is limited, for example on matters of national security. Nevertheless, transitional states should acknowledge the need to open up their security system to parliamentarian scrutiny and audit. The secretive culture must be replaced by a culture of transparency and accountability, which gradually should transform into a culture of transparency and reporting in order to deter practices of corruption, as well as ineffective and inefficient governance.

Strategies at this level should serve three goals in enhancing governance and integrity:

- The first goal is to promote the understanding that the national security system no longer enjoys the exclusive, "untouchable" status it enjoyed in the totalitarian society. At the beginning of the 21st century and under the principles of democracy, the security sector must struggle for legal, personnel and resource provisions on an equal footing with other public sectors such as education, healthcare and social protection, etc.

- The second goal is to promote the understanding that the national security sector is not "subscribed" for resources and that the expenditures for it are not inevitable. Instead, they have to be seen as investments that should provide good returns and serve the society well, and not just be a burden.

- The third goal is to promote the understanding that national security and the security sector are not a topic for a restricted group of experts, isolated from common citizens. Rather, it is a sphere of activity that belongs to and represents the legitimate interests of every citizen.

Strategies at this level aim to strengthen the transparency of security sector institutions and establish legal norms so that the information created by or in the interest of state organizations should become public to the maximum extent possible. Long existing fears of the people of institutions of force add another dimension. Hence, good practices such as open phone lines, mailboxes, reception-rooms and others, guaranteeing anonymity, may also be applied in support of a transparency strategy.

(4)   At the Level of Defence

Strategies at this level take into account the specifics of the defence sector, established patterns of civil-military relations, the status enjoyed by the nation's military and the role of the defence industry.

Under communism, the military organisation was like "a state within the state" because of its unique position in the security system. In the years of transition, society is often reminded of that status. The military much too frequently explains loss of prestige and resources with pressures from abroad and "betrayal" by politicians. This automatically makes them politicized; in subtle ways, the military attempt either to oppose elected officials or try to directly influence politics, seeing civilian control as infringing on their interests.

Also under communism, defence was a priority of paramount importance. Years afterwards, defence and the armed forces kept being favoured in financing, consuming the lion's share of public resources, often to the detriment of other security sector institutions. That in itself was a factor for attracting corruption scams and bad governance practices.

Many socialist countries also supported certain regimes with armaments—through sales or "brotherly assistance"—that were later placed under restrictions by the international community. This then enhanced a culture of covert and illegal operations, often supported by the intelligence services. That heritage is not yet overcome; it hinders control over the military, their budget and activities.

In addition, frequent changes of government led to cycles of tension within the defence administration. On more than one occasion, as ministers of defence were appointed persons without adequate competencies, they fed on opportunities offered by the Ministry of Defence to derive benefits for themselves and their political associates. Ministers and their political cabinets were often busy not with the formulation and implementation of policy but serving as hotbeds of corruption.

The strategies at this level should be multidirectional and address a wide spectrum of problems, deficits and challenges. Regardless of attempts by the Ministry of Defence to introduce Planning, Programming, and Budgeting Systems (PPBS), capability planning methods, advanced defence acquisition management principles and so on, implementation is often superficial, whereas Soviet attitudes and procedure remain. Problems are most acute in financial and materiel planning, implementation and reporting where the emphasis is kept on the input and too often decisions are made not according to policy objectives and sound planning but based on expedience.

Over-centralization of resource allocation decision making, combined with a lack of transparency, contributes to arbitrary rules and corruption. The situation is aggravated further when the parliament does not oversee major defence procurements, the process of utilisation of surplus equipment and infrastructure, and there is no open discussion on the real needs and budget levels for the security and defence sector, nor an adequate control and audit. It is very hard to find examples in post-communist coun-

tries of objective assessments and whether and to what extent the allocated resources have generated security.

There are, nevertheless, some promising developments. For example, in a 2007 audit of the Ministry of Defence, the Audit Office of Bulgaria assessed not only whether the budget was spent in compliance with the law but also whether this was done in an effective manner. The report underlined the lack of sufficient political documents with clearly defined, measurable and achievable goals and the fact that required capabilities have not been defined. It also stated that the MoD uses a large and complex hierarchy with five levels of management and the administration employs an excessive number of people with responsibilities for planning, programming, executing and accounting of programmes and budgets.

It may seem like a trivial comment if made in a country with well-established governance mechanisms in defence but in particular cultural settings some observers defined it as a "revolutionary" undertaking. Box 24.2 provides other examples of integrity at different levels.

Box 24.2. Promoting Defence Integrity in Post-Communist Settings

The experience of Bulgaria provides a few examples of integrity-based change processes on the political, international, doctrine implementation and institution building levels.

Military Doctrine of 1999: An Example of Political Integrity
After the elections in 1997, the Bulgarian government made a clear commitment to bring the country into NATO and the EU. In line with that commitment, the parliament ratified a new national security concept and, a year later, a new Military Doctrine that stipulated Bulgaria as a *de facto* member of NATO and the EU and provided a vision, strategy and base for implementation planning in this direction. That happened after more than a year of effort to jump-start real defence reform, which was stymied by attempts by the conservative military leadership to replace it with camouflaged adaptation, and the replacement of several senior political and military officials. Expert consultations, political-military cooperation and a public discussion then facilitated defence reform. During open discussions on draft texts of the Military Doctrine it became clear that the arguments used by some conservative members of the military did not survive in real debate.

The Kosovo Crisis of 1999: Integrity on the International Level
The Kosovo crisis illustrates the importance and value of integrity as a key principle for success. First of all, the NATO operation in Kosovo was a clear example of integrity in action and provided a good lesson for the Bulgarian people of what political integrity means on the international level. Second, the same principle of integrity was the key criterion for the decision-making process in the government regarding the conflict, especially its support for the Kosovo intervention. The policy was in full compliance with Bulgaria's Security Concept and Military Doctrine, and provided a test case for the key ideas underlying the defence reform plan that was under development in this period. The coherence of policy and action provided a solid foundation for gaining public support and maintaining all the consultations with NATO and indi-

vidual states, including for denying Russia's request to permit military flights over Bulgarian territory.

Plan 2004: Integrity in the Implementation of the Doctrine
The development of the defence reform plan known as "Plan 2004" was quite different from any other similar undertaking in Bulgaria till 1999. First, it was based on the National Security Concept and the Military Doctrine, under clear leadership of the prime minister and with support from the president and parliament. Second, it was based on a solid operational analysis of many options for the structure, strength, equipment and training, and possible courses of action for the armed forces. Third, force development was coordinated with plans for education and training, intelligence and counterintelligence, medical support, logistics support, social support, acquisition and research, transition of functions and structures outside the MoD, transforming military formations outside MoD into civilian organizations, etc., all supported by a clear implementation mechanism and institutions and sound budget projections until 2004. The plan not only provided for downsizing and restructuring but also for institution building and process improvement through introduction of a Planning, Programming, and Budgeting System (PPBS), incorporation of mechanisms of transparency, accountability and measurement of results, along with the use of operational analysis in defence decision making.

Defence Management, Integrity and Institution Building
The Implementation of the Military Doctrine and Plan 2004 was supported by the introduction of PPBS and a special study on defence governance and management. There was a study on civil-military relations and parliamentary control starting in 1998 and after the approval of Plan 2004 a new study was initiated with the UK MoD Department for Consultancy and Management Services (DCMS) to further institutionalize the practices of good governance and defence management, including changes in the organic statute of the MoD and Bulgaria's Defence Law. In order to increase transparency, accountability and the measurability of management processes, the minister of defence established the Programming, Integration, and Modernization Councils, supported by the newly established Defence Planning, Euroatlantic Integration, and Armaments Policy directorates, as well as a newly organized J5 in the General Staff and similar division in the services' headquarters.

In conclusion, since culture is so deeply rooted in an organization's history and collective experience, working to change it requires a major investment of time and resources. Help from a change agent outside the system is often advisable. Without such help, it may be difficult for insiders to view the realities of defence as something they have constructed and to see meaning in things they normally take for granted. On the other hand, a change agent coming from outside defence or outside the country needs to be aware of the specific culture of the defence organisation. The NATO Integrity Building initiative, supported by the established trust fund, may be used to take on the challenge of culture change in defence in order to make defence establishments more transparent, effective and efficient.

Annex 1: Selected Resources

Official Documents

United Nations Convention Against Corruption (2004)
www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.
Official translations of the Convention are available also in Arabic, Chinese, French, Russian, and Spanish
www.unodc.org/unodc/en/treaties/CAC/index.html

Criminal Law Convention on Corruption
Council of Europe, ETS No.173 (1999)
http://conventions.coe.int/treaty/en/treaties/html/173.htm

Civil Law Convention on Corruption
Council of Europe, ETS No.174 (1999)
http://conventions.coe.int/treaty/en/treaties/html/174.htm

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from

Crime and on the Financing of Terrorism
Council of Europe (2005)
http://conventions.coe.int/Treaty/EN/Treaties/HTML/198.htm

Inter-American Convention Against Corruption
Organization of American States (1996)
www.oas.org/juridico/english/Treaties/b-58.html

International Code of Conduct for Public Officials
UN General Assembly Resolution 51/59 (1996)
http://www.un.org/documents/ga/res/51/a51r059.htm

Guides and Handbooks

UN Anti-Corruption Toolkit
The Global Programme Against Corruption
United Nations Office of Drugs and Crime (3rd edition, 2004)
www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf

Best Practices in Combating Corruption
Organization for Security and Co-operation in Europe (2004)
Original in English; available also in Armenian, Azerbaijani, Macedonian, Russian, and Serbian
www.osce.org/item/13568.html

Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices
IPU-DCAF Handbook for Parliamentarians (2003)
Orginal in English; available in more than 35 languages
www.dcaf.ch/publications/kms/details.cfm?lng=en&id=25289&nav1=4

Security System Reform and Governance
OECD DAC Guidelines and Reference Series
Organisation for Economic Co-operation and Development (2005)
www.oecd.org/dataoecd/8/39/31785288.pdf

Handbook on Security System Reform: Supporting Security and Justice
DAC Guidelines and Reference Series
Organisation for Economic Co-operation and Development (2007)
www.oecd.org/dataoecd/43/25/38406485.pdf

Anti-Corruption Handbook: National Integrity System in Practice
Transparency International, project ACH
www.transparency.org/policy_research/ach

The Anti-Corruption Plain Language Guide
Transparency International (2009)
www.transparency.org/content/download/45306/725785/file/TI_Plain_Language_Guide
_280709.pdf.

A Handbook on Fighting Corruption
USAID Center for Democracy and Governance, February 1999
www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnace070.pdf

Building Integrity and Reducing Corruption Risk in Defence Establishments: Ten Practical Reforms
Mark Pyman, Transparency International (2009)
www.defenceagainstcorruption.org/publications

Methodologies

World Bank Governance & Anti-Corruption Tools
The World Bank Institute, in collaboration with other units in the World Bank Group, supports countries in improving governance and controlling corruption. On the basis of a multidisciplinary approach, it applies action-learning methods to link empirical diagnostic surveys, their practical application, collective action, and prevention. It periodically releases the Worldwide Governance Indicators (WGI) and country diagnostics. This integrated approach is supported by operational research and a comprehensive governance databank.
www.worldbank.org/wbi/governance

A Users' Guide to Measuring Corruption
UNDP and Global Integrity, www.globalintegrity.org, provide government, civil society and development practitioners with good practices in measuring corruption. Available in English, Spanish and French.
www.undp.org/oslocentre/flagship/users_guide_measuring_corruption.html

Public Financial Management: Performance Measurement Framework
PEFA Secretariat, World Bank (2005)
Available in English, French, Spanish, Portuguese, Russian, Arabic, Mandarin, Ukrainian, Turkish, Armenian, Serbian, and Vietnamese.
www.pefa.org/pfm_performance_frameworkmn.php

Anticorruption Assessment Handbook
USAID, prepared by Bertram I. Spector, Michael Johnston and Svetlana Winbourne (February 2009)
www.usaid.gov/our_work/democracy_and_governance/technical_areas/anticorruption_handbook/index.html

Assessing the Transparency of Defence Budgets and Budgeting
Todor Tagarev, "A Means of Comparing Military Budgeting Processes in South East Europe," *Information & Security. An International Journal* 11 (2003): 95-135.

Databases Accessible Online

Transparency International's Corruption Perceptions Index
Since 1995, Transparency International (TI) assesses Corruption Perceptions Index (CPI). By 2008, TI provides CPI data for 180 countries. The data can be retrieved in the form of an Excel sheet from http://www.icgg.org/corruption.cpi_2008.html or www.transparency.org/content/download/38703/612764.

Global Corruption Barometer
A survey, conducted since 2003, assesses general public attitudes toward and experience of corruption in dozens of countries around the world. The 2009 survey covered 69 countries. Reports are published by Transparency International in English, French, and Spanish.
www.transparency.org/policy_research/surveys_indices/gcb

Bribe Payers Index
The TI Bribe Payers Index evaluates the supply side of corruption – the likelihood of firms from the world's industrialised countries to bribe abroad. Full reports from 1999, 2002, 2006, and 2008 are available at www.transparency.org/policy_research/surveys_indices/bpi.

Worldwide Governance Indicators
World Bank

As of 2009, the Worldwide Governance Indicators (WGI) project reports aggregate and individual governance indicators for 212 countries and territories over the period 1996-2008, for six dimensions of governance, including "control of corruption."
http://info.worldbank.org/governance/wgi/index.asp

Open Budget Index
Open Budget Initiative conducts surveys bi-annually. The open Budget 2008 rankings are available for free download in Arabic, Chinese, English, French, Portuguese, and Spanish. The English version of the full report is available at http://openbudgetindex.org/files/FinalFullReportEnglish1.pdf.
www.openbudgetindex.org

Public Expenditure & Financial Acountability (PEFA)
www.pefa.org
PEFA assesses public financial management by country. Reports are available at www.pefa.org/assesment_reportmn.php.

Selected Monographs and Reports

Building Integrity and Defence Institution Building, Conference Report (Monterey, CA: 25–27 February 2009).

Mark Pyman, Peter Foot and Philipp Fluri, eds., *Building Transparency and Reducing Corruption in Defence, Workshop Proceedings* (Geneva & Lugansk: May 2008), www.nps.edu/GovIndustry/Conferences/NATO/Documents/Transparency International Geneva workshop on building integrity May 2008.pdf.

Nils Roseman, *Code of Conduct: Tool for Self-Regulation for Private Military and Security Companies*, Occasional Paper #15 (Geneva: DCAF, 2008).

Rasma Karklins, *The System Made Me Do It. Corruption in Post-Communist Societies* (New York: M.E. Sharpe, 2005).

The World Bank, "Measuring Corruption: Myths and Realites," *Findings* 273 (April 2007).

United States Government Accountability Office, *Defense Contracting Integrity* (Washington, D.C.: GAO, 2009).

Annex 2: TI International Defence and Security Programme

Corruption in Defence

Transparency International (TI) is the civil society organisation leading the global fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, Transparency International raises awareness of the damaging effects of corruption, and works with partners in government, business and civil society to develop and implement effective measures to tackle it. For more information on the Transparency International movement go to: www.transparency.org.

Transparency International's global defence and security programme "Defence Against Corruption" (DAC) aims to reduce corruption and transform attitudes to corruption in defence and security sectors to benefit citizens. The international defence programme is led by Transparency International-UK on behalf of the TI movement.

Transparency International's defence programme began six years ago, bringing together governments, defence companies, academics and civil society to determine the best ways to approach the problem of defence corruption. The DAC Programme is now well-known to defence ministries, security ministries, defence companies and organisations across the globe. The work is currently funded by the UK Department for International Development (DFID) and NATO.

DAC works with reform-minded nations ranging from Colombia to Poland to Afghanistan and with multilateral organizations to reduce corruption risk in defence and security. With governments, multilateral organisations, civil society and the defence industry DAC collaborates constructively to raise the integrity of international arms transfers. To achieve sustainable change across the world, the team supports experts and campaigners in counter-corruption reform, delivers workshops and nurtures knowledge transfer on counter-corruption.

Out of an active collaboration with NATO, two counter-corruption tools have been developed:

i. The "Integrity Self-Assessment Questionnaire and evaluation process" for nations was developed in 2008 and 2009 in collaboration with Poland and a working group of ten nations. Successful trials took place in Norway, Ukraine and Bosnia Herzegovina. It is now widely available for nations to use.

ii. An innovative "Building integrity and reducing corruption risk" training course has been developed. This five-day course is aimed at experienced ministry of defence and interior ministry officials and armed forces officers at the OF5

level and above. This course has been given six times, with participation from some twenty nations, and is being extended.

Both the self-assessment and the training course are aimed at supporting nations in building knowledge and expertise on counter-corruption in defence.

The DAC programme is furthermore actively engaged with African nations on defence and security corruption issues, and supports the negotiation of the UN Arms Trade Treaty.

Also key in the fight against corruption in the defence and security sector is the research conducted and published by the DAC Team. This is disseminated to interested parties to promote best practice and encourage the implementation of up-to-date anti-corruption methods. DAC also publishes a bi-monthly news digest on defence corruption cases.

Information on Transparency International's work in the defence and security sector to date, including background, overviews of current and past projects, and publications, is available at the Defence Against Corruption website: www.defenceagainstcorruption.org.

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Annex 3: Abbreviations

AIA	[US] Aerospace Industries Association
ANDS	Afghanistan National Development Strategy
APSC	Armed Private Security Contractor
ASD	Aerospace and Defence Industries Association of Europe
C3	Command, Control, and Communications
CAC	[UN] Convention Against Corruption
CoC	Code of Conduct
CoE	Council of Europe
COIN	COunterINsurgency [operation]
CPI	Corruption Perceptions Index
DAC	[OECD] Development Assistance Committee
DCAF	[Geneva Centre for the] Democratic Control of Armed Forces
DoD	[U.S.] Department of Defense
EAPC	Euro-Atlantic Partnership Council
EBB	[EDA's] Electronic Bulletin Board
EDA	European Defence Agency
EU	European Union
FY	Fiscal Year
GCSP	Geneva Centre for Security Policy
GDP	Gross Domestic Product
GFS	Government Finance Statistics
GMC	[CoE] Multidisciplinary Group on Corruption
HI	Humanitarian Intervention
IANSA	International Action Network on Small Arms
ICRC	International Committee of the Red Cross

IDP	Internally Displaced Person
IGO	Intergovernmental organisation
IPAP	Individual Partnership Action Plan
ISAF	International Security Assistance Force (in Afghanistan)
IW	Irregular Warfare
MoD	Ministry of Defence
NAMSA	NATO Maintenance and Supply Agency
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OMB	[US] Office of Management & Budget
OSCE	Organization for Security and Co-operation in Europe
PAP-DIB	Partnership Action Plan on Defence Institution Building
PEFA	Public Expenditure & Financial Accountability
PFI	Private Finance Initiative
PFM	Public Financial Management
PMC	Private Military Company
PMSC	Private Military and Security Companies
PPBEA	Planning, Programming, Budgeting, Execution, and Assessment [system]
PPBS	Planning, Programming, and Budgeting System
PPP	Public-Private Partnership
PR	Public Relations
PRT	Provincial Reconstruction Team
SIU	Special Investigating Unit
TI	Transparency International
TNI	Tentara Nasional Indonesia (the Indonesian Military)
UN	United Nations
USAID	US Agency for International Development

Geneva Centre for the Democratic Control of Armed Forces (DCAF)

DCAF was established in 2000 by the Swiss government. DCAF is an international foundation with 53 member states and the Canton of Geneva. DCAF's main divisions are Research, Operations and Special Programmes. The staff numbers over 70 employees from more than 30 countries. DCAF's head office is located in Geneva, Switzerland. The Centre also has permanent offices in Brussels, Ljubljana, Ramallah and Beirut.

The Geneva Centre for the Democratic Control of Armed Forces is one of the world's leading institutions in the areas of security sector reform and security sector governance. DCAF provides in-country advisory support and practical assistance programmes, develops and promotes appropriate democratic norms at the international and national levels, advocates good practices and conducts policy-related research to make recommendations to ensure effective democratic governance of the security sector.

DCAF's partners include governments, parliaments, civil society, international organisations and the range of security sector actors such as police, judiciary, intelligence agencies, border security services and the military.

www.dcaf.ch

**North Atlantic
Treaty Organization**

**Geneva Centre for
the Democratic Control
of Armed Forces**