



FOREWORD

By Colin Archer

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If ever there was a societal phenomenon that merited questioning, it is the arms trade, and militarism more generally. It is hardly a new issue. Kua Kia Soong's very helpful book opens with a quotation from a Chinese philosopher who, already 2400 years ago, criticised the moral blindness of the 'rulers of the earth'. Moral blindness is certainly still with us today – as we observe the effects of militarism, not only in Malaysia (a relatively small player on the global chessboard) but all over the world. Kua's analytical survey exposes all manner of scandals related to corruption, poverty, uncontrolled privatisation, lack of democratic transparency, accidents – and most of all, the opportunity costs of investing billions in the military sector while the population suffers shortages of basic commodities and services.

In 2009, global military spending surged to an all-time high of US \$1.53 trillion, \$224 for every human being on the planet¹. No one can learn of these numbers without imagining how this vast treasury could be used differently: to save lives, develop poor communities, protect the environment, promote renewable energy sources and so much more. Given the numerous crises facing the world community – of our economy, our environment, our food and health systems, and more besides – it is a matter of urgency to create a global movement to shift this money towards human needs. Thousands of organizations and millions of individuals do support this point of view. Moreover, as a result of the global economic crisis, many governments are at last beginning to reduce military spending. But they are unlikely to turn these cuts into a **development re-allocation** unless civil society can pressurise them

¹ *Stockholm International Peace Research Institute (SIPRI) Yearbook 2010.*

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into doing so. What is needed is a serious mobilizing effort on a global scale to push forward our demands to feed people, not the military-industrial complex.

This a complex subject with many hidden dimensions which the present volume reveals: for example the tacit alliance between buyers and sellers of arms; the regional, even global, rivalries between states; the spirals of costs and delays that push prices through the ceiling; the pressures from, and hypocrisies of, the West, Russia and other big powers; the temptations of prestige buying; and above all the underlying driving forces that (until very recently at least) have pushed spending up, year after year. In the latter category we can include the desire to impress or threaten neighbours and rebels; to beef up hi-tech forces in the questionable belief that it will bring success in the 'war against terror'; to bestow favours on cronies and allies; and the determination to protect at all costs 'national interests' such as access to minerals and energy sources. This final point may well be the most crucial in the long term. Yet it is also the area in which the lack of an alternative policy is most sharply evident. Where are the serious investments in diplomacy or conflict prevention, or on cooperative projects carried out with neighbouring states? Is there no interest left in economic conversion and diversification away from unproductive militarism? Are we headed inexorably for a clash, not of civilizations, but of hungry industrial giants?

The current economic downtown, which is hitting Malaysia just like so many other countries of similar size or larger, is causing governments and parliaments to take a hard look at military spending and weapons purchasing. Billion-dollar projects are being shelved or definitely abandoned. This is therefore an especially promising time for those of us who reject military solutions and who believe that 'another world is possible'. However the general tendency is to reduce armed forces spending and absorb inflated deficits, rather than redistribute resources to development, social justice or the fight against mass poverty.

It was precisely to tackle this political (and ultimately moral) challenge that in 2005 the International Peace Bureau decided to launch its programme entitled **Sustainable Disarmament for Sustainable Development**. This focuses on three main areas of work:

1. The struggle to reduce spending on the military sector in favour of increased investment in sustainable development

- including climate change mitigation and adaptation.

2. Efforts to demonstrate, and to lessen, the effects of weapons of many types on poor communities, esp. in conflict zones. In this work we co-operate with a range of coalitions working to abolish or limit different weapons systems.
3. A set of additional issues, such as the militarisation of aid, the spread of military bases, gender perspectives, and above all, the new justifications for militarism that flow from intensified resource competition in a multi-polar world.

Civil society leaders frequently express concern on the issue of military expenditure and the need to transfer these resources to social spending. However, for several reasons it is hard to tackle. The biggest difficulty is that there are no binding treaties on military expenditure as there are in other areas of disarmament. UN General Assembly resolutions have no legal power here, because military spending is decided at the national level of political decision making. For this reason IPB is keen to encourage the building of national coalitions and campaigns.

In mid-April 2011 a **Global Day of Action on Military Spending** will be held to coincide with the release of the Stockholm International Peace Research Institute's annual report, which will include new figures on military expenditures. On this day, people all over the world will join together in actions to focus public, political, and media attention on the costs of military spending and the need for new priorities. Such events will help us to build the international network around this issue.

For such activities to be successful, they need to be grounded in solid research, and it is in this respect that the present work is so helpful. Kua Kia Soong is a writer and activist with a long record of investigation into important issues. He has now produced a courageous work, which tackles subjects that are in many places difficult to raise in the political sphere, and in some cases regarded as so taboo as to be absolutely off-limits to public criticism. My hope is that with more such investigations, the light will be shone on these dark areas of society and the economy and through persistent work by many actors, a fundamental shift in priorities will be achieved.

* Geneva, 14 October 2010

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With this wide network that stretches from Europe to the Middle East and the United States, we can bring our expertise and provide the Malaysian Government the opportunities to uplift the local aerospace industry...BAE has been here for more than three decades, and that alone speaks for itself our confidence and faith in the Malaysian economy." (37)

In 2006, BAE Systems president Sir Charles Masefield said BAE was directly involved in helping Malaysia form its own defence industry through joint ventures with local defence companies. Speaking at the defence Services Asia 2006 exhibition, he said:

"BAE has been assisting Malaysia develop its defence industry for some time through co-operation and joint ventures with local companies in defence equipment manufacturing in composites and pylon weapons for the Hawk aircraft." (38)

In 2005, BAe invested more than RM1 billion in Malaysia and more could be expected in coming years, he added. Masefield said BAe would continue to play a major role in Malaysia as no other company had been able to replace it, even though Malaysia had been procuring defence equipment from other countries such as Russia, Pakistan and Indonesia.

Summary

The steady growth of Malaysia's military-industrial complex especially since the 1990s should not be underestimated. This has been made possible through Western arms manufacturers outsourcing their ancillary industries to countries like Malaysia. With the burgeoning domestic military-industrial economy, the power and privilege of the military top brass has been enhanced through their class cohesion with the Malay ruling class. This gives them easy access to the defence budget, opportunities for profit and commissions in the myriad defence contracts, and directorships in military-linked companies.

These local military-industrial linkages have bred local contractors, subcontractors and local communities dependent on jobs in these industries. For the UMNO leaders, they provide another form of patronage which generates votes. Najib's electoral constituency of Pekan, where the military automotive industry is located, is a prime example of this.

CHAPTER THREE

ALTANTUYA & THE SCORPENE DEAL

"Those who can make you believe in absurdities can make you commit atrocities."

- Voltaire

The most recently acquired Scorpene submarines of the Royal Malaysian Navy costing more than three billion ringgit apiece are the most expensive defence procurements to date. Riddled with scandal even before they arrived on our shores, questions surrounding the gruesome murder of Mongolian translator, Altantuya Shaaribuu and her relationship with personalities involved in the submarine deal remain unanswered. The question of commission paid to local interests has been explained away by the Defence Minister but continues to be pursued in the French judicial system. Even after the first Scorpene arrived, technical hitches that prevented the submarine from diving have only exacerbated the scandal.

The account of how DCNS International of France and the Spanish ship maker Navantia won the contract to build two Scorpene-class submarines for the Malaysian Navy *"provides a rare peek into the normally opaque process of Malaysian arms purchases...Finally, it underscores the importance of political connections in winning a defence contract in Malaysia."* (1)

According to this FEER story, in 2000 then private French company Thomson-CSF (now called Thales) had been working with a middleman by the name of Jasbir Chahl in an attempt to sell a Crotale missile system to the Malaysian government. Thales introduced Chahl to French government-owned DCN and the submarine deal was set in motion. Chahl then brought in Ibrahim Mohamed Noor, a businessman close to Daim Zainuddin, then Finance Minister.

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Ibrahim's private company, Perimekar, was to become the linchpin between the Malaysian and French governments. Ibrahim then brought in Abdul Razak Baginda, a military analyst who headed the Malaysian Strategic Resources Centre and also adviser to Defence Minister Najib Razak. In August 2001, Ibrahim sold Perimekar to Generasi Mulia, which served to hold the shares temporarily, paving the way for new, well-connected investors to step in. By January 2002, everything had fallen into place. Generasi Mulia sold its 100% stake in Perimekar to Ombak Laut, a private company owned by associates of Abdul Razak Baginda. Ombak Laut then sold 40% to the Armed Forces Superannuation Fund, or LTAT and a sister company.

Of the contract value, 50% would be offset through counter-trade of Malaysian goods through France or Francophone countries in Africa and the Pacific. France also donated a decommissioned Agosta-class submarine that Malaysia would refurbish for RM300 million (\$79 million), to be used for training crew:

"And the payoff for the Malaysian businessmen? Defence analysts estimate that for all the effort, and for its continued involvement in the contract, Perimekar will receive, over the next six years, 8% of the total contract value: about RM288 million, and possibly more, as the euro, on which the contract is based, has appreciated 13% against the ringgit since the signing." (2)

The agreement between the Malaysian Government and the French DCN and Spanish Navantia for two Scorpene class submarines was signed on 5 June 2002.

The French Connection

The story titled *"The French Connection"* in *The Asia Sentinel* on 29 June 2009 sets the scene for a story of kickbacks and murder in arms deals involving the French state company: (3)

"In the latest indictment of French use of arms deals not only to win business abroad but fund politicians at home, credible allegations have surfaced that a kickbacks dispute was behind the killing of 11 French shipbuilding engineers in Karachi seven years ago. The engineers and three Pakistanis were the victims of a bomb attack on a bus..."

"At the time the Karachi bombing was blamed on al-Qaeda, an

obvious and easy scapegoat given its record. However French magistrates have now pointed the finger not at al-Qaeda but at high-ranking Pakistani officials. They are said to have been retaliating for the stopping of secret commission payments supposedly due to them in connection with a 1994 contract worth about US\$1 billion for three submarines. The engineers were working on that contract.

"Investigators are now working on the theory that the Pakistanis were supposed to have received kickbacks, part of which would then be repatriated via complex offshore companies to feed political slush funds in France. In this case, the theory goes, the payments were helping to finance the 1995 election campaign of Edouard Balladur, for whom now President Nicolas Sarkozy was campaign manager. But payments to the Pakistanis were stopped by President Jacques Chirac after he defeated Balladur. After years of unsuccessfully trying to get them resumed, the Pakistanis took revenge.

"The motive for the bombing, according to these reports, was known to the French secret service which may have retaliated by breaking the legs of two Pakistani admirals and killing a junior officer. The al-Qaeda story was just useful cover. The evidence for these allegations is said to come from documents seized in the offices of DCN, the state-owned company building the submarines, by French investigating magistrates and revealed by a lawyer for families of the victims of the bombing.

"The Taiwan case, still continuing after 18 years, also related to naval procurement, this time for the 1991 purchase of six Layafayette Class frigates – a deal which was so lucrative for the French that they were willing to jeopardize relations with Beijing to push it through. Two years after it was signed, the body of Taiwan naval captain, Yin Ching-feng, was found floating off the coast, a victim of foul play. While the affair was long covered up, it gradually emerged that some \$600 million in commissions on a \$2.8 billion contract had been paid into various Swiss accounts set up by Andrew Wang Chuan-pu, the Taiwan agent for French company Thomson-CSF (now Thales).

"Yin is believed to have been killed because he planned to blow the whistle on the deal. Other subsequent unexplained deaths included that of Yin's nephew who was pursuing the case, a French intelligence agent and a Thomson employee in Taiwan. In Taiwan, convictions against several naval personnel and middlemen were obtained. But

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in supposedly free and democratic France the government blocked inquiries by judicial officials who were unable to obtain relevant documents. In October 2008 the judge finally ruled that no one could be prosecuted because of lack of evidence."

Murder in High Places

These scandals in Pakistan and Taiwan involving the French state-owned company DCN preceded the grisly murder of Mongolian model and French-speaking translator Altantuya Shaaribuu in Malaysia. She had been the mistress of Malaysian defence analyst Abdul Razak Baginda, a close associate of then Defence Minister and present Prime Minister Najib Razak.

Razak Baginda was acquitted of the murder but two Special Forces men were found guilty following a trial. The motive for killing Altantuya was never pursued in the court. A plausible motive may well have been her demands for money given her knowledge of the details of a deal between the Malaysian government and Razak Baginda and the French submarine builder.

The murder of Altantuya Shariibuu in connection with the Scorpene submarines deal was certainly not the first case of corruption in Malaysia which involved murder. During the BMF scandal in the early Eighties (4), BBMB Assistant General Manager Jalil Ibrahim was sent to then British colony Hong Kong to conduct an audit. On July 17, 1983, he told his staff that he was leaving to meet a "Datuk". The next day, his body was found in a banana plantation outside Hong Kong. The connection between Jalil's death and BMF, and the unseen hands behind the scandal were never established. Klang businessman Mak Fook Than was convicted of the murder and sentenced to life. At his trial, Mak had claimed that he merely disposed of Jalil's body – the murder had been committed by a Korean working for a man named "George".

The murder of Mongolian model and translator, Altantuya Shariibuu took place in October 2006. Then Deputy Prime Minister Datuk Seri Najib Razak has repeatedly denied that he has ever known or met her or that RM350 million was paid to Perimekar Sdn Bhd as commission. On 6 December 2006, the Deputy Defence Minister in his reply to the Member for Ipoh Timor admitted that there was a contract made between the government and the company, Perimaker

Sdn Bhd amounting to the sum of Euro 114 million "for the purposes of paying the coordination and support services and not for commission, coordination and support project services team in France and Spain and also for the submarine trainees." (5)

Najib further said that the purchase of the Sukhoi jets was made directly through the Rosoboronexport Company, which was owned by the Russian government. He said IMT Defence (M) Sdn Bhd was the sole representative for Rosoboronexport in Malaysia, appointed by the Russian company and added that *"the government did not pay any commission to IMT Defence (M) Sdn Bhd as claimed."* (6) In winding up the debate on the Royal address on 14 May 2008, he divulged that the agreement to acquire the Scorpene submarines was signed on 5 June 2002 between the Malaysian government, DCNS of France and Navantia of Spain. (7)

Najib also denied that the Government had made commission payments to IMT (M) Defence Sdn Bhd in the purchase of the Sukhoi jet fighters. On the price difference between the purchase of the Sukhois by Malaysia and India, Najib said that this was due to the way the jet fighters were configured as well as the number of aircraft purchased, adding that Malaysia had bought 18 Sukhois compared to the 180 by India. At the end of his speech, Najib reiterated that *"he had never known, let alone met, the Mongolian woman."* (8)

It so happens that the main shareholder of Perimekar Sdn Bhd is KS Ombak Laut Sdn Bhd and the directors of both companies include Mazlina binti Makhzan, wife of Abdul Razak Baginda. (9) Baginda also happens to be the aide of Najib Tun Razak who was at the time Deputy Prime Minister and Minister of Defence. Looking at the 2001 and 2002 accounts of Perimekar, the company certainly does not have the financial means to carry out such a big contract. Neither does the company have any experience or expertise in providing coordination and support services to such a submarine project.

The Altantuya Murder Case

According to Razak Baginda's bail affidavit, Altantuya first met Abdul Razak Baginda in Hong Kong in 2004. They had an affair and Altantuya assisted him in translating Russian documents. They broke up around August 2005.(10) Baginda was a military analyst who headed the Malaysian Strategic Research Center and an adviser

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on security affairs to then Deputy Prime Minister and Minister of Defence of Malaysia, Najib Razak.

In October 2006, Altantuya was told that the commission paid by the Franco-Spanish Armaris had been paid into the Kuala Lumpur bank account of Perimekar. She then came to Kuala Lumpur to claim her share of the commission from Baginda, saying that she was entitled to US\$500,000. Altantuya had arrived in Malaysia with two other Mongolians. For several days, she harassed her ex-lover for the money. On 18 October, Baginda could not tolerate any more of Altantuya's scenes outside his home. He contacted the director of the Special Branch of the Malaysian Police, Musa Safri, who happened also to be Deputy Prime Minister Najib Razak's aide de camp.

On the evening of 19 October 2006, two policemen from the Special Branch, Azilah Hadri and Sirul Omar were sent to Baginda's house to "meet the 'Chinese woman' and advise her to stop threatening and harassing him outside his house." (11) They blew up her body with C-4 explosives. In this transcript of the case, we have a graphic description of how the dastardly deed was carried out. One of the killers, from the Malaysian Special Branch named Sirul Omar replies to questions by an officer investigating the case:

"When the Chinese saw that I had a gun, she begged me to spare her saying that she was pregnant...Azilah [Sirul's commanding officer] had grabbed the Chinese (who was actually Mongolian) and threw her on the ground. I immediately shot her through her left temple. Then Azilah took off her clothes and put them in a black plastic bag. Azilah noticed that her hand was still moving. He ordered me to shoot her again, which I did. We then carried her body into the jungle. Azilah wrapped explosives over her legs, abdomen and head, and we blew her up." (12)

On 19 January 2007, the High Court judge found the events in Abdul Razak Baginda's affidavit suggested his involvement in the murder of his Mongolian lover Altantuya Shariibuu. While throwing out Razak's bail application, Justice K.N. Segara said:

"The events clearly showed that there were enough grounds to prove that he abetted in the murder allegedly committed by two police personnel...Money was the real issue. He had Gurkhas and police friends to help him." (13)

In his affidavit, Baginda claimed he had had meetings with police officers Deputy Supt Musa Safri and C/Insp Azilah Hadri days before his mistress' death. During the trial, his counsel Wong Kian Kheong read out the events on the morning of 18 October 2006 when Chief Insp Azilah called Razak and told him that he had killed six or more people before and therefore could help stop the harassment by Altantuya. This caused Justice Segara to interject:

"You have got here a person who claims that he had killed before and he can settle your problem...And what is your problem? You were threatened by a woman and you wanted her out of sight. Period. Yet, you go on dealing with that police officer."

"The whole thing is here. He called the person to get rid of her. No need to go any further in relation to abetment. The police officer is no longer helping him as a police. He is there in his personal capacity. This particular episode has fleshed the entire abetment act." (14)

When Razak's counsel read out the next day's events, he skipped the part about Razak going to the Deputy Prime Minister, Najib's office, which made Justice Segara interject again:

"Why did you skip that? There is nothing to worry. He just went there. It is in the affidavit. He should have known better and go straight to the police or IGP and not embarrass the DPM...Facts must surface. You cannot hide. The truth will always prevail." (15)

Baginda, accused of having ordered the murder, was acquitted in November 2008. He was acquitted without his defence being called while the two policemen charged, Chief Inspector Azilah Hadri and Corporal Sirul Omar, were sentenced to the gallows for killing her. After the verdict was made known, the prosecution announced it would not be appealing against the Razak Baginda acquittal.

Murder accused Kpl Sirul Azhar Umar said he had been made a scapegoat by certain parties in the murder of Altantuya to protect their "evil plan". Apart from painstaking attempts to keep then Deputy Prime Minister Najib's name from being mentioned in the trial and probing the motive for the murder, other surprises included: the sudden removal of the presiding judge just before the trial started without a plausible explanation to the lawyers; the changing of the head of the prosecution team at the last moment; the changing of the defence lawyers for the accused, one alleging interference by "third

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parties" in his work. (16)

A witness testimony by Altantuya's cousin alleging that the victim had shown her a photograph of herself, Baginda, Najib and "others" having lunch in a Paris restaurant was stopped by defence lawyers and prosecutors from testifying further. Nor did the court ask the witness to produce the photograph. (17) In the course of the trial, evidence was given that Altantuya's entry into Malaysia had been erased from the records of the Malaysian Immigration. (18) This could only have been directed by a higher authority.

Altantuya left behind her elder son, aged 12, who was traumatized by the disappearance of his mother and another 5-year old who suffers from a mental disability. Baginda has since moved to Britain with his family.

What the PI Saw

Balasubramaniam a/l Perumal was a free lance private investigator (PI) who had been employed by Abdul Razak Baginda in 2006 "to look after him...as apparently he was experiencing disturbances from a third party". (19) The latter had received harassing phone calls from an ASP Tan, threatening him to pay his debts. Balasubramaniam later found out that this gentleman was another private investigator employed by Altantuya Shariibuu.

According to Balasubramaniam's first statutory declaration which he affirmed on 1 July 2008, on 9 October 2006 Balasubramaniam was called to Abdul Razak Baginda's office because Altantuya was there. She had two other Mongolian women with her. They were persuaded to leave after she had left her phone number and hotel room number behind for Baginda to contact her.

The next day, the three Mongolian women returned to Baginda's office saying they wanted to meet Altantuya's "boyfriend", Abdul Razak Baginda. However, they did not enter the building. On the 11 October 2006, Altantuya returned to Baginda's office on her own and passed a note to him asking him to call her urgently. Then on 14 October 2006, Altantuya turned up again at Baginda's house in Damansara Heights and Balasubramaniam was summoned to the house. When he arrived, he saw Altantuya outside the front gates. She shouted, "Razak, bastard, come out of the house." Balasubramaniam

could not calm her down so he called the police who took her away to Brickfields police station. Balasubramaniam followed in a taxi. At Brickfields police station, Altantuya's own private investigator, a Mr. Ang arrived and they talked.

"I was told to deliver a demand to Abdul Razak Baginda for USD\$500,000 and three tickets to Mongolia, apparently as commission owed...from a deal in Paris." (20)

Balasubramaniam duly informed Baginda of the demands by Altantuya. During the conversation, Baginda informed his private investigator that he had been introduced to Altantuya by Datuk Seri Najib Tun Razak at a diamond exhibition in Singapore. (21)

Altantuya had demanded money from Baginda as she felt that she was entitled to a US\$500,000 commission on a submarine deal she had helped to clinch in Paris. On the evening of 19 October 2006, Balasubramaniam was on night duty at Baginda's house in Damansara Heights when Altantuya arrived. He SMSed Baginda to inform him that Altantuya was there. Baginda SMSed back instructing Balasubramaniam to "Delay her until my man comes". While talking to Altantuya, a red Proton aeroback arrived with a woman and two men. He learnt later that the woman was Lance Corporal Rohaniza and the men were Azilah Hadri and Sirul Azahar. They were in plain clothes. (22)

Azilah then informed Balasubramaniam that they were taking Altantuya away. They drove off with her and that was the last Balasubramaniam saw of Altantuya. The following night of 20 October 2006, Altantuya's two women friends turned up at Baginda's house enquiring the whereabouts of Altantuya. Balasubramaniam informed them that she had been arrested the night before. Two nights later, the two Mongolian women turned up again with Mr. Ang and another Mongolian woman called "Amy", who was apparently, Altantuya's cousin. They appeared to be convinced that Altantuya was being held at Baginda's house. There was a commotion so Balasubramaniam called the police, who arrived shortly in a patrol car. Another patrol car arrived later in which was the investigating officer from Dang Wangi police station who was in charge of the missing person's report lodged by one of the Mongolian women.

Balasubramaniam then called Baginda at home to inform him of the events happening at his front gate. Baginda then called back and said

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that DSP Musa Safri would be calling Balasubramaniam and the latter was to pass the handphone to the inspector from Dang Wangi police station. Balasubramaniam duly received a call on his handphone from Musa Safri and handed the phone to the Dang Wangi inspector. They spoke for three to four minutes after which the inspector told the women to disperse and to see him the next day.

In his first statutory declaration, Balasubramaniam says that he stopped working for Baginda on 26 October 2006, the day he left for Hong Kong on his own. In mid-November 2006, Balasubramaniam was arrested under S.506 of the Penal Code for criminal intimidation. He was locked up and remanded for five days but was released on police bail the third day.

At the end of November 2006, Balasubramaniam was again arrested under S.302 of the Penal Code for murder. He was locked up and remanded for seven days. At Bukit Aman, he was interrogated about an SMS he had received from Baginda on the 19 October 2006 which had read: "Delay her until my man arrives".

The police proceeded to record his statement for seven consecutive days and Balasubramaniam told all he knew about Baginda and Altantuya, including their alleged relationship with Datuk Seri Najib Abdul Razak. But when the statement was brought before him to sign, these details had been omitted!

Balasubramaniam gave evidence at the trial of Azilah, Sirul and Baginda at the Shah Alam High Court but the prosecutor did not ask him any questions concerning Altantuya's relationship with Datuk Seri Najib Abdul Razak. Nor was he questioned about the call he had received from DSP Musa Safri, whom he believed to be the aide de camp for Datuk Seri Najib Abdul Razak and/or his wife. Balasubramaniam was with Baginda at the latter's lawyer's office the day Baginda was arrested. At about 7.30 am, Baginda received an SMS from Datuk Seri Najib Abdul Razak and showed the message to both his lawyer and Balasubramaniam. It read as follows: (23)

"I am seeing IGP at 11.00am today...matter will be solved...be cool."

In his own words, Balasubramaniam's purpose in making this first statutory declaration was to: (24)

"State my disappointment at the standard of investigations conducted

by the authorities into the circumstances surrounding the murder of Altantuya Shaaribuu;

"Bring to the notice of the relevant authorities the strong possibility that there are individuals other than the 3 accused who must have played a role in the murder of Altantuya Shaaribuu;

"Persuade the relevant authorities to reopen their investigations into this case immediately so that any fresh evidence may be presented to the Court prior to submissions at the end of the prosecutions case;

"Emphasize the fact that having been a member of the Royal Malaysian Police Force for 17 years I am absolutely certain no police officer would shoot someone in the head and blow up their body without receiving specific instructions from their superiors first;

"Express my concern that should the defence not be called in the said murder trial, the accused, Azilah and Sirul will not have to swear on oath and testify as to the instructions they received and by whom they were given;

"And I make this solemn declaration conscientiously believing the same be true and by virtue of the provisions of the Statutory Declaration Act 1960."

Balasubramaniam's lawyer was Americk Singh Sindhu. Just four days after he had made the first statutory declaration, Balasubramaniam made a volte face on 4 July 2008. He called a hastily arranged press conference and in the presence of a new lawyer, he released a new statutory declaration (See Appendix). In it, he retracted all references to then Deputy Prime Minister Najib Razak, namely, paragraphs 8, 25,28,49,50 to 52: (25)

"The statements contained in paragraphs 8,25,28,49 and 50 to 52 of my statutory declaration dated 1 July 2008 are inaccurate and not the truth...I wish to retract the entire contents of my statutory declaration dated July 1, 2008. I was compelled to affirm the said statutory declaration dated July 1, 2008 under duress."

He did not name those who had purportedly forced him to sign the first declaration. As soon as he had released his new (second) statutory declaration, Balasubramaniam, together with his wife and three children went "missing". The private investigator's nephew, R.Kumaresan lodged a police report over their disappearance. (26) Criminal lawyers

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observed that private investigator P. Balasubramaniam had committed an offence for making conflicting statutory declarations (SD) in relation to the ongoing Altantuya murder trial. They also suggested that the prosecution or the defence should recall Balasubramaniam to the stand as the contents of the first SD were related to the case. Kuala Lumpur Bar criminal practice committee chairman N. Sivananthan said recalling Balasubramaniam to the witness stand was an option that could be considered:

"Although prosecution had closed its case, it can still call witnesses because the trial judge had not heard submissions from the prosecution and defence." (27)

He said Balasubramaniam should be recalled because it was for the court to find out the truth. Sivananthan said the court should allow the application to recall Balasubramaniam as his statement was relevant to the charge faced by Abdul Razak. Lawyer Karpal Singh added that Balasubramaniam should be investigated under the Penal Code. He said one cannot just make such a declaration and later withdraw it as such an act amounted to giving false evidence, an offence which carries a maximum of seven years' jail:

"I am acting on behalf on Altantuya Shaariibuu and the Mongolian government in her murder trial...The dramatic disclosure in the declaration is a serious matter which involves Malaysia's reputation." (28)

The lawyer who had taken down Balasubramaniam's first statutory declaration, Americk Singh Sidhu said it had been done voluntarily. He claimed Balasubramaniam had been "intimidated" to change his story within 24 hours. At a press conference, he said he first met Balasubramaniam two months before that when he was asked for assistance in preparing a formal document incorporating evidence that had not been presented in the Altantuya Shaariibuu murder trial. Americk said he had no reason to doubt that what Balasubramaniam told him was the truth. Americk said the statutory declaration was read in front of a commissioner for oaths, who then attested it.

"I am, therefore, extremely surprised that Balasubramaniam, in a space of 24 hours has engaged the services of another lawyer and affirmed another statutory declaration swearing the first one was untrue and that he had been forced to sign it." (29)

Americk said after the press conference they had gone back to his office where Balasubramaniam had received a call from ASP Tony who was involved in the Altantuya trial. The impression he got was that Balasubramaniam was going to meet Tony in Brickfields at 6.30pm that day. (30)

The PI Resurfaces

After disappearing for more than a year, Balasubramaniam resurfaced in November 2009 in a series of interviews and videos on blogger Raja Petra Kamaruddin's website. In the interviews Balasubramaniam detailed everything that took place after the first statutory declaration was released, why he retracted it and what he and his family had gone through since then. He claimed that he was offered RM5 million to retract his first statutory declaration that linked Datuk Seri Najib Razak to murdered Mongolian model Altantuya Shaariibuu:

"Deepak actually came to see me because he wanted me to retract my first SD... After that he offered me RM5 million for me to retract the SD," Balasubramaniam said in the video clip. (31)

On 13 January 2010, the Malaysian Anti-Corruption Commission (MACC) said that it was willing to meet private detective P. Balasubramaniam either in Malaysia or abroad to record his statement pertaining to an alleged offer of RM5mil to retract a statutory declaration (SD) that he had made.

"We are prepared to meet him anywhere ... there are no problems facilitating the meeting, back home or abroad, we will agree (to the meeting)." (32)

MACC chief commissioner Datuk Abu Kassim Mohamed said Balasubramaniam needed to come forward to give his statement as the main witness in order for comprehensive investigations to be carried out. He was commenting on developments in the investigations into a CD recording in which Balasubramaniam had alleged that he had been offered RM5mil to retract a SD he made dated 1 July 2008; that his family had been threatened; that he had received RM750,000 and RM800,000 from certain parties on separate occasions and had been forced to issue a second SD negating the first. Meanwhile, MACC deputy chief commissioner Datuk Mohd Shukri Abdull said Balasubramaniam was only a witness and not an accused, and as such,

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he need not fear assisting the investigations:

"I urge him to come to us, he need not be afraid as he is only a witness and not someone to be charged." (33)

Asked if the MACC was taking steps to track him down, Shukri said the MACC was making efforts to get a statement from him but up until then, no meeting had been arranged between the MACC and Balasubramaniam. In September 2010, the MACC finally announced that they were prepared to meet Balasubramaniam in London (34) but the public were disappointed when they gave some weak excuse about the admissibility of evidence taken abroad and instead, sent their questions to Balasubramaniam via a London cab!

SUARAM Seeks Justice and Accountability

In April 2010, SUARAM the Malaysian human rights organization made international news by seeking justice for Altantuya Shariibuu and accountability for Malaysian and French tax payers in the French courts since the Malaysian courts had failed to shed light on the murder of Altantuya and the commission paid for the submarine deal. Although two former bodyguards of the Prime Minister have been found guilty, the motives for the murder have not been probed by the Malaysian court.

SUARAM believes that there is more to the murder of Altantuya and that what is in question is millions of ringgit in commissions associated with the RM4.7 billion Scorpene submarines deal. This is costly for both Malaysian and French tax payers.

French lawyers have filed with Parisian prosecutors on behalf of SUARAM, Malaysia's leading human rights organization which has always fought for human rights and "People before Profits".

Judges in the Paris Prosecution Office have been probing a wide range of corruption charges involving similar submarine sales and the possibility of bribery and kickbacks to top officials in France, Pakistan and other countries, including Malaysia. For two years, Parisian prosecutors, led by investigating Judges Francoise Besset and Jean-Christophe Hullin, have been investigating allegations involving senior French political figures and the sales of submarines and other weaponry to governments all over the world.

This scandal is of concern also to French tax payers because it involves France's biggest defence conglomerates, the state-owned shipbuilder DCNS. DCNS's subsidiary Armaris manufactures the Scorpene submarines sold to Malaysia and other countries. SUARAM hopes the French justice system will reveal more than what has transpired in the Malaysian courts so far and force the French and Malaysian Governments to be accountable to their peoples on the submarines contract.

In December 2009, Defence Minister Ahmad Zahid Hamidi revealed in Parliament that the cost to operate Malaysia's two submarines was estimated at RM290 million annually. He said the value of the procurement contract for the two submarines was RM5.382 billion (1.084 billion euros), which included the purchase price, integrated logistics support, spare parts as well as training of the crew. The new generation diesel-powered Scorpene had been hailed as a benchmark in the world conventional submarine market; capable of operating in coastal waters and the high seas and armed with wire-guided torpedoes and Exocet SM39 sub-launched, anti-surface-ship missiles. Both submarines will be based at the naval base in Kota Kinabalu, Sabah. The Scorpenes can operate at depths of 350m for 40 days and are manned by a crew of 31. According to the ministry, the government would no longer be sending trainees to France because the submarines are already being handed over to Malaysia. The ministry further revealed that the weapons purchase for the submarines cost RM1.08 billion (219 million euros). (35)

Summary

Malaysia's most recent defence procurements, the two Scorpene submarines are also the most expensive to date at a total cost of more than RM7 billion. The scandal involving the grisly murder of a Mongolian woman, Altantuya has been linked to allegations of kickbacks of as much as RM500 million received by local Malaysian parties. The murder trial has failed to unearth the motives for the murder committed by two former bodyguards of the Defence Minister and current Prime Minister, leaving these gaps to be filled by rumours and speculation. Thus the statutory declarations of the private investigator Balasubramaniam are important documents in the case.

The French judicial system is currently investigating the veracity

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of the allegations of commission paid by the French state defence company, DCNS, which is costly for French and Malaysian tax payers. The scandal reveals the "normally opaque process" of Malaysian arms purchases and the role of political connection in these lucrative defence contracts.

CHAPTER FOUR

AN INTEGRATED AND ACCOUNTABLE MILITARY?

"Governments constantly choose between telling lies and fighting wars, with the end result always being the same. One will always lead to the other."

- Thomas Jefferson

In spite of the billions of ringgit spent on defence procurements, this chapter reveals that many of these purchases have not been thought through professionally, resulting in problems of non-integration with other systems in the armed forces, wastage, and even tragedies. The choice of defence purchases is questionable when some of the expensive equipment such as the British Hawks comprised prototypes, resulting in delays in finding spare parts and other accruing problems. Many other examples of embarrassing shortcomings and scandals uncovered by the Auditor General in the last few decades reveal non-accountability and negligence.

According to the UK-based *Campaign against the Arms Trade (CAAT)*:

"The arms trade is a deadly, corrupt business. It supports conflict and human rights abusing regimes while squandering valuable resources. It does this with the full support of governments around the world... The trade is dominated by the US, with the UK, France and Russia usually vying for second place. In 2004, the five permanent members of the UN Security Council (the above four plus China) produced 87% of the \$35 billion of arms exported." (1)

While relatively few countries sell large volumes of weaponry, the buyers are spread across the world. Some of the largest purchasers are in the Middle East, especially Saudi Arabia, and South and East Asia. The arms themselves range from fighter aircraft, helicopters

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