# SECURITY-SECTOR GOVERNANCE IN AFRICA:
# A HANDBOOK

# Editors: Nicole Ball and J. 'Kayode Fayemi

**Security Sector Governance**
**In Africa: A Handbook**




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# ACKNOWLEDGEMENTS

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# GLOSSARY

**Civil society:**  A broad range of non-state actors, including religious groups, academics, policy researchers, the media, women's groups, professional associations such as the bar association, community-based organisations, labour unions, and interested citizens.  Civil society has three critical roles to play in increasing the accountability of the security sector:  demand change, act as watchdog, and provide technical input.

**Democratic security-sector accountability:**  The security organisations are subordinate to the civil authorities in democratically constituted states, are obliged to explain their actions to the civil authorities and civil society, and are subject to sanctions for inappropriate actions or inadequately explaining their actions.

**Direct security-sector accountability:**  Members of the security organisations answer directly to all or some portion of the population of a country.

**Indirect security-sector accountability:**  Politicians and bureaucrats are held accountable for the actions of the security organisations by defining a set of democratic governance criteria against which the security organisations are to be measured.  Most security-sector accountability is indirect.

**International financial institutions (IFIs):**  International Monetary Fund, World Bank Group, and regional development banks, including the African Development Bank.

**Mano River Union:**  Intergovernmental ministerial committee comprising Guinea, Liberia and Sierra Leone with a Council of Ministers, a Joint Security Committee, a Technical Committee and a Secretariat (located in Freetown, Sierra Leone) and regional offices in Monrovia, Liberia, and Conakry, Guinea. The MRU's original focus was on promoting regional economic and trade co-operation.  In 2000, a consultation process was established to address the area of security and the objective of restoring trust between the three countries.

**Security community:**  All actors influencing the quality of democratic governance of the security sector – security sector plus non-state security organisations; and non-statutory civil society actors.

**Security sector:**  All the institutions of state responsible for securing the state and its population from fear of violence.  In this handbook, the security sector is taken as consisting of the armed forces, the police and intelligence services, the related ministries and departments, paramilitary forces, and governmental oversight organisations.

**Security-sector organisations:**  The organisations that can legally use force to protect the state and its population.

**Security-sector oversight:**  Independent scrutiny of the governance and operational issues relating to the security sector by the elected authorities, independent institutions of accountability, and civil society.

**Security-sector reform:**  Piecemeal, stand-alone changes to the security sector, often limited to doctrinal changes, operational effectiveness and cost-cutting drives, occurring as by-products of other state reform initiatives and often without "buy in" from critical stakeholders and thus subject to reversal depending on power structure of the state.  Can seek to affect relations of power like security-sector transformation, but lacking an holistic approach to change, such reforms tend to have limited effect.

**Security-sector transformation:**  A holistic change to the security sector, aimed at altering the relations of power within the sector in the direction of civil/constitutional control – to transform institutional culture, promote professionalism, improve resource utilisation and operational effectiveness (on the side of the security forces, better policy management (on the side of civil authorities), in tandem with accountability and respect for human rights and international law and involving inputs from a wide-range of stakeholders and role-players.  Implementing a security-sector transformation process involves a series of reforms, but with SST, the reforms are embedded in a broad transformation process.  With SSR, the reforms are generally not part of an holistic process.

**White paper:**  In some countries, a white paper is a policy paper.  In other countries, it can refer to annual policy implementation plans.

# ACRONYMS

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| **AU** | African Union |
| **CSBMs** | Confidence and Security-Building Measures |
| **ECOMOG** | ECOWAS Ceasefire Monitoring Group |
| **ECOWAS** | Economic Community of West African States |
| **FMIS** | Financial Management Information System |
| **IFIs** | International financial institutions |
| **IGAD** | Intergovernmental Authority on Development |
| **NEPAD** | New Partnership for Africa's Development |
| **NGO** | Non-governmental organisation |
| **OAU** | Organisation of African Unity |
| **OECD** | Organisation for Economic Cooperation and Development |
| **PCASED** | Programme for Coordination and Assistance for Security and Development |
| **SADC** | Southern African Development Community |
| **SARPCCO** | Southern African Police Chiefs Co-operation Organisation |
| **SWAPO** | South West African People's Organisation |
| **UN** | United Nations |
| **ZANU** | Zimbabwe African National Union Patriotic Front |

# 1. INTRODUCTION

## 1.1 THE CASE FOR SECURITY-SECTOR TRANSFORMATION

This handbook begins from the premise that people and states must be secure from the fear of violence at the local, national, regional and international levels if an enabling environment for sustainable political and economic development is to be created. This means both that states must be adequately protected against aggression and internal subversion and that the lives of ordinary people must not be crippled by state repression, violent conflict, or rampant criminality.

There are many ways to provide physical security. One of these is by creating security services mandated to use force to protect the state and its population. It is important for every society to ask if it needs security organisations and if so, what kind of security organisations should be created and how will these security organisations be governed?

It is particularly important for African countries to ask these questions because since the beginning of the colonial period, African security organisations have frequently been a cause of insecurity for both the state and its population, rather than a means of guaranteeing individual and collective security. African governments have often failed to abide by the rule of law in their relations with their neighbours or their own population. Many of sub-Saharan Africa's recent wars have their roots in élite attempts to protect their privileged position domestically or to undermine other African governments whose foreign policies are viewed as injurious to the ability of these élites to remain in power.

What is more, African historical experience demonstrates that if internal and external security are not viewed as two sides of the same coin, it will be difficult to create societies that function on the basis of the rule of law and protect individual security. All too often, the armed forces have been given – or have appropriated – the responsibility for guaranteeing law and order. While there are conditions under which the armed forces can provide aid to the civil power, domestic policing is not a task for which they are well suited. Attempting to assume this task can also hamper their ability to carry out other constitutionally mandated tasks, such as protecting the state. This problem has been compounded by the failure to provide police and gendarmerie forces and other portions of the public safety/criminal justice system with the resources they require to guarantee law and order. This handbook will describe how to develop a process for allocating both tasks and resources among the different security organisations that protect both the state and its population. It recognises, however, that in parts of Africa this process will take place in an environment where the state no longer has a monopoly over the means of violence.

The inability of African security organisations to provide a safe and secure environment for economic and political development arises to a large degree out of poor governance – both of the state in general and of the security sector in particular. This handbook is concerned with democratic governance of the security sector. While public-sector institutions will be a major focus of the following chapters, democratic

governance implies more than the effective and efficient management of the security sector.  It requires a legitimate, transparent, and trusted state that is accountable to its citizens.  Achieving democratic governance is a deeply political undertaking.

## 1.2   DEFINING SECURITY FOR AFRICA

Since the end of the cold war, the desirability of shifting from a state- and élite-focused view of security to one that places individuals at the centre of the security equation has gained increasing acceptance in many parts of the world.  The concept of human security – which combines elements of national security, economic development, and basic human rights with the objective of protecting people from the fear of violence – is particularly relevant in Africa (Box 1-1).  While protecting the state and its citizens from external aggression remains a consideration, the most serious threats facing countries on the African continent at the beginning of the 21st century tend to be those that either derive from internal causes or are transnational and collective in nature.[1]

Security in Africa would undeniably be served by placing people at the centre for the security equation and by finding non-violent solutions to disputes at the sub-national, national, regional and international levels.[2]   A safe and secure environment is a necessary condition for sustainable, poverty-reducing development.  In the African

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**Box 1-1.  Security Centred on People—not States**

"The international community urgently needs a new paradigm of security.  Why?  Because the security debate has changed dramatically since the inception of state security advocated in the 17th century.  According to that traditional idea, the state would monopolize the rights and means to protect its citizens.  State power and state security would be established and expanded to sustain order and peace.  But in the 21st century, both the challenges to security and its protectors have become more complex. The state remains the fundamental purveyor of security.  Yet it often fails to fulfil its security obligations—and at times has even become a source of threat to its own people.  That is why attention must now shift from the security of the state to the security of the people—to human security (box 1.1).

"Human security complements state security, enhances human rights and strengthens human development.  It seeks to protect people against a broad range of threats to individuals and communities and, further, to empower them to act on their own behalf.  And it seeks to forge a global alliance to strengthen the institutional policies that link individuals and the state—and the state with a global world.  Human security thus brings together the human elements of security, of rights, of development."

Commission on Human Security, *Security* Now, New York, 2003,, http://www.humansecurity-chs.org/finalreport/FinalReport.pdf, pp. 2, 4.

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[1]  For an approach to human security that focuses on protecting people from the fear of violence, see, for example, Human Security Network. "Report of a conference organized by the Programme for Strategic and International Studies, Graduate Institute of International Studies, Geneva, March 8-9, 2001," www.humansecuritynetwork.org/report_may2001_3-e.asp.   For an approach that comes closer to equating human security with human development, see the final report of the Commission on Human Security, http://www.humansecurity-chs.org/finalreport/FinalReport.pdf.  On Africa, see especially p. 3.

[2]  For a comparison of the state-centric view of security and the "new thinking" on security in the developing world that began to emerge in the late 1980s, see Gavin Cawthra, *Securing South Africa's*

context, it is most constructive to speak of a *peacebuilding approach to human security*.

In order to support a peacebuilding approach to security, a country's security organisations should:

- protect against external aggression;

- maintain law and order;

- counter internal threats to the constitutional order;

- participate in regional defence;

- protect borders, national waters, and airspace;

- promote foreign policy objectives, including participation in peace operations;

- support the creation of an environment conducive to poverty-reducing, environmentally sound development strategies; and

- give attention to regional/subregional issues such as AIDS, allocation of water resources, citizenship, and transnational crime and terrorism that have the potential to undermine stability.

- promote confidence and security-building measures (CSBMs).

- provide support to the civil authorities in the case of natural and man-made disasters and in the maintenance of essential and emergency services as mandated by the constitution and/or enabling legislation.

All of these activities should be carried out in a manner consistent with international humanitarian law, respect for human rights, international standards of democratic governance, and support for non-violent conflict resolution and societal reconciliation.

Adopting a peacebuilding approach to national security implies a broadening of the current security agenda in virtually every African country. It does not, however broaden that agenda so much that the traditional security organisations – the armed forces, the police, paramilitary forces such as the gendarmerie and borders guards, and the intelligence services – can justify violating one of the basic tenets of democratic governance in the security sector, namely political non-partisanship. Nor does a peacebuilding approach to human security justify security organisation involvement in the economy.

Adopting a peacebuilding approach does, however, imply the need to assess each country's security environment, including regional and international considerations, and to evaluate the structures, roles and missions of the different security organisations in the light of the primary objectives listed above. The outcome of such an assessment may be to engage in a significant restructuring of the security sector in order to maximise its capacity to protect the state and its citizens from the full range of threats identified and integrate the security sector fully into a system of democratic governance. A peacebuilding approach to human security simultaneously requires ensuring that the civil authorities have the capacity to manage and oversee the security organisations

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according to the principles of democratic governance and that the various non-state actors play their respective roles responsibly and in a manner consistent with democratic governance.

## 1.3 SECURITY-SECTOR TRANSFORMATION PROCESSES IN THE DEVELOPING WORLD

### 1.3.1 Transformation versus Reform

In both the literature and official discourse on improving security-sector governance, the process of changing the security sector is described as "security-sector reform."[3] However, reform processes tend to be incremental and relatively ineffective in dealing with significant institutional weaknesses. Reforms may change the superficial appearance of an organisation without fundamentally altering its character, culture, or the *de facto* balance of power within the organisation, as the many attempts at restructuring post-coup armed forces in Africa and Latin America have repeatedly shown.

What is more, the term "reform" has many negative political connotations in democratically-inclined communities in the developing world, especially in Africa. Politically it is often associated with the implementation of policy decisions by the executive from above without any attempt to secure the broader participation of and consultation with legislative or non-state actors. Many of the reform strategies adopted in Africa have been undertaken to legitimise unpopular regimes and have failed to alter the existing balance of power within the state or between the state and society to any meaningful extent.

Transformation, in contrast, entails a more profound intent on behalf of elected governments to ensure that the practices of the security organisations are consistent with the democracies that they serve. Countries with serious governance deficits may

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[3] For example, see Dylan Hendrickson and Andrzej Karkoszka, "The Challenges of Security-sector reform', pp. 175-201in Stockholm International Peace Research Institute, *SIPRI Yearbook 2002: Armaments, Disarmament, and International Security*, Oxford, UK: Oxford University Press, 2002; Dylan Hendrickson et. al, *Security-sector reform and Development Co-operation: A Conceptual Framework for Enhancing Policy Coherence*, report to the OECD/DAC, Paris, 2000; UK Department for International Development, *Security-sector reform and the Management of Military Expenditure: High Risks for Donors, High Returns for Development*, Report on an International Symposium, London: DFID, June 2000; Bonn International Center for Conversion, *Security-sector reform*, Brief 15, Bonn, June 2000; Malcolm Chalmers, *Security-sector reform in Developing Countries: An EU Perspective*, London: Saferworld, January 2000; and Nicole Ball, *Spreading Good Practices in Security-sector reform: Policy Options for the British Government*, London: Saferworld, December 1998. The Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) is a major exception to the use of the term "security-sector reform." In order to adequately portray the breadth of the the actors involved in supporting democratic governance of the security sector, DAC members (who include all major bilateral development assistance donors) have chosen to use the terms "security system" and "security system reform." However, the DAC notes that the terms security-sector reform and security system reform "could easily be used interchangeably…" OECD, "Security Issues and Development Co-operation: A Conceptual Framework for Enhancing Policy Coherence," *DAC Journal 2001*, p. 35.

require a fundamental transformation of relations between the civil authorities and civil society on the one hand and the security organisations on the other hand.  Such transformations should occur within a framework of democratic oversight and control (Box 1-2).

Equally important, transformation processes should be supportive of the roles and tasks that the different security organisations are mandated to execute.  They need to address four institutional aspects of each of the security organisations: its organisational character, its cultural make-up, its human resource practices and, critically, its political relationships with both the elected authorities and with the civil power.  Failure to address all four of these factors will invariably result in a failure to significantly change the fundamental character and purpose of the institution in question and reduce the likelihood that the transformation process will succeed.

Transformation processes are highly complex and for that reason are often viewed with trepidation.  The restructuring of the security sectors of many African countries, particularly those that are attempting to emerge from either an authoritarian or a violent past, demands a visionary and integrated transformational strategy capable of ensuring that the country's security institutions do not regress into previous patterns of behaviour.  In practice, shifting political priorities, resource limitations, skills deficits, weak leadership and the sheer novelty of the transformational terrain may bedevil such initiatives.

For these reasons, the very prospect of a thoroughgoing transformation may prove daunting to a country's political leadership.  This may be particularly true in post-authoritarian states where the security organisations have played an important political role in recent years and their commitment to democratic governance is uncertain.  Policy makers may thus opt for reform processes.

However, one of the clearest lessons of the past is that when problems in the security sector are approached in a piecemeal fashion, without reference to broad goals and underlying structural problems, security-sector governance is generally not

improved significantly.  Since the security organisations have contributed in no small measure to the decline of economic and political governance in much of Africa, it will not be possible to strengthen African states without adequate attention to the security sector.  Moreover, the security-sector transformation agenda is very much a human and institutional capacity-building agenda and, by definition, recognises that states seeking to implement the agenda do not have strong institutions.  (See also section 1.3.7 on "Management Capacity.")  The challenge is to identify priority activities and then to develop a step-by-step approach to the transformation process that is consistent with local capabilities.  It is in this light that transforming governments should view "preconditions" for democratic governance of the security sector (Box 1-3).  While countries with weak institutions will need to progress more slowly, the security sector must be included in general democratisation processes, as will be discussed in more detail in Chapter 2.

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**Box 1-3.  The Preconditions for Democratic Security-sector governance in Africa**

"Without rule of law, democratic constitutions, a system of checks and balances in government, or viable and functioning institutions, sound security-sector governance is impossible."

Source:  Participants in the CDD-ISS-CIP Workshop on Security-sector transformation, Dakar, Senegal, October 18-19, 2001.

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## 1.3.2  The Relevance of Good Practice

This handbook focuses on identifying and implementing good practice and key principles of democratic governance in the security sector.  One might well question the relevance of dwelling on good practice when dealing with an issue like security-sector governance where actual practice diverges significantly from good practice or where the capacity to implement good practice is extremely weak.

The purpose of starting with good practice is that it provides a clear vision of the objectives of policy reform – in this case, a democratically governed security sector under civilian leadership.  Without such a vision, it is impossible to develop either a strategy for reaching the ultimate objective or benchmarks to measure progress along the way.  It is also impossible to determine where the problems lie with existing policy and practice.  Thus, the handbook lays out a number of principles and ideal-type processes for democratic, civil management and oversight of the security sector in order to provide a point of reference against which actual practice can be measured.

- The handbook recognises that achieving the objectives laid out in the handbook will not occur rapidly.

- Rather, moving toward democratic governance in the security sector should occur at a pace consistent with the capacities of human and institutional resources in each transforming country.

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**Box 1-4.  Three Levels of Policy**

Level 1:  International norms, principles, and law

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Level 2:  National legislation and policies

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Level 3:  Implementation [legal, illegal]

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Governance in the security sector should be approached as a three-level process (Box 1-4). The first level consists of relevant international law, norms and principles. The second level consists of national legislation and policies. It is desirable for these to reflect international law, norms and principles to the greatest degree possible. In developing national laws and policies, however, it is important to recognise that there is a wide range of ways to structure national law and policies and that there is no one-size-fits-all approach.

The third level is that of implementing laws and policies. National practice may or may not reflect the two preceding levels. Some of the deviations may constitute illegal practice but many will not. Every country develops methods of addressing issues that reflect the spirit of the laws and policies of that country but that do not follow exactly the procedures specified in those laws and policies. This is true for OECD countries as well as for non-OECD countries. This is what makes it challenging to decide exactly how to affect policy in a given area and why a contextual approach is so important.

There are many examples of good practice that can be drawn from African experiences in a range of areas including developing civil control over the security sector, disengaging the military from politics, and rebuilding security organisations following conflict. To the extent possible, the handbook draws on these experiences, but, with a few exceptions, they have not yet been well documented and are therefore underrepresented in this volume.

### 1.3.3 The Principles Underlying Sound Security-Sector Governance[4]

One of the key steps in setting in motion a process of transformation is the clear and unambiguous statement of the key principles that will guide the management of the security organisations.

These guiding principles should outline

- the roles and responsibilities of the political actors, including the role of parliament;
- the oversight responsibilities of the government;
- the chain of command within the different security organisations;
- the roles and tasks envisaged for each security organisation; and
- the broad democratic principles to which the security organisations should adhere in their conduct as professionals.

It is also necessary to set out the government's responsibilities toward the security organisations clearly and unambiguously.

In particular, the government should

- provide clear political leadership to the security organisations;

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[4] Key principles of democratic governance in the security sector are discussed in Chapter 2.

- prevent political interference in the chain of command by the political leadership of the country concerned; and

- seek to provide the security organisations with adequate resources to accomplish their constitutionally designated missions.

It is important, however, that the desire to make adequate provision for the security organisations should not prevent governments from achieving a proper balance of resource allocation between various societal goals. Where resources are inadequate to enable one or more of the security services to carry out all agreed activities, it will be necessary to consider the relative risks of funding only a portion of those activities (and adjusting the plans for the relevant service accordingly) or diverting funding from another objective to enable full funding of the relevant security body.

All of these principles should be outlined in the constitution, and can be further elaborated in subordinate legislation, such as a defence act, police act or intelligence act, and reinforced through strategic reviews, security assessments, and policy papers.

### 1.3.4  The Centrality of the Policy Environment

Policy is developed and implemented in a specific context. Political, public, bureaucratic and personal factors are critically important in the formulation and implementation of policy. Any attempt to formulate new policy, revise outmoded policy, or implement polices must take account of the environment in which these activities will occur, for this context will have a decisive bearing on the success or failure of policy interventions. The importance of this fact is frequently underrated.

The degree to which the political leadership and government bureaucrats adhere to the fundamental tenets of democratic governance defines the nature of the policy environment (Box 1-5). Heads of state and government unquestionably set the tone and ethical standards for those who work in government and public service. It is not enough, however, for the head of state or government to support constitutional processes and the rule of law. It is also important that senior politicians ensure that lower-ranking politicians and bureaucrats are committed to creating effective institutions that function according to democratic principles. The legislature and other oversight organisations must also be allowed and encouraged to play their constitutionally assigned roles. Policy will be stronger and enjoy more widespread support to

**Box 1-5.  President of Namibia Accepts Constitutional Term Limitations**

In November 2001, Namibian President Sam Nujoma decided not to stand for re-election in 2004. Prior to his decision, there had been considerable speculation whether the president would seek to amend the Namibian constitution's two-term limit. According to the ruling party SWAPO's secretary general, Nujoma "wants to comply with the constitution."

As other presidential elections in Africa conducted during 2001 and 2002 demonstrated (Kenya, Madagascar, Uganda, Zambia, and Zimbabwe), institutionalizing the democratization process requires the ruling party to accept not only elections but also serious challenges to its continued tenure in the state house. Nonetheless, the Nujoma's decision to abide by constitutional provisions is an important step in strengthening Namibia's democratic institutions.

Source:  "Namibia:  Nujoma's Departure a Challenge for SWAPO," December 7, 2001, www.irrinnews.org.

the extent that civil society is involved in the formulation process.

In the past, the policy environment in African countries has been non-transparent and non-participatory.  Leaders at all levels have been unaccountable and have engaged in corrupt activities.  Power has tended to be highly concentrated in the executive branch, particularly the office of the president.  Interest in reform has often extended only to changes that have not threatened the executive's grip on power.  Considerable progress has been made since the 1980s in strengthening the rule of law and democratic governance in the continent, but considerable challenges continue to exist.

It is equally important that the transformation process does not ignore the balance of power within the security organisations, particularly the armed forces and any security body that has been politicised.  Ignoring these key actors will undermine the likelihood that significant change will occur, regardless of the intentions and consultative nature of the transformation process or the quality of the policy products that result.  It is imperative that once a security-sector transformation process is underway, the political leadership of the country make every effort to understand both the *de facto* and the *de jure* balance of power within the security services.  Many African armed forces have been notoriously factionalised, as witnessed by the innumerable coups and counter-coups experienced by African countries.  Many of these factions are, however, not necessarily anti-democratic.  Even those countries that have emerged from decades of praetorian rule possess officers within the command echelons that are constitutionally inclined and supportive of the non-partisan and professional role of the modern military.  Ghana, Lesotho, Nigeria, and South Africa provide interesting examples of this point.

The transformation of the security services needs to ensure that progressive and constitutionally-inclined officers hold those positions in the command and staff hierarchy that are essential for the long-term transformation of each institution.

In the short term, it will be particularly important to focus on such posts as:

- the chief of the defence force,

- the inspector general of police,

- the chief of the most influential military service (which in most African countries tends to be the Army),

- the most senior intelligence officers in the various intelligence organisations,

- the key operational commanders (particularly at divisional and brigade level in the armed forces), and

- the strategy and planning staffs of the various security organisations.

In the medium to long-term it is important to ensure that constitutional and professional officers control the key socialising institutions such as the planning, personnel, education and training components of the various security organisations.  Transformation efforts should also ensure that the institutional capacity of the civilian components of the head offices are strengthened and that supportive personnel from

the different security organisations are seconded to the relevant ministries to assist civilian managers with the formulation of realistic policy, planning and budgetary forecasts.   In some countries civil society organisations such as research institutes, universities or non-governmental organisations may provide an additional source of the requisite technical assistance.

### 1.3.5  The Policy Framework

Government must provide a clear policy framework within which the transformation of the security sector will be managed.[5]  These can include policy statements, security environment assessments, strategic defence and internal security reviews, concept documents, and transformation strategies.

There are a number of advantages to providing such a policy framework for both the security organisations and government.

- First, policy frameworks provide the security organisations, the government, and the population with a clear description of the purposes for which resources are being allocated to the security organisations.  In turn, they afford the security organisations a clear understanding of their roles in providing the safe and secure environment necessary for democratic development, poverty-reduction, and sustainable economic and social development.

- Second, the process of setting government priorities both within the security sector and between security and other sectors is dependent on well-articulated policies.

- Third, engaging in a participatory policy formulation process in the security sector provides an opportunity to build confidence between the security organisations and civilians.  A well-managed process can significantly defuse the often-adversarial relationship between the civil authorities and the security organisations by helping each side understand the perspectives and needs of the other and by building personal and professional relationships necessary for the effective management of security affairs.

- Fourth, a participatory policy development process that includes a wide range of non-security actors removes decision-making on the management and oversight of this sector from the hands of a small group of technocrats, enabling the broader implications of security policy to be given adequate weight.

- Fifth, if correctly managed, such processes can bestow considerable legitimacy on both the security organisations and the government in managing the country's civil-security sector relations.

- Finally, a well-managed policy development process can strengthen democratic governance, by reaffirming democratic norms and principles such as the rule of law and civil oversight and by helping to inculcate democratic behaviour.

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[5] The process of developing and implementing security-sector policy is discussed in Chapter 4.

### 1.3.6  Prioritising Needs

Another central government responsibility involves identifying the key strategic areas that require immediate attention during the security-sector transformation process.  Given the immensity of major transformational initiatives, the issues which transformation processes are called upon to address, and the limited institutional capacity to deal with these issues, it is imperative that realistic, and sustainable, interventions are made.  From a consideration of security-sector transformation processes that are in various stages of completion in Africa (for example, Democratic Republic of the Congo, Lesotho, Mozambique, Namibia, Nigeria, Sierra Leone, South Africa, Uganda, Zimbabwe, and possibly Burundi), it is apparent that a generic set of issues present themselves for immediate consideration in the management of such processes.

These include:

- Creating the political will necessary to engage in significant transformation of the security sector;

- Building capacity among parliamentary oversight committees and other civil management and oversight actors such as the ministry of finance, the office of the auditor general, the ministry of defence, the ministry of interior/home affairs;

- Developing a clear policy framework within which the relationship between the security organisations and the civil authorities can be both articulated and managed;

- Managing critical human resource issues confronting the security organisations, such as downsizing, institution of equity programmes in the recruitment and promotion policies of the various security organisations and transformation of the leadership, command and management culture of those forces;

- Re-professionalising the security organisations, including the separation of civil policing and external defence functions and reorienting the intelligence services to protect the state and its population rather than political élites; and

- Preparing the security organisations for new roles and tasks (peace missions, military aid to the civil community, or combating transnational crime, for example).

Prioritising these issues is not intended to undervalue other pertinent transformational issues such as the involvement of the security organisations in truth and reconciliation processes or the transformation of the education and training institutions.  Making progress in these priority areas will, however, create an enabling environment within which the longer-term transformation of the institution can proceed.

### 1.3.7  Management Capacity

It is also necessary to undertake a realistic appraisal of the capacity of the security organisations and the civil authorities to manage and implement ambitious security-sector transformation initiatives.  Well-intentioned policy that has not taken into account the resource constraints, institutional limitations, human-resource limitations and political priorities of the country concerned will act as no more than visions with little

long-term, operational utility.   As Box 1-6 suggests, the managerial capacity of the civil authorities is quite weak in many parts of Africa, making this an issue that must be addressed as a matter of priority.

Developing and implementing viable transformation strategies requires:

- Particular attention to capacity building;

- Realistic plans that can be implemented with available human, institutional, and financial resources;

- Prioritisation of issues to be addressed;

- Comprehensive "force-field analysis" of the capabilities of the organisation(s) to be transformed.

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**Box 1-6.  Civil-Military Imbalances in SADC Countries**

"Comparative studies of the organizational structures of the ministries responsible for defence in the [SADC] region show that some of them still have inadequate institutional arrangements for stable civil-military relations.  In some defence ministries, the military [are] dominant and civilians hardly make any meaningful contribution to defence policy formulation and financial control.  The military principals, the chiefs of defence forces or force commanders, do not have civilian counterparts or Principal Secretaries to jointly plan, coordinate and execute policy."

Source:  Erastus I. Negonga, "Namibian Civil-Military Relations in the New Millennium:  Prospects and Challenges," Prepared for the ISS Security-sector transformation Project, August 15, 2001.

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## 1.4   THE HANDBOOK

### 1.4.1  Audience

This handbook provides guidance on undertaking a process of security-sector transformation consistent with democratic governance principles and a human security agenda.  It is primarily intended for security-sector practitioners both in the security organisations and among the civil authorities charged with managing and monitoring the activities of the security organisations.  It is secondarily intended to assist policy makers, civil society, and those agencies that provide financial and technical support to efforts to strengthen security-sector governance in understanding the issues involved in a transformation process.

### 1.4.2  Content

Chapter 2 identifies the potential security universe in a country and provides brief descriptions of each main group of actors.  It argues that all actors – official and non-official – that affect the governance of the security sector need to be engaged if democratic governance of the security sector is to be achieved.  The five main categories of actors are:  1) organisations authorised to use force; 2) civil management and oversight organisations; 3) judicial, penal and public safety organisations; 4) non-state security; and 5) civil society actors.

Chapter 3 outlines the requirements of security in a democracy. The essence of the transformation of the security sector is the process of aligning the sector with core values, principles and practices of democratic governance. In addition to explaining the importance of democratic governance, the chapter discusses: 1) the legal basis of the security sector; 2) transparency in the security sector; 3) security-sector accountability; and 4) oversight of the security sector.

Chapter 4 discusses generic aspects of policy development and implementation. It explains why policy is important, and examines the political dimensions of the policy process. It also offers some observations on the context in which policies are developed and implemented. Finally, it discusses the policy management process and describes its application in the security sector, focusing on seven key issues: 1) the importance of human and institutional capacity; 2) policy communication, dialogue, and debate; 3) policy analysis; 4) factors influencing the decision to conduct a major policy review; 5) policy development; 6) policy implementation; and 7) oversight.

Chapter 5 reviews the principles underlying financial management in the security sector. A central premise of this chapter is that, from a public policy and process perspective, the security sector shares many of the characteristics of other sectors and that the citizens of any country will benefit from a security sector that is subject to the same broad set of rules and procedures of other sectors. The chapter describes how this process can take place in the security sector in a manner that is consistent with democratic, civil control of the security sector. It also examines a number of issues relating to reform of the budgeting process that are especially relevant in the security sector.

Chapter 6 examines security-sector reform from a regional perspective. It starts by providing the context of regionalism in Africa as a background. It then explains how democratic governance in the security sector fits within regional security arrangements in Africa. The chapter also discusses harmonisation and monitoring of security-sector governance within regional security arrangements, and provides examples of African regional initiatives where security-sector governance is beginning to show some promise and relevance. The chapter concludes by discussing the role of "regional hegemons" in the incorporation of security-sector reform into the regional agenda.

Chapter 7 describes six major challenges facing African governments, African civil society and external actors in transforming the continent's security sectors that define the context in which security-sector transformation takes place: 1) transforming the security sector in a country without a tradition of democratic norms and practice; 2) understanding the political context of transformation; 3) moving beyond the defence sector; 4) a highly limited knowledge base; 5) finding acceptable limits to state secrecy while respecting the need for confidentiality in certain areas, and 6) finding the appropriate balance between democratic accountability and control on the one hand and security sector professionalism and discipline on the other hand.

### 1.4.3  Use

This handbook describes critical processes and institutional relations that must come into being if the countries of sub-Saharan Africa are to develop democratic governance practices in the security sector and if external actors are to provide meaningful support to these efforts.  Although it includes examples of good practice on a range of issues throughout the security sector, the handbook is not in a position to provide definitive guidance on how best to approach security-sector transformation in sub-Saharan Africa.  Rather, it aims to be a tool for promoting dialogue within the continent – nationally, regionally, and cross-regionally – as well as between external actors and African governments and civil society on concrete ways to enhance good governance in the security sector that are consistent with African traditions and experience.  It is hoped that the handbook will encourage similar efforts at the national level, tailored to meet the specific needs of individual countries.

# CHAPTER 2

# THE MAJOR SECURITY ACTORS

**AIM**

This chapter identifies the potential security universe in a country and provides brief descriptions of each main group of actors. Security-sector transformation processes often focus extensively on the security organisations, secondarily on the civil oversight actors, and only rarely on the other actors within the broad security community. This chapter argues that all actors – official and non-official – that affect the governance of the security sector need to be engaged if democratic governance of the security sector is to be achieved.

Section 2.1 identifies five categories of actors that influence the quality of democratic governance in the security sector: 1) organisations authorised to use force; 2) judicial and public safety organisations; 3) civil management and oversight organisations; 4) non-state security organisations; and 5) non-statutory civil society actors. Section 2.2. discusses the actors legally mandated to use force. Section 2.3 examines the judicial and public safety organisations. Section 2.4 looks at the civil management and oversight organisations. Section 2.5 reviews the non-state security organisations and section 2.6 discusses the roles of civil society actors. Section 2.7 considers regional actors.

## 2.1 FIVE KEY ACTORS

There are five categories of actors that affect the quality of democratic governance in the security sector: 1) organisations authorised to use force; 2) civil management and oversight organisations; 3) judicial, penal and public safety organisations; 4) non-state security; and 5) civil society actors (Figure 2-1). The first three are generally seen to have a formal role in contributing to security and are often called "the security sector." In addition, there are a number of other actors that influence the content and implementation of security policy in Africa. These can be divided into two main groups: non-state security organisations and civil society organisations. Box 2-1 lists the actors most commonly found in each category. The exact composition of any group of security-related actors will vary from country to country. The basic principle, however, remains the same: all actors that have, or should have, an impact on democratic governance of the security sector must be included.

## 2.2 ORGANISATIONS LEGALLY MANDATED TO USE FORCE

Discussions about security in Africa tend to focus on the role of the military, which is charged with protecting the state, and particularly the army. This reflects the widespread, but by no means universal, tendency to favor the military, especially the army, in resource allocation. It is also a manifestation of the direct and indirect

**Figure 2-1. Actors Influencing Democratic Governance of the Security Sector**

1. Bodies mandated to use force
2. Justice and public security bodies
3. Civil management and oversight bodies

→ Security Sector + 4. Nonstate security bodies 5. Nonstatutory civil society organizations = Actors influencing democratic governance of the security sector
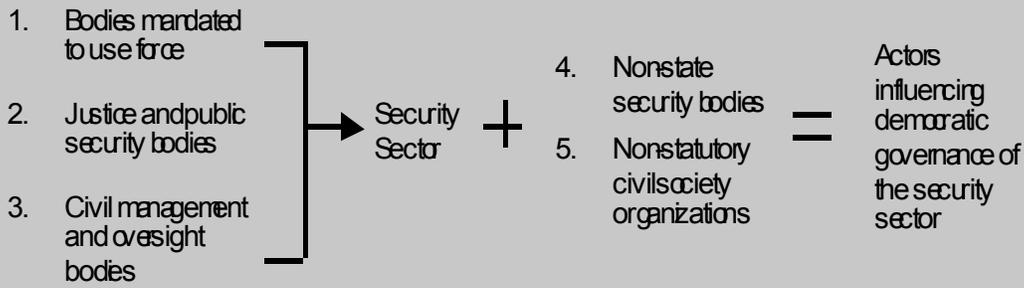
influence that the armed forces have often exerted over political life in African states.

A peacebuilding approach to security, however, draws attention to the fact that achieving security for states and their populations is not a task that the army or even the military can accomplish by themselves. Other state organisations that are mandated to ensure the safety of the state and its citizens such as the police, the gendarmerie, civilian and military intelligence, border and coast guards, secret services and customs enforcement entities need to be part of the equation. In some countries, the influence, prestige, and capabilities of paramilitary forces or intelligence services outweigh those of the military, and one or more of them may receive the lion's share of resources.

One security body that consistently receives little consideration and generally has very low prestige is African police services. This is highly problematic, since an effective police service capable of ensuring public safety while respecting human rights

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**Box 2-1. Five Major Categories of Actors Influencing Security-Sector Governance**

- **Organisations legally mandated to use force:** armed forces; police; paramilitary forces; gendarmeries; intelligence services (including both military and civilian agencies); secret services; coast guards; border guards; customs authorities; reserve or local security units (national guards, presidential guards, militias, etc.).

- **Judicial and public safety bodies:** judiciary; justice ministries; defence attorneys; prisons; criminal investigation and prosecution services; human rights commissions and ombudsmen; correctional services; customary and traditional justice systems.

- **Civil management and oversight bodies:** president/prime minister; national security advisory bodies; legislature and legislative select committees; ministries of defence, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit & planning units); and statutory civil society organizations (civilian review boards and public complaints commissions).

- **Non-state security organisations:** liberation armies, guerrilla armies, traditional militias, political party militias, private security companies, civil defence forces, local and international criminal groups.

- **Non-statutory civil society bodies:** professional organizations, including trade unions; research/policy analysis organizations; advocacy organizations; the media; religious organizations; non-governmental organizations; concerned public.

Source: Based on "Enhancing Democratic Governance of the Security Sector: An Institutional Assessment Framework," The Hague: Clingendael Institute for the Netherlands Ministry of Foreign Affairs, 2003.

is an essential element of a peacebuilding approach to security.  In many countries, police services are only beginning to develop a culture of service to the public and an understanding of the concept of policing by consent of the people.  Thus, much more attention to the tasking and orientation of African police services is warranted.

As far as tasking is concerned, the distinction between the functions carried out by the military and other defence forces and those carried out by the police is blurred in many African countries.  Defence forces have been tasked to carry out internal security-related activities, and police services have been militarised or actually placed under the control of the military.  The line dividing police services and non-state security organisations is also unclear throughout the continent.  There are increasing numbers of private firms, citizens groups and other non-state actors engaged in policing-type activities.  This can range from patrolling neighbourhoods to the extra-judicial "arrests" and even "sentencing" of perceived criminals.

Another complicating factor is that in most countries the police have not received adequate resources to enable them to carry out their public-safety functions effectively.  This does not mean, however, that the defence forces have necessarily been adequately resourced.  Throughout the continent there is a mismatch between objective security needs, the tasks assigned the security organisations, and financial resources that urgently needs to be resolved.  In doing so, the failure to engage with the full range of defence and intelligence actors runs the risk of jeopardising efforts to strengthen overall governance, achieve human development, and make the most effective and efficient use of state resources.

Box 2-2 outlines four key transformation principles that should be borne in mind by governments and security organisations alike in order to maximise state and personal security.

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**Box 2- 2.  Good Practice:  Maximising State and Personal Security**

- The roles that each of the security actors plays must be well-defined and transparent.
- The security organisations themselves must be professional.
- The security organisations must adhere to international law and democratic governance practices, including their accountability to legitimate civil authorities.
- The security organisations must also avoid involvement in the economy or political life of the country.

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## 2.3   JUSTICE AND PUBLIC SAFETY ORGANISATIONS

Efforts to reform police services in Africa and elsewhere during the 1990s led to the realisation that public safety and security is dependent on the effective and efficient functioning of the entire criminal justice system:  the police, the prosecutors, the judiciary and the correction system.  Strengthening the capacity of the police to carry out criminal investigations, for example, is of little consequence if the accused are released from jail for political reasons.  If the judiciary does not itself abide by the rule of law, it is more difficult to make the case that the police or prison officials need to protect the civil and human rights of those suspected, accused, or found guilty of crimes.  It is

therefore important to supplement efforts to strengthen the democratic governance of the police service with parallel efforts to transform the judiciary and the correction system.

The judiciary is not only a key component of effective enforcement of societal laws. It also has a major role to play in ensuring that the principles and norms of democratic governance of the security sector as reflected in international and national legislation and other binding agreements are adhered to. Constitutional courts, for example, should evaluate the constitutionality of the president or cabinet as commander-in-chief of the armed forces and interpret the constitutionality of laws relating to the security sector. The criminal justice system should judge the lawfulness of the behaviour of security organisation personnel. For this, a functioning, independent and well-resourced civil judiciary that is not subordinate to justice systems in the security sector is essential (Box 2-3).

> **Box 2-3. Good Practice: Relationship between Civil and Military Justice Systems**
>
> The civil judiciary should not be subordinate to justice systems in the security sector. For example, where military justice systems exist, they should be limited to matters that are clearly internal to the armed forces and verdicts should be subject to repeal in civilian courts. Without this subordination to the civil judiciary system, violations of human rights and other norms such as anti-corruption may be punished differently from those in other sectors, or not at all.

Different countries and jurisdictions structure justice system institutions in different ways. In large degree, structure depends on the nature of the state. The more centralised the political system, the more likely it is that criminal justice functions will be funded and administered by national-level agencies. Federal political systems will give more authority and funding responsibility to local- or provincial/state-level agencies. This underscores the fact that there is no "one-size fits all" solution to the question of how to structure criminal justice systems.

Even more importantly, there are very widely different policies, procedures and practices that govern the judiciary and the correction system in across Africa. African states also face the need to incorporate traditional systems of justice into their formal legal systems, which essentially reflect European and international law.

Despite these contextual conditions, most criminal justice systems in Africa, and indeed around the world, share four core objectives:

- Crime prevention
- Investigation and prosecution of crimes
- Adjudication of criminal cases, and
- Punishment and rehabilitation of offenders.

Correctional services frequently receive the least attention of all justice and law enforcement organizations in transformation processes despite the need for improvement in the material conditions in prisons, the protection of the rights of convicted offenders, and the need to find alternatives to jail sentences as punishment for crimes. In common with many other countries throughout the world, correctional

systems in Africa suffer under the burden of inadequate financial, material and human resources.  This makes identifying low-cost, effective means of punishing and rehabilitating offenders a high priority.   Box 2-4 describes some elements of a community service alternative to incarceration developed in Zimbabwe in the mid-1990s.

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**Box 2-4.  Good Practice:  Guidelines for Zimbabwean Magistrates Sentencing Offenders to Community Service**

In 1992, legislation was approved in Zimbabwe that provided various alternatives to jail sentences for individuals convicted of violating the law.  One of those alternatives was community service. Within four years, community service became an integral part of the sentencing process in Zimbabwe.  Some 18,000 individuals were sentenced to community service.  Approximately 90 percent of them successfully completed their community service.  The remaining 10 percent were referred back to the courts, rearrested or dealt with in some other way.

In order to ensure a uniform approach to sentencing offenders to community service, guidelines for magistrates were developed.  Some of key guidelines are:

a. Community service is not intended for the serious or persistent offender. Offences such as murder, rape, armed robbery, theft of motor vehicle, theft of bovine and a few others are specifically excluded.

b. As community service is a community-based sanction, all courts are urged to exercise caution. This is more so in the case of Zimbabwe where the implementation and supervision relies to a large extent on volunteers. The need to avoid creating a wrong impression in the minds of the public and of maintaining public confidence in the scheme is stressed.

c. Most importantly, the guidelines provide that where a sentence of imprisonment of 12 months or less is warranted then community service should be considered in such cases. Community service is not to be considered for offences attracting effective imprisonment of more than 12 months.

d. Even if a particular case falls within the 12-month guideline, the need for a proper enquiry is stressed. Thus for example an offender who has several previous convictions or does not have a fixed abode is not eligible for community service. The guidelines also stress the need for an offender to perform his community service as near to his place of residence as is possible. This is done to minimize hardship on the offender and obviate the possibility of the offender defaulting on account of lack of means. In practice most offenders do not travel long distances in order to carry out community service, even in the rural areas.

e. To ensure uniformity, the guidelines recommend 35 hours of community service for each month imprisonment. This formula was developed by taking into account the experience of other countries and the experience of trial magistrates who impose the orders. The maximum number of hours in 1998 was 420 hours, equivalent to 12 months in jail.

f. This formula is not mandatory.  Magistrates are urged to follow it but can deviate on good cause shown e.g. a lower number of hours can be ordered to suit the circumstances of a particular offender such as a person of advanced age or an employed person who can only carry out community service after normal working hours or during weekends.

g. In cases where the offender is genuinely unable to pay a fine and becomes liable to serve an alternative prison term, community service should also be considered.

The guidelines also suggest appropriate wording of community service orders.

Source:   Justice Paddington Garwe, "The Zimbabwe Community Service Scheme," Speech delivered at the international symposium, "Beyond Prisons," held in Kingston, Ontario, March 1998, http://www.csc-scc.gc.ca/text/forum/bprisons/speeches/10_e.shtml.

## 2.4   CIVIL MANAGEMENT AND OVERSIGHT ORGANISATIONS

Just as it is insufficient to focus on the military to the exclusion of other organisations legally mandated to use force or on the police to the exclusion of other components of the criminal justice system, providing security for the state and its population is not the sole preserve of the security organisations.  Democratic governance of the security sector requires an active role for the civil authorities that manage and monitor the security organisations.  The security of both the state and its population will be maximised to the extent that the security organisations are subordinate to democratically elected civil authorities.  One of the major constraints on achieving democratic security-sector governance across the African continent has been restrictions on the ability of the civil authorities to manage and oversee the activities of the organisations that are legally mandated to use force to protect the state and its population.  (Oversight is discussed in more detail in section 3.5.)

To some extent, these problems arise from a lack of capacity among the civil authorities, which can be remedied over time by a variety of educational, training, and mentoring programmes.  At the same, many of these problems will not be overcome until the long history of unaccountable government, executive dominance, and political involvement by the security organisations throughout the continent is adequately dealt with.  Many African governments have taken or are in the process of taking the difficult political decisions necessary to change this state of affairs, but considerable hard work lies ahead.

Both the executive branch and the legislature should be involved in the formulation and implementation of security policy.  In most African countries, formal security policies are poorly developed or non-existent, as are the plans for implementing security policies.  Where formal policies and plans do exist, it is rare for the full range of executive and legislative branch actors to have been involved in their development.  Furthermore, implementation is generally weak.  Often, the security organisations themselves assume responsibility for developing policy.  (Managing the policy process is discussed in Chapter 4.)

Financial management of the security sector is another problem area, as it generally does not conform to international practice.  The central actors in policy development and management include the ministries of defence, interior/home affairs, and foreign affairs; office of the president/prime minister; cabinet office; and national security adviser.  The ministry of finance, the security organisations, the legislature, and civil society have important consultative roles.  (Managing financial resources is discussed in Chapter 5.)

The legislature, which is one of the most important civil oversight organisations and has several important roles to play in monitoring the implementation of security policy, faces special challenges in countries with a history of executive dominance and rule by the security organisations.  As members of various oversight committees, legislators vet policies developed by the executive branch and assess the way in which these policies are implemented.  Legislators hold the power of the purse, and must approve budgets and monitor their implementation.  Their responsibilities may also include a role in the appointment of senior security organisation personnel and in

shaping and approving legislation.  Additionally, the legislature exerts varying degrees of control over the executive's ability to wage war.

The government's auditor-general is another important oversight actor, as are the public protector, ombudsmen, constitutional courts, anti-corruption and public accountability organisations.  Auditors-general are often thought of in terms of financial oversight, but they can also offer objective assessments of policy and its implementation (Box 2-5).  All of these actors are members of the security sector and should be part of any transformation process.  All too often, they are sidelined, both in terms of their involvement in the transformation of the security organisations and other key members of the security sector, such as the ministry of defence or the ministry of interior, and in terms of modernising and democratising their own structures and functions.

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**Box 2-5.  Good Practice:  Functions of the Auditor General**

"Regardless of whether it falls under the Executive, the Legislature or the Judiciary, it is imperative for the Audit Office to be completely independent and truly autonomous.  It should also dispose of adequate resources to accomplish its mission.  Its function is three-fold:

Financial oversight

The Audit Office must verify the accuracy, reliability and thoroughness of the finances of all organs of the Executive and public departments.  It must verify that all financial operations are carried out in accordance with the regulations on public funds.  Within the context of this oversight function, the Audit Office must fulfil a mission of jurisdiction with regard to public accountants and officials who authorize payments.  They must all be made accountable for the money they handle save in the case of a discharge or release of responsibility.  In cases of misappropriation or corruption, the Audit Office is duty-bound to report its findings to the judiciary.

Legal oversight

The Audit Office must verify that all public expenditure and income are conducted in accordance with the law governing the budget.

Ensuring proper use of public funds

A modern Audit Office which functions in the interest of good governance should ensure the proper use of public funds on the basis of the three following criteria:

   (i)   *Value for money*:  ensure that the resources used were put to optimal use, both qualitatively and quantitatively;

   (ii)   *Effective*:  measure to what extent objectives and aims were met;

   (iii)   *Efficient*:  measures whether the resources used were used optimally to obtain the results obtained.

This *ex-post* oversight is conducted on the initiative of the Audit Office or at the request of Parliament."

Source:  *General Report on the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective*, Bamako, Mali, November 2001, cited in Geneva Centre for the Democratic Control of Armed Forces and Inter-Parliamentary Union, *Parliamentary Oversight of the Security Sector :  Principles, Mechanisms and Practices*, Handbook for Parliamentarians No. 5 – 2003, pp. 141-142.

## 2.5  NON-STATE SECURITY ORGANISATIONS

While efforts to improve the quality of democratic governance of the security sector correctly focus on official actors with the mandate to use force to protect the state and its population, the role played by non-state security organisations cannot be ignored.  Often, the activities – or even the very existence – of these actors points up deficits in the formal security sector.  Some of the more common forms of non-state security organisations are:  liberation armies, guerrilla armies, traditional militias, informal militias, political party militias, private security companies, civil defence forces, and local and international criminal groups.

### 2.5.1  Reasons for the Rise in Non-State Actors

Non-state security organisations have proliferated in Africa since the late 1980s.  There are several central reasons for this phenomenon that relate directly to the quality of democratic security-sector governance:

- armed conflicts that increasingly take on regional dimensions

- ineffective state security organisations

- growth of crime, both domestically and transnationally

- regime protection

***Armed conflicts.***  The importance of non-state actors in Africa has been underscored by armed conflicts such as those in Angola, the Democratic Republic of the Congo, Liberia, and Sierra Leone where the ability to provide the safe and secure environment necessary for human security and human development has been compromised by the activities of a variety of non-state security actors such as armed opposition groups, other informal security organisations, and private security firms.  While domestic groups, often backed by regional governments or financed through the sale of natural resources facilitated by foreign middlemen and international companies, are responsible for most of the actual fighting, private security firms have received considerable attention because of human rights abuses and lucrative contracts which plunder the natural resources in exchange for various security-related services.  The South African firm Executive Outcomes, which gained notoriety because of its involvement in Sierra Leone, is but one example of the international firms led by former military officers from a variety of countries around the world that have been involved in one way or another in African wars.

***Ineffective state security organisations.***  Domestically, the inability of the state to protect its population or segments of the population against violence has led to the rise a wide variety of local militia-type groups and private security firms.  In some countries, privately-employed security officers significantly outnumber uniformed police officers.  In 2000, for example, South Africa counted 216,000 private security officers compared with 90,000 uniformed members of the South African Police Service.[6]  The

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[6] Martin Schönteich, "Guarding the Guardians:  New Regulations for the Private Security Industry," www.iss.co.za.

proliferation of private security firms operating both domestically and internationally has created some impetus to attempt to regulate such organisations.  Box 2-6 describes some of the highlights of the South African legislation governing "security service providers."

Private enterprise, wealthy citizens, and the international community are especially likely to purchase private protection.  The poor are more likely to turn to "self-help" justice, including vigilantism.  The Bakassi Boys in Nigeria, for example, emerged from the inability of the police in the city of Aba, in the eastern part of the country, to protect traders against crime.  From the beginning its members have engaged in extra-judicial killings of suspected criminals.  The Bakassi Boys nonetheless became popular because its actions succeeded in reducing crime rates in a number of areas and because of serious problems with the capacity of the police and the court system to provide justice.  Over time, the "services" its members provide have grown to include adjudication of a wide range of civil matters such as marital and other family problems or unpaid debts.  While there is no doubt that these services are needed, there is no accountability, despite – or perhaps because of – the Bakassi Boys relationships with several state governments in southeastern Nigeria.  The members of the Bakassi Boys have increasingly acted with impunity, and allegations of politically motivated activities have escalated.  While the Bakassi Boys represent one extreme of non-state involvement in the criminal justice system, a diverse group of Nigerian non-state actors – traders associations, guilds, religious bodies, community associations, for example – have become involved in settling disputes among their members.[7]

**Growth of crime.**  Crime is also growing in many parts of Africa.  In surveys of poor people's concerns, worries about physical violence generally rank high. For instance, participatory poverty assessments conducted by the World Bank and others

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[7] Ukoha Ukiwo, "*Deus ex Machina* or Frankenstein Monster?  The Changing Roles of Bakassi Boys in Eastern Nigeria," *Democracy & Development*, vol. 3, no. 1 (2002):39-51.

have found that crime and violence are among the primary concerns of the poor. Criminals are increasingly well organised and well armed, but can also include loose, changing associations of individuals, including businessmen and corrupt public officials, as well as career criminals.  Criminal groups are spreading beyond national boundaries. The inability of the state to combat criminality contributes in no small measure to the growth of this violence.  As Box 2-7 demonstrates, the regionalisation of crime is rapidly outstripping the capacity of national governments to take effective action and protect their populations.   (See also section 2.6 on regional actors.)

*Regime protection.*  The desire of governments to remain in power has also often led to the use of informal security organisations, including state-sponsored paramilitary groups and political party security cells, to repress opponents and perceived opponents.  In Zimbabwe, for example, youth militias have been a mainstay of ZANU's campaign strategy since the first post-independence election.  For the 2002 presidential election, they were supplemented by gangs of "war veterans" who terrorised and forcibly displaced both white landowners and their black farm workers.

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**Box 2-7.  Regionalisation of Crime in Southern Africa**

"Not only are organised criminal groups engaged in a wide variety of criminal activities, but the responses also indicate that crossborder criminal activities are extensive…. For example, Botswana, a country with a relatively small population of 1,576,470, and a criminal investigation department consisting of about 600 detectives during 2000, indicated that, of the 34 categories of crimes listed in the questionnaire, 20 involved crossborder or transnational organised criminal activities. Politically and economically, Botswana has been one of the most stable SADC countries during the past two decades.  It has been better placed than most SADC countries to make resources available for combating crime and has developed a good track record in this regard. However, even if it was able to devote more resources towards the combating of organised crime, Botswana will find it very difficult to curb organised crime without the more extensive involvement of other countries in the region.

Peter Gastrow , *Organised Crime in the SADC Region:  Police Perceptions*, ISS Monograph no. 60, Pretoria: Institute for Security Studies, August 2001, www.iss.co.za.

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### 2.5.2  Impact of Non-State Security Organisations

In principle, some of these non-state actors could strengthen state or individual security.  If the state is unable to ensure adequate policing capacity, individuals may be more secure if they are able to call on the services of a private security company or an informal, community-based group.  The privatisation of public sector functions may also result in a greater reliance on private security firms for a range of security-related activities.  Private firms could take responsibility for security at government facilities, guarding strategic assets, assisting in recruiting and training security personnel, and patrolling public areas.  To the extent that these activities are carried out professionally and the companies are regulated to ensure accountability to the state and the public, the chances that security will be strengthened increase and the negative behaviours associated with non-statutory security actors are minimised.

Such regulation is, however, difficult to achieve. Even the South African government which has passed several laws aimed at regulating mercenary activities, foreign military assistance and security service providers since the late 1990s has had difficulty in enforcing these laws. No other African country, however, has similar legislation or regulatory capacity, making the potential for abuses that much greater elsewhere on the African continent. The domestic activities of private security firms may be easier to monitor than the activities of mercenaries or other security actors abroad, but most African countries lack the capacity to undertake effective domestic monitoring.

Some actors are not amenable to regulation, however. Armed opposition groups must either be defeated militarily or their grievances addressed through a political process. Efforts to negotiate with the Revolutionary United Front (RUF) in Sierra Leone, for example, were mostly unsuccessful, despite the RUF signature on peace agreements. While some members of the RUF were willing to follow the political path, it was still necessary to dominate the group militarily. Private security groups and local militias that are created to provide security in an environment where the state is unable to do so will continue to exist, irrespective of state policy, until the underlying problems such as weak state security institutions, state bias and preferential treatment, and fiscal crisis are overcome. Paramilitary groups created by governments or ruling parties to help strengthen their grasp on power will continue to exist until significant political changes occur.

## 2.6   CIVIL SOCIETY ACTORS

Civil society consists of a broad range of non-state actors, including religious groups, academics, policy researchers, the media, women's groups, professional associations such as the bar association, community-based organisations and interested citizens. Civil society has three critical roles to play in increasing the accountability of the security sector: demand change, act as watchdog, and provide technical input.

Civil society can play an important role in monitoring the development and application of security policy and the activities of the security organisations. These watchdog activities can take various forms, such as membership in community advisory/oversight boards, independent monitoring/analysis of the activities of security organisations, and dissemination of information about security policies and their implementation to a broader public. Such activities are meant not only to challenge government policies, but also to inform the debate and provide useful input into the decision-making process. Independent civil society actors have made an important contribution to security-sector transformation in countries such as Sierra Leone, South Africa, and Uganda.

Civil society can also act as an important resource for the security community in a more formal sense. Most fundamentally, civil society can provide a pool of knowledgeable individuals to staff government positions in relevant agencies. Civilians can staff review boards and other oversight bodies and provide training to members of the security organisations and civil oversight bodies. Box 2-8 describes how citizen

advisory committees can improve correctional services.  Civil society can also bolster government's knowledge base by providing input on a broad range of topics, ranging from overall defence policy, expenditure and procurement proposals to the human rights record of the security organisations.

While there is sometimes an assumption that, by definition, civil society organisations support a peacebuilding approach to security, that is not always the case. Opinions on security policy are as diverse within civil society as they are within government circles.  Civil society groups can become politicised and promote divisions within society rather than seeking ways of overcoming disagreements and disputes and reaching compromise, or they can simply fail to accept the need for responsible behaviour.  For example, the media can act both as a source of information and disinformation and can foster productive national debate on security issues or strengthen divisions within society.

Civil society can also consciously avoid addressing security-related issues, because it would require them to interact directly with the security organisations, which some members of civil society find distasteful.  For example, professional organisations, which during the 1980s constituted the majority of civil society organisations in the Mano River Union countries, especially Liberia, avoided dealing with governance problems of all sorts because these were deemed "political" and thus off-limits for these groups.  Human-rights and other civil society groups in many parts of Africa remain highly suspicious of government and the security organisations and find it difficult to engage in debates on security-related reforms and policies.  Nonetheless, civil society organisations in a growing number of African countries are engaged in a range of security-sector governance activities, including monitoring, research, training, dialogue promotion and facilitation activities.

## 2.7  REGIONAL ACTORS

Although not part of the community of national actors that influence the quality of security-sector governance, regional and multilateral actors are part of the security landscape in Africa and can affect the quality of security-sector governance at the national level.  (Chapter 6 discusses the impact of regional actors on security-sector governance and outlines a number of factors central to efforts to entrench security-sector governance in regional bodies.)  As at the national level, the relevant external

actors include both official actors and civil society organisations. Among the official actors there are both broad based organisations such as the United Nations, the African Union, ECOWAS, SADC, and IGAD and more narrowly focused groups such as the Southern African Police Chiefs Co-operation Organisation (SARPCO).

Regional actors have become increasingly important as the regional nature of many of the security problems confronting Africa has become clearer. The wars in Sierra Leone, Liberia and the Congo will not be resolved without regional approaches. The land crisis in Zimbabwe has potentially explosive implications for other countries in Southern Africa such as Malawi and South Africa. Cross-border criminal activities – such as smuggling vehicles, narcotics and firearms and illegal immigration – have grown in magnitude through sub-Saharan Africa.

These growing regional problems have begun to produce regional responses. Twelve Southern African countries created the Southern African Regional Police Chiefs Co-operation Organisation in the mid-1990s to combat cross-border crime (Box 2-3). In West Africa, a concern about the illegal transfer of small arms and light weapons led the sixteen members of the

**Box 2-3. Mission and Objectives of SARPCCO**

1) promote and strengthen co-operation and to foster joint strategies for management of all forms of cross-border and related crimes with regional implications;
2) prepare and disseminate relevant information on criminal activities to benefit member countries to contain crime in the region;
3) carry out regular reviews of joint crime management strategies in the light of changing national and regional needs and priorities;
4) maintain a system and structure to ensure efficient operation and management of criminal records and effective joint monitoring of cross-border crime.

Source: "Combating Cross-border Crime - The Southern African Experience," Speech by Juan Kotze, Inspector, Interpol National Crime Bureau, Pretoria, South Africa, March 23, 2000, at the Microsoft 'Combating Cross Border Crime 2000' Conference, Cape Town, South Africa, http://www.microsoft.com/europe/ public_sector/Gov_Agencies/127.htm.

Economic Community of West Africa (ECOWAS) to endorse a moratorium on the import, export and manufacture of light weapons in the region at the end of 1998. Not all initiatives to address regional problems are appropriate vehicles for strengthening governance in the security sector. Efforts should be made, however, to identify those regional initiatives and activities that lend themselves to strengthening security-sector governance.

The program established to implement the West African Small Arms Moratorium, the Programme for Coordination and Assistance for Security and Development or PCASED, envisions training for military, security and police forces of member states. Such training could in principle offer an opportunity to reinforce the importance of professionalization, human-rights protection, transparency and accountability.[8]

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[8] The fact that ECOWAS member governments need to apply for exemptions to import small arms, for example for peacekeeping and training purposes, theoretically reinforces the concept of transparency. Of course, despite the moratorium, weapons continued to flow into West Africa in a very non-transparent manner to fuel the war in Sierra Leone, as well as to arm both the government of Liberia and Liberian opposition groups. On the sources of arms available to both the government of Sierra Leone and the

Similarly, SARPCCO could be used as a vehicle for strengthening aspects of sound governance in the police sector.  Regional and sub-regional political organisations such as the African Union, SADC, ECOWAS, and the Mano River Union are also organisations that can be encouraged to promote security-sector transformation among member states.  At present, however, these organisations do not have the capacity to undertake the necessary activities.

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**SUMMARY OF MAIN POINTS – CHAPTER 2**

- All actors – official and non-official – that affect the quality of governance in the security sector need to be engaged if democratic governance of the security sector is to be achieved.  This includes organisations legally mandated to use force; judicial and public safety bodies; civil management and oversight bodies; non-state security organisations; and non-statutory civil society actors.  In all cases, the exact configuration will vary from state to state.

- *Organisations legally mandated to use force:*  A peacebuilding approach to security emphasises the importance of relying on the full range of security bodies to provide security for the state and its population.  In doing so, it is important that: 1) the roles each security actor plays are well-defined and transparent; 2) the security bodies themselves are professional; 3) security bodies adhere to international law and democratic governance practices, including accountability to legitimate civil authorities; and 4) security bodies involvement in the economic or political life of the country.

- *Justice and public safetybodies:*  Public safety and security is dependent on the effective and efficient functioning of the entire criminal justice system:  the police, the prosecutors, the judiciary, and the correction system.  It is therefore important to supplement efforts to strengthen the democratic governance of the police service with parallel efforts to transform the judiciary and the correction system.  It is also important to recognise that the policies, procedures and practices governing the judiciary and correction system can vary widely, and that African governments face the need to incorporate traditional systems of justice into their formal legal system.

- *Civil management and oversight bodies.*  Democratic governance of the security sector requires an active role for the civil authorities that manage and monitor the security bodies.  The security of both the state and its population will be maximised to the extent that the security organisations are subordinate to democratically elected officials.  Both the executive branch and the legislature should be involved in the formulation and implementation of security policy.  The central actors include:  ministries of defence, interior/home affairs, finance and foreign affairs; office of the president/prime minister; cabinet office; national security adviser; the legislature; auditor-general; public protector; ombudsman; constitutional courts; and anti-corruption/public accountability bodies.

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RUF, see Eric G. Berman, *Re-Armament in Sierra Leone:  One Year After the Lomé Agreement*, Occasional Papers 1, Geneva: Small Arms Survey, 2000, www.smallarmssurvey.org/OccasionalPapers.html.

**MAIN POINTS – CHAPTER 2 (cont'd)**

- *Non-state security bodies:* Some of the more common forms of non-state security bodies are: liberation armies, guerrilla armies, traditional militias, informal militias, political party militias, private security companies, civil defence forces, and local and international criminal groups. Some of these non-state actors can strengthen state or personal security, for example private security firms and traditional militias, if their behaviour is professional and they are accountable to the state and the public. Others are not amenable to regulation and routinely undermine democratic governance of the security sector.

- *Civil society actors:* Civil society consists of a broad range of non-state actors, including religious groups, academics, policy researchers, the media, women's groups, professional associations such as the bar association, community-based organisations and interested citizens. Civil society has three critical roles to play in increasing the accountability of the security sector: demand change, act as watchdog, and provide technical input. It is often assumed that, by definition, civil society organisations support a peacebuilding approach to security, but this is not always the case. Opinions on security policy are as diverse within civil society as they are within government circles. Civil society groups can become politicised and promote divisions within society rather than seeking ways of overcoming disagreements and disputes and reaching compromise, or they can simply fail to accept the need for responsible behaviour.

- *Regional actors:* Although not part of the community of national actors that influence the quality of security-sector governance, regional and multilateral actors are part of the security landscape in Africa and can affect the quality of security-sector governance at the national level. As at the national level, the relevant external actors include both official actors and civil society organisations. Regional actors have become increasingly important as the regional nature of many African security problems has become clearer.

# CHAPTER 3

# DEMOCRATIC GOVERNANCE AND THE SECURITY SECTOR

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The essence of the transformation of the security sector is the process of aligning the sector with core values, principles and practices of democratic governance.

Section 3.1 explains the importance of democratic governance in the security sector. Section 3.2 discusses transparency in the security sector. Section 3.3 reviews issues of accountability. Section 3.4 reviews the legal basis of the security sector. Section 3.5 discusses oversight of the security sector.

## 3.1 THE IMPORTANCE OF DEMOCRATIC GOVERNANCE IN THE SECURITY SECTOR

Democratic governance is a critical component of the stable and secure environment necessary to promote human development and human security in Africa. As the framers of the New Partnership for Africa's Development (NEPAD) have explained,

> It is now generally acknowledged that development is impossible in the absence of true democracy, respect for human rights, peace and good governance. With the New Partnership for Africa's Development, Africa undertakes to respect the global standards of democracy, which core components include political pluralism, allowing for the existence of several political parties and workers' unions, fair, open, free and democratic elections periodically organised to enable the populace choose their leaders freely.[9]

Governance has received growing attention in Africa since the early 1990s, from both domestic and external actors. Initially, the external actors tended to emphasise economic governance – establishing a predictable regulatory framework, an effective and transparent public administration, and an independent judiciary capable of resolving disputes, particularly business disputes. Domestic proponents of governance have focused on political governance, in particular developing systems of democratic governance in which people can influence decisions that affect their lives.

Although "good governance" was increasingly recognised as central to consolidating democracy and to promoting good development outcomes, very little attention was given to the question of how the security sector is governed until the late 1990s. However, sound governance of the security sector is crucial for the success of democratic consolidation, poverty reduction, and sustainable economic and social development. It is also essential for the quality of security, that is, creating a safe and

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[9] "The New Partnership for Africa's Development," Part V. Programme of Action: The Strategy for Achieving Sustainable Development in the 21st Century, October 2001, para. 79.

**Box 3-1. Good Practice: Key Principles of Democratic Governance in the Security Sector**

- Security organisations are accountable both to elected civil authorities, established independent oversight agencies, and civil society.
- Security organisations adhere to international law and domestic constitutional law.
- Information about security sector planning and budgeting are widely available, both within government and to the public.
- A comprehensive and disciplined approach to the management of security sector resources is adopted, based on internationally recognised principles of public expenditure management.
- Civil-military relations are based on a well-articulated hierarchy of authority between civil authorities and the defence forces, and on a relationship with civil society that is based on the respect for human rights and a culture of civility;
- Civil authorities have the capacity to exercise political control over the operations and expenditure of the security organisations.
- Civil society has the capacity to monitor the security organisations and provide constructive input to the political debate.
- The political environment is such that civil society can be consulted on a regular basis on security policies, resource allocation, and other relevant issues.
- Security-force personnel are adequately trained to discharge their duties in a professional manner consistent with the requirements of democratic societies.
- Fostering an environment supportive of regional and sub-regional peace and security has a high priority for policy-makers.

Meeting these benchmarks poses a significant challenge to all governments around the world. Divergent trajectories of transition have produced a wide assortment of post-transition political configurations on the continent – some complementary and progressive, others contradictory and worrisome. This necessarily inhibits generalisation. Nevertheless, it is clear that most African countries are committed to the development of best practice mechanisms to support sound security-sector governance.

Source:  These principles were first elaborated in UK Department for International Development, *Security-sector reform and the Management of Military Expenditure:  High Risks for Donors, High Returns for Development*, Report on an International Symposium Sponsored by the UK Department for International Development, London, February 15-27, 2000,  http://www.dfid.gov.uk/Pubs/files/ssrmes_report.pdf, p. 46.

secure environment for the state and its entire population.

The state is commonly understood as the social structure that commands the monopoly on the legitimate use of force in a country.  For the use of force to be legitimate, the state itself must be legitimate.  A legitimate state is characterised by transparency, trust of the government by the governed, and accountability.

- Legitimacy and trust are fostered by a state whose government is democratically elected and which operates on the basis of a constitution that expresses the general will of the people.  Legitimacy and trust thus require direct and indirect participation in the affairs of state by the people.
- Accountability involves both the right to hold the government to account for its behaviour and the capacity to sanction government officials whose actions deviate from legal responsibilities.  Thus, a central aspect of developing democratic accountability is to establish the legal basis on which the state operates.  A second central element of democratic accountability is to establish systems of oversight that

will have the capacity to ensure that relevant legislation and regulations are implemented as intended.

▪ Democratic accountability also requires the development of a system that allows for the direct and indirect participation of the people in the affairs of state. Here too a high degree of transparency is essential.

Specifically with regard to democratic security-sector governance, there has been an increasing effort on the part of African public-sector officials, scholars and civil society activists to develop a set of principles of oversight and governance in the security sector that can be applied across the continent. Ten key principles that have become pivotal in the quest for effective democratic governance of the security sector are summarised in Box 3-1. The remainder of this chapter will focus on four aspects of democratic governance in the security sector: 1) transparency, 2) accountability, 3) the legal basis of the security sector, and 4) oversight.

## 3.2 TRANSPARENCY IN THE SECURITY SECTOR

### 3.2.1 Why Transparency is Important

Transparency is the fundamental ingredient in accountable governance. Without access to information about the formulation and implementation of laws, policies, plans and budgets, it is impossible to hold any public servant to account.

A non-transparent security sector creates an environment conducive to a range of abuses. It also undermines the professionalism of the security forces.

▪ Non-transparency provides the perfect cover for off-budget transactions. When a significant portion of a country's security-related expenditure occurs off-budget and is fed by off-budget revenues, not only are core principals of fiscal responsibility in the public sector violated. It is also highly likely that the operational capacity of the security organisations will suffer and that the country will not receive value for money.

▪ A non-transparent security sector creates an environment conducive to systematic, gross violations of human rights on the part of the security organisations.

▪ Non-transparency also facilitates the direct intervention of security organisations in the political process.

### 3.2.2 Confidentiality, Not Secrecy

Despite the potential for abuse, some degree of confidentiality is necessary in the security sector. Problems arise when the need for confidentiality is used to justify a reduction in scrutiny by appropriate management and oversight bodies, as well as by the population at large. It is also important to be clear about what is being held in confidence and why it is considered sensitive.

It is possible to retain a high degree of confidentiality in highly sensitive areas without compromising the principle of public accountability.

- War plans should be held in confidence.  That the armed forces are regularly exceeding their budget allocations, are purchasing expensive military equipment with scant attention to need or ability to maintain this equipment, or are engaged in illegal, off-budget activities are clearly sensitive matters, but should not be held in confidence.

- Certain issues pertaining to public safety may also need to be held in confidence in order to pursue and prosecute criminal suspects. The fact that the police have violated human rights, that they fail to pursue certain categories of offenders (such as rapists), or that offenders regularly go free because the police lack adequate investigative skills or the judiciary is subject to political pressure are sensitive matters but should not be kept secret.

- Intelligence agencies and their activities are accepted as necessary for providing adequate security. However, the often-covert character of their activities should not lead to impunity or exemption from the rule of law. A certain level of transparency will remain necessary, especially as regards the mandate and the budget.

### 3.2.3 Transparency of Legal Arrangements

Processes associated with governing the security sector need to be transparent from start to finish.  The manner in which the legal arrangements guiding the security sector are arrived at is particularly important.  That process can set the tone for the subsequent implementation of those laws.  In many African countries, constitutions do not represent the will of the people and were not arrived at through popular consensus.  There are countries where the constitution was forced on the population by an outgoing military administration, with minimal representation from the population (for example, Nigeria).  In other countries, the government in power has altered the constitution so significantly that it no longer has a semblance of the people's will (for example, Zimbabwe).

It is equally important that legislation governing the different security organisations is arrived at in a transparent and participatory fashion.  Since constitutions typically only outline the relationship between the civil authorities and the security organisations, the many details that govern the actual operation of the security sector must be hammered out separately in national legislation approved by the parliament.

- South Africa has produced policy papers, or "White Papers," for defence, intelligence, safety and security, participation in international peace missions, and defence-related industries since 1994.  Non-governmental experts have contributed to most of these, and several have been widely consulted with all relevant stakeholders prior to being finalised.  (See Box 3-2.) Such consultation lengthens the process of producing legislation, but results in a stronger product and greater buy-in on the part of key stakeholders.

- The South African Parliament approved the South African Police Service Act in 1995 [No. 68 of 1995] and in 2003 had been debating a defence bill for two years. The draft defence bill is published in the Government Gazette and is available on the government website: www.gov.za .

**Box 3-2.  Good Practice:  Consultative Process for the South African White Paper on Safety and Security**

"The Minister released the final Draft White Paper for public consultation after Cabinet approval in May 1998.  Extensive consultation was undertaken with key stakeholders, role-players and civil society in the following concurrent phases:

"**1. Provincial public hearings**

Public hearings were held in each of the provinces to ensure that the final policy recommendations of the White Paper reflected the views of provincial stakeholders, role-players and the public.

"**2. National hearing**

A national hearing was held over the 3rd to 5th August 1998 in Parliament. A number of submissions were made, and provincial reports on the submissions received from the public hearing process were presented. Joint meetings of the National Portfolio Committee on Safety and Security and the National Council of Provinces Committee on Security and Justice deliberated on the issues raised through the public consultation process on the 18th and 21st of August. These deliberations informed the final drafting of the White Paper.

"**3. Consultation with critical audiences**

Extensive consultation with critical audiences was undertaken as outlined below:

▪ A Local Government Conference was held on 24 July 1998 at which local government initiatives related to crime prevention were reviewed, experiences on the safer cities projects shared and the interventions outlined in the White Paper discussed.

▪ Meetings were held with most of the political parties in Cape Town to discuss relevant issues raised by the White Paper.

▪ A workshop was held with the National Crime Prevention Strategy partners on issues relevant to crime prevention as outlined in the White Paper.

"**4. Internal consultation process**

▪ The South African Police Service circulated the Draft White Paper extensively within their structures, and received numerous submissions. A consolidated report on these submissions was compiled by the Divisional Commissioner: National Management Services and sent to the Secretariat.

▪ Valuable meetings were held with most of the national government departments.

▪ The key trade-unions relevant to safety and security were also consulted.

"The final White Paper was presented to the Cabinet Committee for Safety and Intelligence prior to the Cabinet meeting of 9 September 1998 when the White Paper was approved. Parliamentary debates on the White Paper were held during September 1998.

"A White Paper Conference was held on 11 September 1998 at which a report back on the submissions and how they were incorporated was presented.

"A user friendly booklet is being developed which will explain the policy shifts contained in the White Paper and what it means for the stakeholders and role-players in safety and security in South Africa."

Source:  South Africa, Department of Safety and Security, White Paper on Safety and Security, "In Service of Safety," 1999 – 2004, September 1998, www.gov.za/whitepaper/1998/safety.htm#drafting.

Important as they are, consultative processes are only one part of the solution to the problem of transparency.  There also must be a conscious effort to ensure as wide a dissemination of basic legal documents governing the security sector as possible.

- Constitutions and subsidiary national legislation should be disseminated among the population.  If national constitutions and subsidiary legislation are not translated into local languages and the population does not have much input in the formulation of the constitution or other legislation, they will be seriously disadvantaged by not knowing what the document says about how the security organisations are to be governed and people's rights vis-à-vis the security organisations.

- An effort should be made to ensure that sufficient copies of the constitution are produced for distribution to the population.  To the extent possible, these should be distributed free rather than sold and school children should be specially targeted.

- Members of the security forces should have access to the documents that define their roles and responsibilities.

Effective means of disseminating the basic legal documents covering the security sector will contribute to the development of sound governance of the security sector.  An extensive dissemination program will strengthen the demand for accountable governance of the security sector, including effective oversight processes.

The people require more than information on the legal basis of the security sector.  They require information on the full range of security policies and their implementation in order to perform key functions of civil society in a democracy: creating watchdog organizations, getting involved in consultation processes, and constructively proposing solutions to problems.

### 3.2.4  Transparency within Government

It is important not only for governments to provide information about the security sector to their populations.  It is equally important that governments are internally transparent.

- All relevant executive branch officials should have access to the information on security policies, plans, programmes, and budgets that they need to fulfil their responsibilities.

- Legislators should have access to the same information in a timely fashion to enable them to pass laws defining and regulating the security sector and appropriating the necessary funds to enable those laws to be implemented.

- In order for the accounts of the security organisations to be routinely scrutinised for accuracy, value-for-money, and proper usage of public funds, the relevant accounting and audit bodies of the security organisations and the government as a whole should have accurate and timely access to the information they require.

- The judiciary should have access to the information it requires to evaluate the constitutionality of laws and judge the lawfulness of the behaviour of public servants in the security sector, including members of the security organisations.

The wide dissemination of information within governments will help produce policies that are consistent with the democratic governance of the security sector and the effective implementation of these policies.  At the same time, it is extremely important to

recognise that the security sector is unlikely to have a higher standard of transparency than other parts of the public sector.  It is therefore important not to expect the security sector to become an island of probity in a sea of poor practice.

## 3.3  SECURITY-SECTOR ACCOUNTABILITY

### 3.3.1  Some Basic Considerations

The process of accountability aims to ensure that public officials are responsible for the exercise of the authority accorded to them through the constitution or other laws.  As far as the security organisations are concerned this means that they must answer to those organisations legally mandated to oversee their activities.  It also means that the oversight bodies must have some means to enforce breaches of behaviour by the security organisations.

*Democratic accountability* in the security sector means that the security organisations

- are subordinate to the civil authorities in democratically constituted states;

- are obliged to explain their actions to the civil authorities and civil society, and

- are subject to sanctions for inappropriate actions or inadequately explaining their actions.

There are two types of accountability:  direct and indirect.

- *Direct accountability* in the security sector means that members of the security organisations answer directly to all or some portion of the population of a country.

- *Indirect accountability* holds politicians and bureaucrats accountable for the actions of the security organisations by defining a set of democratic governance criteria against which the security organisations are to be measured.

Most security-sector accountability is indirect.  There is some direct accountability in the criminal justice sector with police commissions, police monitoring groups, police-community liaison groups, community safety fora and the like.  The defence and intelligence sectors rely on indirect accountability.

An important aspect of security-sector accountability is the nature of the legal arrangements for punishing those who commit offences relating to the security sector.  The legal basis of the security sector will be discussed in more detail in section 3.4.  Two points should be stressed here:

- To enhance accountability, procedures for punishment should be clearly laid-out.

- All those accused – both civilians and military – should be tried in open courts and allowed to select their own lawyers from either the military or the civil population.  The practice, especially in West Africa, where members of the armed forces accused of military-related offences are tried through special military laws need to be re-examined.

### 3.3.2  The Three Levels of Accountability

In order to strengthen the accountability of the security of the security organisations, it is necessary to strengthen both norms and institutions.  In doing so, it is important to distinguish among different levels of accountability:

- Ideal-type accountability;

- Legal accountability;

- Operational accountability.

These three levels of accountability mirror the three levels of policy discussed in section 1.3.2.

*Ideal-type accountability* is enshrined in norms and principles (Box 3-3).  Difficult to achieve in practice, ideal-type accountability nonetheless establishes goals that every government should strive to attain.

*Legal accountability* involves ensuring that a country's laws translate principles and norms into legally binding requirements for members of government, civil servants, and members of the security organisations.  There are many paths to achieving the objectives enshrined in norms and principles.  The precise form that a country's policies, laws, and structures take must be rooted in that country's history, culture, legal framework and institutions.  The key point is for national laws to reflect the norms and principles.

*Operational accountability* is accountability as it is actually practiced.  Operational accountability reflects a range of informal relationships and methods of achieving goals, along with – it is hoped – international norms and principles and national law.  While informal relationships are and will remain important in all environments, they must operate in accordance with the country's legal framework and international law.

The challenge is to align national laws with basic principles and norms and to progressively adjust "accountability on the ground" to the national legal framework and

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**Box 3-3. Good Practice:  National Legislation Incorporates Legal and Cultural Norms Relating to Security Sector Accountability**

**Legal Norms**
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- UN Code of Conduct for Law Enforcement Officials (UNGA Res 34/169, 1979)
- Geneva Conventions of 1949

**Cultural Norms**
- Separation of police and military functions
- Principles of democratic governance in the security sector (see Box 3-1)
- Framework for an OAU Response to Unconstitutional Changes of Government (adopted at the 2000 OAU Summit in Lomé, Togo, and based on the earlier decision of the 1999 Algiers OAU Summit)

the guiding principles enshrined in the international norms.  As with all broad policy objectives, it is necessary to identify reasonable steps along the way toward achieving these goals.  While reaching these goals may seem daunting in view of actual practice in a country, it is nonetheless important to have them as an objective.  One of the clear lessons of the past is that when problems in the security sector are approached in a piecemeal manner, without reference to broad objectives or underlying structural weaknesses, accountability in the security sector has generally not improved significantly.  Indeed, a focus on short-term "solutions" that ignores the core problems can actually aggravate those problems.

It is also important to understand that even long-established democracies can improve the amount of information that they provide to their citizens and need to be constantly vigilant on issues of accountability.  Developing and protecting a system of accountability is a continuous process.

### 3.3.3  Role of Civil Society

Although most democratic accountability in the security sector is indirect, that is security organisations are legally accountable to the people through representative organisations, civil society can play an important role in promoting accountability of the security sector.

- Groups such as the media, human rights organisations, and security policy analysis organisations can track behaviour, draw attention to deviations from national and international law and international good practice, and make suggestions for ways of improving accountability.

- Civilians can serve on police commissions, police-community liaison committees, and other formal organisations.

- Non-governmental bodies, including community groups, may monitor the activities of the police and other security organisations.

- NGOs can also promote dialogue between members of the security organisations and the public in order improve understanding and improve the environment for accountability (Box 3-4).

- And as in all sectors of government, an engaged public can have a positive impact on the quality of accountability.

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**Box 3-4.  Civil Society Engagement in Sierra Leone**

In January 2003, the Sierra Leone civil society organisation Campaign for Good Governance and the US-based NGO National Democratic Institute collaborated to hold a civil-military cooperation workshop in Koidu Town in eastern Sierra Leone.  This three-day event initiated a dialogue between ordinary citizens, regional members of Parliament, and 5 Brigade of the Republic of Sierra Leone Armed Forces (RSLAF).  Much of the discussion centered around the relationship of the RSLAF to the people and the importance of democratic control of the armed forces, especially strong legislative oversight of the armed forces.  At the conclusion of the workshop, participants formed a civil-military Liaison Committee mandated to carry forward actions recommended at the meeting and to facilitate additional dialogue.

Source:  www.ndi.org and www.slcgg.org.

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## 3.4   THE LEGAL BASIS OF THE SECURITY SECTOR

The task of creating and maintaining a viable and legitimate state that is accessible, efficient, accountable, transparent and equitable has been one of the most critical and complicated challenges of the political transformation processes that African countries are currently undergoing.  Democratic governance requires that the efficient and well-functioning institutions and infrastructures of government are legally backed and socially coherent.

### 3.4.1  Constitutional Provisions

The legal arrangements that guide governance of the security sector are generally enshrined in the constitution, which, for all African countries, is a written document.  Sections of the constitution that are particularly important are those dealing with the armed forces, the police service, intelligence organisations, the penal system, the role of the legislature, and the protection of human rights (Box 3-5).

At a minimum, the constitution should specify

- the lines of authority between all major stakeholders in the security sector (both civil and security organisation),

- the basic responsibilities of each of these actors, and

- the broad democratic principles to which the members of the security sector should, in their conduct as professionals, adhere.

Some constitutions have included no guidance on or have been revised to

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**Box 3-5.  Good Practice:  Constitutional Underpinnings of the Uganda Police Forces**

"211(3)  The Uganda Police Force shall be nationalistic, patriotic, professional, disciplined, competent and productive; and its members shall be citizens of Uganda of good character.

"212.  The functions of the Uganda Police Force shall include the following:

(a)  to protect life and property;

(b)  to preserve law and order;

(c)  to prevent and detect crime; and

(d)  to co-operate with the civil authority and other security organs established under this Constitution and with the population general.

"213. (1) There shall be an Inspector-General of Police and Deputy Inspector-General of Police

(2) The Inspector-General and the Deputy Inspector General of Police shall be appointed by the President with the approval of Parliament....

"214. Parliament shall make laws-

(a) providing for the organisation and administration of the Uganda Police Force;
(b) ensuring that members of the Uganda Police Force are recruited from every district of Uganda; and
(c) regulating generally the Uganda Police Force. "

Source:  The Constitution of the Republic of Uganda, Chapter 12 "Defence & National Security,", www.parliament.go.ug/chapt12.htm

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eliminate important aspects of democratic governance. As the experience of Malawi suggests, the fact that many of Africa's new democracies have emerged from prolonged authoritarian settings helps to explain this gap, since the security forces are deemed to be above the law (Box 3-6). Increasingly, constitution-making initiatives on the continent now incorporate security-sector governance as a central requirement.[10] Additionally, regional bodies are also adopting regional constitutional principles and protocols regulating the activities of member-states on issues pertaining to security-sector governance.[11] In line with these regional initiatives, NEPAD's Africa Peer Review Mechanism includes democratic control of the security establishments as a benchmark for good governance in the approved action plan for democracy and political governance.[12]

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**Box 3-6. Good Practice: Incorporating the Security Sector in Post-Authoritarian Constitutions**

Malawi's independence constitution was revised in 1966 to accommodate one-party authoritarian rule. It contained no mention of the functions of the armed forces. Since there was no civilian ministry of defence, the armed forces were managed through the Office of the President and Cabinet and the 1966 constitution revoked all clauses pertaining to protection of human rights, there were clear opportunities for using the armed forces for partisan political purposes. In 1995 this situation was reversed as multiparty democracy returned to Malawi. The new constitution contains an extensive chapter on the human rights enjoyed by citizens of Malawi and clearly specifies the functions of the Defence Forces of Malawi.

Source: Hawa O. Ndilowe, "Development of Democratic Civil-Military Relations in Malawi: An Opportunity for Democratic Defence Governance for Malawi," Prepared for the ISS Program on Security-sector transformation, April 2000 and "Malawi's Constitution: Final Draft, Act no. 20 of 1994," http://www.sas.upenn.edu/African_Studies/Govern_Political/mlwi_const.html.

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### 3.4.2 National Legislation

Important as the constitution is, additional legislation is generally required to flesh out the details of governing the defence, police, and intelligence services and the penal system.

In general,

- the executive is responsible for proposing and implementing legislation. A 1994 study concluded that in most countries with democratic forms of government, the executive initiates about 90 percent of the legislation.[13] (The United States is a major exception to this rule.)

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[10] See Hassen Ebrahim, Kayode Fayemi & Stephanie Loomis, Principles and Mechanisms of Constitution Making in Commonwealth Africa, (Delhi: CHRI, 2000)

[11] For example, The ECOWAS Supplementary Protocol on Democracy and Good Governance which was approved by the ECOWAS Heads of Government in December 2000.

[12] See summary conclusions of the NEPAD's Expert Workshop on Processes, Mechanisms, Benchmarks and Indicators for APRM. (Mid-Rand, NEPAD Secretariat, 2002) and NEPAD, "Objectives, Standards, Criteria and Indicators for the Africa Peer Review Mechanism," NEPAD/HSGIC-03-2003/APRM/Guideline/OSCI, March 9, 2003, http://www.iss.co.za/AF/RegOrg/nepad/aprmobject.pdf.

[13] David M. Olson, Democratic Legislative Institutions: A Comparative View, (Armonk, NY: M.E. Scharpe,

- the legislature is responsible for commenting on and approving/rejecting legislation. However, in some countries, constitutions locate the power of initiating legislation in the security sector with the legislature (Box 3-7).

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**Box 3-7. Uganda Constitutional Provisions on Legislation Regulating the Armed Forces**

"Parliament shall make laws regulating the Uganda Peoples' Defence Forces, and in particular, providing for:

(a) the organs and structures of the Uganda Peoples' Defence Forces

(b) recruitment, appointment, promotion, discipline and removal of members of the Uganda Peoples' Defence Forces and ensuring that members of the Uganda Peoples' Defence Forces are recruited from every district of Uganda

(c) terms and conditions of service of members of the Uganda Peoples' Defence forces; and the deployment of troops outside Uganda."

**Source:** The Constitution of the Republic of Uganda, Chapter 12, Section 210, **www.parliament.go.ug/chapt12.htm**.

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There is no agreed formula for the degree to which legislatures participate in the process of lawmaking in democratic systems. National traditions, historical experiences, and forms of government (parliamentary or presidential) are some of the variables that affect the extent of the legislature's participation. For example, some democratic systems of government, notably Westminster-style parliamentary systems, constrain the role of the executive branch more than others. Despite this variability, it is possible to describe some of the characteristics of systems with different levels of participation (Table 3-1).

In any system, including more established democracies, competition between the legislature and the executive over their respective roles can be expected. This reflects the constantly evolving balance between the power of the legislature and the executive over time. In many Africa countries, power and initiative continues to reside with the executive branch, while the legislature plays a largely rubber-stamping role. Nevertheless, mechanisms do exist that can help legislators maximise their influence over the lawmaking process.

It is important that legislators educate themselves about these mechanisms because developing, adopting, and approving financing for their country's laws offer legislators a major opportunity to influence policy and restrain executive power. (The other major opportunity – the legislature's oversight role – is discussed in Section 3.5.)

Legislators can have influence

- during the pre-legislative stage, which is particularly important in parliamentary systems

- in the process of initiating legislation

- by amending legislation

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1994) p. 87.

- by approving/rejecting legislation

| Table 3-1. Participation of Legislature in Lawmaking Process | | | |
|---|---|---|---|
| | **Extensive Participation** | **Limited Participation** | **Little/No Participation** |
| **Pre-Introduction** | Extensive executive consultation with Parliament prior to introduction of major bills, budget (MPs on Green Paper Commissions, MP's comments on incorporated into legislation) | Consultation limited and recommendations seldom incorporated into bills | Bills introduced with no legislative consultation and input |
| **Introduction** | Individual members, including opposition and backbenchers, may introduce bills with no restriction | Some limitations on member bills (e.g., bills may not have financial consequences) | All bills initiated by government |
| **Committee Review** | Strong committee system:<br>• Active hearing schedule<br>• Ministers testify<br>• Amendment power; subpoena power<br>• Member/staff expertise | Committees may have some legislative responsibility, but may be unable or unwilling to aggressively exercise it | Inactive committee system with no independent authority and limited expertise and resources |
| **Legislative Capacity** | Legislators are sufficiently trained, possess staff and resources to independently analyse proposals and develop alternatives | Legislature has some ability to develop and promote its agenda, but may be limited by lack of resources and/or political will | Legislature is untrained, understaffed and under-equipped, giving executive leaders major policymaking advantage |
| Source: National Democratic Institute for International Affairs, *Strengthening Legislative Capacity in Legislative-Executive Relations*, Legislative Research Series no. 6, Washington, DC, 2000, p. 37. | | | |

Some of the mechanisms that legislators can employ to maximise their influence are:

- Government commissions established to study and report on an issue prior to legislation being initiated; commission reports often published as "green papers;" while commissions generally composed of civil servants and ministers, there are precedents for legislators participating.

- Resolutions expressing the view of legislators on a given issue; non-binding but can be important to raise awareness on issues; linkages with likeminded media and civil society organisations helpful.

- Familiarity with rules of procedure, which can help legislators, particularly in parliamentary systems, to overcome executive's reticence to involve them in the lawmaking process.

- Amending legislation, especially in committee.

- Opportunities for staff training and development, to enhance the capacity of legislative staff and members to draft legislation; increasingly available for security related issues in Africa.

### 3.4.3 Traditional and Informal Institutions

Apart from the constitution and subsidiary legislation, there are traditional and informal institutions that can contribute to a well-governed security sector. In the past, traditional leaders in many societies in Sub-Saharan Africa were allowed to continue applying customary law for "private" issues at the same time as they were expected to dispense colonial law in the area of "public law."

Today, elements of customary justice either co-exist with or have been incorporated into formal justice systems in many countries. This is particularly important in rural areas, where formal justice systems are often not present. Additionally, a range of informal justice mechanisms has developed in urban areas. Some of these mechanisms are based on modified traditional law structures and procedures and focus on problem-solving. Others are established by non-governmental organisations and focus on arbitration and conflict resolution.

These traditional and informal mechanisms are extremely important because of numerous limitations on formal systems of justice in Africa. Inadequate resources reduce the reach of the formal systems. Formal systems are also inaccessible to many Africans due to language problems, poverty and the absence or inadequacy of legal aid. Box 3-8 describes the key characteristics of a system of justice that is accessible for all citizens.

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**Box 3-8.  Good Practice:  Criteria for Accessible Justice**

Justice is accessible when:

- It is dispensed in or close to the individual's community.
- It is affordable for ordinary people.
- Procedures are simple but fair and consistent with cultural expectations.
- It is fair and perceived as such by disputants and their families, but does not reinforce historic biases against traditionally marginalised groups such as women and youth.
- It is dispensed in the language of the disputants.
- It produces outcomes that emphasise community-building, skills transers, reconciliation, restoration and compensation.
- It is dispenses rapidly, to avoid animosities becoming entrenched.
- The timing of judicial proceedings take into account the livelihood needs of disputants.

Source:  Wilfried Schärf, "Report on the Proceedings of the Consultative Group Meeting on Access to Justice and Penal Reform in Africa, 18 – 20 March 1999."

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There has also been a disconnect between African cultural and social practices, which favour restorative and compensatory justice, and the adversarial nature of formal justice systems. In consequence, traditional and informal justice systems are receiving renewed attention, especially ways of marrying them to formal systems.

Some of the mechanisms that are compatible with both formal systems of justice and customary justice are:

- community service schemes,

- police-community liaison groups,

- community safety forums (which extend beyond the police to other elements of the criminal justice system and relevant local government bodies), and

- calculating fines according to an individual's capacity to pay.

Customary law systems are not always fully compatible with formal law, or with the principles and norms underlying democratic governance. It is important that these differences are acknowledged openly and that reasons for excluding aspects of customary law are fully explained to the population.

## 3.5 SECURITY-SECTOR OVERSIGHT

Throughout the world there is a tension between the culture of secrecy that has traditionally surrounded security activities and the need for accountability in democratic societies. Mechanisms created to ensure democratic accountability of the security sector frequently have to struggle against efforts by the executive branch to limit their effectiveness. Civil oversight of the security sector continues to be a work-in-progress in all countries.

Oversight of the security sector has traditionally been weak throughout Africa. During the 1990s, African governments and publics increasingly came to understand that to achieve democratic governance, government has to be accountable to elected civil oversight actors and a range of independent oversight agencies.

Oversight bodies can be divided into three main categories:

- Legislative accountability bodies: such as public accounts committees, defence committee, police/justice/internal security committee, intelligence committee

- Independent accountability bodies: such as auditor general, constitutional court and other relevant components of the judicial system, ombudsperson/public protector, anti-corruption agency.

- Public-sector accountability agencies: such as inspectors general for relevant ministries and the security organisations, budget monitoring units in ministries and security organisations, ministerial contract tender committees, due process/due diligence agencies.

Constitutions should guarantee the creation, existence and effective operation of parliament and the independent oversight bodies that safeguard the interests of the people, mediate the excesses of the government, and help to enforce the law. The head of government generally has the authority to appoint the heads of independent accountability bodies, subject to approval by the legislature. The heads of public-sector accountability agencies are generally appointed by the head of government or the appropriate minister.

### 3.5.1 The Constitution

Constitutions should, at a minimum, contain clauses on:

- the role of the legislature in national security policy formulation, especially in countries emerging from prolonged authoritarian rule;

- access to information on all security-sector issues;

- powers to declare war;

- powers over the budget;

- powers of approval of senior security-sector appointments;

- powers on the declaration of emergency powers and how these affect non-derogable rights;

- professional autonomy of military and prohibitions on military interference in politics.

African constitutions are beginning to specify some of the relations between the legislature and the security organisations.  The Ugandan and Zambian constitutions, for example, define the laws that the Ugandan and Zambian Parliaments are required to produce to regulate their defence forces (Box 3-7).[14]  The South African constitution mandates the creation of a parliamentary Joint Standing Committee on Defence (Box 3-9).  The Ghanaian constitution clearly outlines the role of the Ghanaian Parliament in raising revenue, preparing budgets, and tracking expenditure for the public sector as a whole, including the security sector.[15]

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**Box 3- 9.  Good Practice:  Constitutionally Mandated Standing Committee on Defence**

The South African Constitution provides for a parliamentary Joint Standing Committee on Defence as part of the oversight of the defence sector.  The Constitution empowers this committee to "investigate and make recommendations regarding the budget, functioning, organisation, armaments, policy, morale and state of preparedness of the National Defence Force and to perform such other functions relating to parliamentary supervision of the Force as may be prescribed by law."

Source: Constitution of the Republic of South Africa, Act 200 of 1993, http://www.gov.za/constitution/ 1993/1993cons.htm#SECTION228 and Constitution of the Republic of South Africa, 1996, Schedule 6, Section 24(1), http://www.gov.za/constitution/1996/96conssec6.htm#24.

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To be effective, independent oversight bodies must have a high degree of autonomy from the executive and the legislature.  Once the autonomy of oversight bodies is in doubt, their legitimacy is also severely affected.  Thus, either the constitution (or subsidiary legislation where relevant) should:

- ensure that oversight agencies have access to adequate operating budgets, for example through the consolidated fund.

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[14] Constitution of Zambia - Part VII:  Defence and National Security, [As amended by Act No. 18 of 1996], http://zamlii.zamnet.zm/const/1996/const91.htm.

[15] Constitution of the Republic of Ghana, 1992,http://www.parliament.gh/hmeP/lawsproPag/theConst.htm.

- clearly delineate each oversight bodies' functions and powers.[16]

The Ghanaian Constitution, for example, prescribes how the Ghanaian Auditor-General and his staff are to be financed (Box 3-10).

### 3.5.2 The Legislature

A vigorous legislature is a requirement of democratic governance in the security sector. Table 3-2 outlines the key oversight roles of the legislature in systems with different degrees of legislative oversight.

As far as the security sector is concerned, the legislature often has the critical role of

- laying down the legal framework of democratic security-sector governance,

- reviewing and approving security establishments' policies and budgets (and hence conditions of service),

- overseeing sectoral expenditure, procurement, operations, and deployment.

In some constitutions, the Parliament is also empowered to

- approve the declaration of war,

- oversee intelligence and security agencies (other than the police).

| Table 3-2. Degree to which Legislature Conducts Legislative Oversight | | | |
|---|---|---|---|
| | **Comprehensive Legislative Oversight** | **Limited Legislative Oversight** | **Little or No Legislative Oversight** |
| **Committee Oversight** | Strong oversight by committees: <br>• Committee has adequate staff and expertise <br>• Ministers attend oversight hearings and respond promptly to written requests for information <br>• May conduct investigations and/or site visits | Committees respond solely to issues brought to their attention, but lack comprehensive or proactive approach to oversight; Committees may lack critical expertise or resources | Lack of committee oversight; Committee hearings seldom include ministers or other high government officials; written requests for information are ignored |

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[16] While in practice it is preferable for the constitution to establish oversight bodies and delineate their functions, some oversight bodies may be created through national legislation. For example, the Zambian constitution gives the legislature the power to create commissions and to determine their functions and powers.

| Table 3-2.  Degree to which Legislature Conducts Legislative Oversight | | | |
|---|---|---|---|
| | Comprehensive Legislative Oversight | Limited Legislative Oversight | Little or No Legislative Oversight |
| **Public Accounts Committee** | Separate, well-staffed and funded Public Accounts Committee conducts coordinated oversight of government expenditures; coordinates efforts with Auditor General | Existing Public Accounts Committee, but may be understaffed or under funded | No Public Accounts Committee; Legislative oversight of financial policy is under-resourced or non-existent |
| **Parliamentary Questions** | Frequent use of parliamentary questions; ministers are required to respond appropriately and promptly; Prime Minister and other Ministers attend public "Question Time" | Legislature uses parliamentary questions, ministers often evade questions and/or give insufficient responses; opposition may be given adequate opportunity to raise issues | Limited or no use of parliamentary questions; ministers ignore written questions and do not attend "Question Period" |
| **Independent External Oversight** | Existence of independent, well-staffed external oversight entities such as Auditor General, Comptroller, Ombudsman | Some institutions exist, may be underfunded, understaffed, or underutilised by legislature | No independent external oversight entities; parliament must identify and pursue oversight issues on its own |
| Source:  National Democratic Institute for International Affairs, *Strengthening Legislative Capacity in Legislative-Executive Relations*, Legislative Research Series no. 6, Washington, DC, 2000, p. 38. | | | |

There is a range of tools that legislatures can employ to implement democratic oversight of the security sector.  These include general powers; budget control; approval/rejection of peace missions and other deployments; procurement; approval/rejection of security policies; approval/rejection of personnel-related issues. Box 3-11 provides more information on each of these categories.

### 3.5.3  The Quality of Oversight

Creating oversight bodies is an important first step on the road to democratic governance of the security sector.  It is also important to create an environment that enables these bodies to function as intended.

The quality of oversight is critically dependent on a number of factors:

- Independence of oversight bodies
- Accountability of oversight bodies
- Guaranteed access of oversight bodies to financial resources
- Clear delineation of functions of oversight bodies
- Knowledge of security issues on the part of oversight body personnel
- Knowledge of the governing process on the part of oversight body personnel
- Confidence building between security personnel and civil oversight body personnel.

*Independence*.  The most important of these factors is the ability of oversight

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**Box 3-11.  Good Practice: Legislative Instruments to Maximise Oversight of Security Sector**

The following list is not intended to be exhaustive.  Rather, it is intended to illustrate the range of instruments that may be available to legislatures in order to oversee the security sector.

General powers

- Initiate legislation
- Amend or rewrite laws
- Question members of the executive
- Hold hearings
- Summon members of executive to testify at legislative hearings
- Summon military staff and civil servants to testify at legislative hearings
- Summon civil experts to testify at legislative hearings
- Obtain documents from executive
- Carry out legislative inquiries

Budget control

- Obtain access to all budget documents
- Review and amend defence and security budgets
- Exercise budget control at the level of programmes, projects and line-items
- Approve/reject supplementary security-sector budget proposals.

Peace missions/other foreign deployments

- Participate in decision-making before troops are committed abroad, including mission mandate
- Review, amend, approve/reject mission budget
- Approve/reject rules of engagement
- Approve/reject risks of military personnel deployed
- Approve/reject chain of command/control
- Approve/reject duration of mission
- Visit deployed troops

Procurement
- Right to be fully informed by executive of procurement decisions
- Approve/reject procurement contracts
- Review : a) need for new equipment; b) selection of supplier; c) offers of compensation/off-sets

General Security Policy

- Approve/reject policy concept
- Approve/reject crisis management concept
- Approve/reject force structure
- Approve/reject strategy/doctrine

Personnel Issues

- Approve/reject personnel plan
- Fix ceilings for manpower
- Approve/reject or be consulted on highest military appointments (such as chief of staff)

Source:  Geneva Centre for the Democratic Control of Armed Forces and Inter-Parliamentary Union, *Parliamentary Oversight of the Security Sector:  Principles, Mechanisms and Practices*, Handbook, Handbook for Parliamentarians No. 5 – 2003, p. 76.

bodies to operate independently in their promotion and protection of transparency, accountability, integrity and the free and fair dispensation of justice and administration. If they are to be truly effective, oversight bodies must be able to carry out their tasks without interference from the executive, the security bodies and, in some cases, even other oversight actors. This hold true for all three categories of oversight body: legislative oversight bodies; independent oversight bodies; and public-sector accountability agencies. Thus, the quality of leadership is crucial for effective oversight. Adherence to the norms and practices of democratic governance is required from a whole range of leaders: heads of state and government, lower-ranking politicians and bureaucrats; legislators; civil society; and security organisation personnel.

One way in which leaders can promote more effective oversight is by not attempting to use oversight bodies to further their own political or personal agendas, to show favouritism to one or more groups in society at the expense of society as a whole, or to embarrass elected authorities by demanding biased or partial judgments from oversight bodies. This will be facilitated to the extent that the personnel of oversight bodies are chosen on the basis of merit, rather than political, ethnic, religious or other group affiliations.

*Accountability.* Oversight bodies must themselves be accountable to the elected representatives of the people and to the people themselves. One mean of achieving accountability is to ensure that all independent oversight bodies are accountable to parliament. This means limiting the use of extra-parliamentary commissions and other mechanisms.

A second component of enhancing the accountability of oversight bodies is to ensure that their reports are publicly available to the extent possible. While some portions of the reports issued by oversight bodies may need to be held in confidence for reasons of national security, every effort should be made to provide the maximum amount of information to the public. Constant engagement with the public is key to building the legitimacy of independent oversight bodies. It will also support their independence. In a situation where oversight actors lack the capacity or the desire to publicise their work, they expose themselves to the same accusations of self-importance and arrogance that often create ill-will between government and the public. By publicising their findings, oversight bodies can make an important contribution to public debate on fundamental issues of democratic governance (Box 3-12).

*Guaranteed access to resources.* Effective operation requires guaranteed access to adequate resources – information as well as human resources and funds. An independent source of financing is especially important to prevent those government bodies whose activities are reviewed by oversight agencies from keeping the oversight bodies from fulfilling their mandates by starving them of resources.

**Box 3-12.  Good Practice:  Overseeing the South African Strategic Defence Procurement (SDP) Process**

One outcome of the South Africa Defence Review was the decision to procure a sizable amount of new military equipment.  The procurement process was completed in July 1999.  Due to the complexity of the procurement process, the Defence Audit Centre of the Office of the Auditor-General decided that a special review should be carried out, rather than a standard audit.  Once completed in September 2000, this special review was the subject  of hearings and other discussions within the Parliamentary Standing Committee on Public Accounts (SCOPA).  SCOPA subsequently suggested a joint review of a number of issues relating to the procurement process by the Auditor-General, Public Protector, and the National Director of Public Prosecutions.  This joint investigation was carried out between November 2000 and November 2001.

The joint investigation concluded: "No evidence was found of any improper or unlawful conduct by the Government."  At the same time, it did identify a number of "irregularities and improprieties" in the process.  For example:

- "In view of the magnitude and extent of the SDP procurement, the time allocated for each evaluation and execution was insufficient to ensure that it was done properly and efficiently" (para 14.1.5).
- "The decision to allow bidders for the Corvette programme to supply information after the offers were submitted constituted a deviation from properly procurement practice" (para 14.1.11).
- "Proper evaluation procedures were not consistently and diligently applied and a proper audit trail was not established throughout the procurement process" (para 14.1.16).
- "ADS was given the opportunity to lower its inflated tender … to just below that of $C^2I^2$ over a period of more than a month.  $C^2I^2$ was given a maximum of four days to submit its tender (para 14.1.20)."

The report concluded with a series of recommendations designed to overcome these and other problems identified in the course of the joint investigation.  The entire report and the executive branch response are available to the public.

This inquiry quite clearly distinguishes between the government's responsibilities in the areas of defence procurement and sound procurement practice.  For example, Cabinet makes the final decision on procurement based on a variety of considerations, including relative cost and the ability of the equipment procured to meet South Africa's defence needs.  However, as the Joint Investigation Report notes: "Ultimately, the decision about what the country can and cannot afford is one of political choice" (para 14.1.12).  The choice made by the Cabinet may not be popular with certain segments of the population, and they should have the right to express their views on the decision.  Nonetheless, it remains the Cabinet's responsibility to make the decision.

What is not acceptable is deviations from international good practice in the area of procurement such as bending procurement rules to give preference to particular contractors, for decision makers to profit from the procurement process or failing to conduct adequate needs assessments.  In the case of the Strategic Defence Procurement process, none of these problems were found to have influenced the final outcome of the process.  Despite that, it is important for problems such as these to be recognised and addressed.  It is also important for the public at large to understand that these problems exist, so that they can press the government for greater accountability in subsequent procurement exercises.

Source:  "Joint Investigation Report into the Strategic Defence Procurement Package," www.gov.za/ Projects/procurement/invesigationreport.htm.

***Delineation of functions.***  The functions and powers of each oversight body must be clearly delineated and recognised, ideally in the constitution or in subordinate national legislation.[17]  These mechanisms will not prove effective, however, until they are

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[17] While in practice it is preferable for the constitution to establish oversight bodies and delineate their

completely respected by all branches of government and by the security forces.

*Knowledge of security issues.* There is a serious shortage of individuals well versed in security matters within oversight bodies in most African countries. The need for technical knowledge of the security sector is greater in some areas than in others. Legislators, for example, require detailed knowledge of a range of security-related issues in order to make decisions. Competent auditors can make significant progress in identifying problems with financial management practices without detailed knowledge of security issues, while assessing value-for-money requires them to have more specialised knowledge.

*Knowledge of governing processes.* Oversight capacity is limited not only by inadequate knowledge of security issues, but also by inadequate knowledge of governing processes. For example, African legislators frequently do not understand how to use the committee system effectively, lack experience in drafting legislation, and are uncertain about the role and functioning of legislative oversight bodies.

*Confidence building*. In order to be able to execute their oversight function adequately, oversight body personnel have to build a relationship of trust with security body personnel. Such a relationship of trust depends both on the capacity of oversight personnel to behave responsibly and on the ability of the security body personnel to respect and accept decisions by the oversight bodies.

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**Box 3-13. Good Practice: Code of Conduct for the Personnel of Oversight Bodies**

Members of oversight institutions, for example, should:

- promote the principles of natural justice; promote and protect human rights;
- act in an unbiased and impartial manner; not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, age, disability, religion, political persuasion, conscience, belief, culture or language;
- avoid the use of the oversight institution to which s/he belongs to unfairly promote or prejudice the interests of any person, political party or interest group;
- avoid the use of such bodies to persecute individuals on the basis of political persuasion;
- promote sound, efficient, effective, transparent and accountable administration in the course of his/her official duties shall report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest
- avoid the use of or disclose any official information for personal gain or the gain of others;
- execute his/her duty in a transparent and accountable manner;
- uphold the integrity of the constitution.(In a number of cases, many of these institutions actually contradict, rather than reinforce the fundamental tenets of the constitution.)

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functions, some oversight bodies may be created through national legislation. For example, the Zambian constitution gives the legislature the power to create commissions and to determine their functions and powers.

**SUMMARY OF MAIN POINTS – CHAPTER 3**

- The essence of security-sector transformation is the process of aligning the sector with core values, principles and practices of democratic governance, which is a critical component of human development and human security.

- Sound security-sector governance is crucial not only for the success of democratic consolidation, but also the quality of security.

- Four aspects of democratic governance that are critical for the security sector are:  a)  transparency;  b) accountability;  c) the legal basis of the security sector; and d) oversight.

- *Transparency*:  Transparency is the fundamental ingredient in accountable governance.  Without access to information about the formulation and implementation of laws, policies, plans and budgets, it is impossible to hold any public servant to account.

  - It is possible to retain a high degree of confidentiality without compromising the principle of public accountability.  In doing so, it is vital to be clear about what is being held in confidence and why it is considered sensitive.

  - The process by which the legal arrangements guiding the security sector are determined must be transparent.  Legislation governing the different security bodies must also be developed in a transparent and participatory fashion.  A conscious effort must also be made to ensure that the basic legal documents governing the security sector are disseminated as widely as possible and that governments are internally transparent.

  - While the security sector is unlikely to have a higher standard of transparency than other parts of the public sector, the wide dissemination of information will help produce policies consistent with democratic security-sector governance and the effective implementation of these policies.  Among other things, it will strengthen the demand for accountable governance, including effective oversight.

- *Accountability*:  Democratic accountability in the security sector means that security bodies are subordinate to the civil authorities in democratically constituted states, must explain their actions to civil authorities (indirect accountability) and civil society (direct accountability), and are subject to sanctions for inappropriate actions for inadequately explaining their actions.

  - There are three levels of accountability:  1) ideal-type accountability (norms and principles); 2) legal accountability (national legislation); and 3) operational accountability (accountability as it is actually practiced).  The challenge is to align national laws with basic principles and norms and to progressively adjust "accountability on the ground" to the national legal framework and international norms and principles.

**MAIN POINTS – CHAPTER 3 (cont'd)**

♦ Developing and protecting a system of accountability is a continuous process that all societies, irrespective of their level of development, must undergo.

♦ Civil society has an important role to play in promoting security-sector accountability, by tracking behavior, drawing attention to deviations from national and international laws and good practice, suggesting ways of improving accountability, serving on public oversight and accountability bodies, and promoting dialogue between embers of the security bodies and the public.

▪ *Legal basis of the security sector*: Democratic governance requires that the efficient and well-functioning institutions and infrastructure of government are legally backed and socially coherent.

♦ The constitution should, at a minimum, specify lines of authority, basic responsibilities and broad democratic principles to which members of the security bodies should adhere.

♦ National legislation fleshing out the details of governing the defence, police, and intelligence services and the penal system should be proposed by the executive. While there is no agreed formula for the degree to which legislatures participate in the process of lawmaking in democratic systems, legislatures in such systems generally comment on proposed legislation, approve or reject legislation, and implement legislation.

♦ Customary law institutions are extremely important in Africa because of numerous limitations on formal systems of justice. Mechanisms compatible with both formal systems and customary law include a) community service schemes; b) police-community liaison groups; c) community safety forums; and calculating fines according to an individual's capacity to pay. At the same time, customary law systems are not always fully compatible with formal law, or with the principles and norms underlying democratic governance. These differences should be acknowledged openly.

▪ *Oversight*: Throughout the world tensions exist between the culture of secrecy that has traditionally surrounded security activities and the need for accountability in democratic societies.

♦ There are three types of oversight bodies: 1) legislative accountability bodies (public accounts committees, intelligence committees and so on); 2) independent accountability bodies (auditors general, constitutional courts, ombudspersons and so on); 3) public-sector accountability agencies (inspectors general for relevant ministries, ministerial contract tender committees and the like).

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**MAIN POINTS – CHAPTER 3 (cont'd)**

♦ At a minimum, the constitution should address the role of the legislature in national security policy formulation; access to information on all security-sector issues; powers to declare war; powers over the budget; powers of approval of senior security sector appointments; powers on the declaration of emergency powers and how these affect non-derogable rights; and professional autonomy of military and prohibitions on military interference in politics.

♦ Independent oversight bodies require access to adequate operating budgets and clearly delineated functions and powers in order to have a high degree of autonomy from both the executive and the legislature.

♦ Oversight functions of legislatures in democratic societies frequently include a) establishing the legal framework of democratic security-sector governance, b) reviewing/approving security policies and budgets, and c) overseeing expenditure, procurement, operations and deployments.

♦ The quality of oversight depends on: a) the independence and accountability of oversight bodies; b) guaranteed access of oversight bodies to financial resources; c) clear delineation of functions of oversight bodies; d) knowledge of security issues and governing processes among oversight personnel; and e) confidence building between security personnel and civil oversight personnel.

# CHAPTER 4

# Policy Development and Implementation,

## AIM

This chapter highlights the central features of the process of formulating and implementing policy. It provides information on generic policy processes, recognising that the way in which such processes are undertaken will vary from country to country.

Section 4.1 explains why policy is important. Section 4.2 examines the political dimensions of the policy process. Section 4.3 offers some observations on the context in which policies are developed and implemented. Sections 4.4 – 4.6 discuss the policy management process and describes its application in the security sector. Section 4.4 focuses on four cross-cutting issues: 1) the importance of human and institutional capacity; 2) policy communication, dialogue, and debate; 3) policy analysis; 4) factors influencing the decision to conduct a major policy review. Section 4.5 examines policy development. Section 4.6 offers some guidance on policy implementation. (Oversight, which is a central component of the policy process is discussed in Chapter 3.)

## 4.1   WHY POLICY IS IMPORTANT

Policy in any sector is important for four inter-related reasons:

- It provides a clear series of guidelines within which strategies can be framed and activities can take place.

- It thus helps discipline government behaviour by minimizing *ad hoc* and costly decision-making processes and by promoting the optimal use of resources in pursuit of specific objectives.

- It provides people with a series of normative and practical guidelines via which government can be assessed and held accountable for its actions.

- It confers predictability on the activities of government.

## 4.2   THE POLITICS OF THE POLICY PROCESS

The policy process is often equated with the formal institutional arrangements that are its output – legislation, policy documents, improved organisational management, and the like. In reality, the policy process is part of a complex political process that reflects institutional relationships that are inherently political, subjective and psychological. Where the security organisations have become deeply embedded in the political system and economy, simply writing new laws or undertaking narrow institutional reforms will have only a limited effect on progress toward democratic civil

control of the security sector. It is therefore important to focus on changing the entire environment within which the security sector operates.

African experience with reforming the security sector at the end of the 20th century and beginning of the 21st century underscores the importance of improved governance, greater transparency, respect for rules-based systems, and promotion and protection of human rights. Several areas are particularly relevant in this regard:

- Addressing the constitutional dimensions of civil democratic control.

- Developing civilian expertise in security issues, among politicians, government civil servants, and civil society.

- Developing participatory and collective methods of managing the security sector that are consistent with African culture and participatory democracy.

- Creating opportunities for networking and dialogue between members of the security organisations and civilians.

- Agreeing the division of labour among the different security organisations.

- Ensuring professional autonomy of the security organisations (Box 4-1).

**Box 4-1. Why Professional Autonomy of the Police Service Matters**

"Political manipulation of the police subverts the rule of law and undermines the professionalism of officers, deterring the best recruits and reducing police capacity to combat crime effectively…. The South African police force was previously an intrinsic part of the state apparatus of repression, with officers involved in widespread and systematic human rights violations.

"Now, other governments across the SADC region are using tactics resembling those of the apartheid era, in politically misusing the police to suppress public meetings, demonstrations or campaigning by opposition parties and government critics. In the majority of countries in the region, police harass, disrupt or discourage the activities of opposition leaders, trade union officials, youth activists, human rights monitors and journalists. This political misuse of the police violates international human rights guarantees and standards for policing. Evidence of such misuse can be seen in statements of political allegiance made by police officials and in reprisals against officers who carry out their duties in a fair and impartial manner.

"Several international human rights standards oblige law enforcement officials to carry out their duties fairly and impartially. …[I]nternational standards and treaties entitle everyone to the equal protection of the law, without discrimination. [For example, the] UN International Code of Conduct for Public Officials states that public officials have a duty to act in the public interest and that: 'Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.' The public interest lies in policing being conducted fairly and impartially, without regard to political affiliation."

Source: Amnesty International, *Policing to protect human rights: A survey of police practice in countries of the Southern African Development Community, 1997-2002*, London, 2002, pp. 13-14. See also International Code of Conduct for Public Officials (Article 1), (www.un.org/documents/ga/res/51/a51r059), adopted by UN General Assembly resolution 51/59 of 12 December 1996.

Any effort to enhance the policy process in African security sectors must be based on:

- accountability to the people

- participation, facilitated by an accessible process and a culture of inclusivity
- legitimacy
- transparency
- efficiency
- ownership

Box 4-2 describes the components of a national policy process that will achieve these objectives.

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**Box 4-2.  Good Practice:  Characteristics of a Successful National Policy Process**

- The process itself is understood to be as important as the outcome of the process.

- The management and administration of the process is credible and respected.

- Conflicting aims and views are mediated in a manner that enriches the policy debate and does not jeopardise its progress.  This may necessitate conflict resolution and consensus building among key stakeholders.

- To promote transparency, participation, and credibility, all relevant stakeholders have access to necessary information.

- The process is open to the diverse views existing in society.  Dissenting views are valued as enriching the policy debate and as a means of ensuring that the opinions of various sectors of society are represented.

- Ordinary people are empowered to make effective contributions to policy development and implementation by giving them the necessary tools to participate.

- The entire process is accessible to ordinary citizens:  physical proximity, the languages used, the absence of jargon and overly sophisticated language, the provision of relevant information on the aims and objectives of the process in a timely manner.

- Priority is given to public education during policy development and implementation in order to assist the public in understanding their rights and obligations.  Efforts are made to use appropriate media and other methods to reach out especially to the disadvantaged and marginalised.

- The process is continuously reviewed and evaluated to confirm that operating principles and minimum standards are adhered to.

- All actions violating the values enshrined in the output of the process should be unequivocally rejected.

- Universally accepted rights must be reflected in all processes.

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## 4.3   THE POLICY CONTEXT

### 4.3.1  Policy Reform in Times of Change and Stability

Policy is developed and implemented in two different types of contexts:  1) periods of significant change – either in economic and political systems or in the relevant institution itself and 2) periods where systems are essentially stable.  Both of these situations have a different bearing on the possible outcomes of a policy process.

It is important to consider the following factors when engaging in a process of transformation:

- **Nature of change.** A decision to undertake major policy changes is more easily made during periods of significant change. In periods of relative system stability, changes tend to be slower and more incremental. At the same time, it may be easier to implement major changes under conditions of greater system stability.

- **The stakes.** During period of change, the political and institutional stakes are high. Failure to deal with the need for significant change in the security sector, has led to many governments being overthrown. In times of system stability, the stakes tend to appear moderate.

- **Level of attention.** Policy changes tend to draw less attention when they are "chosen" during periods of system stability.

### 4.3.2 Responding to Policy Reform

Whenever a policy is going to be introduced or modified, it is critical to take into account the sentiments of political society, civil society, the state and the public. As far as possible one must identify the major role players required for the success of the policy (both inside and outside the organisation concerned), determine their attitudes toward the proposed changes, and analyse their influence over the formulation and implementation of the policy.[18]

Responses to the introduction of a new policy also affect the context in which the policy is developed and implemented.

Two factors are especially important here:
- The costs and benefits of the policy to be implemented
- The pace of policy implementation.

*Costs and benefits.* If the costs of the policy are to be borne by many people but the benefits concentrated in the hands of a few (purchases of new cars and houses for ministers for instance), then the response of the public is likely to be strongly negative. Costs that are borne by a small sector of the population while the benefits of the policy are enjoyed by a larger number of individuals (levies on business to support an economic development programme, for instance) public reaction is likely to be muted.

In general, it can be anticipated that security-sector transformation will benefit more people than will bear the costs. However, the security organisations do have the capacity to disrupt the constitutional order. While many security organisation personnel can expect to see their conditions of service and their professional status increase as a result of security-sector transformation, some individuals may in fact lose status or economic opportunities. It is important to convince the vast majority of security organisation personnel that they will benefit professionally from the proposed changes

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[18] The major actors in each portion of the security sector are discussed in Chapter 2.

and to devise strategies to reduce opportunities for spoilers to derail the transformation process.

*The pace of policy implementation.* Policies that are implemented rapidly and affect many people evoke substantial public response (raising the price of bread or fuel overnight for instance). However, policies that are gradually applied evoke much less public response (standardisation of driving licenses for example).

Since improving governance in the security sector is essentially a matter of institutional and attitudinal transformation, it is likely to proceed relatively slowly. This will provide breathing space for the security organisations themselves to adjust. It may, however, create dissatisfaction among segments of the population if certain types of behaviour, such as human rights violations, are not altered rapidly.

## 4.4    MANAGING THE POLICY PROCESS I:  CROSS-CUTTING ISSUES

Figure 4-1 illustrates a generic policy management process. This process can be applied to policy processes in defence, public safety, and intelligence. While the procedures described in Sections 4.4 – 4.6 will always apply to all stakeholders engaged in managing a policy process, the process itself should not be managed mechanistically. Nor should it be over-managed. Rather, there should be sufficient latitude to take into account the individual characteristics of each policy process. Each policy process has unique characteristics, and there can be no linear or rigid guidelines for managing a policy process. The focus in sections 4.4 – 4.6 is, therefore, on generic elements of the policy process. Exactly how these elements are combined will vary from country to country.

This section examines four cross-cutting issues that are critical to a well-managed policy process:

- policy communication, dialogue, and debate

- adequate human and institutional capacity

- policy analysis

- factors influencing the decision to conduct a major policy review.

### 4.4.1  Policy Communication, Dialogue, and Debate

A central tenet of democratic governance is that policy should be developed and implemented in a transparent and participatory manner. That is why policy communication, dialogue and debate are at the centre of the policy process. Participants in the South African defence transformation process, for example, stress the centrality of communication in a successful transformation process in any sector (Box 4-3.)  The formulation and implementation of

**Box 4-3.  Good Practice:  Placing Communication at the Centre of the Policy Process**

"Communicate, and communicate, and communicate.  And when you are tired of communicating, communicate, and communicate and communicate some more."

Source:  Brigadier-General Solly Mollo (SANDF), Presentation on "Managing Change" to the "South-South Dialogue on Defence Transformation," Accra, May 27-30, 2003.

**Figure 4-1. The Security-Sector Management Process**
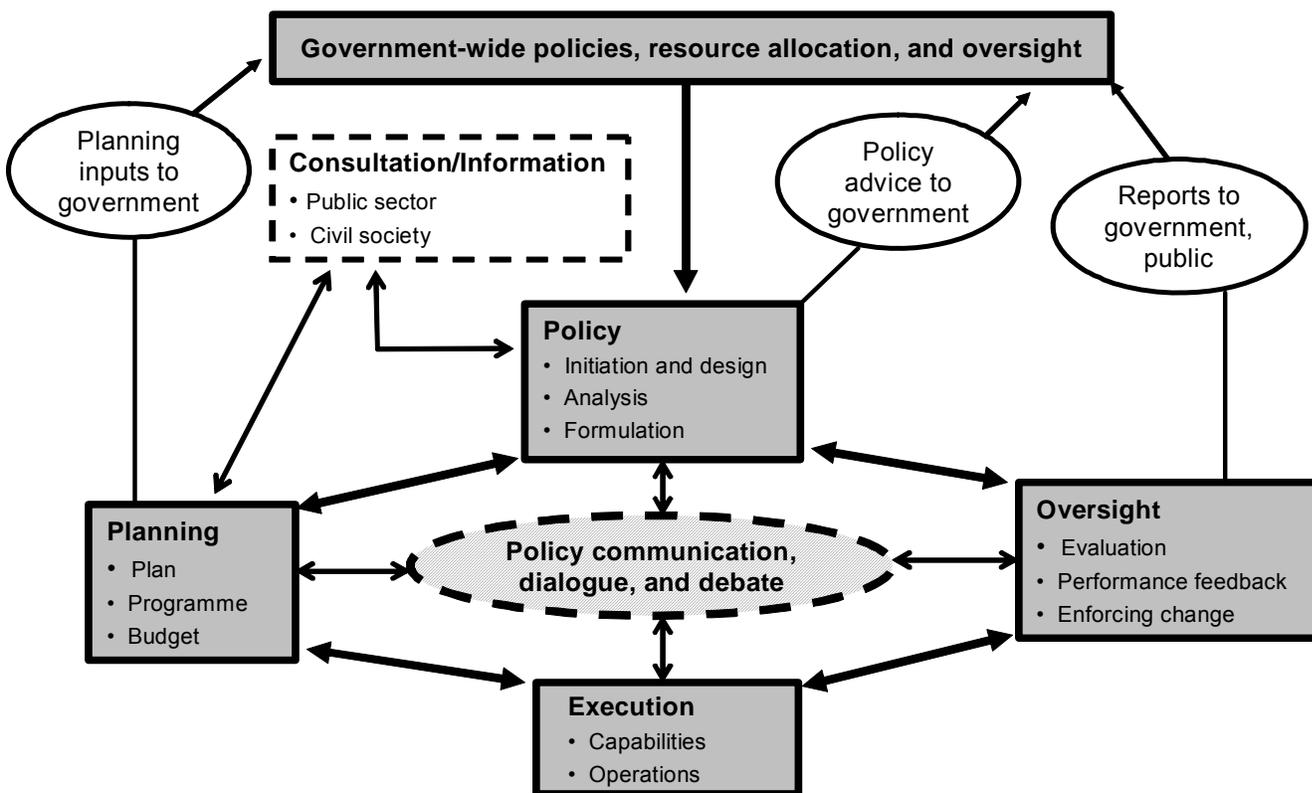


Source: Based on flowcharts provided by Len LeRoux, Institute for Security Studies, Pretoria, and Gavin Cawthra, Centre for Security and Defence Management, University of Witwatersrand, Johannesburg.

policy should also operate on the basis of the "principle of shared responsibility." This principle dictates that participation in policy formulation is never the prerogative of one ministry or one set of actors alone. This diversity must be reflected in the ethos, strategy and process of the management of policy. Thus, for example, intelligence policy should not be determined solely by the body or bodies responsible for managing the intelligence services. Nor should input be sought only from intelligence specialists.

Openness is required both within government and between government and the public. All relevant governmental actors – in all branches of government – must have access to the information they require to play their constitutional roles in the policy process. The economic managers (finance ministry, ministry of planning and so on) are frequently left outside security-sector policy processes in African countries. In democratic societies that follow sound public expenditure management practices, the economic managers are involved from the beginning in order to help provide a realistic financial framework for policy development and implementation.[19] Members of the public must also be adequately informed to enable them to provide input into the policy process and to assess government implementation of policies. The post-1994 South African experience of security-sector policy management produced a number of useful mechanisms for strengthening consultation during policy development (Box 3-2).

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[19] Chapter 5 contains more detail on financial management of the security sector.

### 4.4.2  Adequate Human and Institutional Capacity

Institutional and human capacities are crucial to ensuring the successful outcome of any policy process.  Policy that has been developed without taking into account institutional and human-resource constraints will act as no more than a vision with little long-term, operational utility.  African countries experience significant human and institutional capacity constraints throughout the public sector.  These constraints are often most severe in the security sector.  The capacity of civilians in both the public and non-governmental sectors to participate fully in the processes of policymaking, implementation, and oversight in the security sector is extremely weak in most African countries.

Perhaps ironically, security organisation personnel are also often poorly prepared for the roles they need to play in the policy process.  In most non-OECD countries, security organisation personnel are unable to assess threats, develop plans for addressing these threats, or manage the resources allocated to them effectively and efficiently.  Because of the lack of civil oversight, security organisation personnel have had little or no incentive to carry out these functions rigorously.

It is therefore critically important to conduct a realistic appraisal of the capacity of all relevant actors to develop and implement policy.  This involves asking:

- Do key actors have the knowledge and skills to fulfil the roles they are supposed to play in the policy process?  If not, are there ways of helping them acquire at least some of the necessary knowledge and skills in the short term, for example through mentoring arrangements or seconding knowledgeable civil society members in an advisory capacity?

- Do key actors have access to the information they require to play their assigned roles in the policy process?  If not, what needs to be done to improve access to information?  Is this politically feasible?

- Are there major institutional impediments that will negatively affect the policy process?  If so, what can be done to alleviate them in the short term and rectify them in the longer term?

- Do key actors have sufficient weight to participate effectively in the policy process?  If not, to what extent is it possible to alter the balance of power among key stakeholders?

### 4.4.3  Policy Analysis

Policy analysis is the backbone of any policy process.  A successful policy process owes much to good policy analysis and the options it generates.  A generic policy analysis process consists of the following steps:

- Defining the problem
- Identifying options

- Determining the consequences of each option, including impact on the budget over the medium term

- Predicting the outcome of each of these options

- Making a set of value judgments from the options and the likely outcomes

- Recommending a particular option

Effective policy analysis requires certain skills. Chief among these are:

- good analytical skills – especially the ability to reason in a logical and coherent manner and to work in a deductive manner

- synthetic skills – the ability to bring together different perspectives in an integrated manner

### 4.4.4  Initiating a Policy Process

Policy is always initiated as a result of a deliberate decision and requires the appropriate authorization or mandate from an appropriate political or departmental head. The decision to review security policy or some portion of it will be made by the Cabinet, the legislature, a minister, or a head of department. Approval of the outcome of the review rests with the Cabinet and/or parliament. In some cases, security actors themselves will trigger a review in an effort to pre-empt a review imposed by the political actors and forestall major change. If possible, efforts should be made by the civil authorities to co-opt such reviews.

In the security sector, there are four major factors that initiate a major policy review:

- major shifts in the political environment within which security-sector institutions operate

- major shifts in the strategic environment within which the security-sector institutions operate

- significant change in the economic climate within which the security institutions operate

- a cultural crisis within one or more of the security-sector institutions

***Major political shifts.*** Political shifts can be either internally or externally driven, and frequently are a combination of both. The vast majority of post-1990 transformation processes within both the developed and developing world derived to some degree from the end of the Cold War which enabled norms such as human rights protection, democracy, good governance, human development and human security to expand internationally. In Sierra Leone, to take one example of a domestically-induced shift, the war against the Revolutionary United Front made it impossible to continue to ignore the failure of the political system to provide an environment conducive to either human development or human security. In consequence, the government set out in the late 1990s to reverse almost 40 years of security-sector unaccountability to the civil authorities.

***Major strategic shifts.*** Strategic shifts may result from a fundamental shift in the regional balance of power (the end of the Cold War) or a shift in the sub-regional balance of power (the demise of apartheid within South Africa). They may be long-term or short-term in nature. Shifts that appear likely to endure require a reassessment of a country's security environment and the roles that the security organisations will play in protecting the state and its citizens against threats of violence.

In the current African strategic context, most countries do not require armed forces for "traditional" roles and tasks associated with defending the country against external threats. In the future, very few African countries will have the luxury of maintaining armed forces for traditional roles alone. Already many African armed forces are used for a variety of non-traditional purposes such as participation in regional security arrangements and peace missions, aid to the civil authorities during natural disasters, delivery of humanitarian assistance, support to domestic police services, protection against poaching activities, and provision of maritime security. The role of the police is also increasingly shifting and expanding to include, for example, transnational crime.

***Significant economic changes.*** Constrained economic circumstances in many African countries have reduced budgetary outlays throughout the public sector, and the security organisations have not been immune to budget cuts. Countries such as Sierra Leone that are also affected by conflict find themselves in a particularly difficult situation. The reprioritization of national needs by governments has also led to a decline in the share of the budget allocated to the security sector. The serious economic constraints facing all security organisations throughout francophone West Africa at the beginning of the 21$^{st}$ century – especially the armed forces, police, and gendarmerie – led some security-sector officials to propose that security policies need to be reviewed and brought into line with available resources.

In yet other cases, economic constraints can be created by the need to shift financial resources within the security sector. There is a sense within much of sub-Saharan Africa that the current crisis of public safety has created an urgent need to transfer resources from defence to the police and gendarmerie. The simultaneous rise in transnational threats to peace and security may require a shift from traditional defence forces to paramilitary-type forces and demand greater regional collaboration among police services. Again, such shifts would need to be embedded in a review of security policies.

***Cultural crises.*** Wide-ranging transformation processes are often initiated by a cultural crisis within a specific institution (which may, or may not, be a product of changes in the external environment.) The armed forces in South Africa, Nigeria and Rwanda have been forced to transform in light of their previous history and the lack of representativeness at all levels of the organisation.

## 4.5 MANAGING THE POLICY PROCESS II: POLICY DEVELOPMENT

Figure 4-2 portrays a generic policy development and implementation process that can be applied to the different parts of the security sector. It provides the framework for the discussion in both this section and Section 4.6. As with all other generic processes

**Figure 4-2.  A Generic Policy Development and Implementation Process**



| 1.  Analyzing the Security Environment |
|---|
| • Evaluation of all risk factors (internal and external) based on policy guidance/economic framework from cabinet; |
| • Broad national strategy defining government's approach to these threats and tasks assigned to security bodies. |

**Consultation/Information**

Depending on the issue under consideration, input may be sought from:
•  Ministry of finance;
•  Other ministries not directly involved in the review process;
•  Legislators;
•  External expert review panels;
•  Armed forces;
•  Police;
•  Paramilitary forces;
•  Intelligence bodies;
•  Informal groups of experts from academia, industry, policy community, interest groups
•  Relevant civil society groups;
•  Members of the public.

| 2.  Developing Policy Papers and Operational Plans |
|---|
| • Policy framework for defence, justice/public safety, and intelligence; |
| • Operational strategies for individual security bodies; |
| • Assessment of options and decisions/scrutiny by relevant executive/legislative bodies; |
| • Concrete outputs, including policy papers; white papers; operational strategies; strategic reviews; implementing legislation; background papers. |

**Oversight**

• Internal, such as internal affairs offices,disciplinary units, inspectors-general, military/police/intelligence auditors, MOD/Ministry of Interior auditors, military police/justice systems;

• External, such as legislature, judiciary, police commission, public protector, auditor-general.

| 3.  Execution of Policies and Plans |
|---|
| • Mobilize/allocate resources; |
| • Implement planned activities; |
| •Evaluate/audit efficiency and effectiveness of activities/outcomes. |

Source:  Nicole Ball, Tsjeard Bouta, and Luc van de Goor, *Enhancing Democratic Governance of the Security Sector: An Institutional Assessment Framework,* The Hague:  The Netherlands Ministry of Foreign Affairs and the Clingendael Institute, 2003.

discussed in this handbook, exactly how the generic elements are combined will vary from country to country.

### 4.5.1  Getting Started:  Developing the Process Design and Guidance

Once a decision is made to conduct a major policy review, the first step is to design the process itself.  To this end, it is important to ask:

▪  What needs to be done?

▪  Who is responsible for managing the policy process?  What other role players are likely to be involved and how will they interact with the process managers?

▪  How will the policy process be accomplished and with what resources?

▪  Who will interpret the policy (which external and internal role players for instance)?

When these questions are answered, the major role players can be provided with **guidance on the policy review process** by the cabinet, the legislature or other mandated government body.

This guidance should include:

- The overall direction of policy

- The issues to be addressed in the course of the review

- The fiscal framework within which the review is to be conducted

- Any required consultations

- The date by which the review must be completed

### 4.5.2  Step 1:  Carrying out a Security Environment Assessment

Once the process is designed and guidance has been issued, an assessment of the overall security environment should be undertaken (Figure 4-3.)  This assessment will examine potential threats to the country stemming from both internal and external sources.  The assessment will inform decisions about how the issues that affect the country's overall security situation will be addressed.  Some will require the attention of one or more of the country's security services.  Non-security actors will address others.  Yet other issues will be addressed by a combination of security and non-security actors.  The objective is to identify those areas where the defence forces will be engaged; those areas where the police service will be engaged; and those areas of concern to the intelligence services.  It should also seek to develop a series of guidelines on the principles, values and framework of a broad national security policy.

Very few countries conduct a broad security environment assessment as the basis for developing national security policies or sectoral policies for defence, intelligence and justice/public safety.  In the post-September 11 world, however, it is increasingly evident that countries need to have an integrated vision of the requirements of the entire security sector, and that defence policy, justice/public safety policy and intelligence policy should not be developed in isolation from each other.

Uganda is the first African country to have conducted a comprehensive security environment assessment as a prelude to a defence review.  That review identified 134 "threat agents" of which three were specific to the defence sector.  This outcome underscores the importance of including all relevant stakeholders in the review process in order to best assess how the full range of security challenges facing a country can be met.

**Figure 4-3.  Security Environment Assessment**
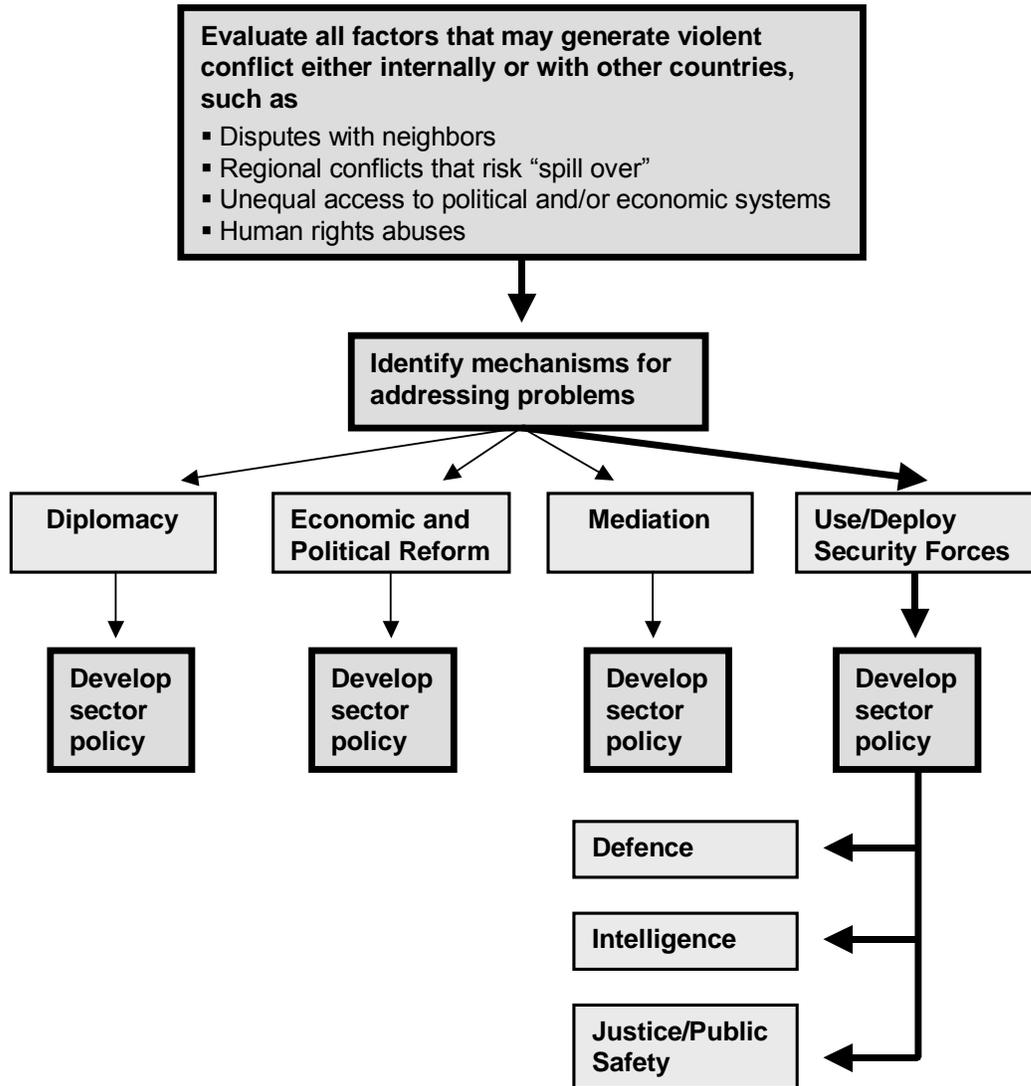
### 4.5.3  Step 2:  Developing Policy Frameworks and Undertaking Strategic Reviews

Once the security environment assessment is completed, policy frameworks for defence, justice/public safety and intelligence can be developed, and strategic reviews conducted in order to operationalise those policies.

The processes in these three areas should, ideally, be managed in an integrated manner to avoid contradictions and inconsistencies.  In reality, it is likely that the timetables for each area will be different.  The South African White Paper on Intelligence was completed in 1995.  The White Paper on Defence appeared in 1996 while the White Paper on Safety and Security was completed in 1998.  Despite different

timetables, it is nonetheless desirable to ensure some linkage among these processes, as the outcome will be stronger to the extent that they can inform each other.

It is also important to recognise that in some countries, policy development and strategic reviews are conducted as a single process while in other countries they are two separate processes.  Irrespective of how they are phased, both policy development processes and strategic reviews should be managed in a consultative manner to enhance legitimacy and credibility of the outcome.

The policy frameworks for the different sectors – defence, justice/public safety, and intelligence – will naturally have somewhat different focuses.

However, all policy frameworks should ideally identify

- the main sectoral priorities (Box 4-4)

- the fundamental values that underpin the policy

- the legal basis of the policy

- the roles of key actors in each sector.

---

**Box 4-4.  Good Practice:  Specifying Objectives of Policy Papers**

South Africa's White Paper on Safety and Security lists three main objectives:
- Strategic priorities to deal with crime
- Roles and responsibilities of various role-players in the safety and security sphere.
- The role of the Department of Safety and Security within the Constitutional framework.

Source:  South Africa, Department of Safety and Security, "Introduction,"  *In Service of Safety,* White Paper on Safety and Security, 1999-2004, September 1998, http://www.gov.za/whitepaper/1998/ safety.htm#Intro

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While it is impossible to provide detailed cost estimates at this stage of policy development

- policy frameworks and strategic reviews should reflect fiscal realities.

A policy or a strategic plan that is not financially sustainable places in jeopardy the achievement of the safe and secure environment necessary for both economic and political development.  It also risks creating frustration and resentment among the members of the security organisations who are unable to carry out all of their mandated tasks in a professional manner.

The strategic review process will produce a range of options for meeting the objectives laid out in the policy framework for assessment by senior policy makers.  It is likely that additional information will be requested on one or more of the options and that the proposals will be modified before a decision is made to select one of the options.

Once the relevant executive branch actors have chosen an option, the policy will be scrutinised by the legislature.  The degree to which the legislature is able to amend

the proposed policy will vary from country to country.  All policies should ultimately be approved by the legislature.

The final step in the policy development and strategic review processes is dissemination of the policy and other relevant material to all stakeholders and to the public.  Of course, the quality of the policy is likely to be higher to the extent that the public and all relevant stakeholders are adequately consulted during all phases, not simply informed of its outcome at the end.

## 4.6    MANAGING THE POLICY PROCESS III:  POLICY IMPLEMENTATION

Policy makers frequently give considerably more attention to policy development than to policy implementation.  It is often assumed that a good policy will produce satisfactory outcomes.  In reality, policy outcomes are determined by government actions, not what governments state they intend to do.  Implementation is thus the key ingredient of good policy.

There are many factors that influence the quality of policy implementation.  This section

- identifies a number of process factors that can help improve the likelihood that policy will be implemented successfully

- discusses the importance of planning

- underscores the need for regular monitoring and evaluation.

Before considering these issues, there are two general characteristics relating to policy development that should be borne in mind:

- **Policy is never static.**  Both the political and socio-economic environment can undermine and/or radically shift the priorities outlined in any given policy.  In consequence, the policy management process must be flexible enough to accommodate these changes and to reflect them in the implementation plan.

- **The policy implementation process is as much a political process as a technical process.**   While technical skills are necessary to manage and implement policy, analytical, synthetic, consensus-building, conflict-resolution, compromise, contingency planning, and stakeholder-dialogue skills are equally important.

### 4.6.1.  Maximising the Opportunities for Successful Policy Implementation

For policy to be implemented successfully, it is crucial that:

- The policy contains clear and consistent objectives.

- The policy identifies those factors that could influence policy outcomes such as target groups and incentives.

- The policy implementation process is structured so that the people responsible for implementing the policy actually implement it and the intended outcomes are actually achieved.

Five additional issues that need to be taken into account during the process of policy implementation are:

- The appropriate actors are assigned responsibility for implementation and they are capable of taking on the tasks assigned to them.

- Efforts are made to reduce the number of veto points and potential blockages. Involving too many actors in policy implementation inevitably retards the process and makes it vulnerable to selective interpretation and implementation, and even obstruction.

- The necessary supportive rules, procedures and resources are in place.

- The commitment of the leadership to the policy objectives they have approved is genuine and is sustained throughout the process of implementing a new policy. This requires those in leadership to possess appropriate political and strategic-management skills.

- The commitment of target groups to the policy objectives must be developed and sustained. This entails ongoing dialogue and consultation with these target groups. The objective must be to ensure that all relevant actors receive the adequate information at all stages of the policy process.

As in other parts of the policy process, it is critically important to conduct a realistic appraisal of the capacity of relevant actors to manage and implement policy. Attention should focus in the first instance on individuals in key positions. Methods of on-the-job training such as mentoring arrangements should be given priority and where possible, mentors should be sought from countries that have undertaken similar transformation exercises. Major institutional blockages should also be prioritised and methods of overcoming them negotiated among the different stakeholders.

### 4.6.2. Planning

Policies in any sector provide general guidance on the government's objectives and the norms and principles underlying these goals. In order to implement policy, it is necessary to develop long-term, strategic plans and to translate these objectives into programmes that can be implemented and budgets that can support the specific plans and programmes.

- Planning is important because no organisation operates effectively in the absence of clear and realistic plans.

- Effective management and oversight of an organisation depends on plans with measurable outputs and agreed financial inputs.

Needs, capabilities and available resources have to be assessed and structures must be developed that enable needs to be aligned with capabilities and resources. Specifying needs and rigorously assessing requirements based on these needs will demonstrate where there are resource gaps and should lead governments to reallocate resources and/or to use available resources more efficiently.

Defence, justice/public safety and intelligence plans are the documents that specify the measurable outputs that these sectors will produce in pursuit of the government's objectives against agreed financial allocations.

These sectoral plans should contain the following elements:

- The strategic profile of the defence/public safety/intelligence organisations, including mission, vision, critical success factors, and value system.

- The analysis and critical assumptions underlying the strategic plan.

- A clear statement of the required capabilities of each security service.

- A clear statement of the way in which the relevant service needs to be structured to deliver the required capabilities.

- The capital acquisition, facilities, and personnel plans to support the delivery of those capabilities.

- The administrative outputs to manage the defence/public safety/intelligence function, including provision of policy, strategy, plans, programmes, and budgets.

- The short- to medium-term operational tasks of the defence/public safety/intelligence organisations.

### 4.6.3. Monitoring and Evaluation

Regular assessments of the policy process are an important component of policy implementation by helping to identify what has worked and what has not worked with any particular aspect of policy implementation.  The principle of policy development, coordination and monitoring as a distinct driver of change is gaining currency in many African countries.  Of late, Ghana, South Africa and Nigeria have all established within their Presidencies, Office of Policy Coordination and Monitoring to act as a clearing house for policy formulation as well as the vehicle for monitoring and evaluating policy implementation and performance.

Monitoring and evaluation have been one of the most neglected aspects of the policy process.  It is often assumed that once policy is agreed, it is "cast in stone" and that no further changes are necessary.  In fact, policies need to be constantly assessed for their effectiveness and continued relevance.  Monitoring involves the routine checking of the policy against the plan devised in the process design phase.  Evaluation requires a critical and detached examination of the objectives of the policy and the extent to which they are being met.

Evaluations can be conducted at all stages of implementation and should be done regularly (Box 4-5).  Some evaluations should be conducted using staff involved in implementing the relevant policy and independent evaluators should conduct some.  In all cases, the findings of evaluations should be fed back into the policy development and implementation process.

Monitoring and evaluation must be backed up by effective means of addressing any problems identified.   Oversight is addressed in Chapter 3, section 3.5.

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**Box 4-5.  Multiple Benefits of Regular Evaluation**

"Well-focused and properly timed evaluation can:  (a) provide the information needed to bring about mid-course corrections in programs and projects; (b) allow for the analysis and resolution of systemic or policy issues; (c) improve the design of future operations; and (d) contribute to strategic policy and program decisions."

Source:  Poverty Reduction and Economic Management Network, World Bank, *Public Expenditure Management Handbook*, Washington, DC: 1998, p. 112.

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**SUMMARY OF MAIN POINTS – CHAPTER 4**

- Policy is important because: a) it provides clear guidelines for developing and implementing strategies; b) it helps discipline government behaviour, promoting the optimal use of resources in pursuit of specific objectives; c) it promotes accountability by providing normative and practical guidelines; and d) it encourages predictability of government actions.

- The policy process is part of a complex political process that reflects institutional relationships that are inherently political, subjective and psychological. Therefore, for the policy process to operate effectively, it is necessary to change the environment in which the security sector operates.

- The context in which policy is developed and implemented is critical. Key aspects of context are: a) political change versus political stability; b) the costs and benefits of the policy to be implemented; and c) the pace of policy implementation.

- Four cross-cutting issues critical to a well-managed policy process are: a) policy communication, dialogue and debate; b) adequate human and institutional capacity; c) policy analysis; and d) factors influencing the decision to conduct a major policy review.

  - *Policy communication, dialogue and debate*: Communication is vital to a successful transformation process. Participation is never the prerogative of one ministry or set of actors alone. All relevant governmental actors must have access to the information required and the policy process must be characterised by a spirit of openness between government and the public.

  - *Human and institutional capacity*: Policy developed without taking into account institutional and human-resource constraints will lack long-term, operational utility. Both civilians and security-body personnel must have the capacity to engage fully in the policy process, and prior to beginning a policy process, a realistic appraisal of the capacity of all relevant actors to develop and implement policy must be conducted.

  - *Policy analysis*: Policy analysis is the backbone of a policy process and requires good analytic skills and good synthetic skills.

  - *Factors influencing the decision to initiate a policy process*: In the security sector, four major factors initiate a policy process: a) major shifts in the political environment; b) major shifts in the strategic environment; c) significant change in the economic climate; and d) a cultural crisis within one or more of the security-sector institutions.

- Policy development consists of a series of steps: a) developing process design and guidance: b) conducting a security environment assessment; and c) developing policy frameworks and undertaking strategic reviews.

**MAIN POINTS – CHAPTER 4 (cont'd)**

♦ *Process design and guidance*:  It is important to lay out clearly what needs to be done; who will manage the process; who will be involved; what resources will be allocated to policy development.

♦ *Security environment assessment*: Countries should examine potential threats from both external and internal sources.  Some will require the attention of one or more of the security services; non-security actors will address others.  Based on this, it will be possible to develop a series of guidelines, principles, values and framework of a broad national security policy.

♦ *Policy frameworks and strategic reviews:*  Once the broad security policy is developed, policy frameworks for defence, public safety and intelligence can be developed.  All policy frameworks should seek to identify a) main Sectoral priorities; b) fundamental values underpinning the policy; c) legal basis of the policy; and d) roles of key actors.  Policy frameworks should reflect fiscal realities.  Strategic reviews should then produce options for meeting the objectives laid out in the policy framework.  All decisions should be disseminated widely.

▪ Policy implementation is the key ingredient of good policy.  For policy to be implemented successfully, a) the policy must contain clear and consistent objectives; b) factors that could influence policy outcomes must be identified; and c) the policy process must be structured so that people responsible for implementing policy implement it and intended outcomes are achieved.

▪ Policies provide guidance on the government's objectives and the norms and principles underlying these goals.  To implement policy, long-term, strategic plans must be developed.  Effective management and oversight depend on plans with measurable outputs and agreed financial inputs.

▪ Policies need to be constantly assessed for their effectiveness and continued relevance.  Monitoring involves the routine checking of policy against plans.  Evaluation requires a critical and detached examination of the objectives of the policy and the extent to which these objectives are being met.

# Chapter 5

# Managing Financial Resources

## AIM

Sound fiscal management of the security sector is essential if a country is to have effective, efficient and professional security organisations that are capable of protecting the state and its population against internal and external threats. Integrated planning, policy-making, and budgeting systems are necessary to achieve an appropriate allocation of public sector resources and to manage those resources effectively and efficiently. This chapter provides guidance on how this integration can be achieved for the security sector.

Section 5.1 explains the importance of following good practice in security-sector budgeting and discusses key principles of sound budgeting that should be applied in all sectors. Section 5.2 outlines a generic security-sector policy, planning and budgeting process and describes how the security sector can be integrated into it.

## 5.1 THE TEN PRINCIPLES OF SOUND BUDGETING

It is often argued that because of the sensitivity of security issues, the security sector is different from other portions of the public sector and that a higher decree of secrecy is warranted, including on budgetary issues. In fact, from a public policy and process perspective, the security sector shares many of the characteristics of other sectors. Therefore, the people of any country will benefit from a security sector that is subject to the same broad set of rules and procedures applied in other sectors, including those pertaining to the budgeting process.

Sound fiscal management of the entire security sector is essential if a country is to have effective, efficient and professional security forces that are capable of protecting the state and its population against internal and external threats. Highly autonomous security forces that are able to act with impunity in the economic and political spheres are invariably professionally weak and highly cost-ineffective.

- Budgeting systems are structured differently throughout the world.
- The principles that underlie these systems should not vary.

There are ten principles of sound public expenditure management that are widely accepted as the basis on which systems of budgeting should be constructed (Box 5-1). It is important to understand that these principles reflect goals that public officials should have in front of them as a guide. No public expenditure system anywhere in the world gets top marks on all of these. The point is to progressively improve adherence to them.

There is no justification for the security sector to violate any of these principles. The way in which it implements them may be a bit different from some other sectors, but the principles must not be violated. All of these principles are relevant to a well-managed budgeting process.

Six of these principles are often highlighted as needing particular attention in terms of managing the security budgeting process in Africa:

- the *transparency* of budgetary processes and information

- the *accountability* of decision makers for the actions they take

- the *comprehensiveness* of the budget

- the *predictability* of revenues backing that budget and the macroeconomic policies on which those revenues depend

- the *contestability* of the budget process

- the *honesty* with which estimates of revenue and expenditure are developed

The principles most frequently cited in relation to the security sector are transparency and accountability. Transparency is the cornerstone on which an accountable security budgeting process is built. Transparency and accountability are

crucial issues in the allocation and management of security-sector resources for all levels of planning, programming and budgeting.

- If security-sector resource allocation and management are not transparent, the security organisations will never be able to achieve public support or the co-operation and support of broader government.

- If not accountable to government and the people, the security sector becomes a cause unto its own and will not be aligned with national interests and priorities. It will easily be corrupted and decision-making will be easily manipulated towards self-interests.

It is clear that some degree of confidentiality is necessary in the area of national security. But this need should not be used to justify a lower level of oversight or lack of adherence to internationally recognised standards of public expenditure management. Different forms of oversight may be necessary for some areas relating to national security, but in general there should be a high level of transparency in the security-sector budgeting process.

It is important to be clear about the distinction between confidentiality and the lack of public scrutiny. It is possible to retain a high degree of confidentiality in highly sensitive areas without compromising the principle of democratic accountability.

- An issue may be sensitive – off-budget activities, for example – but it should not be kept secret.

- War plans, on the other hand, <u>should</u> be held in confidence.

Even so, holding certain subject matter such as war plans in confidence does not mean an absence of democratic accountability. It simply requires appropriate systems of clearance and procedures for consulting the legislature and other oversight bodies.

Civil involvement and control of overall budget decisions, as well as careful auditing at all levels, can help ensure that resources are actually used to accomplish policy objectives. Nevertheless, the most effective solution to this problem is a commitment at all levels to national interests and objectives and the development of clear and transparent planning, programming and budgetary processes and systems to implement them. These processes must of necessity be aligned with the national management framework. Transparency and accountability are enhanced through the system of performance agreements as this relies on the definition of clear output objectives and performance standards and the agreement as to the required resources. The system is also based on negotiation, ensuring better insight, understanding and co-operation.

## 5.2 INCORPORATING THE SECURITY SECTOR INTO GOVERNMENT-WIDE FISCAL MANAGEMENT PROCESSES

There are five inter-related components to managing public expenditure in any sector: 1) sectoral/strategic planning; 2) reviewing previous year's performance; 3) determining what is affordable for the entire public sector; 4) allocating resources by

sector; and 5) using resources efficiently and effectively.

For these processes to be effective, each sector needs to follow good practices internally and to link with the broader government-wide fiscal management and oversight process. All of this must occur within the framework of democratic governance and the principles of sound budgeting and financial management.[20]   This section discusses how this process should work in the security sector, as portrayed in Figure 5-1.

**Figure 5-1.  A Generic Financial Management Process**
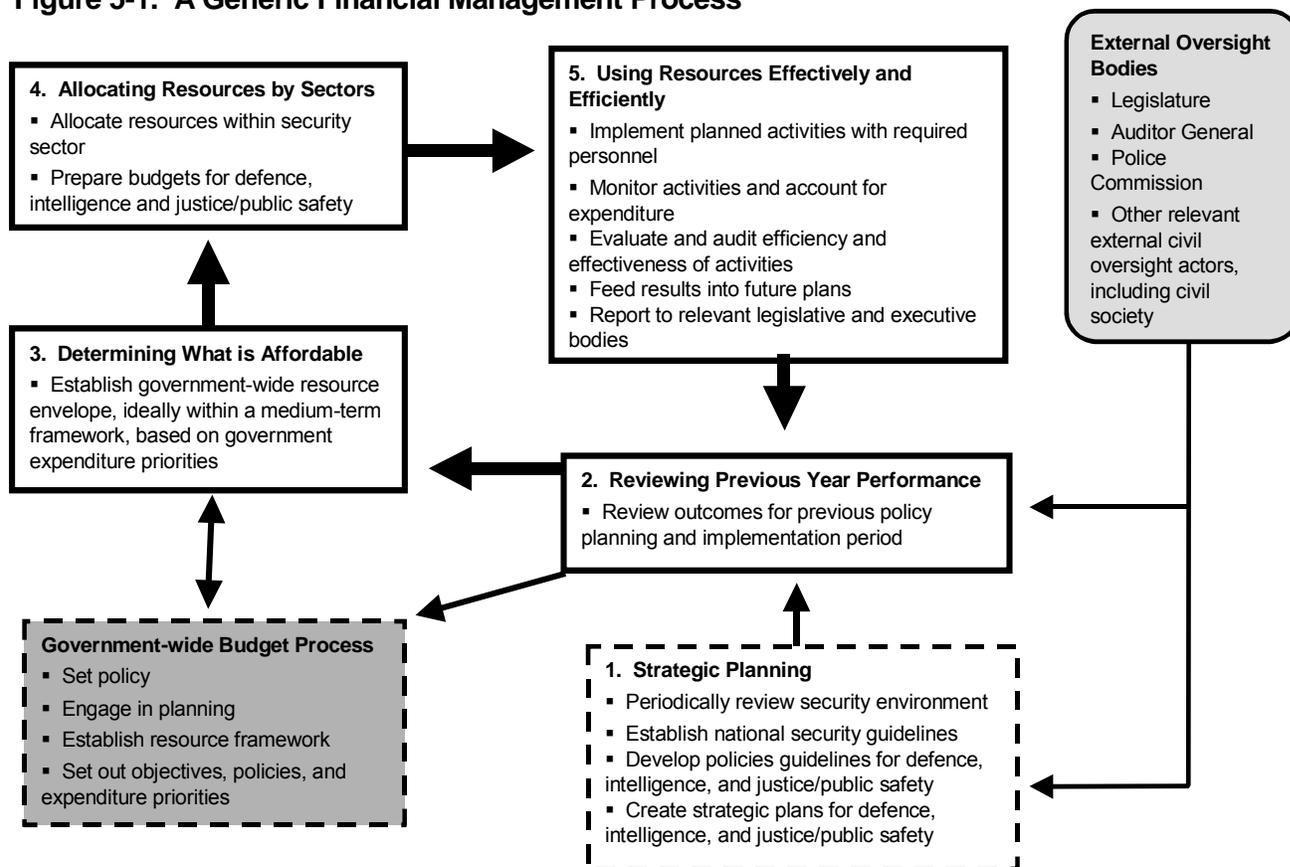
## 5.2.1  Step 1:  Sectoral Planning Process

As in any other part of the public sector, defence, public safety and intelligence budgets should be prepared against a sectoral strategy.  Chapter 4 described the process by which security policy frameworks are developed and translated into plans that can be costed.  Several points are worth repeating here:

▪ The policy and operational review processes should ideally be as transparent and inclusive as possible.  In so far as they are based on a broad consultation among the

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[20] Box 3-1 lists the key principles of democratic governance in the security sector.

The importance of developing affordable and sustainable policies and plans for the security sector cannot be stressed too many times. Economic considerations need to be taken into account throughout the entire strategic planning process. Defence forces, police services, paramilitary units, and intelligence services all cost money. A country will not be secure if it develops policies that it cannot resource in an open, accountable and sustained manner. Thus, part of the guidance on the review process should include the fiscal framework for the security sector and its constituent parts. Throughout the entire process, the finance minister and other key economic managers need to be informed and consulted. Options for force structures need to be developed within the context of financial parameters and the risks associated with buying a certain level of security (Figure 5-2).

**Figure 5-2. Security-Sector Variables:  Ends-Ways-Means**
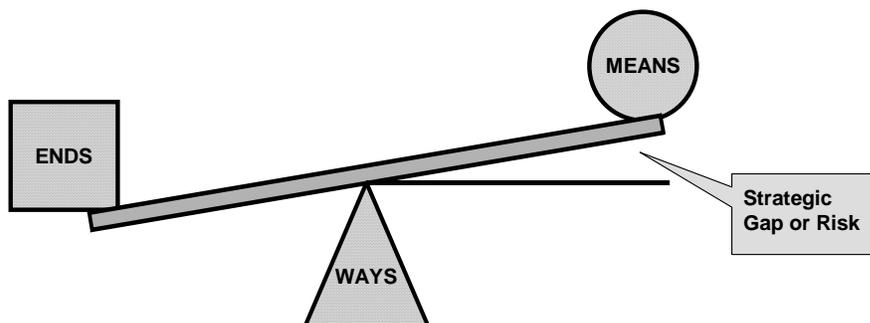


Source:  Nicole Ball and Len LeRoux, "The Defence Budgeting Process," in *Defence Budgeting in Africa*, ed. Wuyi Omitoogun, Oxford: Oxford University Press/Sipri, 2004.

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- It is always necessary to accept some degree of risk, since it is impossible to protect against every contingency.

- The final decisions taken must reflect economic realities.

### 5.2.2. Step 2:  Reviewing Previous Year Performance

While strategic reviews occur infrequently, it is important that the outcome of the previous year's fiscal planning and implementation period be reviewed at the beginning of the annual budget cycle. The efficient and effective management of resources in any sector, including the security sector, requires that information on performance be fed back into the budgeting process, as shown in Figure 5-1.  While defining and measuring performance for the defence sector is more difficult than for many other sectors, a focus on readiness/capability has been shown to be helpful to any discussion of the role, structure, performance, and resource needs of the defence forces.  However performance is defined, the review of previous year budgetary performance will be facilitated by a well-functioning financial management information system (FMIS). The types of information that should be captured by FMIS are shown in Box 5-2.

> **Box 5-2.  Good Practice:  Information to be Captured by FMIS**
> - Approved budget allocations for both recurrent and capital outlays
> - Sources of financing for programmes and projects
> - Budget transfers
> - Supplementary allocations
> - Fund releases against budgetary allocations
> - Data on commitments and actually expenditures against budgeted allocations
>
> Source:  World Bank, *Public Expenditure Management Handbook*, p. 65, www.worldbank.org.

### 5.2.3. Step 3:  Determining What is Affordable

Government policies in any sector must be affordable.  Affordable policies require a sustainable macroeconomic balance, which is critical to the long-term economic health of a country.

- To attain a sustainable macroeconomic balance, governments must give high priority to exercising discipline over total public expenditure.

Government-wide fiscal discipline is critical because an easily expanded resource envelope allows governments to avoid firm decisions on prioritising policy objectives.  At the other end of the spectrum, without a solid floor to the expenditure envelope, resources are not predictable and operational performance will suffer.  Fiscal discipline is weak in many African countries.  While the security sector is by no means the only sector responsible for the expansion of the resource envelope in the course of the fiscal year, it frequently enjoys a privileged position, particularly the armed forces (Box 5-3).

Although the defence forces and intelligence services are likely to receive preference in times of fiscal shortfalls, this is by no means guaranteed (Box 5-4).  In general, however, it is the other security organisations such as police services,

gendarmerie forces, and border guards that tend to experience less stability and predictability in their funding. The outcome in terms of the ability to provide real security for countries that routinely underfund their security organisations is, of course, far from optimal.

This is why it is extremely important for governments to have in place institutions that can achieve long-term macroeconomic stability, determine the overall resource envelope for public expenditure, and enforce government decisions on expenditure priorities and levels.

It is particularly important that:

- Methods of evading fiscal ceilings such as guarantees, off-budget expenditure and arrears, which can subsequently undermine fiscal stability, are discouraged.

- Mechanisms to review the potential impact of assuming debt before approving major capital purchases exist and are applied to the security sector. There is evidence that a lack of such mechanisms has had destabilizing effects on fiscal policy down the track. This is particularly relevant to defence procurement (Box 5-5).

- There should also be clear rules for any reallocation during budget execution, including in response to a shortfall in revenue.

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**Box 5-3. Examples of Fiscal *In*discipline in Africa**

- Government officials, military officers and heads of state and government have intervened in the resource allocation process with flagrant disregard for established procedures and pre-determined spending priorities.
- Military officers have presented the treasury with invoices for expenses incurred outside the budget framework.
- Defence ministers have refused to share the details of defence spending with finance ministers and parliaments.
- The full fiscal implications of arms procurement decisions, including debt incurred for military purposes, are frequently than reflected in budgets.

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**Box 5-4. Problems Caused by Underfunding African Armed Forces**

While the military often enjoys a privileged position in terms of resource allocation in Africa, resource constraints have led some African governments to fail to provide the armed forces with adequate resources to carry out their assigned missions. This not only places at risk the safe and secure environment that is necessary for both economic and political development. It also creates frustration and resentment among the armed forces.

Representatives of the West African armed forces, gendarmerie, and police services who participated in a workshop on democratic governance in the security sector in Dakar, Senegal in October 2001, argued that adequate transparency in the defence sector is critical so that the serious underfunding that afflicts armed forces throughout the region is clear for all to see. They suggested that there is both disdain for the military among civilians and a belief that military security is a comparatively low priority among those who control their countries' financial resources. In their view, this not only leads to inadequate military budgets and thus inadequate external security; it also can heighten internal insecurity through a threat of coups.

**Box 5-5.  The Importance of Transparency in Procurement Processes:  The Tanzanian Air Traffic Control System Purchase**

In December 2001, a month after Tanzania received some $3 billion in debt relief aimed at improving the government's capacity to support improvements in education, health, water, roads and other priority areas, the UK approved Tanzania's purchase of a $40 million BAE air traffic control system. The deal had been under negotiation for several years, but the decision created considerable concern within Tanzania and the UK, as well as at the World Bank and the IMF.

Although the system was ostensibly chosen because it could be used for both civil and military air control, technical evaluations conducted by the International Civil Aviation Organization (ICAO) at the request of the World Bank in 2001 and 2002 concluded that the system did not provide value-for-money.  It is primarily a military system based on dated technology, additional expensive equipment would be required to make it functional for civil purposes, and cost four or five times as much as a civil aviation system more suited to Tanzania's requirements.

The World Bank opposed the purchase, expressing concerns about the debt implications of the purchase.  Both the World Bank and the IMF refused to extend credits to enable the Tanzanian government to finance the purchase.  This led Tanzania to seek commercial funding from Barclay's Bank.  While Barclay's proposed to lend the money at well below market rates, Tanzania would still be paying more for the loan than if the Bank or the Fund had provided credits.  The financing deal was reportedly "deliberately structured to fit just inside the IMF's rules for poor indebted countries." The IMF requires all borrowing to be at rates equivalent to containing a grant element of 35 per cent. The Tanzanian deal reportedly included a 35.9 per cent grant element.

 Ibrahim Lipumba, the leader of the Tanzanian opposition, claimed the deal was negotiated without adequate consultation with the Tanzanian parliament and that parliamentarians had only learned the details from UK press reports.  He also noted that the public expenditure review, which was meant to take in the views of all civil society, never addressed the issue.  Civil society groups issued a statement in February 2002 calling for wider participation in future decisions to incur substantial debt for any purpose.

UK Chancellor of the Exchequer Gordon Brown and then-UK Secretary of State for International Development Clare Short both argued strenuously within Cabinet against approval of the deal, but were defeated.  The Ministry of Defence had used a provision licence procedure that enabled equipment to be built and partially shipped even before the export license was agreed.  This essentially forced Cabinet's hand.  Nonetheless, DFID withheld £10 m in budgetary support  in early 2002 over concern about the Tanzanian government's commitment to poverty reduction.

The budget support was resume in mid-2002 after Tanzanian president, Benjamin Mkapa, promised Clare Short that future public spending decisions would received a higher level of scrutiny.  Mkapa resisted efforts to publish the ICAO report, but did begin negotiations with BAE to reduce the price of the overall deal.  The UK Arms Export Control Bill was amended to include sustainable development as one of the criteria for agreeing future export licenses, although critics argue that some loopholes remain that could allow similar deals to be approved.

Source:  World Bank Development News, "World Bank Could Bar $40 Million Tanzania Air Traffic Deal," December 21, 2001, www.worldbank.org/developmentnews, search Development News Archives under December 21, 2001; Alan Beattie, "IMF 'should have prevented' BAE's Tanzania deal," *Financial Times,* Mar 27, 2002; "Tanzania:  Critics decry purchase of air traffic control system," Irinnews.org, February 13, 2002, www.irinnews.org/print.asp?ReportID=20848; David Hencke, Charlotte Denny and Larry Elliott, "Tanzania aviation deal 'a waste of money'," *The Guardian*, June 14, 2002; David Hencke, "Tanzania wants new deal on air system," *The Guardian*, June 15, 2002; Charlotte Denny, "Tanzanian aid back on track after air control system row," *The Guardian*, July 4, 2002.

One method of reducing opportunities to weaken fiscal discipline found in other key sectors like health and education is to adopt a medium-term forward planning process linked to medium-term revenue projections (Box 5-6).  In fact, defence officials are frequently favourably disposed to medium-term frameworks because procurement of military equipment and construction of military facilities involve multi-year expenditures.   Adopting a medium-term framework makes it harder to avoid fully costing defence programs, particularly outlays on arms procurement and major construction projects.  The South African National Defence Forces have embraced the medium-term expenditure concept in an effort to obtain consistent financing.

> **Box 5-6.  Benefits of Multi-Year Expenditure Frameworks**
>
> Multi-year expenditure frameworks can help governments:
>
> - Improve the linkage between policies and objectives and inputs and outputs;
> - Make the budgeting process more transparent, especially by improving monitoring;
> - Focus on outputs and service delivery;
> - Increase ownership of sectoral ministries.

Full costing is therefore critically necessary for the operational effectiveness of the security organisations.

- Full costing helps make the case for a particular level of funding.

- It clarifies the sustainability of individual programs.

- It helps maximise efficiency and effectiveness in those cases where budget cuts become necessary.

In general, however, it has been difficult for African governments to develop realistic multi-year plans, given the lack of predictability in government revenues and the reliance on a strong institutional base.  However, a medium-term framework is important because the security sector needs more than a one year planning and budgeting timeframe.  South Africa's success in adopting a multi-year framework demonstrates that this is not impossible in the African context.

## 5.2.4  Step 4:  Allocating Resources by Sectors

Once the overall resource envelope is agreed, resources must be allocated according to priorities both within sectors and among sectors.  This process involves political bargaining among a wide range of actors.  It must be informed by a set of sectoral strategies and, wherever possible, information on performance.  Once the authorities responsible for central budget management set the budget envelope for defence/intelligence/public safety, the ministry responsible for managing the relevant sector (defence, interior and so on) should take the lead in developing initial budget projections in collaboration with the relevant security services.

From an efficiency perspective, it is particularly important to get the allocation right between recurrent and capital budgets.  Within recurrent expenditure, it is also important to strike an appropriate balance between wages and salaries, and between operations and maintenance.  Unless this balance is achieved, there may be capital investments that are not properly maintained.  Practices such as keeping "ghost" soldiers/police officers on the payroll and channelling security-related personnel costs

through other ministries complicate this calculation.  Moreover, recurrent funds may be spread too thinly.  For equipment procurement, it is critical to evaluate up-front the full life-cycle costs of materiel.

- It is very important that the security sector competes on an equal footing for resources with other sectors.

- It is also important that the process of allocating resources among sectors takes place in a transparent and accountable manner.

This means that the central budget office should assess the appropriateness of the ministries' budget requests.  To do this, finance ministries must have the capacity to analyse security programs, just as they should have the capacity to analyse other sectoral programs.  Even where the budget office is confined to ensuring only that the defence/intelligence/public safety budget conforms to the guidelines laid down and that costings are reasonable, this should be underpinned by a knowledge of the policy issues.  Given the weaknesses in the disciplining framework in many developing countries and the failure to demand performance (in terms of outputs and outcomes) from ministries, it is important that budget offices build the capacity to engage in the policy debate.

The challenging role of the budget office not only ensures that decision makers confront the full range of issues; it also will contribute to raising the quality of proposals from ministries over time.  Moves to more output- and outcome-oriented systems will only place more demands on budget offices to understand the policy issues.  Given the limited policy capacity in many countries, it is of course essential that this policy capacity be effectively allocated across central agencies and between central agencies and line ministries.

- The central budget office should ideally consider spending proposals within a medium-term resource envelope and should seek to ensure tight links between policy-making, planning, and budgeting.

- This enhances the likelihood that that budget ceilings and floors will be respected and security outcomes, however implicit, will be achieved.

Again, it is important to recognise that in all countries resource allocation decisions involve very difficult trade-offs between the security and non-security sectors as well as within the security sector itself.  The trade-offs are more difficult in poorer countries.

- It is therefore important that the executive delivers the final appropriation request to the legislature by a date that affords legislators adequate time to evaluate and debate the spending proposal before the beginning of the new fiscal year and before a vote on the budget is required.  Exact procedures are likely to differ from one political system to another.

- Advance agreement should be reached on mechanisms that can mediate between the executive and legislative branches of government in the event of disagreements over budget appropriations.

- Additionally, methods of consulting with the public on the proposed trade-offs can strengthen the entire process by contributing to a national consensus on priorities.

If a country is placed on a war footing and is forced to transform the economy to respond more effectively to unforeseen security needs, the budget system too must be able to respond – allocations and the pattern of appropriations will need to change to reflect the change in government priorities. The executive should always be able to react swiftly to major security threats and many constitutions empower the executive to take exceptional action should the need arise. A key issue with respect to the management of security expenditure in such instances is the ability of government to avoid emergency regulations that undermine the ability to revert to good practice once the war is over.

### 5.2.5. Step 5: Using Resources Efficiently and Effectively

Once a budget has been approved by the legislature and monies appropriated, the goal is then to ensure that resources are used efficiently and effectively in the implementation of the strategic sectoral priorities. This requires:

- Careful monitoring and evaluation of operational performance, both within the security services themselves and by civil servants.
- Well-functioning financial management information systems.
- Transparent procurement practices.

***Monitoring and evaluation of operational performance.*** As a general rule, funds appropriated should be spent for the purposes and in the amounts intended. This is necessary for sound fiscal planning and management as well as for the operational effectiveness of the security services. Stability in policy and funding, particularly during the budget year, is important for operational performance. It is difficult to assess stability in policy if there is no strategy for defence/intelligence/public safety and no predictability of funding. At the same time, without transparent and comprehensive defence/intelligence/public safety budgets, it is difficult to achieve predictability of funding.

***Well-functioning financial management information systems.*** FMIS are critical if decision makers and public-sector managers are to obtain the financial data they require for controlling aggregate expenditure, prioritising expenditure among and within sectors, and generally operating in a cost-effective manner. It is also extremely important that irregularities identified in the course of monitoring performance be addressed. Failure to do so may create or reinforce a climate within which non-compliance can flourish. (See also section 5.2.2 and Box 5-2.)

***Transparent procurement practices.*** As Box 5.5 demonstrates, transparency in procurement is a critical element in achieving value for money and cost-effectiveness. Procurement should be open to public scrutiny with expenditure fully accounted for. Purchases should also reflect actual, rather than perceived, threats and equipment should be relevant to agreed tasking. (See Annex 2 for a discussion of distinctive features of defence procurement.)

The security sector should meet the same standards of accounting applied to non-security organisations.

- Security ministries should maintain an internal audit unit and consideration might be given to supporting the establishment of an inspector-general function.  Inspectors-General normally have responsibility for investigating allegations of security breaches, fraud, waste, abuse and commercial impropriety.  They may also be asked to undertake independent reviews of internal systems and processes through evaluations, audits, and fraud risk assessments.  As such the position has many of the features of internal audit but would be expected to subsume that function.  As a normal rule, the IG would be part of the internal management.

- The auditor-general should audit security-related accounts regularly, along with those of the different security services.  The results of these external audits should be reported in a timely fashion to the legislature and irregularities addressed rapidly.

- Cash flow and expenditures should be monitored closely.  Methods of verifying the number of personnel in the different security organisations and employed by security-related ministry and of linking salary and wage payments to actual employees facilitate these tasks.

- Tracking studies, carried out by or for one or more of the security-related ministries, can be an important tool for determining whether resources are reaching their intended targets (Box 5-7).

- Client surveys may also be useful in the justice/public safety sector.  As Box 5-8 demonstrates, client surveys in non-public safety sectors may identify issues relevant to the public safety sector.

- Finally, as in any sector, feedback from monitoring and evaluation into strategic planning is critical.

While it may not be appropriate to push for a greater performance orientation in the security sector where the public sector as a whole remains deficient in this regard, information on security-related performance should be an objective. This would be particularly important with regard to defence preparedness, which is akin to outputs. Clear objectives, specification of preparedness, measures of performance supported by monitoring and evaluation should all be encouraged. Value-for-money audits by the external auditor also help focus attention on efficiency and effectiveness issues, and the defence, intelligence, justice/public safety sectors should not be excluded from the mandates of the external auditor and other oversight bodies. Where a more performance-oriented budgeting system is being implemented, defence/intelligence/public safety should be considered for inclusion in any pilot phase.

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**Box 5-8. Good Practice: Client Survey of Nicaragua Bus System Points to Public Safety Shortfalls**

"…[T]he Ministry of Construction and Transportation (MCT) has been spurred on to undertake innovative actions based on the findings of two rounds of [client] surveys. The initial survey of bus riders indicated that the quality of service was poor. For bus riders, security was an important aspect of quality and 14 percent of riders indicated that they had been assaulted on the bus in the last year. The initial survey also indicated that bus drivers rarely respected the official fare of 85 cordobas – 90 percent did not return the 15 cordoba change when a 100 cordoba note was presented. The survey also showed that riders would be willing to pay a higher fare if quality of service improved. The ministry responded by raising the official fare and taking steps to enhance public awareness of the problem. A year later a follow-up survey was conducted. In contrast to the previous year, 90 percent of riders reported that the new fare was being respected. However, the quality of service had deteriorated. There was a 60 percent increase in assaults from the previous year. This brought the MCT, the National Police, the Managua Mayor's Office and the bus companies together to discuss actions to improve security on the buses. A number of recommendations followed, including the introduction of plainclothes policemen on buses, and establishment of an adequate reward system for good behavior."

Source: Poverty Reduction and Economic Management Network, *Public Expenditure Management Handbook*, Washington, DC: The World Bank, 1998, p. 87, Box 5-7.

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## 5.3 KEY CONSIDERATIONS IN REFORMING BUDGETING SYSTEMS

Many of the lessons that have been learned in the course of reforming budget systems mirror the good practices described throughout this handbook. This section briefly reviews several of the main issues that should be taken into account when seeking to strengthen the budgeting process in the security sector.

▪ ***Successful budget reform in any sector requires comprehensive, broad-based changes.*** Budget systems do not exist in a vacuum. They are tightly linked to other systems, most importantly political and managerial systems. If these other systems do not function adequately, it will be difficult for budget systems to produce desired outcomes. There is considerable evidence that the chances of success are greater when the focus is on a transformation of institutional structures than on discrete reforms, for many of the same reasons that a comprehensive transformation of the security sector is more likely to succeed than piecemeal reforms.

- ***"Comprehensive" is not the same as "simultaneous."*** In common with other institutional transformation processes, building transparent and accountable budget systems that produce desired outcomes is a complex and lengthy undertaking. The challenge is to develop a plan for progressively strengthening budget systems (Box 5-9). There is no universally applicable sequence in which reforms should be introduced. It is necessary to assess the strengths and weaknesses of individual budget systems, as well as the strengths and weaknesses of other systems linked to the budget system, and develop a plan based on local circumstances.

- ***The most effective way of reforming a budget system is to focus on the principles of sound budget management.*** There are different ways of applying these principles, and countries must determine what works best for them. Additionally, because budget reform is fundamentally institutional reform, focusing on introducing specific tools or techniques instead of principles, processes, and systems will rarely, if ever, produce a well-functioning budget system.

> **Box 5-9. A Comprehensive Approach to Budget Reform**
>
> "Much of the skepticism about comprehensiveness might lie in a misconception of what is meant by the term. Comprehensiveness is not about trying to do everything at once. Rather, it is about taking a holistic approach to diagnosing problems, understanding all the interlinkages and evaluating the institutional impediments to performance, and then finding the most appropriate entry point to launch a phased reform process. Phasing can be fast or slow, depending on country conditions, and could eventually expand to become comprehensive."
>
> Source: Poverty Reduction and Economic Management Network, *Public Expenditure Management Handbook*, Washington, DC: The World Bank, 1998, p. 78.

- ***It is critically important to have the basic building blocks of sound budget management in place.*** This means understanding "budget basics" such as accounting, budget examination, estimating, forecasting, monitoring, and evaluating.

- ***All budget systems face the challenge of finding the balance between long- and medium- term commitments and the flexibility to meet unforeseen events.*** This is particularly problematic in the security sector. Defence budgets are especially challenging in this respect. Defence budgeting involves identifying possible future events that the defence forces might have to meet in the knowledge that capabilities will have to be developed within a finite resource base.

- ***In common with other types of institutional transformation, reforming a budget system requires an implementation strategy.*** Such a strategy must be flexible, but it must exist.

- ***One of the central tenets of sound budget management is access to information.*** Access to accurate information is critical to strengthening the decision-making process. However, it is important to understand that more and better information will not by itself produce better decisions. Policy choice is political and it is necessary to understand the various factors that affect decisions.

**SUMMARY OF MAIN POINTS – CHAPTER 5**

- From a public policy and process perspective, the security sector shares many of the characteristics of other sectors. The same broad set of rules and procedures applied in other sectors should therefore be applied to security-related budgeting.

- Budgeting systems are structured differently throughout the world but the principles that underlie these systems should not vary.

  ♦ The two public expenditure principles most frequently discussed with relation to the security sector are transparency and accountability.

  ♦ Transparency is the cornerstone on which an accountable security budgeting process is built.

- Some degree of confidentiality is necessary but this should not be used to justify a lower level of oversight or lack of adherence to internationally recognised standards of public expenditure management. Different forms of oversight may be necessary for some areas relating to national security, but in general, there should be a high level of transparency in the security-sector budgeting process.

- There are five inter-related components to managing public expenditure in any sector:

  ♦ *Sectoral planning process:* As in any other part of the public sector, defence, public safety and intelligence budgets should be prepared against a sectoral strategy. All sectoral policy development and planning should occur within an agreed financial envelope to ensure that policies and plans will be affordable and sustainable. It is always necessary to accept some degree of risk, as it is impossible to protect against every contingency.

  ♦ *Previous year's performance:* Strategic reviews occur infrequently. The outcome of the previous year's fiscal planning and implementation period must, however, be reviewed at the beginning of each annual budget cycle. A well-functioning financial management information system will facilitate this review.

  ♦ *Affordability:* Government policies in any sector must be affordable, which requires a sustainable macroeconomic balance. This in turn requires government-wide fiscal discipline. Government must have in place institutions that can achieve these objectives. It is especially important a) to discourage methods of evading fiscal ceilings, b) to apply mechanisms for reviewing the potential implications of assuming debt prior to major capital purchases to the security sector, and c) to have clear rules for reallocation during budget execution. One method of reducing opportunities to weaken fiscal discipline used in other key sectors is to adopt a medium-term forward planning process linked to medium-term revenue projects.

**MAIN POINTS – CHAPTER 5 (cont'd)**

- *Sectoral allocation of resources:* The process of allocating resources according to priorities both within sectors and among sectors involves political bargaining among a wide range of actors. It involves very difficult trade-offs between the security and non-security sectors and within the security sector itself. These trade-offs are more difficult in poor countries. That said, once the authorities responsible for central budget management set the budget envelope, the ministry responsible for managing the relevant sector (defence, public safety, intelligence) should take the lead in developing initial budget projects in collaboration with the relevant security bodies. Central budget offices need the capacity to assess the appropriateness of ministries' budget requests.

- *Efficient and effective resource use.* Once a budget has been approved by the legislature and monies appropriated, the goal is to ensure their efficient and effective use to implement strategic sectoral priorities. This requires: a) careful monitoring and evaluation of operational performance to ensure that funds appropriated are spent for the purposes and in the amounts intended; b) addressing irregularities identified by monitoring; c) the existence of well-functioning financial management information systems; d) transparent procurement practices, e) ensuring the application of the same standards of accounting applied to non-security bodies.

- Several general points should be taken into account when seeking to strengthen the security-sector budgeting process:

  - Successful budget reform requires comprehensive, broad-based changes, most importantly in political and managerial systems.

  - "Comprehensive" is not the same as "simultaneous." A plan should be developed to progressively strengthen budget systems.

  - The most effective way of reforming a budget system is to focus on the principles of sound budget management, since there are many way of applying these principles and countries must determine what works best for them.

  - The basic building blocks of sound budget management must be in place.

  - All budget systems face the challenge of finding the balance between long-term and medium-term commitments and the flexibility to meet unforeseen events.

  - In common with other types of institutional transformation, reforming a budget system requires an implementation strategy.

  - One of the central tenets of sound budget management is access to accurate information.

# Chapter 6

# Regional Actors and Security-sector governance

## Aim

This chapter examines security-sector governance from a regional perspective. Section 6.1 outlines the context of regionalism in Africa. Section 6.2 explains how democratic governance in the security sector fits within regional security arrangements in Africa. Section 6.3 discusses harmonisation and monitoring of security-sector governance within regional security arrangements. Section 6.4 discusses examples of African regional initiatives where security-sector governance is beginning to show some promise and relevance. Section 6.5 discusses the role of "regional hegemons" in the incorporation of security-sector reform into the regional agenda.

## 6.1 The context of regionalism in Africa

Whilst regionalism is not new in Africa, a number of factors seem to have promoted the virtues of regionalism amongst African leaders and peoples in the late 1980s and early 1990s. The peculiar context of the 1990s definitely redefined the nature of both politics and conflict. Triggered by both external and internal factors, the crisis of hegemony and legitimacy of the average African state found refuge in the attempt to seek a common response to the problems at home. These factors include:

- The shifts that occurred in global and geo-political power relations, in particular the end of the cold war and the retraction of the imperial security umbrella, allowed former client regimes to be challenged in ways unimaginable in the past.

- The retreat of the superpowers placed greater prominence on the role of and competition between regional powers in conflict and conflict management.

- The consequent need to develop new sources of funding, including the exploitation of natural resources and criminal activity (drugs, etc), made the conflict parties (both governments and rebel groups) potentially less amenable to external pressure.

- New particularistic forms of political consciousness and identity, often structured around religion and ethnicity, replaced the extant 'universalistic' debates between 'capitalism' and 'socialism' that had underpinned the Cold War, reinforcing the erosion of a sense of common citizenship fostered by state contraction and popular disillusionment with politics.

- The erosion of the institutional capacity of the average African state, the most profound aspect of which was the decomposition of the security apparatuses, affected the ability of the state to ensure the security of the state as well as that of the community.

- African states were subjected to multiple sources of pressure that eroded their sovereignty: from above, the cooption of crucial areas of policy initiative by the IFIs and a variety of donor agencies: from below – the activation of civil society and the

increasing power and resources controlled by the non-governmental sector.

- The centrality of the state declined as a consequence of contracting resources and capacity to deliver essential services, with various implications for its ability to act as the centre of social cohesion as well as for perceptions of citizenship;

- State militarism became the progenitor of the psychology of militarism, loss of a culture of dialogue, implanting a culture of violence, and discouraging peaceful conflict-resolution and process of change.

- The increasing availability and privatisation of the instruments of violence transformed the military balance between state and society. This derived from massive retrenchment and growing surplus of military assets globally, simultaneously with a breakdown in supply-side and demand side controls on global arms markets and (locally) recycling of decommissioned weaponry as most of the wars of the 1980s wound down.

- New forms of violent national and trans-national crime have emerged.

Given the above context, it is evident that achievement of democratic governance in one or more country does not necessarily guarantee the entrenchment of core values of governance in the particular state, unless the nations on its borders also imbibe the values collectively. The experience in the Mano River Basin of West Africa and the Great Lakes region of Central Africa have amply demonstrated how bad governance practice in the security sector in one country can potentially impact negatively on the security situation in adjoining states.

## 6.2 WHY SECURITY-SECTOR GOVERNANCE REQUIRES A REGIONAL APPROACH

There are four main reasons why democratic governance in the security sector requires regional approaches:

- Common security needs
- Cross-border nature of security challenges
- Collective response to regional security issues
- Co-ordination and harmonisation of actions and policies by external actors

***Common security needs.*** At the regional and especially sub-regional levels, states face broadly similar security challenges, much of which security-sector transformation is designed to address. For example, in West Africa, an overriding concern has been how to end one of the most serious threats to democratic development in the sub-region, *coups d'état* and unlawful truncation of elected authorities, further highlighting the need to subject the military institution to democratic control. This threat is itself symptomatic of a deeper crisis of governance, which lies at the root of conflict and insecurity in many states.

***Cross border nature of security challenges.*** Genuine and effective transformation of the security sector in each state cannot be achieved in isolation of developments at the sub-regional level. In the same vein, specific occurrences or processes within one state might affect sub-regional processes. When comprehensive

reform of the security sector is embarked upon, whether in isolation or as part of a reconstruction process at the national level, there is sometimes a risk that this effort might be derailed by developments external to the state.  Armed conflict in a neighbouring state often brings with it cross-border issues such as the trafficking and proliferation of small arms, child soldiers and natural resource extraction.  The consequences of civil conflict can rapidly spread to a reforming state in the sub-region and ultimately negatively affect the transformation process.  For example, the outbreak of armed conflict in Liberia was seen to have ignited war in Sierra Leone in 1991 at a time when the Momoh regime was initiating a referendum to return the country to multi-party rule.  Similarly, the rebuilding process in Sierra Leone in the aftermath of war in that country was threatened by continued insecurity in Liberia.

*Collective response to regional security issues.*  There is increased recognition that the common nature of the threat facing African states requires collective action and harmonised policies even if this is concentrated at the sub-regional, or neighbourhood level.  Such action has been most visible, for example, in the area of crisis response.  The then-OAU (now African Union), the Southern African Development Community and the Economic Community of West African states have been compelled to respond to regional crisis albeit at varying levels.  The most commonly cited examples have been the ECOWAS responses to crisis in Liberia, Sierra Leone and Guinea-Bissau.  The type of (often complex) regional peace operations that were mounted in response to these crises highlighted the importance of developing common values and principles in the management of such missions.

*Co-ordination and harmonisation of actions and policies by external actors.* There is growing awareness among bilateral and multilateral actors that at a minimum, a common approach to security and development should be adopted, even if at the sub-regional level.  This has in part led to increased focus on capacity development for regional and sub-regional institutions in Africa, including the African Union, SADC and ECOWAS. Part of the United Nations' response has included, for example, a decentralisation of aspects of its functions through the establishment of regional offices – as seen for example by the recent creation of a UN Office for West Africa.  The office for the Great Lakes region of Africa also takes a sub-regional approach. External support for a regional approach has also been reflected in the endorsement provided by the G-8 for the New Partnership for Africa's Development adopted by African leaders during the establishment of the African Union in South Africa in July 2002, including the establishment of the Peace and Security Council and the Common African Security and Defence Policy.

For a reformed security sector that will promote and ensure an environment conducive for sustainable development in the region, it is important that the donor community and the African ruling class subscribe to a common reform agenda while working within a regional framework.

## 6.3 HARMONISING AND MONITORING SECURITY-SECTOR TRANSFORMATION WITHIN REGIONAL SECURITY ARRANGEMENTS

The main issues in security-sector transformation within regional security

arrangements relate to harmonisation and monitoring. The harmonisation of security-sector transformation principles within regional security arrangements should normally be the responsibility of the secretariat of the organisation responsible for managing regional security. Perhaps the first thing that has to be ensured is the creation of well-laid-out structures within that organisation for the management and co-ordination of security issues. In Africa, both ECOWAS and SADC have, in the last few years, invested considerable time and resources on restructuring their security arrangements. This should be the first step towards having a security-sector transformation agenda incorporated into regional security schemes.

Before security-sector transformation can be successfully harmonised and monitored at the sub-regional level, there should be an appreciation of its impact and benefit for regional security. Regional and sub-regional organisations would need to undertake several steps before the benefits of security-sector transformation can become apparent. Tangible progress in this regard would normally be more noticeable at the sub-regional level than at the continental level. Arguably, impact of reform would ultimately become visible at the regional level when the benefits of reform are realised within various sub-regions.

Some of the steps that must be undertaken in order for national security-sector transformation to be relevant for purposes of harmonisation at the regional and sub-regional levels include:

- Commitment to certain principles, such as democracy, human rights, good governance and the rule of law. These principles underpinned the formation of SADC, particularly in the creation of its organ for Politics, Defence and Security. Similarly, although the initial Treaty of ECOWAS in 1975 did not explicitly include such values or guiding principles, this organisation, which was initially established to ensure economic integration in West Africa, adopted a new treaty in 1993. The revised treaty explicitly states adherence to these principles. The continental body, the Organisation of African Unity, in transforming itself to the African Union has also taken steps to reform. NEPAD has been the most ground breaking continental agenda in recent years.

- A simultaneous commitment by several member states to democratic values and good governance at the national level, most visibly reflected in the holding of free and fair elections and commencement of reform processes. Progress becomes more visible at the sub-regional level, when the more influential states in a neighbourhood undergo reform within the same time frame.

- Common understanding of the centrality of security-sector transformation in the developmental process among a cross-section of critical regional stakeholders and partners.

- A common set of guiding principles for sound security-sector governance, to which all stakeholders subscribe.

- Creation of structures and capacity within regional organisations, to harmonise the common policies and principles and ensure implementation at national and regional levels. This should include, for example, the incorporation of principles of sound

security-sector governance in the functioning of regional peace forces or standing forces.

▪ Recognition that the process of transformation must be owned by local stakeholders and cannot be driven solely by external actors.

The benefits of this process are likely to be most visible in the area of regional operations.  West Africa has thus far presented perhaps the most prominent example in this regard.  A number of crisis situations, which led to military operations, have compelled member states to find more effective ways of responding to such situations. The first of such crisis situations occurred in Liberia from December 1989 through 1997, when elections were held in the country. In response to this crisis, a peace force, ECOWAS Ceasefire Monitoring Group (ECOMOG), was dispatched to Liberia.  Within 18 months of the start of the Liberian war, a civil war began in Sierra Leone, which was in part exacerbated by the Liberian war.  West African states would later have to respond to that crisis as well, and for a few years, Nigeria and Ghana assisted in maintaining security in Sierra Leone.  An ECOMOG force later became active in the country, particularly after the junta ousted President Ahmed Tejan Kabbah in May 1997. In 1998, following a civil crisis in Guinea-Bissau, an ECOMOG force was also dispatched to that country.

These operations have provided valuable lessons for ECOWAS member states and indeed for the larger international community. One is recognition that early warning and early action would form one of the best strategies to prevent the degeneration of conflict into the scale of crisis witnessed in Liberia and Sierra Leone. Early action may ultimately involve preventive deployment of military forces. Related to this is the need for uniform training, doctrine and collective political control of sub-regional multinational forces deployed to respond to crisis at several levels. The ECOMOG operations in Liberia and Sierra Leone revealed the disparity in doctrine and variation in training standards (required for different aspects of the operation from peacekeeping to enforcement) by troops from different contributing nations.

Additionally, the conduct of troops in the treatment of warring factions as well as the civilian population revealed a disparity in standards.  Troops from countries that had experienced long-term authoritarian/dictatorial rule, for example, exhibited far less respect for, or understanding of, basic human rights.  This invariably affected how the host population perceived the force.  Arguably, the conduct of troops that have gone through reform or transformation in their home institutions would meet the expected human rights and other standards.

This situation was compounded by the apparent lack of political control by the authorizing body, ECOWAS. Rather, political control often came from the largest contributing country Nigeria.  Also, the contributing states sometimes appeared to have conflicting interests in the outcome of the crisis and this had the tendency to influence the actions of their contingents on the ground.  Arguably, this problem will diminish as member states collectively adopt common values of democracy and good governance and undergo reforms accordingly at the level of states as well as at regional level.

A second lesson relates to the domestic political situation in the countries most likely to contribute troops to sub-regional efforts to promote regional security. This will be crucial to the process of achieving democratic control of forces within the regional organisation. As more countries embark on the process of achieving democratic control of the security sector, there will be increased potential for effective operations at the sub-regional level. This will have some potential for influencing militaries in other countries yet to embark on this process. In particular, successful transformation processes in the countries with the larger armies and thus potentially greater capacity to contribute troops to peace operations in the region are likely to have positive impact on the transformation of other militaries. For example, successful security-sector transformation in a country like Nigeria, with the ability to contribute, and indeed with a history of contributing as many as 10 battalions to regional operations, will no doubt have a positive impact on the overall environment of a peace operation in its neighbourhood. (Of course, a correct balance should always be sought between external and internal engagement, in order not to undermine national defence and security.) In contrast, the impact of a similar level of reform in countries like Mali and the Gambia, which even though consistently contributed to regional operations in West Africa, might not be immediately felt in the area of operation.

Third, the restructuring taking place within some regional organisations will, in turn, have an impact on the process of transforming the security sector in certain member states. The Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security will be one of the most important channels through which some national militaries/security establishments will be transformed. The key elements of the Mechanism, and the implementation process, as well as implications for the transformation of the security sector at the national level are discussed below.

The monitoring of the impact of security-sector transformation should ideally be performed by a cross-section of groups, including the secretariats of organisations, governments of respective countries in the region, civil societies groups in these countries and members of the international community. All these groups may have to work together to ensure effective implementation. The fact, too, that each of these groups are likely to be concerned with different aspects of the security-sector transformation process means that it would be possible for them to have a wider scope of monitoring. However, of these groups, the monitoring role of civil society is perhaps the most difficult to secure given the limited link between them and inter-governmental organisations.[21]

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[21] Again, ECOWAS has made significant progress here with its recent commitment to establish a Civil Society Unit within the Secretariat. Equally, the African Union has included an Economic, Social and Cultural Council (ECOSOCC) as one of the key governing components, specifically responsible for coordinating civil society input into the workings of the African Union. The statute of ECOSOCC was recently tabled at the AU Summit in Maputo, Mozambique in July 2003. This clearly stipulates the mode of applying for membership.

## 6.4 REGIONAL INITIATIVES AND THE ROLE OF SECURITY-SECTOR REFORM

### 6.4.1 ECOWAS Mechanism for Conflict Prevention, Resolution and Peacekeeping

The mechanism for collective conflict prevention, management, resolution, peacekeeping and security under the Protocol, which was signed in 10th December 1999, has a number of features, which provide an indication of the likely impact of its implementation on West African armed forces, and in particular, on security-sector transformation processes.

In its bid to implement the relevant provisions of Article 58 of the Revised Treaty, ECOWAS has been undergoing restructuring to strengthen cooperation between member states in the areas of Early Warning, Conflict Prevention, Peacekeeping, Cross-border Crime Control and proliferation of small arms, amongst other things. This suggests the possibility of joint operations and common approach between national armies, navies, police services, air forces and immigration services.

The institutions of ECOWAS charged with the responsibility of implementing the Mechanism include the Authority of Heads of State and Government, the Mediation and Security Council, the Defence and Security Commission and the Executive Secretariat.

One significant development is that the Authority of Heads of State and Government no longer has sole responsibility for taking decisions on key actions in the sub-region. A measure of decision-making power has been given to the Mediation and Security Council. This Council will consist of nine members – seven elected by the Authority of Heads of State and the present and immediate Past Chair of the Authority.

- The Mediation and Security Council will deliberate at the levels of Heads of States and Government, Ministerial and Ambassadorial.

- The Council is charged with a range of tasks, which include taking decision on peace and security matters; implement policies designed to achieve conflict prevention, resolution and peacekeeping; authorising all forms of intervention and taking decisions on the deployment of political and military missions and their mandates.

- The Defence and Security Commission, the Council of Elders and the ECOWAS Cease-fire Monitoring Group will support the work of the Council.

- ECOMOG, which has now been formally established, will be comprised of "stand-by multi-purpose modules (civilian and military) in their countries of origin and ready for immediate deployment".

- As stipulated in the Protocol, ECOMOG's tasks will entail: observation and monitoring; peacekeeping and restoration of peace; humanitarian intervention in support of humanitarian disaster; enforcement of sanctions including embargo; preventive deployment; peace-building, disarmament and demobilization; and policing activities.

- The Protocol has also established a Peace and Security Observation System, for purposes of early warning – consisting an Observation and Monitoring Centre in the

Secretariat, and four Observation and Monitoring Zones based in Cotonou, Monrovia, Ouagadougou and Banjul.

The Mechanism may be applied under a number of situations and they include the following cases:

- Aggression against a member state or the threat of it

- Conflict between several member states

- Internal conflict that threatens to result in humanitarian disaster, or poses threat to peace and security in the sub-region

- Serious violation of human rights and the rule of law and in the event of the overthrow or attempted overthrow of a democratically elected government

### 6.4.2 Implications for Security-sector transformation

These developments within ECOWAS have a number of implications, not just for broad regional and international security, but particularly for the future of the African security establishments (particularly the formal armed forces) and their transformation:

- Unified training and doctrine relevant to the concept of operations envisaged would be essential for the success of operations envisaged under the protocol. This might require separate planning for preventive deployment, peacekeeping, enforcement and multi-functional operations.

- A division of labour among key contributing states may be developed. For example, Ghana, which has a record and apparent preference for traditional peacekeeping, could specialise in preventive deployment and peacekeeping. Nigeria and Guinea, which have demonstrated readiness to participate in enforcement operations including ensuring compliance with embargos, could be tasked with operations which require the use or the threat of the use of force. Senegal could be tasked with peacebuilding functions, given the nature of its role in the select peace operations.

- A common understanding and the acceptance of strict conditions for deployment of troops will be essential. This would include adherence to the values collectively adopted by member states – such as preventing human rights violations, upholding the rule of law and firmly opposing *coups d'état*.

- The ECOWAS Secretariat should be the nerve-centre for initiation and implementation of peace operations and political control must rest with the organisation throughout these operations, if the regional approach and efforts to regulate the conduct of regional peace forces is to be successful. The establishment of a Parliament within ECOWAS might eventually set the sub-region on the way to achieving effective governance of a sub-regional military force. The level of interaction and collaboration by civil society groups across borders and their linkage (formally or informally with ECOWAS), will also determine the extent to which that organisation will influence the transformation process in national militaries.

### 6.4.3   NEPAD and the Relevance of Security-sector governance

The New Partnership for Africa's Development is seen thus far as the most visible reflection of the commitment of African leaders to security and development in the new international environment. Since its launch in Zambia in July 2001 and its endorsement by African leaders at the establishment of the African Union in South Africa in July 2002, NEPAD has attracted attention of Africans and the international community alike. Efforts are underway to translate this vision to a concrete plan of action.

One of the underlying considerations in the NEPAD agenda is that peace and security are a prerequisite for sustainable development.  As such, NEPAD identifies the need to strengthen existing conflict prevention mechanisms in the region and it outlines the following four key areas in which sub-regional institutions will require a focus:

- Prevention, management and resolution of conflict
- Peacemaking, peacekeeping and peace enforcement
- Post conflict reconciliation, rehabilitation and reconstruction
- Combating the illicit proliferation of small arms, light weapons and landmines

Implementing the NEPAD agenda will undoubtedly require harmonisation of security policies at the sub-regional as well as state levels.  But this agenda implies a holistic approach, which requires a primary focus on broader human security issues including civil-military relations, public safety, crime prevention and access to justice, management of defence policy processes in a democracy and re-professionalisation and transformation of African security organisations, among other issues.

The lessons from ECOWAS discussed above will be useful in this regard.  A commitment to such an agenda at the national level will act as a major catalyst for evolving effective regional security arrangements.  The reform of the security sector with a primary focus on these human security issues discussed above will ensure a more systematic and professional management of regional security issues, particularly where preventive deployment or other peace operations become necessary.  Ultimately, the successful implementation of the NEPAD agenda though a "long haul", should yield significant benefits for regional peace and security and development for Africa.

In addition, if fully worked out along the lines proposed in chapter 3, the African Peer Review Mechanism also offers regional institutions the opportunity to play a critical role in monitoring democratic governance in the security sector, including the harmonisation of doctrine, standard operating procedures; codes of conduct and so on.

### 6.4.4.  Role of Regional Hegemons or Influential States

Discussions about the role of powerful regional countries in maintaining peace and security have been on for some time, and it appears that this will remain so for some time to come because of the economic and military disparities among nations. This is not peculiar to Africa.  Even in developed regions of the world, the burden of

regional management of conflict and security has never been equally shared. In Africa, countries that have been performing this role, even if informally, are Nigeria and South Africa in West and Southern Africa respectively.  However, there have been challenges to these countries in their assumptions of this position of regional hegemons, (whether reluctantly as in the case of South Africa, or seemingly eagerly as in the case of Nigeria).  Nonetheless, these two countries, alongside other African states that are gradually playing influential roles (such as Algeria and Senegal) have been a major driving force in the initiation of the NEPAD agenda.

Regional hegemons have an important link with security-sector transformation. First, they often have the potential to influence and to support the implementation and harmonisation of security-sector reform within regional security mechanisms.  It is thus crucial that these states have the clout and credibility to effectively influence such processes.  Although both Nigeria and South Africa have now embarked on a process of democratisation (with reforms at different levels and varying degrees of success), it does not remove the possibility that credibility crisis may surround any of these regional powers.  Yet, the extent to which they themselves have achieved a transformation of their security sectors will determine the extent to which transformation can be useful at the sub-regional level.  Nigeria, for example, has consistently contributed about 70% of the ECOMOG force.  The extent to which that country succeeds in transforming its security sector will ultimately impact positively or negatively on the overall conduct of the force.

In assigning responsibility to any regional power, the possibility of a reversal in its democratic and moral stance should also be considered. Similarly, the question has to arise as to the dangers for regional security if the regional hegemon itself experiences major civil conflict. Although this has not happened in recent years, it is an issue that is worth examining so that alternative approaches that could provide a balance of power might be explored.

Ultimately, the success or failure of the effort to evolve sub-regional and regional arrangements for the promotion of security and development in Africa will depend in large part on the role of the most powerful nations and the extent of cooperation that exists between them.  For example, the initiation of the NEPAD and implementation plans might not have reached the present stage in the absence of active collaboration between the various leading states, not least South Africa and Nigeria.

Similarly, Nigeria will play a central role in the success or failure of the implementation of the ECOWAS Mechanism.  Successful transition and reform processes in Nigeria will only enhance any progress realised at the sub-regional and indeed regional levels.  However, developments in ECOWAS could also assist the process of transformation of the Nigerian security establishment for example, as it will help to define a mission for the institution and identify focus of military planning, as well as training and doctrine, which may enhance inter-service relations and inter-operability.

## 6.5 TOWARDS A REGIONAL FRAMEWORK FOR SECURITY-SECTOR GOVERNANCE

Although the African experience demonstrates that cooperative security is possible, even among states that lack common values, the future success of cooperative security depends not only on spreading governance values that promote human security, but also on developmental regionalism that intensifies economic ties even in the quest to foster a sense of a 'security community'. The closer the ties among states and their citizens, the more limited the opposition to security-sector governance.

Hence, given the context of regionalism described above and the challenges to cooperative security in Africa elaborated upon in this handbook, a number of factors are central to the success of efforts to entrench security-sector governance in any regional bloc. They include, but are not necessarily limited to the following key elements:

- Understanding the nature of the post-colonial state and prospects for nation-building in Africa;

- Subscribing to and institutionalising core regional values and norms;

- Deepening democratic and open governance and preventing violent conflicts through political processes;

- Promoting long term conditions for security and development by using human security as a bedrock for peace;

- Developing an integrated peacebuilding approach to security-sector governance – through the promotion of governmental and non-governmental approaches and treating peacekeeping, peacemaking and post-conflict transformation in a continuum;

- Entrenching democratic governance of the security sector by establishing a clear role definition for security services whilst enhancing professionalism of the sector;

- Building the capacity of African institutions for early warning, as well as enhancing their capacity to prevent, manage and resolve conflicts;

- Strengthening developmental regionalism as a means of addressing the negative aspects of globalisation;

- Establishing the parameters of genuine continental and global partnership – including role clarification between sub-regional bodies, African Union, and United Nations institutions.

Whilst it is difficult to be prescriptive about the framework for security cooperation in Africa, it is gratifying to note that most of these issues are fully reflected as the key responsibilities of the new African Union Peace and Security Council approved at the African Union Summit in Durban, especially in relation to NEPAD and in the various sub-regional mechanisms.

The challenge is one of promoting and monitoring regional core values of ownership, participation, open and transparency accountability, fundamental freedoms

and the rule of law as well as implementation of agreed principles.  The overriding importance of responsible politics and responsive leadership in building regional security cooperation is evident from the above. Until both are present, the best that can be hoped for remains hegemonic regionalism, which may keep the peace, but can hardly promote fundamental values of ownership and democratic governance.

# ORGANISATIONAL STRUCTURE OF ECOWAS MECHANISM FOR CONFLICT PREVENTION, MANAGEMENT, RESOLUTION & PEACE-KEEPING

**Missions**

- Special Rep to ES
- Force Commander

**Other Institutions**

- African Union
- United Nations
- European Union
- Ministers of Foreign Affairs
- Defence Ministers

**Chairman**

consultation

verification

**Executive Secretary**

co-ordination

**Institutions**

- Heads of State & Government
- Mediation & Security Council
- Defence and Security Commission.
- Council of Elders
- Executive Secretariat

**Deputy Executive Secretary**
**Political Affairs, Defence and Security (PADS)**

| Political Affairs | Humanitarian Affairs | Defence Security | Observation Monitoring Centre |

Political-Military Validation & Analysis

**PADS SITUATION CENTRE**

Collection & Analysis

Military Planning

Early Indications & Warning

External Sources

Military Sources

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**SUMMARY OF MAIN POINTS – CHAPTER 6**

- Securing the core values of democratic governance in any African state requires acceptance of these values sub-regionally and regionally.

- There are four main reasons why democratic governance in the security sector requires sub-regional/regional approaches:

  ♦ Common security needs

  ♦ Cross-border nature of security challenges

  ♦ Collective response to regional security issues

  ♦ Co-ordination and harmonisation of actions and policies by external actors

- The main issues in security-sector transformation within regional/sub-regional security arrangements are harmonisation and monitoring.

  ♦ *Harmonisation* requires commitment to principles such as democracy, human rights, good governance and the rule of law; a common understanding of the centrality of security-sector transformation among key regional stakeholders and partners; a common set of guiding principles for sound security-sector governance; structures and capacity within regional and sub-regional organisations to harmonise common policies and principles; and recognition of the importance of local ownership on the part of external partners.

  ♦ *Monitoring* should be performed by a cross-section of groups, including secretariats of regional/sub-regional organizations, regional governments, civil society groups, and members of the international community.

- The establishment of the Mechanism for Conflict Prevention, Resolution and Peacebuilding within ECOWAS may affect the transformation of West African security bodies (particularly the armed forces) in several ways:

  ♦ Unified training and doctrine will be essential.

  ♦ A division of labour among key contributing states may be developed.

  ♦ A common understanding and acceptance of strict conditions for deployment of troops will be essential, including adherence to the values collectively adopted by member states.

  ♦ Political control of peace operations by ECOWAS will also be essential, which opens opportunities for oversight by an eventual ECOWAS parliament.

- Implementing the NEPAD peace and security agenda will require a primary focus on human security issues, including civil-military relations, public safety, crime prevention, access to justice, management of defence policy processes in a democracy, and re-professionalisation and transformation of African security organisations.

**MAIN POINTS – CHAPTER 6 (cont'd)**

- An effective African Peer Review Mechanism will offer regional institutions the opportunity to play a critical role in monitoring democratic governance of the security sector.

- Regional hegemons have the potential to influence and support the implementation and harmonisation of security sector transformation within regional security mechanisms. The extent to which such countries succeed in transforming their own security sectors will have an impact on regional security sector transformation. The reversal of security-sector transformation or broader democratisation processes in regional hegemons can have negative implications regionally and sub-regionally. At the same time, developments at the sub-regional and regional levels can support transformation processes among regional hegemons.

- Some of the key factors affecting the success of efforts to entrench security-sector governance in any regional bloc include:

  ♦ Understanding the nature of the post-colonial state and prospects for nation-building in Africa

  ♦ Acceptance and institutionalisation of core regional values and norms of ownership, participation, open and transparency accountability, fundamental freedoms and the rule of law

  ♦ Deepening democratic and open governance and preventing violent conflict through political processes

  ♦ Developing an integrated peacebuilding approach to security-sector governance – through promotion of governmental and non-governmental approaches and treating peacekeeping, peacemaking and post-conflict transformation in a continuum

  ♦ Entrenching democratic governance of the security sector by establishing a clear role definition for security services whilst enhancing professionalism of the sector

  ♦ Strengthening developmental regionalism as a means of addressing the negative aspects of globalisation.

- Responsible politics and responsible leadership is of overriding importance in building regional security cooperation.

# CHAPTER 7

# CONFRONTING THE CHALLENGES OF
# SECURITY-SECTOR TRANSFORMATION

## AIM

This chapter summarises some of the major challenges facing African governments, African civil society and external actors in transforming the continent's security sectors discussed throughout this handbook with a view to clarifying the context in which security-sector transformation takes place:

1)      The challenge of transforming the security sector in a country without a tradition of democratic norms and practice.

2)      The challenge of understanding the political context of transformation.

3)      The challenge of moving beyond the defence sector.

4)      The challenge of a highly limited knowledge base.

5)      The challenge of finding acceptable limits to state secrecy while respecting the need for confidentiality in certain areas.

6)      The challenge of finding the appropriate balance between democratic accountability and control on the one hand and security body professionalism and discipline on the other hand.

## 7.1 CHALLENGES IN TRANSFORMING THE SECURITY SECTOR

This handbook constitutes a first cut at documenting critical processes and institutional relations that must come into being if the countries of sub-Saharan Africa are to develop democratic governance practices in the security sector and if external actors are to provide meaningful support to these efforts.  Where possible, examples of actual practice have been included and challenges facing transformation processes have been highlighted.  However, there is very little information available on the processes by which countries in Africa have tried to strengthen democratic security-sector governance.  This has prevented the handbook from providing detailed examples of how particular countries have overcome specific challenges.

Nonetheless, the handbook has sought to provide a sense of the context in which security-sector reform in Africa is carried out.  This chapter highlights six key challenges to the effectiveness of security-sector transformation processes that are discussed throughout the handbook.  Many of these challenges are similar to those faced when transforming any sector in a democratising country.  However, the special role occupied by many African security forces in their country's political and economic system makes these challenges more intractable when it comes to transforming the security sector.  In developing and implementing security-sector transformation processes, strategies need to be developed to minimise the negative effects of these challenges.

▪ ***The challenge of transforming the security sector in a country without a tradition of democratic norms and practice.*** Transforming the security sector along the lines described in this handbook requires a simultaneous movement toward a democratic form of governance. In countries without a long tradition of democracy, this process will be long and full of obstacles. It will be particularly difficult where the transformation process seeks to eliminate prerogatives previously enjoyed by members of the security agencies. It can be anticipated that efforts to root out the legacies of authoritarian rule will produce obstruction and resistance by security organisations.

The security organisations are not, however, the only ones with democratic deficits. Human and institutional capacity in the civil sector often lacks both depth and breadth in African countries. This means that the capacity of the civil authorities to both manage and oversee the security organisations is frequently extremely limited. In particular, the thrust of democratisation efforts in Africa has generally been toward empowering parliaments. However, parliaments may contribute very little to accountability in the short to medium-term as they are often unable to challenge the executive effectively, misunderstand the nature of their functions, or are too weak to carry out these functions. Additionally, inherent limitations of the multi-party system, where the party in government also controls parliament, reduce the capacity of the legislature for effective oversight. It is thus essential that civil society, including the media, and other oversight actors, such as the judiciary and auditors-general, be brought into the equation if public accountability is to be assured. Democratic, civil control of the security sector becomes a reality only when all elements of the "civil" – executive, legislature, judiciary, and public – are present. In this regard, it is particularly important to identify and address instances where long involvement of the security organisations, particularly the military, in politics has led to the militarisation of society. Conscious efforts must be made to overcome the effects of militarisation on civilians as well as on members of the previously privileged security organisations.

Thus, the transformation of the security sector along the lines described in this handbook will require the collaboration of democratically-minded politicians, bureaucrats, parliamentarians, members of the security organisations, and civil society. As a matter of priority, these actors need to undertake a force-field analysis of existing capabilities within relevant institutions and then base their strategy for security-sector transformation on a realistic appraisal of institutional capabilities. External actors seeking to assist this process must also be aware of existing institutional capabilities and tailor their support accordingly.

▪ ***The challenge of understanding the political context of transformation.*** Transforming the security sector is fundamentally a political enterprise. Nonetheless, there often is a tendency on the part of both local stakeholders and external actors to minimise the political aspects of transformation in favour of more concrete technical activities. Giving attention to strengthening democratic systems will help to address some of the potential obstacles to security-sector transformation inherent in a country's political context such as the concentration of power in the executive branch, a lack of accountability of public officials at all levels, impunity on the part of security organisations, and corruption. It will nonetheless also be necessary to tackle these problems in the security sector more directly. In particular, in developing and managing

a transformation process, it is essential to understand critical political relationships, how and why decisions are made, and the incentives and disincentives for change.

At the same time, it is important to understand that these types of problems persist even in mature democratic systems.  It is therefore not only necessary to acknowledge that vested interests and informal relationships among key actors will influence outcomes and to develop strategies for dealing with these factors during a transformation process.  It is also important to develop systems that contain mechanisms for continually reviewing the degree to which democratic objectives are adhered to and for addressing problems as they arise even after the transformation process has been consolidated.

▪ *The challenge of moving beyond the defence sector.*  In Africa, much of the discussion and most of the policy initiatives relating to governance of the security sector have focussed on the armed forces.  While there are good reasons for this, the justice triad (courts, police, and corrections) and intelligence agencies represent no less of a challenge to democratic control.  The armed forces have threatened democracy in dramatic but episodic ways, largely through *coups d'état*, but also through more limited forms of pressure and veto.  The conduct of the police is much less dramatic but affects the daily conduct of the business of democracy more deeply.  The police are the public face of the state and their ability to enforce the law, along with the other elements of the justice system (courts and correction system) determines the actual scope of democratic freedoms enjoyed by the population.  Police corruption is pervasive and undermines civil institutions, particularly the courts, while corrupt or ineffective court systems undermine the capacity of the police to conduct their professional duties effectively and efficiently.  Because of their covert character, including extensive links with foreign counterparts, the extraordinary reach of modern surveillance and intelligence-gathering techniques, and their lack of transparency and public accountability, intelligence agencies tend to be particularly resistant to oversight.  Yet they are a particular threat to democratic freedoms when they also assume police powers, as is routinely the case in many African countries.  Intelligence and secret police agencies have functioned as death squads, agents of torture, and political *agents provocateurs*.

A concerted effort therefore needs to be made to include all organisations mandated to use force to protect the state and its population in transformation processes.  In particular, it is necessary to resolve ambiguities over the boundary between "external" and "internal" security and to achieve an agreed division of labour among the different security organisations.

Additionally, there are many security organisations in Africa that are not formally mandated to use force to protect the state and its population but are nonetheless part of the security landscape in African countries.  These also must be taken into account when transformation strategies are devised.  Their ability to act as spoilers needs to be assessed and strategies should be developed either to develop methods of overseeing their activities or to remove them from the scene.

▪ *The challenge of a highly limited knowledge base.*  African experiences in the area of security-sector reform and transformation have been poorly documented to

date.  This is not because countries have not sought to improve the quality of security-sector governance, although there have been relatively fewer reform or transformation efforts than in some other regions of the world, notably East and Central Europe.  Rather, the process of developing this handbook has underscored the relative lack of *documentation on and analysis of how the process of change has been conceived and managed.*

In part this reflects the secrecy that has shrouded the security sector in Africa.  In part it reflects a lack of focus on process.  Even in the case of South Africa, which has undergone a significant transformation process since the mid-1990s, outcomes have been documented more consistently than the processes undertaken to achieve these outcomes.  Thus, there is good information on the various white papers that have been produced, legislation that has been passed, and the structures that have been created.  Analyses have focused on the extent to which structural changes have been implemented and have produced concrete changes in the intended direction.  There has been considerably less documentation and analysis of the processes in South Africa that produced these outcomes.  Throughout Africa, more consistent investigation of reform and transformation processes is required, and it is hoped that this handbook will help to stimulate documentation of processes of change.

▪ ***The challenge of finding acceptable limits to state secrecy while respecting need for confidentiality in certain areas***.  Although transparency is the fundamental ingredient in accountable governance, some degree of confidentiality is necessary in democratic security sectors.  A major challenge of security-sector transformation processes is to achieve a workable balance between the need for transparency and the legitimate requirements of confidentiality.  In doing so, it is important to understand that the security sector is unlikely to be more transparent than other parts of the public sector.  The temptation to set higher standards of behaviour for the security organisations than for civilian politicians and bureaucrats should, therefore, be avoided.  Systems need to be developed by the civil authorities, in consultation with civil society, that define what will be held in confidence and describe the measures that will be employed to ensure adequate oversight.  Developing these systems may involve difficult negotiations between the civil authorities and representatives of the security services, especially where the principle of civil management and oversight is not well entrenched.  Governments may find it useful to draw on the experiences of other countries that have recently developed such systems, both within Africa and in other regions.

▪ ***The challenge of finding the appropriate balance between democratic accountability and control on the one hand and security body professionalism and discipline on the other hand.***  Public order has deteriorated significantly in many African countries over the last decade.  There are multiple reasons for this state of affairs, including spillover effects and legacies of conflict, inadequate allocation of resources to justice and public safety, and political involvement of security organisations which has undermined the professional capacities of members of the different security services.  There thus is a clear and demonstrable need to strengthen the capacity of those organisations responsible for law enforcement to carry out their duties in a manner consistent with democratic governance and the rule of law.  Re-

professionalisation of the security organisations is therefore high on the agenda of many African countries.

Professionalism of the security organisations is a central element of democratic governance of the security sector and thus should form a part of any transformation strategy. Absolute control by the civil authorities over the security organisations is impossible. Rather, one should think in terms of shared responsibilities within the framework of democratic governance. Professional security organisations accept their subordination in policy matters and resource allocation decisions to the civil authorities. They do not engage in politics or economic activities. They function strictly within the rule of law. In turn, the civil authorities are obliged to meet their responsibilities toward the security organisations – for example by clearly delineating the roles and obligations of the security organisations and allowing the security organisations to carry out those activities within their sphere of competence without undue political interference, and by providing members of the security organisations with appropriate training, education and remuneration.

Throughout Africa, the civil authorities and security actors have interfered in each other's realms on many occasions. For instance, civilians – particularly politicians – have undermined the professionalism of the security organisations by involving security personnel in partisan political activities and in commercial activities. The civil authorities have also interfered in areas clearly within the prerogative of the security organisations themselves – for example decisions about promotions below the most senior level. For their part, African security organisations, mainly the armed forces, have frequently overthrown the civil authorities, engaged in corrupt activities, and abused the human and civil rights of ordinary Africans.

There are four elements of professionalisation that are particularly relevant in the African context:

- The technical dimension: Can I fire a weapon; carry out a criminal investigation; develop a compelling and accurate intelligence brief?

- The political dimension: Do I understand and respect the nature of my relationship with my political masters?

- The normative dimension: Do I possess an ethical framework within which I execute my responsibilities on a day-to-day basis?

- The cultural dimension: Is my conduct consistent with the cultural peculiarities of my country and its diverse people?

All of these require attention when efforts are made to re-professionalise African security forces.

## 7.2 CONCLUSION

This handbook does not provide definitive guidance on how best to approach security-sector transformation in sub-Saharan Africa. Rather, it aims to be a tool for promoting dialogue within the continent – nationally, regionally, and cross-regionally – as well as among external actors, African governments and civil society on concrete ways to enhance democratic security-sector governance that are consistent with African traditions and experience. It is hoped that the handbook will encourage similar efforts at the national level, tailored to meet the specific needs of individual countries.

The processes defining democratic governance in the security sector that are discussed in this handbook should be seen as end product of a long period of transformation. No country in the world currently fully implements all of the processes that should, in principle, guide state actions in a democratically governed security sector. These processes and the institutional transformation objectives they imply should be seen as a set of goals that governments and societies work to implement incrementally. As with all broad policy objectives, it is necessary to identify reasonable steps along the way toward achieving these goals.

While reaching these goals may seem daunting in view of actual practice in a country, it is nonetheless important to have them as an objective. Problems in the security sector must be approached from the perspective of broad goals and underlying structural weaknesses. A focus on short-term "fixes" in any sector will fail to deal with the core problems. Training to enable the police force, the gendarmerie, or the armed forces to carry out a particular task for example will not result in a more effective force if there is a fundamental mismatch between stated policy, on the one hand, and resources available to implement that policy, on the other hand, leaving the security body in question without adequate resources to carry out its assigned tasks. Technical solutions can aggravate underlying structural weaknesses. The precise shape and pace of change in each country will depend on a range of factors. This handbook seeks to assist its users to develop a holistic view of the state of the security sector in their own countries and prepare them to map out process for strengthening democratic governance of the security sector.

# APPENDIX 1

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A Lusophone workshop was organised in Maputo, Mozambique in January, 2002 drawing participants mainly from the Mozambican Defence and Interior Ministries as well as the Eduardo Mondlane University.

# APPENDIX 2
## DEFENCE PROCUREMENT[1]

There should be little difference between public expenditure management in general and public expenditure management in the defence sector. Defence procurement should accordingly adhere to the same principles that guide public sector procurement in non-defence areas: fairness, impartiality, transparency, cost-effectiveness/efficiency, openness to competition. Additionally, it is essential that there be high-level consultation and evaluation of all major procurement projects for all forms of public sector procurement.

At the same time, with the exception of procurement of works and commodities (such as construction, clothing, food, fuel, office equipment, general vehicles and consultancy services), defence procurement does exhibit some distinctive characteristics. These relate to: 1) the relative importance of cost in determining which bid is accepted; 2) confidentiality related to national security considerations; 3) time frame for major weapons procurement; 4) complexity of defence procurement; and 5) the existence of international arms control treaty regimes and national legislation governing arms procurement. These distinctive characteristics are deviations in scale rather than principle. As explained above, adequate levels of confidentiality can be maintained without violating basic public expenditure management principles. There certainly should be skepticism about any claims that procurement of relatively standard works, services, and commodities for defence should be subject to different rules.

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**The Generic Procurement Process**

A generic procurement process involves:

- A clear definition of the requirement;
- Clear technical quality specifications and standards;
- An open request for proposals and tenders;
- Tender adjudication according to set criteria;
- Selection of preferred bidder;
- Drawing up of a contract;
- Placing the contract/order;
- Monitoring progress;
- Reception of goods;
- Quality assurance checks on goods received;
- Acceptance of goods or rejection of goods not up to specifications;
- Payment
- Distribution of goods.

Source: Len LeRoux, South African defence planning specialist

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- **Cost considerations in bidding.** While standard procurement practice in non-defence sectors is giving increasing emphasis to value-for-money considerations, defence analysts argue that cost considerations are more frequently not the major factor in accepting a bid for weapons procurement projects than for projects in non-defence sectors. They point out, however, that national legislation can play an important role in regulating the role that cost plays in procurement processes in the defence sector. In South Africa, for example, the Defence Review

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[1] This discussion draws on information provided by defence planning specialist Len LeRoux and defence management specialist Tony.

(www.mil.za/Articles&Papers/Frame/Frame.htm, click on "Defence Review '98") and the White Paper on Defence Related Industries (education.pwv.gov.za/Legislation/White_Papers/Defence.htm) spell out which technologies are considered "strategically essential capabilities" and thus exempt from lowest-cost considerations. The South African Parliament has approved both policy documents.

- **Confidentiality.** Transparency in defence procurement must be limited by national security interests. Confidentiality clauses will be required in the defence procurement process. This too can be regulated by national legislation. The South African Defence Review lists a number of reasons for confidentiality in defence procurement. These include: the protection of third party commercial information, the national security of South Africa, harm to South Africa's ability to conduct international relations, and the protection of South Africa's economic interests and commercial activities of government bodies.

- **Time frame for major weapons procurement.** From inception to final acceptance of product, procurement of major weapon systems may take as much as 15 years. Some flexibility needs to be built into the procurement process to take account of contingencies such as fluctuations in currency exchange rates. This long time frame also makes quality control throughout the procurement process essential, rather than when the product is ready for delivery. Defence procurement projects should also take into account full life-cycle support to and cost of the acquired systems. The long time frame also makes it essential to attempt to forecast spending farther into the future than in non-defence sectors. The UK, for example, has a 10-year "Long Term Costing" system for defence.

- **Complexity of defence procurement.** Due to the complexity of defence procurement, sound management of the defence procurement process requires interdisciplinary project teams. Such teams should contain expertise on engineering, resource management, contracting, quality assurance and design assurance. Additionally, because of the complexity of the procurement process for major weapon systems, which involves a substantial number of subcontractors, opportunities for corruption are particularly great. These projects therefore require the highest level of management and scrutiny by governmental accountability mechanisms. South Africa has three levels of approval for major arms acquisition projects within the South African Department of Defence. For major projects, parliamentary approval may also be required.

- **Existence of international arms control treaty regimes and national legislation governing arms procurement.** General government procurement is not subject to this sort of international and national legislation. Some defence budgeting specialists suggest that such national and international regulation increases transparency due to associated oversight mechanisms.

# APPENDIX 3

## SUMMARY OF ISSUES, INDICATORS AND BENCHMARKS FOR DEMOCRATIC GOVERNANCE IN THE SECURITY SECTOR

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| Item | Goals | Indicative Targets | Indicators or Benchmarks | Source or Reference |
|---|---|---|---|---|
| 1 | Rule of Law & Constitutionalism | • Presence of a democratically agreed Constitution.<br><br>• Bill of Rights guaranteeing equality of citizens before the law and the liberty of the individuals; individual and collective freedoms and equality of opportunity for all<br><br>• Independent Institutions of State<br><br>• Improvement of law enforcement mechanisms and criminal justice system<br><br>• Independence of the Judicial branch<br><br>• Presence of Court of superior jurisdiction to arbitrate in constitutional matters | Imposed or 'People 'owned' constitution<br><br>Right to justiciable freedom of expression, information, political association and fundamental freedoms, economic, social and political rights<br><br>Ombudsperson, Human Rights Comm., Gender Equality Commission; Anti-Corruption Comm.<br><br>National judicial reform, Police reform, Prison improvement<br><br>Ensure transparency in process of selection of judicial officers; improve incentives and remuneration.<br><br>Independent Constitutional or Supreme Court | The Constitution<br><br>Additional Legislations: Armed Forces Act, Police Act, Criminal Justice Systems<br><br>Judicial precedence<br><br>Incorporation of international instruments into domestic law i.e. African Charter of Human and Peoples' Rights, UDHR, Convention on economic, social and cultural rights.<br><br>Decisions of the National Human Rights Commission<br><br>National Law Reform Commission's work |
| 2 | Political Representation | ▪ Mode of appointment to legislative and governmental positions;<br>▪ The composition of the political system | Is appointment determined by elections and do the elections give room for alternation of political power Does it consist of a | Nature of Electoral Commission |

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|---|---|---|---|---|
| | | ▪ The competitiveness of the political system<br><br>▪ Nature of appointment to the executive branch.<br>▪ Independent candidature<br>▪ The composition of the national parliament along party lines<br>▪ The composition of local and regional councils<br>▪ The autonomy and independence of the electoral system<br>▪ Independence & Impartiality of the electoral authority. | multiparty democracy comprising of two or more parties.<br>Extent of effective competitiveness in the political process;<br>Role of Legitimacy, competence, national character | |
| 3 | Personal security and access to justice | • Strengthening Police Accountability and Responsiveness;<br>• Developing Community Awareness<br>• Improve access to and reduce cost of 'justice'<br>• Improving Police-Community Relations<br>• Improving the prosecution service and decentralise workload<br>• Investigate non-traditional forms of justice reform. | • Community Policing Principles<br>• Demilitarising public order and defining security in broader terms<br>• Legal Aid and scope of legal clinics for pro-bono cases<br>• Establishment of Independent Police Services Commission with adequate powers<br>• Examine scope for mediation and arbitration in the community | - National Policy on Safety & Security<br>- DFID Safety and Security- sector reform papers<br>- African Charter provisions |
| 4 | National security and conflict prevention | • Clearly defined and well articulated vision and mission of security sector organisations[22] | Defence and Security-sector Review & White Papers | Defence Act or National Security Strategy |

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[22] This section is derived from the DFID work on the principles of good governance in the security sector.

| | | | |
|---|---|---|---|
| | • Accountability of - organizations, particularly in the security forces | Accountability both to elected civil authorities and to civil society | Committees on Defence, Security, Police Affairs |
| | • Security-sector organizations operate in accordance with the international law and domestic constitutional law; | Constitutionally defined role of the security structures | Incorporation of internationally accepted standards in domestic security laws |
| | • Information about security-sector planning and budgeting are widely available, both within government and to the public, and a comprehensive and disciplined approach to the management of defence resources is adopted; | Availability of alternative sources of verifiable knowledge information on the security sector | Coverage of security-sector issues in the media and degree of openness of military facilities to civilians |
| | • Civil-military relations are based on a well-articulated hierarchy of authority between civil authorities and the defence forces, and on a relationship with civil society that is based on the respect for human rights; | Extent of dialogue and interaction between the security sector and civil society | Availability of human rights education in the military training curricula |
| | • Civil authorities have the capacity to exercise political control over the operations and expenditure of the security forces and civil society has the capacity to monitor the security forces and provide constructive input to the political debate; | Clearly defined constitutional powers for the Parliament and Executive Branch – powers of the purse, powers of deployment and powers of scrutiny | Capacity of Parliamentary committees to provide independent verification and understanding of security issues. |
| | • An environment exists in which civil society can be consulted on a regular basis on security policies, resource allocation, and other relevant issues; | | |
| | • Security-force personnel are | Extent of the professional | |

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| | | adequately trained to discharge their duties in a professional manner consistent with the requirements of democratic societies; | autonomy granted to security forces | |
| | | • Fostering an environment supportive of regional and sub-regional peace and security has a high priority for policy-makers | Regional Norms and values | ECOWAS Mechanism for Conflict Prevention, Peacekeeping, Security; NEPAD's APRM, AU's Peace and Security Council |
| 5 | Open and Accountable Institutions | • The nature and composition of the civil service<br>• Transparency and accountability in government<br>• Decentralisation of decision making structures and the nature of inter-governmental relations<br>• Media awareness<br>• Presence and Effectiveness of independent monitoring agencies | Independence of Civil Service<br><br>Accountability of Civil Service to elected authorities<br><br>Quality Control mechanisms for civil service at all levels<br><br>Civil Service Commission's effectiveness | Institutions of Accountability;<br><br>Nature of the Legislative Accountability Mechanism,<br><br>Independence and effectiveness of the accountability structures – Constitutional Court, Auditor-General's Office, Anti-Corruption Commissions and Inspector-General of Armed Forces & Intelligence Services |
| 6 | Broader Understanding of Security through Effective and equitable provision | • Meeting the 2015 International Development and Millennium Targets<br>• Country's social and economic rights regime | Extent of fulfillment of human security and human development goals in health, food, environmental security and poverty reduction | UNDP Human Development Report; Country strategy papers on poverty reduction programmes. |
| 7 | Facilitative mechanisms for policy formulation and management | • Management of national budgetary process<br>• Effective Policies for linking security-sector governance and pro-poor poverty reduction policies.<br>• The nature and development of policy process | Extent of inputs into the budgetary process by all stakeholders, including civil society<br>Extent of Involvement of a wide array of stakeholders in policy formulation & management. | Office of Budget Monitoring National Planning Machineries Accountant-General's Office<br><br>Extent of consultation in the making of PRS papers |

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|---|---|---|---|---|
| | | • Role of civil society<br>• Private/public partnership arrangements. | Effectiveness of Policy making mechanisms | Input from independent research centres and security-sector experts |
| 8 | Enhanced International Regime for Democratic Governance in the Security Sector | • Regulatory Frameworks for behaviour of IFIs and Bilateral institutions consistently applied<br>• Availability of regional frameworks to which member states' subscribe<br>• Regulatory Frameworks for non-state actors – TNCs etc | Level of mutual accountability<br><br>Extent of context determined inputs.<br><br>Level of corporate responsibility among trans-national entities | OECD-DAC principles;<br><br>DFID principles<br><br>AU Principles, SADC & ECOWAS Protocol<br><br>UN Global Compact |

# APPENDIX 4
## CODE OF CONDUCT FOR AFRICAN ARMED FORCES

As part of its efforts to promote civil-military relations in Africa, the United Nations Regional Centre for Peace and Disarmament in Africa (Regional Centre) in collaboration with the Government of Togo, the Organization of African Unity (OAU), the National Democratic Institute (NDI), and the Africa Center for Strategic Studies (ACSS) organised a seminar in Lome (Togo) from 29 to 31 October 2001. The theme of the seminar was "the promotion of civil-military relations in Africa: a factor of peace and security in Africa." The embassies of France, the United States of America and the Federal Republic of Germany in Togo also provided financial assistance for the seminar.

Aside from the host country, Togo, which was represented by high ranking government officials including the Prime Minister, the Minister of Defence, and the Minister for Regional Integration and Parliamentary Affairs, the participants included senior civilian and military delegates from 17 African countries which have experienced military takeovers or have had successful democratic transitions: Bénin, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Côte d'Ivoire, Ethiopia, Ghana, Guinea Bissau, Lesotho, Mali, Niger, Nigeria, the Democratic Republic of Congo, Senegal and Sierra Leone. Participants also came from France, the United States of America and Belgium. The Secretaries General of the UN and the OAU were represented. General (rtd) Amadou Toumani Touré, former Head of State of Mali, Mr. William Eteki-M'Boumoua, former OAU Secretary General, representatives of civil society, experts and resource persons also participated in the seminar.

At the end of its deliberations, the seminar recommended the creation of a Technical Drafting Committee to draft a code of conduct for armed and security forces with the assistance of the OAU/AU, the United Nations, technical partners and the international community.

To implement the recommendation, the Regional Centre and its partners took the first steps in formulating the draft code of conduct. This consisted of recruiting a team of four international consultants with expertise in civil-military issues in Africa, who were charged with writing the draft code of conduct. As a follow-up to increase cohesiveness of the draft code of conduct prepared by the international consultants, the Regional Centre and its partners, with the financial and material support of the Government of Togo, France and the United States, held an experts' workshop for validating the work of the consultants. The workshop brought together over twenty international and African experts with a proven expertise in military, political and social issues. The draft code was finalised and prepared for submission to the African Union.

# CODE OF CONDUCT FOR ARMED AND SECURITY FORCES IN AFRICA

## CHAPTER I.  REGULATORY FRAMEWORK GOVERNING CIVIL MILITARY RELATIONS

### Article 1

The armed and security forces are at the service of the Nation. Their mission shall be to guarantee, if necessary, by force of arms, defence of the Nation and its territorial integrity and ensure the protection of citizens and property.

### Article 2

The armed and security forces shall be at the disposal of the constitutionally established political authority.

### Article 3

The armed and security forces are the cradle of national unity and cohesion. In this regard, staff recruitment shall be conducted without discrimination as to race, ethnic or religious affinities.

### Article 4

The personnel of armed and security forces shall receive specific education and training in international humanitarian law, human rights, rules, conventions, and instruments that regulate armed conflicts.

### Article 5

The personnel of armed and security forces shall assume responsibility for individual acts that violate international humanitarian law and human rights.

### Article 6

The personnel of armed and security forces shall be disciplined and loyal to the State at all times and shall show obedience and devotion to the constitutional authority.

### Article 7

The personnel of armed and security forces shall be bound by professional secrecy, except where exemption is granted by the appropriate authority.

### Article 8

In the exercise of their duties, the personnel of armed and security forces shall enjoy, within the limits of national law, their fundamental rights and freedoms as defined by the Constitution.

### Article 9

In the conduct of defence and security affairs, the behaviour of armed and security personnel shall show respect for international humanitarian law, human rights and pertinent national laws.

### Article 10

In the exercise of command, no order which is at variance with international humanitarian law, human rights and pertinent national law shall be given to or executed by armed and security personnel.

**Article 11**

The civilian, political and administrative authority shall ensure that the military operations it orders, including operations to maintain internal peace and order, shall be executed in conformity with the relevant provisions of international humanitarian law, human rights, national laws and this Code of Conduct.

**Article 12**

It shall be the responsibility of the national political authority to ensure that adequate financial resources and logistics are made available to armed and security forces to enable them carry out their missions successfully.

**Article 13**

Under no circumstance shall the civilian, political and administrative authority resort to armed and security forces to restrict the peaceful, legitimate and legal exercise of the individual and collective rights of the citizens as conferred by the Constitution.

**Article 14**

In accordance with the pertinent decisions of the Organisation of African Unity/African Union [AHG/Dec. 141 (XXXV) adopted in Algiers and AHG/Dec. 150 (XXXVI) adopted in Lome], the OAU Declaration on the framework for an OAU Response to an Unconstitutional Change in Africa, as well as the Solemn Declaration of the Conference held in Lome on Security, Stability, Development and Co-operation in Africa (SSDCA), any action or behaviour that undermines or seeks to overthrow the Constitution of the State is illegal and strictly forbidden.

**CHAPTER II.  RELATIONS BETWEEN THE ARMED FORCES AND THE SECURITY FORCES**

**Article 15**

In the execution of their duties, armed and security forces shall co-operate in the context of their respective and complementary responsibilities and maintain permanent and harmonious relationships in times of peace, crisis or social upheavals, and armed conflicts.

**Article 16**

In peace time, the maintenance of law is the responsibility of the police. The other security forces shall co-operate in the exchange of intelligence.

**Article 17**

In times of crisis or social upheavals, the protection of life and property shall be the primary responsibility of the police, including the gendarmerie, where it exists. In exceptional circumstances, and at the request of the political authority, the armed forces may intervene, as a last resort, to support the police for a limited period.

**Article 18**

In times of armed conflict, the political authority shall define the rules of engagement for the security forces as well as the scope of their involvement in the defence of national security alongside the armed forces.

**Article 19**

Armed and security forces shall support humanitarian assistance operations at the national or international levels. In the execution of this mission, they shall respect the

independence of decision and action of humanitarian organisations in charge of the operations.

## Article 20

Armed forces may, alongside the security forces, be involved in combating criminal activities, as established by law and directed by the political authority and relevant international instruments such as illicit trade and proliferation of arms, terrorism, organised crime, drug trafficking, violence against women and children.

## CHAPTER III. RELATIONS BETWEEN THE ARMED AND SECURITY FORCES AND THE CIVILIAN POPULATION

### Article 21

Armed and security forces are to show respect and provide protection and assistance to the civilian population particularly to vulnerable groups, especially in times of armed conflict.

### Article 22

The leadership of the armed and security forces shall ensure that relations between their personnel and the civilian population are harmonious and based on mutual trust. In this regard, the armed and security forces shall, in collaboration with the government, civil society, including non-governmental organisations and the media, endeavour to inform and educate the public on their unclassified programmes and operations.

### Article 23

In their relationships with the civilian population, the personnel of armed and security forces shall avoid any act or behaviour that may bring their institutions into disrepute.

### Article 24

The democratic control of the armed and security forces by State and public institutions shall be exercised with transparency and accountability, particularly in the process of security and defence planning, budgeting, and procurement.

### Article 25

Armed and security forces contribute within the limits of their competence to the economic and social development of their country without prejudice to the principles of fair competition.

### Article 26

Civilian, political and administrative authority, armed and security forces personnel, civil society, including non-governmental organisations and the media, shall engage in regular interactions at different levels through public fora to promote cordial relationships, enhance respect and mutual confidence between the civilian population and the armed and security forces.

## CHAPTER IV.  ARMED AND SECURITY FORCES, HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

**Article 27**

The armed and security forces shall build and strengthen their capacity to respond to rapidly changing threats. Consequently, the personnel, in addition to their occupational training, shall be given the appropriate education in constitutional law, human rights, international humanitarian law, and peacekeeping.

**Article 28**

Civilian and politico-administrative authority, personnel of armed and security forces and their commanders, shall be held individually responsible for instructions, orders and/or actions in violation of human rights and international humanitarian law.

**Article 29**

In the exercise of their duties, armed and security personnel shall provide adequate protection, refuge and assistance to all persons in need. They shall ensure that internally-displaced persons, refugees, non-nationals, stateless persons, minorities, women, children, the elderly, and people with disabilities are not discriminated against. No discrimination shall be perpetrated because of race, identity, religion, political beliefs, status or condition.

**Article 30**

During exceptional circumstances, such as state of emergency, state of siege… as defined by the Constitution, armed and security forces shall conform with national law and international humanitarian law.

**Article 31**

Personnel of armed and security forces shall refrain in all circumstances from the following acts: murder, torture, corporal punishment, rape, mutilation, cruel, inhumane and degrading treatment, hostage taking, collective punishment, and any other act aimed at impairing the physical and psychological well-being of the individual.

**Article 32**

In enforcing internal law and order, armed and security forces shall use firearms as a last resort with maximum restraint, respecting the principle of minimum force, even in situations of self-defence. After the use of firearms and in event of injuries, the personnel of armed and security forces shall assist the wounded without discrimination. The families of the victims shall be informed. A public enquiry shall be opened. And a report produced.

## CHAPTER V.  IMPLEMENTATION

**Article 33**

The present Code of Conduct shall be integrated in the training and educational programmes and taught to the armed and security forces of all Member States of the African Union. It shall be widely disseminated through the organisation of sensitisation campaigns within the respective territories of these States.

**Article 34**

Recognising the importance of this Code of Conduct and its potential to promote peace, security, stability, and the well-being of the African Nations, periodic meetings shall be convened to assess its implementation at the local, national, sub-regional and regional levels. Participants shall include experts, the representatives of governments, armed and security forces, and civil society, including non-governmental organisations and the media.

Source:  http://www.unrec.org/eng/Workshop.htm